# Cardmember Agreement

**Please keep this booklet for future reference**
**It contains important cardmember information**

## Valued Cardmember,

This booklet describes important terms and conditions that apply to your credit card account. First National Bank of Omaha is the issuer of this card. As such, we want to be clear in how we share this information with you, to help you stay in control and make well-informed decisions about your account.

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## 1. Defining some common terms used in this document

*This section explains what this document means when it uses common terms like "us," "you" or "agreement." These detailed definitions help us avoid repeating long terms over and over again—which helps make the document easier to read.*

This Cardmember Agreement together with the accompanying Rates and Terms Schedule ("Schedule") govern your account with First Bankcard (a division of First National Bank of Omaha) and are collectively referred to below as the "Agreement". The Schedule provides important information about annual percentage rates, specific types and amounts of finance charges and fees that may be charged to your account under certain circumstances and other important information about your account. **Please read this Cardmember Agreement and the Schedule carefully and retain both for future reference.**

As used in this Agreement, the words "you" and "your" mean each person named on the application for the account and anyone else who uses the account in any way. The terms "we", "us" and "our" mean First Bankcard (a division of First National Bank of Omaha). Using or allowing someone else to use your account means you accept the terms of the Agreement. This Agreement contains our most current terms and supersedes earlier materials you may have received. (Please note: although your account will generally have monthly billing cycles, your first billing cycle may be more or less than one month. All credit terms, including minimum finance charges, will apply in each billing cycle including the first billing cycle.)

***BALANCE CATEGORIES:*** We will keep track of the activity on your account in different "Balance Categories". Unless we tell you otherwise, these are the Balance Categories we will use:

"Purchases" which will result from use of your card or your account number to purchase goods and services;

"Cash Advances" which will result from cash advances you request, use of checks or similar instruments (including electronic form or otherwise) that we provide (unless we tell you they will be treated differently), and Cash Equivalent Transactions (as defined later in this Agreement);

"Balance Transfers" which will result from balance transfers that you request by any means, including balance transfer checks or similar instruments (including electronic form or otherwise); and

"Special Offers" which will result from use of your card or your account number to take advantage of special, introductory or promotional offers that we identify to you from time to time. Each Special Offer may be considered a separate Balance Category.

## 2. How you may use the account

*This section explains a few basic rules about how you and others may use your account, your responsibility for the account, and how we may limit your use of the account.*

***ACCOUNT USE:*** You may use your card, your account number or checks or similar instruments (including electronic form or otherwise) that we send to you to make purchases and balance transfers and to obtain cash advances. Each time you use your account, you are representing that you intend, and have the ability, to repay all amounts due on your account. You are responsible for all charges made by anyone you allow to use your account, even if they charge more than you intended. If you ask us to issue a card to someone, you are responsible for their charges until you return their card to us or until you notify us that use of their card is no longer authorized, whichever occurs first. We may consider charges made by your immediate family as authorized by you and your responsibility. If unauthorized use of your account occurs, you agree to cooperate with us and law enforcement authorities in identifying the unauthorized user. You are each jointly and severally liable for all amounts due on this account regardless of which of you uses it or benefits from that use.

***CREDIT LIMIT/AUTHORIZATIONS:*** You agree (1) not to exceed the credit limit we establish for you and (2) to immediately pay any amount in excess of your credit limit. If your account is a joint account, each of you may request credit limit increases (unless you are less than twenty-one years of age and were required by law to have a joint account, in which case, all joint account owners must approve and assume joint liability for any request for increase). We may raise or lower your credit limit at our discretion and may restrict the amount of the credit limit available for cash advances and balance transfers. You may not use your account for (and we may decline authorization for) any illegal transaction. We may decline authorization for any Internet gambling transaction. We may, in our discretion and to the extent permitted by law, restrict or delay the availability of credit to you for our risk management purposes and to protect you and us against actual or potential fraud, unauthorized transactions, or claims. We are not liable for declining authorization for any particular transaction, regardless of our reason.

## 3. How we determine and apply account payments

*This section explains your responsibility for making account payments, how we determine the amounts you must pay and how we apply payments to your account.*

***PAYMENTS:***

**(*A*)** ***Promise to Pay*:** You promise to pay all amounts due on your account. You agree to review your billing statements and to notify us promptly of any errors (see "Your Billing Rights" below). If you do not promptly notify us of a billing error, you agree that your billing statement will be considered proof of the amount you are obligated to pay. You may pay all or a part of the balance on your account at any time. However, you must pay at least the minimum payment shown on your billing statement by the due date. You agree to follow the requirements for payments that we set forth on your billing statement from time to time, including requirements that payments be made in United States Dollars and that checks be drawn on a United States bank. If we choose to accept a payment that is not in United States Dollars or not drawn on a United States bank, you agree to pay any collection or conversion fees assessed to us by third parties. We may accept payments which are marked "payment in full" or with similar markings without losing our right to receive payment in full. Partial payments offered in full satisfaction of a disputed amount must be sent to the address for notice of billing errors shown on your billing statement. We reserve our rights as to all such payments.

**(B*)*** ***Minimum Payment Calculation*:** The amount of your minimum payment will be indicated on your billing statement and calculated as shown on the Schedule.

**(*C*)** ***Application of Payments*:** We may apply your payments in the order we choose from time to time. We must, however, comply with applicable law governing application of your payments. Currently, this means that if you make a payment in excess of the required minimum payment, we must apply the excess amount first to your Balance Category with the highest Annual Percentage Rate. Any remaining portion of that excess amount must be applied to your other Balance Categories in descending order based on their applicable Annual Percentage Rates. Until we determine a payment is unlikely to be returned for insufficient funds or for some other reason, your available credit may not reflect the payment.

***(D)*** ***Application of Credits*:** We will apply credits to your account as promptly as required by law. Credits may be applied to the Balance Categories that we choose, even if those Balance Categories are different than the Balance Categories of the transactions giving rise to the credits. A credit may be applied on the date of the credit transaction. In some cases, however, credits may not be posted to your account until a billing cycle occurring after the date of the credit transaction.

## 4. How certain rates are calculated and may change

*This section provides basic information about how we calculate certain interest rates that may apply to your account and the circumstances that can trigger increases in APRs.*

***FIXED RATE INFORMATION:*** If any **Annual Percentage Rate** is expressly labeled or described as "fixed" on your account, that fixed rate will not change for any reason during (i) its specified duration; or (ii) the life of the applicable balance or account if either no duration is specified or the duration is indefinite. If any **Annual Percentage Rate** is not expressly labeled or described as "fixed", it is not a fixed rate.

***VARIABLE RATE INFORMATION:*** If any **Annual Percentage Rate** is variable, your rate is determined by adding the applicable Margin to the applicable Index (in some cases, the applicable Margin may be subtracted from the applicable Index). The daily periodic rate is $1/365^{th}$ ($1/366^{th}$ during leap years) of the **Annual Percentage Rate**. The Schedule will show if you have a variable rate and will describe your Index and Margin. An increase in the Index will increase the applicable Annual Percentage Rate and daily periodic rate, which may increase the minimum payment due on your account.

***RATE INCREASES DUE TO TRIGGERING EVENTS:*** We may increase any or all of your Annual Percentage Rates (including, but not limited to, Preferred, Introductory or Special Offer Rates but excluding fixed rates during a specified duration and fixed rates that are indefinite in duration) if one of these "Triggering Events" occurs: you fail to make a minimum payment to us when due; you exceed your credit limit with us; or you make a payment to us that is dishonored for any reason. If we increase your rates due to a Triggering Event, we may determine the amount of the increase based on how you have handled your account with us and current and historical information regarding your credit in general. We will give you a notice of the increase. The highest rate that may apply because of a Triggering Event will be the Penalty Rate (or "Penalty APR") shown on the Schedule. Increased rates will not apply to balances that you incur prior to or within 14 days after we provide the notice of increase. Increased rates due to Triggering Events may not occur prior to the first anniversary of opening your account. Rate increases may remain in effect indefinitely.

***RATE INCREASES IF YOU ARE 60 DAYS LATE:*** If we do not receive your required minimum payment within 60 days after its due date, the rules in the preceding paragraph apply, but are modified as follows: (1) increased rates may apply to balances incurred prior to and after the notice of increase; (2) increased rates may apply before the first anniversary of opening your account; and (3) increased rates will cease to apply if we receive six consecutive monthly minimum payments on or before their payment due dates, beginning with the first payment due date following the effective date of the increase (when an increased rate ceases to apply, the rate in effect before the increase will again apply as disclosed).

## 5. How we calculate interest charges and the balances subject to interest

*This section helps explains how we determine the amount of your periodic rate finance charges (interest charges) for different account transactions. It also explains how you can avoid or reduce these interest charges. This section also explains how we determine the balances of your account that will be subject to interest charges at the end of each billing cycle.*

***ACCRUAL OF FINANCE CHARGES:*** Except as provided in "Grace Period" below, we will accrue periodic rate finance charges on each of the Balance Categories from the date of each transaction or the first day of the billing cycle in which the transaction is added to your account, whichever is more recent.

***GRACE PERIOD***: If (1) you pay your New Balance in full, as shown on your current billing statement, on or before the due date (which will be at least twenty-one (21) days from the closing date of the billing cycle) and (2) we received payment in full of your New Balance indicated on your previous billing statement by its due date or that New Balance was zero or a credit, periodic rate finance charges will not be assessed on Purchases shown on your next billing statement. Payment in full is generally required to obtain the benefit of the grace period. We will, however, give you the benefit of the grace period for partial payments to the extent required by law (please be aware, however, that this requirement only exists in limited circumstances). The grace period applies only to Purchases and if notified, Special Offers. It does not apply to Balance Transfers or Cash Advances.

***PERIODIC RATE FINANCE CHARGES:*** Periodic rate finance charges will be calculated using daily periodic rates which correspond to certain **Annual Percentage Rates**. These rates may be different for Purchases, Balance Transfers, Cash Advances, and Special Offers.

**(A)** If your account was opened with an Introductory Rate(s), the rate(s) for your account will be at the Introductory Rate(s) shown on the Schedule. The Introductory Rate(s) will continue in effect as shown on the Schedule.

**(B)** After the Introductory Rate(s) expire (or if your account does not have an Introductory Rate), the Preferred Rate(s) for your account will be the rate(s) shown on the Schedule. Those Preferred Rates may be variable.

***FINANCE CHARGES AND BALANCE CALCULATIONS:*** We use the Average Daily Balance (including new purchases) method to compute a portion of the **Finance Charges** on your account. We calculate periodic rate finance charges separately for each Balance Category.

(A) To compute Billed Periodic Rate Finance Charges:

(1) For each Balance Category, we multiply your Daily Balance (see below) by the applicable daily periodic rate for each day of the billing cycle; then

(2) We add together all of the products calculated in (1) above.

(B) To compute the Daily Balance for each Balance Category:

(1) We take the Beginning Balance of each day;

(2) Add any new transactions (such as purchases, balance transfers, cash advances and debit adjustments, as applicable) and any new fees;

(3) Subtract any applicable payments, credits, or credit adjustments; and

(4) We treat a credit balance as a balance of zero.

For purposes of these computations, we may delay adding some fees to your Daily Balance (for example, some fees may not be added to your Daily Balance until the billing cycle after they are imposed). We may also subtract some payments or portions of some payments from your Daily Balance earlier than when they were actually received (for example, for grace period purposes, portions of some payments received in one billing cycle may be considered applied to your Purchase Balance Category or Special Offer Balance Category, as applicable, at the end of the prior billing cycle).

We add the amount calculated in accordance with (A) (1) above to the Daily Balance and this amount becomes the Beginning Balance for the next day.

On your billing statement, we will calculate an Average Daily Balance for each Balance Category by adding all your Daily Balances for that Balance Category and dividing that amount by the number of days in the billing cycle. If you multiply the Average Daily Balance for a Balance Category by its daily periodic rate and multiply the result by the number of days in the billing cycle, the total will equal the Billed Periodic Rate Finance Charges for that Balance Category, except for minor variations due to rounding.

Billed Periodic Rate Finance Charges shall also be referred to and appear on your statement labeled as "Interest Charge" for each Balance Category. The Interest Charges for each Balance Category shall be totaled on your statement and listed as the "Total Interest". Cash advance, balance transfer, and foreign transaction fee **Finance Charges**, if any, will be listed under the "Fees" heading on your billing statement and all fees will be totaled to determine "Total Fees". This Agreement provides for daily compounding of finance charges and fees.

***MINIMUM FINANCE CHARGE:*** If periodic rate **Finance Charges** are billed in any billing cycle, the minimum Billed Periodic Rate **Finance Charge** will be as shown on the Schedule. We may allocate your minimum Billed Periodic Rate Finance Charge among your various Balance Categories in the manner that we select from time to time. The "minimum Billed Periodic Rate **Finance Charge**" will appear on your statement as the "Minimum Interest Charge" under the Fees heading.

**6. How we determine certain account fees and additional information on certain transactions**

*This section describes the account maintenance fees, transaction fees and other fees that may apply to your account as well as additional information on various types of transactions.*

***ANNUAL FEE:*** If your account has an annual membership fee, it is shown on the accompanying Schedule and will be charged to your account as a Purchase. If no annual fee is shown, then your account has no annual fee.

***MONTHLY MAINTENANCE FEE:*** If your account has a monthly maintenance fee, it is shown on the accompanying Schedule and will be charged to your account as a Purchase. If no monthly maintenance fee is shown, then your account has no monthly maintenance fee.

***OTHER FEES*** *(such as late payment and service fees)**:*** We may charge additional fees as in effect from time to time as referenced below. The amount charged for these fees is shown in the Schedule unless otherwise indicated. Each of the below fees will be added to the Balance Category that we select.

*Late Fee.* For each minimum payment which is not received by the payment due date or is dishonored for any reason, we may charge you a late fee as disclosed on the accompanying Schedule according to the amount of your New Balance.

*Payment Dishonored Fee.* A payment dishonored fee may be assessed as indicated on the Schedule for: (i) any payment on your account which is dishonored or returned unpaid for any reason (including any payment returned because it is not signed, authorized or cannot be processed for any reason); and (ii) any Balance Transfer, Cash Advance, Special Offer check or similar instrument (including electronic form or otherwise) that is dishonored for any reason or for which we refuse to pay.

*Stop Payment Fee.* A stop payment fee may be assessed as indicated on the Schedule for any stop payment order you request us to make.

*Copy Fees and Additional/Replacement Card Fees.* We may charge you a fee for (i) each sales draft copy you request (unless the request is related to an actual billing error); (ii) each additional or replacement card requested; and (iii) for each copy of a billing statement that you request.

*Customized Card Design Fee.* We may charge you a fee for having us complete a customized card design that you request. This fee is not listed on the Schedule but will be disclosed to you upon your request of such customized card design.

*Expedited Card Fees.* We may charge you a fee for an expedited delivery of additional or replacement cards. This fee is not listed on the Schedule but will be disclosed to you upon your request of such expedited delivery.

*Expedited Payment Fee.* Subject to applicable law, we may charge you a fee for making an expedited payment to us which requires assistance from one of our customer service representatives. This fee is not listed on the Schedule but will be disclosed to you upon your request of such expedited payment assistance.

*ATM Surcharge.* For all ATM transactions, a surcharge may be imposed by the ATM operator. This surcharge is imposed by third parties and will be charged to your account.

***BALANCE TRANSFERS***: We may permit you to transfer balances from other credit card companies or financial institutions to your account up to the amount of your credit limit we make available for balance transfers. If you request an amount that we do not approve, we may process a partial transfer for less than you requested or we may decline the entire request. You may not transfer any balance you owe from any other First National Bank of Omaha account or any of your accounts with any of our related companies. You should not transfer any amount that is in dispute in order to preserve your dispute rights. You should continue to monitor the other accounts that you request to transfer balances from and you should continue to pay the minimum payments due on those accounts until you receive statements from those creditors showing that the balances due them have been paid in full. This may not happen until after the balance transfer appears on your billing statement from us. You are liable for any late payments, finance charges or disputed amounts on your other accounts. If you want your other accounts closed following a balance transfer, you are responsible for doing so.

We may also permit you to extend a Balance Transfer promotional period and APR on your account (otherwise referred to as a Special Offer or Introductory period and APR). This will be treated as a balance transfer in the amount of the balance outstanding as of the last day of the applicable promotional period and APR which is being extended.

We will charge you a balance transfer fee **Finance Charge** for any balance transfer as shown on the accompanying Schedule. No grace period will apply when calculating finance charges for a balance transfer.

***CASH OVER:*** We may permit you to access cash when you make a purchase at a participating merchant or store. There will be no fee associated with the cash obtained using this feature and it will be charged to your account as a purchase included with or without purchased item(s) amount. The cash may only be accessed under this feature if there is a purchase accompanying the request. The amount of cash you may have access to will be determined by us as well as by the limitations of the participating stores or merchants.

***CASH ADVANCE FEE FINANCE CHARGES:*** A cash advance fee **Finance Charge** will be imposed on cash advance transactions as shown on the Schedule. Cash advance fee finance charges will be added to your Cash Advances Balance Category.

***CASH EQUIVALENT TRANSACTIONS:*** Cash advance fee **Finance Charges** for Cash Equivalent Transactions will be charged as indicated on the Schedule. Cash Equivalent Transactions are those transactions performed using a merchant or service provider that DFS Services LLC identifies as a seller of travelers checks, foreign currency, money orders, wire transfers, lottery tickets, funds used for wagers or gambling, or similar products or services. These transactions are also treated as cash advances for all other purposes on your account. Cash advance fee finance charges for Cash Equivalent Transactions will be added to your Cash Advances Balance Category.

***FOREIGN TRANSACTION FEE FINANCE CHARGE*:** A foreign transaction fee **Finance Charge** may be assessed on all transactions made (i) in currencies other than United States Dollars; (ii) with a foreign merchant (whether in foreign currency or in United States Dollars); or (iii) outside the United States. The foreign transaction fee **Finance Charge** will be equal to a certain percentage of the amount of each foreign transaction (after conversion to United States Dollars) as shown on the Schedule. These fees will be added to the Balance Category that we select (for example, the Balance Category in which the foreign transaction is posted).

***TRANSACTIONS MADE IN FOREIGN CURRENCIES:*** Transactions made in currencies other than United States Dollars will be converted to United States Dollars under the then current regulations of DFS Services LLC. Those regulations currently provide that DFS Services LLC will select a conversion rate in effect on the day the transaction is processed unless a specific conversion rate is required by law. The conversion rate may differ from rates in effect on the transaction date or the posting date.

**7. When we may close or require immediate payment of your account**

*This section describes what events can cause us to require immediate payment of your entire account balance and when we can terminate or suspend your ability to use the account.*

***REASONS FOR REQUIRING IMMEDIATE PAYMENT:*** Subject to applicable law and any right to cure that you may have under that law, we may require immediate payment of your entire account balance if:

(1) you do not make any minimum payment to us when due;

(2) you exceed your credit limit;

(3) you make a payment to us that is dishonored for any reason;

(4) you die or become insolvent;

(5) you give us false or misleading information;

(6) a petition is filed by or against you in any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation proceeding;

(7) a receiver, liquidator or trustee is appointed for you or any of your property, or you make an assignment for the benefit of creditors;

(8) you are generally not paying or have announced that you will not pay your debts as they come due;

(9) a breach occurs under any note, loan agreement, or other obligation for borrowed money to which you are a party;

(10) a material adverse change occurs in your financial or other condition;

(11) you violate this Agreement or any other agreement you make with us; **OR**

(12) if we have reason to doubt your ability to repay us.

Our acceptance of a payment after one or more of the preceding events does not waive our right to require immediate payment of your entire account balance.

***TERMINATION OR SUSPENSION OF CREDIT PRIVILEGES:*** We may at any time, with or without cause and without advance notice, terminate this Agreement and/or temporarily or permanently suspend your credit privileges. This includes, but is not limited to, situations where you have violated this Agreement or where we have reason to doubt your creditworthiness (for example, if you pay us with insufficient funds checks on more than an occasional basis). Your obligations under this Agreement continue after your rights to obtain credit have been terminated or suspended.

**8. How account terms may change and certain rights**

*This section explains how we may change the rates, fees and other terms of your account and this agreement at any time, after we give you any notice required by law. This section also identifies certain rights.*

***IMPORTANT NOTICE REGARDING CHANGES IN TERMS:*** Subject to applicable law, we may unilaterally change the Annual Percentage Rates, fees and other terms of this Agreement at any time, including after your account is closed (and regardless of the reason you or we closed the account). This includes modifications, deletions and the addition of new provisions, including non-financial provisions (for example, we may add provisions relating to our enforcement rights or the resolution of claims and disputes). If we make changes, we will send you all notices required by law. *Unless we explain otherwise in a change in terms notice you receive*, the following rules will apply: (1) changes will be automatically effective on the date we specify and without the necessity of any further assent on your part; and (2) use of your account is not necessary for a change in terms to be effective.

***OUR RIGHTS:*** Our failure to exercise, or our delay in exercising, any of our rights under the Agreement for any reason will not mean we are unable to exercise those rights later. We may, from time to time on a consistent or inconsistent basis, take (or refrain from taking) certain actions that benefit you but that are not required by this Agreement or applicable law. Any such course of dealing or course of performance shall not be considered to add to our legal obligations to you under this Agreement. We may discontinue any such course of dealing or course of performance at any time without prior written notice.

**9. How to use your account without using your credit card**

*Your account is more than the plastic card itself. There are other ways to access your credit line including by check or other credit access device. This section identifies how such checks and devices will be treated and different APRs that may apply other than your normal purchase rate.*

***CHECKS THAT ACCESS YOUR ACCOUNT:*** Any checks or similar instruments (including electronic form or otherwise) that we provide to you or issue on your behalf will be treated as cash advance transactions, unless we indicate otherwise (for example, we may indicate that certain Special Offer checks used to make balance transfers will be treated as Purchases). To stop payment on a check or similar instrument (including electronic form or otherwise), you must notify us of the number and amount of the check or similar instrument before we receive it (we need not stop payment on checks or similar instruments that we issue on your behalf). We may pay post-dated checks or similar instruments (including electronic form or otherwise) unless you follow the procedure for stop payments. Checks or similar instruments (including electronic form or otherwise) that we provide to you may not be used to make payments on any account you have with us.

**10. How cardmember benefits and reward programs work**

*Our popular cardmember rewards programs may be managed by a third-party company and their details are covered under a separate agreement.*

***CARDMEMBER BENEFITS AND REWARDS:*** Cardmember benefits and rewards are subject to change or termination without notice. Cardmember benefits and rewards may be provided by third parties; we are not liable for such benefits or rewards or for the actions or omissions of those third parties. If there is any rewards membership fee on your account, it will be outlined in your rewards terms and conditions document and will be charged to your account as a purchase.

**11. How we communicate with you and share information with credit bureaus**

*This section explains how we may retain your phone numbers or addresses and use them to contact you later if we need to reach you. It also explains how we report information about your account to credit reporting agencies and reminds you to notify us of a change of address 10 days before you move.*

***COMMUNICATIONS WITH YOU AND OTHERS:*** We may call or e-mail you (using live operators, automatic dialing devices, or recorded messages) at home or work and those calls or e-mails will not be considered unsolicited. If you provide a cell phone number to us, either on the application or to a representative, or if you place a cell phone call to us, you agree that we may contact you (including for collection purposes) at that cell phone number. We may monitor or record any calls we make or receive. If you provide us with an e-mail address, either on the application or to a representative or if you send us an e-mail, you agree that we may contact you (including for collection purposes) at that e-mail address. We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. We may make inquiries of third parties in connection with maintaining and collecting your account, and you authorize such third parties to release information about you to us. To the extent permitted by law, we may share and you agree that we may share information related to your account with DFS Services LLC. You agree to notify us of any change in your mailing address at least ten (10) days before such change. If mailed, notices to you shall be considered given when we include the notice on or with your billing statement or when we deposit the notice in the U.S. mail addressed to the most recent address we have for you.

**12. Transferring your account and laws that govern your account with us**

*This section explains how we may transfer your account and our rights to other parties. It also explains that you may not transfer your rights or duties under the agreement to another person. It also identifies the laws that govern your account and this agreement.*

***TRANSFERS:*** We may transfer all or part of your account balance, along with our rights under this Agreement, to another person or entity. That person or entity will then be entitled to enforce our rights under this Agreement. You may not transfer your rights or obligations under this Agreement.

***GOVERNING LAW:*** The interpretation and enforcement of this Agreement (including the exportation of interest rates) shall be governed by FEDERAL law and to the extent state law applies, NEBRASKA law, regardless of conflict of law principles. If there is any conflict between any of the terms and conditions of this Agreement and applicable law, this Agreement will be considered changed to the extent necessary to comply with applicable law. Where this Agreement provides that we may exercise discretion in taking certain actions, those provisions are not intended to authorize us to take actions that are contrary to applicable law. We have additional obligations under applicable law. We are not excused from complying with those obligations simply because they are not detailed in this Agreement. You agree that all terms of this Agreement are material to the determination of interest.

**13. Scope of our agreement with you**

*This section helps explain the scope of our agreement with you and how it will be applied and interpreted.*

***ENTIRE AGREEMENT AND SEVERABILITY:*** This Agreement, as modified by any change in terms we may provide, supersedes any prior communications between you and us. Any invalid or unenforceable provision of this Agreement will not affect whether any other provision is valid or enforceable.

***SECTION HEADINGS AND SUMMARIES:*** The section headings and summaries provided in this Agreement are provided only for your and our convenience. The section headings and summaries do not define or describe the entire scope or intent of any portion of this Agreement.

**14. Claims and Arbitration of disputes**

*Arbitration is a process by which an impartial arbitrator resolves a dispute, instead of a court. This section explains which claims and disputes may be resolved by arbitration and the rules and limitations that apply in arbitration. This section also explains the treatment and limitation of claims.*

***"CLAIMS" AND RELATED DEFINED TERMS:*** When this Agreement refers to a "Claim" it means any pre-existing, present or future claim, dispute or controversy that arises from or in any way relates to: (a) this Agreement, any prior Cardmember Agreement, your credit card account, the credit we offer or deny to you in connection with your credit card account, any advertising or application for your credit card account, or the benefits, rewards or other products or services that are offered in connection with your credit card account; or (b) the acts or omissions of you, of us, or of Related Parties if those acts or omissions affect or relate to your credit card account or any benefits, rewards or other products or services related to your credit card account. Claims include, but are not limited to, claims based on contract and tort (including intentional torts), claims made in law or in equity, claims based on constitutional, statutory, regulatory and common law rights, and claims for damages, penalties and injunctive, declaratory or equitable relief. When the term "you" is used in this provision on "Claims" or in the provisions on "Limitations on Claims" or "Arbitration", that term means you and any of the following people who will be considered "Your Related Parties": any co-applicant, joint cardmember, authorized user or guarantor on your credit card account, your heirs and your trustee in bankruptcy. References to "Our Related Parties" in this Agreement includes affiliated third parties such as our parent, subsidiaries, and affiliates and our and their officers, directors, agents, employees, representatives, successors and assigns. "Our Related Parties" also include unaffiliated third parties that provide products, services or benefits (to you or to us) in connection with your credit card account or that have otherwise participated in the marketing or servicing of your credit card account. Any Claim or Claims brought by or on behalf of a class, brought in a representative capacity or otherwise on a class basis, or brought in the form of a private attorney general action are referred to as "Class Proceedings" regardless of whether they are commenced in court or in arbitration.

***LIMITATIONS ON CLAIMS:*** Before we bring a Claim against you, we must notify you in writing of our Claim, including the amount of the Claim. Before you bring a Claim against us, you must notify us in writing of your Claim, including the amount of the Claim. If we have a Claim based on a payment obligation that you may have to us: (1) our notification requirement will be considered satisfied by sending you a billing statement within the time required by applicable law and regulation; and (2) you will be afforded the period of time allowed by this Agreement and applicable law to make the payment before we commence court proceedings or arbitration. If you have a Claim based on something we or Our Related Parties may have done or failed to do: (1) you agree to provide your notification to us within 90 days after the time you could have first learned what we or Our Related Parties did or failed to do; and (2) we will be afforded a reasonable period of time to take corrective action before you commence court proceedings or arbitration.

You and we both agree, to the fullest extent allowed by law, that: (i) Claims will not under any circumstances be pursued in Class Proceedings; (ii) we waive the right to bring or to participate in Class Proceedings against you; and (iii) you waive the right to bring or to participate in Class Proceedings against us. If some other person initiates a Class Proceeding against you, we may not join that proceeding or participate as a member of that class. If some other person initiates a Class Proceeding against us, you may not join that proceeding or participate as a member of that class. This paragraph is referred to below as the "Class Action Waiver".

***ARBITRATION*:**

**THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES. PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY:**

**WITH LIMITED EXCEPTIONS, THIS ARBITRATION PROVISION ALLOWS EITHER PARTY TO REQUIRE THAT ANY "CLAIM" (AS DEFINED ABOVE) BE RESOLVED BY BINDING ARBITRATION**.

**ARBITRATION REPLACES THE RIGHT TO GO TO COURT AND TO HAVE A CLAIM DETERMINED BY A JURY. OTHER RIGHTS YOU MAY HAVE IN COURT, SUCH AS DISCOVERY OR APPEAL RIGHTS, MAY NOT BE AVAILABLE OR MAY BE MORE LIMITED IN ARBITRATION. EXCEPT AS PROVIDED BELOW, THOSE OTHER RIGHTS ARE WAIVED.**

**YOU WILL NOT BE ABLE TO DO THESE TWO THINGS (IN COURT OR IN ARBITRATION): (1) BRING A CLAIM AS A CLASS ACTION OR IN A REPRESENTATIVE CAPACITY; OR (2) PARTICIPATE IN A CLAIM AS A CLASS MEMBER.**

Except as provided below: (1) you may unilaterally choose to have any Claim that we bring against you resolved through binding arbitration; and (2) we may unilaterally choose to have any Claim that you bring against us (or us and any of Our Related Parties) resolved through binding arbitration. If you assert a Claim against any of Our Related Parties, but you do not also assert that Claim against us, the Related Party (or whoever will be defending the Related Party) may unilaterally choose to have that Claim resolved through binding arbitration. If a court proceeding is commenced, the party that commenced that court proceeding may unilaterally choose to have any counterclaim, cross-claim, or third party claim brought in that proceeding resolved through binding arbitration. **If a party chooses to have a Claim resolved by arbitration pursuant to this arbitration provision, neither you nor we will have the right to litigate that Claim in court, have a jury trial on that Claim, or engage in pre-arbitration discovery, except as provided for in the applicable Arbitration Rules of the selected Arbitrator(s) and as otherwise set forth in this arbitration provision.**

"Ordinary Claims" are not subject to this arbitration provision and may be resolved through litigation. A Claim will be considered an "Ordinary Claim" if all three of the following are true: (1) the only remedy being sought for the Claim is monetary damages; (2) the recovery being sought for the Claim is less than $25,000, excluding interest and costs; and (3) the only parties to litigation to resolve the Claim will be you, us and/or Related Parties.

Arbitrations shall be conducted by one or more impartial arbitrators (the "Arbitrator(s)"). An Arbitrator must be a lawyer with at least ten years of experience or a retired judge.

Arbitrations shall be conducted through a national arbitration organization with significant experience in financial and consumer disputes (referred to as an "Administrator"). If more than one such Administrator is available to conduct a consumer credit card-related arbitration, the Administrator shall be the one mutually agreed upon by you and us. Arbitration through an Administrator shall be conducted in accordance with the arbitration rules and procedures of the Administrator which are applicable and in effect when the Claim is initiated (the "Arbitration Rules"). For Arbitrations with an Administrator, the Administrator shall provide and designate a listing of potential Arbitrators to conduct the arbitration. The Arbitrator shall be selected from the Administrator's listing and will be the Arbitrator(s) mutually agreed upon by you and us.

If no qualified Administrator is available to conduct a consumer credit card-related arbitration, the arbitration shall proceed by an Arbitrator without an Administrator. Arbitration without an Administrator shall be conducted in accordance with the rules and procedures of the American Arbitration Association ("AAA") in effect when the Claim is initiated, with the Arbitrator taking the place of the AAA therein (also, the "Arbitration Rules"). For arbitrations without an Administrator, the Arbitrator(s) shall be mutually agreed upon by you and us.

If the Arbitration Rules are inconsistent with this arbitration provision, this provision will prevail. Arbitrations may be initiated pursuant to the Arbitration Rules. You or we may choose to have an arbitration hearing. You and we may be represented by counsel throughout any arbitration. Arbitration hearings will take place in the federal judicial district where you reside at the time the Claim is initiated or some other place to which you and we agree in writing. The decision of the Arbitrator(s) will be final and binding. Any final decision of the Arbitrator(s) is subject to judicial review only as set forth in the Federal Arbitration Act. Judgment upon an award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

If there is a dispute as to whether any claim, dispute or controversy is a "Claim" subject to this provision, that dispute shall be resolved solely by the Arbitrator(s) (except as noted below with reference to Class Proceedings and except that a court may decide whether a Claim is an Ordinary Claim).

An arbitration pursuant to this provision may decide only your Claims, our Claims or Claims of Related Parties. The Arbitrator(s) shall have no authority to entertain or determine Class Proceedings. If the Arbitrator(s) decide they have authority to entertain or determine any Claim brought in a Class Proceeding, that decision may be appealed to a court of competent jurisdiction. If, despite this Agreement, Class Proceedings are allowed, those proceedings shall be conducted only in a court of competent jurisdiction. The claims of other persons who may (or may not) have similar claims may not be consolidated with any Claim. No arbitration will be consolidated with any other arbitration proceeding without the consent of all parties. The only Claims that may be joined under this arbitration provision are (1) those brought by us

and Our Related Parties against you and Your Related Parties; or (2) those brought by you and Your Related Parties against us and Our Related Parties.

The Arbitrator(s) shall have no authority to award punitive damages.

If any portion of this arbitration provision shall be found to be unenforceable, that portion will be severed, and the rest of this arbitration provision will remain in effect. However, if the Class Action Waiver is held to be invalid with respect to any Class Proceeding, the entire arbitration provision shall be null and void.

We will reimburse you for the initial arbitration filing fee up to $350 upon receipt of proof of payment, provided that you have initiated an individualized proceeding in good faith and in accordance with this Agreement and provided that you have not initiated your proceeding in concert with any other cardmember(s). All other fees will be allocated in keeping with the applicable Arbitration Rules and applicable law. We will also advance or reimburse other fees if the Administrator or Arbitrator(s) determine there is good reason for requiring us to do so or if you ask us and we determine there is good cause for doing so. Each party will bear the expense of the fees and costs of that party's own attorneys, experts, witnesses, documents and other expenses, regardless of which party prevails.

This arbitration provision shall survive repayment of your extension of credit, changes to your credit card account and this Agreement (although this provision itself may be changed in accordance with the Important Notice Regarding Changes in Terms provision), our assignment of your credit card account, the issuance of a new credit card, the transfer of the balance in one credit account to another, your or our termination of the credit card account and the bankruptcy (or similar proceeding) of any party.

This arbitration provision is made in connection with a transaction involving interstate commerce, and shall be governed by and enforceable under the Federal Arbitration Act, 9 U.S.C. §§ 1 through 16, as amended. The Arbitrator(s) shall apply applicable substantive law consistent with the Federal Arbitration Act, the National Bank Act and OCC regulations and applicable statutes of limitations, and shall honor claims of privilege recognized at law.

**15. Your billing rights as a cardmember**

*This section describes specific legal rights you have as a cardmember. It explains how you may dispute an item on your statement, what you may do if you are dissatisfied with a purchase from a merchant and the limits on your liability for unauthorized transactions.*

**YOUR BILLING RIGHTS**

**KEEP THIS NOTICE FOR FUTURE USE**

**This notice tells you about your rights and our responsibilities under the Fair Credit Billing Act.**

**What To Do If You Find a Mistake on Your Statement**

If you think there is an error on your statement, write to us at:

First National Bank of Omaha
P.O. Box 3696
Omaha, NE 68103-3696

In your letter, give us the following information:

- Account information: Your name and account number.
- Dollar amount: The dollar amount of the suspected error.
- Description of problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us:

- Within 60 days after we send you the first statement on which the error or problem appeared.
- At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You must notify us of any potential errors in writing. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.

**What Will Happen After We Receive Your Letter**

**When we receive your letter, we must do two things:**

1. Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
2. Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

**While we investigate whether or not there has been an error:**

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

**After we finish our investigation, one of two things will happen:**

- If we made a mistake: You will not have to pay the amount in question or any interest or other fees related to that amount.
- If we do not believe there was a mistake: You will have to pay the amount in question, along with applicable interest and fees. We will send you a statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first $50 of the amount you question even if your bill is correct.

**Your Rights If You Are Dissatisfied With Your Credit Card Purchases**

If you are dissatisfied with the goods or services that you have purchased with your credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase.

To use this right, all of the following must be true:

1. The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than $50. (Note: Neither of these are necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services.)
2. You must have used your credit card for the purchase. Purchases made with cash advances from an ATM or with a check that accesses your credit card account do not qualify.
3. You must not yet have fully paid for the purchase.

If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at:

First National Bank of Omaha
P.O. Box 3696
Omaha, NE 68103-3696

While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe an amount and you do not pay, we may report you as delinquent.

**LIABILITY FOR UNAUTHORIZED USE**

If you notice the loss or theft of your credit card or a possible unauthorized use of your card, you should write to us immediately at P.O. Box 3696 Omaha, NE 68103-3696 or call us at 1-800-688-7070. You will not be liable for any unauthorized use that occurs after you notify us. You may, however, be liable for unauthorized use that occurs before your notice to us. In any case, your liability will not exceed $50.00.

# RATES AND TERMS SCHEDULE

## Interest Rates and Interest Charges

| | |
|---|---|
| **Annual Percentage Rate (APR) for Purchases** | **15.99%** to **22.99%** (Index plus margin of 12.74% to 19.74%) |
| **APR for Balance Transfers** | **15.99%** to **22.99%** (Index plus margin of 12.74% to 19.74%) |
| **APR for Cash Advances** | **25.24%** (Index plus margin of 21.99%) |
| **Penalty APR and When it Applies** | **17.99%** to **29.99%** (Index plus margin of 14.74% to 26.74%)<br>This APR will vary with the market based on the Prime Rate.<br>This APR may be applied to your account if you:<br>1) Make a late payment;<br>2) Go over your credit limit; or<br>3) Make a payment that is returned.<br>**How Long Will the Penalty APR Apply?:** If your APRs are increased for any of these reasons, the Penalty APRs may apply indefinitely. |
| **Paying Interest** | Your due date is at least 21 days after the close of each billing cycle. We will not charge you any interest on purchases if you pay your entire balance by the due date each month. We will begin charging interest on cash advances and balance transfers on the transaction date. |
| **Minimum Interest Charge** | If you are charged interest, the charge will be no less than $1.75. |
| **For Credit Card Tips from the Consumer Financial Protection Bureau** | To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at **http://www.consumerfinance.gov/learnmore.** |

## Fees

| | |
|---|---|
| **Set-up and Maintenance Fees** | |
| **Transaction Fees** | |
| • Balance Transfer | Either **$10** or **5%** of the amount of each transfer, whichever is greater. |
| • Cash Advance | Either **$15** or **5%** of the amount of each cash advance, whichever is greater |
| • Cash Equivalent | Either **$15** or **5%** of the amount of each cash equivalent transaction, whichever is greater |
| • Foreign Transaction | **3%** of each transaction in U.S. dollars. |
| **Penalty Fees** | |
| • Late Payment | Up to **$35** |
| • Returned Payment (Payment Dishonored) | Up to **$35** |

**How We Will Calculate Your Balance:** We use a method called "average daily balance (including new purchases)". See your Cardmember Agreement for more details.

**Billing Rights:** Information on your rights to dispute transactions and how to exercise those rights is provided in your Cardmember Agreement.

**Index And When It Is Determined:** The Index used to determine your variable APRs is the U.S. Prime Rate shown in the "Money Rates" section of *The Wall Street Journal* on the last day the rate is published in each calendar month (the determination date). The Index will be effective for the entire billing cycle that ends in the second month after the determination date. For example, if your billing cycle ends in July, we will use the Index determined on the last day the rate is published in *The Wall Street Journal* in May.

**Stop Payment Fee:** $35.

**Sales Draft Copy Fee:** $5.

**Copy of a Statement Fee:** $3.

**How We Will Calculate Your Minimum Payment:** If your New Balance is less than $35, the minimum payment will be equal to your New Balance. If your New Balance is $35 or greater, the minimum payment will be the greater of (a) 2% of the New Balance or $35, whichever larger; or (b) the current cycle fees and finance charges plus 1% of the New Balance (excluding current cycle fees and finance charges). Your minimum payment will also include any amounts by which your account is overlimit or past due and exclude disputed amounts.