

## **CBL Select Gift Card Cardholder Agreement**

The following terms and conditions govern your use of the CBL Select Gift Card ("Terms and Conditions"). By purchasing, signing or using the CBL Select Gift Card ("Gift Card"), you are agreeing to the Terms and Conditions. The terms "you" and "your" refer to the person who purchased the CBL Select Gift Card and/or the person who is using the CBL Select Gift Card. The terms "we" "our" and "us" refer to American Express Prepaid Card Management Company, LLC ("AEPCMC") the issuer of the CBL Select Gift Card, and/or where applicable, its parent and service provider American Express Travel Related Services Company, Inc. The term "CBL" refers to CBL & Associates Management Inc. CBL & Associates Properties Inc., and their subsidiaries and affiliates, which operate CBL shopping centers in the United States.

### **The Gift Card**

The Gift Card is a prepaid payment device that when purchased, can be loaded with a fixed dollar value between \$20 and \$500. Pursuant to corporate policies established by CBL, the Card may be loaded at certain locations with a lower or higher dollar value. It is not a credit card, charge card or debit card. The Gift Card can be used at retailers, restaurants, amusement parks, sporting events, movie and other theaters, spas, salons and certain other merchants that are located in the United States and that accept the American Express Card, including mail order, online and brick and mortar establishments. A location where the Gift Card can be used is referred to in these Terms and Conditions as a "Merchant." The Gift Card cannot be used at car rentals, cruise lines, for recurring billing purchases, or at casinos or ATMs. Usage restrictions apply for international airlines.

### **Service and Other Fees**

This card has no fees after purchase, including dormancy, service or replacement fees.

### **Before Using the Gift Card**

Before using your Gift Card, you must sign your signature on the back, where indicated. **Write down the Gift Card number and the Customer Service number on a separate piece of paper in case the Gift Card is lost or stolen.** We reserve the right to delay use of the Gift Card for up to 4 hours after purchase. During activation or any Customer Service call, we may request that you provide the card security code printed on the front of your Gift Card, as well as additional identification information such as your home phone number, date of birth, and zip code. We may use this data for a range of purposes, including but not limited to facilitating refunds if the Gift Card is lost or stolen, enhancing usage at Merchants that may require zip code authorization, and aiding in collection efforts in the event of a "shortage." We will hold your information in confidence in accordance with the section below entitled "Data Protection and Privacy."

### **Information about Available Funds on the Gift Card**

The value of the funds available on the Gift Card at any given time is referred to in these Terms and Conditions and on the back of your Gift Card as the "Available Funds." The Available Funds on the Gift Card at the time of purchase depends on the amount that was loaded on the Gift Card at the time of purchase. As you use the Gift Card, the Available Funds will be reduced by the full amount of each purchase including taxes, and any other fees. Once the Available Funds are depleted, the Gift Card is no longer valid and you agree (i) not to use the Gift Card and (ii) after you are sure that you do not intend to return any merchandise purchased with the Gift Card, to cut it in half and discard it.

### **Tracking Available Funds**

You must keep track of the amount of Available Funds. To obtain your Available Funds balance or to request information about previous transactions, visit the customer service desk at participating CBL shopping centers, visit [www.cblproperties.com](http://www.cblproperties.com) or call toll free within the United States at 1-800-331-5399, which is the telephone number printed on the back of your Gift Card ("Customer Service Number"). Please note: Your Available Funds balance will reflect all authorization requests that have been submitted by Merchants. If you have a question about a transaction that has been posted to your Gift Card (e.g., the same transaction has been posted twice or for the incorrect amount), please notify us immediately, but no later than 60 days from the date of the transaction, by calling the Customer Service Number.

### **"Valid Thru" Date**

The "valid thru" date indicated on the Gift Card is required to ensure that the Gift Card can be used at Merchants that request and/or require customers to provide a plastic expiration date during the transaction process. You may not use the Gift Card after the "valid thru" date. The Available Funds on the Gift Card do not expire, but may be reduced by service fees or other fees as described in these Terms and Conditions. If Available Funds remain on the Gift Card after the "valid thru" date, call the Customer Service Number to obtain a free replacement Gift Card or for instructions on how to redeem the Available Funds. Subject to applicable law, if you ask us to issue you a check for the amount of any Available Funds remaining on the Gift Card after the "valid thru" date, we will deduct a check-issuance fee of \$10.00 from the check we send you. Before redeeming any Available Funds, we may hold the Available Funds for 10 business days after you request a check to ensure that all transactions have posted to our system. We reserve the right to decline to issue a replacement Gift Card.

### **Lost or Stolen Cards**

YOU AGREE TO SAFEGUARD YOUR GIFT CARD AND TREAT IT LIKE CASH. If your Gift Card is lost, stolen or used improperly, contact us immediately at the Customer Service Number. You must provide the Gift Card number and other identifying details. We cannot provide a replacement card if you do not have your Gift Card number available. If our records show that there are still Available Funds remaining on the Gift Card, we will cancel the Gift Card and send you a replacement card. Subject to applicable law, when replacing a lost or stolen Gift Card, we will deduct a \$5.95 replacement card fee from your Available Funds. Gift Cards may be replaced at no charge by contacting CBL Malls directly at 423.553.8732. The replacement card will be in the amount of Available Funds on your lost/stolen Gift Card at the time you notified us that it was lost/stolen. NO REFUNDS WILL BE PROVIDED FOR AMOUNTS DEBITED FROM YOUR LOST/STOLEN GIFT CARD BEFORE YOU NOTIFY US.

### **Using the Card**

To use the Gift Card at a Merchant, present the Gift Card at the time of payment and sign the receipt with the same signature you used when you signed the back of the Gift Card. Retain the receipt as a record of the transaction. You agree to use the Gift Card only at Merchants and only for lawful purposes. You authorize us to deduct the full amount of each purchase including taxes and any other fees from the Available Funds whenever your Gift Card is used to make a purchase. You agree to keep track of the Available Funds on your Gift Card and not to use the Gift Card for any purchase that exceeds the Available Funds. The Gift Card is not transferable and you agree not to permit any other person to use your Gift Card after it is activated. If you believe your Gift Card has been lost or stolen, you agree to notify us immediately. You acknowledge that purchases made with prepaid cards, such as the Gift Card, are similar to those made with cash or travelers cheques. You cannot "stop payment" or lodge a "billing dispute" on such transactions. Any problems or disputes you may have regarding a purchase should be addressed directly with the Merchant.

### **Combining Forms of Payment / "Split Tender" Transactions**

If you wish to use your Gift Card to purchase an item for more than the Available Funds, depending on the Merchant's policy, you may be able to use your Gift Card toward a portion of the final purchase price, and then use another form of payment to pay the balance of the final purchase price. This is called a "split tender" transaction because you would be splitting the final transaction amount between your Gift Card and another form of payment. Before you request a "split tender" transaction, please call the Customer Service Number to check your Gift Card's Available Funds balance. Then, you must ask the Merchant if two forms of payment will be accepted for the purchase. If the Merchant agrees, first request that a specific dollar amount be placed on the other form of payment (e.g., the final transaction amount less your Available Funds balance), and then use your Gift Card to pay the remaining balance. Some retailers, particularly department stores, will only allow a "split tender" transaction if the second form of payment is cash or check. Internet and most mail order merchants do not permit "split tender" transactions. We do not guarantee that the Merchant will accept two forms of payment, such as two gift cards.

### **Using Your Gift Card at Restaurants and other "Tip" Oriented Merchants**

When a restaurant or other "tip" oriented Merchant (e.g., spas, hair salons, etc.) requests approval from us to complete your transaction, the Merchant will often add a fixed percentage (approximately 20%) to the amount reflected on the bill presented to you prior to payment. This additional amount is meant to cover the tip that they expect you will add to the bill. As a result of this increased authorization request, your Gift Card may be declined if you have insufficient Available Funds to cover the amount that the Merchant requested us to approve. If you have more than sufficient Available Funds on your Gift Card to cover the amount that the Merchant requested us to approve, it will result in a "hold" on your Available Funds for the additional amount if you do not add the amount they expect. Once the Merchant sends us the final transaction amount you designate, we will remove the "hold" on your Available Funds for any additional amount exceeding the final transaction amount. This may take 3 to 7 days and during this period you will not be able to use any Available Funds in a "hold" position. As an illustration, if your meal, not including a tip, totaled \$50 but the restaurant seeks approval from us for \$60 (e.g., includes a \$10 tip in the authorization request) and you choose to pay only the \$50 for the meal with your Gift Card, leaving the tip in cash, then the additional \$10 would be placed on "hold" until we receive a submission from the restaurant reflecting a final transaction amount of \$50 on your Gift Card. TO AVOID A DECLINE OF, OR A HOLD ON, YOUR GIFT CARD, YOU CAN ASK THE MERCHANT TO AUTHORIZE A SPECIFIC DOLLAR AMOUNT. WE DO NOT GUARANTEE THAT THE MERCHANT WILL FULFILL THIS REQUEST.

### **Using Your Gift Card at Gasoline Merchants**

If you use your Gift Card to purchase gasoline, we recommend that you pay inside, not at the pump. If you pay at the pump, the terminal may be pre-programmed to seek a pre-authorization for \$75 and this amount could increase from time to time ("Pre-Authorization Request"). The Pre-Authorization Request seeks to confirm that you have sufficient Available Funds on your Gift Card to pay for an average purchase of gas. If you have insufficient Available Funds on your Gift Card to cover the Pre-Authorization Request, your attempt to use your Gift Card at the pump will be declined. If you have sufficient Available Funds on your Gift Card to cover the Pre-Authorization Request, you will be permitted to continue your

transaction at the pump. However, if the dollar amount of your actual gasoline purchase is less than the amount of the Pre-Authorization Request that we approved, a “hold” on your Available Funds will result equal to the difference between the two amounts. Once the Merchant sends us the final amount of your actual gasoline purchase, we will remove the “hold” on your Available Funds for any additional amount exceeding this final amount. This may take 3 to 7 days and during this period you will not be able to use any Available Funds in a “hold” position. TO AVOID A DECLINE OF, OR A HOLD ON, YOUR GIFT CARD, WE RECOMMEND THAT YOU PREPAY FOR YOUR GASOLINE INSIDE THE STATION.

### **Using Your Gift Card at Lodging Merchants**

If a lodging-Merchant accepts gift cards for reservations or at check-in, the Merchant will often seek authorization for the estimated amount of your lodging stay. Your Gift Card may be declined if you have insufficient Available Funds to cover the estimated amount of your lodging stay. If you have more than sufficient Available Funds on your Gift Card to cover the estimated amount that the Merchant requested us to approve, it will result in a “hold” on your Available Funds for the additional amount until the Merchant sends us the final amount of your lodging stay. Once the Merchant sends us the final amount, we will remove the “hold” on your Available Funds for any additional amount we had authorized that exceeded this final amount. While some lodging companies may require use of a credit card to make a reservation, you can use your Gift Card to make final payment at the end of your stay. TO AVOID A DECLINE OF, OR A HOLD ON, YOUR GIFT CARD, WE RECOMMEND THAT YOU USE AN AMERICAN EXPRESS CHARGE OR CREDIT CARD TO MAKE THE LODGING RESERVATION AND WHEN PROVIDING A FORM OF PAYMENT AT CHECK-IN.

### **Transactions in Excess of Available Funds**

If you attempt to use the Gift Card when there are insufficient Available Funds for the particular transaction (e.g., \$100 purchase when the Gift Card only has \$75 in Available Funds), and the Merchant does not fulfill a request to process a “split tender” transaction as described above, the transaction will usually be declined. However, if due to a systems malfunction or for any reason whatsoever, a transaction occurs despite insufficient Available Funds on the Gift Card (creating a negative amount on the Gift Card, referred to herein as a “Shortage”), you agree to reimburse us, upon request, for the amount of the Shortage.

### **Returning Merchandise**

PLEASE BE AWARE OF THE MERCHANT’S RETURN POLICIES PRIOR TO COMPLETING THE TRANSACTION. If you wish to return any merchandise purchased with the Gift Card, you will be subject to the Merchant’s return policies. If the Merchant agrees to issue a credit to the Gift Card, such funds may not be available for 3 to 7 days.

### **No Warranty Regarding Goods and Services**

Neither we, nor CBL are responsible or liable to you for the quality, safety, legality, or any other aspect of any goods or services purchased from any Merchant with your Gift Card. If you have a dispute with a Merchant, you agree to settle the dispute directly with the Merchant.

### **Refusal of Gift Card**

Neither we nor CBL are responsible or liable to you if any Merchant refuses to honor the Gift Card or for any other problems you may have with any Merchant. If a Merchant fails to honor the Gift Card, please call the Customer Service Number to report the incident.

### **No Warranty of Availability or Uninterrupted Use**

From time to time the Gift Card service may be inoperative, and when this happens, you may be unable to use your Gift Card or obtain information about your Available Funds. Please notify us if you have any problems using your Gift Card. You agree that neither we, nor CBL are responsible for any interruption of service.

### **Changing these Terms and Conditions / Notices / Gift Card Cancellation**

We may change the terms of, or add new terms to, these Terms and Conditions at any time, with or without cause, and without giving you notice, in accordance with applicable law. In addition, we may suspend, cancel, add, modify or delete any feature offered in connection with your Gift Card at our sole discretion at any time, with or without cause, and without giving you notice, subject to applicable law. Any notice given by us shall be deemed given when deposited in the United States mail, postage prepaid, addressed to you at the latest address shown on our records. If we cancel your Gift Card, any Available Funds remaining on the Gift Card upon such cancellation, after payment for all applicable fees, will be returned to you. If the “valid thru” date on the Gift Card has not expired, we may condition reimbursement upon return of the Gift Card. The Gift Card is our property.

### **Assignment and Waiver**

We may assign these Terms and Conditions to a third party at any time without notice to you. However, if we assign these Terms and Conditions, the terms will remain substantially and materially the same unless you are notified. In the event we reimburse you for a refund claim you have made for a lost or stolen Gift Card, or if we otherwise provide you with a credit or payment with respect to any problem arising out of any transaction made with the Gift Card, you are automatically deemed to assign and transfer to us any rights and claims, excluding tort claims, that you have, had or may have against any third party for an amount equal to the amount we have paid to you or credited to your Gift Card. You agree that you will not pursue any claim against, or reimbursement from, such third party for the amount that we paid or credited to your Gift Card, and that you will cooperate with us if we decide to pursue the third party for the amount paid or credited. Neither our failure to exercise any of our rights under these Terms and Conditions, nor our delay in enforcing or exercising any of our rights, shall constitute a waiver of such rights. Furthermore, if we waive any right under these Terms and Conditions on one occasion, such waiver shall not operate as a waiver as to any other occasion.

### **Data Protection and Privacy**

**Information We Collect / Information Security:** We may obtain personal information (“Cardholder Information”) about you, including information (i) provided to us by the Gift Card purchaser, such as your name and/or your address, (ii) provided by you at the time of activation or during customer service calls, and (iii) about purchases made with the Gift Card, such as the date, the amount and the place of purchase. For purposes of fraud prevention and regulatory compliance, we may also obtain information from providers of identity verification data and demographic information. Only those persons who need it to perform their job responsibilities are authorized to have access to Cardholder Information. We also maintain physical, electronic, and procedural security measures that comply with federal regulations to safeguard Cardholder Information.

**Disclosure:** We will use Cardholder Information to process Gift Card transactions, to provide customer service, to process claims for lost or stolen Gift Cards and to help protect against fraud. We may also use Cardholder Information for marketing purposes and to conduct research and analysis. It is often necessary for us to disclose Cardholder Information for the same purposes to companies that work with us. For example, we may provide certain Cardholder Information to companies, including our affiliated companies, that perform business operations or services, including marketing services, on our behalf. We may provide certain Cardholder Information to others outside of American Express as permitted by law, such as to government entities or other third parties in response to subpoenas.

**Offers / Choice:** We may develop marketing programs and send you offers for products and services. We do not share customer addresses with other companies for them to market their own products and services. If you prefer not to receive offers, you may opt out by calling us in the United States toll free at 1-800-722-8614. If you opt out from receiving these offers, we may still send important information about the Gift Card or other American Express products and services to you.

### **Telephone Monitoring/Recording**

From time to time we may monitor and/or record telephone calls between you and us to assure the quality of our customer service or as required by applicable law.

### **Arbitration**

**Purpose:** This Arbitration Provision sets forth the circumstances and procedures under which Claims (as defined below) may be arbitrated instead of litigated in court.

**Definitions:** As used in this Arbitration Provision, the term “Claim” means any claim, dispute or controversy between you and us arising from or relating to the Gift Card or these Terms and Conditions as well as any related or prior agreement that you may have had with us or the relationships resulting from any of the above agreements (“Agreements”), including the validity, enforceability or scope of this Arbitration Provision or the Agreements. For purposes of this Arbitration Provision, “you” and “us” also includes any corporate parent, or wholly or majority owned subsidiaries, affiliates, any licensees, predecessors, successors, assigns, any purchaser of any accounts, all agents, employees, directors and representatives of any of the foregoing, and other persons referred to below in the definition of “Claims.” “Claim” includes claims of every kind and nature, including but not limited to, initial claims, counterclaims, cross-claims and third-party claims and claims based upon contract, tort, fraud and other intentional torts, statutes, regulations, common law and equity. “Claim” also includes claims by or against any third party using or providing any product, service or benefit in connection with the Gift Card (including, but not limited to, third parties who accept the Gift Card, third parties who use, provide or participate in programs accessed with the Gift Card, enrollment services and rewards programs, debt collectors and all of their agents, employees, directors and representatives) if and only if, such third party is named as a co-party with you or us (or files a Claim with or against you or us) in connection with a Claim asserted by you or us against the other. The term “Claim” is to be given the broadest possible meaning that will be enforced and includes, by way of example and without limitation, any claim, dispute or controversy that arises from or relates to (a) your Gift Card; (b) the amount of Available Funds on the Gift Card; (c) advertisements, promotions or oral or written statements related to the

Gift Card, goods or services purchased with the Gift Card; (d) any benefits and services related to the Gift Card; and (e) your application for or activation of the Gift Card. We shall not elect to use arbitration under the Arbitration Provision for any Claim that you properly file and pursue in a small claims court of your state or municipality so long as the Claim is individual and pending only in that court.

**Initiation of Arbitration Proceeding/Selection of Administrator:** Any Claim shall be resolved, upon the election by you or us, by arbitration pursuant to this Arbitration Provision and the code of procedures of the national arbitration organization to which the Claim is referred in effect at the time the Claim is filed (the "Code"), except to the extent the Code conflicts with these Terms and Conditions. Claims shall be referred to either the National Arbitration Forum ("NAF") or the American Arbitration Association ("AAA"), as selected by the party electing to use arbitration. If a selection by us of one of these organizations is unacceptable to you, you shall have the right within 30 days after you receive notice of our election to select the other organization listed to serve as arbitrator administrator. For a copy of the procedures, to file a Claim or for other information about these organizations, contact them as follows: NAF at P.O. Box 50191, Minneapolis, MN 55404; website: [www.arbitration-forum.com](http://www.arbitration-forum.com); AAA at 335 Madison Avenue, New York, NY 10017; website: [www.adr.org](http://www.adr.org).

**Significance of Arbitration:** IF ARBITRATION IS CHOSEN BY ANY PARTY WITH RESPECT TO A CLAIM, NEITHER YOU NOR WE WILL HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR HAVE A JURY TRIAL ON THAT CLAIM. FURTHER, YOU AND WE WILL NOT HAVE THE RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION. EXCEPT AS SET FORTH BELOW, THE ARBITRATOR'S DECISION WILL BE FINAL AND BINDING. NOTE THAT OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.

**Restrictions on Arbitration:** IF EITHER PARTY ELECTS TO RESOLVE A CLAIM BY ARBITRATION, THAT CLAIM SHALL BE ARBITRATED ON AN INDIVIDUAL BASIS. THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED ON A CLASS ACTION BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER GIFT CARDHOLDERS OR OTHER PERSONS SIMILARLY SITUATED. The arbitrator's authority to resolve Claims is limited to Claims between you and us alone, and the arbitrator's authority to make awards is limited to you and us alone. Furthermore, claims brought by you against us, or by us against you, may not be joined or consolidated in arbitration with Claims brought by or against someone other than you, unless agreed to in writing by all parties. No arbitration award or decision will have any preclusive effect as to issues or claims in any dispute with anyone who is not a named party to the arbitration. Notwithstanding any other provision in these Terms and Conditions (including but not limited to the "Continuation" provision below) and without waiving either party's right to appeal such decision, should any portion of this "Restrictions on Arbitration" provision be deemed invalid or unenforceable, then the entire Arbitration Provision (other than this sentence) shall not apply.

**Arbitration Procedures:** This Arbitration Provision is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. Sections 1-16, as it may be amended ("FAA"). The arbitration shall be governed by the applicable Code, except that (to the extent enforceable under the FAA) this Arbitration Provision shall control if it is inconsistent with the applicable code. The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statutes of limitations and shall honor claims of privilege recognized at law and, at the timely request of either party, shall provide a brief written explanation of the basis for the decision. The arbitration proceeding shall not be governed by any Federal or state rules of civil procedure or rules of evidence. Either party may submit a request to the arbitrator to expand the scope of discovery allowable under the applicable Code. The party submitting such a request must provide a copy to the other party, who may submit objections to the arbitrator with a copy of the objections provided to the requesting party, within 15 days of receiving the requesting party's notice. The granting or denial of such a request will be in the sole discretion of the arbitrator, who shall notify the parties of his/her decision within 20 days of the objecting party's submission. The arbitrator shall take reasonable steps to preserve the privacy of individuals, and of business matters. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator's decision will be final and binding, except for any right of appeal provided by the FAA.

However, any party can appeal that award to a three-arbitrator panel administered by the same arbitration organization, which shall consider anew any aspect of the initial award objected to by the appealing party. The appealing party shall have 30 days from the date of entry of the written arbitration award to notify the arbitration organization that it is exercising the right of appeal. The appeal shall be filed with the arbitration organization in the form of a dated writing. The arbitration organization will then notify the other party that the award has been appealed. The arbitration organization will appoint a three-arbitrator panel that will conduct an arbitration pursuant to its Code and issue its decision within 120 days of the date of the appellant's written notice. The decision of the panel shall be by majority vote and shall be final and binding.

**Location of Arbitration/Payment of Fees:** Any arbitration hearing that you attend shall take place in the federal judicial district of your residence. You will be responsible for paying your share, if any, of the arbitration fees (including filing, administrative, hearing and/or other fees) provided by the Code, to the extent that such fees do not exceed the amount of the filing fees you would have incurred if the Claim had been brought in the state or federal court closest to your residence that would have jurisdiction over the Claim. We will be responsible for paying the remainder of any arbitration fees. At your written request, we will consider in good faith making a temporary advance of all or part of your share of the arbitration fees for any Claim you initiate as to which you or we seek arbitration. You will not be assessed any arbitration fees in excess of your share if you do not prevail in any arbitration with us.

**Continuation:** This Arbitration Provision shall survive termination of your Gift Card as well as voluntary payment in full of any Shortages, any legal proceeding by you or us to collect a debt owed by the other, and any bankruptcy by you or us. Except as otherwise provided in the "*Restrictions on Arbitration*" provision above, if any portion of this Arbitration Provision (other than the "*Restrictions on Arbitration*" provision) is deemed invalid or unenforceable under any principle or provision of law or equity, it shall not invalidate the remaining portions of this Arbitration Provision, these Terms and Conditions or any predecessor agreement you may have had with us, each of which shall be enforceable regardless of such invalidity

**Applicable Law**

These Terms and Conditions and your Gift Card, and all questions about their legality, enforceability and interpretation, are governed by the laws of the State of New York, USA (without regard to internal principles of conflicts of law).

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