

## ONLINE BANKING TERMS AND CONDITIONS

These Terms and Conditions, together with the Guides, the documents specifically referenced herein, the application for services and any other documents, instructions, software and manuals relating to the Service, including those online, as may be amended or replaced, are the agreement ("Agreement") that governs your use of Commerce Bank's Online Banking Service ("Service"). "Guides" means any user guides, Help files, software or other instructions, including those online, relating to the Service. The Terms and Conditions also contain important disclosure information relating to electronic fund transfers made through the Service. The Service may be one of three online banking products accessed through your personal computer. "Internet Banking" is online banking conducted via the Commerce Bank website. "PC Banking" is online banking via Personal Accounts conducted using Quicken or Microsoft Money. "Online Banking for Business" is online banking via Business Accounts conducted using Quicken, Microsoft Money or QuickBooks. By subscribing to the Service or using the Service to access Account information, or to make any transfer between Accounts or payment to a third party Biller(s), you agree to the terms of this Agreement. By using any new services that are made available, you agree to be bound by any terms and conditions that we communicate to you concerning those services.

**Definitions.** "Biller" is the person or entity to which you wish a bill payment to be directed or is the person or entity from which you receive electronic bills, as the case may be. "Transactions" refer to the ability to change your security information, to access account information, to request a new account, to transfer between accounts and to make payments to Billers drawn on or debited against your Payment Accounts. "Personal Deposit Account(s)" means the checking, regular savings or savings with limited check writing privileges (money market type) accounts you have with us. "Personal Credit Account(s)" means Commerce BankCard Accounts as well as a Branch Line of Credit, home equity line of credit or personal loan you have with us. "Bankcard Accounts" mean credit card accounts that you hold with Us. "Personal Accounts" refer collectively to both Personal Deposit Accounts and Personal Credit Accounts and to qualify as a Personal Account, the account must be established primarily for personal, family or household purposes and designated by you for access through the Service, including your designated Payment Account(s) and Billing Account(s). "Business Deposit Account(s)" means the checking, regular savings or savings with limited check writing privileges (money market type, if eligible) accounts you have with us. "Business Credit Accounts" mean Commerce Bankcard Accounts (when available for access) as well as Branch Lines of Credit and business loans you have with us. "Business Accounts" refer collectively to both Business Deposit Accounts and Business Credit Accounts and to qualify as a Business Account, the account must be established primarily for business purposes and designated by you for access through the Service, including your designated Payment Account(s). "Payment Account (s)" means the checking account(s) from which you have asked us to make Online Bill Payments. "Deposit Account(s)" refers collectively to Personal Deposit Accounts and Business Deposit Accounts. "Credit Accounts" refers collectively to Personal Credit Accounts and Business Credit Accounts. "Billing Account" is the Checking Account that you designate for the deduction of service charges and other fees related to the Service. "Accounts" when used alone refers generally to the various account types defined herein that you own with us. "Payments to Biller(s)" drawn on or debited against the Accounts are referred to as "Payments." "Trust Account(s)" means the account(s) you own with the Commerce Trust Company that are enrolled in Wealth Manager. "Wealth Manager" means the Commerce Bank system that allows select Commerce Trust Company customers and their designated

Interested Parties to access Trust Accounts electronically through the Commerce Trust Company's website as well as to enter Online Banking to use the Service. "Wealth Manager Customer" means a customer who has enrolled in Wealth Manager through the Commerce Trust Company. In our sole discretion, we may refuse to include, or may exclude from continued use, an Account in the Service. The words "we", "us" and "our" refer to Commerce Bank, N.A, the bank which holds the Deposit Accounts accessed by the Service, and any agent, independent contractor or assignee Commerce Bank may, in its sole discretion, involve in the provision of the Service. "Commerce Trust Company" is a division of Commerce Bank, N.A.. CheckFree Services Corporation ("CheckFree") is an independent contractor with whom Commerce Bank has contracted to implement portions of the Service. "Metevante" is an independent contractor with whom Commerce Bank has contracted to implement Wealth Manager. The words "Customer," "you" and "your" refer to each person subscribing to the Service and each person who uses the Service with the permission of the subscriber.

You warrant and represent that the owner and authorized signer(s) on the Business Accounts are identical. Commerce is not required to determine, even at the time you complete the Enrollment form or at any other time during which this Agreement is in effect, that the Accounts have the same authorized signers.

"Business Days" are Monday through Friday. Federal Reserve holidays are not included. You can use the Service on the days and during the hours specified in the Guides, except during maintenance periods. However, we can process Transactions only on Business Days. "Banking Day" means that part of any Business Day on which we are open to the public for carrying on substantially all of our banking functions.

Much of our relationship with you is regulated by state and federal law, including the Uniform Commercial Code, and regulations of the Federal Reserve System, other regulatory agencies and clearinghouse associations. These laws and regulations, as well as the terms of the Agreement, may change from time to time without notice to you unless required by law. Your continued use of the Service following acceptance of these Terms and Conditions or notice of a change is considered acceptance of the Agreement or change. The agreements that apply to your Accounts with us, including, but not limited to, the *Deposit Agreement*, Funds Availability Policy, Substitute Check Policy and fee schedules, apply to all Transactions made on the Accounts through the Service.

**Information Authorization.** Your enrollment in the Service may not be fulfilled if the Service cannot verify your identity or other necessary information. You authorize us to obtain credit bureau and account information reports, verification of employment and other information we may need in connection with you Accounts at any time. We may obtain information regarding your accounts with Billers in order to facilitate proper handling and crediting of your payments. You authorize us to provide updated customer information, including, but not limited to, name, address, telephone numbers and e-mail addresses to your Billers. In addition, if a Business Account customer, you agree to provide Commerce with financial information from time to time as requested.

In consideration of your use of the Service, you agree to: (a) provide true, accurate, current and complete

information about yourself as prompted by the Service's Enrollment form and all other information provided by Customer to Commerce (such information being the "Registration Data") and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or Commerce has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Commerce has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

**We encourage you to keep this Agreement for your records. If you have any questions, ask your Commerce Banker.**

## **YOUR PASSWORD(S)**

The Password is for your use and protection. You agree to: (a) not disclose the Password, or other means to access the Service or your Accounts, or otherwise make it available to anyone else; (b) use the Password as instructed in the Guides; (c) immediately notify us of any loss or theft of the Password; and (d) be liable for the Password and for its authorized use and for its unauthorized use as described in this Agreement. Unless you notify us as provided in this Agreement, you acknowledge that we are entitled to rely on the use of your Password as your authorization for any Transaction through the Service. You are responsible for all Transactions you initiate or authorize using the Service. **If you permit any other person to use the Service or your Password or other means to access your account, you will have authorized that person to access your Accounts and you are solely responsible for any Transactions that person initiates or authorizes from your Accounts.**

Business Account holders may establish authorized "Sub-Users." Wealth Manager Customers may establish "Interested Parties." Once established, the authorized Sub-User(s) and Interested Parties will have access to the Service and the ability to make Transactions or perform any other act permissible by the Service on your behalf as an Agent in accordance with the Deposit Agreement. You are solely responsible for all Transactions initiated or authorized from your Accounts by a Sub-User or Interested Party as well as any breaches of this Agreement that are attributable to your Sub-User or Interested Party's use of the Services. You acknowledge that the security procedures described in this Agreement are commercially reasonable. Any Transactions completed by us in accordance with these security procedures, whether or not authorized by you, shall be treated as your authorized Transaction.

We reserve the right to implement additional security procedures, such as but not limited to limiting the frequency and dollar amount of Transactions from your Accounts for security reasons. Customer agrees that its continued use of any such changed security procedures evidences its agreement to, and acceptance of, the commercial reasonableness of such changed procedures.

## **TELEPHONE NUMBER AND ADDRESS TO BE NOTIFIED IN EVENT OF UNAUTHORIZED TRANSACTIONS OR STOP PAYMENTS**

***Telephone Number and Address.*** Tell us **AT ONCE** if you believe that your password or other means to

access your account has been lost or stolen or that someone may attempt to use the Service without your consent or has transferred money without your permission by calling or writing us at the telephone number and address listed below (Telephoning is the best way of keeping your possible losses down):

Commerce Bank, N.A.  
Online Banking Customer Service  
Mail Stop: CLPCB  
8000 Forsyth Blvd.  
Clayton, MO 63105

1-800-986-2265

## **YOUR LIABILITY FOR UNAUTHORIZED TRANSACTIONS**

***Personal Accounts.*** You could lose all the money in your Account plus your maximum overdraft line of credit. If you tell us within 2 Business Days after you discover your password or other means to access to your account has been lost or stolen, you can lose no more than \$50 if someone deposited, withdrew or transferred funds without your permission. If you do NOT tell us within 2 Business Days after you learn of such loss or theft and we can prove we could have stopped someone from transferring funds without your permission if you had told us, you could lose as much as \$500. Also, if your Account statement shows Transactions that you did not authorize, tell us at once. If you do not tell us within 60 days after the statement was mailed to you or within 60 days after you were notified by e-mail that your statement was available online, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time. If good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

***Business Accounts.*** All Payments through the Service will be reflected on Customer's periodic bank statement. Customer should review each statement for any discrepancies in connection with Payments. If Customer thinks a Transaction is wrong or needs more information about the Transaction, Customer must contact Commerce upon discovery of the error or within fourteen (14) calendar days after receipt of the first notice or periodic statement with a discrepancy, whichever is earlier. Failure to notify Commerce within the timeframe allotted above will relieve Commerce of any obligation to pay interest on or otherwise compensate Customer for the amount of an unauthorized or erroneous Payment. In accordance with UCC § 4A-501(a), except to the extent otherwise provided by applicable law, Commerce will incur no liability for an unauthorized Payment if Customer does not notify Commerce of any unauthorized Payment within thirty (30) calendar days after receiving its first notice or periodic statement.

## **TYPES OF AVAILABLE TRANSACTIONS AND LIMITS ON TRANSACTIONS**

***Wealth Manager Customers.*** Wealth Manager Customers and their Interested Parties may use the Service to perform any of the permissible acts described herein. Permissible acts within Wealth Manager will be described in and governed by applicable documentation related to the Wealth Manager

Customer's enrollment in, and continued use of, Wealth Manager.

**Account Access.** Upon request, you may use the Service to:

- **Obtain account balances and transaction information, including access to your account history, for your Accounts.**

If you have Adobe® Reader® software, you can view and download imaged copies of your periodic statements, checks, deposit slips (not deposited items) and any internal debits or credits.

- **Change your statement delivery options (available for Business Accounts when applicable).**

Select from several paper and electronic periodic statement delivery formats for your Accounts or chose to no longer receive your bank statements delivered in a paper format. This choice will apply to all Accounts.

- **Submit a request to open new accounts.**

- **Change security information necessary to access the account.**

You may use the Service to change the security information necessary to access the system, such as ID/password, personal security image or caption, security questions and answers, etc.

- **Transfer funds between designated Accounts.** You can use the Service to perform permissible transfers of funds to/from your Accounts as listed below. You cannot cancel your transfer after it has been entered into our system and the information has been transmitted to Commerce Bank, but you can use the Service to reverse a transaction after it has been entered. A request to transfer funds between designated Accounts will not result in an immediate transfer or immediate funds availability because of the time required to process the files (see below for more detail). If there are not available funds in the Deposit Account from which a transfer is being made at the time the transfer is processed, at our option, your account may become overdrawn and you may be charged a fee, or the transfer may be canceled. Certain transfers may be scheduled for future dates depending on the type of transfer being scheduled.

- ***Transfer funds between your Deposit Accounts.*** A request to transfer funds between your Deposit Accounts will result in same-day processing if received by Commerce before 7 p. m. (all times listed herein are Central Time as determined on Commerce's processing system). Requests to transfer such funds received by Commerce after 7 p.m. or on a non-Business Day will be considered to be made the next Business Day.

- ***Note for PC Banking and Online Banking for Business Customers*** – The only permitted transfer available through the Service is transfers between your Deposit Accounts and the same day cut-off time for transfers initiated via PC Banking or Online Banking for Business is 6 p.m., instead of 7 p.m.

- ***Transfer funds from your Personal Deposit Accounts to your Personal Credit Accounts.*** Requests to transfer funds to a Personal Credit Account received by Commerce on a Business Day before 7 p.m. will be debited from your Deposit Account and credited to

your Personal Credit Account as of the same Business Day, but the credit will not be reflected in your Personal Credit Account balance until the next Business Day. Requests to transfer such funds received after 7 p.m. on a Business Day or received on a non-Business Day will be processed as if received by Commerce on the next Business Day and processed accordingly.

- ***Transfer funds from Home Equity Lines of Credit to Personal Deposit Accounts.*** Requests to transfer funds from a HELOC to a Personal Deposit Account received by Commerce on a Business Day before 7 p.m. will be credited to your Personal Deposit Account and debited from your HELOC as of the same Business Day but the debit will not be reflected in your HELOC balance until the next Business Day. Requests to transfer such funds received after 7 p.m. on a Business Day or received on a non-Business Day will be processed as if received by Commerce on the next Business Day and processed accordingly.

- **Send electronic mail (e-mail) to us and receive e-mail from us.** We may not immediately receive e-mail that you send. We will have a reasonable opportunity to act before taking action on your e-mail requests. You cannot use e-mail to make a bill payment or funds transfer. **You may NOT use e-mail to stop payment, report unauthorized use of your Password, or to report an unauthorized Transaction. Likewise, You may NOT use e-mail to notify Commerce of a cancellation of your HELOC or in the case of errors or questions about your HELOC. Such notifications must be done in accordance with your signed credit agreement and in no event will Commerce be responsible if such notices are attempted through the Service. For all non-HELOC-related inquiries, You must notify us by calling or writing us at the phone number or address for Online Banking Customer Service provided in this Agreement.**

**Online Bill Payment.** For an additional fee, you can perform the following tasks as a part of our Bill Payment service:

- **Make payments from your Payment Account(s) in the amounts you request to persons or businesses in the United States. Receive bills electronically.**
  - ***Payment Methods.*** We reserve the right to select the method in which to remit funds on your behalf to your Biller. These payment methods may include, but may not be limited to, an electronic payment ("EFT Payments"), an electronic to check payment ("EFT To Check Payment") or a laser draft payment drawn on your Payment Account and signed "signature on file" ("Draft Payment") (funds remitted to the Biller are deducted from your Payment Account when the laser draft is presented to your financial institution for payment).
  - ***EFT To Check Payments.*** In some instances, CheckFree may issue a check payable to your Biller, drawn on an account managed by CheckFree, which contains only user funds. ("Check"). CheckFree will debit your Payment Account on the Due Date. You agree to be liable to CheckFree if there are insufficient available funds to pay the electronic debit. The Check will not be paid by CheckFree if it is not presented within 90 days of the date of

issue, at which time the funds will be returned to your Payment Account.

- ***Payment Scheduling.*** A "Scheduled Payment" is a payment that has been scheduled through the Service but has not begun processing. You may specify the date by which you want the Biller to receive your bill payment ("Scheduled Payment Date"). That day can be any Business Day up to 360 days in the future. The Scheduled Payment Date is also the day your Payment Account will be debited, unless the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the previous Business Day. "Payment Instruction" is the information provided by you to the Service for a bill payment to be made to the Biller, such as, but not limited to, Biller name, Biller account number and Scheduled Payment Date. "Due Date" is the date reflected on your Biller statement for which the payment is due. It is not the late date or grace period. The earliest possible Scheduled Payment Date for each Biller (typically four (4) or fewer Business Days from the current date) will be designated within the application when you are scheduling the payment. Therefore, the application will not permit you to select a Scheduled Payment Date less than the earliest possible Scheduled Payment Date designated for each Biller. Depending on the U.S. Postal Service, or other commercial delivery service, and the manner in which the Biller processes the draft, a Draft Payment may post to your Payment Account before the Scheduled Payment Date. When scheduling payments you must select a Scheduled Payment Date that is no later than the actual Due Date unless the Due Date falls on a non-Business Day. If the actual Due Date falls on a non-Business Day, you must select a Scheduled Payment Date that is at least one (1) Business Day before the actual Due Date. Scheduled Payment Dates should be prior to any late date or grace period. If more than one payment has the same Scheduled Payment Date, we will, in our sole discretion, determine the order in which these payments are processed.
- ***Payment Authorization and Payment Remittance.*** By providing the Service with names and account information of Billers to whom you wish to direct payments, you authorize us to follow the Payment Instructions that the Service receives through the payment system. In order to process payments more efficiently and effectively, the Service may edit or alter payment data or data formats in accordance with Biller directives.
- When the Service receives a Payment Instruction, you authorize us to debit your Payment Account and remit funds on your behalf so that the funds arrive as close as reasonably possible to the Scheduled Payment Date designated by you. You also authorize us to credit your Payment Account for payments returned to the Service by the United States Postal Service, other mail or delivery service, or Biller; or payments remitted to you on behalf of another authorized user of the Service.
- ***Prohibited Payments.*** Payments to Billers outside the United States are prohibited. In addition, you may not make a payment of alimony, maintenance, child support, taxes, or other governmental fees or court-directed payments through the Service. In no event shall we be liable for any claims or damages resulting from your scheduling Prohibited Payments. The Service Guarantee as it applies to any late payment related charges is void

when Prohibited Payments are scheduled and/or processed by the Service. We have no obligation to research or resolve any claim resulting from the scheduling and/or processing of Prohibited Payments by the Service. All research and resolution for any misapplied, improperly posted or misdirected payments will be your sole responsibility.

- ***Biller Limitation.*** We shall have a reasonable opportunity to act before changes to your Biller list are effective. While most Billers can be reached through the Service, we reserve the right to refuse to allow you to designate any particular Biller or classes of Billers. We will notify you if we decide to refuse to pay a Biller designated by you. This notification is not required if you attempt to make a Prohibited Payment.
- ***Your Responsibility To Schedule Timely Payments.*** It is your responsibility to transmit your Payment Instructions in such a manner that your bills are paid on time. You are responsible for any late payment charge, finance charge, penalty or default that may result from your failure to transmit Payment Instructions in sufficient time.
- ***Service Guarantee.*** Due to circumstances beyond our control, particularly delays in handling and posting payments by Billers or financial institutions, some Transactions may take longer to be credited to your account. We will bear responsibility for any late payment related charges up to \$50.00 should a payment post after its Due Date as long as the payment was scheduled in accordance with the section entitled Payment Scheduling in this Agreement.
- You agree to notify us promptly if you receive notice from a Biller that a payment you made using the Service has not been completed or remains unpaid. We will not be liable to you for any damages to the extent that your failure or delay in notifying us that a bill payment was not made prevents us from avoiding or alleviating such damages.
- ***Returned Payments.*** We will not be liable to you if a Biller cannot or will not accept a payment made through the Service. You understand that Billers, the United States Postal Service and/or other mail or delivery services may return payments to the Service for various reasons such as, but not limited to, Biller's forwarding address expired; your account number with Biller not valid; Biller is unable to locate your account; or your account with Biller is paid in full. We will attempt to resolve the problem and return the payment to the Biller or we will void the payment and credit your Payment Account.

***Address Or Banking Changes.*** It is your sole responsibility to ensure that the current contact information in your user profile is current and accurate. This includes, but is not limited to, name, address, phone numbers and e-mail addresses. Changes can be made either through the Service or by contacting Online Banking Customer Service. Any changes in your Payment Account(s) must also be made in accordance with the procedures contained in the Help files. All changes are effective immediately for Scheduled Payments and future payments from the updated Payment Account information. The Service is not responsible for any payment processing errors or fees incurred if you do not provide accurate Payment Account or contact information.

**Cancellation.** The Service may be automatically cancelled by us if not used for two consecutive months.

**Funds Availability.** Funds are available for transfers and payments in accordance with our *Funds Availability Policy* contained in the *Deposit Agreement*. If there are not sufficient available funds in the Deposit Account to make transfers or Payment Account to make Scheduled Payments, we may either refuse to honor transfer or payment requests or may make the transfer or payment and thereby overdraw the Deposit Account or Payment Account. In either event, you will pay on demand by us the negative balance and are responsible for any insufficient funds and return item charges. If you have overdraft checking privileges with us, you are bound by the rules and regulations that apply to that credit privilege. If we refuse to honor a transfer or payment request due to insufficient available funds, the request will be canceled and we will not make the transfer or payment at a later date.

- **EFT To Check Payments.** In some cases CheckFree will issue a Check drawn on an account it manages, which contains only user funds, to make a Scheduled Payment. If there are insufficient available funds in your Payment Account on the Due Date for that payment, you will reimburse CheckFree immediately upon demand for the amount of the Check.

**Limitation on Dollar Amount And Frequency of Transactions.** Subject to available Deposit Account balances, funds transfers and bill payments can be made for any amount from \$1.00 to \$999,999.00. However, transfers from a HELOC will require a \$50.00 minimum and will be limited by the available credit on the HELOC. There are no limitations on the number of Transactions that can be made during any time period to or from any Account, except as provided by federal regulations limiting preauthorized transfers. By federal regulation, you are limited during any statement cycle to six preauthorized or automatic transfers (three of which may be by check, draft or similar order) if the Account is a savings or a savings with limited check writing privileges (money market type) account. Online bill payments and transfers between your Deposit Accounts are considered preauthorized transfers.

## **CHARGES FOR TRANSACTIONS OR RIGHT TO MAKE TRANSACTIONS**

The monthly service charge for the Service is as follows:

### Wealth Manager -

No additional charge. However, talk to your Commerce Trust Company representative for any charges related to the Wealth Manager service.

### Online Account Access - Internet Banking for Personal Accounts:

No Charge

### Online Account Access - Internet Banking for Business Accounts:

\$5.00 fee for access includes access to multiple Tax ID's and applicable Personal accounts. Certain account types are available that will include Online Account Access for Business at no charge, please see you Commerce Banker for more information.

Online Account Access - PC Banking and Online Banking For Business Accounts with Quicken, QuickBooks or Microsoft Money:

\$10.00 for up to 8 Online Account Access Sessions  
Each additional session: \$1.00

*"Online Account Access Session" is a telecommunications connection between your computer and Commerce Bank or CheckFree, in which you make one or more balance inquiries, fund transfers, e-mail communications or any combination thereof.*

Online Bill Payment - Internet Banking for Personal Accounts, PC Banking for Personal Accounts with Quicken, QuickBooks or Microsoft Money, or Small Business Bill Pay:

\$6.95 for up to 20 bill payments  
Each additional bill payment: \$0.60

Online Bill Payment - PC Banking for Business Accounts with Quicken, QuickBooks, or Microsoft Money:

\$10.00 (Includes 20 payments; \$7.00 for each additional group of up to 10 payments)

*Online Account Access is required for Online Bill Payment.*

There may be a charge for additional transactions and other optional services. You agree to pay such charges and authorize the Service to deduct the calculated amount from your designated Billing Account for these amounts and any additional charges that may be incurred by you. However, if there are insufficient funds in the Billing Account, we may debit any Deposit Account as a source of payment of Transactions and for any related fee or service charge. Any financial fees associated with your standard deposit accounts will continue to apply. Because of differences between the service charge billing cycle and your Billing Account statement cycle, the monthly service charge may not appear on consecutive periodic statements. The service charge for two months may appear on the same periodic statement. The monthly service charge will apply whether or not you use the Service during the billing cycle. You are responsible for any and all telephone access fees and/or internet service fees that may be assessed by your telephone and/or internet service provider. We may change or add fees, without notice unless required by law. The fees in our *Fee Schedules* or the *Deposit Agreement* also apply. If a fee is waived because of your participation in a package account product, the fee may be assessed without notice upon termination of that condition.

## DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

It is our general policy to treat your account information as confidential. However, we will disclose information to third parties about your Account or the Transactions you make:

- When it is necessary for completing Transactions or activating additional services; or
- In order to verify the existence and condition of your Account for a third party, such as a credit bureau, merchant, Biller or holder of a check issued through the Service; or
- In order to comply with government agency or court orders; or
- If you give us your permission; or
- In accordance with our current *Privacy Policy Notice*.

We may also share information with affiliates for purposes of offering or providing you other products or services, or may share our account experience information.

## RIGHT TO RECEIVE DOCUMENTATION OF TRANSACTIONS

***Periodic Statement.*** You will get a monthly statement if you have an Account upon which checks or drafts may be drawn. You will get a monthly statement on your regular savings account if there are Transactions during the month. In any case you will get a regular savings statement quarterly.

**Statement Delivery Options (Available for Business Accounts When Applicable).** You have several options for the delivery of your periodic statement. With many of the options you will continue to receive a paper statement. If you request to receive your statement by electronic delivery exclusively, you understand and agree that you will no longer receive a paper statement or the documents (checks or images of checks, for example) enclosed with the paper statement. If you select one of the electronic delivery options, we will send an e-mail reminder (to the e-mail address you provide when you select the option) notifying you when your statement becomes available to access online. You agree that you are responsible for maintaining a valid e-mail address and agree to notify us of any change in your e-mail address. You can change the e-mail address for the statement reminder at any time through Online Banking's Customer Service menu. You also agree that all change in terms notifications we are required to provide will be provided only through this electronic delivery of your statement. Each statement, together with any legal notices (including change in terms) about your Account, will remain available online at least twelve months. You may also print the statements or download to your own system. If you have more than one Account with us, you will need to select a statement delivery method for each Account. You may request a paper copy of any statement by sending us a message through Online Banking's Customer Service menu. Charges may apply for paper copies. Please refer to your applicable Account agreement. You may cancel your electronic delivery selection and again receive paper statements at any time by changing your statement option through Online Banking's Customer Service menu. Fees many apply for paper statements. Please refer to the Statement Options fee schedule. Your statements will be delivered as an Adobe® Portable Document Format (PDF) file. To access and retain a PDF file, you need the free [Adobe® Acrobat® Reader®](#) (version 6.0 or higher). You may download the reader from Adobe's web site. You agree that you have the necessary software to view and

save PDF files.

## **RIGHT TO STOP PAYMENT, PROCEDURE FOR DOING SO, AND BANK'S LIABILITY FOR FAILURE TO STOP PAYMENT**

***Payment Cancellation Requests Through the Service.*** You may cancel or edit any Scheduled Payment (including recurring payments) by following the procedures in the Guides. You may cancel or edit a Scheduled Payment through the Service until midnight Central Time of the sixth (6) Business Day before the Scheduled Due Date. There is no charge for canceling or editing a Scheduled Payment. Once the Service has begun processing a payment it cannot be cancelled or edited, therefore a stop payment request must be submitted (see below).

***Stopping Payment Through Us.*** If it is too late to cancel a Scheduled Payment online through the Service as described above, or if there is a failure in the connection to CheckFree prior to the date the payment is processed, you may be able to stop payment through us. Although we will make every effort to accommodate your request, we will have no liability for failing to do so.

**To stop payment, you must call or write us at the phone number or address listed in this Agreement.** Your stop payment request must include your Payment Account number, the Biller, the exact amount of the payment and the Scheduled Payment Date. We will charge you our then current stop payment fee.

Your ability to stop payment depends upon the payment method and whether or not the payment has cleared your Payment Account. Online Banking Customer Service will identify whether the payment was made by electronic fund transfer, draft or Check.

We shall have a reasonable opportunity to act before the stop payment order, renewal or termination is effective. We may honor a stop payment order on an Account by any account holder or authorized signer, regardless of who initiated the payment. We may terminate oral stop payment orders without notice in 14 days from the date requested, unless confirmed in writing. A written stop payment order will remain in effect for a minimum of 180 days from the effective date. If you wish to renew or terminate a stop payment order, you must do so in writing to us. A stop payment order may be terminated only by the account holder who placed it.

***Failed or Returned Transaction.*** In using the Service, you are requesting the Service to make payments for you from your Payment Account. If we are unable to complete the transaction for any reason associated with your Payment Account (for example, there are insufficient funds in your Payment Account to cover the transaction), the transaction will not be completed. In some instances, you will receive a return notice from the Service. In such case, you agree that:

- You will reimburse the Service immediately upon demand the transaction amount that has been returned to the Service;
- For any amount not reimbursed to the Service within fifteen (15) days of the initial notification, a

late charge equal to 1.5% monthly interest or the legal maximum, whichever rate is lower, for any unpaid amounts may be imposed;

- You will reimburse the Service for any fees imposed by your financial institution as a result of the return;
- You will reimburse the Service for any fees it incurs in attempting to collect the amount of the return from you; and,
- The Service is authorized to report the facts concerning the return to any credit reporting agency.

## **BANK'S LIABILITY FOR FAILURE TO MAKE TRANSFERS OR PAYMENTS**

If we do not complete a Transaction to or from your Payment Account on time or in the correct amount according to this Agreement, we will be liable for your actual losses, if any, as provided by applicable laws and regulations. However, there are some exceptions. We shall not be liable and any Service Guarantee shall be void if we are unable to complete a Scheduled Payment or other Transaction if for example, but without limitation,

- Through no fault of ours, you do not have enough available funds in your Account to complete a Transaction on that Account.
- The Transaction would be over the limit of your available credit limit if you have overdraft protection.
- You have not properly followed the Guides or the Agreement for using the Service, or if your computer, software, related equipment, electrical power or telephone service fails or malfunctions.
- The Biller information necessary to complete the payment stored on your PC's hard drive and/or the host has been lost.
- You do not authorize a payment soon enough for your payment to be received by the Biller by the Due Date.
- Withdrawals from any of your Accounts have been prohibited by a court order such as a garnishment or other legal process, or the Account is in dispute or restricted for any other reason.
- The Service, payment processing center or your equipment was not working properly and either the breakdown was apparent, you knew about the breakdown, or we had advised you about the breakdown when you started the Transaction.
- A Biller does not accept, mishandles or delays in handling payments.
- You have not provided the correct and complete Payment Account information, Biller name, address, telephone number, account information or payment amount.
- Circumstances beyond our control, including, without limitation, fire, casualty, breakdown in equipment or failure of telecommunications or data processing services, sabotage, labor shortage, lockout, strike, unavoidable accident, acts of God, riot, war or the enactment, issuance or operation of any adverse governmental law, ruling, regulation, order or decree, or an emergency or catastrophe that prevents or materially interferes with the Bank's normal operations, prevents us from the processing of any Transaction or performance of the Service.
- Delays or losses of payments caused by the U.S. Postal Service or other commercial delivery service.

There may be other exceptions stated in our Agreement with you.

Provided none of the foregoing exceptions are applicable, if the Service causes an incorrect amount of funds to be removed from your Payment Account or causes funds from your Payment Account to be directed to a Biller which does not comply with your Payment Instructions, the Service shall be responsible for returning the improperly transferred funds to your Payment Account, and for directing to the proper Biller any previously misdirected transactions, and, if applicable, for any late payment related charges.

## **LIMITATION OF LIABILITY**

If the Service is not available due to malfunction of the system or circumstances beyond our control, you agree to access accounts and pay bills by other means such as a bank branch, ATM, telephone, check, credit or debit card. Online Banking Customer Service and your Commerce Banker will assist you with these alternate means. We shall not be liable for any expenses you incur as a result of using alternate means of access or payments.

**Except as otherwise provided in this Agreement or by law, we are not responsible for any loss, injury, or damage, whether direct, indirect, special, consequential or exemplary damages, including lost profits, attorney fees, goodwill, use, data or other intangible losses (even if advised of the possibility thereof) resulting from (i) the use or inability to use the Service; (ii) the cost of procurement of substitute goods and services or messages received or Transactions entered into through or from the Service; (iii) unauthorized access to or alteration of your transmissions or data; (iv) statements or conduct of any third party on the Service; or, (v) any other matter relating to the Service including the installation, operation, or maintenance of your computer or related equipment**

## **ERROR RESOLUTION PROCEDURES FOR PERSONAL ACCOUNTS**

In cases of errors or questions about electronic Transactions involving your Personal Deposit Accounts (refer to your Cardholder Agreement for procedures relating to errors or questions regarding your Commerce Bankcard Accounts and refer to your Credit Agreement for procedures relating to errors or questions regarding your Credit Accounts):

Call us or write us at the phone number or address listed in this Agreement as soon as you can, if you think your statement is wrong or if you need more information about a Transaction listed on the statement. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared, or no later than 60 days after we send the e-mail notification that the FIRST statement on which the problem or error appeared was available online.

- Tell us your name and Account number.
- Describe the error or the Transaction you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send your complaint or question in writing within 10 Business Days.

Generally, we will tell you the results of our investigation within 10 Business Days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 calendar days to investigate your complaint or question. If we decide to do this, we will provisionally re-credit your Account within 10 Business Days for the amount you think is in error so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 Business Days, we may not re-credit your Account. If notice of an error involves a new account, the applicable time period for acting shall be 90 calendar days in place of 45 days. For new accounts we may take up to 20 business days to credit your account for the amount you think is in error.

If we decide that there was no error, we will send you a written explanation within 3 Business Days after we finish our investigation and will revoke any provisional credit to you Account. You may ask for copies of documents that we used in our investigation.

## **ELECTRONIC BILL DELIVERY**

This feature is only for the delivery of electronic bills. It is your sole responsibility to contact your Billers directly if you do not receive your statements. If you elect to activate one of the Service's electronic bill options, you agree to the additional terms of this section.

***Information Provided To The Biller.*** The Service is unable to update or change your personal information such as, but not limited to, name, address, phone numbers and e-mail addresses, with the electronic Biller. You must make any changes by contacting the Biller directly. It is your responsibility to maintain all usernames and passwords for all electronic Biller sites. You agree not to use someone else's information to gain unauthorized access to another person's bill. The Service may, at the request of the Biller, provide to the Biller your e-mail address, service address, or other data specifically requested by the Biller at the time of activating the electronic bill for that Biller, for purposes of the Biller informing you about Service and/or bill information.

***Activation.*** Upon activation of the electronic bill feature the Service may notify the Biller of your request to receive electronic billing information. The time for delivery of your first electronic bill may vary from Biller to Biller and may take up to sixty (60) days, depending on the billing cycle of each Biller. The ability to receive a paper copy of your statement(s) is at the sole discretion of the Biller. While your electronic bill feature is being activated it is your responsibility to keep your accounts current. Each electronic Biller reserves the right to accept or deny your request to receive electronic bills.

***Authorization to obtain bill data.*** Your activation of the electronic bill feature for a Biller shall be deemed by us to be your authorization for us to obtain bill data from the Biller on your behalf. For some Billers, you will be asked to provide us with your user name and password for that Biller. By providing us with such information, you authorize us to use the information to obtain your bill data.

***Notification.*** The Service will use its best efforts to present all of your electronic bills promptly. In

addition to delivery of electronic bills through the Service, we may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that your e-mail address is accurate. In the event you do not receive notification, it is your responsibility to periodically logon to the Service and check on the delivery of new electronic bills. The time for notification may vary from Biller to Biller. You are responsible for ensuring timely payment of all bills.

***Cancellation Of Electronic Bill Delivery.*** The electronic Biller reserves the right to cancel the delivery of electronic bills at any time. You may cancel electronic bill delivery at any time. The timeframe for cancellation of your electronic bill delivery may vary from Biller to Biller. It may take up to 60 days, depending on the billing cycle of each Biller. The Service will notify your electronic Biller(s) when you cancel the electronic bill feature. It is your sole responsibility to make arrangements for an alternative form of bill delivery. The Service will not be responsible for the delivery of any electronic bills that are already in process at the time of cancellation.

***Non-Delivery Of Electronic Bill(s).*** You agree to hold us harmless should the Biller fail to deliver your electronic bills. You are responsible for ensuring timely payment of all bills. You must request copies of previously delivered bills directly from the Biller.

***Accuracy And Dispute Of Electronic Bills.*** We are not responsible for the accuracy of your electronic bill(s). The Service is only responsible for presenting the information we receive from the Biller. You must address directly with the Biller any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail. This Agreement does not alter your liability or obligations that currently exist between you and your Billers.

## **INTERNET CONNECTION**

You understand and agree that use of or connection to the Internet is inherently insecure and that connection to the Internet provides opportunity for unauthorized access by a third party to your computer systems, networks, and any and all information stored therein. You understand that the technical processing and transmission of the Service, including your Content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices. **All information transmitted and received through the Internet is subject to unauthorized interception, diversion, corruption, loss, access, and disclosure. We shall not be responsible for any adverse consequences whatsoever of your connection to or use of the Internet, and shall not be responsible for any use by you of an Internet connection in violation of any law, rule, or regulation or any violation of the intellectual property rights of another.**

## **EXCLUSION OF WARRANTIES**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

a. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COMMERCE EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT

LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b. COMMERCE MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (V) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

c. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM COMMERCE OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

## **TERMINATION OF THIS AGREEMENT**

You agree that Commerce shall not be liable to you or any third-party for any termination of your access to the Service.

**You may terminate your use of the Service at any time by calling or writing Online Banking Customer Service at the address provided in this Agreement.** If you terminate the Service, you authorize us to continue making transfers you have previously authorized and Scheduled Payments until such time as we have had a reasonable opportunity to act upon your termination notice, not to be less than ten (10) Business Days after oral or written notice is received by Customer Service. You may terminate this Agreement through the Service, which will be effective immediately. Once we have acted upon your termination notice, we will make no further transfer or payment from your Account through the Service, including any transfer you have previously authorized or Scheduled Payment. If you would like to transfer the Service to a different Payment Account with us, you must provide 30 Business Days advance written notice. Termination will not affect your liability or obligations under the Agreement.

**We may terminate your use of the Service, in whole or in part, at any time without prior notice, and, in our sole discretion, remove an Account at any time from access through the Service.** If we terminate your use of the Service, we reserve the right to make no further transfers or payments from your Accounts, including any Transactions you have previously authorized. **Your access to the Service will be terminated automatically if the Payment Account is closed, or access to the Payment Account is restricted for any reason.**

## **NOTICES**

Except as otherwise provided in the Agreement, all notices required to be sent to you will be effective

when we mail or deliver them to your last known mail or e-mail address that we have for you in our records. You agree that we may send or provide by electronic communication any notice, communication, amendment or replacement to the Agreement, or disclosure required to be provided orally or in writing to you. You agree to receive any electronic messages sent to you and will not attempt to avoid receiving any messages. You are deemed to have received any electronic messages sent to you when they are made available to you. Except as otherwise provided in this Agreement, any notice that you send to us must be mailed to the address listed on the first page of this Agreement. Such notice is effective when it is actually received by us and we have had a reasonable opportunity to act, not to be less than 5 Business Days. We may, in our sole discretion, act upon verbal notice from you except with respect to oral stop payment notices.

## **INDEMNITY**

You agree to indemnify and hold Commerce, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Content you submit, post to or transmit through the Service, your use of the Service, your connection to the Service, your violation of this Agreement, or your violation of any rights of another.

## **AMENDMENTS**

This Agreement, applicable fees and service charges may be amended from time to time. Unless otherwise required by law, we may amend the Agreement or update the Terms and Conditions by posting a notice on our website, sending you a copy or a message on your periodic statement, or sending an electronic communication. As part of the Service, you agree to receive all legally required notifications via electronic means. Your continued use of the Service after the effective date of any amendment, or after a reasonable time not to exceed 10 calendar days, if no such date is stated, will constitute your acceptance of the terms of the amendment. We may, from time to time, revise or update the Service or Guides, which may render all prior versions obsolete. We reserve the right to terminate this Agreement as to all such prior version and limit access to only the most recent revisions and updates.

## **MODIFICATION TO SERVICE**

Commerce reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that Commerce shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

## **ASSIGNMENT**

You may not assign the Agreement to any other party. We may assign the Agreement or delegate any or all of our rights and responsibilities under the Agreement to independent contractors or other third parties.

## **NO WAIVER**

No delay or omission by us in exercising any rights or remedies under the Agreement shall impair such right or remedy or be construed as a waiver of any such right or remedy. Any single or partial exercise of a right or remedy shall not preclude further exercise of any other right or remedy. No waiver shall be valid unless signed in writing by us.

## **CONTENT OF SITE**

You understand that all information, data, text, software, messages or other information on the Site ("Content"), remain the sole responsibility of the person from which such Content originated. Commerce originates Content regarding account information, balances, transactions and advertising directly related to Commerce ("Commerce Content"). Please be advised that the Commerce Content relating to account information is based on transactions that have been posted on the previous Business Day.

Persons, businesses, organizations, news agencies, and other entities ("Third Parties") unrelated to and outside the control of Commerce originate all other Content ("Third Party Content"). Commerce does not control the Third Party Content posted via the Service and, as such, is not responsible for the accuracy, integrity, legality or quality of it. This means that you, and the Third Party, but not Commerce, are entirely responsible for all Third Party Content that is uploaded, posted, emailed or otherwise transmitted or received via the Service. Under no circumstances will Commerce be liable in any way for any Third Party Content, including, but not limited to, any errors or omissions in any Third Party Content, or for any loss or damage of any kind incurred as a result of the use of the Third Party Content. Please be advised Third Parties may be charged to place Third Party Content on the Service.

You acknowledge that Commerce does not pre-screen Third Party Content, but that Commerce shall have the right (but not the obligation) in its sole discretion to refuse, move or delete any Third Party Content that is available via the Service, violates this Agreement or is otherwise objectionable.

You acknowledge and agree that Commerce may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce this Agreement; (c) respond to claims that any Content violates the rights of third-parties; or (d) protect the rights, property, or personal safety of Commerce, its users and the public.

## **COMMERCE'S PROPRIETARY RIGHTS**

You acknowledge and agree that the Service and any necessary software used in connection with the Service contain proprietary and confidential information that is protected by applicable intellectual property and other laws. The information and materials may not otherwise be copied, displayed, distributed, downloaded, licensed, modified, published, re-posted, reproduced, reused, sold, transmitted, used to create a derivative work or otherwise used for public or commercial purposes, except as provided in these terms and conditions without our express written permission.

Copyright in the images, text, screens, and web pages appearing at the Site is owned by Commerce or others as indicated. You further acknowledge and agree that Content contained in sponsor advertisements or information presented to you through the Service or Third Parties is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws.

Commerce grants you the rights it has in the software associated with the Service to allow you to use the object code of the software on a single computer; provided that you do not (and do not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Service or software associated with it. You agree not to modify the software in any manner or form, or to use modified versions of the software associated with the Service, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by Commerce for use in accessing the Service.

## **CAPTIONS**

The captions of sections of the Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions.

## **GOVERNING LAW**

***Personal Customers.*** The Agreement shall be governed by and construed in accordance with applicable federal laws and regulations and, to the extent not preempted by federal laws and regulations, by the laws and regulations of the state that govern the Payment Account, without regard to its conflicts of laws provisions, as provided in the *Deposit Agreement* ; provided, however, that any dispute solely between you and CheckFree shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to its conflicts of laws provisions.

***Business Customer.*** This Agreement shall be subject to UCC Article 4A as in effect in the state in which Commerce's home office is located. All terms used in this Agreement have the meanings given to them under UCC Article 4A. To the extent UCC Article 4A does not apply to a particular issue or circumstance, this Agreement shall be subject to federal laws and the laws in effect in the state in which Commerce's home office is located. Any dispute solely between Customer and CheckFree shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to conflicts of laws provisions.

## **SEVERABILITY**

If any provision of this Agreement, the Application for Service, or any other documents issued in connection with this Agreement shall be determined by a court of competent jurisdiction to be void or unenforceable as written, the affected provision shall be interpreted so as to achieve, to the extent permitted by applicable law, the purposes intended under the original provision, and the remaining

provisions shall continue in full force and effect, as modified.

## **ENTIRE AGREEMENT**

In the event of a dispute regarding the Service, you and the Service agree to resolve the dispute by looking to this Agreement. You agree that this Agreement is the complete and exclusive agreement between you and us relating to the Service, which supersedes any prior agreement, oral or written, and any other communications between you and us related to the Service. If there is a conflict between what our employee says, or what an employee of a third party to whom we have delegated any of our rights and responsibilities under this Agreement says, and the terms of this Agreement, the terms of this Agreement shall control. In the event of a conflict between the Agreement and the Guides, or any other agreements or disclosures relating to your Accounts, the Agreement shall control.

## **MISCELLANEOUS**

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

## **WAIVER OF JURY TRIAL**

**COMMERCE AND CUSTOMER HEREBY WAIVE THE RIGHT TO A TRIAL BY JURY ON ANY MATTERS ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS.**

## **MEMBER FEDERAL DEPOSIT INSURANCE CORPORATION**

(Rev. 1/2008)