

American Express[®]
Charge
Cardmember
Agreement

March 2011



Postal Address

American Express Australia Limited
Cardmember Services
GPO Box 1582
Sydney NSW 2001

**Lost or Stolen Cards
in Australia**

Telephone 1300 13 2639

Overseas

Call collect (reverse charges) to Australia
+61 2 9271 8666

Account Enquiries

Telephone: 1300 13 2639 (in Australia)
Internet: americanexpress.com.au

INTRODUCTION

This document along with the Financial Table make up the agreement for your account with us (called your *account*). It replaces any previous agreement provided to you for your account. Your use of your account is governed by this agreement.

1. Definitions

As you read these Conditions, please remember that:

You and **your** mean the person who applied for this account but does not include a supplementary cardmember.

We, us and **our** mean American Express Australia Limited (ABN 92 108 952 085).

Card means any card or other account access device we issue for the purpose of accessing your account.

Charge means all transactions made using a card or otherwise charged to your account, and includes cash advances, purchases, fees, liquidated damages, commissions, interest, taxes and all other amounts you have agreed to pay us or are liable for under this agreement.

Electronic charge means a charge which is initiated by giving an instruction in an authorised manner, through electronic equipment (such as an electronic terminal, computer, telephone or ATM) but does not include a charge where the principal means of authorising the charge is based on comparing a signature to the signature on the back of a card.

Online account means a secure website where you may access account information.

By using your account (or by signing and keeping or activating the card), you agree to the terms of this agreement.

Please read this agreement thoroughly and keep it for your reference. You agree that it is your responsibility and you agree to ensure that any supplementary cardmembers are aware of these terms. Please see the "Supplementary Cardmembers" section of this agreement for additional details.

This agreement contains a limitation of liability clause which limits our responsibility and liability. Please refer to the "Limitation of our Liability" section of this agreement for additional details.

2. Use of your Card(s)/Codes

To prevent misuse of your account, you must ensure that you and any supplementary cardmembers:

- sign the card in ink as soon as received;
- keep the card secure at all times;
- regularly check that you still have the card in your possession;
- do not let anyone else use the card;
- ensure that you retrieve the card after making a charge;
- never give out your card details, except when using the card in accordance with this agreement; and
- follow any activation process we tell you about, as soon as possible.

To protect your PIN (personal identification number), telephone codes, online passwords and any other codes used on your account (called *codes*), you must ensure that you and any supplementary cardmembers:

- memorise the code;
- destroy our communication informing you of the code (if applicable);
- do not write the code on the card;
- do not keep a record of the code with or near the card or account details;
- do not tell the code to anyone;
- if you select a code, do not choose a code that can easily be associated with you such as your name, date of birth or telephone number, and
- take care to prevent anyone else seeing the code when entering it into an Automatic Teller Machine (called *ATM*) or other electronic device.

Your liability for losses arising from failing to protect your codes will be determined in accordance with the Electronic Funds Transfer Code of Conduct (*EFT Code*) rather than the above guidelines. We will comply with the EFT Code. See the section 'Liability for unauthorised charges' for more details.

Permitted Uses

You may use your account, subject to any restrictions set out in this agreement, to pay for goods and services from merchants who accept the card (called *merchants*). Here are some examples:

- using your card to pay for goods and services by presenting the card to a merchant and complying with their request to sign or enter a code; and

- using your card or the account to pay for goods and services ordered from a merchant by telephone, internet or mail.

If permitted by the merchant, you may return to the merchant goods or services obtained using your account and receive a credit to your account.

Prohibited Uses

You must not:

- give your card or account number to others or allow them to use your card or account for charges, identification or any other purpose;
- return goods or services obtained using your account for a cash refund;
- use your card to obtain cash from a merchant for a charge recorded as a purchase;
- obtain a credit to your account except by way of a refund for goods or services previously purchased on your account;
- use your account if you are bankrupt or insolvent or if you do not honestly expect to be able to pay your closing balance on your next statement;
- use your card if you find or recover it after having been reported to us as lost or stolen;
- transfer balances from another account with us to pay your account;
- use your account if your card has been suspended or cancelled or after the valid date shown on the front of the card; or
- use your account for an unlawful purpose, including the purchase of goods or services prohibited by the laws of Australia or any other country where the card is used or where the goods or services are provided.

It is your responsibility to ensure that there is no prohibited use of your account by you and any supplementary cardmembers. You will be responsible for any prohibited use of your account even if we did not prevent or stop the prohibited use.

3. Statements

We will send or make available to you statements of account (called *statements*) periodically. We will normally send you or make available a statement once every month. Each statement will show important information about your account, such as the outstanding balance on the last day of the statement period (called

the *closing balance*), the payment due, the payment due date and will include charges made by you and any supplementary cardmembers. If your account is seriously overdue or the balance is less than \$10 or in credit, or there have been no transactions on your account, we may stop sending you statements.

Always check each statement for accuracy and contact us as soon as possible if you need more information about a charge on any statement.

If you have a complaint or problem with your statement or any charge on it, inform us immediately. If we request, you agree to promptly provide us with written confirmation of your complaint or problem.

If you are enrolled in online statements you agree that we may stop sending paper statements. You agree that any specific terms about online statements that we provide to you will apply and form part of this agreement.

4. Fees

The fees and commissions that apply to your account are set out and described in the Financial Table. You agree to pay these fees and commissions and you authorise us to charge them to your account when due.

5. Liquidated Damages

If you do not pay the full closing balance by the due date on your monthly statement, you are in default and you agree that we may charge you liquidated damages as specified in the Financial Table on any overdue amount. Liquidated damages may themselves be included in a future closing balance in any subsequent statement until paid in full.

6. Right to Change Fees, Liquidated Damages and Commissions

We reserve the right to change the circumstances in which any of the fees, liquidated damages or the currency conversion commission on your account are charged and the amount of those fees or commission. We will provide notice of any as set out in the "Changes" section of this agreement.

You agree that we may impose additional fees and commissions at any time by giving you notice as set out in the "Changes" section of this agreement.

7. Liability

You are liable and promise to pay to us, when due, all amounts outstanding on your account, which includes paying:

- charges on all cards issued to you and to any supplementary cardmembers even if there was no signature or card presented (including telephone, internet and mail orders) and even after cards have been cancelled and this agreement has been ended;
- charges made by any other person if you or any supplementary cardmember allowed them to use your account;
- charges made in breach of this agreement or fraudulently by you or permitted by you or any supplementary cardmember; and
- unauthorised charges related to a lost or stolen card or code being used by an unauthorised person under the circumstances set out in the "Lost and Stolen Cards and Misuse of Your Account" section of this agreement.

Supplementary cardmember not liable for charges from 1 June 2011

You authorise any supplementary cardmember to use your account and acknowledge that the supplementary cardmember is an authorised user of your account.

For charges made by a supplementary cardmember on and from 1 June 2011, the supplementary cardmember is not liable to us for any charges to your account and you will be solely liable for all charges made using a supplementary card.

For charges made by a supplementary cardmember prior to 1 June 2011, the supplementary cardmember is jointly and severally liable with you for all charges made with the supplementary card bearing their name.

8. Charge Approval

Unless we inform you of a spending limit, each charge is approved based on the expense level and credit history of all of your accounts established with us, our subsidiaries and affiliates and/or licensees, as well as on your credit history with other financial institutions and your personal resources and income known by us.

We may at our discretion decide and inform you of a *credit limit* applicable to your account which is the maximum amount which can be outstanding at any time on your account (including use by any supplementary cardmembers).

You agree to manage your account so that charges billed to your account do not exceed the credit limit.

9. Card is Our Property

Although you and any supplementary cardmember use cards on your account, all cards remain our property at all times. You may be asked to return the card to us or anyone we ask to take it on our behalf, including merchants. We may also inform merchants that your card is no longer valid.

10. Payments

Payments are due and payable to us on the date set out on your monthly statement, unless we notify you that it is due immediately.

Payments may be made by any of the methods set out in your statement. You must also comply with any instructions and requirements regarding payments as set out in your statement or that we otherwise provide you.

You must pay us in Australian Dollars. Payments will not be credited to your account until received, and cleared by us. Any time periods that we may provide are estimates only. Please make sure that you allow sufficient time for us to receive and clear payments by the payment due date even if the payment due date falls on a weekend or holiday. This includes mailing time for payments sent by mail and processing time for payments made using payment services offered by participating financial institutions (which you should check with the financial institution). We are not responsible for any delays in receiving payments and you must pay any charges which may apply. If you choose to pay by direct debit, you agree that any specific terms that we provide to you at enrolment will apply and form part of this agreement. Third parties involved in the sending or processing of payments such as postal authorities or financial institutions are not our agents and their receipt of a payment will not be considered a payment received by us.

We do not have to accept payments that do not conform to our requirements. If we accept payments

that do not conform to our requirements (for example, a payment made in a foreign currency), the payment may be delayed and will not be credited to your account until it is converted into the required form. We may charge your account for any costs we incur and we may impose additional charges for converting payment including the currency conversion commission as specified in this agreement.

If we accept late or partial payments or any payment described as being in full or in settlement of a dispute, we will not lose any of our rights under this agreement or the law including the right to recover the full balance owing.

Payments for your account must be sent separately from payments to any other account. If multiple payments are sent together or if you do not clearly designate your account to be paid, we may apply payments to any account at our sole discretion.

Although we may credit your account for a payment, we reserve the right to reverse the payment if it is returned or dishonoured for any reason.

If you do not make your payment as required or if there is a dishonoured payment, we may consider your account in default under the "Default" section of this agreement.

11. Allocation of Your Payments

We will normally apply payments to your account in the following order:

- first, to applicable delinquency charges, cash withdrawals, linked credit card account minimum dues, if any, purchases, in that order;
- second, to annual cardmembership fees, fees;
- third, to other fees charged by us that appear as a separate item on your monthly statement, for example, statement reprint; and
- fourth, to charges, other than those above, that have appeared on a monthly statement.

12. Payments to Third Parties

If your account application was obtained from a third party, such as a merchant or sales agent, or if your account or the card is co-branded with another business, we may pay compensation to them although the amount of compensation may be unascertainable at this time.

13. Charges Made in Foreign Currencies

If you make a charge in a currency other than Australian Dollars that charge will be converted into Australian Dollars. The conversion will take place on the date the charge is processed by us, which may not be the same date on which you made your charge as it depends on when the charge was submitted to us. If the charge is not in U.S. dollars, the conversion will be made through U.S. dollars, by converting the charge amount into U.S. dollars and then by converting the U.S. dollar amount into Australian Dollars. If the charge is in U.S. dollars, it will be converted directly into Australian Dollars.

Unless a specific rate is required by applicable law, you understand and agree that the American Express treasury system will use conversion rates based on interbank rates that it selects from customary industry sources on the business day prior to the processing date, increased by a single conversion commission as set out in the Financial Table or as otherwise disclosed by us. If charges are converted by third parties prior to being submitted to us, any conversions made by those third parties will be at rates and may include a commission selected by them.

The amount of any refund of a charge made in foreign currency will generally differ from the amount of the original charge because:

- in most cases, the rate applied to any refund will differ from the original rate applied to the charge; and
- any currency conversion commission charged on the original purchase is not refunded. However, we do not charge an additional currency conversion commission on the refunded amount.

14. Supplementary Cardmembers

At your request, we may issue a card on your account to another person (called a supplementary cardmember).

Supplementary cardmembers must be aged at least 18 years. We may limit the number of supplementary cards issued on one account. We generally do not provide copies of agreements, statements, notices and other communications to a supplementary cardmember. You acknowledge that we will provide information to a supplementary cardmember about their use of the account (for example their charges).

Please see the "Liability" section of this agreement regarding the liability of a supplementary cardmember

for charges made by that supplementary cardmember. You agree and are responsible to ensure that each supplementary cardmember reads, understands and complies with this agreement including the Financial Table and any notices and other communications that we may send to you.

To cancel a supplementary card, please see the "Default/Closing Your Account" section of this agreement.

15. Use of Cash Machines

The Express Cash™ Program is governed by one or more agreements separate from these conditions.

16. Recurring Charges

You or a supplementary cardmember may authorise a merchant to bill your account at regular intervals for goods or services (called *recurring charges*). Here are some important things that you need to know about recurring charges and your account.

Replacement Cards and Cancelled Cards

A replacement or new card (called a *replacement card*) may be issued to you if your card is lost, stolen, damaged, cancelled, renewed or switched to a different card type. Your card may also be cancelled or no further charges permitted without a replacement card being issued (called a *cancelled card*).

In order to avoid potential disruption of recurring charges and the provision of goods or services by the merchant in the case of a replacement card or cancelled card, it is always your responsibility to contact the merchant and provide replacement card information or make alternate payment arrangements. You agree to be responsible for any recurring charges that may continue to be charged to your account from a card that has been replaced or cancelled.

Recurring charges may be automatically charged to a replacement card without notice to you.

Please note that we do not normally provide replacement card information (such as card number and card expiry date) to the merchant.

Stopping Recurring Charges

To stop recurring charges being billed to your account, you must have the right to do so by law or under your

arrangement with the merchant and you must advise the merchant in writing or in another way permitted by the merchant, to stop billing charges to your account.

Our Enrolment Services

If we permit, you or a supplementary cardmember may authorise us or our agent to enrol you with a merchant for recurring charges. You will remain responsible to make other payment arrangements until the recurring charges begin to be applied to your account. We are not responsible for any failure to enrol your account for recurring charges or if the merchant fails to charge your account. The paragraph "Stopping Recurring Charges" above also applies if you or a supplementary cardmember uses our enrolment services.

17. Authorisation

We may require charges to be authorised by us before they are accepted by a merchant. We may refuse any request for authorisation of a charge on reasonable grounds, including for example and without limitation where the value of charge exceeds the available credit balance, where we suspect the charge is fraudulent, is subject to Australian or United States sanctions or does not comply with this agreement, or where we reasonably believe that you may be unable to fulfil your obligations under this agreement.

18. Renewal and Replacement Cards

You authorise us to send you and any supplementary cardmembers a renewal card or a replacement card before the current card expires. You must destroy any expired cards by cutting them up. This agreement as amended or replaced continues to apply to any renewal or replacement cards we issue.

19. Privacy

The collection, use and disclosure of your information by us is regulated by the Privacy Act. Our Privacy Statement sets out policies on the management of your personal information. In particular, it sets out policies dealing with:

- The collection, use and disclosure of your credit information and personal information.
- How you can access your personal information.
- How you can opt-out from our marketing lists.

A full copy of our Privacy Statement is provided at the end of this agreement.

20. Additional Services

We may make available additional services or benefits which will be subject to separate terms and conditions. Examples of services or benefits include insurance, assistance services, rewards programs and merchant offers.

We may receive compensation from additional service providers and our compensation may vary by provider and product. Your account will be charged for any fees or premiums that may apply for services and benefits.

Services and benefits that are provided by third parties are subject to the terms and conditions set by the third party and any dispute must be settled directly with the third party. Services and benefits may be changed or cancelled with or without notice. We are not responsible for any service or benefit not directly provided by us.

If your account is closed, it will be your responsibility to obtain replacement services and benefits or make new payment arrangements with the third party if the service is still available.

21. Insurance

We identify insurance providers and products that may be of interest to some of our customers. In this role we do not act as an agent or fiduciary for you and we may act on behalf of the insurance provider, as permitted by law.

We receive compensation from insurance providers and our compensation may vary by provider and product. Also, in some cases, an entity that is affiliated with us may be the insurer or reinsurer and may earn insurance or reinsurance income. The arrangements we have with certain providers, including the potential to reinsure products, may also influence what products we identify.

We do not require you to purchase any insurance product, and you may choose to cover your insurance needs from other sources on terms they may make available.

22. Lost and Stolen Cards and Misuse of Your Account

You must tell us immediately by telephone at the contact number set out at the front of this agreement if:

- a card is lost or stolen;
- a renewal card has not been received;

- someone else learns a code; or
- you suspect that your account is being misused.

If a card that you have reported lost or stolen is later found, you must destroy it and wait for the replacement card.

23. Liability for unauthorised charges

Unauthorised electronic charges – when you have no liability

You will not be liable for unauthorised electronic charges:

- where it is clear that you have not contributed to the loss;
- that are caused by the fraudulent or negligent conduct of our staff or agents, companies involved in networking arrangements, or merchants or of their agents or employees;
- that happen with a card after notification to us that the card has been misused, lost or stolen or that the security of the relevant code has been breached;
- that happen before you receive the cards and codes;
- that are made with forged, faulty, expired or cancelled cards or numbers (as applicable); or
- that are the result of the same transaction being incorrectly debited more than once to the same account.

Unauthorised electronic charges – when you are liable

You will be liable for unauthorised electronic charges where we can prove on the balance of probability that you have contributed to the losses through:

- fraud;
- voluntarily disclosing the relevant code to anyone, including a family member or friend;
- indicating the relevant code on the card;
- keeping a record of the relevant code (without making any reasonable attempt to protect the security of the relevant code) with any one article or several articles carried with the card or liable to loss or theft simultaneously with the card;
- when selecting or changing a relevant code, choosing a relevant code which represents as a numeric code the cardholder's birth date or an alphabetical code which is a recognisable part of the cardholder's name

after we or our agents have asked you not to select such a code and told you of the consequences of doing so;

- acting with extreme carelessness in failing to protect the security of the relevant code, you will be liable for the losses which occur before we are notified of the unauthorised use, loss or theft of the card or breach of code security.

Where we prove on the balance of probabilities that you have contributed to losses resulting from an unauthorised electronic charge by unreasonably delaying in notifying us of the unauthorised use, loss or theft of the card or that the relevant code has become known to someone else, you will be liable for the losses which occur between when you became aware of the loss, theft or unauthorised use (or should reasonably have become aware in the case of a lost or stolen card) and when we were actually notified.

However, even if we prove on the balance of probabilities that you have contributed to a loss resulting from an unauthorised electronic charge you will not be liable for:

- that portion of the loss incurred on any one day which exceeds any applicable daily transaction limits;
- that portion of the loss incurred in a period which exceeds any other periodic transaction limits applicable to that period; or
- that portion of the loss on your account which exceeds the available balance.

Unauthorised electronic charges – when you have limited liability

Where a code was required to authorise the unauthorised electronic charge and we do not prove that you have contributed to the losses, your liability for any loss arising from an unauthorised charge is limited to the lowest of:

- AU\$150;
- your available balance; and
- the actual loss at the time we are notified of the misuse, loss or theft of the card or of the breach of security of the code (excluding that portion of the loss incurred on any one day which exceeds the applicable daily transaction limit).

Unauthorised charges which are not electronic charges

For unauthorised charges which are not electronic charges, provided that you complied with this agreement including the section "Use of your Card(s)/Codes" and provided that you did not contribute to, were not in any way involved in or did not benefit from the theft, loss or misuse of the card then you will not be liable to us for any unauthorised charges (that are not electronic charges), unless you have delayed notifying us, in which case you will be liable for all unauthorised charges until you did notify us.

If you did not comply with this agreement, or if you contributed to, were involved in, or benefited from the loss, theft or misuse, you are liable for any charges (that are not electronic charges) for example, if you gave your Card to another person to use.

24. Changes

In addition to our right to change fees and charges, and to introduce new fees and charges, set out in the "Fees" section of this agreement we may:

- impose, remove or adjust a daily or other periodic transaction limit applying to the use of a card, an account or electronic equipment;
- change your liability for losses relating to unauthorised charges (provided the change is consistent with the EFT Code);
- change benefits and services associated with the account;
- change any other provision of this agreement.

We will inform you in accordance with the "Communicating With You" section of this agreement and in accordance with applicable law. We will give you at least 20 days advance written notice for any other changes to this agreement, except where the change reduces what you have to pay (or is otherwise in your favour) or the change happens automatically under the contract.

If you are dissatisfied with any change to this agreement, you may cancel your agreement as set out under the "You May Close Your Account" section of this agreement. We will give you a pro-rated refund of any annual fee if you cancel this agreement as a result of a change that we have made to your detriment and such cancellation is communicated to us within 30 days of our notifying you of that change.

If we have made a major change or a lot of minor changes in any one year, we may give you an updated copy of this agreement or a summary of the changes.

25. Assignment

Transfer by us

We may assign any of our rights under this agreement. We may also transfer our obligations under this agreement to any third party provided we are satisfied that there will be no detriment to you in the transfer.

You agree that we may disclose any information or documents we consider necessary to help us exercise any of these rights.

Transfer by you

Your rights under this agreement are personal to you and may not be assigned without our written consent.

26. Severability

If any provision of this agreement conflicts with any applicable law or regulation, that provision will be deemed to be modified or deleted so as to be consistent with law or regulation. This will not affect the parties' obligations which will continue as amended.

27. Suspension

We may on reasonable grounds immediately stop you or any supplementary cardmember from using the card or we may refuse to authorise a charge. For example, we may do so where the available credit balance has been exceeded, or where we suspect that a charge is fraudulent, or does not comply with law or this agreement, or where we reasonably believe that you will be unable to comply with your obligations under this agreement. We will notify you as soon as reasonably practicable of such a suspension. This agreement will continue if we take either of these actions and you will still be responsible for all charges on your account.

28. Default/Closing Your Account

Default

We may treat your account as being in default at any time in the event that you fail to comply with your obligations under this agreement such as failure to make any payment when it is due or if any form of payment is returned or not honoured in full.

We may also consider your account to be in default

at any time if any statement made by you to us in connection with your account was false or misleading, you breach any other agreement that you may have with us or with any of our affiliates, or if bankruptcy or other creditor proceedings are threatened or initiated against you.

The inclusion of previously billed charges and/or any portion of dishonoured payments shown on a statement will not constitute a waiver by us of any default.

In the event of any default, you will also be responsible for all reasonable costs incurred by us or our agents including collection, collection agency, and legal adviser fees and costs, in recovering any amounts unpaid and in protecting ourselves from any harm we may suffer as a result of the default.

You May Close Your Account

You may end this agreement at any time by paying off all amounts owing on your account, destroying all cards issued on your account and stopping use of your account and requesting the closure of your account.

We will only close your account when you have paid off all amounts you owe us. All fees continue to accrue if outstanding balances exist on a cancelled card. You can cancel a card issued to a supplementary cardmember by informing us.

We May Close Your Account or Cancel Any Card

We can immediately end this agreement or cancel any or all cards or other loans if:

- You are in default or at any time.
- We suspect any illegal use of the card.
- We are required to do so by law.
- We have reason to believe that you may no longer be creditworthy.

We may also terminate this agreement at anytime with 30 days notice.

If we take such action, you will still be obligated to pay all amounts owing on your account.

If we end this agreement you must pay all money you owe us immediately, including unbilled charges that may not be shown on your last statement. We will only close your account when you have paid off all amounts you owe us.

If your card is cancelled for any reason, all other cards issued to you will be cancelled at the same time.

You will continue to be responsible for all charges made using your account, including recurring charges until your account is no longer used and any recurring charges are stopped.

29. Communicating With You

We may communicate with you by any commonly used method of communication including by mail or otherwise delivered to you at the address which is maintained in our records for your account, telephone, mobile phone, email, SMS, facsimile, posting on an American Express website (including www.americanexpress.com.au or within your *online account* on such a website, through links provided on a statement or other notice, using other electronic communication channels or any combination of these. To access communications provided through your *online account*, you must register and select a *User ID* and *Password*. Our communications with you may include account servicing messages, statements, disclosures, notices (which include changes to this agreement and collection notices), alerts, information about products and services and other communications.

Statements, changes to this agreement and regulatory disclosures and notices will be sent to you in writing and will be mailed or delivered to you at the address which is maintained in our records for your account unless you enrol to receive such communications electronically.

If you enrol to receive such statements, disclosures and notices electronically, you agree that:

- we may stop sending you paper versions of these communications;
- these communications will be considered to have been provided in writing; and
- it is your responsibility to access and check your electronic communications regularly for statements and other communications.

You may withdraw your enrolment in an electronic statement service and request that we send you paper statements and other communications at any time by contacting us.

All mailed communications that we send to you will be deemed to have been received by you 7 business days after the date of the mailing unless you actually receive it earlier or when received in the case of a communication delivered by hand. All electronic communications that we provide including a statement will be deemed to

have been received by you on the day that we send the notification email or SMS, post the electronic communication and/or make the communication available within your *online account* even if you do not access the electronic communication for any reason, and/or post the electronic communication even if you do not access the electronic communication for any reason.

You must inform us immediately if you change the address or other contact information (such as postal or email address, telephone or mobile phone number) you have given to us, including any changes to supplementary cardmember details. If we have been unable to deliver any statements or other communications or these have been returned, we may stop attempting to communicate with you until we receive accurate contact information. We are not responsible for any failure to receive any communication (including a statement) if we send it to the address or in accordance with other contact information for your account appearing in our records or if we do not send the communication because previous communications have been undeliverable. You must inform us if you want an address or other contact information to apply to more than one account with us.

You must also inform us of any changes to other information previously provided to us such as information you provided when you applied for your account. You also agree to give us any additional information and support documentation that we request or as required by law.

30. No waiver of our rights

If we fail to exercise any of our rights under this agreement, this will not be a waiver of our rights and will not prevent us from exercising them later.

31. Complaints and Problems With Goods or Services Purchased

If you have a complaint or problem with a merchant or any goods and services charged to your account, you must still pay all charges on your account and settle the dispute directly with the merchant.

32. Assignment of Claims

Although we may have no obligation to do so, if we credit your account in relation to your claim against a third party such as a merchant, you are automatically

deemed to have assigned and transferred 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 credited to your account. After we credit your account, you agree not to pursue any claim against or reimbursement from any third party for the amount that we credited to your account. You also agree to cooperate with us if we decide to pursue a third party for the amount credited. Cooperation includes signing any documents and providing any information that we require. Crediting your account on any occasion does not obligate us to do so again.

33. Examples

When we provide examples in this agreement, they do not limit the provisions of this agreement. The terms *"includes," "such as"* and *"for example"* mean, respectively, *"includes without limitation," "such as but without limitation"* and *"for example but without limitation"*.

34. Governing Law

This agreement is governed by the laws of the State or Territory of Australia as stated on your billing address or if your billing address is overseas, as stated on your last known Australian billing address and the courts of that State or Territory shall have jurisdiction over all parties to the agreement.

35. Taxes, Duties and Exchange Control

You must pay any government tax, duty or other amount imposed by law in any country in respect of the card, any charge on your account or any use of the account by you or any supplementary cardmember.

36. Limitation of Our Liability

We are not responsible or liable to you or any supplementary cardmember for:

- any delay or failure by a merchant to accept the card;
- our refusal to authorise a charge;
- goods and services you charge to your account, including any dispute with a merchant about goods and services charged to your account; and
- except in relation to our liability as set out in the EFT Code of Conduct, loss of profits or any incidental, indirect, consequential, punitive or special damages regardless of how they arise.

For example, we will not be liable to you for any refusal by a merchant to accept the card.

If any warranties or conditions are implied under the Australian Securities and Investments Commission Act 2001 or any similar law in respect of goods or services supplied under this agreement or in connection with a Card, then our liability for a breach of any such warranty or condition is limited to:

- in the case of goods, the replacement cost of the goods, the supply of equivalent goods, the repair of the goods, or the cost of having the goods repaired; and
- in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

37. Complaints

What you should do?

If calling within Australia you can call us 24 hours a day on 1300 736 659. If overseas, call us collect (reverse charges) to Australia on +61 2 9271 2542.

If the problem cannot be resolved immediately to your and our satisfaction we will advise you in writing of our procedures for investigation and resolution of the complaint.

You also agree that, when requested, you shall provide all the reasonable assistance and relevant information, including written statements, to us and/or the Police in relation to your claim of unauthorised charges.

By reporting the existence of unauthorised charges, you agree to allow us to release any information that you have provided which is subject of an investigation of unauthorised charges to the Police and any other investigative or statutory authority.

Our dispute resolution procedures for unauthorised electronic charges

Where the dispute relates to an electronic charge, the following dispute resolution procedures apply.

If we are unable to settle your dispute immediately to your satisfaction, we will advise you in writing of the procedures for further investigation and resolution and we may request further relevant details from you.

Within 21 days of receiving these further relevant details from you, we will:

- advise you in writing of the results of our investigation; or
- advise you in writing that we require further time to complete our investigation.

Where an investigation continues beyond 45 days, we will inform you of the reasons for the delay and provide you with monthly updates on the progress of the investigation and a date when a decision can reasonably be expected, except in cases where we are waiting for a response from you and you have been advised that we require such a response.

If we find that an error was made, we will make the appropriate adjustments to your account including fees or charges (if any) and will advise you in writing of the amount of the adjustment.

When we advise you of the outcome of our investigations, we will:

- give you reasons in writing for our decisions by reference to this agreement and, where it applies, the EFT Code; and
- advise you in writing of any adjustments we have made to your account.

If we decide that you are liable for all or any part of a loss arising out of unauthorised charges on your account, we will:

- give you copies of any documents or other evidence we relied upon; and
- advise you whether or not there was any system or equipment malfunction at the time of the transaction.

If we fail to carry out these procedures or cause unreasonable delay, we may be liable for part or the entire amount of the disputed transaction where our failure or delay has prejudiced the outcome of the investigation.

If you are not satisfied

If you are not satisfied with the outcome of our investigation you may either pursue your complaint with the Financial Ombudsman Service. You can contact them on 1300 78 08 08 or write to them at GPO Box 3, Melbourne VIC 3001.

American Express Privacy Statement

Please note: If you do not agree to the matters set out in this notice, we will be unable to provide certain benefits associated with your account and we may close your account. Our collection, use and disclosure of information is subject to the Privacy Act.

Collection, use and disclosure of credit information

We may obtain both consumer and commercial credit reports about you from a credit reporting agency to assess this application, to collect overdue payments from you, or for any other use in connection with your account as permitted under the Privacy Act 1988.

We may disclose information about you to credit reporting agencies before, during or after credit is provided to you. This includes:

- the fact that you have applied for a Card and the credit limit, and that American Express is a credit provider to you;
- advice about Card payments that are at least 60 days overdue and in collection (and advice that payments are no longer overdue);
- advice that cheque(s) drawn by you, or Direct Debit requests to your financial institution account which you have authorised American Express to make, which are more than \$100 have been dishonoured more than once;
- American Express' opinion that you do not intend to meet your credit obligations or that you have committed some other serious credit infringement; and
- that credit provided to you has been paid or otherwise discharged.

We may exchange information about you with credit providers named in your application or in a credit report issued by a credit reporting agency. Among other things, this is to:

- assess your credit worthiness as to this and future applications by you for credit;
- notify other credit providers of a default by you;
- exchange information about your account when you are in default with other credit providers;
- complete any approval process as to any transactions you wish to make on your account; and
- administer your account.

We may also exchange information about you, including from credit reports, with any person considering whether to act as a guarantor in relation to this and future applications by you for credit.

Collection, use and disclosure of personal information

We collect personal information about you in a number of ways, including from:

- you, including in your credit application and when you use your account (e.g. when you make a purchase using your account) or one of our websites;
- people named in your credit application (e.g. your employer); and
- service providers which service your account or provide services to us (e.g. marketing agencies, mail houses and collection agents).

Your personal information is collected, used and disclosed for purposes that include:

- assessing your application and administering and managing your account;
- providing you with special offers or benefits and marketing our products and services;
- planning, product development and research;
- modelling and assessing risks and preventing or investigating fraud and other crime; and
- complying with legislative and regulatory requirements, including for identity verification purposes.

For the purposes set out in this notice, we may share your personal information with:

- persons (e.g. additional Cardholders) you authorise to use or access your account;
- persons named in your application (e.g. to confirm employment and income details);
- service providers who provide services related to your account (e.g. Card manufacturers, collection agents and mail houses); and
- other organisations, including government and regulatory bodies, for identity verification purposes or as required or authorised by law
- organisations whose name, logo or trademark appears on the application for the account or on the Card for marketing, planning, product development and research purposes and seek from and exchange

with such organisations personal information about you

- our related companies for the purposes set out in this notice; and
- the provider of any payment service you use to make payments to American Express.

We may also monitor and record your telephone conversations with us for staff training and service quality control purposes. We may transfer your personal information to the United States or other countries for data processing and servicing.

How we store your personal information

We store personal information in a combination of secure computer storage facilities and paper based files and other records. We have taken a number of steps to protect the personal information we hold from misuse, loss and unauthorised access, modification or disclosure. We use generally accepted technology and security so that we are satisfied that your information is transmitted safely to us through the internet or other electronic means. We will take reasonable steps to securely destroy or permanently de-identify personal information when we no longer need it.

Further Information

For more information about our privacy policy, to arrange access to your personal information, to advise us if you think your personal information is inaccurate, incomplete or out of date or to enquire generally about privacy matters, contact:

The Privacy Officer
American Express Australia Limited
GPO Box 1582
Sydney NSW 2001
Phone: 1300 13 2639

Information about other persons

If you provide personal information about someone else to us, you must make sure that the individual has seen, understood and agreed to:

- their personal information being collected, used and disclosed in accordance with this notice;
- their ability to access that information in accordance with the *Privacy Act 1988* and to advise us if they think the information is inaccurate, incomplete or out of date; and

- the contact details of our privacy officer.

Your invitation (or your opt-out)

You and any Supplementary Cardholders invite us, our agents and our preferred alliance organisations (including insurance companies) to use your personal information to inform you of and offer products or services from us or a related company, or any third party providing products marketed jointly with us. We may contact you by phone, mail or electronically to do this. If you wish to withdraw this invitation and remove your name from the American Express marketing list, call us on 1300 132 639. This invitation will remain in place until you withdraw it or until twelve months after you cease being an American Express Cardmember.

FINANCIAL SERVICES GUIDE

This Financial Services Guide is issued by:
American Express Australia Limited (ABN 92 108 952 085)
Australian Financial Services Licence No. 291313.

Definitions

Throughout this document the following words have special meanings:

“American Express, we, us” means American Express Australia Limited.

“You” means the person to whom this Financial Services Guide has been provided.

Welcome to American Express

This Financial Services Guide (FSG) is designed to help you decide whether to use the financial services we provide and explains:

- the products and services we can offer you;
- how we, and others, are remunerated for the services offered to you; and
- our internal and external complaints-handling procedures.

This FSG is one of a number of documents that our representatives may supply to you when we provide financial services to you.

For certain financial products which we offer to you or about which we give you financial product advice, we will give you a Product Disclosure Statement (PDS) for that product. This PDS will assist you in making an informed decision about a particular product and contains a range of general information about the

product being offered, including:

- the significant features and characteristics of the product;
- the significant benefits and risks associated with holding the product;
- information about the cost of the product; and
- information about any cooling-off rights applicable in relation to the product.

If we provide personal financial product advice, we will also give you a Statement of Advice (SOA).

A SOA is a document that records the personal advice we have given to you as well as the information on which that personal advice was based, including information about fees, commissions and any associations which may have influenced the advice.

Customer instructions

Depending on the financial product or service that we supply to you, you may provide us with instructions verbally, in writing, by facsimile or by other electronic means.

We generally require your signature for verification. However, depending on the product or service, special arrangements may be in place to receive your instructions by facsimile, telephone or electronically.

Please refer to the relevant Product Disclosure Statement for each particular financial product for further information.

Products and services which American Express is licensed to provide

American Express holds an Australian Financial Services Licence. This licence authorises American Express to deal in and provide advice and services in relation to life risk and general insurance products.

For each of these products, we can provide general financial advice. Our general advice does not take into account your personal objectives, financial situation or needs.

American Express generally does not provide personal financial advice.

In addition, American Express also offers the following products which do not meet the definition of a financial product under the *Corporations Act* (Cth):

- Credit Cards and Charge Cards (personal and business);
- Merchant transaction acquiring; and
- Personal lending.

In relation to these services, you will not receive a Product Disclosure Statement and certain other processes contained within this document may not apply.

American Express may offer products of other issuers

If we sell to you products issued by other product issuers, we generally act on behalf of that other product issuer. American Express acts on behalf of other issuers when it sells life risk insurance and general insurance (including travel insurance).

What remuneration do we receive for providing the financial services?

Third parties

American Express may receive commissions and other remuneration or benefits for selling financial products on behalf of third parties or for successfully referring a customer of American Express or a related company of American Express to a third party. Details of this remuneration are as follows:

General insurance issued by ACE Insurance Limited	Up to 45% of the premium is received from ACE Insurance Limited
Life risk insurance issued by TOWER Australia Limited	Up to 17% of the premium is received from AEGON Direct Marketing Services Australia Pty Limited
Life insurance issued by MetLife Insurance Limited	Up to 35% of the premium is received from MetLife Insurance Limited

American Express identifies insurance providers and products that may be of interest to some of our Cardmembers. In this role, we do not act as an agent or fiduciary for you, and we may act on behalf of the insurance provider, as permitted by law. We want you to be aware that we receive commissions from providers and commissions may vary by provider and product.

Also, in some cases, an American Express entity outside of the country may be the reinsurer and may earn reinsurance income. The arrangements we have with certain providers, including the potential to reinsure products, may also influence what products we identify. We do not require you to purchase any insurance product, and you may choose to cover your insurance needs from other sources on terms they may make available to you.

Remuneration or other benefits received by American Express team members

All American Express team members receive a salary. Some team members may also receive commissions or other benefits in addition to their salary. The payment of commissions or other benefits generally arises where team members are engaged in roles which are related to providing advice or selling a financial product or otherwise affiliated with an area of American Express which is involved in the selling of a financial product or service.

American Express team members may receive these commissions or benefits in one or more of the following ways:

- payments for reaching sales targets generated either by their own sales or through the achievement of sales targets by their team or business unit;
- payments for each policy opened or for each service provided; and
- payments based on the total value of products sold or volume of sales transacted by an account opened by a team member.

Benefits are usually monetary but may also be non-monetary. American Express pays monetary benefits directly to the eligible team member.

Non-monetary benefits may include, amongst other things, shares, options, discounted (or prepaid) travel or accommodation and gift vouchers.

Payment of benefits to those who refer customers to American Express

American Express may pay to related companies or external parties who refer customers to American Express a commission or other benefit. Such payments could be in the form of a single one-off payment or other benefit, or otherwise a payment calculated as a percentage of the total amount of sales generated.

Compensation arrangements

American Express has professional indemnity insurance and internal procedures in place which satisfy the requirements under s912B of the *Corporations Act 2001* ("the Act"). The insurance covers losses incurred by individuals and small businesses arising out of a breach by American Express of its obligations under Chapter 7 of the Act. This policy covers the professional services provided by employees and representatives of American Express even where that employee or representative has subsequently left the employment of American Express.

Privacy and personal information

American Express is proud of its reputation for, and commitment to, safeguarding information about its customers. The American Express Customer Privacy Principles have been in place for many years and provide a minimum standard, which applies throughout the American Express group of companies worldwide. In Australia, we adhere to the National Privacy Principles and the *Privacy Act 1988* (Cth). A copy of our Privacy Policy Statement is located on our website at americanexpress.com.au/privacy or may be obtained by contacting us.

Who should you contact if you have a complaint regarding the provision of financial services by American Express?

American Express is committed to customer satisfaction as part of its service philosophy. American Express has established internal procedures to resolve complaints, whilst also being a member of an external dispute resolution scheme.

If you have a complaint about the provision of our financial services, please take the following steps:

- Please direct your complaints, in the first instance, to the point of purchase. In the case of complaints regarding general insurance (including travel insurance) or life risk insurance, please contact the insurance company or their agent directly.
- If your complaint is not satisfactorily resolved within twenty (20) business days, please address your complaint in writing to:

The Complaints Manager
American Express Australia Limited

Charge Cards
GPO Box 1582
Sydney NSW 2001

- American Express makes every endeavour to resolve complaints in a prompt and fair manner, having regard to the law. If, however, you continue to remain dissatisfied with American Express' decision, you may seek to have your complaint considered by the Financial Ombudsman Service, an independent, external dispute resolution body. Please note that the Ombudsman will refer you to American Express if you didn't first raise your complaint with us.

You may contact the Ombudsman by the following means:

Mail: Financial Ombudsman Service
GPO Box 3
Melbourne VIC 3001

Telephone: 1300 78 08 08

Fax: +61 3 9613 7345

Internet: www.fos.org.au

The Australian Securities and Investments Commission also has an Infoline on 1300 300 630 which you may use to make a complaint and obtain information about your rights.

Contacting us

You can contact American Express in the following ways:

Mail: American Express Australia Limited
Charge Cards
GPO Box 1582
Sydney NSW 2001

Telephone: 1300 13 2639



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