

## **BBVA Spend Net Payables Terms of Use**

BBVA Spend Net Payables is an electronic payment tool that allows users to make payments for goods or services through the use of the BBVA Spend Net Payables website (the "Online Site"). In these BBVA Spend Net Payables Terms of Use ("Terms of Use"), the "Service" refers to any of the services or functionality provided via the Online Site, "you" and "your" refer to the Service user who has been authorized by the Company to enroll in the Service, the terms "BBVA," "Bank", "we" and "us" refer to BBVA USA, and the term "Company" refers to the entity on whose behalf you have been authorized to enroll in and use the Service. BBVA may assign or delegate any or all of its rights and responsibilities under these Terms of Use to one or more independent contractors or other third party service providers, and any rights or responsibilities so assigned or delegated may be exercised or performed by either BBVA or its service provider.

Your use of the Service constitutes your acceptance of these Terms of Use. Your use of the Service will be governed by the Treasury Management Services Agreement, Non-Consumer Deposit Account Agreement, where applicable, these Terms of Use, and all other terms and conditions in agreements governing the Service we provide to the Company.

In order to access the Service, you must have (i) proper authority from the Company's corporate administrator to access the Service and (ii) all information required to login, which will be described in the BBVA Spend Net Payables User Guide ("User Guide").

## **DISPUTE RESOLUTION**

**YOUR ATTENTION IS DRAWN TO THE ARBITRATION AND WAIVER OF JURY TRIAL PROVISIONS IN THE BBVA TREASURY MANAGEMENT SERVICES AGREEMENT AND/OR DEPOSIT ACCOUNT AGREEMENT ("Account Agreement") BETWEEN BBVA AND THE COMPANY, COPIES OF WHICH ARE AVAILABLE FROM BBVA OR THE COMPANY. YOUR USE OF THE SERVICE CONSTITUTES YOUR AGREEMENT TO BE SUBJECT TO ANY DISPUTE RESOLUTION PROVISIONS IN THE ACCOUNT AGREEMENT GOVERNING TREASURY MANAGEMENT SERVICES AND THE SERVICE. IF A DISPUTE ARISES BETWEEN US, YOU OR WE MAY REQUIRE THAT IT BE RESOLVED THROUGH ARBITRATION, RATHER THAN THROUGH JURY TRIAL.**

## **SECURITY; REPORTING UNAUTHORIZED TRANSACTIONS**

You are responsible for maintaining the security of your computer, Virtual Token (defined below), mobile device, and any passwords, usernames, questions with a matching answer, and/or other types of security techniques ("Security Codes") you have created for the purpose of accessing the Service. BBVA or the Company may require that you receive a unique one-time password generated for you each time you access the Service, through which a text containing a password is sent to your mobile telephone number or email address for every logon to the Service (a "Virtual Token"). You agree (i) to maintain the confidentiality and security of the all Security Codes; and (ii) maintain the confidentiality and security of the process to

initiate any Security Code or Virtual Token and any devices that may receive the same (including, but not limited to, computers, email accounts and cellular telephones).

You are responsible for all transactions you or any other person initiates or authorizes using your Service account. If you allow any person to obtain or use your computer, mobile device, Virtual Token or Security Codes, you will have authorized that person to access your Service account, and you agree that you are responsible for any transactions that person initiates or authorizes from your Service accounts.

Notify us at once if the phone number for your mobile device is changed or service to your mobile device is terminated, or if you believe that your mobile device has been lost or destroyed, or if you believe that your Security Codes has been compromised, or that your computer, your email account, your mobile device, your Virtual Token, the Service or any of your accounts with the Bank have been accessed or used without your authorization, or if any periodic statement shows a transaction on an account that you did not make, including any unauthorized transaction made via the Service. Call us at: 877-689-7554, send an e-mail to [Commercialcardservices.us@bbva.com](mailto:Commercialcardservices.us@bbva.com) or write to us at:

BBVA USA Commercial  
Card Services 15 20th  
Street South Birmingham,  
AL 35233

## **SHARING OF DATA**

Although you are able to download and share reports, statement(s), images and other information ("Content") through your computer from the Service, you understand that these messages and communications may pass through private and public networks with varying levels of security. Some networks may have taken steps to secure these transmissions while others have not which could affect the privacy and integrity of the Content you send. You agree that BBVA is not responsible for the security or privacy of the Content shared by you through your computer. You further agree that BBVA is not liable for any damages that incur as a result of any Content that is downloaded to or shared by you through your computer.

## **GRANT OF LICENSE; INTELLECTUAL PROPERTY RIGHTS**

You are granted a limited, nonexclusive, non-transferable, limited term, royalty-free, revocable sublicense to use the Service and the software creating, maintaining and supporting the Service and the printed, digital or electronic user materials provided in connection therewith (the "Documentation") solely to conduct transactions in connection with the Service, for Company's internal business purposes only. Except as specifically provided herein, BBVA does not grant to you any other right or license,

express or implied. You may not sublicense, sell, lease, distribute or provide access to the Service, the Software or Documentation to any third parties, nor use the Software or Documentation in a service bureau, time-sharing or other similar arrangement, nor make any other use of the Software or Documentation that is not expressly permitted hereunder. BBVA, BBVA Group or a third party are the exclusive owners of and shall retain all right, title and interest in and to the Service, the Software, the

Documentation and the Intellectual Property Rights (as defined herein).

You acknowledge that BBVA and the other Providers (defined below) shall retain all rights, title and interests in and to the Service, the Software (including, without limitation, the source code, listings, magnetic and digital media and any support materials related thereto) and Documentation, as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. You shall not take any action that is inconsistent with the Intellectual Property Rights of BBVA or any Provider, nor shall you take any actions or engage in any conduct that violates the Intellectual Property Rights of BBVA or any other Provider.

The Software and Documentation include trade secrets and other proprietary information of BBVA and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). You shall treat as confidential and shall not disclose or otherwise make available the Software, the Documentation (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. You agree that you shall not attempt to nor shall you reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing.

#### **LIMITATIONS OF LIABILITY AND EXCLUSIONS OF WARRANTIES.**

Notwithstanding any other provision of these Terms of Use or any other agreement between BBVA and you or the Company, neither BBVA nor any of its suppliers, licensors, service providers or vendors (collectively, including BBVA, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses (collectively, "Damages") that you assert or sustain as a result of your use of the Service or an account becoming ineligible for the Service.

Notwithstanding any other provision of these Terms of Use, no Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of BBVA or such other Provider. In no event shall any Provider be liable to you, the Company or any third party for any indirect, consequential, special, punitive or exemplary damages.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICE, THE SOFTWARE AND THE DOCUMENTATION ARE PROVIDED FOR YOUR AND THE COMPANY'S USE "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BBVA AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE SERVICE, THE SOFTWARE OR THE DOCUMENTATION, OR USE OF THE SERVICE BY YOU OR THE COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON-INFRINGEMENT. BBVA DOES NOT WARRANT THAT THE OPERATION OF THE SERVICE OR SOFTWARE WILL BE

UNINTERRUPTED, ERROR-FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS. BBVA DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICE, THE SOFTWARE OR THE DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE.

YOU ACKNOWLEDGE THAT YOU MUST OBTAIN ALL EQUIPMENT AND OBTAIN AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS THE SERVICE AND YOU AND/OR THE COMPANY IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. YOU ACKNOWLEDGE THAT YOUR OR THE COMPANY'S ISP MAY HAVE UNINTENDED EFFECTS ON YOUR OR THE COMPANY'S USE OF THE SERVICE AND THE ABILITY TO CONDUCT OR TRANSACT ONLINE SERVICES (INCLUDING, WITHOUT LIMITATION, YOUR ABILITY TO ACCESS THE SERVICE), AND THAT BBVA SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. YOU ACKNOWLEDGE THAT THE SOFTWARE MUST INTERFACE WITH BBVA'S COMPUTERS, AND ASSUME THE RISK THAT BBVA'S COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. YOU FURTHER ACKNOWLEDGES THAT BBVA SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF YOUR OR THE COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. YOU ALSO ACKNOWLEDGE THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU AND THE COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR OR THE COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

It is solely your responsibility to obtain an encrypted browser capable of a sufficiently high level of encryption to meet the systems requirements we establish from time to time.

You acknowledge that from time to time, the Service may be delayed, interrupted or unavailable for an indeterminate period of time. BBVA and its affiliates shall not be liable for any claim arising from or related to the Service arising from any such delay, interruption or unavailability.

In no event will BBVA or its affiliates be liable for indirect, consequential or special damages, including lost profits, arising from or related to the Service, even if such damages were reasonably foreseeable and notice was given regarding them. These limitations will apply to all causes of action, whether arising from breach of contract, tort (including negligence) or any other legal theory. BBVA disclaims all warranties with respect to the use of the Service, whether express, implied or statutory, including without limitation implied warranties of merchantability, satisfactory quality, fitness for a particular purpose, accuracy, timeliness, and non-infringement of third party rights. You release BBVA, its service providers, and its affiliates from all claims and damages that may arise from or relate to your use of the Service. All rights not expressly granted to you herein are reserved by us.

BBVA and its service providers have no obligation to correct any bugs, defects or errors in the Service, or to otherwise support, maintain, improve, modify, upgrade or enhance the Service. Subject to applicable law or regulations, BBVA may terminate

your use of the Service and expand, reduce or suspend the type and/or dollar amounts of transactions allowed using the Service, change the enrollment process, and/or change the transaction limits associated with the Service at any time in its sole discretion without prior notice.

## **DATA COLLECTION**

You acknowledge and agree that BBVA may, in accordance with the BBVA Treasury Management Privacy Policy, collect, transmit, store, and use technical, location, and login or other personal data and related information, including but not limited to technical information about your device, system and application software, and peripherals, and information regarding your location, that is gathered periodically to facilitate the provision of updates to the Service and product support, for security reasons, for marketing purposes, and for other service to you (if any) related to, or in connection with, the Service.

## **PROHIBITED USES**

You assume all risk associated with the use of the Service. You agree that you will not use the Service or any services related thereto for any purposes prohibited by United States law. You hereby represent and warrant (i) you are not located in a country that is subject to a U.S. Government embargo, or has been designated by the U.S. Government as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

## **ALERTS**

The Bank or the Company’s corporate administrator may permit you to use the Service to request and receive from the Bank any of the alerts made available through the Service by making alert selections through the Online Site. The Bank may add new alerts or discontinue existing alerts at any time. According to your alert selections, alerts may be sent via phone, fax, e-mail, wireless device text or via a combination of these delivery channels. We may also deliver Security Codes to you via automated voice call or text message to the phone number you register with us. Message and data rates may

apply from your telecommunications provider, and you are responsible for any such charges.

It is solely your responsibility to ensure that the email address and mobile number you provide to the Bank are current and accurate. By registering a mobile phone number through the enrollment process, you are certifying that you are the account holder for the mobile phone account or have the account holder’s permission to register the number. If information from your wireless carrier indicates to us that the mobile number you have provided has been changed, changed networks, or is no longer registered to you, we may automatically stop delivery of any alerts to that number. In that event, you must update your mobile number with us before alerts can be delivered to a mobile number again. Should you wish to receive alerts to your mobile phone number after opting out of the alerts service, you must opt-in your mobile number before alerts can be delivered to a mobile number again. Your failure to maintain current and accurate contact information with us will prevent delivery of alerts through the Service, for which the Bank expressly disclaims any liability.

Your receipt of any alert may be delayed or prevented by your internet service provider, telecommunications provider, or other third parties. The Bank does not guarantee either the delivery or the accuracy of the contents of any alert. The Bank will not be liable for damages of any kind arising from non-delivery or delayed delivery of an alert, the location to which an alert is delivered, inaccurate content in an alert, or your use of or reliance on the contents of any alert for any purposes. Because the balance of some accounts is subject to change at any time, the information provided in any alert may become quickly outdated. Alerts are not encrypted. You acknowledge that, although the Bank may show less than the full account number for any of your accounts in an alert, the alert may include some information about your accounts. Depending on where you instruct us to send your alerts, anyone with access to your email or mobile device may be able to view the contents of these alerts. If you request through this Service to be notified when an account is closed, you acknowledge and agree that we may deliver that alert to you after your account is closed. In the event you request that we close your Service, you acknowledge and agree that we may continue to send you alerts for a reasonable time thereafter until the closure process is completed.

## **CHANGES TO SERVICE**

These Terms of Use are subject to change from time to time. For example, we may add, delete or amend terms or services. Changes may be made immediately and without prior notice to you except when notice is required by applicable law. When notice is required by law, we may provide notice to you as provided below. We reserve the right, in our sole discretion, to change, modify, add, or remove portions from the Service. Any change will begin to apply upon the effective date of the change, and will apply only to your future use of the Service. Your continued use of the Service will indicate your acceptance of any such changes to the Service. BBVA reserves the right to terminate your access to the Service or any portion of it in its sole discretion, without notice and without limitation, except as may be required by law.

## **NOTICE**

Unless otherwise required by law, we may provide notice to you either by mail or electronically, including via email or via the Online Site. If we choose to provide notice to you by mail, we may mail it separately or with other information to any address on our records for you. You accept responsibility to maintain current and accurate contact information on file with us.

## **CONSENT TO CALLS**

When you give a telephone number directly to us, you consent and authorize us to place non-telemarketing telephone calls to you at that number, regarding any and all accounts or services you have with us. You understand that such telephone "calls" include, but are not limited to, live telephone calls, prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system from us or our affiliates and agents. By agreeing to receive text messages from us, you are also consenting to receive a final opt-out confirmation text message if and

when you choose to opt out of a text message service we provide to you. This express consent applies to each telephone number that you provide to us now or in the future. Calls and messages may incur charges from your communications provider. You consent and authorize us to monitor, and to record, telephone conversations and other electronic communications you have with us and with our representatives for reasonable business purposes, including security and quality assurance. We will not remind you that we may be monitoring or recording a call at the outset of the call unless required by law to do so.

## **GOVERNING LAW**

The validity, construction and enforcement of these Terms of Use shall be governed by the laws of the State of Alabama, without regard to its conflicts of laws, and by applicable federal laws and regulations.

BBVA and BBVA Compass are trade names of BBVA USA, a member of the BBVA Group. BBVA USA, Member FDIC.

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