



## Express Loan Pay Terms and Conditions

### Introduction

This section of the document is to provide you information about Express Loan Pay, the online bill payment system offered to you on behalf of Independent Bank (the "Service") and the associated website (the "Site"). These terms and conditions set forth a legally binding agreement governing your use of the Site and the Service ("Agreement") and outline important conditions that apply to your use of the Site and the Service. By utilizing the Service, permitting any person to do so on your behalf, or utilizing the Service on someone else's behalf, you agree to these terms and conditions. If you do not agree to these terms and conditions, you must discontinue your access to the Site and not utilize the Service.

### Definitions

- "Authorized User" is any individual which you allow to use the Service or access to your Funding Account.
- "Biller" is Independent Bank, the entity to which you instruct us to make a loan Payment on your behalf.
- "Biller Account" means the loan account you have directly with Independent Bank related to the loan provided to you by Independent Bank.
- "Billing Statement" is the loan statement or coupon book typically sent by Independent Bank to you indicating, among other things, your payment amount and the Due Date.
- "Business Day" is every Monday through Saturday, excluding Federal Reserve holidays.
- "Due Date" is the date reflected on your Billing Statement or coupon book when your payment is due; it is not the late payment date or inclusive of a grace period.
- "Funding Account" is the checking account or savings account, held at an FDIC or equivalent insured United States depository institution from which Payments and fees, if any, will be debited and to which credits to you will be credited.
- "Payment" is a payment transaction initiated by you through the Service.
- "Payment Date" is the calendar day you elect for the Biller to receive the Payment, and is also the day your Funding Account will be debited; provided that if the calendar day you elect falls on a non-Business Day, or after the daily cutoff time for the Service, the actual Payment Date and the actual date your Funding Account will be debited will be the immediately following Business Day. This date can be current or in the future.
- "Payment Instruction" is the information provided by you (such as, but not limited to, Biller name, Biller Account number, and Payment Date) for a Payment to be made through the Service.
- "Payment Wallet" is the Funding Account information you save (if any) for use in making future Payments.
- "Recurring Automatic Payment" is a Payment made each calendar month on the date designated by you in an amount designated by you.

- "Scheduled Payment" is a Payment that has been scheduled for a future date, but which has not yet begun processing.
- "We," "us," and "our" refers to Biller, Independent Bank and its third-party service providers through and with whom the Service is provided.
- "You" and "your" refer to the individual that is utilizing the Service.

### **Eligibility**

The Site and the Service are offered only to individuals who can form legally binding contracts under applicable law and, with respect to Payments made using checking or savings accounts, use bank accounts held at an FDIC or equivalent insured United States depository institution. Without limiting the foregoing, the Service is not offered to minors. Commercial entities, including without limitation commercial payment aggregators, may not use the Site or Service, with the exception that an authorized representative of a commercial entity who holds a Biller Account may use the Site or Service to initiate a Payment to such commercial entity's own Biller Account. By using the Service, you represent that you meet these requirements and that you agree to be bound by this Agreement.

You agree that the origination of ACH transactions to your checking or savings account(s) and your use of the Express Loan Pay Service must comply with the laws of the United States of America and any local, state or international laws or regulations.

You agree that you are using your true identity, you are 18 years old or older, you are legally authorized to use the bank account(s) that you have entered in the service and any information you provide is accurate and complete.

You have read and agreed to our Privacy Policy.

You agree to indemnify and hold us harmless for all costs and fees (including without limitation NSF fees) arising out of your violation of these terms and conditions.

### **Payment Authorization, Payment Remittance and Fees**

You authorize us to follow the Payment Instructions received from you. When we receive a Payment Instruction from you, you authorize us to debit or charge your Funding Account for the amount of any Payment plus any related fees in effect at the time you initiate the Payment Instruction, and to remit funds on your behalf. **YOU ACKNOWLEDGE AND AGREE THAT A FEE MAY BE CHARGED TO YOU TO PROCESS PAYMENTS PURSUANT TO THIS AGREEMENT. ANY SUCH FEES WILL BE CHARGED FOR EACH PAYMENT, INCLUDING RECURRING MONTHLY PAYMENTS, AND THE AMOUNT WILL BE DISPLAYED TO YOU PRIOR TO FINALIZING THE PAYMENT INSTRUCTION. YOU HEREBY AGREE TO PAY ANY SUCH APPLICABLE FEES WHICH MAY BE CHARGED REGARDLESS OF WHETHER THE PAYMENT INSTRUCTION IS COMPLETED.** You also authorize us to credit your Funding Account, in the event that any Payments are returned to us because the processing of the Payment Instruction could not be completed. In order to process Payments more efficiently and effectively, we may edit or alter payment data or data formats. You certify that any Funding Account you add to your profile or otherwise utilize in connection with the Service is an account from which you are authorized to make payments, and any Payment you make using the Service will

debit/charge a Funding Account that you are legally authorized to use. We will use reasonable efforts to complete your Payments properly. However, we shall incur no liability if the Service is unable to complete any Payments initiated by you because of the existence of any one or more of the following circumstances or other reasons identified in this Agreement:

1. If your Funding Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of your overdraft account;
2. If our payment processing center is not working properly and you know or have been advised about the malfunction before you execute the transaction;
3. If you have not provided us with the correct Funding Account information, or other required information;
4. If circumstances beyond our control (such as, but not limited to, fire, flood, or other acts of God, third party systems, or interference from an outside force) prevent the proper execution of the transaction; and/ or
5. If you failed to follow our instructions for the use of the Service.

Provided none of the foregoing exceptions are applicable, if we cause an incorrect amount of funds to be removed from your Funding Account or cause funds from your Funding Account to be directed in a manner that does not comply with your Payment Instructions, our sole responsibility to you shall be to return the improperly transferred funds to your Funding Account or to direct any previously misdirected Payments to the Biller, Independent Bank.

You are responsible for ensuring that there are sufficient funds available in your Funding Account to cover any amount you authorize for payment. If you do not have sufficient funds in your Funding Account, your Payment may not be processed.

In the event your Payment is not processed for any reason, including the failure to obtain an authorization from your financial institution, or you have not provided us with the correct information, your liability shall remain outstanding and unpaid and you will be subject to all applicable penalties, late fees and interest charges assessed thereon, all of which obligations remain your sole responsibility.

Any fees associated with your Funding Account, including without limitation any assessed by your financial institution, will continue to apply. You are also responsible for any and all telephone access fees and/or Internet service fees that may be assessed by your telephone and/or Internet service provider in connection with your utilization of the Service.

If your Payment is received by us after the due date, regardless of any cause except for our failure to reasonably process your explicit payment instruction actually received by us, then you will remain responsible for any late charges and interest assessed, the same as if you mailed your payment to us and we received it after the due date. This would be true even if you are unable to access the system due to problems with the Internet, or our servers being temporarily unavailable. Therefore, we recommend that you instruct the Service to initiate each payment to us at least four (4) business days before the actual due date. (Business days are Monday through Saturday, except for federal banking holidays.) If you use the Service to send us your payment instructions after 10:00 pm (ET) on a business day, then the Service will treat your instruction as if it was received on the following day. It is the day we receive payment from you, and not the day we receive your instructions, which determines when your payment was received.

### **Overpayment Adjustment**

You agree that you shall not intentionally schedule a Payment in excess of the greater of (i) the amount due on the Billing Statement or (ii) the total balance owed on your account. You acknowledge that we may refuse to process any such overpayment or, we may adjust the Payment amount down to the amount due at time of payment processing as to avoid overpayments.

### **Payment Cancellation Requests**

You may be permitted to cancel or edit a Payment until such time as the processing of the Payment Instruction has begun, presently 7:00 pm (ET). If permitted, there is no charge for canceling or editing a Payment prior to the processing of the Payment Instruction.

### **Returned Payments**

Independent Bank reserves the right to return any payment for any reason. In using the Service, you understand that payments may be returned for various reasons, such as, but not limited to, the Biller Account number is not valid; we are unable to locate your Biller Account; your Biller/loan account is in foreclosure; or your Biller/loan account is paid in full. We will use reasonable efforts to research and correct the returned payment, or void the payment and credit your Funding Account. You may receive notification regarding any such returned payments. You may be assessed fees by us or your financial institution as the result of any returns or insufficient funds related to your Funding Account.

### **Payment Wallet**

The Payment Wallet allows you to save your Funding Account information for use in making future Payments. If you elect to use Payment Wallet, the following terms apply:

1. **Adding Funding Accounts:** You authorize the addition of Funding Accounts to your profile when received from you. The first Funding Account that you add to your profile shall be your "Default Funding Account," unless you later designate a different Funding Account as your Default Funding Account. If your identity cannot be verified satisfactorily, the Service may not allow you to add a specific type of Funding Account to your profile.
2. **Funding Account Number and Expiration Date Changes:** It is your sole responsibility and you agree to ensure that the information maintained in your Payment Wallet is and remains accurate. If your Funding Account number changes, you agree to make updates to your Payment Wallet. You also authorize us to acquire such new or additional information regarding your accounts from our financial services partners and authorize the update of your Funding Account information accordingly. All changes made by you or acquired by us will be effective for future Payments paid using the Payment Wallet.
3. **Storage of Banking Information:** You authorize Independent Bank to store your Funding Account information for this service.

### **Recurring Automatic Payments, and Scheduled Payments**

You may have the option of enrolling for Recurring Automatic Payments. If you choose to enroll for Recurring Automatic Payments, or if you initiate a Scheduled Payment, an email confirmation will be sent to

you confirming that your enrollment or Payment Instruction has been received and whether it has been accepted. Please note the following:

Payments must be made by the Due Date or you may be assessed a late fee.

We will deduct for Recurring Payments and Scheduled Payments, the amount designated by you on the date you selected, plus a convenience fee for each payment.

While enrolled in Recurring Payments, you may receive email confirmations of Payments charged to or debited against your Funding Account. It is your responsibility to update your email address in your profile with your current email address. We will not be responsible for email confirmations that are not received as a result of delivery failures. (e.g., spam blockers or incorrect email address).

It is your sole responsibility to ensure that all Funding Account information is accurate, legitimate, and up-to-date in order to ensure proper authorization of your Payment. We will not be responsible for any payment processing errors or fees incurred if you fail to provide accurate Funding Account information.

You may terminate your participation in Recurring Automatic Payments online, in writing, or by calling Biller's customer service department at least three business days before the scheduled date of the transfer.

#### **Communications to You; Address or Banking Changes**

By providing us with a telephone number (including a mobile telephone number) and/or email address, you consent to receiving calls and/or text messages at that number, and/or emails from us for our everyday business purposes (including identity verification). You authorize us to send or provide by electronic communication any notice, communication, amendment or replacement to the Agreement, payment receipt, or disclosure required to be provided orally or in writing to you. You agree to receive any electronic communication provided to you and will not attempt to avoid receiving any such communication. You are deemed to have received any electronic communication provided to you when they are made available to you. By providing us with a telephone number (including a mobile number), you consent to receiving autodialed and prerecorded message calls at that number for Service-related purposes. For example, we may contact you in connection with validating or processing a transaction that you've requested through the Service. You agree that we may provide notices to you by posting them on the Site, sending them to you through an in-product message within the Service, emailing them to an email address that you have provided, sending them via text message to any mobile number that you have provided, or by mailing them to any postal address that you have provided. For example, users of the Service may receive certain notices (such as notice of payments and alerts for validation and receipt of transfers of funds) as text messages on their mobile device. All notices by any of these methods shall be deemed received by you no later than twenty-four (24) hours after they are sent or posted, except for notice by postal mail, which shall be deemed received by you no later than three (3) Business Days after it is mailed. It is your sole responsibility to ensure that your contact information is accurate in the Service. We will not be responsible for communications that are not received by you as a result of delivery failures (e.g., spam blockers, incorrect email address or physical address, or incorrect mobile phone number).

Data and messaging charges from your telecommunications provider may apply, and you are responsible for any such charges. In the event your enrolled mobile device is lost or stolen, you agree to update your enrollment information and make the appropriate changes to disable the use of such device.

## **Security**

You agree not to give or make available your access or access credentials to the Service to any unauthorized individuals. You are responsible for all Payments you authorize using the Service or that are made using your access credentials. If you permit Authorized Users or other persons to use the Service, you are responsible for any transactions they authorize. If you believe there have been any unauthorized transfers related to your Funding Account, you should notify your financial institution at once.

## **Information Authorization**

You agree that the information you provide to facilitate a Payment, including your Funding Account information, may go through a verification process. You further agree that we may obtain financial information regarding your Funding Account from your financial institution (for example, to resolve payment posting problems, set transaction limits or for verification purposes).

## **Alterations and Amendments**

This Agreement, applicable fees and service charges may be altered or amended from time to time by posting a revised version on the Site or providing a revised version to you by other means. You may be required to affirmatively accept the revised Agreement in order to continue using the Service. Regardless of whether you are so required, any use of the Service after a notice of change or after the posting of a revised version of this Agreement on the Site will constitute your agreement to such changes and revised versions. The revised version will be effective at the time it is posted or otherwise provided to you unless a delayed effective date is expressly stated in the revision. Further, we may, from time to time, revise or update the Service applications, services, and/or related material, which may render all such prior versions obsolete. Consequently, we reserve the right to terminate this Agreement as to all such prior versions of the applications, services, and/or related material and limit access to only the Service's more recent revisions and updates. You authorize us to send or provide by electronic communication any notice, communication, amendment or replacement to the Agreement, or disclosure required to be provided orally or in writing to you.

You will be agreeing to the current provisions of these Terms and Conditions each time you make a payment using the Service. Because these Terms and Conditions may be altered or amended at any time, be sure to read it each time before you make a payment to be certain you still agree with its provisions. Your use of the Service after any changes to these Terms and Conditions will constitute your agreement to such change(s).

## **Disputes**

If you dispute a Payment made from a Funding Account, you acknowledge that such dispute (including, but not limited to, chargeback or fraud) must be taken up with your depository financial institution. We are not responsible for any research or resolution of such payment disputes.

## **Arbitration**

For any claim (excluding claims for injunctive or other equitable relief) arising out of or relating to this Agreement, if there is a dispute regarding the Service, you agree to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration.

The party commencing arbitration will initiate such arbitration through the American Arbitration Association ("AAA") or an established alternative dispute resolution (ADR) administrator mutually agreed upon by the parties. The parties agree that the following rules shall apply: (a) the arbitration may be conducted telephonically, online and/or be solely based on written submissions, at the election of the party initiating the arbitration; (b) the arbitration shall not involve any personal appearance by the parties, their representatives or witnesses unless otherwise mutually agreed by the parties; (c) discovery shall not be permitted; (d) the matter shall be submitted for decision within ninety (90) days of initiation of arbitration, unless otherwise agreed by the parties, and the arbitrator must render a decision within thirty (30) days of submission; and (e) any award in such arbitration shall be final and binding upon the parties and may be submitted to any court of competent jurisdiction for confirmation. The parties acknowledge that remedies available under federal, state and local laws remain available through arbitration.

NO CLASS ACTION, OTHER REPRESENTATIVE ACTION, OR PRIVATE ATTORNEY GENERAL ACTION, OR JOINDER OR CONSOLIDATION OF ANY CLAIM WITH A CLAIM OF ANOTHER PERSON SHALL BE ALLOWABLE IN ARBITRATION.

#### **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan without regard to its conflicts of laws provisions. To the extent that the terms of this Agreement conflict with applicable state or federal law, such state or federal law shall replace such conflicting terms only to the extent required by law. In the event of such replacement, all other terms of this Agreement shall remain in full force and effect.

#### **Exclusions of Warranties / Limitation of Liability**

In no event shall we or our service providers be responsible or liable for the timeliness, deletion, mis-delivery, or failure to store any user communications or personalized settings; any viruses which may affect your computer equipment or other property on account of your access to, use of, or downloading from the Site or Service; or any third party's inability or refusal to authorize a Payment or any other acts or omissions of third parties not controlled by us.

THE SITE AND SERVICE AND RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ANY PART OF OUR SITE OR SERVICE, AND OPERATION OF THE SITE OR SERVICE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL. SOME STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU. THIS PARAGRAPH GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

IN NO EVENT SHALL WE OR OUR SERVICE PROVIDERS (OR EITHER OF OUR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR STOCKHOLDERS) BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THE SITE OR THE SERVICE OR OTHERWISE RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR TORT DAMAGES OR LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF), REGARDLESS OF WHETHER SUCH CLAIM ARISES IN TORT, CONTRACT, OR OTHERWISE.

### **Indemnification**

You agree to indemnify and hold harmless us and our affiliates, suppliers, service providers, licensors and contractors, and the officers, directors, owners, agents, employees and contractors of each of these, from and against any and all loss, damage, liability, claim, demand, fees, costs, and expenses (including attorney's fees) arising out of your breach of this Agreement and/or your access to or use of the Site or the Service.

### **Intellectual Property**

All marks and logos related to the Site and the Service are either trademarks or registered trademarks of the Biller or its service providers, or their respective affiliates or licensors. You may not copy, modify, translate, decompile, reverse engineer, reproduce, adapt or disassemble the Site or the Service, both of which are the sole property of the Biller's service provider or the Biller's service provider's affiliates or their respective licensors. With the exception of your right to use the Site and Service in accordance with the terms hereof, which right may be revoked by us, you are not granted any rights of any kind in the Site, Service, marks, or logos, and we hereby reserve all such rights. The content accessed through the Site is the property of the applicable content owner and may be protected by applicable copyright or other law. Any downloading of material contained on the Site, or on any site linked to the Site, may be a violation of federal trademark or copyright laws.

### **Assignment**

You may not assign or transfer any rights or obligations you have under this Agreement to any other party without our prior written consent, which we may withhold in our sole discretion. We reserve the right to assign this Agreement or any right or obligation under this Agreement at any time to any party. We may also assign or delegate certain of our rights and responsibilities under this Agreement to affiliates, independent contractors, or other third parties.

### **No Waiver**

We shall not be deemed to have waived any of our rights or remedies hereunder unless such waiver is in writing and signed by one of our authorized representatives. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

### **Captions**



The captions of sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

### **Termination**

We reserve the right to terminate the Service at any time, or to terminate or suspend your use of the Service at any time for any reason or no reason. Neither termination nor suspension shall affect your liability or obligations under this Agreement. If we terminate your use of the Service, you will need to pay your Independent Bank loan in another manner.

### **Errors, Questions and Complaints**

In case of errors or questions about your transactions or Billing Statements, you should contact Independent Bank as soon as possible by mail at 227 W. Main St., Ionia, MI 48846, or by telephone at 800.355.0641, or by email at [loanservicing@ibcp.com](mailto:loanservicing@ibcp.com).

### **Entire Agreement**

You agree that this Agreement (including without limitation the Privacy Policy set forth in this service) is the complete and exclusive statement of the agreement between you and us, and it supersedes any proposal or prior agreement, oral or written, and any other communications between you and us relating to the subject matter of this Agreement.

In the event of a conflict between any other communication between you and Independent Bank regarding the Service and the terms and conditions of this document, these Terms and Conditions will prevail.