

# Dynamics Customer Agreement

In this Dynamics Customer Agreement, “we” and “our” refer to Dynamics Inc., the developer and manufacturer of your Card. “You” and “your” refer, jointly and severally, to each individual who applies for, accepts or uses a Card.

- 1. Your agreement to these Terms and Conditions.** The terms and conditions in this Dynamics Customer Agreement govern your use of the Card and all Dynamics technology and related software incorporated into the Card or used with the Card, including, but not limited to, the Dynamics Experience Manager™ program. At all times, the Card and the technology and related software incorporated into the Card or used with the Card is and shall remain the sole property of Dynamics.
- 2. Use of Your Card.** You understand and agree that your Card is a battery-powered electronic device, which, in unusual circumstances or with improper use, may be dangerous; you must read the user manual before using your Card for the first time. Effective and correct use of your Card is your responsibility, and Dynamics bears no responsibility for your failure to use your Card in accordance with the user manual or for any misuse of your Card whatsoever. Should you ever notice any change to your Card or other unusual circumstance regarding the appearance of your Card, you must stop using the Card immediately and contact the customer service number on the back of your Card immediately; failure to do so will relieve Dynamics of any and all liability arising from the Card thereafter. If your Card malfunctions or fails to operate due to a technical failure, you must arrange for a replacement by calling the customer service number on the back of your Card.
- 3. Misuse of Your Card.** You understand and agree that your Card is intended to be used solely for the processing of credit and other financial transactions. You further understand and agree that any other use of your Card is strictly prohibited. Under no circumstance should you violate the physical integrity of the Card, and no attempt should ever be made to disassemble or otherwise break the Card apart (other than for purposes of disposal, in accordance with the terms of the user manual). No reverse engineering of the Card is permitted, and it is unlawful to attempt to duplicate or clone the Card in any way. Not only will Dynamics assume no liability for any damage caused by your failure to abide by the terms of this paragraph, you also agree to defend Dynamics and hold Dynamics harmless with regard to any claim that may be made against Dynamics arising out of your failure to abide by the terms of this paragraph.
- 4. Use of the Experience Manager™ Software.** The Experience Manager™ program is a software application that allows you to activate applications and assign them to a button on your Card. You must read the user manual before using Experience Manager™ for the first time. Effective and correct operation of the Experience Manager™ program is your responsibility, and Dynamics bears no responsibility for your failure to correctly operate this program.

5. **Data Sharing.** You understand and agree that the financial institution that issues your Card (the “Card Issuing Bank”) will share information regarding your identity and purchase transactions that are made with your Card (collectively, “Customer Information”) with Dynamics. Dynamics will maintain your Customer Information in accordance with our Customer Privacy Policy, which is available for your review at any time at <http://www.dynamicsinc.com>. You further understand and agree that we may share your Customer Information (which includes your purchase transaction information) with third-party software developers (“Developers”) who have developed Applications for use with your Card and who require your Customer Information to execute effectively any Application that you have activated when making a purchase. Dynamics will store your Customer Information securely and in accordance with all applicable laws and regulations. Absent a violation of such laws and regulations, you understand and agree that Dynamics will not be liable for its use or such sharing of your Customer Information.
6. **Dynamics Points.** In the course of using your Card, you may earn Dynamics Points, which will be recorded and reflected in the Experience Manager™ program. Such Dynamics Points, if earned, will have no cash value and may not be assigned, pledged or transferred to any third party. You will have no property rights or other legal interests in any such Dynamics Points. Any value attributable to such Dynamics Points will be determined at our sole discretion and may be changed at our sole discretion at any time without notice, except as maybe required by applicable law in your jurisdiction. You will be solely responsible for any personal tax liability arising out of any redemption of your Dynamics Points. Please consult with your tax advisor should you have any questions regarding such taxation. The Card Issuing Bank has no responsibility whatsoever with regard to Dynamics Points.
7. **Dynamics Rewards Upgrade.**
  - a. Dynamics offers two different Rewards programs. The base ePlate™ Rewards Program (ePlate<sup>EZ</sup>) does not carry an annual rewards fee. The upgraded ePlate™ Rewards Program has an annual \$99 Rewards Upgrade Fee, which will be charged to your credit account with the Issuer. Your payment of the Rewards Upgrade Fee entitles you to earn enhanced Rewards when you use your ePlate™ Card to make purchases, with a button on your Card activated at the time of the purchase that has been associated with a particular Application.
  - b. The particular Rewards associated with your ePlate™ Rewards Plan are explained in the Terms and Conditions for each individual Experience™ that are posted in the Experience Manager™. Those benefits may change from time to time, and the Rewards posted in the Experience Manager™ for your ePlate™ Rewards Plan at the time of your purchase apply.
  - c. Once you have elected to participate in the upgraded ePlate™ Rewards Plan, you will continue to be charged the Rewards Upgrade Fee every year, unless you have cancelled your upgrade by the time set forth in a reminder notice that the Issuer will provide to you with your periodic credit card account statement. The upgrade fee is not refundable once it has been charged to your Account and will not be prorated. You may cancel your Rewards upgrade at any time by contacting the Issuer’s customer service at 855-368-0410 or by following the directions in the annual reminder notice that the Issuer provides to you. If you cancel the Rewards upgrade,

you will continue to earn enhanced Rewards until the end of the current annual upgrade period for which your Rewards Upgrade Fee was charged. Thereafter, you will earn the Rewards associated with a base ePlate™ Card, unless your ePlate™ Card is replaced with a different card or your Account with the Issuer is closed.

- d. You may review the anniversary date of your current annual upgrade period at any time under the “My Account” section of the “Settings” section of your Experience Manager™. Upgrades apply only to the account upgraded and are non-transferable.

8. **Delays; Malfunctions.** You also understand and agree that, in the event that there is any malfunction of your Card whatsoever or if there is any delay (a) in the delivery of your Card or (b) in the processing of any transaction relating to your Card (including, but not limited to, a complete failure to process a transaction), Dynamics will not be liable to you for any damages arising as a result, whether direct, indirect or consequential.

9. **Additional Legal Exclusions.**

- a. Except to the extent specifically prohibited by applicable law in your jurisdiction, Dynamics disclaims all conditions, guarantees, representations and warranties of any kind, whether express or implied, including, but not limited to, any conditions, guarantees, representations or warranties of durability, fitness for a particular use or purpose, merchantability, merchantable quality, non-infringement, satisfactory quality or title arising from a statute or custom or a course of dealing or usage in trade or related to the Card, technology or related software incorporated in the Card or used with the Card (including, but not limited to, the Dynamics Experience Manager™ program), documentation provided by Dynamics in conjunction with the Card or its use.
- b. Some jurisdictions may not allow or may limit the exclusion or limitation of implied warranties and conditions. To the extent permitted by law, however, any implied warranties or conditions relating to the Card, technology or related software incorporated in the Card or used with the Card (including, but not limited to, the Dynamics Experience Manager™ program), documentation provided by Dynamics in conjunction with the Card or its use, to the extent that they cannot be excluded, as set forth above in subparagraph a. above, but can be limited, are hereby limited to ninety (90) days from the date you first acquired that which is the subject of the claim.
- c. To the maximum extent permitted by applicable law in your jurisdiction, in no event shall Dynamics be liable for any type of damages related to the Card, technology or related software incorporated in the Card or used with the Card (including, but not limited to, the Dynamics Experience Manager™ program), documentation provided by Dynamics in conjunction with the Card or its use, including, but not limited to, any of the following damages: consequential, exemplary, incidental, direct, punitive or aggravated damages, damages for loss of profits or revenues, failure to realize any expected savings, business interruption, loss of business information, loss of business opportunity or corruption or loss of data, failures to transmit or receive any data, problems associated with any applications used in connection with the Card (including, but not limited to, the Dynamics Experience Manager™), downtime costs, loss of the use of the Card or services or any portion thereof, the cost of substitute

- goods, costs of cover, facilities or services, cost of capital or other similar pecuniary losses, whether or not such damages were foreseen or could have been foreseen, and even if Dynamics has been advised of the possibility of such damages.
- d. To the maximum extent permitted by applicable law in your jurisdiction, you agree that Dynamics shall have no other obligation, duty or liability whatsoever in contract, tort or otherwise to you, including any liability for negligence or under a claim of strict liability.
  - e. The limitations, exclusions and disclaimers herein shall apply: (i) irrespective of the nature of the cause of action, demand or action by you, including, but not limited to, breach of contract, negligence, tort, strict liability or any other legal theory and shall survive fundamental breach or breaches or the failure of the essential purpose of this Customer Agreement or of any remedy contained herein and (ii) to Dynamics, any companies that may become affiliated therewith, their successors, assigns, agents, suppliers, the Card Issuing Bank and their respective officers, directors, employees and independent contractors.
  - f. In addition to the limitations and exclusions set out above in this Customer Agreement, in no event shall Dynamics or any officer, director, employee, agent, distributor, supplier or independent contractor of Dynamics have any liability arising from or related to the account established by the Card Issuing Bank Card, technology and related software incorporated in the Card or used with the Card (including, but not limited to, the Dynamics Experience Manager™ program), or documentation provided by Dynamics in conjunction with the Card or its use.