

American Express Business Credit Card Card Member Agreement

Effective 1 June 2019



Postal Address

American Express Australia Limited
Card Member Services
GPO Box 1582
Sydney NSW 2001

**Lost or Stolen Cards
in Australia**

Telephone 1300 13 2639

Overseas

Report your loss or theft to the nearest
American Express Travel Service location
or 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 Card 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.

You and *your* mean the person who applied for this account but does not include an Employee Card Member. *We*, *us* and *our* mean American Express Australia Limited (ABN 92 108 952 085). *Business* means the business entity (whether a company, partnership, sole trader, trust or other organisation) which is liable to us, jointly and severally with you for all charges to the account and whose name may appear on the Card with your name. *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, commissions, interest, taxes and all other amounts you and the business have agreed to pay us or are liable for under this agreement. *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, the business and any Employee Card Members 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 Employee Card Members and the business are aware of these terms.

An Employee Card Member is jointly and severally liable with you and the business for all charges made by that Employee Card Member. Please see the “Employee Card Members” section of this agreement for additional details.

This agreement contains an arbitration clause which provides that any claim or dispute relating to your account, this agreement or other agreement with us, will be resolved by arbitration. Please refer to the “Arbitration” 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 Liability” section of this agreement for additional details

Use of your Card(s)/Codes

To prevent misuse of your account, you must ensure that you and any Employee Card Members:

- 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, telephone codes, online passwords and any other codes approved by us to be used on your account (called *codes*), you must ensure that you and any Employee Card Members:

- 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.

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 we agree, you may also use your account to obtain cash advances. For example, you may obtain cash advances at any ATM that accepts the Card.

If we agree, you may be permitted to transfer balances to your account. For example, we may permit you to transfer balances from Cards issued by other financial institutions by using our telephone or online services.

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;
- use your Card for amounts that do not represent bona fide sales of goods or services, e.g. purchases at Merchants that are owned by you (or your family members) or employees or any other person contrived for cash flow purposes;
- 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 or the business are bankrupt or insolvent or if you and the business do not honestly expect to be able to pay your minimum payment 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, the business and any Employee Card Members. You and the business will be responsible for any prohibited use of your account even if we did not prevent or stop the prohibited use.

Credit Limit

We will at our discretion and in compliance with applicable law, decide and inform you of the *credit limit* applicable to your account, which is the maximum amount which can be outstanding on your account at any time (including use by any Employee Card Members).

You and the business agree to manage your account so that the outstanding balance (including interest and fee charges) on your account does not exceed the credit limit. However, we may approve charges that result in your balance exceeding your credit limit (*an over-limit amount*). This does not constitute an increase in your credit limit. If you have an over-limit amount, an over-limit fee is payable as set out in the Financial Table and, if requested, you and the business must immediately pay to us all amounts that exceed the credit limit.

Changes by you: You may request, and we may agree, in our discretion and subject to you providing the information we request, to increase your limit at any time. You may request, and we will agree to reduce your credit limit at any time.

Changes by us: You acknowledge that we may reduce your credit limit at any time. We will give you notice of such a reduction as soon as reasonably practicable.

Balance Transfers

From time to time we may promote balance transfers. When we do, we will specify the terms and conditions that apply. If we agree to your request for a balance transfer, then:

- where you are transferring a balance from another financial institution we will charge the amount of the balance transfer to your account and pay the other financial institution; and
- you cannot stop payment of a balance transfer once requested.

Please note the following:

- you cannot transfer balances between your American Express accounts using a balance transfer;

- we reserve the right to refuse a balance transfer request even if your account is not in default; and
- you must comply with any additional terms and conditions that we provide to you.

Statements

We will send you statements of account (called *statements*) periodically. We will normally send you 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 minimum payment due and the minimum payment due date, and will include charges made by you and any Employee Card Members. If your account is seriously overdue or inactive or the balance is less than \$10 or in credit, 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 enrol 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.

GST Itemisation on Statements

The Australian Taxation Office has issued legislative instruments which provides that Business Card Members of American Express Australia Limited can use their Business Card Statements including electronic data files, to support their claim for input tax credits without holding a tax Invoice or adjustment note, provided certain requirements are provided and the respective legislative instruments are met. The necessary requirements are set forth in the following legislative instruments (or any updates to the following);

1. Goods and Services Tax: Waiver of Tax Invoice Requirement (Corporate Card Statements) Legislative Instrument (No.1) 2008; and
2. Goods and Services Tax: Waiver of Adjustment Note Requirement (Corporate Card Statements) Legislative Instrument (No.1) 2008.

In respect of the transactions where GST amount paid or payable is shown, the Business Card Statements issued by American Express Australia Limited generally meets the information requirements of the above legislative instruments. In circumstances where no GST breakdown has been provided, you are advised to obtain a tax Invoice or adjustment note to support your GST input tax claims. In addition, an adjustment note is also still required where an increasing adjustment to a GST input tax claim has been made. It is advised to consult your accountant or tax advisor to assess the accuracy of your GST input tax claims.

Minimum Payment

You and the business agree to pay us at least the minimum payment requested by the due date shown on your statement. If we request, you and the business also agree to pay us any over-limit and overdue amounts immediately.

If you do not receive a statement in any month, for example as a result of postal delay or interruption, you must contact us to check what minimum payment is due and the due date.

The minimum payment is set out in the Financial Table.

You can always pay us (i) more than the minimum payment, (ii) before the due date, (iii) more often than once a month, or (iv) the outstanding balance at any time.

Please note that a credit to your account, for example as a result of return of goods to a merchant or a service fee credit, does not constitute a payment to your account and does not satisfy the requirement to pay the minimum payment due.

Fees

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

Right to Change Fees and Commissions

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

You and the business 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.

Liability

You and the business are liable jointly and severally 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 Employee Card Members 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 Employee Card Member allowed them to use your account;
- charges made in breach of this agreement or fraudulently by you or permitted by you or any Employee Card Member; 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. Employee Card Member jointly and severally liable only for own charges. Any Employee Card Member is jointly and severally liable with you and the business to pay to us when due all charges on this account made by that Employee Card Member.

Payments

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 interest or 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.

Allocation of Your Payments

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

- overdue amounts collections then recovery fees;
- interest;
- late, over-limit then dishonoured payment fees;
- annual membership fees (if payable);
- other fees for services provided by us that appear as a separate item on your monthly statement, for example, statement reprint fees;
- consumer credit insurance premiums;
- balance transfers;

- other amounts that have appeared on your monthly statement; and
- any amounts that have not yet appeared on your monthly statement.

Within any category of items, we apply payments first to the item with the lowest interest rate or, for items on the same interest rate, first to the oldest item.

Interest

Each time you or any Employee Card Member charge purchases, cash advances, balance transfers and other charges to your account, we make a loan to you and the business; and also to any Employee Card Member for purchases made by that Employee Card Member.

How do you receive an interest grace period for purchases?

Interest will not be charged on purchases and you will have an interest grace period for purchases of the number of days set out in the Minimum Payment section in the Financial Table from the *statement date* on your statement to the payment due date (*due date*), or as otherwise notified to you if every month we receive payment in full by the minimum payment due date (*due date*).

Payment in full is identified as the *closing balance* on your statement and is made up of all charges to your account (including purchases, cash advances, balance transfers) up to end of the statement period.

Interest on purchases

If we do not receive payment in full of all charges by the due date shown on your current statement, you will lose your interest grace period for purchases. In that case, you will be charged interest on all purchases shown on that current month's statement and if we do not receive payment in full by the next statement date you will also be charged interest on all new purchases shown on your next statement. Any partial payment of your balance will have the effect of reducing the interest payable on your account.

How do you regain an interest grace period on purchases?

Once we receive payment in full of the closing balance, your interest grace period on purchases will be reinstated. However, you will still be charged interest on all billed and unpaid purchases and you will also be charged interest on any new unbilled purchases that are made up until the date that we receive payment in full.

These additional interest charges will appear on your next statement. Once we have received payment in full, any new purchases after that payment was received and credited to your account will not be subject to interest so long as next month we receive payment in full by the due date.

Interest on cash advances and balance transfers

Interest is *always* charged and there is no interest grace period for cash advances and balance transfers, even if we receive payment in full by the due date. If you have a billed and unpaid cash advance or balance transfer you will also lose your interest grace period for purchases and interest will apply as noted above.

Interest on other charges

Fees and billed interest are included in the balance on which interest is calculated. Interest is charged on fees and billed interest in the same way (including a grace period) as set out under the heading "Interest on purchases" above, except for cash advance fees. Interest is *always* charged and there is no interest grace period for cash advance fees in the same way that interest is charged on cash advances.

How do we calculate interest and when is it added to your statement?

Interest on purchases: Any interest on a purchase applies from and including the day it is made (also referred to as the *transaction date* on your statement), or from the first day of the statement period in which the charge is first debited to your account, if that is later, until the day we receive payment in full and credit your account.

Interest on cash advances and balance transfers: Any interest on a cash advance or balance transfer applies from and including the day it is made, or from the first day of the statement period in which the charge is first debited to your account, if that is later, until the day we receive payment in full and credit your account.

Interest on other charges: Any interest on a fee applies from and including the day the fee is first posted to your account until the day we receive payment in full and credit your account. Any unpaid balance outstanding on your account at the beginning of the statement period (called the *previous balance*) includes billed but unpaid interest charges.

Interest is calculated each day during a statement period on the daily closing balance of charges on which interest is payable (taking into account any payments or credit to your account) at the daily rate (which is the annual interest rate divided by 365). We add together the interest charges for each day and the total interest for the statement period is then charged to your account, and will appear on your statement on the last day of the statement period, identified as "*interest charge*". If different interest rates apply to different parts of the balance on your account, we will separately calculate each daily closing balance and interest in the same manner. Daily closing balances with a credit balance are treated as zero (0).

What interest rates apply to your account?

We charge interest at the annual percentage rate or rates (called *interest rate*) set out in the Financial Table. The interest rate(s) applicable to a billing period will be set out on your statement.

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 selected by them and may include a commission selected by them.

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

- (a) in most cases, the rate applied to any refund will differ from the original rate applied to the charge; and
- (b) 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.

Employee Card Members

At your request, we may issue a Card on your account to another person (called an *Employee Card Member*). Employee Card Members must be aged at least 18 years. We may limit the number of Employee Cards issued on one account. We generally do not provide copies of agreements, statements, notices and other communications to an Employee Card Member.

Please see the “Liability” section of this agreement regarding the liability of an Employee Card Member for charges made by that Employee Card Member.

You agree and are responsible to ensure that each Employee Card Member 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 an Employee Card, please see the “Default/Closing Your Account” section of this agreement.

Cash Advances

If we permit you to obtain cash advances with your Card, then:

- you must obtain a code to access ATMs that accept the Card;
- we may impose limits and restrictions on cash advances, such as the amount of the credit limit available by means of cash advances and minimum and maximum limits that apply to cash advances for each transaction, day, statement period or otherwise;
- participating financial institutions and ATM operators may also impose their own limits and restrictions on cash advances such as limits on the number of cash advances, the amount of each cash advance and access to and available services at ATMs;

- we reserve the right, without cause and without providing any prior notice to you, to terminate your access to ATMs, even if your account is not in default. We will give you notice of such termination as soon as reasonably practicable;
- fees apply as set out in the Financial Table and the ATM provider may also charge a fee; and
- you must comply with any additional terms and conditions that we provide to you.

Recurring Charges

You or an Employee Card Member 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, the business and any Employee Card Members (for their own charges) 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 an Employee Card Member 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 an Employee Card Member use our enrolment services.

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 charge would cause you to exceed your credit limit, 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.

In some cases, a merchant may authorise a charge in advance and your available credit limit will be reduced by the amount of the authorisation. For example, when you rent a car, the merchant may initially authorise the full amount of the proposed car rental charge. This means that your available credit will be reduced by that amount, which may restrict your ability to make further charges.

Card is Our Property

Although you and any Employee Card Member use Cards on your account, all Cards remain our property at all times. You may be asked and you agree 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.

Renewal and Replacement Cards

You and the business authorise us to send you and any Employee Card Members 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.

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; and
- how you can opt out from our marketing lists.

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

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.

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 payable to them may be unascertainable at the date this agreement is made.

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.

Provided that you, any Employee Card Members and the business complied with this agreement including the section "Use of your Card and Codes" and provided that you any Employee Card Member or the business 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, the business and any Employee Card Members will not be liable to us for any unauthorised charges, unless you have delayed notifying us, in which case you, the business and any Employee Card Members will be liable for all unauthorised charges until you did notify us.

If you or any Employee Card Members or the business did not comply with this agreement, or if you or any Employee Card Member or the business contributed to, were involved in, or benefited from the loss, theft or misuse, you and the business are liable for any charges, for example, if you gave your Card to another person to use.

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 the subject of an investigation of unauthorised charges to the Police and any other investigative or statutory authority.

Arbitration

Notwithstanding anything to the contrary in this Arbitration section, you will have the right to pursue any claim in a small claims court, without resort to arbitration, so long as the claim is commenced by an individual.

Definitions

As used in this Arbitration section only, the words *you* or *your* mean all Card Members, the words *we*, *our* and *us* mean us and our related bodies corporate; and the term *claim* means any claim, dispute or controversy between you and us, whether contractual, extra-contractual, tortious or statutory, arising from or relating to your account, this agreement, and any other agreement that you have or may have had with us, or the relationships resulting from any of these agreements (called, in this section only, *agreements*), including the validity, enforceability or scope of this Arbitration section or the agreements. The term "*claim*" also includes any claim, dispute or controversy that arises from or relates to (a) any of your accounts created under any of the agreements, or any balances on any such accounts; (b) advertisements, promotions or oral or written statements related to any such accounts, goods or services financed under any of your accounts or the terms of financing; (c) the benefits and services related to your Card Membership (including fee-based or included benefit programs and any rewards programs); and (d) your application for any account.

Initiation of arbitration proceeding/selection of administrator

Except as otherwise provided in this Arbitration section, any claim will be resolved exclusively by arbitration pursuant to this Arbitration section and the Institute of Arbitrators and Mediators Australia Fast Track Arbitration Rules (the "*rules*") of the Institute of Arbitrators and Mediators Australia (the "*administrator*") or its successors or a replacement administrator. For a copy of the rules, to file a claim or for other information about the administrator, contact them at: Level 1, 190 Queen Street, Melbourne, Victoria 3000. Prior to the initiation of any claim we have the right to change or replace the administrator and the rules at our sole discretion. Unless the parties agree upon an arbitrator, either party may request a nomination from either the President OR the Chapter Chairman of the Chapter where the claim arises.

Consolidation

All claims will be arbitrated on an individual basis. The parties agree that individual arbitration provides a more efficient and cost-effective method of resolving claims than court litigation. However, claims brought by you against us, or by us against you, may be joined, heard one after the other or consolidated, as the arbitrator will

direct, in arbitration with claims brought by or against someone other than you, if agreed to in writing by all party Card Members. The parties further agree that the arbitrator will have no jurisdiction or authority to consider any claim brought on a class action or representative party basis.

Arbitration procedures and appeal

The arbitrator will take reasonable steps to preserve the privacy of individuals and of business matters. Where the claim being arbitrated is for an amount less than \$100, there will be no oral discoveries or oral hearing subject to the discretion of the arbitrator to direct otherwise. The arbitrator's decision will be final and binding. However, where an appeal is not prohibited by statute, any party can appeal the award to an appeal panel administered by the administrator, which will consider anew any aspect of the initial award objected to by the appealing party. Where the award under appeal is for \$100 or less, the appeal will be to a single appeal arbitrator and where the award under appeal is for more than \$100 the appeal will be to a three-member appeal panel. The appealing party will have 30 days from the date of entry of the written arbitration award to notify the administrator that it is exercising the right of appeal. The administrator will then notify the other party that the award has been appealed. The administrator will appoint the appeal panel that will conduct an arbitration pursuant to the rules and issue its decision within 120 days of the date of the appealing party's written notice. The decision of the three-member appeal panel will be by majority vote. The appeal decision will be final and binding and there will be no further appeal. The appeal decision will be considered as a final award.

Location of arbitration/payment of fees

Any arbitration hearing that you attend will take place in the State or Territory of your residence. We will be responsible for paying the arbitrator and arbitration administration fees (including filing, administrative, hearing and/or other fees) unless the arbitrator or appeal panel determines that your claim was frivolous or vexatious, in which case, the fees will be in the discretion of the arbitrator or appeal panel. Awards of legal costs will be in the discretion of the arbitrator or appeal panel but in the event you are unsuccessful in the arbitration, or appeal where applicable, you will not be responsible for our legal costs unless the arbitrator or appeal panel determines that your claim was frivolous or vexatious.

Changes

We may change any provision of this agreement at any time, including fees, liquidated damages, commissions, how we apply payments and benefits and services associated with the account and changes affecting your payment obligations. We will inform you in accordance with the “Communicating With You” section of this agreement and as required by law. We will give you at least 20 days advance written notice, except where the change reduces what you have to pay or the change happens automatically under this agreement.

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.

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 reasonably satisfied that there will be no detriment to you in the transfer.

You, any Employee Card Members and the business 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

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.

Suspension

We may on reasonable grounds immediately stop you or any Employee Card Member from using the Card or we may refuse to authorise a charge. For example, we may do so where the available credit limit 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, the business and any Employee Card Members will still be responsible for all charges on your account.

Default/Closing Your Account

We may treat your account as being in default at any time in the event that you or the business fail to comply with your obligations under this agreement, such as failure to make any payment when it is due, incurring or attempting to carry out charges in excess of the credit limit, failure to pay any amounts payable in accordance with this agreement to reduce the unpaid balance to your credit limit 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 or the business to us in connection with your account was false or misleading, you or the business breach any other agreement that you or the business may have with us or with any of our related bodies corporate, or if bankruptcy or other creditor proceedings are threatened or initiated against you or the business.

If you are in Default and subject to applicable law we may at our discretion require that you pay all sums owing on your account, including unbilled charges that may not be shown on your statement.

The inclusion of previously billed minimum payments, any portion of dishonoured payments and any over-limit amounts in the minimum payment shown on a statement will not constitute a waiver by us of any default.

In the event of any default, you, the business and any Employee Card Members will also be responsible for all reasonable costs incurred by us or our agents, including legal advisers, 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 or the business may end this agreement at any time by paying off all amounts owing on your account, destroying or returning to us all Cards issued on your account, 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. You can cancel a Card issued to an Employee Card Member by informing us.

We may close your account or cancel any Card

We can end this agreement or cancel any or all Cards or reduce your credit limit immediately if:

- (a) you are in default at any time;
- (b) suspect any illegal use of the Card;
- (c) are required to do so by law; or
- (d) have reason to believe that you may no longer be creditworthy.

We may also terminate this agreement at any time with 30 days' notice.

If we take such action, you, the business and any Employee Card Members will still be obligated to pay all amounts owing on your account.

If we end this agreement you must immediately pay all money you owe us immediately, including unbilled charges that may not be shown on your last statement, or, at our discretion, continue to pay the minimum payment. 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 on your account will be cancelled at the same time.

You, the business and any Employee Card Members 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.

Communicating With You

We may communicate with you, the business and any Employee Card Members 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 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, the business and any Employee Card Members may include account servicing messages, statements, disclosures, notices (which includes 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 in writing and will be mailed or delivered to you, the business and any Employee Card Members 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 at any time and request that we send you paper statements and these other communications by contacting us.

All mailed communications that we send to you will be deemed to have been received by you seven 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.

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 Employee Card Member 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.

Where the Business Operates as a Trust

If the business operates as a trust:

- this agreement binds the business personally and as trustee of that trust; and
- you must use the Card for business purposes of the trust only.

You and the business also represent and warrant to us that:

- the trust is validly formed and any relevant trust document is valid and complies with the law;
- the business is properly appointed as sole trustee of the trust;
- the business has always complied, and will comply, with the terms of the trust and its duties and powers as trustee;
- the business has power to enter into this agreement and to perform its obligations as trustee of the trust;
- the entry by the business into this agreement is for proper trust purposes;
- the business has a full right of indemnity from the trust assets in respect of all charges, liabilities and obligations under this agreement; and
- the business is entitled to use trust assets to meet any of your or the business's obligations under this agreement, ahead of any rights of any of the beneficiaries.

You and the business will be in default if any of the following events happen:

- the trust is held by a court not to have been properly constituted or you or the business concede that the trust has not been properly constituted;
- the trust terminates or the beneficiaries of the trust resolve to terminate the trust;
- the business ceases to hold the trust assets or property in its name or it ceases to be trustee; or
- the business commits a breach of trust which, in our opinion, is material.

You and the business agree to notify us in writing immediately if any of the above events of default occur.

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.

Complaints and Problems With Goods or Services Purchased

Subject to applicable law, 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.

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, the business and any Employee Card Members are automatically deemed to have assigned and transferred to us, any rights and claims (excluding tort claims) that you, the business and any Employee Card Members 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, the business and any Employee Card Members agree not to pursue any claim against or reimbursement from any third party for the amount that we credited to your account. You, the business and any Employee Card Members 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.

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*".

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.

Taxes, Duties and Exchange Control

You, the business and any Employee Card Members 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 Employee Card Member.

Limitation of Our Liability

We are not responsible or liable to you, any Employee Card Member or the business 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
- 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, any Employee Card Member or the business 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:

- (a) 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

- (b) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

Resolving Disputes

American Express is committed to resolving disputes raised by its customers 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, the Australian Financial Complaints Authority (AFCA).

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

- Please contact us by phone on 1300 132 639 to discuss your complaint.
- 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
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 AFCA, an independent, external dispute resolution body. AFCA will review our actions in accordance with its Scheme Rules to determine if we have fulfilled our obligations to you. Please note that AFCA will refer you to American Express if you didn't first raise your complaint with us.

You may contact AFCA by the following means:

Mail:

Australian Financial Complaints Authority Limited
GPO Box 3, Melbourne VIC 3001

Telephone:

1800 931 678

Internet:

www.afca.org.au

American Express Privacy Statement

The following statement describes how American Express collects, uses, shares and keeps your credit information and personal information.

If you do not agree to our use of your credit information and personal information in this way, we may be unable to provide our products and services to you. The way we collect, use, share and keep your information is subject to the Privacy Act.

Online Privacy Statement

The American Express Online Privacy Statement describes how we may collect, use, share and keep information that we get about you online. When you use or access any of our online services, content or programs, whether on your smart phone, tablet or other mobile device, our Online Privacy Statement applies.

The Online Privacy Statement is available at the link at the bottom of the American Express Australia homepage or at: americanexpress.com.au/privacy

Credit Reporting Policy

The American Express Credit Reporting Policy contains additional information about:

- credit reporting including credit reporting bodies to which American Express is likely to disclose your credit information
- how you may complain about a failure of American Express to comply with the Privacy Act, and how American Express will deal with a complaint

The Credit Reporting Policy is available at americanexpress.com.au/CreditInfo

Collection, use and sharing of credit information

American Express may obtain both consumer and commercial credit reports about you from a credit reporting body for purposes including:

- assessing your credit worthiness
- assessing this application
- collecting overdue payments
- American Express' internal management purposes relating to the provision or management of your card account (consumer credit or commercial credit as relevant)

- helping you to avoid defaulting on your obligations with American Express
- for any other use in connection with your account as permitted under the Privacy Act 1988

American Express may disclose information about you to credit reporting bodies before, during or after credit is provided to you. This includes:

- that you have applied for a Card, including the account credit limit
- that American Express is a credit provider to you, including the type of credit, account opening and closing dates, and credit limit
- 24 months of repayment history on your Card account
- default information related to payments that are at least 60 days overdue (and advice that overdue payments have been paid in full)
- that you have committed a serious credit infringement
- that you have made a request to correct your personal information
- any other information as permitted under the Privacy Act 1988

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

- assess your credit worthiness, this application and any subsequent application 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 for any transactions you wish to make on your account
- administer your Card account
- notify that you have made a request to correct your account

American Express may also exchange credit information about you with any person considering whether to act as a guarantor in relation to this and future applications by you for credit.

Collection of personal information

Generally, if you are applying for a Card account we collect your personal details (such as name, date of birth and address), details about your employment, financial circumstances and other information relevant to your Card account.

American Express collects information about you in a number of ways, including:

- directly from you, such as in your credit application or when you enter one of our competitions or promotions
- from your use of our products and services, such as when you make a purchase using your Card account or when you access one of our websites
- from credit reporting bodies, as described above for credit information or for identity verification
- from others, such as people or companies named in your credit application (for example your employer)

Using personal information

We may use the information we collect about you on its own or combine it with other information to:

- deliver products and services, including:
 - for the same purposes as for credit information listed above
 - issuing your Card
 - verify your identity when you contact us
 - manage your Card account and your transactions
 - tell you about new features, benefits and updates to your accounts, products, and services
- advertise and market our products and services – and those of our business partners – including to:
 - send or provide you with marketing, promotions and offers
 - analyse whether our marketing, promotions and offers are effective
 - help us determine whether you may be interested in new products or services
- conduct research and analysis, including to:
 - better understand our customers
 - allow you to rate and review our products and services

- produce data analytics, statistical research, and reports
- review and improve our products and services and make them easier to use
- develop new products and services
- manage fraud and security risk, including to:
 - detect and prevent fraud or criminal activity
 - safeguard the security of your information
 - assess credit risks relating to our business, including to evaluate and process your applications for our products and services and manage your existing accounts
- use it in other ways as required or permitted by law or with your consent

When we might share your Personal Information

We do not share Personal Information with anyone except as described below. We only share Personal Information as required or as permitted by law as follows:

- people you authorise to use or access your account (for example, additional Card Members)
- with credit reporting bodies, for the same purposes as for credit information listed above
- the provider of any payment service you use to make payments to American Express
- with regulatory authorities, courts, and governmental agencies to comply with legal orders, legal or regulatory requirements, and government requests and to detect and prevent fraud or criminal activity, and to protect the rights of American Express or others
- within the American Express Family of Companies
- with our Service Providers who perform services for us and help us operate our business (for example, card manufacturers, collection agents, mail houses and reward redemption partners). We require Service Providers to safeguard Personal Information and only use your Personal Information for the purposes we specify
- share and exchange information with business partners and co-brand partners with whom we jointly offer or develop products and services for marketing, planning, product development and research

purposes (but they may not use your Personal Information – in particular your email address – to independently market their own products or services to you unless you provide your consent)

- with third parties in the context of a sale of all or part of the American Express Family of Companies or their assets
- any other purpose you have consented to

Aggregated and De-identified Information

Aggregated or de-identified Information is not personal information and does not identify you individually; however, it may be derived from personal information. It helps us to analyse patterns among groups of people. We may share aggregated or de-identified Information in several ways, for example:

- for the same reasons as we might share Personal Information
- with any Business Partners to help develop and market programs, products or services and present targeted content and marketing
- with Business Partners to conduct analysis and research about customers

Recording Phone Calls

American Express may also monitor and record your telephone conversations with us for staff training and service quality control purposes.

Direct Marketing

From time to time, American Express, its agents and business partners (including insurance companies) will send you and any additional Card Members information about products, services, offers and other promotions on offer from American Express or jointly with its business partner. These communications may be sent electronically (for example by email, mobile message or push notification), by phone or by post. You can opt-out from receiving direct marketing at any time by calling 1300 132 639. You can also adjust your communication preferences using our Online Preferences or opt-out of email marketing by clicking “unsubscribe” in the footer of our emails. This will continue until you opt-out or until twelve months after you cease being an American Express Card Member.

Transfer of your personal information and credit information overseas

American Express is a global organisation and we may use international entities to help our business functions. As a result, American Express may need to share your information outside of Australia. It is impracticable for American Express to list out each and every country that we may share your information to, but such countries include the United States of America, Mexico, Argentina, Malaysia, India and the United Kingdom. American Express will ensure that any transfer of your personal information is subject to appropriate conditions of confidentiality to ensure your information is handled consistently with the Australian Privacy Principles.

Access and corrections

You may access your personal information and credit information held by American Express, and advise if you think it is inaccurate, incomplete or out-of-date. You may do so by contacting:

The Privacy Officer
American Express Australia Limited
GPO Box 1582
Sydney NSW 2001
Phone: 1300 132 639

How we store your personal information

American Express stores personal information in a combination of secure computer storage facilities and paper based files and other records. American Express has taken a number of steps to protect the personal information we hold from misuse, loss and unauthorised access, modification or disclosure. American Express uses 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. American Express will take reasonable steps to securely destroy or permanently de-identify personal information when we no longer need it.

Information about other persons

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

- their personal information being collected, used and disclosed by American Express in accordance with this notice

- their ability to access that information in accordance with the Privacy Act 1988 and to advise American Express if they think the information is inaccurate, incomplete or out-of-date
- the contact details of the American Express privacy officer



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