

## WEX Account and Services Agreement

This WEX ACCOUNT AND SERVICES AGREEMENT, together with the related credit application, schedules, and amendments (collectively, the “Agreement”) govern the establishment and use of one or more accounts and associated cards and services provided by WEX Bank, a Utah industrial bank (“Issuer”), to the business that has been approved by Issuer to receive such account(s) and services (“Company”). Issuer and Company may be referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

### GENERAL TERMS

#### **1. Use of Account.**

**1.1** Subject to the terms and conditions of the Agreement and Issuer’s approval of Company, Issuer agrees to provide one or more Accounts and associated Cards for Company’s use. Issuer will process Transactions on the WEX Network or on a Third Party Network as specified in the applicable Schedule. Company and Account Users designated by Company may only use the Account in accordance with this Agreement. Any Affiliate of Company may participate under this Agreement if such Affiliate **(a)** agrees to the terms of this Agreement by executing an Affiliate Agreement Form as provided by Issuer, and **(b)** is approved by Issuer in its sole discretion.

**1.2** Company agrees that the Account and associated Card(s) may only be used for business purposes, and not for any personal, family, or household purposes, or for any purchase of lottery tickets or other games of chance, gift cards, pre-paid cards or other cash equivalent charges, all of which are prohibited. Company shall maintain and comply, and shall ensure that Account Users comply, with its policies and controls to ensure strict compliance with the foregoing.

**1.3** In connection with Company’s use of the Account, Issuer will provide access to Issuer’s online account management system, websites, mobile applications, or other electronic online products, as applicable (each and collectively, the “Online Portal”), for Company and its Account Users to manage the Account and Cards, view Transactions, and run reports. The Online Portal may only be used in connection with Company’s use of the Account and subject to the policies and terms of use posted therein, the terms of this Agreement, and any additional terms and conditions otherwise provided or made available to Company by Issuer. Access to and use of the Online Portal by Company and designated Account Users shall also be in accordance with, and subject to, Issuer’s security protocols and policies including, without limitation, third-party user agreements and terms and conditions. Company shall not, and shall ensure Account Users do not, tamper with, compromise, or attempt to circumvent any physical, technical, or administrative controls or security measures or otherwise compromise the security of the Online Portal.

#### **2. Account Users.**

**2.1.** Company shall designate Account Users as well as those contacts authorized to: **(a)** provide Issuer with the information necessary to establish and maintain Account(s), Cards, and IDNs; **(b)** provide all Account User information and other information; **(c)** receive all Account numbers, Cards or reports; **(d)** receive other Account information; and **(e)** select additional products and/or services that may be offered by Issuer or any of its Affiliates. Company remains liable for any Unauthorized Use until Issuer receives notice of any change in or removal of any Account User or contact. Issuer is authorized to take instruction from any Account User or contact with actual, implied or apparent authority to act on Company’s behalf, and unless Company reports any errors in the provided information, Issuer is entitled to rely on that information for servicing the Account. Company shall ensure that each Account User complies with the terms and conditions of this Agreement. Company is liable for any misuse of Cards or Accounts.

**2.2.** Company will provide prompt notice of any change or removal of any contact or Account User or any revocation of any Account User’s authority, either in writing, by telephoning Issuer’s customer service department, or through the Online Portal. Company shall remain liable for all Transactions and Unauthorized Use until such notice is received by Issuer and Issuer has a reasonable time to act on the notice, notwithstanding whether any such use is consistent with any limitations on use imposed by Issuer.

**2.3.** Company agrees to keep IDNs confidential and ensure that its personnel and Account Users do not disclose any IDN. Company is liable for any Unauthorized Use that results if Account User or other personnel discloses an IDN or writes an IDN on a Card, even if the disclosure is inadvertent or unintentional. Company shall not provide actual, implied or apparent authority to any Person to use a Card or the Account except for an Account User.

#### **3. Credit Limit and Authorizations.**

**3.1** Issuer may in its sole discretion extend credit and establish Accounts. Issuer may, at any time, investigate the financial condition of Company or as applicable, its Affiliates. If Company is not a publicly traded company, at the request of Issuer, Company shall promptly furnish Issuer with copies of its most recent financial statements acceptable to Issuer that were prepared no later than one hundred twenty (120) days following the end of its fiscal year. Company shall provide financial statements prepared in accordance with generally accepted accounting principles consistently applied and shall be in accordance with the books and records of Company. Any financial information submitted shall be kept confidential by Issuer.

**3.2** Issuer will inform Company of the Credit Limit assigned to the Account. Company shall ensure that the balance of the Account does not exceed the assigned Credit Limit. Issuer may change the Credit Limit in its sole discretion without prior notice, except as may be required by applicable law. Issuer may, but is not required to, permit Company to exceed its Credit Limit. Company must comply with the Credit Limit even if Issuer has previously permitted Company to exceed the Credit Limit. If Company exceeds its Credit Limit, at Issuer's request, Company shall immediately pay the amount over the Credit Limit and any associated fees as set forth in the applicable Schedule or the entire balance due on the Account.

**3.3** Issuer may suspend an Account or refuse to authorize any Transaction in its sole discretion for any reason, and specifically in the event that: (a) any balance is past due; or (b) the amount of the Transaction plus the outstanding balance (including Transactions authorized but not yet posted) exceed the Credit Limit.

#### **4. Card Controls.**

**4.1** Company may request via the Online Portal that Card Controls be applied to the Account. The availability and effectiveness of Card Controls are dependent upon each merchant's adoption of WEX Inc.'s ("WEX") Card specifications and the information, including product codes that the merchant transmits to Issuer. The product codes are assigned by each merchant and not by Issuer. Card Controls for Cards processing Transactions on a Third Party Network may also be dependent on information provided by the Third Party Network provider, such as their categorization of the merchant. In addition, some Card Controls are not enforceable at point-of-sale terminals due to equipment restrictions at the merchant location. There are inherent limitations on the ability of Card Controls to limit the use of Cards in the manner intended.

**4.2** Issuer may, in its sole discretion and without prior notice, modify Card Controls for the purpose of, among others, the prevention of suspected fraudulent activity. Issuer may apply default Card Controls on its portfolio of accounts. Issuer will use reasonable efforts to inform Company after any modification to a Card Control setting is made. Company shall review and manage the account set-up for all Cards based on Company's specific purchasing needs. Company agrees it is responsible for reviewing fraud control data provided by Issuer for the purpose of detecting fraud that may occur within Card Control parameters.

**4.3** Default Card Control values are modified through the Online Portal. More detailed information and certain limitations regarding Card Controls are provided online. Only Transactions submitted for authorization are subject to Card Controls and those Card Controls can only be enforced when the merchant provides sufficient information as part of the authorization.

**4.4** Card Controls are provided for the convenience of Company in its efforts to manage usage of Cards and the Account. Issuer encourages Company to set Card Controls in a manner that Company determines is most likely to conform usage of Cards and the Account to the purposes determined by Company. However, Issuer is not responsible for the prudence of any particular Card Control level selected by Company. Company shall be liable for all Transactions, regardless of Card Control settings selected by Company or the effectiveness of such controls.

#### **5. Billing and Payments.**

**5.1** Issuer will provide or make available to Company Transaction data or a billing statement, as applicable, for each Billing Cycle in which the Account has activity. Company agrees to pay Issuer in full on or before the relevant cutoff time on or before the Due Date, as specified on the billing statement. Company is encouraged to receive billing statements electronically and make payments electronically to ensure that each payment posts by the applicable Due Date.

**5.2** Company will pay Issuer for all credit extended under the Account, as well as any fees and charges, as provided in this Agreement. Company is liable for all Transactions on the Account to the fullest extent permitted by applicable law, except as expressly provided in this Agreement. Company may pay the entire balance of the Account or a portion of it, at any time prior to its Due Date without penalty.

**5.3** All payments must be made in United States dollars, using checks or similar payment instruments drawn on financial institutions in the United States or by payment through the Automated Clearing House network in accordance with Issuer's requirements.

**5.4** Regardless of payment method, Company must ensure that Company's account number is provided with the payment. Failure to do so will cause processing delays in posting the payment to the Account. Payments that are received at locations other than the address specified on the billing statement, or that do not otherwise comply with instructions on the billing statement or the Agreement, may be delayed in posting.

**5.5** Payments will be applied first to fees and then to other amounts owing on the Account. Issuer, in its sole discretion, may determine when to restore available credit in the Credit Limit after crediting a payment to an Account.

**5.6** Company may be offered discounts and/or rebates from time to time. Such discounts and/or rebates may be suspended, modified, or discontinued at any time without prior notice and may not be applicable to all product types. In addition, certain conditions in order to earn or receive the rebate or discount, such as but not limited to, maintaining the Company's Account in good standing, will apply and be provided to Company when such offers are made.

## **6. Additional Products and Features**

**6.1 Reports.** Issuer provides Transaction data for the Account to the Company as transmitted by merchants. Issuer will report the data received from merchants and as such is not liable for the accuracy or completeness of the data received, posted, or contained in any specialty reports, management reports, data services, or other information services provided. Company is responsible for reconciling that data. In addition, Company understands that in the event an error is identified in a report, such as an incorrect product code, Company is still liable for the Transaction, but may follow the dispute process as described in this Agreement.

**6.2 Modifications.** Issuer will deliver to Company enhancements, updates or upgrades to the Cards, Accounts, and Card Controls that Issuer makes generally and commercially available to other similarly situated customers without any additional fee. In the event Company requests additional modifications, including to the online application, and Issuer makes a reasonable business determination that the requested modifications or technical support entail specialized modifications or services different from the kind or amount provided to other similarly situated customers (including, but not limited to, custom software or operational development work or assistance to enable interfacing with a non-supported, unusual, or proprietary system), Issuer will inform Company if the requested modification may be available as a service from an Affiliate of Issuer, subject to additional fees and other applicable terms as set forth in a separate statement of work as agreed between such Affiliate and Company. Issuer, in its sole discretion, may decline to make any modifications, including if such modifications will impact other customers of Issuer. Issuer may, at any time, elect to terminate or modify products or services described in this Agreement, or provided in connection with the Account in which Company or an Account User has enrolled, upon thirty (30) days' prior written notice to Company, and without such notice due to changes in law or if required by regulatory authorities.

## **7. Late Fees.**

**7.1** If Company fails to make payment in full by the applicable Due Date, or a payment is returned (each a "Payment Default"), then a fee (the "Late Fee") will apply as set forth in the applicable Schedule. Company will be considered to have made a payment to Issuer on an Account only when the payment is posted to the Account as provided in this Agreement.

**7.2** Issuer will not charge a Late Fee if the unpaid portion of the invoice as of the Due Date is \$10 or less.

## **8. Other Fees.**

In addition to Late Fees, Company agrees to pay any additional fees and applicable sales taxes in the amounts and as described in the applicable Schedule.

## **9. Disputed Amounts.**

**9.1 In General.** Company shall use its best efforts (but in no event less than commercially reasonable efforts) to resolve any disputes regarding Transactions directly with the relevant merchant, including any dispute related to the quality of goods or services that are purchased in a Transaction or any warranty received in connection with a Transaction. For any disputes which cannot be resolved with a merchant directly, Company may dispute a Transaction if: **(a)** the amount does not reflect the face value of the Transaction (e.g., based on the amount charged by the merchant or reflected in a receipt from the merchant); **(b)** the amount being disputed is a fee that is not properly accrued under this Agreement; or **(c)** Company does not believe it is liable for the amount, as further described in the applicable Schedule.

**9.2 WEX Network.** Transactions on the WEX Network must be disputed in writing within sixty (60) days from the billing date or they will be final and binding. All billed charges must be paid in full regardless of reported disputes. Upon receipt of a dispute, including any supporting documentation required by Issuer, Issuer will use reasonable efforts to investigate the dispute. In the event that Issuer determines the dispute is due to an error by Issuer, Issuer will, as Company's sole and exclusive remedy, correct applicable data or reports, including invoices, if any. If the dispute is related to an act or omission of a merchant, the Transaction may qualify for chargeback to such merchant. Issuer will use reasonable efforts to charge the Transaction back to the merchant in accordance with Issuer's procedures under its merchant acceptance agreement with such merchant. Any chargeback paid by the merchant to Issuer will be credited to the applicable Account. Company may be liable for the Transaction if the disputed item is not due to an error by Issuer and cannot be charged back to the merchant.

**9.3 Third Party Network.** If a Transaction is processed on a Third Party Network, such Third Party Network rules shall govern the dispute process, including in the event a longer dispute window is permitted or required. Upon receipt of a dispute, including any required supporting documentation, Issuer will submit the dispute to the Third Party Network provider in accordance with the Third Party Network rules. Company agrees to pay any costs assessed by the Third Party Network provider in connection with chargebacks (whether successful or not), if applicable. Any chargeback paid by the merchant to Issuer will be credited to the relevant Account. Company is liable for the Transaction if the Transaction cannot be charged back to the merchant.

## **10. Unauthorized Use.**

**10.1** Except as provided in Section 10.3, Company will be liable to Issuer for all Unauthorized Use: **(a)** that occurs if a Card or Account is lost, stolen or is otherwise compromised; or **(b)** that occurs before Company provides Issuer with immediate

notice as required in this Agreement or by applicable law or card association rules that a Card is lost or stolen or other possible Unauthorized Use of an Account; or (c) Issuer determines that such Unauthorized Use could have been prevented by Company if it had maintained and followed reasonable security precautions and controls surrounding the Cards or Accounts. A failure by an Account User to comply with Company's internal policy regarding use of an Account or Card does not, by itself, result in Unauthorized Use of an Account or Card. Notwithstanding the foregoing, if a Transaction is processed on a Third Party Network, then in the event the rules applicable to the Third Party Network mandate greater protection for Company, the applicable Third Party Network rules will prevail.

**10.2** If Company or an Account User knows of or suspects the loss or theft of a Card or Account or possible Unauthorized Use, or if Company would like to terminate authority of an Account User to use a Card or Account, Company will report to Issuer immediately via the Online Portal or by calling the customer service number set forth on their Cards or as specified in the applicable Schedule. Company shall adopt and maintain reasonable security precautions and controls to prevent Unauthorized Use.

**10.3** Company will use reasonable efforts to recover a Card from any Person whose authority to use Company's Account has terminated or from any unauthorized individual with possession of or access to a Card. Company will give Issuer and any law enforcement authority reasonable assistance with any investigation and prosecution with respect to Unauthorized Use, including without limitation, obtaining an affidavit or similar written, signed statement from the applicable Account User.

**10.4** If Issuer has provided Company with fewer than ten (10) Cards to access the Account, Company's liability for Unauthorized Use of a Card will be limited to the lesser of fifty dollars (\$50) or the amount of money, property, labor or services obtained by the Unauthorized Use of the Card before notification is provided to Issuer of a lost or stolen Card or potential Unauthorized Use of a Card. The limitation on liability for Unauthorized Use of a Card as described in this Section 10.3 shall apply irrespective of any other provision of this Agreement and this Section 10.3 shall control in the event of any inconsistency between this Section 10.3 and any other provision of this Agreement.

#### **11. Representations and Warranties by Company.**

Company represents and warrants to Issuer that: (a) the person signing this Agreement on behalf of Company has the requisite power and authority to contractually bind Company under this Agreement; (b) this Agreement constitutes the legal, valid, binding, and enforceable agreement of Company; and (c) Company's execution and performance of this Agreement (i) does not constitute a breach of any agreement between

Company and a Person other than Issuer, or of any duty of Company arising at law or in equity, (ii) does not violate any law, rule or regulation applicable to Company, and (iii) has been duly authorized by all necessary organizational action of Company.

#### **12. Other Obligations of Company.**

**12.1** Company shall provide information and documentation requested by Issuer for purposes of Issuer's compliance with federal law related to customer identification and verification, including, but not limited to, name, address, date of birth, and other application information to identify the Company and/or Account Users

**12.2** For Issuer's compliance with banking and credit underwriting standards, Company shall provide written notice to Issuer: (a) in advance of any change to its legal name or in the ownership of Company; (b) in advance of any change in the organizational structure of Company, including any merger or reorganization, or sale of substantially all of Company's assets; (c) immediately if Company becomes insolvent or the subject of bankruptcy or insolvency proceedings; or (d) immediately after any appointment of a receiver or trustee for the benefit of creditors of Company.

#### **13. Amendment.**

Company agrees that Issuer may change any part of this Agreement, including without limitation the rates, charges, fees and other terms of this Agreement, and that Issuer may introduce new rates, charges, fees and other terms of this Agreement to the fullest extent permitted under applicable law. Any change in the terms and conditions of the Account may be applied to the outstanding balance on the Account to the extent permitted under applicable law. Issuer will provide at least thirty (30) days' prior written notice to Company before making any such changes.

#### **14. Term and Termination.**

**14.1** Term; Termination. This Agreement is effective upon the date of the last signature hereto and will continue for a period of five (5) years (the "Initial Term"), unless earlier terminated pursuant to the terms of the Agreement. Thereafter, the term of the Agreement shall automatically renew for successive one-year periods (each, a "Renewal Term" and collectively with the Initial Term, the "Term"), unless either Party provides written notice of non-renewal to the other Party at least ninety (90) days prior to the end of the Initial Term or the then-current Renewal Term.

**14.2** Issuer may terminate this Agreement during the Term for any reason. Issuer will provide notice of termination if required by applicable law, provided that Issuer may terminate Inactive Accounts without notice. Termination of all Accounts will automatically terminate this Agreement. Company may terminate the Agreement after the Initial Term upon ninety (90) days' prior notice to Issuer, either in writing or by calling the number on the back of Company's Cards. Issuer's right to

terminate this Agreement pursuant to this Section 14 is in addition to Issuer's termination rights otherwise set forth in this Agreement, including without limitation under Section 15 (Default by Company).

**14.3 Termination Fee.** In the event of the termination of this Agreement **(a)** by Issuer for cause, or **(b)** by Company during the Initial Term (other than for a material breach by Issuer if Issuer fails to cure such breach within a reasonable time after receipt of notice thereof), there shall be no refund, in whole or in part, of any payments already made from Company to Issuer, and Company shall make all outstanding payments due prior to the date of termination. Company acknowledges that it would be impractical or extremely difficult to ascertain the actual damages to Issuer in the event that this Agreement is terminated as set forth in (a) or (b) above. Accordingly, in the event of such termination, Company shall pay a fee for termination ("Termination Fee") as set forth in the applicable Schedule to this Agreement. The Termination Fee shall be liquidated damages, a non-exclusive remedy, and not a penalty. Issuer shall be entitled to recover any costs of collection, including reasonable attorney's fees and costs, incurred in the collection of the Termination Fee. Company acknowledges that Company shall have no right to withhold any payment due as a set-off against alleged claims against Issuer and hereby waives any such claim as a defense or counterclaim to termination by Issuer.

**14.4 Obligations Upon Termination.** In the event the Agreement is terminated by Company, any rebates payable to Company by Issuer or WEX, as the case may be, shall immediately terminate and the standard fees set forth in this Agreement (i.e., without any rebate or discount) shall apply for the remainder of the Term. After termination, Issuer shall have a reasonable amount of time to terminate the Account. Company shall not use a Card or the Account to make a purchase after termination of this Agreement. Company shall return to Issuer, or provide verification of the destruction of, all Account numbers or Cards. Company may retain a copy of any records or Account information for archival or data retention purposes.

**14.5 Survival.** Notwithstanding the termination of the Agreement as set forth herein, the terms and conditions of this Agreement shall continue to apply until all amounts owing with respect to the Account are paid in full (including all amounts owing on an Account and charged under this Agreement) and Company has performed all of its obligations under this Agreement. Those provisions of this Agreement that by their nature are intended to survive termination or expiration of this Agreement in order to give them full force and effect will survive the termination or expiration of this Agreement, including the Parties' confidentiality obligations.

## **15. Default by Company.**

**15.1** Company will be in "Default" under this Agreement if: **(a)** Company fails to perform any obligation under this Agreement; **(b)** a representation or warranty by Company in connection with this Agreement was incorrect or misleading when made; **(c)** any petition in bankruptcy, insolvency, receivership, or reorganization or proceeding pursuant to any other debtor relief law is filed by or against Company; **(d)** any order is entered appointing a receiver, custodian, trustee, liquidator, or any other person with similar authority over the assets of Company; **(e)** there is an insolvency, dissolution, reorganization, or assignment for the benefit of creditors with respect to Company, or any other material adverse change in the financial condition of Company; **(f)** any adverse judgment, order or award is entered against Company that has a material adverse impact on the financial condition of Company or a detrimental effect on the ability of Company to perform its obligations under this Agreement; **(g)** Company is in default under any other agreement between Company and Issuer or its Affiliates; or **(h)** any event described in this Section 15.1(a) through (g) occurs with respect to any Guarantor or any Guarantor repudiates or otherwise defaults in its obligations under a guaranty.

**15.2** If Company is in Default: **(a)** Company will not have any further right to borrow under this Agreement; **(b)** Issuer may declare all outstanding amounts under the Account to be immediately due and payable; **(c)** Issuer may terminate this Agreement; and **(d)** Issuer will have the right to bring suit and exercise all rights and remedies available under applicable law or in equity. In addition, if Company is in Default, Issuer may, in its sole discretion, suspend all services and obligations, shorten the Billing Cycle, and change the payment terms. A suspension of services or obligations will not be deemed a waiver of any right to terminate this Agreement, whether as a result of the Default to which such suspension of services or obligations relates or otherwise. Company agrees to pay any and all costs (including reasonable attorneys' fees) incurred by Issuer in enforcing Company's obligations under this Agreement. If Issuer suspends all services and obligations, Company agrees to pay any applicable Reactivation Fee set forth in this Agreement.

## **16. Foreign Transactions.**

**16.1** Accounts and Cards are issued for use by Company's United States based operations. Company may not distribute a Card to a Person based outside of the United States. If Transactions are made in any country other than the United States, Company will: **(a)** be billed in U.S. Dollars; **(b)** receive reporting in English; and **(c)** pay the currency conversion fee as set forth in the applicable Schedule.

**16.2** Any Transaction made in a foreign currency shall be converted into U.S. Dollars before the Transaction is posted to the Account. The exchange rate between the Transaction

currency (the foreign currency) and the billing currency (U.S. Dollars) used for processing an international Transaction is a rate selected by Issuer using rates available in wholesale currency markets for the date that the Transaction is posted by Issuer, which rate may vary from the rate Issuer itself receives, or the government mandated rate in effect at that time. The conversion rate used on the posting date may differ from the rate applicable on the date of the Transaction.

### **17. Limitations on Liability.**

**17.1** Issuer and its Affiliates are not liable for any loss sustained by Company or any other Person resulting from any act or omission by Issuer or any other Person, whether with respect to the exercise or enforcement of its rights or remedies under this Agreement or otherwise, unless the loss is caused by Issuer's gross negligence or willful misconduct. Issuer's liability shall be limited to actual damages incurred by Company as a direct result of Issuer's gross negligence or willful misconduct. Furthermore, Issuer's liability for actual damages shall not exceed the sum of: **(a)** all fees paid by Company to Issuer under this Agreement in the twelve (12) month period prior to the date when any claim is made against Issuer; plus **(b)** all other revenue earned by Issuer for all of Company's Transactions made in the twelve (12) months prior to the date of any claim made against Issuer. In no event will Issuer be liable for incidental, special, consequential or punitive damages and Company expressly and unconditionally waives any right to such damages. Except as otherwise required under applicable law, Issuer makes no warranty with respect to goods, products, merchantability, or services purchased with a Card or the Account, or through Issuer. Issuer is not responsible for any failure of a merchant to accept the Account or a Card.

**17.2** Issuer and its Affiliates are not liable to Company for any loss, liability or damages that Company suffers as a result of, related to, or in any way are connected with any Card Control, fraud control or purchase restriction measures Issuer elects to implement from time to time, unless such loss, liability or damage is a direct result of Issuer's gross negligence or willful misconduct.

### **18. Waiver of Jury Trial.**

**18.1** THE PARTIES AGREE VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY TO WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY PROCEEDING INSTITUTED IN ANY COURT, ARISING OUT OF THIS AGREEMENT.

**18.2** Company waives personal service of process in connection with any action or proceeding commenced by Issuer in connection with this Agreement, and agrees that service may be made by overnight courier or U.S. certified mail to the last known address in Issuer's records.

### **19. Dispute Resolution.**

**19.1** In accordance with the procedures outlined in this Section 19 (Dispute Resolution), any action, dispute, claim or

controversy of any kind, whether in contract or tort, statutory or common law, legal or equitable, or under any applicable law, now existing or hereafter arising under or in connection with, or in any way pertaining to, this Agreement ("Dispute") will be resolved expeditiously, amicably, and at the level within each Party's organization most knowledgeable about the Dispute. Throughout the Dispute resolution process, each Party will continue to perform its obligations under this Agreement. No Dispute may be pursued as part of a class action or other representative action; disputes brought as part of a class action, private attorney general or other representative action can be arbitrated only on an individual basis. The arbitrator has no authority to arbitrate any Dispute on a class or representative basis and may award relief only on an individual basis. Disputes of two (2) or more Persons may not be combined in the same arbitration.

**19.2** General. The complaining Party's representative will notify the other Party's representative in writing of a Dispute, and the non-complaining Party will exercise good faith efforts to resolve the matter as expeditiously as possible. In the event that such matter remains unresolved ten (10) Business Days after the delivery of the complaining Party's written notice, senior representatives of each Party will confer in an effort to resolve the Dispute. If the Parties do not reach a resolution of the Dispute, it will be resolved by binding arbitration in accordance with the terms of this Section 19 (Dispute Resolution), except as otherwise set forth below. A Party who fails or refuses to submit to arbitration following a lawful demand by any other Party will bear all costs and expenses incurred in compelling arbitration of any Dispute.

**19.3** Governing Rules. Arbitration proceedings will be administered by the American Arbitration Association ("AAA") and conducted in accordance with the AAA Commercial Arbitration Rules, or such other administrator and rules as agreed by the Parties. If there is any inconsistency between the terms of this Agreement and any such rules, the terms in this Agreement will control. The arbitration will be conducted at a mutually-agreed upon location in the jurisdiction whose law governs this Agreement, or as selected by the administrator if no agreement can be reached ("Arbitration Location"). The Parties hereby waive any claim of *forum non conveniens*. All Disputes submitted to arbitration will be resolved in accordance with the Federal Arbitration Act (Title 9 of the United States Code). All statutes of limitations applicable to any Dispute will apply to any arbitration proceeding. All discovery activities will be expressly limited to matters directly relevant to the Dispute being arbitrated. A judgment upon any award rendered in an arbitration may be entered in any court having jurisdiction.

**19.4** No Waiver; Provisional Remedies. The Parties agree that pursuing arbitration of a Dispute will not limit a Party's right to seek provisional or ancillary remedies, including

injunctive relief, attachment or the appointment of a receiver, from a court of competent jurisdiction in the Arbitration Location or elsewhere, whether before, after or during any Dispute resolution activity. The exercise of any such remedy will not waive the right of any Party to compel arbitration or referral under this section.

**19.5 Arbitrator Qualifications and Powers; Awards.**

Arbitrators must be active members of the official licensing organization for attorneys in the Arbitration Location or retired judges of the judiciary of the Arbitration Location, with expertise in the substantive applicable law relating to the subject matter of the Dispute. Arbitrators are empowered to resolve Disputes by summary rulings in response to motions filed prior to the final arbitration hearing. Arbitrators: (a) will resolve all Disputes in accordance with the substantive Governing Law as set forth in Section 23.3 (Governing Law); (b) may grant any remedy or relief that a court of the Governing Law jurisdiction could order or grant and such ancillary relief as is necessary to make effective any such award (but in no event will the arbitrator have the authority to award damages that exceed the scope of this Agreement); and (c) will have the power to award recovery of all costs and fees, to impose sanctions and to take such other actions as they deem necessary to the same extent a judge could pursuant to the rules of civil procedure in the Governing Law jurisdiction. Any Dispute in which the initial amount in controversy is One Million Dollars (\$1,000,000), or its equivalent, or less may be decided by a single arbitrator. Any Dispute in which the initial amount in controversy exceeds One Million Dollars (\$1,000,000), or its equivalent, will be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations.

**19.6** To the maximum extent practicable, the arbitrators and the Parties will take all action required to conclude any arbitration proceeding within one hundred eighty (180) days of the filing of the Dispute. No arbitrator or other Party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a Party required in the ordinary course of its business, by Applicable Law, or to the extent necessary to exercise judicial review rights as set forth herein.

**19.7** In all Disputes, the substantially prevailing Party is entitled to recover its reasonable legal counsel fees, and other legal expenses from the other Party.

**20. Confidentiality.**

All information furnished by or on behalf of either Party or any Affiliate of Issuer in connection with this Agreement will be kept confidential, using the same degree of care it uses to safeguard its own confidential information (but in no event less than commercially reasonable care), and will be used by the other Party only in connection with this Agreement or as

otherwise expressly set forth herein, except to the extent that the information: (a) was in the possession of the receiving Party without restriction on disclosure at the time of the disclosure ; (b) was provided to the receiving Party by a third party who was not under a restriction on disclosure with respect to such information; (c) is or has become publicly available other than through an act or omission of the receiving Party in breach of this Agreement or other restriction on disclosure; (d) was independently developed by the receiving Party without reference to the disclosing Party's confidential information or (e) is required by law to be disclosed, provided that notice of the disclosure has been given (unless such notice is legally prohibited) to the disclosing Party by the receiving Party, which notice, to the extent practicable, shall be given sufficiently in advance of the proposed disclosure to permit the disclosing Party to contest the validity or scope of the disclosure. Nothing in this section or this Agreement prohibits Issuer from providing any information to its Affiliates or third-party servicers in connection with the operation and maintenance of Account or Cards, and Company expressly agrees to these disclosures and use of information, provided that such Affiliates and third-party servicers agree to maintain the information in confidence. If Company requests Issuer to provide Company's information to any of Company's third-party service providers in connection to Company's use of Account or Card, Company will defend, indemnify and hold harmless Issuer and its Affiliates, and their respective employees, officers, directors, agents, assigns and successors-interest against any and all claims, actions, proceedings, demands, judgments, losses, expenses, damages, liabilities, fines or penalties arising from or relating thereto. In addition, Company agrees and understands that Issuer may use data and statistics generated from Transactions, including to provide or develop additional products and services and as set forth in Section 21 (Program Information).

**21. Program Information.**

Transaction information related to the Account may be provided to merchants who accept the Card as payment for goods and services. Issuer and its Affiliates own and may use and disclose information obtained by Issuer in operating its card programs, including Transaction information and/or identifiable information of the Company (collectively, "Program Information") for the purpose of operating Issuer's and its Affiliates' business, delivering, improving, and customizing their respective services, sending communications related to their respective business, and for other legitimate purposes permitted by applicable law. Without limiting the foregoing, Issuer may provide Program Information to its Affiliates and third parties which provide goods or services to commercial enterprises and Company understands that Issuer, its Affiliates, including but not limited to WEX, and third parties may contact Company to offer

additional products or services. If Company chooses to enroll in any such product or service offered by Issuer, its Affiliates or a third party, Company may be required to complete additional enrollment forms or agreements, and/or agree to additional terms and conditions (which may include fees for use) with respect to such products or services. For more information on Issuer's privacy policy, please visit the following website: <https://www.wexinc.com/privacy-policy/>. Issuer and its Affiliates may use and disclose Program Information that is not identifiable to Company in industry analytics and other data services or products provided to third parties. Program Information shall be subject to this Section 21 (Program Information) and not Section 20 (Confidentiality).

## **22. Assignment.**

Company may not assign this Agreement nor any interest, rights or obligations under this Agreement, without Issuer's prior written consent. Any actual or attempted assignment or delegation contrary to the terms of this Section 22 (Assignment) will be null and void. Issuer may, in its sole discretion, assign this Agreement and any of its obligations, transfer any right, or delegate any duty of performance under this Agreement without further notice. The Person to whom Issuer makes any assignment is entitled to all of Issuer's rights under this Agreement, to the extent that those rights were assigned.

## **23. Miscellaneous.**

**23.1** Issuer may monitor communications (including telephonic) between its employees and its customers. Company consents to such monitoring and recording of communications and agrees to inform employees who may be in telephone contact with Issuer's representatives that periodic monitoring of conversations will occur.

**23.2** Issuer's obligations under this Agreement shall be excused to the extent that any failure or delay in performance by Issuer is attributable, in whole or in part, to causes or circumstances beyond Issuer's reasonable control including, but not limited to: acts of God, civil disturbance, war, acts of government, natural disasters, pandemic, epidemic events, strikes or any other general labor disputes, widespread technology events, or telecommunication failures.

**23.3** Governing Law. This Agreement, and all Disputes, will be governed by and construed in accordance with the laws of the State of Utah ("Governing Law"), including its statutes of limitations, but without regard to any conflicts of laws or "choice of law" principles. Each Party hereby waives its rights to the application of the law of any other jurisdiction to any Dispute.

**23.4** Company understands and acknowledges that this Agreement and Company's receipt of Account(s) and services herein are subject to Issuer's approval of Company. Nothing contained in this Agreement, or the performance by a Party of its obligations under this Agreement, shall result in the Parties

having a partnership, co-venture or agency relationship, except to the extent that a Party is expressly designated to act as an agent of the other Party, or render a Party responsible for the debts, liabilities or obligations of the other Party.

**23.5** No course of dealing between the Parties, and no delay or omission by Issuer to exercise any right under the Agreement, shall impair such right or be construed to be a waiver of any default, and no waiver by Issuer of any breach of this Agreement will be construed as waiver of any subsequent breach. The authorization of Transactions shall not constitute any waiver, including of Issuer's rights with respect to such Transaction. Any single or partial exercise of any such right by Issuer shall not preclude other or further exercise thereof or the exercise of any other right. No amendment, or other variation of the terms, conditions, or provisions of the Agreement by other than Issuer shall be binding on Issuer unless in writing signed by an authorized representative of Issuer, and then only to the extent set forth in such writing.

**23.6** No Person other than a Party to this Agreement or any Schedule hereto shall have any right to enforce the terms and conditions of this Agreement. No Person, including an Account User, will be a third-party beneficiary of this Agreement.

**23.7** Except as otherwise provided in this Agreement, all notices shall be in writing and deemed received (a) when personally delivered, (b) at the time of delivery, if sent via reputable overnight courier with tracking capabilities, or (c) on the fifth Business Day after mailing if sent via postage prepaid certified or registered mail, return receipt requested, to the appropriate Party at the address set forth in the application for credit or at such other address as the applicable Party may indicate from time to time. Additionally, notices may be sent by email via any nationally recognized SMTP delivery service, and deemed received on the day of sending, to Issuer at [legalnotices@wexinc.com](mailto:legalnotices@wexinc.com), to Company at an email address provided by Company or normally used by an Account User for business communications with Issuer. For the purposes of this Section, all times are to be the local time in the place of deemed receipt; and if deemed receipt under this Section is not within business hours (meaning 8:00 am to 5:00 pm Monday to Friday on any Business Day), the notice shall be deemed to have been received at 8:00 am on the next Business Day. The Parties agree to waive any claim that an electronic transmission does not satisfy any writing or signature requirements under applicable law. The Parties agree that a photocopy or printed copy of an email constitutes the "best evidence" and an "original" of such a writing.

**23.8** Company agrees that Issuer may: (a) include the name, logo, and success stories of Company on Issuer's website and in press releases, presentations, promotional and sales literature, and advertising materials; and (b) identify Company as a customer in Issuer's published customer list, earnings reports, and in response to third-party inquiries.

**23.9** If any portion of this Agreement is held to be invalid, illegal or unenforceable, the remaining portions shall remain in full force and effect and shall continue to be binding upon the Parties.

**23.10** This Agreement, any notices in connection with this Agreement, and any guaranty of Company's obligations under this Agreement constitutes the entire agreement among the Parties and supersedes all prior agreements, understandings, and arrangements, oral or written, among the Parties with respect to the subject matter hereof. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement. This Agreement and any notice may be executed by a Party in the form of an "Electronic Record" (as such term is defined in the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. 7001 et seq. ("ESIGN Act")), and an "Electronic Signature" (as defined in the ESIGN Act) of a Party that can be authenticated will constitute an original and binding signature of such Party.

**23.11** Company consents to be contacted by Issuer and its agents, representatives, Affiliates, or anyone calling on Issuer's behalf for any and all purposes arising out of or relating to Company's Account or Card, at any telephone number, or physical or electronic address provided by Company or an Account User or at which Company or an Account User may be reached. Company agrees that Issuer may contact Company and Account Users in any way, including SMS messages (including text messages), calls using pre-recorded messages or artificial voice, and calls and messages delivered using auto telephone dialing system or an automatic texting system. Automated messages may be played when the telephone is answered, whether by an Account User or someone else. In the event that an agent or representative calls, they may also leave a message on Company's or the Account User's answering machine, voice mail, or send a message via text.

**23.12** In the event of any conflict between the General Terms of this Agreement and the terms of any Schedule hereto, the terms of any such Schedule shall govern unless the General Terms of this Agreement expressly indicates otherwise

#### **24. Definitions**

**24.1** "Account" means a credit line which may be unsecured or secured, or any other account, extended to Company by Issuer. An Account may be accessed by a Card, an account number, or other approved access method.

**24.2** "Account User" means Company or any other entity or individual that Company has informed Issuer is authorized to use the Account or a Card. The Account Users may include employees or independent contractors or other users who have been given a Card or access to an Account.

**24.3** "Affiliate" means any present or future entity that directly or indirectly controls, is controlled by, or is under common control with either Party. For the purposes of this

definition of Affiliate, "control" (including "controlled") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of securities or membership interests, as trustee, by contract or otherwise.

**24.4** "Billing Cycle" means the time interval between the dates of Company's regular billing statements. Company's first Billing Cycle may be shorter than other Billing Cycles. All credit terms will apply in each Billing Cycle including the first Billing Cycle.

**24.5** "Business Day" means Monday through Friday, excluding holidays observed by banking institutions in the state of Utah.

**24.6** "Card" means an approved Account access method, physical (e.g. plastic), digital or virtual card, account access device, payment device, or other technology, medium or form through which payments are enabled under this Agreement.

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

**24.8** "Credit Limit" is the amount of credit assigned to Company's Account as established by Issuer from time to time at its sole discretion.

**24.9** "IDN" means the identification number associated with an Account User or Card.

**24.10** "Inactive Account" means an Account which has no Transactions for a twelve (12) month period.

**24.11** "Due Date" means the date the repayment of the balance of the Account is due as set forth in a billing statement. Such date may be called "Payment Date" in a billing statement.

**24.12** "Guarantor" means any Person who guarantees the obligations of Company under this Agreement.

**24.13** "Person" means an individual, corporation, limited liability company, partnership, trust, association or any other entity or organization.

**24.14** "Schedule" means an attachment(s) to this Agreement which contains additional terms and conditions specific to the products or services to be provided by Issuer or an Affiliate of Issuer to Company or its Affiliates, and any associated costs or fees.

**24.15** "Third Party Network" means a credit card payment network operated by a third party (e.g., Mastercard).

**24.16** "Transaction" means the use of a Card or Account to buy goods or services at a merchant that accepts the Card or Account.

**24.17** "Unauthorized Use" means the use of the Account or a Card by a Person who does not have actual, implied or apparent authority for such use, and from which the Company receives no benefit.

**24.18** "WEX Network" means the card payment network operated by WEX Inc.

**WEX Mobility Schedule**

**Card Program:** WEX SELECT  
**Card Product:** Standard Cards or Enhanced Cards – Universal Cards  
**Card Network:** WEX Network (Standard Cards); WEX Network and Third Party Network (Enhanced Cards)  
**Customer Service Number:** 833-504-1832 (which may be updated from time to time)  
**Edge Network Eligible? Yes**

**Fees**

		<b>Standard Fee</b>
<b>Set-up Fee</b>		\$40.00
<b>Monthly Card Charge</b>		\$4.00 per Card
<b>Replacement Card Fee</b>	<b>Standard Card</b>	\$2.00 per Card
	<b>Standard Card + chip</b>	\$3.50 per Card
	<b>Enhanced Card</b>	\$3.50 per Card
<b>Late Fee</b>		<b>Greater of \$75 or 9.99% of Total Outstanding Balance on the Calculation Date</b>
<b>Reproduced Reports</b>		\$25.00 per request
<b>General Research Fee</b>		\$15.00 per hour
<b>Expedited Shipping Fees</b>		Cost varies
<b>International Currency Conversion Fee</b>		Up to 2.00% of the total Transaction value
<b>Returned Payment Fee (NSF/ACH)</b>		\$50.00 per occurrence
<b>Reactivation Fee</b>		\$50.00 per occurrence (max monthly fee of \$50.00 per Billing Cycle)
<b>Truck Stop Transaction Fee</b>		\$1.25 per swipe at a Truck Stop
<b>Paper Delivery Fee</b>		\$10.00 per month for paper invoicing or reporting
<b>High Risk Credit Fee</b>		2% of Account's Credit Limit (Max \$199 per month)

Pricing for additional products and services is available upon request or reflected on the Schedule or enrollment forms or in the terms of use that Company must agree to in order to receive the additional products and services.

**Additional Terms and Conditions**

**A. Definitions.**

- 1. Calculation Date** means the earlier of (a) the posting date for Company's payment in full of the invoiced amount to its Account, or (b) the last day of the Billing Cycle during which the Payment Default occurred.
- 2. Enhanced Card** means a Card which is capable of completing Transactions on both the WEX Network and a Third-Party Network.
- 3. Standard Card** means a Card capable of completing Transactions on the WEX Network.
- 4. Total Outstanding Balance** means the invoiced amount, plus the amount of any unbilled Transactions delivered by a merchant to Issuer, and minus any credits that have been posted to the Account, through the Calculation Date.
- 5. Truck Stop** means fuel distribution sites owned or operated by Love's, Pilot, Flying J, or Travel Centers of America,

and includes (but is not limited to) distribution sites that sell fuel and have islands that can accommodate tractor trailers in addition to providing other services required of the over-the-road trucking market such as vehicle repair facilities, showers, and parking spaces to accommodate tractors and trailers.

6. **Universal Cards** means a Card accepted for payment at all locations in the WEX Network.

#### **B. Use of Cards.**

1. Company and Account Users designated by Company may use the Account in accordance with this Agreement to make purchases at merchants participating in the WEX Inc. (“WEX”) card network (the “WEX Network”). If Company is approved for an Enhanced Card the Account may also be used to make eligible purchases at merchants participating in a Third-Party Network.
2. Company may purchase dyed special fuel using its Account or Cards. Company acknowledges that all dyed special fuel purchases will be used exclusively for off-road purposes and according to all applicable laws governing its use. Issuer is not liable in any way for any misuse or mishandling by Company of any dyed special fuel. Upon request from applicable governmental authorities, Issuer may provide information regarding Company’s dyed special fuel purchases without prior authorization from Company.
3. Company assumes all risk if Company chooses to leave a Card at an accepting location for use by its drivers or Account Users and, as such, agrees to pay for all charges made with that Card or on that Account.

#### **C. Billing and Payment.**

1. Company agrees to pay for all Transactions occurring on its Card(s) or Account(s), plus all accrued Fees as set forth in the table above, including any Late Fees, and applicable sales taxes. The Due Date generally will be between twenty-two (22) days and fourteen (14) days after the end of the Billing Cycle, as designated by Issuer at the time of Account setup, although there may be variations.
2. Payments made by paper check are posted to the Account after processing and must arrive at Issuer at least two Business Days before the Due Date on the billing statement. It can take up to two Business Days to process a check from the time the envelope containing a check arrives at Issuer’s facility to posting of the check amount to the Account. For payments not made by paper check, payments made: (a) by 3:30 p.m. ET on a Business Day will be posted on that Business Day; and (b) after 3:30 p.m. ET (or payments made on a day other than a Business Day) will be posted on the following Business Day.
3. Regardless of payment method, Company must ensure that Company’s account number is provided with the payment. Failure to do so will cause processing delays in posting the payment to the Account. Payments that are received at locations other than the address specified on the billing statement, or that do not otherwise comply with instructions on the billing statement or the Agreement, may be delayed in posting.
4. If a Payment Default occurs, then a Late Fee will apply to the Total Outstanding Balance. The Late Fee is specified in the table above, not to exceed the amount allowable by applicable law. For Billing Cycles other than monthly, the percentage rate used in the Late Fee calculation will be prorated based on the length of the billing cycle in relation to a monthly billing cycle.
5. In addition to Late Fees, Company agrees to pay the additional fees in the amounts and as described above. In the event that the Account incurs one or more payments past the payment due date in any 6-month period or makes a payment that is not honored by Company’s bank, Issuer may deem the Company to be “High Risk” and reserves the right to change the Account’s billing cycle, payment terms (days-to-pay), and credit limit. In addition, Issuer reserves the right to charge the Account a High Risk Credit Fee of up to two percent (2%) of the Account’s Credit Limit per month. The High Risk decision is made solely by Issuer based on the Account’s payment history and reviewed periodically based on payment activity.

#### **D. Effect of Termination.**

1. **Intentionally Omitted.**
2. **Repayment of Any Upfront Investment.** To the extent that Issuer or WEX Inc. has paid any incentive amount to Company in advance, or has paid for or reimbursed Company for any costs of Company related to implementation or similar startup expenses, or has made any similar payments to Company, then the following shall apply: If this Agreement is terminated for any reason, other than a breach by Issuer or WEX Inc., prior to the end of the term during

which such upfront investment was made, Company shall repay to Issuer or WEX Inc., as applicable, the entire amount of the upfront investment.

- E. Participation by Affiliates.** Company's Affiliates may elect to open Accounts pursuant to the terms of this Agreement by executing an Affiliate Participation Agreement or similar document in the form and format required by Issuer. Participation by any individual Affiliates is subject to Issuer approval in its sole discretion. If approved, all obligations of "Company" shall also apply to Affiliate under this Agreement, and Affiliates approved by Issuer may open their own Accounts and will receive invoices in accordance with the billing terms set forth herein, on the same billing cycle as Company. Company hereby irrevocably, absolutely, and unconditionally guarantees all obligations for payments by its participating Affiliates arising under this Agreement. Such guaranty is a guaranty of payment and not merely of collection. Issuer shall not be required to initiate any action against, nor exhaust any remedies with respect to any participating Affiliate(s) prior to making a demand of payment on Company. Affiliates who meet the conditions for any early pay or volume rebates specified in this Mobility Schedule will receive a rebate according to the terms of the incentive. Specific information regarding Transactions and Account information may only be shared with Company or the Affiliate to which the activity belongs.
- F. EDGE Network.** Provided that Company's Account is and remains in good standing, Company is eligible to receive fuel and non-fuel discounts and savings through the Edge Network. The Edge Network is a program operated by Truckers B2B LLC ("TB2B"), an Affiliate of Issuer, whereby merchants may offer discounts for goods and services to Company. Cards issued pursuant to this Agreement will be enabled on the Edge Network and Company may enroll online as a member of the Edge Network membership program, subject to additional terms and conditions provided by TB2B. For eligible Accounts, fuel discounts are applied automatically to Company's Account, and non-fuel discounts may be available for selection by Company on the Edge Network online portal. TB2B or another Affiliate may receive compensation from participating merchants. Company agrees and acknowledges that all Edge Network discount offers may terminate or change from time to time without notice to Company, which may include, without limitation, a fuel merchant changing its participating locations or fuel types. Additional terms and conditions will apply to, and be set forth on, the Edge Network online portal.
- 1. Fuel Discounts. Accounts using Enhanced Cards are not eligible for fuel discounts.** Issuer or its Affiliates may provide to Company via email, webpage, or mobile app a daily price file that shows Edge-specific pricing at specific merchant locations. The information included in that daily price feed is based on data received from third party merchants, which may include information that was erroneous at the time of transmission, and may change throughout the day in the merchant's sole discretion. The relevant price at the time of purchase will apply to each Edge transaction. TB2B may apply each fuel price discount for a given Transaction at the time of the Transaction or periodically as a rebate after the fact. When TB2B makes the adjustment at the time of the Transaction, the discounted price will be reflected in the transaction price on Company's transaction reports and invoices. When TB2B provides the discount as a rebate, Company's transaction reports and invoices will show the retail price. On condition that Company's Account is then in good standing, Issuer will then either credit Company's Account or issue Company a rebate check, at Issuer's option.