

## 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, comprise the agreement ("Agreement") that governs your use of Commerce Bank's Online Banking Service ("Service" or "OLB"). "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 new Terms and Conditions as well as any accompanying changes as posted from time to time within the Service.

**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. "Prepaid Card" is a Commerce-branded, limited-purpose debit card that can be pre-loaded with funds, but is not associated with or tied to a Personal Deposit Account that You own. "Personal Credit Account(s)" means Commerce BankCard Accounts as well as any Personal Lines of Credit or personal loan you have with us. "Personal Line of Credit" means a line of credit you have with us primarily for personal or household purposes and includes, but is not limited to, a home equity line of credit and a *ReadyLine* of credit. "Bankcard Accounts" mean credit card accounts that you hold with Us. "Personal Accounts" refer collectively to any Personal Deposit Accounts and/or Personal Credit Accounts you hold with us 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" means the sole proprietorship or legally formed business entity that has granted you authority to conduct electronic banking on its behalf via this Service and that has been enrolled in this Service. "Business Deposit Account(s)" means the checking, regular savings or savings with limited check writing privileges (money market type, if eligible) accounts the Business has with us. "Business Credit Accounts" mean Commerce Bankcard Accounts (when available for access) as well as Branch Lines of Credit and business loans the Business has 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 have 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) for which you are a fiduciary, that are maintained with the Commerce Trust Company, and 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 and also allows those customers 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, 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. 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. "Business Account Administrator" refers to the person who subscribes to the Service on behalf of the Business and who uses the Services with the express knowledge and permission of the Business.

If you are a Business Account Administrator, you warrant and represent that you have been granted unrestricted and express authority by the Business to enroll the Business in the Service, to access any and all information available via the Service relating to that Business, and to perform all permissible acts and Transactions available through the Service from time to time in relation to the Business Accounts. You further warrant and represent that (i) you are now, and will at all times while using the Service be, an authorized signer on all Business Deposit Accounts of the Business and (ii) you hereby enter into and agree to be bound by these Terms and Conditions, including the Small Business Online Banking Statement of Understanding attached hereto as **Appendix 1**, on behalf of and with the authority of the Business. If at any time the prior statements are not accurate, you agree to cease using the Service immediately. Commerce may terminate or restrict use of the Service at any time if it has reasonable belief that you are no longer authorized as the Business Account Administrator.

"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 to the Service is considered acceptance of the updated Service as well as acceptance of the Agreement including any accompanying changes thereto. The agreements that apply to your Accounts with us, including, but not limited to (as applicable), the Deposit Agreement, a Prepaid Card Agreement, a Credit Card Agreement, line of credit 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 your 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 email 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)**

Your customer ID/username and your password (collectively “the Password”) are 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 Administrators may establish authorized “Sub-Users.” Wealth Manager Customers may establish “Interested Parties.” Once established, the authorized Sub-User(s) and Interested Party(ies) will have access to the Service and the ability to make Transactions and 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  
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 we sent the FIRST statement on which the problem or error appeared, or if you’ve chosen to receive electronic statements in lieu of paper statement then 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 in OLB, then 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 Transactions through the Service will be reflected on Customer's periodic bank statement. Customer should review each statement for any discrepancies in connection with Transactions. 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 Transaction. In accordance with UCC § 4A-501(a), except to the extent otherwise provided by applicable law, Commerce will incur no liability for an unauthorized Transaction if Customer does not notify Commerce of any unauthorized Transaction within thirty (30) calendar days after receiving its FIRST notice or periodic statement on which the problem or error appeared, or if you've chosen to receive electronic statements in lieu of paper statement then within thirty (30) calendar days after We send You notice via electronic mail that the FIRST applicable statement on which the problem or error appeared was available in OLB.

You will be deemed to have received your physically-mailed statements five (5) business days after its date, absent proof of an earlier or later actual delivery date. See **Statement Delivery Options** section herein for more details regarding your statement options and electronic statements.

### TYPES OF AVAILABLE TRANSACTIONS AND LIMITS ON TRANSACTIONS

Certain Transactions are not available to certain customers based on account relationships. For example, certain Transactions require an established Personal Deposit Account. You will be alerted to these restrictions within the Service.

**Wealth Manager Customers.** Wealth Manager Customers and their Interested Parties may perform any act or Transaction available within the Service. However, the applicable Commerce Trust Company documentation provided to you either at the time of your enrollment in or at any other time during your use of Wealth Manager, shall describe permissible acts within Wealth Manager and include the terms and conditions that govern your use thereof.

**Account Access.** Upon request, and subject to account availability, 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 your Customer ID or Password or the security questions and answers you use to access the Service.
- **Create and update email addresses.**  
In order to send you certain electronic communications (e.g. electronic statement reminders, Alerts, Bill Pay reminders, etc.), the Service may require you to provide us with an email address(es). You may designate any email address(es) you wish for purposes of these electronic communications. However, you acknowledge that we have no obligation to confirm the ultimate recipient of any electronic communication sent to your designated email address(es). It is your sole obligation to input accurately your desired email address(es) and you hereby grant permission anyone with access to those email address(es) – intended recipients or otherwise – to receive such electronic communications and all contents therein on your behalf.
- **Sign-up to receive email and/or text Alerts.**  
You may use the Service to sign-up to receive alerts related to particular customer identifiers that you maintain with Us (Security Alerts) and/or alerts related to your Account activity (Account Alerts) in the

form of emails sent to your selected email addresses and/or SMS text messages sent to your designated phone number(s) (collectively "Alerts"). Once enrolled for Alerts, Security Alerts are enabled by default (although you may disable these alerts) and will help you manage the security of your accounts with Us. Examples of Security Alerts are when your OLB password has changed, your OLB User ID has changed, your address has changed, your telephone number has changed, etc. In addition to Security Alerts, you may choose to receive various Account Alerts which will help you manage activity in your Accounts. By signing up to receive Alerts, you consent to delivery of such Alerts to the email addresses (for email Alerts) and/or phone number(s) (for text Alerts) that you identify. You are responsible for notifying us of any changes to your email address(es) or phone number(s) to which Alerts are sent. **If you enroll in text Alerts, then, in addition to these Terms and Conditions, you will separately agree as part of the text Alert enrollment process to the terms and conditions specifically governing text Alerts.**

Security Alerts are sent automatically after the triggering event occurs and Account Alerts are sent daily, Tuesday through Saturday, based on account activity occurring on the prior Business Day. You understand and agree that Alerts will not be sent on a "real time" basis, and that all Alerts are sent **AFTER** the triggering event has taken place and been completed. **Alerts are simply after-the-fact reminders and will not, nor are intended to, prevent any event or Transaction from taking place.** We reserve the right to change the frequency or timing of Alerts, as well as discontinue Alerts, at any time and from time to time. Any modifications shall be effective when they are posted on the Service. You will be notified in a timely manner when any changes are made that materially affect you. You acknowledge that Alerts will not be encrypted, and you agree to receive Alerts that may include confidential information pertaining to you, this Service, particular Transactions or activities, and your Account(s). Depending upon the Alert, information pertaining to checking account balances, checks written, transaction amounts, or insufficient funds may be included. You agree to notify us of any change to your email address(es) or phone number(s) in order to ensure continued delivery of your Alerts. It is your responsibility to secure these accounts, protect your user name(s) and password(s), and provide timely information about email and phone number contact changes in order to protect the confidentiality of this information. You consent to any disclosures by Commerce which may occur if you do not take appropriate steps to prevent access to your information by unauthorized persons.

We endeavor to provide Alerts in a timely manner with accurate information. However, we do not guarantee the delivery or accuracy of the contents of any Alert. Alert balances will not reflect pending transactions and deposits may not be available for immediate withdrawal. You understand and agree that receipt of each Alert may be delayed, or prevented by factors affecting your Internet service provider(s), phone operator(s), and such other relevant entities ("Third Party Service Providers"). All matters concerning Third Party Service Providers are solely between you and the Third Party Service Provider. We make no representations or warranties whatsoever with regard to Third Party Service Providers' products and services.

**Alerts and its contents are intended for informative purposes only. Unless required by law or by contract, you acknowledge that Commerce is under no obligation to respond in any way to the event which prompted the Alert. Commerce and its affiliates will not be liable for losses or damages arising from any delivery delays, failure to deliver, or misdirected delivery of any Alert; for any errors or inaccuracies in the content of an Alert; or for any actions taken or not taken by you or any third party in reliance on an Alert or the lack thereof. If you believe further attention to this matter is required, you must contact the proper Commerce Bank representative as stated in the Alert. Alerts are not intended to nor shall replace your account statements or any other communications we may provide to you regarding your account(s).**

- **Access the Service via Mobile Banking.**

You may access a scaled-down version of the Service in a mobile-device-friendly format (Mobile Banking) by visiting our Mobile Banking website [www.commercebank.mobi](http://www.commercebank.mobi). There you can find the most up-to-date list of services and Transactions available via Mobile Banking. This feature is not available for Business Accounts otherwise available via the Service or to Wealth Manager Customers. We reserve

the right to modify the scope of the Services at any time. We reserve the right to refuse to make any Transaction you request through Mobile Banking. You agree and understand that Mobile Banking may not be accessible or may have limited utility over some wireless networks, such as while roaming. We do not charge you a fee for Mobile Banking, however, you may be charged for web access by your mobile carrier. Check with your carrier for details on specific fees and charges.

We will not be liable to you for any losses caused by your failure to properly use the Services or your Wireless Device. You agree that, when you use Mobile Banking, you remain subject to the terms and conditions of your existing agreements with any unaffiliated service providers, including, but not limited to, your mobile service provider (i.e., AT&T, Verizon, etc.), and that these terms do not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of Mobile Banking, and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your provider directly without involving us.

The availability, timeliness and proper functioning of Mobile Banking depends on many factors, including your wireless device location, wireless network availability and signal strength, and the proper functioning and configuration of hardware, software and your wireless device. Neither we nor any of our service providers warrants that the Services will meet your requirements, operate without interruption or be error-free, and neither we nor our service providers shall be liable for any loss or damage caused by any unavailability or improper functioning of Mobile Banking, or for any actions taken in reliance thereon, for any reason, including service interruptions, inaccuracies, delays, loss of data, or loss of personalized settings.

- **Send electronic mail (email) to us and receive email from us.**

We may not immediately receive email that you send. We will have a reasonable opportunity to act before taking action on your email requests. You cannot use email to make a bill payment or funds transfer. **You may NOT use email to stop payment, report unauthorized use of your Password, or to report an unauthorized Transaction. Likewise, You may NOT use email 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.**

- **View copies of certain 1099/1098 tax forms.**

Restrictions apply. Consult a tax professional for advice. As required by U.S. Treasury Regulations, you are hereby advised that any written tax advice contained on this website was not written or intended to be used (and cannot be used) by any taxpayer for the purposes of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.

***Transfer funds between designated Accounts.*** You can use OLB to perform permissible fund transfers to/from your Accounts or to your Prepaid Cards as listed below. Unless the fund transfer request is a future-dated request (discussed 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 OLB to reverse a transaction after it has been entered. A request to transfer funds between designated Accounts may not result in an immediate transfer or immediate funds availability because of the time required to process the files (see below for more detail). Certain transfers may be scheduled for future dates depending on the type of transfer being scheduled. (All times stated herein are Central Time zone.)

- **Important terms for purposes of fund transfers utilizing OLB:** A **future-dated fund transfer request** is any transfer that is requested to be made *on any day other than* the same calendar day that the request is submitted through OLB. A **same-day fund transfer request** is any transfer that is requested to be made on the same calendar day that the request is submitted through OLB. A **memo-posted** item is an item that immediately reduces or increases, as applicable, your Available Balance but has yet to post to your account. A **posted** item is an item that reduces or increases, as applicable, your

Current Balance during overnight processing. Overnight processing occurs overnight after the conclusion of each Business Day and includes all items that are considered part of that Business Day's activity. Your **Available Balance** is used to determine (i) the funds in the account that are available to be withdrawn (e.g. withdrawals via ATM or teller window) as well as (ii) the funds in the account that are available for Visa Check Card or Prepaid Card purchases. Your **Current Balance** is used to determine whether you have sufficient funds in your account to cover debits as they post to your Account.

- **General posting information for transfers involving a Deposit Account (or transfers "To" a Prepaid Card):** (For demonstration purposes, the following discussions will assume a Deposit Account is on both sides of a fund transfer request. The same concepts will apply, as applicable, even if there is only one Deposit Account involved in the transfer.) **Upon memo-posting to your Account(s)**, any transfer involving a Deposit Account will immediately reduce the Available Balance in your "From" Deposit Account and/or will immediately increase the Available Balance in your "To" Deposit Account (or to your "To" Prepaid Card Account). **However, until the transfer posts**, there will be no impact to your Current Balance(s). So, **until the transfer posts**, the transfer will **neither** reduce the funds in your Current Balance that are available to cover other debits posting to your "From" Deposit Account **nor** will it increase the funds in your Current Balance that are available to cover other debits posting to your "To" Deposit Account (or to your "To" Prepaid Card Account).

In addition, to the extent funds are being transferred "From" a Deposit Account, certain other debits may post to your "From" account as part of that same Business Day's activity, but will post prior to when your transfer posts to the "From" Account. These other posted debits will reduce the funds in your "From" Deposit Account that are available during overnight processing to cover your transfer when it posts. Your fund transfer **request** will be accepted if there are sufficient funds in the "From" Deposit Account's Available Balance to cover the transfer amount at the time your transfer attempts to memo-post to the Deposit Account (when a transfer attempts to memo-post varies depending in whether the transfer is a future-dated or same-day transfer, see below for further information). However, you may incur an overdraft if it turns out that there aren't sufficient funds in the "From" Deposit Account to cover the fund transfer when it **posts**. **If at the time your fund transfer posts there are no longer sufficient funds available in your "From" Deposit Account to cover your fund transfer (or to cover other debits that post subsequently), you will incur an overdraft(s) and an overdraft fee(s). It is your sole responsibility to monitor your spending, to know what transactions you have scheduled, conducted and authorized, and to maintain sufficient funds in your account in order to cover any fund transfer when it posts to your account.**

**Future-dated fund transfer requests:** All future-dated fund transfers will memo-post to your Deposit Account(s) (or Prepaid Card Account) the morning of the Business Day you requested the fund transfer to take place (or, it will memo-post the morning of the following Business Day if the day you request the transfer to take place is a non-Business Day). If a Deposit Account is selected as the "From" account and if there are insufficient funds available in that "From" account to cover the requested fund transfer at the time the transfer attempts to memo-post, the fund transfer will reject and you will be notified as such via a communication within OLB. All future-dated fund transfers will post to your Deposit Account(s) (or Prepaid Card Account) during overnight processing on the day you request the fund transfer to take place (assuming the transfer successfully memo-posted to your account), along with all other credits and debits that are considered part of that same Business Day's activity (or, it will post on the following Business Day if the day you request the transfer to take place is a non-Business Day).

**Same-day fund transfer requests:** All same-day fund transfer requests will immediately memo-post to your Account(s).

- **Same-day fund transfers requested before 7 pm** on a Business Day will **post** to your account that same Business day during overnight processing, along with all other credits and debits that are considered part of that same Business Day's activity.
- **Same-day fund transfers requested 7 pm or after** on a Business Day or requested on a non-Business Day will **post** to your Deposit Account (or Prepaid Card Account) the following Business Day during overnight processing, along with all other credits and debits that are

considered part of that following Business Day's activity. **For example**, a same-day fund transfer requested **7 pm** or later on a Friday will not post to your account until Monday night's overnight processing (assuming Monday is a Business Day), along with all other credits and debits that are considered part of Monday's activity (which includes activity occurring over the weekend). To the extent funds are being transferred "From" a Deposit Account, any other debits that post to your "From" account on Friday night will reduce the funds available in your "From" account that are available to cover the fund transfer debit when it posts on Monday. Likewise, any other debits that post to your "From" account on Monday night and post prior to the posting of your fund transfer will further reduce the funds available in your "From" account that are available to cover the fund transfer debit. **If at the time your fund transfer posts on Monday there are no longer sufficient funds available in your "From" account to cover your fund transfer (or to cover other debits that post subsequently), you will incur an overdraft(s) and overdraft fee(s).** To the extent funds are being transferred "To" a Deposit Account (or "To" a Prepaid Card Account), any corresponding **credit** posting to your "To" account as a result of the fund transfer will also **not post** to your "To" account until Monday night's overnight processing and, therefore, will **not be available** to cover items posting to your account on Friday night.

- **PC Banking and Online Banking for Business Customers.** The only permitted transfers available through OLB are transfers between your Deposit Accounts and the cut-off time for same-day posting of transfers initiated via PC Banking or Online Banking for Business is 6 pm, instead of 7 pm.
- **Additional information for fund transfers from Deposit Accounts to Prepaid Cards.** Transfers to your Prepaid Card are subject to (i) daily limits on the number of times you can load funds onto your Prepaid Card through all load-request channels available (each fund transfer through OLB is considered one load request); (ii) daily limits on the total dollar amount you can load onto your Prepaid Card; and (iii) maximum amount that can be loaded onto your Prepaid Card at any given time. Refer to your Prepaid Card cardholder agreement for details on such limitations.
- **Fund transfers from your Deposit Accounts to your Personal Credit Accounts.** You will receive credit for making a payment to Your Personal Credit Account as of the same calendar day that your transfer is received by Commerce, although any corresponding increase in your available credit (if applicable) will not be reflected in your Personal Credit Account balance until the following Business Day at the earliest or perhaps later as determined by us in our reasonable discretion.
- **Fund transfers from a Personal Line of Credit to Personal Deposit Accounts.** Requests to transfer funds from a Personal Line of Credit to a Deposit Account submitted on a Business Day before 7 pm will debit your Personal Line of Credit as of the same Business Day, although the debit may not be reflected in your Personal Line of Credit balance until the following Business Day.

**Place/Remove a stop payment order on certain types of transactions.** With certain limitations and for the then-current applicable stop payment fee (if any), You may place (or remove) a stop payment order using the Service on (i) a single check or (ii) certain ACH debits that You scheduled or originated through a third party ("ACH debit(s)") (this does not apply to Visa Check Card transactions among others). (To stop a payment scheduled through the Service (i.e. Scheduled Payments), see the section herein entitled RIGHT TO STOP PAYMENT FOR PAYMENTS SCHEDULED THROUGH THE SERVICE'S BILL PAYMENT FEATURE, PROCEDURE FOR DOING SO, AND BANK'S LIABILITY FOR FAILURE TO STOP PAYMENT.) Stop payment orders are not accepted through Online Banking between 10:30 p.m. CT on a Banking Day and 1:00 a.m. the following morning. A stop payment **removal** order submitted through Online Banking at 4:30 p.m. CT or later on a Business Day, or one submitted on a non-Business Day, will not be effective until the next Business Day. Because stop payment orders are handled by computers, to be effective, your stop payment order **must** (i) for checks, **precisely** identify the check number and the amount of the check (including cents) and (ii) for ACH debits, **precisely** identify the amount of the payment (including cents). **Any inaccuracies in any of these required fields will cause your stop payment to be ineffective.** If you do not know the exact information as required above, you must call 800-453-2265 to submit your stop payment request. Other requested information will assist us in differentiating between similar presented items. A stop payment on an ACH debit will stop all future debits from the chosen payee for the precise amount of payment indicated. If the first ACH debit in a series of recurring ACH debits has already posted to your account, you may not be able to place a stop payment order through the Service. If you wish to stop only a single payment in a series, if you aren't certain of



the recurring debit amount, or if the amount of the recurring debits coming from the payee may vary, you must call 800-453-2265. **(Please note:** Your ACH debit stop payment order with Commerce does not cancel your prior authorization allowing the originator to deduct funds from your account. To prevent the originator from debiting your account in the future for a different amount and bypassing your stop payment instructions, you must contact the originator directly and revoke your prior authorization.) A written stop payment order will remain in effect for a minimum of 180 days from the effective date or longer at our sole discretion or as otherwise stated in the Service. However, during the process of placing a stop payment, You will be informed of how long Your stop payment order will remain in effect. A stop payment order initiated through the Service may be terminated through the Service only by the account holder who placed it. We may honor a stop payment order on an Account initiated through the Service by any account holder or authorized signer, regardless of who initiated or authorized the payment.

**Online Bill Payment.** For an additional fee, and so long as you have an established checking account, 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.
  - **Same-Day Bill Pay Payments.** The Same-Day Bill Pay service can, for an additional fee as disclosed from time to time within the Service, attempt to deliver your payment to the Biller in an expedited manner that may allow the Biller to consider your payment received on the same-day. Same-Day Bill Pay is only available for certain eligible Billers and only on certain days and

during certain time intervals. If a bill is eligible for this service, a "Pay today" link will appear for the Biller in the Payment Center. This service is only available, and the "Pay today" link will only appear for eligible Billers, on Business Days until 9 p.m. Central. The fee for this feature will be charged to your Payment Account separately from your bill amount and the fee itself will be considered a separate bill payment scheduled through the Bill Payment Service.

Once the Service confirms your Same-Day Bill Pay payment request, the fee will be charged to your Payment Account. However, the debit will not post to your account and the Biller will not receive the funds until the next Business Day, and it may take several days for the Biller to update its internal account records. However, even if the Service confirms your request for a Same-Day Bill Pay payment and you are charged for the attempted Same-Day Bill Pay payment, there may be reasons why your bill payment is unsuccessful and/or the Biller doesn't give you credit for a same-day bill payment. Those reasons may include, but are not limited to, non-sufficient funds in your Payment Account, or the Payment Account being closed or blocked for debits, when the bill payment attempts to post to your Payment Account; delays in handling, processing, or posting payments by Billers or other third parties; etc. You agree that your submission, and the Service's acceptance, of a Same-Day Bill Pay payment does not guarantee that the Biller will give you credit for a same-day bill payment and our liability to you for failure to receive same-day credit from the Biller shall be limited as further detailed herein.

Once a Same-Day Bill Pay payment is confirmed, it cannot be reversed, changed, or canceled (even though the bill payment may be described in the Service as "Processing") and your Payment Account will be charged the fee even if your attempt to pay the bill through the Service is ultimately unsuccessful or the Biller does not provide you with credit for a same-day bill payment. In addition, you acknowledge that you will be sent, and you agree to receive, an email confirming the bill payment.

- o **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.
- o 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.
- o **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.
- o **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.
- o **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.**

- o **Service Guarantee.** Due to circumstances beyond our control, particularly delays in handling, processing, or posting payments by Billers or other third parties, some Transactions may take longer to be credited to your account. In those situations we will bear responsibility for, and our liability shall be limited to, 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.
- o 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, was not credited timely, 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, or was not credited timely, prevents us from avoiding or alleviating such damages.
- o **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 email 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 to your Prepaid Card are subject to (i) daily limits on the number of times you can load funds onto your Prepaid Card through all load-request channels available (each fund transfer through the Service is considered one load request); (ii) daily limits on the total dollar amount you can load onto your Prepaid Card; and (iii) maximum amount that can be loaded onto your Prepaid Card at any given time. Refer to your Prepaid Card Cardholder Agreement for details on such limitations. Also, transfers from a Personal Line of Credit will require a \$50.00 minimum and will be limited by the available credit on the Personal Line of Credit. With the exception of transfers to a Prepaid Card, 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**

If there is a conflict between the fees listed herein and any fees described in the Service, or if you are charged a fee for a product or service and that fee is not listed here, the fees described in the Service shall control and you agree to the fees described in the Service.

Monthly Service charges.

**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:

Small Business Online Banking is FREE for myBusiness, myBusiness Select, and Small Business Options checking accounts and applicable Personal Accounts. A monthly fee may apply when enrolling other types of business accounts.

**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, email 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:

Small Business Online Bill Payment is FREE for myBusiness, myBusiness Select, and Small Business Options checking accounts. A monthly fee of \$6.95 for 20 payments, plus \$0.60 for each additional payment may apply when enrolling personal or other types of business accounts.

**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.

Same-Day Bill Pay Payments - \$10.95 (each Same-Day Bill Pay fee will be counted as a separate 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.** You have two (2) options for the delivery of your periodic statement, by paper via U.S. Mail and/or by electronic delivery (a PDF version of your periodic statement that is available to view and print inside the Service). Unless you elect to receive electronic statements, you will continue to receive paper statements via U.S. mail. If you select to receive your periodic statement by electronic delivery, you understand and agree that you will no longer receive paper statements or the documents enclosed with the paper statements, such as checks or images of checks, or payment coupons and business reply envelopes. If you have more than one Account with us you will need to select a statement delivery method for each Account. If you select the electronic delivery option, we will send an email reminder (to the email address(es) you provide when you select the option) notifying you when your statement becomes available to access through Online Banking at [commercebank.com](http://commercebank.com). You agree that you are responsible for maintaining a valid email address and agree to notify us of any change in your email address. You can change the email address for the statement reminder at any time through Online Banking's Customer Service menu. Should delivery of the email reminder be unsuccessful for whatever reason, it nevertheless remains your responsibility to retrieve your periodic statements in a timely manner from [commercebank.com](http://commercebank.com). Your statement will be posted to and available for viewing on or about the same day each month. The terms and conditions of your account agreement, including your duty to promptly review such statements and report any irregularities, shall apply to electronic statements (see section herein titled "YOUR LIABILITY FOR UNAUTHORIZED TRANSACTIONS" for additional details). Electronic statements, including any legal notices about your Account which are provided electronically as part of your statement (such as change in terms), will remain available online for five (5) years for eligible Credit Accounts and seven (7) years for eligible Deposit Accounts. You may also print the statements or download to your own system. 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 at any time and receive paper statements via U.S. Mail by changing your statement option through Online Banking's Customer Service menu. Fees may apply for some types of paper statements.

Your electronic statements will be made available as an Adobe® Portable Document Format (PDF) file. To access and retain a PDF file, you need the free Adobe® Acrobat® Reader® (version 5.0 or higher). You may download the reader software application from Adobe's web site. You agree that you have the necessary software application 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 direct losses only, 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,

- You do not have enough available funds in your Payment Account to complete a Transaction on that Payment Account or the Payment Account is closed when the payment attempts to post.
- 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.
- A Biller does not accept or, mishandles or delays in handling, or posting payments, or does not give you credit for payment on a specific date.
- 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, delays in handling, processing, or posting payments by Billers or other third parties, 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, if you elected to receive electronic statements, then no later than 60 days after we send the email notification that the FIRST statement on which the problem or error appeared was available in OLB.

- 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 your Account. You may ask for copies of documents that we used in our investigation.

You will be deemed to have received your physically-mailed statements five (5) business days after its date, absent proof of an earlier or later actual delivery date. See **Statement Delivery Options** section herein for more details regarding your statement options and electronic statements.

## **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 email 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 email 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 email notification to the email address listed for your account. It is your sole responsibility to ensure that your email 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 email 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. 03/2013)

**Appendix 1****Small Business Online Banking *Statement of Understanding***

Small Business Online Banking ("SB OLB") provides a convenient way to access and manage your business accounts. To protect your account information and ensure the appropriate access is provided for your business, please read this Statement of Understanding before you enroll.

By designating an SB OLB Business Account Administrator on a Signature Card/Certificate of Authority or Resolution ("Signature Card"), your business' use of SB OLB is subject to the following:

- 1. Administrator designation and enrollment.** The following criteria must be met to enroll in SB OLB (whether the initial enrollment or a re-enrollment): On each Signature Card for each deposit account in the name of business, the desired administrator must (i) be an authorized signer; (ii) be granted Box D "Treasury Services/Electronic Banking" privileges; and (iii) be identified as the business' designated Administrator (the "Administrator"). Each individual business entity (as represented by either a TIN or SSN) may have only one designated Administrator at any given time and only the designated Administrator can enroll in SB OLB. It is recommended that an owner or senior manager of the business be designated as the Administrator. The Administrator will be required to agree to Commerce's Online Banking Terms and Conditions, which includes this Statement of Understanding, on the business' behalf.
- 2. Administrator's access.** Once enrolled, the Administrator will be granted online access to all of the business' banking relationships with Commerce that are or may become accessible through SB OLB from time to time ("Account(s)"). This includes the ability to access non-depository credit-related relationships (e.g., credit cards, loans, lines of credit, etc.) for which the Administrator may or may not have previously established, legal authority to conduct business upon.
- 3. Administrator's capabilities.** For all such Accounts, the Administrator will have (i) access to all Account information (both current and historical) and (ii) **the ability to utilize any feature or functionality that is available from time to time in SB OLB.** This includes, but is not limited to, the ability to send money through various payments channels from your Accounts to any third party (e.g. pay a biller), transfer funds between permitted Accounts (e.g., pay down loan balance from funds in a deposit account and/or transfer funds between deposit accounts), elect to have future bank communications (e.g. Account statements) delivered electronically to your business within SB OLB or to an Administrator-provided email address in place of the delivery of paper communications, etc.
- 4. Terminating Administrator's credentials/Appointing new Administrator. If you wish to immediately terminate your then-existing Administrator's access to SB OLB, you must call your local branch (after which we shall have a reasonable opportunity to act).** To properly replace your existing Administrator, you must execute a new Signature Card(s) in which the new Administrator meets all of the criteria stated in Section 1 above. At that point (after we've had a reasonable opportunity to act), your existing Administrator's credentials and your business' enrollment in SB OLB will be cancelled. Your newly-appointed Administrator must thereafter reenroll your business in SB OLB. Upon our acceptance of a new Signature Card(s) identifying an Administrator other than the existing Administrator, but not meeting the criteria in Section 1 herein, we reserve the right, but shall not be obligated, to cancel (after we've had a reasonable opportunity to act) the existing Administrator's SB OLB credentials and your business' enrollment in SB OLB.
- 5. Sub-users.** The Administrator may grant online access to Sub-users (e.g., CPA or office manager). Such access can have either (i) Full Access (any and every capability that Administrator has from time to time in SB OLB) or (ii) Customized Access (limited capabilities as determined by the Administrator). It is recommended that Administrators periodically review Sub-user access as well as their access rights, as failure to do so may increase your business' exposure to risk of loss.

6. **Password/ID protections.** For the business' protection, the Administrator's/Sub-user's SB OLB ID and Password are tied to the Administrator/Sub-user in their individual capacities as representatives of your business and should be kept confidential at all times. Only the Administrator may request ID and Password reset. You remain solely responsible for the use of these IDs and Passwords at all times.

**For Sole Proprietorships and Sole Member LLCs only:**

So long as the Administrator for a Sole Proprietorship or Sole Member LLC is also the sole proprietor or sole member of the business entity, the Administrator may request his/her personal Accounts be linked to his/her business Accounts in SB OLB.