



A division of First National Bank Texas

## MASTERCARD® GIFT CARD TERMS & AGREEMENT

This Gift Card Agreement (this "agreement") is the terms and conditions governing our issuance and your use of the First National Bank Texas or First Convenience Bank MasterCard® Gift Card (the "card"). Please read this agreement carefully and keep it for your records. By purchasing, signing or using the card, or authorizing another person to use the card, you are agreeing to the terms and conditions in this agreement. In this agreement, "you" and "your" mean (a) the person to whom we issue the card; (b) the person who receives the card; and (c) each person who uses the card. The terms "we," "us" and "our" mean First National Bank Texas/First Convenience Bank and its successors, agents and assigns.

### ABOUT THE CARD

The card is not an account, does not earn interest, is not reloadable and is not insured by the Federal Deposit Insurance Corporation or by any other federal agency as of the date of printing of this agreement. The card also is not a credit card or an ATM card. We maintain the value of all prepaid cards in one aggregate account in our name. By purchasing, receiving or using the card, you agree to the following: no additional value can be added to the card; you will not resell the card; the balance of funds on the card cannot be pledged or assigned as collateral for any obligation; the card is valid for use through the date embossed on the card. The card is our property, and we reserve the right to cancel, repossess, or revoke its use at any time without prior notice, subject to applicable law.

### BEFORE USING THE CARD

Before using the card, you must sign on the back where indicated. Once the card is signed, it cannot be transferred to any other person. We request, but do not require, that you register the card in your name at [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards) immediately upon receipt. By registering the card, we can establish your relationship to the card in the event it is lost, stolen, or destroyed.

### USING THE CARD

You may use the card as often as you like to obtain goods and services up to the amount of funds that have been placed on the card. The card will allow you to make purchases everywhere in the United States where MasterCard® is accepted. You also may use the card outside of the United States, including with foreign Internet merchants, at the merchant's discretion. If a card is used to make a purchase outside the United States, MasterCard® will convert the local currency amount of the transaction to U.S. Dollars. The exchange rate between the transaction currency and the billing currency used for processing international transactions is either (a) a rate selected by MasterCard® from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate MasterCard® itself receives, or (b) the government-mandated rate in effect for the applicable central processing date. The currency conversion rate for the processing date may differ from the rate in effect on the date of the transaction or the date the transaction is charged to the card's balance. Each time you use the card, we will deduct the full amount of the purchase, including any taxes and fees, plus additional amounts authorized by merchants and processed through the payment authorization system, from the remaining balance of funds on the card. As discussed below, additional authorized amounts may temporarily reduce the available funds on the card.

The card is not reloadable and cannot be used after its value reaches zero. If you use the card for more than its available value, you agree to pay us the difference upon demand.

**Card Balances - You are responsible for knowing the balance available on your card at all times.** Merchants will not have knowledge of the available balance on your card, so you need to know the balance prior to making purchases. To obtain your balance visit us online at [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards) or call 877-404-4833.

**Prohibited Uses -** The card cannot be used to obtain cash at an ATM, to obtain cash back after a purchase from a merchant or to make regular, preauthorized payments to third parties. **YOU ARE PROHIBITED FROM USING THE CARD FOR GAMBLING AND FOR OTHER UNLAWFUL ACTIVITIES.**

### NO EXPIRATION; VALID THROUGH DATE

The funds on the card do not expire, but they will be reduced by fees as disclosed in this agreement. You may access the funds on the card until the available balance reaches \$0, subject to abandoned property (discussed below) and other applicable laws.

The date noted on the front of the card is the date through which use of the card is valid. This date is required to ensure that the card can be used with merchants that request and/or require customers to provide a card expiration date during the transaction process. You may not use the card after the noted valid through date. If you still have available funds on the card after the valid through date has passed, you may contact us at 877-404-4833 and we will issue a replacement card to you at no charge.

### ABANDONED PROPERTY

Under Texas law, stored value cards such as the cards that have available funds must be escheated (turned over as abandoned property) to the State of Texas after a certain amount of time if we do not know the existence and location of the owner. If you register the card with us via our website, [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards), and you keep your contact information up to date, then your card will not be escheated to the State of Texas. If you do not register your card with us, then we will have to turn over your card's available balance as abandoned property to the State of Texas on (a) the third anniversary of the card issue date, if the card is not used after issuance, or (b) the third anniversary of the date the card was last used. To protect your interest in the available funds on the card, please register the card on our website. If the card's available balance is escheated to the State of Texas, you will no longer have access to the funds that were on the card prior to escheatment.

Under New Mexico law, cards that have available funds must be escheated (turned over as abandoned property) to the State of New Mexico after a certain amount of time if we do not know the existence and location of the owner. If you register the card with us via our website, [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards), and you keep your contact information up to date, then your card will not be escheated to the State of New Mexico. If you do not register

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your card with us, then we will have to turn over your card's available balance as abandoned property to the State of New Mexico five (5) years after December 31 of the year in which the card was sold. To protect your interest in the available funds on the card, please register the card on our website. If the card's available balance is escheated to the State of New Mexico, you will no longer have access to the funds that were on the card prior to escheatment.

Under Arizona law, cards that have available funds are not considered property and are not subject to escheat laws of the State of Arizona. Accordingly, your card's available balance will not be turned over to the State of Arizona due to inactivity or non-use of the card. However, we will continue to reduce the funds by fees as disclosed in this agreement. You may access the funds on the card until the available balance reaches \$0.

#### **PURCHASES AT RESTAURANTS, GAS STATIONS, HOTELS, SALONS, SPAS, RENTAL CAR COMPANIES AND SIMILAR MERCHANTS**

In some cases card purchases may be declined because the authorization amount exceeds the available balance of funds on the card or exceeds the final transaction amount of the purchase. The reason for this difference is that the merchant may not know the final amount of the transaction at the time the card is used. This difference is typical at merchants like restaurants and salons where tips are customary. When using the card at a merchant where a tip is included your authorization amount may be for 20% over the normal purchase amount. Purchases made at a "pay at the pump" gas station may authorize up to \$75.00 or more even if your purchase amount is less, which reduces the overall available amount on the card. You may be able to avoid transaction holds by purchasing gasoline inside the station.

Merchant authorizations that hold available funds on the card typically reduce the balance until the actual purchase amount is received by us, which can be up to seven (7) days later or more depending on the merchant. If we have reduced your card balance due to merchant holds submitted through the payment authorization system, attempted transactions for the amount of the remaining balance of the card may be declined.

#### **COMBINING FORMS OF PAYMENT**

If you wish to use your card to purchase an item for more than the available balance on the card, subject to the merchant's policy, you may be able to use your card toward a portion of the purchase price and then use another form of payment to pay the balance of the purchase price. Before using the card in combination with another form of payment, please contact Card Services at 877-404-4833 to confirm the available balance on your card. The merchant may or may not accept multiple forms of payment, in its discretion, and we do not guarantee that a merchant will accept two forms of payment for a purchase.

#### **INTERNET AND MAIL ORDER PURCHASES**

Internet, mail and phone purchases require that we have the correct name and "billing address" of the card owner, which we will have only if you register the card and provide that information to us as part of the card registration process. These purchases may not be allowed by the merchant, however, even if you do register your card with us.

#### **NO WARRANTIES; DISPUTES**

We are not responsible or liable to you for (a) any interruption of service to the card, (b) the quality, safety, legality or any other aspect of any goods or services you purchase from any merchant with the card, (c) the failure of any merchant to honor the card for special offers, or (d) any other problems you may have with the merchant. We are not liable to you in any case for special, punitive, or consequential damages or for any incidental expenses incurred by you, including, without limitation, attorneys' fees, related to the card. Should you have a problem with a purchase that you make with the card or if you have a dispute with a merchant, you must deal directly with the merchant.

#### **CARD SERVICE**

Please register the card immediately upon receipt by going to [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards). Once you have registered, you can do the following: (a) view available balance; (b) view transaction history; and (c) review this agreement. Learn more about using the card on the FAQ at [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards). Card Service is also available by calling 877-404-4833 anytime, 24 hours a day, and 7 days a week. The following activities are free of charge if you use our website or our automated Card Service number: (1) balance inquiries, (2) transaction inquiries and (3) live agent support.

#### **CHARGES AND FEES**

Cards may be purchased for a purchase price of \$2.00. We encourage you to use your card immediately to avoid the imposition of fees that will reduce the available balance on your card. We impose no transaction or similar fees when you use the card to purchase goods and services within or outside the United States. The following fees may apply and will be deducted from the available funds on the card:

- **Inactivity Fee:** Cards with no activity for twelve (12) months will be charged a monthly inactivity fee equal to \$15.00.\* The inactivity fee is a monthly fee charged against any unused available balance of the card each month, beginning on the 1st day of the 13th month after the date of last activity and continuing on the first day of each month thereafter. The monthly \$15.00 inactivity fee will be assessed and automatically deducted from the available balance of the card until the available balance of the card reaches \$0. (\*If the available funds on the card at the time of the imposition of a monthly inactivity fee are less than \$15.00, then the inactivity fee imposed will equal the remaining balance of the funds on the card.)
- **Card Replacement Fee:** We will impose a \$15.00 replacement fee if you need to replace the card because it is lost or stolen. We do not charge to replace cards for which the valid through date has passed.
- **Cash Out Fee:** We will impose a \$15.00 cash out fee if you wish to cancel the card and receive the balance of the available funds on the card in cash.

#### **LOST/STOLEN CARDS OR UNAUTHORIZED TRANSACTIONS**

You are responsible for every transaction that occurs on the card until you report it lost or stolen. To mitigate your possible losses, you must notify us immediately in the event a card is lost or stolen by contacting us at 877-404-4833. When you contact us, you will need to provide the number set forth on the front of the card. If you have registered the card on our website, the card can be replaced if it is lost or stolen, subject to certain restrictions. You can be liable for transactions that occur after you report the card lost or stolen unless you (a) sign the signature panel of the card in ink, (b) promptly report all information regarding the loss or theft of your card, and (c) fully cooperate with any bank personnel request. We reserve the right to require an affidavit and conduct an investigation into the validity of any request to replace a lost/stolen card.

We will charge a \$15.00 replacement fee for any lost/stolen card, which will be deducted from the balance on the card. We may take up to thirty (30) days to process requests to replace a lost/stolen card.

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## DATA PROTECTION AND PRIVACY; DISCLOSURE OF INFORMATION TO THIRD-PARTIES

We may disclose information to third parties about your card and transactions in the following situations: (a) to comply with applicable law, including regulatory requests, recommendations and orders, subpoenas and other legal proceedings; (b) in connection with regulatory examinations and oversight; (c) if we believe a crime may have been committed involving the card or the funds on the card; (d) when necessary to verify or complete a transaction; (e) to verify the existence or validity of or the balance of funds on the card to a third-party, such as a merchant or credit bureau; (f) to provide information to your legal representative or successor; (g) to report the involuntary cancellation and revocation of the card; (h) when we conclude that disclosure is necessary to protect you, the card, or our interests; (i) to our agents, independent contractors, and other representatives in connection with servicing or processing your card or its transactions, or similar purposes; (j) to any person to whom you transfer the card; (k) with your consent; (l) as otherwise disclosed in our Privacy Policy (which applies to those card purchasers and users who are our customers), a copy of which is available on our website at [www.1stnb.com](http://www.1stnb.com) or [www.1stcb.com](http://www.1stcb.com); or (m) otherwise as permitted by law.

We may obtain personal information about you, including information (such as your name and address) that you provide at the time of purchase or registration of the card or at the time the card is activated or during customer service calls, as well as information about purchases made with the card, such as the date, amount and place of purchase. For purposes of fraud prevention and regulatory compliance, we may also obtain information about you from providers of identity verification data and demographic information. We maintain physical, electronic and procedural security measures that comply with federal regulations to safeguard personal information. We will use personal information obtained in connection with the card to process card transactions, to provide customer service, to process claims for lost or stolen cards, and to help protect against fraud involving the card.

## AMENDMENTS

We may amend this agreement at any time, and the amendment will become effective once it has been posted on our web site at [www.1stnb.com/giftcards](http://www.1stnb.com/giftcards) or [www.1stcb.com/giftcards](http://www.1stcb.com/giftcards), provided, however, that we may modify any term of this agreement or terminate this agreement immediately, without notice to you, in order to comply with applicable law or the request, recommendation or order of any appropriate federal or state authority.

## APPLICABLE LAW

This agreement shall be governed by the laws of the State of Texas (without regard to that state's conflict of law principles) and applicable federal law; provided, however, that the arbitration provision set forth below shall be governed by the Federal Arbitration Act. A determination that any provision of this agreement is unenforceable or invalid shall not render any other provision of this agreement unenforceable or invalid.

### **AGREEMENT TO ARBITRATE; CLASS ACTION WAIVER; DAMAGE LIMITATION; JURY TRIAL WAIVER; ETC.**

#### **A. AGREEMENT TO ARBITRATE.**

- I. **THE BANK AND YOU AGREE TO RESOLVE ALL DISPUTES INVOLVING THE BANK THROUGH BINDING ARBITRATION, WHETHER SUCH DISPUTES OR MATTERS IN QUESTION ARISE OUT, OF OR ARE RELATED TO, THIS AGREEMENT OR THE RELATIONSHIP BETWEEN YOU AND THE BANK RELATED TO YOUR DEPOSIT ACCOUNT, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. AT ARBITRATION, DISPUTES SHALL BE RESOLVED BY THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA"), IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OR CONSUMER ARBITRATION RULES (COLLECTIVELY, THE "RULES") OF THE AAA, AS APPLICABLE, AND ALL SUCH PROCEEDINGS SHALL BE SUBJECT TO THE FEDERAL ARBITRATION ACT. ARBITRATION SHALL TAKE PLACE IN BELL COUNTY, TEXAS, OR, IF BELL COUNTY, TEXAS, IS NOT REASONABLY CONVENIENT FOR EITHER PARTY, SUCH OTHER LOCATION AS IS REASONABLY CONVENIENT FOR BOTH PARTIES. ANY PARTY THAT DESIRES TO ENFORCE AN ARBITRATION AWARD IN COURT MAY SEEK ENFORCEMENT OF THE ARBITRATION AWARD IN ANY COURT HAVING JURISDICTION THEREOF.**
- II. **Disputes between you and the Bank shall be resolved by one arbitrator, who shall be appointed in accordance with the Rules. All costs, fees and expenses of arbitration shall be paid in accordance with the Rules.**
- III. **The selected arbitrator shall decide whether a particular dispute is or is not arbitrable.**

#### **B. CLASS ACTION WAIVER. BY SIGNING THE SIGNATURE CARD AND AGREEING TO THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO SERVE AS A CLASS REPRESENTATIVE FOR, OR PARTICIPATE AS A MEMBER OF, A CLASS ACTION, WHETHER IN COURT OR IN ARBITRATION, IN CONNECTION WITH A DISPUTE INVOLVING THE BANK.**

#### **C. JURY TRIAL WAIVER. BY SIGNING THE SIGNATURE CARD AND AGREEING TO THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO HAVE A TRIAL BY JURY AND WAIVE YOUR RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTES INVOLVING THE BANK.**

#### **D. Damages. Only damages allowed pursuant to this Agreement may be awarded. The selected arbitrator shall be empowered to grant any damages that would be available in court under law or in equity.**

#### **E. Procedure for Injunctive Relief. In the event a party to this Agreement seeks injunctive relief, the claim shall be administratively expedited by the AAA, which shall appoint a single, neutral arbitrator for the limited purpose of deciding such claim. The selected arbitrator shall decide the claim for injunctive relief immediately on hearing or receiving the parties' submissions (unless, in the interests of justice, the arbitrator must rule ex parte). It is the intent of the parties to this Agreement that the selected arbitrator shall rule on claims for injunctive relief within 24 hours of submission of the claim to the AAA; provided, however, that the selected arbitrator may extend this time limit in the interests of justice. Any relief granted under this procedure for injunctive relief shall be enforceable in any court having jurisdiction thereof, on an expedited, ex parte basis.**

#### **F. Small Claims. Notwithstanding the foregoing provisions of this Section, either party to this Agreement shall retain the right to seek relief in a small claims court for disputes or claims within the scope of its jurisdiction.**

#### **G. Survival of Obligations; Severability. The obligations of you, your representatives and the Bank under the foregoing provisions will survive the closure of your deposit Account(s) with us and the termination of all of your business with us. If any part of the foregoing provisions related to the agreement to arbitrate disputes is found to be unenforceable, then none of the provisions regarding arbitration will apply, but the Damage Limitation, Class Action Waiver and the Jury Trial Waiver shall continue to apply.**

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