



## ESL Visa® Business Credit Card Agreement

### 1. Agreement

This Business Credit Card Agreement (the "Agreement") includes any letter, card carrier, card insert, addendums, any other document accompanying this Agreement, any application that you signed or submitted to ESL Federal Credit Union and any notification of changes to this Agreement. The words "you" and "your" mean each person, each business or organization ("organization"), and each officer or owner of the organization who agrees to be bound by this Agreement as set forth below. The words "we", "our", "us" and "credit union" mean ESL Federal Credit Union or anyone to whom the credit union transfers this Agreement. The word "Card" means the Visa Business Credit Card you receive from the credit union and any duplicates, renewals, or substitutions the credit union issues to you. The word "account" means the credit card line of credit account the credit union approves for you that is subject to this Agreement.

Sign your Card before you use it. By signing (in ink, electronically or digitally) any business loan application stating your agreement to be bound by this Agreement or by using the Card, card number or account we issue to you, or by authorizing an employee or any other person to use the Card, card number or account we issue to you, you bind the business or organization to the terms of this Agreement and you agree to be bound by the terms of this Agreement. If you are an officer or owner obtaining an account for your business or organization, you agree to the terms of this Agreement in your personal capacity as well as your capacity as an officer or owner authorized to bind the organization to this Agreement.

### 2. Using the Card/Account

You may use the Card to make purchases in person, by mail, electronically (through the Internet) or by telephone from merchants and others who accept Visa credit cards. If you wish to pay for goods or services over the Internet, you may be required to provide card number security information before you will be permitted to complete the transaction. The credit union is not responsible for the refusal of any merchant or financial institution to honor your card. You agree that the illegal use of any financial service will be deemed an action of default and/or breach of contract and such service and/or other related services may be terminated at the discretion of ESL. Even if you use your card for an illegal transaction, you will be responsible for all amounts and charges incurred in connection with the transaction. You further agree, should illegal use occur, to waive the right to sue ESL for such illegal activity directly or indirectly related to it. You also agree to indemnify and hold ESL harmless from any suits or other legal action or liability, resulting from such use. ESL is not responsible if any merchant refuses to accept the Card. You may also obtain cash advances from ESL, from other financial institutions participating in the Visa program, and from automated teller machines which display the PLUS or VISA network logos. (Not all ATMs provide such access and you will need to use your Personal Identification Number at those that do.) Cash advances can be used to make balance transfers.

### 3. Statement of Business Purpose

You agree that you have represented to us that you are obtaining your account for business and/or commercial purposes and that all purchases, cash advances, balance transfers, use of any convenience checks issued on your account and any other use of your account will only be for a business and/or commercial purpose. You agree that you will never use your account for any personal, family or household purpose.

#### **4. Internet Gambling Transactions Prohibited**

You may not use your Card to initiate any type of electronic gambling transaction through the Internet.

#### **5. Credit Limit**

When we send you the Card, and on each Monthly Statement, we will tell you your credit limit. You may request an increase in your credit limit by a written application or a telephone request. The portion of your payments applied to the principal may be re-borrowed, up to your current credit limit. We may increase or decrease your credit limit, refuse to make an advance, and/or terminate your borrowing privileges at any time without prior notice to you. You may not allow the balance outstanding under this Agreement to exceed your credit limit. We may, however, at our discretion, honor your request for an advance that will exceed your credit limit. If we do, all the provisions of this Agreement will apply to that excess, you will be charged finance charges on the advance, and you must pay the entire excess to us on demand.

#### **6. Convenience Checks**

If you are permitted to obtain cash advances on your account, we may from time to time issue convenience checks to you that may be drawn on your account. Convenience checks may not be used to make a payment on any of your credit union accounts. If you use a convenience check it will be posted to your account as a cash advance. We reserve the right to refuse to pay a convenience check drawn on your account for any reason and such refusal shall not constitute wrongful dishonor.

#### **7. Payments**

You agree to repay all advances made under this Agreement in response to a request by you or anyone you authorize and all finance charges and all other charges and amounts owed under this Agreement. Within 25 days after the statement closing date each month, you must make a minimum payment. The minimum payment will be equal to the sum of: (i) the greater of 2.7% of your Total New Balance or \$25; (ii) any amounts that are past due; (iii) the portion of your balance that exceeds your credit limit; (iv) any applicable rebate participation fee then due; (v) any late fees that you owe; and (vi) any other fees you may owe. You may pay more than the minimum due or your entire indebtedness in full at any time. You are still required to pay the balance of those minimum payments that the excess does not cover. We may allocate payments to amounts due in any manner or order chosen by us, provided we comply with any applicable laws or regulations. The credit union also has the right to demand immediate payment of any amount by which you are over your credit limit.

#### **8. Receipt of Payment**

If we receive your payment, with a payment stub, at the address indicated on the front of your monthly statement by 5:00 p.m., Monday through Friday (excluding legal holidays) we will credit it to your account the same day. If your payment is received later in the day, it will be credited to your account the next business day. If we receive your payment at another location or without the payment stub, we will credit it within five business days. We may return without presentment or protest and without credit to your account any check which is: (i) missing a signature; (ii) drawn with different numeric and written amounts; (iii) postdated; (iv) not payable to ESL; (v) not paid upon presentment; (vi) drawn on a bank outside the United States; (vii) a convenience check provided to you for use under this Agreement.

#### **9. Irregular Payments**

We will not lose any rights if we accept late payments, partial payments, checks or money orders marked "payment in full" or with similar words or phrases or other irregular payments.

#### **10. Payment Holidays**

From time to time, we may offer you a payment holiday allowing you to skip a minimum payment. Finance charges, if any, will continue to accrue on your balance at the applicable periodic rate and the period within which you must pay the Total New Balance to avoid paying finance charges on purchases will not be extended. The regular payment terms will resume at the end of the payment holiday.

#### **11. Finance Charge**

The total finance charge you owe for a billing cycle will be equal to the "Periodic Rate Finance Charge." The minimum finance charge is \$1.50 in any billing cycle during which there is an outstanding balance in your account subject to a finance charge. You will continue to pay a finance charge at a periodic rate calculated as described in and under this Agreement until what you owe is paid in full. Finance charges can continue to accrue after the date your monthly statement is generated. Therefore, even if you pay the Total New Balance shown on your monthly statement and do not take any additional advances after that

date, you may still owe additional finance charges which accrued after that Total New Balance was determined.

**A. Periodic Rate Finance Charge**—We calculate the Periodic Rate Finance Charge by (i) multiplying the applicable daily periodic rate by (a) the “purchase average daily balance” and (b) the “Cash Advance average daily balance”; (ii) adding those amounts together; and (iii) multiplying the sum by the number of days in the billing cycle.

**(1) Amount to Which Periodic Rate is Applied**

To get the “purchase average daily balance,” each day we take the beginning balance of your account attributable to purchases that day, add any new purchases or purchase debits that day and subtract any payments or credits attributable to purchases that day. We do not include any unpaid finance charges. This gives us the “purchase daily balance.” Then we add up all the “purchases daily balances” for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the “purchase average daily balance.” However, the “purchase average daily balance” will be considered \$0 if you pay your Total New Balance in full by the billing cycle date and you paid your previous balance in full by the billing cycle date.

To get the “Cash Advance average daily balance,” each day we take the beginning balance of your account attributable to Cash Advances that day, add any new Cash Advances or Cash Advance debits that day and subtract any payments or credits attributable to Cash Advances that day. We do not include any unpaid finance charges. This gives us the “Cash Advance daily balance.” Then we add up all the “Cash Advance daily balances” for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the “Cash Advance average daily balance.” There is no grace period for Cash Advances.

**(2) Determination of the Daily Periodic Rate**

The daily periodic rate equals the Annual Percentage Rate (APR) divided by 365.

**Introductory Rate For Purchases Only**—an introductory daily periodic rate of .01093% which is equivalent to an APR of 3.99% will be used for the first six monthly billing cycles following the date on which your account is opened unless the Past Due Rate applies (see below).

**Base Rate For Purchases Only**—after the introductory rate period ends, and provided the Past Due Rate does not apply, the APR will be variable and will equal the highest domestic Prime Rate published in the Money Rates section of *The Wall Street Journal* as of five business days prior to the first day of the calendar month in which the billing cycle begins (called the “Index”) plus 6.74 percentage points (6.74%) (the “Purchase Base Rate”). This Base Rate can change on the first day of each billing cycle.

**Base Rate For Balance Transfers**—the APR will be variable and will equal the highest domestic Prime Rate published in the Money Rates section of *The Wall Street Journal* as of five business days prior to the first day of the calendar month in which the billing cycle begins (called the “Index”) plus 10.74 percentage points (10.74%) (the “Balance Transfer Base Rate”). This Base Rate can change on the first day of each billing cycle.

**Base Rate For Cash Advances**—the APR will be variable and will equal the highest domestic Prime Rate published in the Money Rates section of *The Wall Street Journal* as of five business days prior to the first day of the calendar month in which the billing cycle begins (called the “Index”) plus 14.74 percentage points (14.74%) (the “Cash Advance Base Rate”). This Base Rate can change on the first day of each billing cycle.

**Past Due Rate**—the APR applicable starting on the first day of the first billing cycle after your account becomes “past due” and continuing until the billing cycle after the “past due” status is corrected will be 18%. Your account will be “past due” if the minimum monthly payment is not made for two consecutive billing cycles. The rates for purchases, cash advances and balance transfers will automatically revert to the rates then in effect for those balances when you make at least 12 consecutive monthly payments by the payment due date as shown in your monthly statement; the rate for purchases, cash

advances and balance transfers on your account will automatically reduce to the rates then in effect for non-delinquent account.

**Effect of an Increase**—an increase in the APR will result in an increase in the finance charge, the monthly payment, and the outstanding balance of your account.

B. **Cash Advance Fee**—there is no Cash Advance Fee.

C. **Balance Transfer Fee**—there is no Balance Transfer Fee.

D. **Convenience Check Fee**—there is no Convenience Check Fee.

E. **Maximum Rate**—the APR will not exceed the maximum rate allowed by applicable law.

## 12. Other Charges

You will pay the following other charges as applicable.

A. **Annual Membership Fee**—there is no Annual Membership Fee if you do not participate in the Rewards program. There is a \$50.00 Annual Membership Fee if you participate in the Rewards program.

B. **Documentary Evidence Charge**—if you request documentary evidence of a transaction (for example, a copy of a sales draft or a duplicate monthly statement) other than in connection with a billing error inquiry, you will pay a Documentary Evidence Charge of \$2.50 for each document. The charge will be added to your Purchase Balance.

C. **Late Fee**—you will pay a Late Fee of \$39.00 if your Total New Balance on the last day of the billing cycle exceeds \$25.00 and your minimum payment has not been received within three days following the payment due date. The fee will be charged after the third day and added to your Purchase Balance.

D. **Returned Payment Charge**—you will pay a Returned Payment Charge of \$35.00 if you pay us with a check or any other form of payment that your financial institution will not honor or that is incomplete or if we return a check unpaid. The charge will be added to your Purchase Balance.

E. **Over the Credit-Limit Fee**—there is a \$39.00 Over the Credit-Limit Fee if you use your Card or convenience check in such a way that exceeds your credit limit.

## 13. Security Interest

If you give the credit union a specific pledge of shares by signing a separate pledge of shares, your pledged shares will secure your account. You may not withdraw amounts that have been specifically pledged to secure your account until the credit union agrees to release all or part of the pledged amount. In addition, your account is secured by all other shares you have in any individual or joint account with the credit union, except for shares in an Individual Retirement account or in any other account that would lose special tax treatment under state or federal law if given as security. These other shares may be withdrawn unless you are in default under this Agreement. You authorize the credit union to apply the balance in your individual or joint share accounts to pay any amounts due on your account if you should default. Collateral securing other loans you have with the credit union may also secure this loan, except that a dwelling will never be considered as security for this account, notwithstanding anything to the contrary in any other agreement.

## 14. Default

You will be in default if: (i) you fail to make any minimum payment or other required payment by the date that it is due; (ii) you violate any of the other terms of this Agreement or break any promise you make under this Agreement; (iii) you default in the payment of any other loan account with ESL; (iv) you exceed your credit limit; (v) you are a natural person, if you die; (vi) you are an organization, if you cease to exist; (vii) you are an organization if you change your legal structure so that the person obligating the organization to this Agreement is no longer authorized to bind it to legal agreements; (viii) you file for bankruptcy or become insolvent (unable to pay your obligations as they become due); (ix) you make any false or misleading statements in any credit application or credit update or fail to provide complete and accurate financial information within 30 days after a request from ESL for the information; (x) any

judgment is entered against you or any of your deposit accounts at ESL are attached or levied upon; or (xi) something happens which ESL believes may substantially reduce your ability to repay what you owe.

When you are in default, the credit union has the right to demand immediate payment of your full account balance without giving you notice. If immediate payment is demanded, you agree to continue paying finance charges, at the Interest Rate in effect, or if applicable, at the disclosed penalty rate until what you owe has been paid, and any shares that were given as security for your account may be applied towards what you owe.

#### **15. Convenience Checks and Balance Transfers**

We will not process a convenience check or Balance Transfer if: (i) you do not have enough available credit in your account to cover the convenience check or Balance Transfer in full; (ii) your account or your right to obtain advances has been suspended or terminated; (iii) your Card or convenience checks have been reported stolen; (iv) your convenience check is postdated (shows a future date), although we may pay postdated convenience checks as if they had a current date; or (v) you are in default under this Agreement. We will not return to you the convenience checks that are paid but will keep them on microfilm or another storage medium. There is no finance charge grace period for convenience checks and Balance Transfers.

#### **16. How to Stop Payment of a Convenience Check or Balance Transfer**

You may request a stop payment on a convenience check or Balance Transfer by notifying us by telephone at the number shown on your monthly statement. You agree to pay any fee imposed to stop a payment on a convenience check issued on your account. The request will only be effective for 14 days unless during that period you confirm, in writing, which describes with certainty the item on which payment is to be stopped. Notice must be received by us at ESL, Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711 in a timely manner so as to afford us a reasonable opportunity to act upon it. In any event, we may disregard, without further notice to you, any stop payment request six months after we receive it unless you renew it in writing within the six month period. We will use commercially reasonable efforts to stop payment of the convenience check or Balance Transfer. However, you agree that we will not be responsible in any way if a convenience check or Balance Transfer is processed or otherwise presented for payment after you have requested us to stop payment and, using commercially reasonable efforts, we are unable to stop the payment.

You agree to indemnify and hold us harmless from all costs and expenses, including attorney's fees, damages, or claims, related to our honoring your stop payment request or in failing to stop payment of an item as a result of incorrect information provided to us or the giving of inadequate time to act upon a stop payment request.

You agree that we may honor a stop payment order, revocation, or renewal if made by the person who signed the check to be stopped or any other person who is otherwise authorized to transact business relating to the account. You agree that we will not be liable for any inadvertent payment of any item, notwithstanding a stop payment order, if we have used ordinary care and followed our usual practices in handling such an order. If an item is inadvertently paid over a valid stop payment order, due to our failure to exercise ordinary care, we will be liable to you for any loss you suffer as a result. You agree, however, that it will be your responsibility to establish any such loss. You agree that we will never be liable for more than your actual loss and that we will not be liable for any consequential damages. If we do re-credit your account after paying an item over a valid stop payment order, you will take whatever action we deem necessary to transfer to us all of your rights against the payee or holder of the item and to assist us if we take legal action against the payee or any other person.

#### **17. Credit Information**

We may investigate your credit standing and request credit reports about you in connection with your application and updates, renewals, extensions and collection activity and as otherwise permitted by law. At your request, we will tell you whether we requested a report and, if so the name and address of the credit reporting agency which provided it. We may disclose information about your account to credit bureaus and creditors who inquire about your credit standing.

#### **18. Returns and Credit Balances**

Merchants and others who honor the Card may give credit for returns or adjustments by sending a credit transaction which will post to your account. The credit will be applied first to pay what you owe us under this Agreement. If there is a credit balance (i.e. a balance in your favor) on your account, we will hold it

and apply it to future amounts owed but will not pay you interest on it. We will refund a credit balance to you if you ask. If the credit balance is greater than \$50, your request must be in writing. If a credit balance greater than \$1 remains in your account for six months, we will automatically refund it to you. We may charge to your account or you will pay us any amount that we refund in error.

#### **19. Exchange Rates for Foreign Transactions**

Purchases and Cash Advances made in foreign countries and foreign currencies will be billed to you in U.S. Dollars. The exchange rate between the transaction currency and the billing currency used for processing international transactions is a rate selected by Visa from the range of rates available in wholesale currency markets for the applicable central processing date, this rate may vary from the rate Visa itself receives, or the government mandated rate in effect for the applicable central processing date, plus no more than 1%.

#### **20. Monitoring Telephone Calls**

By using your Card the first time, you authorize ESL and its servicer to record and monitor your calls regarding this account.

#### **21. Responsibility for Use of Card**

You agree to pay all charges (purchases and Cash Advances, Balance Transfers, use of convenience checks and any other charge) to your account that are made by you or anyone whom you authorize to use your account. You also agree to pay all finance charges and other charges added to your account under the terms of this Agreement or another agreement you made with the credit union. If there is more than one person bound to this Agreement, each will be individually and jointly responsible for paying all amounts owed under this Agreement. If you are an organization, the officer or owner that obtained the account for the organization is also personally obligated for all charges made under the account. This means that the credit union can require any one of you to individually repay the entire amount owed under this Agreement. In addition each person bound under this Agreement, as well as any authorized user, may make purchases individually and, if Cash Advances are permitted for your account, may obtain Cash Advances individually.

#### **22. Changing or Terminating Authorized Users**

Upon your request, we may issue additional cards for authorized users that you designate. You must notify us in writing of any termination of an authorized user's right to access your account. Your letter must include the name of the authorized user and your account number and/or any subaccount number issued to the authorized user along with the authorized user's card and any convenience or other access checks issued to the authorized user. If you cannot return the authorized user's card or access checks and if you request your account to be closed, we will close your account and you may apply for a new account.

#### **23. Liability for Unauthorized Use**

You may be liable for the unauthorized use of your card or account. Notify us immediately, in writing to Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711 or by telephone at 866.820.6039 if your card is lost, stolen or you suspect there has been unauthorized use of your card or account. After we receive your notification, you will not be liable for any further unauthorized use of your card or account.

If you are an organization with 10 or more employees and we have issued 10 or more cards on your account for use by your employees, you will be liable for all unauthorized use of your cards or account before notification to us. Otherwise, you will be liable for up to \$50 for the unauthorized use of your card or account before notification to us. Unauthorized use does not include use of a card by an authorized user in an unauthorized manner.

Notwithstanding the above, you may be liable for any amount to the extent allowed under applicable law if we determine that you were grossly negligent or fraudulent in the handling of your account.

#### **24. Notices and Statements**

Unless separate subaccounts have been set up under your account for authorized users, statements and notices will be mailed to you at the most recent address you have given the credit union. You agree to notify us at least 10 days in advance of any change in address. The credit union shall send notices via regular first class mail. Notices sent to any one member or person bound under this Agreement will be considered notice to all. If we have agreed to send statements for subaccounts under your account that

have been issued to authorized users, we will send statements to the most recent address you have provided for that authorized user. You agree to notify us at least 10 days in advance of any change in address for an authorized user. You are responsible for payment of all amounts shown on a statement delivered to an authorized user. If you are required to send a notice to the credit union, the notice should be sent to Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711.

#### **25. Notification of Change in Legal Structure, Officers or Owners**

If you are an organization, you agree to notify us, in accordance with Section 24 of this Agreement, within 10 days of any change in your legal structure or any change in your officers or owners.

#### **26. Entire Agreement**

This Agreement is the final expression of the terms and conditions of your account. This written Agreement may not be contradicted by evidence of any alleged oral agreement.

#### **27. Severability**

Should any part of this Agreement be found to be invalid or unenforceable, all other parts of this Agreement shall remain in effect and fully enforceable to the fullest extent possible under this Agreement.

#### **28. Governing Law**

Any legal question under this Agreement will be decided in accordance with applicable federal and New York State law without regard to the laws of any other state. This Agreement is made, and credit is extended in New York.

#### **29. Change in Terms**

The credit union may change the terms of this Agreement from time to time. Notice of any change will be given in accordance with applicable law. If permitted by law, the change will apply to your existing account balance as well as to future transactions.

#### **30. Terminating Your Account**

Either you or the credit union may terminate this Agreement at any time, but termination by you or the credit union will not affect your obligation to pay the account balance plus any finance and other charges you owe under this Agreement. You are also responsible for all transactions made to your account after termination, unless the transactions were unauthorized.

The card or cards you receive remain the property of the credit union and you must recover and surrender to the credit union all cards upon request or upon termination of this Agreement whether by you or the credit union. The credit union has the right to require you to pay your full account balance at any time after your account is terminated, whether it is terminated by you or the credit union.

#### **31. Effect of Agreement**

This Agreement is the contract which applies to all transactions on your account even though the sales, Cash Advances, credit or other slips you sign or receive may contain different terms.

#### **32. Waiver**

The credit union can delay enforcing any of its rights any number of times without losing them.

## **YOUR BILLING RIGHTS KEEP THIS NOTICE FOR FUTURE USE**

This notice contains important information about your rights and our responsibilities.

**NOTIFY US IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR STATEMENT**—If you think your statement is wrong, or if you need more information about a transaction on your statement, write to Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared. You can telephone us at 866.820.6039, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.

- The dollar amount of the suspected error.
- Describe the error and explain if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

YOUR RIGHTS AND OUR RESPONSIBILITIES AFTER WE RECEIVE YOUR WRITTEN NOTICES—We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the statement was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your statement that are not in question.

If we find that we made a mistake on your statement, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we determine you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within 10 days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your statement. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we cannot collect the first \$50 of the questioned amount, even if your statement was correct.

#### **Special Rule for Credit Card Purchases**

If you have a problem with the quality of property or services that you purchased with the ESL Visa Business 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 property or services. There are two limitations to this right.

1. You must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and
2. The purchase price must have been more than \$50.

These limitations do not apply if ESL owns or operates the merchant, or if ESL mailed you the advertisement for the property or services.

Accepted by:  
ESL Federal Credit Union  
Corporate Headquarters  
225 Chestnut Street  
Rochester, NY 14604

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