

Business Check Card Agreement

This Agreement contains the terms and conditions for use of the Business Check Cards issued by American Bank, N.A. and supplements the Deposit Account Agreement (the "Deposit Agreement") for any American Bank, N.A. deposit account which you have linked to an American Bank Business Check Card ("Business Check Card"). If any conflict arises between the terms of this Agreement and the Deposit Agreement relating to a Business Check Card or use of a Business Check Card, then this Agreement will control. The terms "we," "us," "our" and "Bank" mean American Bank, N.A. The terms "Company," "you," "your," and "Cardholder" mean the owner of a deposit account to which a Business Check Card is linked. The term "Account" means any American Bank deposit account linked to your Business Check Card.

Amendments. We may amend this Agreement at any time and from time to time. We will mail a copy of the amendment to you at your last known address as shown on the records of Bank. Prior notice may not be given where an immediate change in terms or conditions is necessary to maintain the security of the Business Check Card, the Account, or the ATM system.

Use of the Business Check Card by you or with your permission shall constitute your agreement to the terms and conditions contained herein or any amendments hereto:

1. **Your liability.** You agree to be bound by any funds transfer, amendment or cancellation to a funds transfer issued in your name and received by the Bank, whether or not authorized, if the Bank accepts the funds transfer, amendment or cancellation in good faith and in reliance on your compliance with the security procedures stated herein or on the Business Check Card Application. In the event that a funds transfer is unauthorized, the Bank is entitled to retain payment for the funds transfer from you unless you can prove that the funds transfer was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act on your behalf with respect to such funds transfer or compliance with the security procedures, (ii) who obtained access to your transmitting facilities or who obtained, from a source controlled by you and without authority of the Bank, information facilitating breach of the security procedures, regardless of how the information was obtained or whether you were at fault.

An "Unauthorized Transaction" is one that does not benefit you that is made by a person who does not have your actual, implied, or apparent authority to use a Business Check Card. Unauthorized Transactions do not include: any transaction by a co-owner, a Cardholder or person authorized by a Cardholder, or other person with an interest in or authority to transact business on the account in question; any transaction by a Cardholder that exceeded the authority given by the account holder; and, any transaction that resulted from inadequate internal controls in your organization.

The Bank is authorized to debit your Account whenever the Business Check Card is used to purchase goods or services, to obtain cash at a bank or merchant, or to conduct transactions at an ATM. Should you close or have insufficient funds in the Account to pay such debit, you authorize Bank to debit any other deposit account owned in whole or in part by you.

MasterCard Zero Liability Program for Small Businesses. A Cardholder will have zero liability for Unauthorized Transactions using a Business Check Card only if:

- The Cardholder is a natural person or sole proprietorship.
- The Unauthorized Transaction was not completed using a PIN.
- The Cardholder has exercised reasonable care in safeguarding the Business Check Card from risk of loss, theft, or unauthorized use.
- The Cardholder has not reported two or more incidents of Unauthorized Transactions in the preceding twelve (12) months.
- And, the deposit account to which the Business Check Card at issue is linked is in good standing.
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2. **Use of a Business Check Card.** You will be issued a Business Check Card and, upon request, a secret code, also called a "PIN," for use with the Business Check Card. When you apply, the Bank will ask you to specify which business account(s) you want linked to your Business Check Card for access to automated teller machines ("ATMs"), Point-of-Sale ("POS") terminals, merchant purchases or cash advances. You must have at least one qualified business checking account linked to your Business Check Card, and except for transactions at American Bank ATMs, you may only access a primary checking and a primary savings account.

You represent and warrant that the Business Check Card will be used for business transactions exclusively and not for personal, family or household use. And, you understand that your Business Check Card is not a credit card and is not governed by the provisions of Regulation E like consumer electronic funds transfers.

Card limits. There is no limit on the number of times you may use your Business Check Card each day, so long as funds are available in the Account and you do not withdraw more than the daily dollar limit of five hundred twenty five dollars (\$525.00) per day per card for ATM cash withdrawals and one thousand five hundred dollars (\$1,500.00) per day per card for POS transactions, merchant purchases and cash advances (all limits inclusive of fees.) We may add or delete at any time the availability of one or more types of transactions, and we may from time to time place or change limits on the number or amounts of transactions you make. You may request a change in the daily limits, subject to Bank approval.

It may be possible to configure individual cards with certain limitations on accessing designated accounts, such as the inability to withdraw cash from ATMs. Such limitations are mere accommodations and should not be considered a foolproof means to control access to your funds, as there are other means beyond the ATM system for cardholders to obtain cash, including but not limited to cash-back POS transactions and credit card cash advances. Additionally, the Bank does not have control over how a merchant or card processor may handle a particular transaction, **As a result, if any such limitation is requested, the Bank will not be liable for any losses occasioned by a failure of such limitation, including but not limited to losses caused by the negligence of Bank or its employees.**

Charges. American Bank charges related to your Business Check Card are described in the current Schedule of Fees. You agree to pay all charges, including any non-sufficient funds fees, arising from use of the Business Check Card.

3. **Deposit availability and preauthorization holds.** The availability of deposits for withdrawal is contained in the Bank's then current funds availability policy. Should you use your Business Check Card to purchase goods or services, usually without using a PIN, the merchant may attempt to obtain preauthorization for the purchase from the Bank, and may place a hold on funds in your Account to ensure payment is received. The amount and duration of preauthorization holds can vary depending on the merchant and the type of transaction. In most instances, the preauthorization hold is placed for the exact amount of the purchase and is automatically removed when the transaction clears through the MasterCard system in 2 to 5 days. However, for certain types of transactions such as fuel purchases or rental cars done with or without use of a PIN, the preauthorization hold amount may be for more or for less than the final purchase amount and may extend for several days after the transaction clears through the MasterCard system and the Account is debited.

Preauthorization holds may affect the availability of funds from your deposit account to pay checks or for other electronic fund transfers. We will not be responsible for damages for wrongful dishonor if any item is not paid because of the preauthorization hold.

4. **Terminating your Business Check Card.** All Business Check Cards remain the property of the Bank and all privileges to use the Business Check Card may be immediately terminated by the Bank without notice to you. You may terminate the privileges for a particular Business Check Card at any time by providing written notice to the Bank at the address listed below. Your written termination notice is effective only upon receipt by Bank. Any person authorized to transact business on any Account linked to the Business Check Card may terminate your Business Check Card in the same manner. All Business Check Cards must be immediately surrendered upon termination or upon Bank request and Business Check Card termination will not affect any rights and obligations for transactions made prior to termination.

Address for Card Termination Notices:
American Bank, N.A.
Attn: Customer Service
PO Box 6469
Corpus Christi TX 78466-6469

5. **LIMITATION OF LIABILITY; RELEASE AND INDEMNITY.** Company, its agents, representatives and successors in interest do hereby release and indemnify American Bank, N.A., its employees, directors, agents, representatives and successors in interest, ("Indemnified Parties"), from and for any losses, claims or causes of action arising out of use of the Business Check Card, including all costs and attorney's fees, even if caused solely by the negligence of Indemnified Party, except for any such losses, claims or causes of action caused by Indemnified Parties' own gross negligence or willful misconduct.

To the fullest extent possible, Bank will not be liable for any incidental, consequential, special or punitive damages incurred by you, even if Bank has been informed of the possibility of such losses.

Bank hereby disclaims all warranties, whether express or implied, including but not limited to any warranty of merchantability or fitness for a particular purpose concerning the American Bank Business Check Card or any services therewith.

6. **Refunds on purchases.** Cash refunds will not be made to you for purchases made with your Business Check Card, even if you are unhappy with the goods or services purchased. You must handle any claim or defense with respect to property or services purchased with your Business Check Card directly with the merchant or other business establishment which accepts your Business Check Card, and any such claim or defense you make will not relieve you of your obligation to pay the total amount of any sales draft plus any appropriate charges we may be authorized to make. Any refunds to you by a merchant/seller of amounts debited by use of your Business Check Card must be made on a credit voucher signed by you and the merchant and presented by the merchant to us. The amount of any such Business Check Card refund will be reflected in your next monthly checking account statement.

7. **Security procedures.** The Personal Identification Number (PIN) furnished with a Business Check Card or selected by the cardholder to be used in ATM, POS or debit transactions with the Business Check Card must be protected and remain confidential at all times. Do not provide the PIN to any other persons and do not write the PIN on the card or carry the PIN with the card. Do not loan the Business Check Card to anyone or provide the card number or expiration date to anyone. Each actual cardholder must sign the back of the card in ink to enable a merchant to verify the authorized signature for each card. The card must be kept in a safe place at all times and if lost or stolen must be cancelled immediately by calling (361) 992-9911 in Corpus Christi, (361) 749-7711 in Port Aransas, (512) 328-0999 in Austin, (361) 727-9955 in Rockport, (361) 645-3220 in Goliad or Victoria, or 1-800-257-8316 outside these areas. Itemized invoices for all purchases should be obtained and reconciled to monthly statements in a timely fashion. Any unauthorized transactions or statement inaccuracies must be immediately reported to American Bank Customer Service.

8. **Attorney's fees.** If we take legal action against you because of a default in the terms of this Agreement, you must pay reasonable attorney's fees and other costs of the proceedings. Your responsibility for fees and costs shall in no event exceed the maximum allowed by law.

9. **Applicable law.** The laws of the State of Texas and of the United States govern the validity, construction and enforcement of this Agreement and all matters arising out of issuance and use of the Business Check Card. If a portion of this Agreement is deemed invalid or unenforceable, any remaining portions of the Agreement not so affected will remain in full force and effect.

10. **Credit or information inquiries.** You authorize us to make any credit, employment and investigative inquiries we deem appropriate in connection with the issuance and use of your Business Check Card. We may furnish information concerning your account or credit file to credit reporting agencies and others who may properly receive that information.

11. **Delay in enforcement of rights.** No delay or omission by us in exercising any right under this Agreement will prevent us from exercising that right in the future.