



American Express Business Charge Card Member Agreement

Effective from August 2023



DON'T *do business* WITHOUT IT™

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 International (NZ), Inc. Business means the business entity (whether a company, partnership, sole trader, association or other or 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 under the account in 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 purchases, fees, liquidated damages, commissions, 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 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. It is your responsibility and you agree to ensure that any Employee Card Members are aware of these terms. Please see the “Employee Card Members” 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 (personal identification number), telephone codes, on-line passwords and any other codes provided and approved by us to be used on your account (*code*), 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 (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 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 or the business 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 it is found by you 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 New Zealand 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.

Statements

We will send or make available to you statements of account (called *statements*) periodically. We will send or make available to 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 payment due, the payment due date and will include charges made by you and any Employee Card Members. If your account is overdue or inactive, 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 but in any event within 30 days of the statement date. If we request, you agree to promptly provide us with written confirmation of your complaint or problem.

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.

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.

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, provided we reasonably believe the fees, liquidated damages or the currency conversion commission associated with your Card or Account still represent good value and are competitively priced. We will provide notice of any change if required by applicable law in accordance with 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 jointly and severally 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 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 and within the limits set out in the “Lost and Stolen Cards and Misuse of Your Account” section of this agreement.

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 Employee Card Members).

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

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.

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 New Zealand 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 a payment that does 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 normally apply payments to your account in the following order:

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

However, for servicing, administrative, systems or other business reasons, we may apply payments to your account in some other order or manner that we may determine in our discretion. You agree that we may do so in a way that is favourable or convenient to us.

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 is unascertainable at this time.

Charges Made in Foreign Currencies

For each charge submitted to us in a currency other than New Zealand Dollars (a 'Foreign Charge'), on the day we process the Foreign Charge we will:

- convert it to US Dollars first (unless it was submitted to us in US Dollars);
- convert the US Dollar amount into New Zealand Dollars; and
- apply a single non-refundable currency conversion fee to the New Zealand Dollar amount of the Foreign Charge.

We use exchange rates from customary industry sources, or a specific rate if required by law. We use the exchange rate from the weekday prior to the day we process the Foreign Charge (or two weekdays prior for Foreign Charges processed on 1 January and 25 December). The exchange rate we use may be higher or lower than the exchange rate available on the day you made the Foreign Charge, and exchange rate fluctuations can be significant. When making a Charge in a foreign currency you may have the choice to allow a third party to convert the Charge into New Zealand Dollars at the point of sale. If you choose this option, then that third party will:

- determine the exchange rate and any commission or fees payable for the currency conversion; and
- submit that Charge to us in New Zealand Dollars, meaning we will not convert the Charge or apply currency conversion fee.

You acknowledge that any refund of a Foreign Charge may be different to the Foreign Charge amount originally processed on your Account.

The difference is generally because:

- the refund and Foreign Charge may be processed on different days with different rates;
- we do not apply any currency conversion fee to refunds of Foreign Charges;
- the refund may be only a partial refund for the Foreign Charge; or
- where third parties convert Charges in foreign currency, those third parties may treat refunds differently to the original foreign currency Charge.

Employee Card Members

At your request, we may issue a Card on your account to another person (called an *Employee Card Member*). 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. You acknowledge that we will provide information to an Employee Card Member about their use of the account (for example their charges).

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.

Use of Cash Machines

The Express Cash™ Program is governed by one or more agreements separate from this agreement.

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 and the business agree to be responsible for any recurring charges that may continue to be charged to your account from a Card (including charges to Employee Cards on your account) that has been replaced or cancelled.

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

Please note that we generally do not 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 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 enroll 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 enroll 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 uses 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 value of charge exceeds the available credit balance, where we suspect the charge is fraudulent, is subject to New Zealand 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.

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 and any Employee Card Members 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.
- 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 30 days' notice with or without a reason, provided we reasonably believe the overall service and benefits associated with your Card still represent good value and are competitively priced. 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.

Lost and Stolen Cards and Misuse of Your Account

You must tell us immediately by telephone on the 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.

Liability for Unauthorised Charges

For unauthorised charges, provided that you, the business and any Employee Card Members complied with this agreement including the section "Use of your Card(s)/Codes" and provided that you, the business and any Employee Card Members 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 will be liable for all unauthorised charges until you did notify us.

If you, the business or any Employee Card Members did not comply with this agreement, or if you, the business and any Employee Card Members 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 and/or codes to another person to use.

You, the business and any Employee Card Members agree to cooperate with us, including giving us a statutory declaration, affidavit and/or a copy of an official police report, if we ask. You, the business and any Employee Card Members also agree that we may provide information to regulatory authorities.

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, provided we reasonably believe the overall fees, liquidated damages, commissions, how we apply payments and benefits and services associated with your Card still represent good value and are competitively priced. 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

We may assign, transfer or sell our rights, benefits or obligations under this agreement at any time to any of our related bodies corporate or to a third party and you consent to this without us having to notify you. If we do so, or intend to do so, you, the business and any Employee Card Member agree that we can give information about you, the business and any Employee Card Members and your account to the third party or related party. Your statutory rights will not be affected.

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 for any reason or without a reason and without informing you first, immediately stop you or any Employee Card Member from using the Card or we may refuse to authorise a charge. This agreement will continue if we take either of these actions, and you and the business will still be responsible for all charges on your account.

Default/Closing Your Account

Default

We may treat your account as being in default at any time in the event that you or the business fails 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 or the business to us in connection with your account was false or misleading, you or the business breach any other agreement that you 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 or we have any reason to believe that you may not be creditworthy.

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 and the business will also be responsible for all reasonable costs incurred by us or our agents including collection, collection agency, and legal advisor 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 or the business may end this agreement at any time by paying off all amounts owing on your account, destroying 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. All fees continue to accrue if outstanding balances exist on a cancelled Card. You can cancel a Card issued to a 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 features and services at any time, including but not limited to, if you or the business:

- are in default or are bankrupt, insolvent, or unable to pay your debts or if you become involved in any action or process (including a voluntary process) normally associated with insolvency, including, without limitation, receivership, liquidation, or voluntary administration; or
- cease to carry on a business; or
- in the event you, the business or an Employee Card Member materially breaches this agreement or any other agreement between us or with any of our affiliates; or
- in the event that we deem the levels of fraud or credit risk on any or all Cards or loans is unacceptable to us; or
- in the event that your Account remains inactive for a period of time that is unacceptable to us, provided we have made reasonable attempts to contact you; or
- in the event that you, the business or any Employee Card Member has contravened any applicable laws or regulations; or
- in the event that we determine you, the business or an Employee Card Member are engaged in abuse, misuse or gaming in connection with any points offer; or
- if we are required to do so by law.

We may also end this agreement or cancel any or all Cards or loans with 30 days' notice with or without a reason. If we take such action, you and the business will still be obligated to pay all amounts owing on your account, including amounts owing by any Employee Card Members. If we end this agreement, you and the business must pay all money you owe us immediately, including any amounts owing by Employee Card Members and 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 on your account will be cancelled at the same time. You and the business 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 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, posting on an American Express website (including americanexpress.co.nz) 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, regulatory disclosures and notices, and other communications will generally be sent to you electronically. You, the business and any Employee Card Members agree that we may communicate to you by electronic means and that these communications have been provided in writing and it is your responsibility to access and check your electronic communications regularly for statements and other communications.

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 the business or 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.

Direct Debit Service Agreement

In this authority, Bank means the bank you nominate on the Bank Account Direct Debit Form.

American Express has agreed to give you written advance notice of the net amount of each direct debit and the due date of the debiting at least 10 calendar days (but not more than two calendar months) before the date when the direct debit will be initiated. The advance notice must be provided either:

- in writing; or
- by electronic mail where you have provided prior written consent to us.

The advance notice will include the following message:

“Unless advice to the contrary is received from you by (*date), the amount of \$..... will be directly debited to your Bank account on (initiating date).”

* This date will be at least two days prior to the due date to allow for amendment of direct debits.

American Express may, upon the relationship which gave rise to this authority being terminated, give notice to the bank that no further direct debits are to be initiated under the authority. Upon receipt of such notice the bank may terminate this Authority as to future payments by notice in writing to me/us.

You may:

- At any time, terminate this authority as to future payments by giving written notice of termination to the bank and to us.
- Stop payment of any direct debit to be initiated under this authority by us by giving written notice to the bank prior to the direct debit being paid by the bank.
- Where a variation to the amount agreed between us and you from time to time to be direct debited has been made without notice being given in terms of the advance notice above, request the bank to reverse or alter any such direct debit initiated by us by debiting the amount of the reversal or alteration of the direct debit back to us through our bank, provided such request is made not more than 120 days from the date when the direct debit was debited to your account.

You acknowledge that:

- This authority will remain in full force and effect in respect of all direct debits made from your account in good faith notwithstanding your death, bankruptcy or other revocation of this authority until actual notice of such event is received by the bank.
- In any event this authority is subject to any arrangement now or hereafter existing between you and the bank in relation to your account.
- Any dispute as to the correctness or validity of an amount debited to your account shall not be the concern of the bank except in so far as the direct debit has not been paid in accordance with this authority. Any other disputes lie between you and us.
- Where the bank has used reasonable care and skill in acting in accordance with this authority, the bank accepts no responsibility or liability in respect of:
 - the accuracy of information about direct debits on bank statements
 - any variations between notices given by us and the amounts of direct debits.

- The bank is not responsible for, or under any liability in respect of our failure to give written advance notice correctly nor for the non-receipt or late receipt of notice by you for any reason whatsoever. In any such situation the dispute lies between you and us.

The bank may:

- In its absolute discretion conclusively determine the order of priority of payment by it of any monies pursuant to this or any other authority or draft properly executed by you and given to or drawn on the bank.
- At any time terminate this authority as to future payments by notice in writing to you.
- Charge its current fees for this service in force from time-to-time.

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.

Set Off

You and the business each agree that we may set off any amount that you or the business owe to us against any amounts that we owe to you and/or the business under any agreement.

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.

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 Member 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 Member 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 Member 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 Member 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 New Zealand and the courts of New Zealand shall have jurisdiction over all parties to the agreement.

Taxes, Duties and Exchange Control

You, the business and any Employee Card Member 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, the business or any Employee Card Member 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;
- any costs, damages or expenses arising out of our failure to carry out our obligations under this agreement if that failure is caused by a third party or because of a systems failure, data processing failure, industrial dispute or other action outside our control; 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, the business or any Employee Card Member for any malfunction or failure of the Card or refusal by a merchant to accept the Card.

Complaints

What you should do

If calling within New Zealand you can call us on the contact number set out in this agreement. 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.

Please note that our complaint procedures will not be available for complaints which are the subject to small claims court proceedings.

Investigating Complaints

Unless we advise you in writing of any exceptional circumstances, our investigation of a complaint should be completed within 45 days of receiving details from you. We will advise you of the outcome of the investigation and the reasons for the outcome.

If the outcome is that there has been an incorrect debit or credit to the account, we will adjust your account accordingly and advise you of the adjustment.

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.

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 New Zealand homepage at americanexpress.com/nz/about-us/disclosures/privacy-statement.

Collection, use and disclosure of credit information

We may obtain both consumer and commercial credit reports about you from a credit reporting agency to confirm your identity, 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.

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 in collection (and advice that payments are no longer overdue);
- Direct Debit requests to your financial institution account which you have authorised American Express to make, have been dishonoured;
- American Express' opinion that you do not intend to meet your credit obligations; 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. Employee Card Members) 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 (e.g. New Zealand Transport Agency), 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 International (NZ) Inc
PO Box 4005
Auckland

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 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 Employee Card Members 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 0800 377 421. Please allow 6–8 weeks to process your request.

Contact Details

If you wish to contact us for any reason relating to the Card, phone our Card Member Services department on 0800 656 660 or write to us at:

American Express International (NZ), Inc.
Card Member Services
PO Box 4005
Shortland Street
Auckland 1140
New Zealand

Outside New Zealand you should contact any American Express Travel Service Office, or phone the American Express Service number on 64 9 583 8300.



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