

TRANSACTION TYPE	TRANSACTION FEE
Funded Fuel/Product	\$ 2.50
Funded Fuel/Product with Cash	\$ 2.50
Funded Cash	\$ 2.50
Non-Funded Fuel/Product	\$ 2.50
Terminal Fuel	\$ 0.25
CAT Scale Mobile App	\$ 1.00
Mastercard®	\$ N/A
ATM/Debit Withdrawal	\$ 1.50
ATM/Debit Balance Inquiry	\$ 1.50
ATM/Debit Decline	\$ 1.50
*Funded transactions are those where Issuer collects funds from the Program Operator that are credited to Company's account (in accordance with the terms of Issuer's agreement with Program Operator) or Company pursuant to the terms of this Agreement	
ACH	\$ 1.00
<b>EFS SMARTFUNDS® (Non-Payroll)</b>	
Load	\$ N/A
# of Free Draws	1
Check/Draft	\$ N/A
ATM Withdrawal	\$ N/A
ATM Balance Inquiry	\$ N/A
ATM Decline	\$ N/A
ACH	\$ N/A
Debit Point of Sale Network	\$ N/A
EFS Network	\$ N/A
Mastercard® Network	\$ N/A
<b>OTHER FEES AND SERVICES</b>	
Check / MoneyCode®	\$3.00
MoneyCode® Additional Uses	\$ 0.75
Active Card	\$ 0.00
Account Setup Fee	\$50.00
Wire Payments	\$15.00
Western Union Quickpay	\$20.00
Paper Check/Third Party Check	\$25.00
MAMF	\$7.95

\*\*Certain products and functionality (such as ATM access and EFS SmartFunds®) may not be available with Company's Program. Additional fees may be charged by third parties such as an ATM operator where applicable.

The business named above ("Applicant" or "Company") represents that the information given in this application is complete and accurate and authorizes Issuer to check with credit reporting agencies and other sources disclosed to confirm information give Applicant requests a business account, which may be approved as either credit or prepaid, or may not be approved at all. Issuer is authorized by Company to check with credit reporting agencies, credit references, and other sources Issuer deems appropriate investigating the information given, and to do so without further authorization by or notice to Company. Applicant agrees to the terms and conditions set forth in this EFS OTR Program Participant Account Application and Agreement, including all exhibits attachments provided with this application and/or provided with the cards issued to Applicant's business. By providing the phone numbers above, Applicant authorizes Issuer to contact Applicant at any of these numbers regarding this application or a account opened as a result of this Application. In the event Applicant does not meet its obligations under the Agreement, Issuer may report Applicant's liability for and the status of the account to credit bureaus and others who may lawfully receive su information.



**1. Definitions.** The below words have the following meanings:

**"Account(s)"** means the account privileges extended to Company by Issuer which may, depending on the details of the Program and Company's account details, include the ability to access (i) funds advanced on Company's behalf by the Program Operator, (ii) funds advanced by Issuer to Company pursuant to the terms of a line of credit established by Issuer for the benefit of Company and (iii) funds deposited with Issuer by Company. An Account may be evidenced by a plastic Card or an account number.

**"Account User"** means Company or any other entity or individual authorized by Company to use Account or Cards. These users may include employee drivers or independent contractors who have been given a card and access to Company's Account.

**"Business Day"** means any day other than a Saturday, Sunday, or other day on which banking institutions in Utah are generally authorized or required by law or executive order to close.

**"Card"** means a card or other approved payment device provided by Issuer that is used to access Company's Account.

**"Controls"** are a set of authorization tools designed to assist Company with managing purchases.

**"DIN", "DID" or "PIN"** means the identification number associated with an Account User or Card.

**"Issuer"** means WEX Bank.

**"MoneyCode<sup>SM</sup>"** means an instrument, in the form of a numeric code created by the card issuer, that may be recorded onto a paper draft or used electronically, which when coupled with a valid authorization code allows a cardholder to access their account for cash or to use such code or draft for payment of Products.

**"Program"** means collectively the Account along with the ancillary services and benefits provided by Issuer with respect to the Program Operator's card program and subject to the terms of this Agreement.

**"Transaction"** means the use of a Card or Account to buy goods or services, or, if allowed under the Program, to obtain cash, at accepting merchants.

**"Unauthorized Transaction"** means a Transaction made on a Card or Account by any person or entity other than an Account User, subject to the terms of this Agreement.

**"SecureFuel<sup>SM</sup>"** means the application of truck telematics with fleet card transaction data to increase visibility into fuel consumption to assist with fuel management and the prevention of losses from unauthorized fuel purchases.

## **2. Account Administration.**

2.1. **Credit Accounts.** The terms of this Section 2.1 apply only if Company has applied for and Issuer has agreed to extend credit to Company with respect to the Account. This option may not be available with certain Programs.

2.1.1. Issuer may, in its sole discretion, extend credit and establish Accounts. Issuer may at any time, investigate the financial condition of Company or, as applicable, its subsidiaries and affiliates. If requested, Company agrees to furnish Issuer copies of its financial statements, or other financial information as soon as available. Financial statements shall have been prepared in accordance with generally accepted accounting principles, consistently applied and shall be in accordance with the books and records of Company.

2.1.2. Credit Limit Maintenance. Issuer may increase or decrease such Credit Limit from time to time in its sole discretion. Issuer does not guarantee that it will establish or maintain any specific available Credit Limit for Company and Company waives any and all claims against Issuer based on Issuer's determination of Company's Credit Limit. The following fee schedule will apply per instance whenever Issuer agrees to a temporary over-limit credit override (which for the avoidance of doubt will be entirely in Issuer's discretion):

Amount of Credit Override	Fee
Up to \$500.00	\$60
\$500.01 to \$999.99	\$120
\$1,000.00 to \$2,499.99	\$300
\$2,500.00 to \$4,999.99	\$600
\$5,000.00 to \$9,999.99	\$1,200
\$10,000.00 or more	\$1,500

2.1.3. Account Users can make purchases on the Account up to the credit limit that is assigned by Issuer. The credit limit for each billing account appears on the billing statement. Company agrees not to exceed its total credit limit. Issuer may change the credit limit of an Account User or the Company without prior notice, particularly in instances of suspected fraud, non-payment or a material decrease in the Company's financial condition. Issuer will use its best efforts to provide advance notice of any changes to the credit limit. If Issuer permits or has previously permitted Company to exceed its credit limit, it does not mean that Issuer will permit Company to exceed its credit limit again.

2.2. **Prepaid Accounts.** The terms of this Section 2.2 apply only with respect to funds advanced on Company's behalf by the Program Operator and funds deposited to the Account by Company, as applicable. For the avoidance of doubt, these options may not be available with certain Programs.

2.2.1. Issuer, in its discretion may establish certain prepaid Accounts to qualified applicants. Any prepaid Accounts created for Company shall be nontransferable and may be canceled, suspended, or revoked by Issuer at any time without prior notice, subject to applicable law. No interest will be paid on funds held in a prepaid account.

2.2.2. Company is responsible for the use of the prepaid Account according to the terms and conditions of this Agreement. Company may not use their prepaid Account to make recurring payments to a specific vendor.

2.2.3. When Company uses the prepaid Account, Issuer will reduce the prepaid balance by the amount of the Transaction and any applicable fees. Company may not, at any time, make a Transaction that will exceed the prepaid balance. If Company does, Company is fully liable to Issuer for the amount of the Transaction and any applicable fees. If Issuer permits or has previously permitted Company to exceed its prepaid balance, it does not mean that Issuer will permit Company to exceed such limit again. All fees Company owes Issuer will be debited from the prepaid balance. Issuer has the right to offset against the prepaid balance any indebtedness Company owes to Issuer. Issuer is not liable for any dishonored Transaction entry that results. If Company authorizes a Transaction and then fails to complete the purchase as planned, the approval may result in a hold for that amount of funds for up to seven calendar (7) days.

2.2.4. Company may add funds to the prepaid balance, at any time by wire, Western Union, third party certified check or customer initiated ACH. ACH value load amounts may be held for up to 3 business days to ensure funds clear before being accessible by Company or Account Users. The minimum amount of the initial value load is \$500.00. There is currently no minimum amount for each subsequent load. The maximum amount of the initial value load is \$2,000,000. The maximum amount of each value reload is \$2,000,000. The maximum number of times Company may load a prepaid Account per day is six (6).

2.2.5. Issuer reserves the right to deduct funds from the prepaid amount in order to correct a previous error, and Company authorizes Issuer (i) to share information as necessary with any funding entity (including Program Operator) in connection with resolving any errors or overpayments and (ii) if applicable, to accept instructions from the Company to add or deduct funds from the prepaid Account and, in the case of deductions, to return those funds to the Company. Issuer may, upon Program Operator's request, return to Program Operator any funds advanced on Company's behalf by Program Operator, provided such funds have been maintained by Issuer in a segregated Account balance and not commingled with funds deposited by Company. In the event of any dispute arising in connection with any such returned funds, Company agrees to look solely to Program Operator for resolving such dispute.

2.3. Issuer may suspend an Account or refuse to authorize any Transaction in its sole discretion and specifically in the event that: (i) any balance is past due; and/or (ii) the amount of the Transaction plus the outstanding balance (including Transactions authorized but not yet posted) exceeds the Account's credit limit or prepaid balance (as applicable). Company shall, immediately upon request, pay the excess amount and any associated fees or the entire balance due on the Account. For a credit Account, nothing contained in this Agreement prevents Company or an Account User from requesting an increase or decrease of the credit limit.

2.4. Company shall designate its Account Users as well as those contacts authorized to: (i) provide Issuer with the information necessary to establish and maintain Account(s), Cards, and DINs; (ii) provide vehicle, driver and other information; (iii) receive all Account numbers, Cards or reports; (iv) receive other Account information; and (v) select additional products and/or services that may be offered. Company will provide notice of any change or removal of any contact or Account User either in writing, by telephoning Issuer's customer service department or through Issuer's online system. Company remains liable for any unauthorized use until Issuer receives notice of any change in or removal of any Account User or contact. Issuer is authorized to take instruction from any Account User or contact with apparent authority to act on Company's behalf. Unless Company reports any errors in Account information or Cards, Issuer is entitled to rely on that information for servicing the Account.

2.5. Company is responsible for notifying Issuer of any revocation of any Account User's authority to use or access its Accounts, Cards or, as applicable, DINs and Company shall remain liable for any charges made by an Account User until notice of revocation of authority is received by Issuer. Company agrees that use of a Card and the applicable DIN is deemed authorized use of the Account. Company assumes all risk if Company chooses to leave a Card at a merchant for use by its drivers or Account Users and as such, agrees to pay for all charges made with that Card. Company agrees to keep DINs confidential and to provide for its employees or Account Users to not disclose any DIN. If Account Users or other employees disclose a DIN or write a DIN on a Card, then Company is liable for any fraudulent use that may result even if the disclosure is inadvertent or unintentional.

2.6. All Cards with an expiration date will be valid through any expiration date listed on the Card unless the Card has been suspended or terminated. In the event Cards do include an expiration date, Company will automatically receive new Cards prior to the expiration date of their current Cards unless this Agreement is terminated.

2.7. **Cards will only be used for the purchase of products and services for business or commercial purposes and not for personal, family or household purposes.** Company shall adopt internal policies and controls to ensure that the Cards are used strictly for business or commercial purposes. Purchases of lottery tickets or other games of chance, gift cards, pre-paid cards or other cash equivalent charges are prohibited. Company agrees that Company's use of Cards is deemed acceptance by Company of this Agreement's terms. All Cards provided remain the property of Issuer and shall be destroyed upon our request.

2.8. Issuer is not responsible in the event a merchant does not accept or honor a Card as payment.

2.9. Company may use Cards to purchase dyed special fuel. Company acknowledges that all dyed special fuel purchases will be used exclusively for off-road purposes and according to all applicable laws governing its use. Company understands that it may be subject to fines or other legal action by governmental authorities for misuse or mishandling of dyed special fuel. Issuer is not liable in any way for any misuse or mishandling by Company of any dyed special fuel. Upon request from applicable governmental authorities, Issuer may provide information regarding Company's dyed special fuel purchases without prior authorization from Company.

2.10. Company may request that certain transactions be reported directly to merchant(s) that Company has entered into a direct billing relationship with. These transactions will be initiated using the Card, however, will be sent to the merchant for the merchant to invoice Company directly ("Direct Bill Transaction"). You will need to contact the merchant directly for any questions or disputes regarding these transactions.

**3. Controls.** Company may request that Controls be applied to its Account(s).

3.1. The availability and effectiveness of Controls is dependent upon each merchant's adoption of card specifications and the information, including product codes that the merchant transmits to Issuer. The product codes are assigned by each merchant and not Issuer. In addition, some Controls are not enforceable at island card readers due to equipment restrictions at the merchant location. Only transactions submitted for authorization are subject to Controls and those Controls can only be enforced when the merchant provides sufficient information as part of the authorization request.

3.2. Default Control values are only assigned by Company online. Company should review any additional information related to Controls that is provided. Issuer is not responsible for the prudence of any particular Control level selected by Company. Issuer shall use reasonable efforts to deny requests for Transaction authorizations that fall outside the selected Control parameters. Company remains responsible for payment in full of Transactions which fall outside of the Control parameters selected, if such Transactions are made with a valid Card and are processed by Issuer. The existence and/or use of Controls will not affect Company's liability for Unauthorized Transactions in certain circumstances and more fully described in the guidance information provided when you make your Control elections.

3.3. Issuer may, in its sole discretion, at any time, without prior notice, modify Controls for the purpose of, among others, aiding in the prevention of suspected fraudulent activity. Issuer will notify Company after any modification is made. Company agrees that it is responsible for reviewing fraud control data provided by Issuer for the purpose of detecting fraud that may occur within Control parameters.

## **4. Reports and Other Product Features.**

4.1. Issuer provides transaction data for each Account to the Company as transmitted by merchants. Company is responsible for reconciling that data. Issuer will report the data received from merchants and as such is not liable for accuracy or completeness of any specialty reports, management reports, data services or other information services provided. In addition, Company understands that in the event an error is identified in a report, such as incorrect product code, Company is still liable for the Transaction, but may follow the dispute process to obtain clarifying information. All reports and invoices shall be provided to Company through electronic methods. Company shall not receive paper invoices or statements.

### **4.2. Ancillary Financial Products:**

4.2.1. Company may access a number of ancillary products related to the use of its Account. Certain products may require completion of an enrollment form, and the terms/fees governing those features shall be set forth in the applicable form.

4.2.2. **MoneyCode<sup>®</sup>**. Company may request from Issuer a MoneyCode<sup>®</sup>, which can operate as a convenience check that must be authorized by requiring the party accepting the check as payment to call Issuer at **888-824-7378** for authorization. In addition, the MoneyCode<sup>®</sup> can be processed as an electronic transaction by an accepting merchant using their POS terminal. In the event the MoneyCode<sup>®</sup> has not cleared within one hundred and eighty (180) days of billing, an administrative fee of **\$100.00** per cancellation may apply. Issuer reserves the right to no longer honor a MoneyCode<sup>®</sup> authorization that has not cleared within one hundred and eighty (180) calendar days from the billing date. Company agrees to not self-issue MoneyCodes<sup>®</sup> to be deposited towards the Account or Company's own bank accounts including an account used by Company to pay Issuer. Company agrees to not deposit its own MoneyCode<sup>®</sup> in any bank account controlled by Company. MoneyCodes<sup>®</sup> are to be used only to facilitate payments at merchants, vendors, or to obtain a cash advance, and are not intended to be used as a general line of credit for payroll or non-business related expenses. Use of MoneyCodes<sup>®</sup> as an operating line of credit is strictly prohibited.

4.2.3. **Cash Advances/ATM.** Issuer may establish a limit on the total percentage of your credit line that may be withdrawn at automated teller machines ("ATM") or from accepting merchants as a cash advance either directly from the card, or through a MoneyCode<sup>®</sup>, on their account with Issuer. Company understands that the ATM or accepting merchant may require additional fees that they charge to obtain a cash advance that are not fees assessed by Issuer.

4.2.4. **Online Products.** Company may access its Account and related ancillary products through Issuer's websites, mobile applications, or other electronic online products. Company shall be required to designate authorized users to use such services and all use must comply with the policies and terms of use posted on such websites or electronic/online applications or otherwise provided to Company by Issuer.

4.2.5. **SmartFunds<sup>®</sup> NonPayroll.** Company may elect to allow non-employees, such as independent contractors to have access to Company's Account as an Authorized User. Such Authorized Users shall be provided a Card that is connected to Company's Account. Company may allow the Authorized User to access the Company's Account credit or prepaid balance (as applicable) through use of the Card and associated financial products such as MoneyCodes<sup>®</sup> or cash advance, or it may limit that Card's ability to spend to a predetermined amount that Company requests to be allocated to that card. In this case, transactions made on the Card will decrement the available balance and the Authorized User will not be able to purchase beyond the amount allocated.

4.3. Additional fees for report related requests: Research requests will be quoted at between \$100 to \$200 per hour depending on the request (e.g. audit, data retrieval, bulk check copy requests). Estimates shall be provided prior to any work being done. Account Statement or Report-Fax Fee: \$20.00 per month per receiving facsimile number (regardless of how many statements or reports received. There is no fee if this information is provided by email.

## **5. Payment Promise.**

5.1. Company agrees to pay and/or perform (i) fees listed on the attached fee schedule; (ii) all amounts payable for Transactions on each Card or Account; (iii) any and all costs (including reasonable attorneys' fees) incurred in enforcing Company's obligations in this Agreement; and (iv) all obligations, covenants, and warranties in this Agreement.

5.2. Payment is due on the payment due date provided on your billing statement. If the payment due date falls on a non-Business Day, payment is due on the Business Day before the payment due date. For some customers with credit Accounts, payment may be required to be made more frequently or Company may elect a shorter billing or payment cycle depending upon Issuer's credit review. For prepaid accounts, all fees and other amounts payable by Company will be automatically deducted from the available prepaid balance on the Account.

5.3. In the event that Company calls customer service to initiate a payment via facsimile or by telephone a fee of up to \$25.00 per payment may apply. This option is subject to prior approval by Issuer.

5.4 If Company has elected to pay by Direct Debit, the terms of this Section 5.4 apply: Customer hereby authorizes Issuer to initiate debit or credit entries to Customer's demand deposit account at Customer's bank (as provided to Issuer by Customer), and further authorizes Customer's bank to accept such entries initiated by Issuer and to debit or credit such entries to Customer's account without responsibility for the correctness of the entries. Issuer shall make such debit or credit for normal processing pursuant to the reporting period(s) and remittance day(s) selected above.

**6. Credit and Late Fees.** Company agrees that payments for all fees and charges are due and payable upon receipt of invoice. If payment is not received (or if an invoice is not paid in full) on its due date, Issuer will impose a late charge equal to the greater of **one hundred and fifty dollars (\$150.00)** or **6.99%** of the unpaid balance (excluding any amounts previously invoiced and outstanding and excluding previous late fees) not to exceed the maximum amount allowed by law. All payments should include the applicable payment codes provided by Issuer. Issuer may impose a **fifteen dollars (\$15.00)** fee for each payment received without an Issuer designated account number. In the event a payment is returned, a fee of \$75.00 per returned payment shall apply.

**7. Application of Payments and Early Payments.** Payments will be applied first to unpaid late fees and then to any unpaid balances. Company or an Account User, as applicable, may pay their Account balance or a portion of it, at any time prior to its due date without penalty.

**8. Disputed Amounts.**

8.1. Company shall use its best efforts to resolve business-to-business purchase disputes directly with the relevant merchant such as disputes arising out of quality or warranty issues.

8.2. All charges must be paid in full regardless of reported disputes while they are being researched. During a dispute, a temporary credit may be placed on Company's Account. Subject to Section 9 below, charges must be disputed in writing no later than sixty (60) days from the billing date or they will be considered final and binding. Company may dispute an amount reflected on a billing statement if: (i) the amount does not reflect the face value of the Transaction; (ii) the amount being disputed is a fee that is not properly accrued under this Agreement; or (iii) Company does not believe it is liable for that amount.

8.3. Transactions made at an island card reader where the Company or Account User did not obtain a receipt at the time of sale may not be eligible for dispute since the only record of the sale is the transaction information submitted by the merchant for billing to cardholders.

8.4. Certain Transactions in dispute may qualify for charge back to the merchant due to fraud or other circumstances in which the merchant may be liable. Issuer shall attempt to charge the Transaction back to the merchant in accordance with its procedures under its merchant acceptance agreements. Any accepted charge back will be credited to the relevant Account. The Company may be liable for the Transaction if the disputed item cannot be charged back to the merchant.

**9. Notice of Loss, Theft or Unauthorized Use.** In the event that Company or an Account User knows of or suspects the loss, theft or possible unauthorized use of a Card or Account or if Company would like to terminate an Account User, Issuer must be immediately notified by calling **1-888-824-7378**.

**10. Unauthorized Use and Unauthorized Transactions.**

10.1. Except as otherwise expressly provided below, Company will be liable to Issuer for all unauthorized use or Unauthorized Transactions that occur if: (i) a Card is lost or stolen and Company does not give immediate notice to Issuer as provided in Section 9 of this Agreement; (ii) such use or suspected use occurs as a result of the Company's lack of reasonable security precautions and Controls surrounding the Cards or Accounts as more fully described in Section 3 of this Agreement; or (iii) such use results in a benefit, directly or indirectly, to the Company or Account User. Misuse as defined by internal Company policy by an Account User or other employee does not constitute unauthorized use or an Unauthorized Transaction.

10.2. If Company has less than ten (10) Cards issued to it for use by Company's Account Users or employees, Company's liability for Unauthorized Transactions will be limited as provided in the Truth in Lending Act and implementing federal regulations (currently \$50.00).

**11. Term and Termination.**

11.1. This Agreement is effective upon acceptance of the application for an Account by Issuer and continues in effect until termination by either party upon not less than thirty (30) days prior written notice to the other party. Upon termination Company is still obligated to pay for all Transactions made prior to the effective date of the termination and shall return to Issuer, or provide verification of the destruction of all Account numbers or Cards. Company may retain a copy of any records or Account information for archival or data retention purposes.

11.2. Issuer may, at any time, elect to terminate or modify products or services described in this Agreement upon thirty (30) days prior written notice to Company.

11.3. Repayment of Any Upfront Investment. To the extent that Issuer has paid any incentive amount to Company in advance, or has paid for or reimbursed Company for any costs of Company related to implementation or similar startup expenses, or has made any similar payments to Company, then the following shall apply: If this Agreement is terminated for any reason, other than a breach by Issuer, Company shall repay to Issuer the entire amount of the upfront investment.

**12. Default.**

12.1. A party to this Agreement may terminate this Agreement at any time upon the default of the other party. "Default" means: (i) the failure of the Company to remit payment to Issuer in accordance with the terms of this Agreement; (ii) the material breach by either party of this Agreement, provided the breach is not remedied within 15 days of the defaulting party's receipt of written notice from the other party specifying the breach; (iii) the representation or warranty by either party of any facts in connection with this Agreement that prove to have been materially incorrect or misleading when the representation or warranty was made; (iv) the filing by or against either party of any petition in bankruptcy, insolvency, receivership, reorganization or pursuant to any other debtor relief law or the entry of any order appointing a receiver, custodian, trustee, liquidator, or any other person with similar authority over the assets of either party; (v) the insolvency, dissolution, reorganization, assignment for the benefit of creditors or any other material adverse change in the financial condition of either party; (vi) the entry of any adverse judgment, order or award against either party that has a material adverse impact on the financial condition of either party or a detrimental effect on the ability of either party to perform its obligations; or (vii) the default by Company under any other agreement between Company and Issuer.

12.2. A Company Defaults: (i) with respect to any credit Account, it will not have any further right to borrow under this Agreement; (ii) all outstanding amounts under the Account are immediately due and payable; (iii) Issuer may terminate this Agreement; and (iv) Issuer will have the right to bring suit and exercise all rights and remedies available under applicable law which may include the payment of all reasonable costs of collection. Alternatively, Issuer may, in its sole discretion: (i) suspend all services and obligations; (ii) shorten the billing cycle; or (iii) change the payment terms. The suspension of services and/or obligations will not be deemed a waiver of any right to terminate this Agreement, whether as a result of the Default to which such suspension of services or obligations relates or otherwise.

**13. Force Majeure.**

13.1. In no event shall either party be liable to the other party for any failure or delay in performance wholly or in part due to causes or circumstances beyond its reasonable control and without its fault or negligence including, but not limited to the following: Acts of God; acts of the public enemy; civil disturbance; war; acts of the United States of America or any state, territory or political division of the United States of America; fires; floods; natural disasters; pandemic or epidemic events, regional, statewide, or nationwide strikes, or any other general labor dispute not specific to that party; communication line failures; and/or freight embargoes (collectively "force majeure"). A party's failure to perform its obligations under this Agreement due to force majeure events will not be considered breach or Default if the party has made its best efforts to: (i) comply with its obligations; (ii) avoid an interruption of its performance; and (iii) resume its performance.

13.2. The party claiming a failure or delay in performance under this Agreement due to force majeure must promptly notify the other party in writing. In the event that any such force majeure failure or delay continues for a period of more than ten (10) business days, the other party may, upon written notice to the other party, have the option of terminating this Agreement without incurring additional liability.

**14. Assignment and Amendment.**

14.1. Company may not assign this Agreement or any interest, payment, or rights under this Agreement for any reason, without Issuer's prior written consent. Issuer may, in our sole discretion, assign this Agreement and its obligations, transfer any right, or delegate any duty of performance under this credit Agreement without further notice. The person or entity(ies) to whom Issuer makes any assignment is entitled to all of Issuer's rights under this Agreement, to the extent that those rights were assigned.

14.2. Issuer may amend any part of this Agreement, including changing terms and fees at any time in accordance with applicable law. Issuer will provide at least thirty (30) days prior written notice prior to making any such changes. In the event that Issuer changes the fees, Company may terminate the Agreement by providing written notice to Issuer no later than 30 days from the date of the notice of such fee change.

**15. Covenants.**

15.1. The parties represent and warrant that this Agreement constitutes the legal, valid, binding, and enforceable agreement of each party, and its execution and performance of this Agreement: (i) does not constitute a breach of any agreement of either party with any other party, or of any duty arising in law or equity; (ii) does not violate any law, rule or regulation applicable to it; (iii) is within the party's corporate powers; and (iv) has been authorized by all necessary corporate action of the parties. Company agrees to provide any evidence of corporate (or other organizational) existence and authorization that Issuer may reasonably request.

15.2. For Issuer's continued compliance with banking and credit underwriting standards, Company will provide Issuer with advance written notice of: (i) any change in Company's legal structure or legal name; (ii) any consolidation, merger or sale of a substantial part of Company's assets; or (iii) any change of control of Company as well as if an employee of Company that has provided a guaranty of payment has terminated their relationship with Company. Issuer reserves the right to make any necessary modifications to the Account terms based upon changes made by Company as referenced above.

15.3. As part of Issuer's commitment to customer service, its managers periodically will monitor telephone communications between its employees and its customers to ensure that high quality service standards are maintained. Company consents to that monitoring and recording of telephone communications and agrees to notify employees who may be in telephone contact with Issuer's representatives that periodic monitoring of conversations will occur.

**16. Severability and Waivers.** If any portion of this Agreement is held to be invalid, the remaining portions shall remain in full force and effect and shall continue to be binding upon the parties. Failure of either party to exercise any of its rights under this Agreement in a particular instance will not be construed as a waiver of those rights or any other rights for any other purpose. The parties agree voluntarily, intentionally, and irrevocably to waive all right to trial by jury in any proceeding instituted in any court, arising out of this Agreement, Company's application for credit, or any related documents. Company waives personal service of process in connection with any action or proceeding commenced by Issuer in connection with this Agreement, and agrees that service may be made by certified mail to the last known address in Issuer's records.

**17. Disclaimers and Limitations.**

17.1. ISSUER—WHICH INCLUDES ITS PARENT AND ANY SUBSIDIARIES AND AFFILIATES—IS NOT LIABLE FOR ANY LOSS SUSTAINED BY ANY PARTY RESULTING FROM ANY ACT, OMISSION, OR FAILURE TO ACT BY ISSUER, WHETHER WITH RESPECT TO THE EXERCISE OR ENFORCEMENT OF ITS RIGHTS OR REMEDIES UNDER THIS AGREEMENT, OR OTHERWISE, UNLESS THE LOSS IS CAUSED BY ISSUER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. ISSUER'S LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY COMPANY AS A DIRECT RESULT OF ISSUER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FURTHERMORE, ISSUER'S LIABILITY FOR ACTUAL DAMAGES SHALL NOT EXCEED THE SUM OF: (I) ALL FEES PAID BY COMPANY TO ISSUER UNDER THIS AGREEMENT PRIOR TO THE DATE WHEN ANY CLAIM IS MADE AGAINST ISSUER; PLUS (II) ALL OTHER REVENUE EARNED BY ISSUER FOR ALL TRANSACTIONS MADE IN THE 12 MONTHS PRIOR TO THE DATE OF ANY CLAIM MADE AGAINST ISSUER. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES AND, ANY RIGHT OR CLAIM TO EITHER IS EXPRESSLY AND UNCONDITIONALLY WAIVED.

17.2. EXCEPT AS OTHERWISE REQUIRED UNDER LAW, ISSUER MAKES NO WARRANTY WITH RESPECT TO GOODS, PRODUCTS OR SERVICES PURCHASED ON CREDIT THROUGH ISSUER. ISSUER FURTHER DISCLAIMS ALL WARRANTIES WITH RESPECT TO GOODS, PRODUCTS AND SERVICES PURCHASED WITH A CARD, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY.

17.3. Company acknowledges and agrees that Issuer is not liable to Company for any loss, liability or damages company suffers which result from, are related to, or in any way are connected with any fraud control or purchase restriction measures Issuer elects to implement from time to time, unless such loss, liability or damage is a direct result of Issuer's gross negligence or willful misconduct in implementing fraud control or purchase restriction measures Issuer has expressly agreed in writing to undertake for Company.

**18. Applicable and Conflicting Law.**

18.1. This Agreement is governed by and construed in accordance with federal law and the laws of the State of Utah (without reference to choice of law rules).

18.2. Changes in Law: In the event that there is a change in applicable law deemed by Issuer to be material to the administration of the program Issuer may seek to re-negotiate the terms, including but not limited to, the financial terms, of this Agreement. The Company shall have no obligation to renegotiate such terms; provided, that if the parties cannot agree on an adjustment of such terms, then Issuer may, at its option: (i) allow this Agreement to remain in effect without any such adjustment; or (ii) terminate this Agreement upon written notice to the Company.

18.3. If either party is notified by a state or federal regulatory body that any aspect of the services provided by Issuer or this Agreement does not comply with any applicable law, regulation, rule, policy, or order, then the affected party shall give the other party prompt written notice of the non-compliance. Following notice, the affected obligations will be suspended and the failure to perform those obligations will not be deemed a breach of or Default under this Agreement so long as the affected party is unable to perform due to the notice given by the state or federal regulatory body.

**19. ARBITRATION.**

**PLEASE READ THIS PROVISION OF THE AGREEMENT CAREFULLY.**

19.1. This section provides that disputes may be resolved by binding arbitration. Arbitration replaces the right to go to court, have a jury trial or initiate or participate in a class action. In arbitration, disputes are resolved by an arbitrator, not a judge or jury. Arbitration procedures are simpler and more limited than in court. This arbitration provision is governed by the Federal Arbitration Act ("FAA"), and shall be interpreted in the broadest way the law will allow.

19.2. Covered Claims. (a) Company or Issuer may arbitrate any claim, dispute or controversy between Company and Issuer arising out of or related to this Account, any previous related Account, the relationship between Company and Issuer, or any other product or service provided by or through Issuer (called "Claims"). In this Arbitration provision, the term "Issuer" includes any of Issuer's affiliates that provide or are involved in providing any products or services to Company and the term "Company" includes any Guarantor. Claims include disputes relating to incentives or benefits relating to the Account. A person who asserts a Claim, or against whom a Claim may be asserted, that is subject to this Arbitration provision may be referred to as a "Covered Person." (b) If arbitration is chosen by a Covered Person, then no Covered Person will have the right to litigate that Claim in court or have a jury trial on that Claim. (c) Except as stated below, all Claims are subject to arbitration, no matter the legal theory on which they are based on or the remedy (damages, or injunctive or declaratory relief) they seek, including Claims based on contract, tort (including intentional tort), fraud, agency, any Person's negligence, statutory or regulatory provisions, or any other sources of law. Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; Claims made regarding past, present or future conduct; and Claims made independently or with other Claims. This also includes Claims made by or against any Person connected with Company or Issuer, or by a Person making a Claim through Company or Issuer, such as an Account User, employee, agent, representative or an affiliated/parent/subsidiary company.

19.3. Arbitration Limits. (a) Individual Claims filed in a small claims court are not subject to arbitration, as long as the matter stays in small claims court. (b) Claims brought as part of a class action, private attorney general or other representative action can be arbitrated only on an individual basis. The arbitrator has no authority to arbitrate any claim on a class or representative basis and may award relief only on an individual basis. If arbitration is chosen by any Covered Person, the Covered Person asserting the Claim may not pursue the Claim as part of a class action or other representative action. Claims of two (2) or more Persons may not be combined in the same arbitration. However, applicants, Account Users on a single Account and/or related Accounts or corporate affiliates are considered as one Person for these purposes.

19.4. How Arbitration Works. (a) Arbitration shall be conducted by the American Arbitration Association ("AAA") according to this arbitration provision and the applicable AAA arbitration rules in effect when the claim is filed ("AAA Rules"), except where those rules conflict with this arbitration provision. The AAA Rules may be obtained at the AAA's website ([www.adr.org](http://www.adr.org)) or by calling 800-778-7879. A Covered Person may choose to have a hearing, appear at any hearing by phone or other electronic means, and/or be represented by counsel. Any in-person hearing will be held in the same city as the U.S. District Court closest to Company's billing address. (b) If the AAA is not available to conduct the arbitration, then a Covered Person may petition a court of appropriate jurisdiction to designate an appropriate arbitrator. (c) Arbitration may be requested at any time, even where there is a pending lawsuit, unless a trial has begun or a final judgment entered. A Covered

Person does not waive the right to arbitrate by filing or serving a complaint, answer, counterclaim, motion or discovery in a court lawsuit. To choose arbitration, a Covered Person may file a motion to compel arbitration in a pending matter and/or commence arbitration by submitting the required AAA forms and requisite filing fees to the AAA. (d) The arbitration shall be conducted by a single arbitrator in accord with this arbitration provision and the AAA Rules, which may limit discovery. The arbitrator shall not apply any federal or state rules of civil procedure for discovery, but the arbitrator shall honor claims of privilege recognized at law and shall take reasonable steps to protect Account information and other confidential information of a Covered Person if requested to do so. The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statute of limitations, and may award damages or other relief under applicable law. (e) The arbitrator shall make any award in writing and, if requested by a Covered Person, shall provide a brief statement of the reasons for the award. An arbitration award shall decide the rights and obligations only of the Persons named in the arbitration, and shall not have any bearing on any other Person or dispute.

19.5 **Paying for Arbitration.** Arbitration fees will be allocated according to the applicable AAA Rules. All Persons are responsible for their own attorney's fees, expert fees and any other expenses, unless the arbitrator awards such fees or expenses to a Person based on applicable law.

19.6 **The Final Award.** (a) Any award by an arbitrator is final unless a Covered Person appeals it in writing to the AAA within thirty (30) days of notice of the award. The arbitration appeal shall be determined by a panel of three (3) arbitrators. The panel will consider all facts and legal issues anew based on the same evidence presented in the prior arbitration, and will make decisions based on a majority vote. Arbitration fees for the arbitration appeal shall be allocated according to the applicable AAA Rules. An award by a panel on appeal is final. A final award is subject to judicial review as provided by applicable law. (b) A final award may be entered in any court of appropriate jurisdiction.

19.7 If any part of this arbitration provision is deemed invalid or unenforceable, the other terms shall remain in force, except that there can be no arbitration of a class or representative Claim. This arbitration provision may not be amended, severed or waived, except as provided in this Agreement or in a written agreement between Company and Issuer.

**20. Notices and Expedited Shipping Fees.** Except as otherwise provided in this Agreement, all notices will be in writing and deemed effective when personally delivered or mailed, first class postage prepaid to the appropriate party at the address set forth in the application for credit or at such other address as the parties may indicate from time to time. In addition to the notice methods provided above, the parties agree that a communication: (i) by facsimile to a number identified by the recipient as appropriate for communication under this Agreement; or (ii) by e-mail to or from an address normally used by an Account User for business communications shall be considered to be a "writing" and to be "signed" by the party transmitting it for all purposes. The parties agree to waive any claim that a transmission does not satisfy any writing or signature requirements under applicable law. The parties agree that a photocopy or printed copy of a facsimile or e-mail constitutes the "best evidence" and an "original" of such a writing.

Expedited Shipping (Card and Check Orders)		
Priority	\$25.00	\$25.00
International	\$25.00	\$25.00
Standard	\$20.00	\$20.00
1-Day	\$15.00	\$15.00
1-Day	\$10.00	\$10.00

**21. Confidentiality.**

21.1. All information furnished by either party or by any affiliate of Issuer in connection with this Agreement will be kept confidential (and will be used by the other party only in connection with this Agreement), except to the extent that the information: (i) is already lawfully known when received; (ii) becomes lawfully obtainable from other sources; (iii) is required to be disclosed in any document filed with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, or any other agency of any government; or (iv) is required by law to be disclosed, provided that notice of the disclosure has been given (when legally permissible) by the party proposing to make such disclosure, which notice, when practicable, shall be given sufficiently in advance of the proposed disclosure to permit the other party to take legal action to prevent the disclosure. Nothing in this section or this Agreement prohibits Issuer from providing any information to its affiliates or third-party servicers in connection with the operation and maintenance of Issuer's Card program, and Company expressly agrees to these disclosures and use of information, provided that such affiliates and third party servicers agree to maintain the information confidentially and not disclose it to any other parties without Issuer's authorization. Notwithstanding the foregoing, Company consents to Issuer's providing to Program Operator information regarding Company's Issuer account and use of the Services, including without limitation, account transaction details and account balances. Further, Company agrees that Program Operator may perform certain administrative functions with respect to Company's account, including without limitation implementing and modifying account controls, sub credit limits, etc., and that Issuer may rely on the instructions of Program Operator in such regard without the need to verify any such instruction with Company. Company will look solely to Program Operator in the event of any dispute arising out of or relating to any such instruction. Company agrees and understands that transaction information may be provided to merchants who have accepted the Card as payment for goods and services purchased by Company. Issuer may provide Company contact information to third parties who may provide goods or services to commercial enterprises. Company must notify Issuer in writing if it does not want to receive such marketing materials from third parties.

21.2. Notwithstanding the foregoing, Issuer and/or its affiliates may use anonymized transactional information along with other data gathered by Issuer in connection with the development or creation of data and analytics tools and products in accordance with applicable law. Issuer and/or its affiliates will own all right, title or interest in or to any resulting products that include the anonymized data of Company.

**22. Relationship of the Parties.** Nothing contained in this Agreement shall be construed as constituting or creating a partnership, joint venture, agency, or other association or relationship between Issuer and Company. To the extent that either party undertakes or performs any duty for itself or for the other party as required by this Agreement, the party shall be construed to be acting as an independent contractor and not as a partner, joint venturer, or agent for the other party.

**23. Compliance with Applicable Laws:**

23.1. Customer Identification Compliance. Issuer complies with federal law which requires all financial institutions to obtain, verify, and record information that identifies each company or person who opens an account. Issuer may ask for name, address, date of birth, and other applicable information to identify the Company and/or Account Users.

23.2. Data Privacy and Business Continuity. Issuer is subject to certain laws governing the protection of Company's information and the information of their employees and Account Users using the Program. As such, Issuer shall provide its credit services to Company in accordance with applicable laws and standards to protect and keep confidential such information. In doing so, Issuer shall maintain an information security plan and business continuity plan to help ensure that its systems are maintained in accordance with banking standards and regulations applicable to the information being held by Issuer.

**24. International Use of Cards/Currency Conversion.**

24.1. Cards are issued for use in the United States or Canada. Issuer will notify Company if the card is accepted at merchants in other countries. Company may not distribute Cards to employees based in countries other than the United States and Canada unless otherwise agreed to by Issuer in writing.

24.2. Currency Exchange. Company agrees that all indebtedness incurred by use of a Card in the United States or Canada to purchase goods or services or to otherwise obtain funds in a currency other than the currency in which the Card or other access device is issued will be converted to the currency in which Card or access device is issued. Issuer will apply the current Royal Bank of Canada (RBC) noon exchange rate, with an additional two percent (2%) fee included in the effective rate paid to cover currency exchange fluctuation. This fee does not apply to Mastercard® transactions which are subject to fees imposed by Mastercard®. The currency conversion rate Issuer uses on the processing date may differ from the rate that would have been used on the purchase date or Company's statement posting date.

**25. Use of Mastercard® Network.**

If you have elected to add Mastercard® Network access, the following additional definitions and terms will apply to your Mastercard® transactions and underlying Mastercard® accounts only:

25.1. Additional Definitions (applicable to Mastercard® usage only):

**"Accounts(s)"** in addition to any fleet card accounts issued to you, Accounts shall also include the charge card credit line extended to Company by Issuer which uses a network provided by the card association such as Mastercard® or Visa. An Account may be evidenced by a plastic card, account number or other approved payment device.

**"Cross Border Fee"** A Cross Border Fee shall be applied to any Transaction when the country code of the merchant and the country code of the Account User are not the same. As an example, if Company located in the US and they use the US issued virtual card number to make a purchase in Canada, then the cross border transaction fee established by the card association shall apply. The card association may establish different Cross Border Fees applicable to the card numbers that are issued from different regions.

**"Currency Conversion Fee"** A multi-currency conversion fee shall be applied to any Transaction that is billed through the card association in a currency other than the contractually agreed upon billing currencies of the BIN used for the Transaction. The card association will convert the Transaction to the billing currency at the exchange rate determined by card association (or its Affiliates) using its currency conversion procedure. The currency conversion rate (which is different from the Multi-Currency Conversion Fee) is generally either a wholesale market rate or a government-mandated rate in effect on the date of conversion. The currency conversion rate used on the conversion date may differ from the rate in effect on the date a Transaction is made.

**"MCC"** means Merchant Category Code.

**"Qualifying Net Spend"** means the aggregate amount of individual purchases posted to Accounts during the reporting period, net of the aggregate amount of all refunds to Accounts (such as credits for returned merchandise or disputed billing items). Qualifying Net Spend shall not include (i) those amounts representing annual fees, finance charges and other fees or charges posted to Accounts (such as late fees, returned check fees, cash advance fees, collection costs, administrative fees and reporting fees), or (ii) any amounts posted to an Account with respect to which a card, account number or payment device has been reported lost, stolen or otherwise compromised.

25.2. Additional Terms (applicable to Mastercard® usage only):

*Section 3: Controls related to Mastercard® transactions only:*

Issuer will use MCCs to establish Controls in accordance with Company's elections. The MCCs are assigned by Mastercard®. Issuer shall have no responsibility for inappropriate MCC assignments unless Issuer applies an MCC code that the Company has not in fact elected.

Issuer shall use reasonable efforts to deny requests for Transaction authorizations that fall outside the selected MCC or Control parameters, however, Company remains responsible for payment in full for Transactions which fall outside of the MCC or Control parameters selected. The existence and/or use of Controls will not affect Company's liability for Unauthorized Transactions.

*Section 6: Late and Credit Fees (Mastercard® Only):*

Late fees will be assessed at a periodic rate of **\$75.00 plus 4.99%** of the unpaid balance (excluding any amounts previously invoiced and outstanding and previous late fees that have been applied, not to exceed \$2,500 per late payment, or as allowed by law.

*Section 10: Unauthorized Use and Unauthorized Transactions for Mastercard® only:*

Company may be eligible for additional protections against liability for unauthorized use provided by Mastercard®. In order to qualify for such protections, Issuer must receive notice in the event that a compromised, lost or stolen Card or Account number or that an employee or former Account User is no longer employed with Company or authorized to use the Accounts. Such notice must be provided within two (2) business days.

*Section 18: Changes in Law/Changes by Card Association (Mastercard® Only).* In the event that there is a change in applicable law deemed by Issuer to be material to the administration of the program or a change in the way Issuer is compensated by the card association, Issuer may seek to re-negotiate the terms, including but not limited to, the financial terms of this Agreement. The Company shall have no obligation to renegotiate such terms; provided, that if the parties cannot agree on an adjustment of such terms, then Issuer may, at its option: (i) allow this Agreement to remain in effect without any such adjustment; or (ii) terminate this Agreement upon written notice to the Company.

**Fees:**

**Cross Border and Currency Conversion Fees (for Mastercard® transactions only):**

Country of Issuance	Cross Border Fees (of Total Transaction Value)	Currency Conversion Fees (of Total Transaction Value)
United States	90 basis points (0.90 %)	20 basis points (0.20%)
Canada	20 basis points (0.20%)	20 basis points (0.20%)

**26. Provisions Applicable if Company is Domiciled in Canada.**

The following provisions only apply if Company is domiciled in Canada:

26.1. References herein to "Issuer" will be understood to be to "WEX Canada, Ltd.", and the services to be provided by Issuer hereunder will be provided by WEX Canada, Ltd.

26.2. Notwithstanding Section 2.1.2 above, no fee will apply whenever Issuer agrees to a temporary over-limit credit override (but the decision of whether or not to issue a temporary over-limit credit remains entirely in Issuer's discretion).

26.3. The late charge set forth in Section 6 will not apply. Issuer reserves the right to impose a late charge in the future upon prior notice to Company provided such late charge may not exceed the amount of the late charge that would be due under Section 6 above and provided such late charge must comply with applicable law.

26.4. Section 18.1 will not apply. Instead, this Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Further, any references in the Agreement to "federal" law will be understood to include the federal law of Canada and any references therein to "state" law will be understood to include the laws of each applicable province or territory of Canada. Each party waives any objection to venue and any objection based on forum non conveniens in any such court.

26.5. Company acknowledges and agrees to the terms of Issuer's privacy policy which forms part of this Agreement and Company consents to the collection, use and disclosure of financial and other personal information about Company as it relates to the provision of services by Issuer hereunder in the manner described in such privacy policy.

26.6. This Agreement and all related documents have been drafted in the English language at the express request of the parties. Le présent document ainsi que tous documents s'y rattachant ont été rédigés en langue anglaise à la demande expresse des parties.

26.7. For Transactions occurring in the United States and the fees associated therewith, all dollar amounts used in the Agreement are expressed in United States Dollars, unless otherwise noted. For Transactions occurring in Canada and the fees associated therewith, all dollar amounts used in this Agreement are expressed in Canadian dollars unless otherwise noted.

**27. CrossRoads Freight.**

The following terms apply solely to Cards enabled for acceptance within the WEX North American Fleet ("NAF") network of retail merchant locations. Because NAF transactions occur at NAF retail/forecourt locations, certain product specific limit controls and transaction information prompts may not be supported for NAF transactions. Further, due to system differences, NAF transactions may not post in real time. By selecting a card type with NAF network acceptance, Company acknowledges the foregoing and accepts responsibility for any transactions that fall outside Control parameters or lack standard information prompts that are not available on NAF network transactions. Certain transaction fees set forth herein may also not apply to NAF transactions.