



American Express® service establishment



terms and conditions



SECTION I – TERMS AND CONDITIONS

These Terms and Conditions govern your Establishment(s) participation in the American Express Card Service for all your locations which are approved by us. By signing the Application, you agree to accept the Card in accordance with these Terms and Conditions at all your locations which have been approved by us. You further agree to comply with and be bound by, our Operating Policies and Procedures as notified to you as such may be amended from time to time.

To demonstrate your agreement with these Terms and Conditions and, consequently, make them legally binding between you and us, simply commence the acceptance of the Card as payment for goods or services at any of your Establishment(s).

If you do not accept them then you must notify us immediately and your agreement with us is terminated. In that case you must return all American Express material to us and if you do not or continue to display American Express material or you continue to submit charges to us then you will be deemed to have accepted these Terms and Conditions.

You agree to provide us with a list containing the names and addresses of all your Establishments and locations and notify us of any changes to such list.

1. Definitions

Now it is hereby agreed as follows:

This expression...	Means...
"Agreement"	Collectively, the Application, the Terms and Conditions, the Special Terms and Conditions, Addenda and the Operating Policies and Procedures
"American Express"	American Express International, Inc., its holding, subsidiary and affiliate companies and licensees that issue the Card or participate in the Card Service
"Application"	The form you have completed and submitted to us to participate in the Card Service
"Authorisation"	The process described in Clause 11 below
"Basic Terms and Conditions"	The Terms and Conditions set out herein in Section I as the same may be amended from time to time
"Card"	Any card or other account access device issued by American Express Travel Related Services Company, Inc., or its subsidiaries or affiliates or its or their licensees bearing the American Express name or an American Express trademark, service mark or logo, including Prepaid Cards
"Cardmember"	For Cards other than Prepaid Cards, the person whose name is embossed on the front of the Card; For Prepaid Cards, the bearer of the Card
"Card Service"	The American Express Card Service
"Charges"	Payment or purchases which Cardmembers make with the Card and any amounts incidental to such purchases including taxes or duties, delivery charges and gratuities; "Card Present Charge" means a Charge for which the Card is presented at the point of purchase. "Card Not Present Charge" means a Charge for which the Card is not presented at the point of purchase (e.g. Charges by mail, telephone, fax or the Internet), or is used at unattended Establishments (e.g. customer activated terminals, called CATs)
"Chip Card" (sometimes called Smart Card, EMV Card, or ICC in our materials)	A Card that contains an integrated chip and could require a personal identification number (PIN) as a means of verifying the Cardmember and/or the information contained in the integrated chip.
"Credit"	Any refund issued to a Cardmember in respect of a Charge
"EDC"	Submission of charges by electronic data capture
"Establishment"	All of your locations, outlets, websites, online networks and all other methods for selling goods and services, including methods that you adopt in the future
"Full Recourse"	Our right to payment from you of the full amount of the Charge as set out in these Terms and Conditions
"Merchant Fee"	Our fee for accepting Charges as shown on the Application and described in Clause 4
"Operating Policies"	The general operating policies and procedures of the Card Service as advised to you from time to time
"Payment Plan(s)"	The merchant payment plan(s) described in Clause 5 below

"Prepaid Card"	A Card marked as "prepaid" or bearing such other identifier as we may notify you
"ROC"	Paper or electronically reproducible Record of Charge
"Special Terms and Conditions"	The terms set out in Sections II, III and IV
"You" or "Your"	The company, partnership, sole trader or other entity signing the Application

2. Entire Agreement

This Agreement together with the signed Application form constitutes the entire agreement between us and supersedes any prior agreements, representations or understandings with respect to the subject matter hereof.

3. Honouring the Card

When a customer asks what payment methods or services are accepted, you will mention the Card. You will honour the Card and will not attempt to:

- (1) discourage Cardmembers from or persuade them against using the Card;
- (2) criticise or mis-characterise the Card or the Card Service in any way;
- (3) persuade the Cardmember to use any other credit, charge, debit card or other card or service;
- (4) impose any restrictions or conditions on the use or acceptance of the Card; or
- (5) charge the Cardmember any additional fees, increase your price or otherwise discriminate against the Card or Cardmember, and, if you do, we reserve the right to recover any such amount from you.
- (6) You shall not promote any other payment methods or services more actively than you promote the Card, with the exception of your own Establishment card which is issued by you solely for the purpose of making purchases at your Establishment.

You represent and warrant that your policy is not to prefer any card over the Card. You will not, directly or indirectly, show, state or publish or otherwise indicate a preference for any charge, credit, debit card or other card or service over the Card or participate in a programme with a third party which so states or publishes or otherwise indicates a preference.

4. Merchant Fee

The Merchant Fee is shown on the Application. We reserve the right to apply a different Merchant Fee depending upon whether you submit Charges by EDC or by paper ROC. Over time, you may qualify for reductions in our Merchant Fee based on your net Charge Volume. Please contact us if you would like to know more about the net Charge Volume Targets and other aspects of the rate reduction opportunities if any, for your industry.

5. Payment Procedure

A. We shall pay you the face amount of all Charges submitted by your Establishment less –

- (1) the Merchant Fee;
- (2) any taxes, goods and services tax, value added tax or other duties we are or become liable to pay in respect of any supplies made to you.
- (3) Credits submitted by your Establishment; and
- (4) any amounts owed to us, whether under this Agreement or otherwise.

All our payments are subject to our right of Full Recourse. You shall not be entitled to receive payment for or on behalf of any third party.

B. We offer the following merchant Payment Plans, you may choose any one for which you are eligible. Please note that not all Payment Plan options are available to all Establishments. Your Establishment's eligibility for a Payment Plan option will depend upon which industry category it belongs to as determined by us and advised to you at the time you complete the Application. Your initial choice must be marked on your Application Form but can thereafter be changed with reasonable written notice to us (at least 15 business days). The Payment Plan you choose will affect your Merchant Fee, so please read these options carefully.

- (i) Two Business Day Direct Credit. Under this plan, payment for Charges submitted to us electronically and in accordance with our instructions will be transmitted directly to your business bank account on the second business day after we receive such Charges. You must also enrol in and be approved for the Direct Credit Payment Service. See Direct Credit Payment Service Addendum.
- (ii) Four Business Day Payment Plan. Under this plan, payment for Charges submitted either under a properly completed Charge Summary Form or electronically through Electronic Data Capture Terminals will be mailed to you within four business days after we receive such Charges from you. You can elect to have payments for Charges transmitted directly to your business bank account on the fourth business day after we receive such Charges. To receive payments directly to your bank account, you must enrol in and be approved for the Direct Credit Payment Service. See Direct Credit Payment Services Addendum.
- (iii) Weekly Payment Plan. Under this plan, payment for Charges submitted either under a properly completed Charge Summary Form or electronically through Electronic Data Capture Terminals will be mailed to you within seven calendar days after we receive such Charges from you. You can elect to have payments for Charges transmitted directly to your business bank account on the seventh business day after we receive such Charges. To receive payments directly to your bank account, you must enrol in and be approved for the Direct Credit Payment Service, See Direct Credit Payment Services Addendum.
- (iv) Monthly Payment Plan. Under this plan, payment for Charges submitted either under a properly completed Charge Summary Form or electronically through Electronic Data Capture Terminals will be mailed to you within thirty calendar days after we receive such Charge from you. There are no prerequisite for enrolment in this plan if you

receive cheque payment. Alternatively, you can elect to have payments for Charges transmitted directly to your business bank account on the thirtieth business day after we receive such Charges. To receive payments directly to your bank account, you must enrol in and be approved for the Direct Credit Payment Service. See Direct Credit Payment Services Addendum.

We will designate for you a processing centre or office to which you are to submit Charges under these Payment Plans. For purposes of these Plans, Charges received at the processing centre or office we designate for you after 5:00pm on any business day (10:30pm for Charges submitted electronically) will be treated as having been received on the next business day. These cut off times will be based on the local time at the processing centre or office we designate for you, and business days, as used here, means all days except for weekends and public holidays as celebrated in the place where that designated processing centre or office is located.

6. Payment Currency

All payments made by us shall be in local currency and in accordance with the Payment Plan you have selected.

7. Full Recourse

"Full Recourse" means our right to payment from you for the full amount of each Charge subject to such right. We may deduct or set off the amount from any sum payable to you under this Agreement or any other agreement you have with us or otherwise invoice you for such an amount. We will have Full Recourse for a charge if you do not comply with this Agreement, even if we were aware of your non-compliance when we made payment and even if you obtained Authorisation for the Charge in question. We will also have Full Recourse as set out elsewhere in this Agreement.

8. Accepting the Card Face-to-Face or Card Present Charges

You shall accept the Card at all your Establishments and adhere to the following conditions:

- (1) the Card must be presented for all in-person Charge requests;
- (2) For Charges when a Chip Card is used, place the Chip Card in the reader of the point of sale terminal. The point of sale terminal will provide instructions for you:
 - (i) in the case of Chip Card and PIN Charge, to instruct the Cardmember to enter the PIN into the pinpad of the point of sale terminal. If you are unable to complete a Chip transaction due to a technical issue, the terminal will show an error message and you must follow the procedures to capture the full magnetic stripe data.
 - (ii) in the case of Chip Card and signature Charge, to obtain the Cardmember's signature on the Charge Record.If your terminals have not been upgraded to accept Chip Cards or we have not certified them for the ability to capture and send Chip Card data, you will be liable for any fraud and we will have Full Recourse for fraudulent Card Present Charges made with Chip Cards, if the upgrading and certification of your terminal would have prevented the fraud;
- (3) For Charges where a Chip is not present on the Card and there are electronic Authorisation capabilities, the Card must always be swiped through the electronic data capture terminal;
- (4) if a Charge request is processed manually, or the magnetic stripe on the back of the Card is unreadable, the following procedures must be followed:
 - Key the transaction and expiry date into the terminal (if available) for Authorisation approval;
 - If your business processes Charge requests manually, obtain a voice Authorisation;
 - Obtain an imprint of the Card on a ROC;
 - Obtain the Cardmember's signature on the paper receipt and compare it to the name embossed on the face of the Card (except for Prepaid Cards that show no name on their face) and to the signature on the back of the Card;
- (5) the Card must be presented on or after the commencement date and on or prior to the expiry date shown on its face;
- (6) the Cardmember's signature must be obtained on the printed or paper ROC. The signature on the receipt must match the name embossed on the face of the Card (except for Prepaid Cards that show no name on their face) and the signature on the back of the Card;
- (7) the presenter of the Card must be the person whose name is embossed on its face (or, for a Prepaid Card that shows no name on its face, that the signature on the back of such Prepaid Card matches the signature on the ROC);
- (8) the Card, and in particular the signature panel, must not be visibly altered or mutilated;
- (9) the embossed account number on the face of the Card must match the printed number on the back of the Card, and the account number on the printed receipt;
- (10) notification of the cancellation of the Card must not have been received by you;
- (11) Authorisation must be obtained if necessary for the Charge request; and
- (12) all other relevant provisions in the Agreement and such other operating instructions and procedures as we may issue from time to time must be complied with.

9. Card not Present Charges

A. General

Notwithstanding the requirement to present the Card under Clause 8 above (Face-to-Face Charge Requests), but still subject to Clause 20 below (Cardmember Disputes) we will accept Card not Present Charges provided that:

- (1) Authorisation is obtained for the Charge request;
- (2) if the order is to be shipped or delivered more than thirty (30) days after the original Authorisation, you obtain a new Approval Code before shipping or delivering the merchandise;
- (3) you indicate on the ROC the date upon which the goods or services relevant to the Charge are dispatched or delivered. The Charge may not be submitted for payment until the order is shipped;
- (4) you indicate the words "Mail Order", "Telephone Order", "Internet Order" or "Signature on

File" as appropriate on the ROC in the panel designated for the Cardmember's signature or in the appropriate electronic descriptor;

- (5) you retain proof that the Cardmember or the Cardmember's agent signed a carrier delivery receipt for merchandise delivered to the Cardmember's billing address or delivery address, if different. You are responsible for ensuring delivery to the appropriate Cardmember's billing address or delivery address;
- (6) if the goods are to be collected by the Cardmember, the Card must be presented by the Cardmember upon collection and all the provisions of Clause 8 above (Face-to-Face Charge Requests) must be complied with; and
- (7) if a Cardmember notifies you or us of a dispute, complaint or query concerning a Card Not Present Charge and:
 - (i) the Cardmember has not signed a Mail Order or Signature on File form for the goods or services; or
 - (ii) you have not obtained a signed receipt confirming delivery of the goods or services to the Cardmember's billing address; then in addition to any other rights we have under this Agreement, we are entitled to Full Recourse (as described in Clause 7 above) for the Charge. For the avoidance of doubt, we are entitled to Full Recourse whether or not we have given Authorisation of the Charge.

B. Internet Orders

If you wish to accept orders over the Internet, you do so at your own risk. American Express will not be liable for fraudulent transactions. Notwithstanding the requirement to present the Card under this Agreement but still subject to all other provisions of this Agreement, we will accept Charges for purchases made through electronic mail order via the Internet (Internet Orders) including online services, the World Wide Web and other similar services subject to the following terms and conditions:

- (1) Every Internet Order will be encrypted by you using Encryption Software (as defined below) authorised by American Express, prior to your acceptance of an Internet order from a Cardmember. In addition, you shall conform to our security guidelines as may be communicated to you from time to time.
- (2) Our fee for accepting Internet Orders is shown on the Application.
- (3) You shall not transmit or solicit transmission to you of Card account numbers or any other Card related data through the Internet or any other electronic mail medium unless such data has been encrypted with Encryption Software before transmission and is transmitted either from the Cardmember to you or from you to us or to our authorised processor.
- (4) You shall obtain Authorisation from us for each Charge made through an Internet Order, irrespective of the amount thereof and record the Authorisation approval code on the ROC.
- (5) You shall create and maintain a ROC as provided in this Agreement, for each Internet Order, except that the word "Internet Order" shall appear in lieu of the Cardmember's signature, and containing the Authorisation approval code for the Order together with other details as are required to identify the nature, date and amount of the transaction. You shall make such record available to American Express on demand.
- (6) If a Cardmember notifies you or us of a dispute, complaint or query concerning a Charge made by Internet Order and the Cardmember denies receiving the goods and services then in addition to any other rights we have under the Agreement, we are entitled to Full Recourse (as defined in this Agreement) for the Charge.
- (7) American Express is also entitled to Full Recourse for all Charges where the Cardmember denies authorising the Charge and the Card was not presented at the time. For the avoidance of doubt, we are entitled to Full Recourse, whether or not we have given proper Authorisation or approval of the Charge. We will not have Full Recourse for such a Charge based upon a claim that the goods were not received if you have obtained a receipt signed by an authorized person verifying the delivery of the goods to the Cardmember's billing address used by us.
- (8) You agree that we will have the absolute right to be immediately reimbursed by you or we can offset such amounts due to you for any and all Charges (in respect of goods delivered electronically rather than physically) we purchased from you which are for any reason uncollectable due to fraud regardless of whether we had notice of such defect at the time of purchase. We will have this right even if you have received an Authorisation approval code and have complied with all other provisions of the Agreement.
- (9) You shall display American Express identification with at least equal prominence with the names, icons or other identification that are displayed by you for other cards accepted by you at your Internet Establishments.
- (10) You shall conform to any additional requirement we may have from time to time for Internet Orders.
- (11) You agree to provide us with one month's advance written notice of any change in your Internet address.
- (12) We reserve the right at any time to terminate the provisions of this clause 9(B) and to refuse to accept Internet Orders if any event or series of events occurs, and whether or not related, which in our opinion may affect your ability or willingness to comply with any of your obligations under this Agreement or to any Cardmember. From time to time American Express shall determine the software and may determine the version it authorises to be used by Establishments for encryption ("Encryption Software"). Currently the Encryption Software authorised by American Express is the Secure Socket Layer (SSL) protocol.
- (13) Your Establishment must participate in our American Express SafeKey (AESK) Program which provides greater security for Charges made by Internet Orders through the use of an authentication method. To participate in the AESK Program, then your Establishment must:
 - (i) complete the required SafeKey certification,
 - (ii) have completed certification in compliance with the Implementation Guide for Cardmember Identification (CID) verification,
 - (iii) maintain a fraud to sales ratio of less than 1% on Charges containing SafeKey data and
 - (iv) remain in good standing with American Express.

The AESK Program applies only to Charges made by Internet Orders that meet the foregoing criteria and the following requirements:

- (i) the Charge indicates it was fully authenticated or an authentication was attempted,
- (ii) the authentication data was provided in both the Authorisation request and the Submission record,
- (iii) the Cardmember disputed the Charge as fraud and
- (iv) the Card is issued in Singapore.

Under The AESK Program, we will not exercise Full Recourse for fraudulent Charges if both the Establishment and Charge comply with the foregoing requirements. The AESK Program does not apply to disputed Charges involving customer service or goods or services disputes.

If we receive a disproportionate number of disputed Charges or high instance of fraud reported from the Establishment while under the AESK Program, you must work with us to reduce the number of disputes and the fraud ratio. If such efforts fail we may, in our sole discretion, modify or terminate your Establishment's participation in the AESK Program.

C. Customer Activated Terminals (CAT)

Notwithstanding the requirement to present the Card under this Agreement but still subject to all other provisions of this Agreement, we will accept Charges which are activated at the terminal by a Cardmember and unattended by you subject to the following terms and conditions:

- (1) Authorisation, including provision of the full magnetic strip datastream, must be obtained for every transaction;
- (2) The Authorisation and Clearing messages should be flagged with a CAT indicator;
- (3) Petrol dispensers should initiate an authorisation request for a nominal amount before any fuel is dispensed, valid for the maximum charge amount [shown on the Application];
- (4) No cashback must be provided through a CAT terminal;
- (5) You agree that we will have the absolute right to be reimbursed by you or we can offset such amounts due to you for any and all Charges we purchased from you which are for any reason uncollectable due to fraud regardless of whether we had notice of such defect at the time of purchase. We will have this right even if you have received an Authorisation approval code and have complied with all other provisions of this Agreement.

10. Prohibited Transactions

You shall not accept the Card nor use your participation in the Card Service for purposes of transactions other than bona fide purchases by Cardmembers of goods and services from you. This means, by way of example and not limitation, that you may not accept the Card for any of the following:

- (1) gambling goods or services;
- (2) pornographic goods or services or prostitution;
- (3) goods or services for which the provision thereof is illegal (e.g., drug trafficking)
- (4) sales where the amounts charged do not correspond with the value of the goods or services purchased or rendered;
- (5) sales made under a name which is different from the name of your Establishment;
- (6) sales made by a third party i.e. not your Establishment;
- (7) sales where you know or ought to know that the goods or services will be resold i.e. not for the personal use of the Cardmember;
- (8) cash;
- (9) damages, penalties, fines, charges, costs or fees of any kind which are in addition to the value of the Charge for the goods or services originally purchased or rendered; or
- (10) part or full payment towards the purchase of real property; or
- (11) amounts which do not represent a bona fide sale of goods or services at your Establishment. You must not use your participation in the Card Service as a means of obtaining cash for yourself by seeking payment from us for transactions where you did not supply goods or services to a Cardmember.

11. Authorisation

- (1) If any Charge or series of Charges by any one Cardmember during any one day at any one of your locations exceeds the limit established by us for that Establishment location as set out in the Application (the "Floor Limit"), you shall obtain authorisation electronically if you have a POS terminal or EFTPOS Solution or otherwise obtain an approval code by telephoning our designated Authorisation centre before the Charge is completed. This procedure is called Authorisation. We reserve the right at any time to change the Floor Limit or eliminate it and require Authorisation for all Charges, but if we do, we shall notify you in writing prior to the effective date of such change.
- (2) Each request for Authorisation shall be for the total original Charge, including applicable taxes.
- (3) Authorisation shall not be deemed or construed to be a representation, promise or guarantee that we will accept the Charge, nor that the person incurring the Charge is the Cardmember.
- (4) You shall seek Authorisation for all Card not Present Charges regardless of the amount.
- (5) Authorisation must be sought:
 - (i) on the date of any Card not Present Charge which is for goods or services to be despatched or rendered more than thirty (30) days after the date of the order; and
 - (ii) again immediately before despatch or rendering of the goods or services purchased.
- (6) You shall not evade Authorisation by the submission of two (2) or more ROCs below your Floor Limit for a single transaction or by making more than one request for Authorisation for a single transaction except in the following circumstances:
 - When the balance of the amount due is paid by the Cardmember at the time of the sale in cash or by check; or
 - When there is a delayed delivery sale requiring a deposit to be paid in advance and the balance of the sale price to be paid on the delivery of the merchandise or the performance of a service. Authorisation is required for each of the two Charges.

- (7) You shall not request separate Authorisation for individual items purchased by the Cardmember at the same time.
- (8) You shall not seek or obtain Authorisation on behalf of any third party.
- (9) If you receive a negative file directly from American Express or from a data broadcast service that incorporates Card numbers and requires you to phone for Authorisation, you shall request Authorisation, regardless of the amount of the Charge in question.
- (10) We will have Full Recourse for any Charge for which Authorisation is not properly requested or obtained, or for which Authorisation is requested and refused or for which no Authorisation approval code number is given, or, if given, is not properly recorded.
- (11) All provisions of this Agreement, particularly the requirements set out in Clauses 8 and 9 above shall be complied with. If not fully complied with, we shall have Full Recourse for the Charge involved, even if Authorisation has been obtained from us.

12. Record of Charge ("ROC")

You shall use our ROC or any other charge form which has previously been approved by us. The term "ROC" includes the record of any Charge which is captured by EDC. For every Charge you shall complete a ROC legibly at the time of purchase. Each ROC shall bear:

- (1) the Card number and the expiry date of the Card;
- (2) the date of the Charge;
- (3) the amount of the Charge, including applicable taxes;
- (4) an Authorisation approval code for any Charge which requires Authorisation under the terms of this Agreement;
- (5) a description of the goods or services purchased;
- (6) your Establishment's name, address and Establishment number;
- (7) the Cardmember's signature if the Charge is made in person;
- (8) the words "Delayed Delivery" if it has been agreed with the Cardmember that the goods or services will not be despatched or rendered on the date the Charge is incurred; and
- (9) all other information required by us from time to time. You shall submit all Charges to us under the Establishment number we have assigned to you. You shall retain all ROCs and other documents (in whatever format) evidencing Charges for a period of twelve (12) months from the date of submission thereof and shall provide to us, at our request, copies thereof within twenty-one (21) days.

13. Recurring Billing

If you offer recurring billing for a series of separate purchases, Cardmembers must sign a Continuous Authority Form as approved by us authorising you to charge their Card ("Recurring Billing Charges"). You must obtain a Continuous Authority Form before submitting the first Recurring Billing Charge. The Continuous Authority Form must include:

- (1) the Cardmember's name;
- (2) the Card number and signature;
- (3) the Card expiry date;
- (4) the Cardmember's billing address;
- (5) the frequency of the Recurring Billing Charges e.g. weekly, monthly, quarterly; and
- (6) a statement that the Cardmember may cancel the Continuous Authority Form at any time.

You must retain Continuous Authority Forms for twelve (12) months from the date you submit the last Recurring Billing Charge.

Before submitting to us each Recurring Billing Charge, you must obtain Authorisation and submit to us a listing in form and content agreed by us, which shall include details of your Establishment, the Cardmember and the Recurring Billing Charge in question or complete a ROC with the words "Signature on File" in the Cardmember signature panel. You agree that if you receive Cardmember information from us pursuant to our Billingwatch product in connection with Recurring Billing Charges you will only use such information in connection with the Recurring Billing process and not for or in connection with any other purpose.

14. Submission of Charges

- (1) You shall submit all Charges directly to us within seven (7) days of the date thereof, provided that no Charge shall be submitted until the goods or services are despatched or rendered to the Cardmember. You shall not bill any Cardmember directly. If any payment is received by you from or on behalf of any Cardmember for any purchase made with the Card, such payment shall be endorsed to us and sent to us immediately.
- (2) A Summary of Charge ("SOC") shall be sent to us at least once each week showing the total of all Charges for that week, together with our copies of all completed ROCs. A SOC shall not be required where no Charges are incurred for that week.
- (3) Charges will be deemed submitted on a business day if received and processed by us prior to the close of business for that day.
- (4) Charges submitted by EDC must be received over communication lines (transmission protocols) which have been approved by us. You shall comply with all specifications provided by us from time to time. We are not obliged to accept any submission by EDC which does not comply with our requirements.
- (5) We shall have Full Recourse for a Charge not submitted to us within thirty (30) days.
- (6) You warrant that all indebtedness arising from all Charges submitted by you is genuine and free from liens, claims or encumbrances. You acknowledge that you are not entitled to bill or collect from any Cardmember any Charge, except in the case of fraud by the Cardmember.

15. Processing Agent

If you enter into an agreement with a third party to submit Charges and Credits and obtain Authorisation on your behalf, you shall obtain our prior written approval, which shall not be unreasonably withheld. You, and not American Express, shall be responsible for all errors, omissions, delays and expenses arising therefrom. You shall notify us promptly if you change your processing agent and provide us at our request with all information with respect thereto.

16. Additional Provisions Regarding Full Recourse

- (1) There are certain industry categories which American Express considers as high fraud risk. We will notify you in the event that your Establishment falls into such industry categories, in which instance we will have Full Recourse for any Charges which we are unable to collect due to fraud.
- (2) We will notify you in the event that our operation of Full Recourse in relation to Charges to your Establishment as a percentage to billings percentage exceeds (for whatever reason) eight (8) percent (or such other percentage as we shall from time to time notify to you) and in this instance we will have Full Recourse with effect from a date five (5) days after the date of our notification to you.

17. Imprinters and Terminals

All imprinters or terminals supplied by us to you remain our property, unless otherwise agreed, and you shall not alter, damage, move, or dispose of the same or permit any third party to use the same. You shall notify us immediately of any defect or fault therein. You shall indemnify us against all costs, claims, proceedings and damages, including legal costs, arising out of or in connection with your use, non-use or abuse of said imprinters or terminals.

18. Applying Cardmember Payments

All payments we receive from Cardmembers for Charges will first be used to satisfy any Charges for which we do not have Full Recourse. Payments will then be applied to any Charges for which we do have Full Recourse. If the Cardmember pays us for Charges for which we have already exercised our right to Full Recourse, we will credit you with the relevant amounts.

19. Credits

- (1) Returns of goods or services purchased with the Card shall be treated in at least as favourable a manner as returns of goods or services purchased by any other payment method or service. You must disclose your refund policy to Cardmembers at the time of the purchase and in a manner which complies with applicable law.
- (2) Any Credit shall be processed as a credit to that Cardmember's Card account and shall be submitted to us within seven (7) days of determining that a Credit is due. Credits shall not be submitted unless they relate to previously submitted Charges.
- (3) Credits shall be recorded on an American Express Credit Record ("Credit Record") and shall be submitted to us in the same submission file as your ROCs and SOCS. If you already submit Charges by EDC, you may submit Credits by EDC.
- (4) We shall deduct the full amount of the Credit from our payment to you and shall bill you for that Credit.
- (5) You shall not give cash refunds for Charges.
- (6) Credits will be deemed submitted on a business day if received and processed by us prior to the close of business for that day.

20. Cardmember Disputes

- (1) A Charge is a "Disputed Charge" if a Cardmember notifies you or us of a dispute, complaint or query concerning a Charge.
- (2) If we notify you of a Disputed Charge, you shall provide us with a written response no later than twenty-five (25) days after receipt of such notification. Your response to us shall be a substantive response containing a resolution or explanation of the Disputed Charge which will enable us to resolve the Disputed Charge. If such response is not received by us within twenty-five (25) days, we shall have Full Recourse for the amount of the Disputed Charge.
- (3) If a Cardmember notifies you of a Disputed Charge, you shall provide him/her with a written response no later than thirty (30) days after receipt of such notification. Your response to the Cardmember shall be a substantive response containing a resolution or explanation of the Disputed Charge.
- (4) If the Cardmember, despite your response, continues to withhold payment for any Disputed Charge, and if the Cardmember has the right under law to withhold such payment, we shall have the right to Full Recourse for that Charge.

21. Security

- (1) We shall be entitled to withhold from you any payment due to you under this Agreement or any other agreement you have with us, or take any other action deemed appropriate by us if, in our reasonably exercised judgement, there is a risk that you will be unable or unwilling to perform your contractual obligations to us under this Agreement or any other agreement you may have with us or under the agreement you have with the Cardmember. In particular but without limitation, we shall be entitled to:-
 - (i) change the Floor Limit;
 - (ii) change your payment plan;
 - (iii) exercise Full Recourse for any Disputed Charge without first sending you notice of such Disputed Charge;
 - (iv) suspend or stop any payment to you; and
 - (v) deduct and offset any amounts you owe to us or to any of our related bodies corporate amounts we or our related bodies corporate owe to you or to any of your related bodies corporate under this Agreement or under any other agreement.We shall notify you of the action we have taken.
- (2) In the event that your account with us shows a debit balance, we shall be entitled to refer your account to a third party (which may be a firm of lawyers) for collection and to charge you a file referral fee and all associated costs.

22. Indemnity

You shall indemnify and hold harmless American Express, its holding, subsidiary and affiliate companies, licensees, successors and assign from any costs, claims, proceedings and demands (including reasonable legal costs) arising out of or in connection with:-

- (1) any Charge or the goods or services comprising the Charge;
- (2) any promotion or marketing of any goods or services sold by you;
- (3) any breach by you, your employees, agents or contractors of this Agreement;
- (4) any act or omission done wilfully, recklessly or negligently by you, your employees, agents or contractors; and
- (5) any violation by you, your employees, agents or contractors of any applicable laws or regulations.

23. Limitation of Liability

Except as otherwise expressly provided in this Agreement, neither of us will be liable to the other for (i) any incidental, indirect, consequential or special damages of any kind, however arising. This limitation shall not apply to damages for which either of us had indemnified the other; and (ii) any cost, damage or expense arising from delays, actions or problems caused by any third party, including without limitation, any telecommunications carrier or banking system. We shall not be liable to you for failure of, or delay in processing through any POS terminal or similar equipment operated by us or others, which are beyond our reasonable control. This has no effect on our rights to Full Recourse pursuant to this Agreement. This provision survives termination of this Agreement.

24. Advertising Displays

You shall display our signs, decals or other identification prominently at the Establishment, which may include our "Take-One" containers filled with Card application forms and travellers cheques welcome decals. Said signs, decals and other identification shall be removed immediately when you cease to participate in the Card Service for any reason.

25. Service Marks and Trade Marks

Except as noted below, nothing in these Terms and Conditions or the Agreement as a whole gives either you or us the right to use the other party's name, trade name, trademarks, service marks, logos, taglines or other proprietary designations ("Marks") in advertising, promotional materials or other materials of any kind unless the other party expressly approves of such use in writing.

Once you have obtained our initial written approval to do so, you may refer to the Card as a payment method accepted by you in your advertising or other promotional materials without our case by case approval, so long as the reference is strictly limited to a listing of the Card as a payment method. You may use our Marks for such listing references so long as you have obtained and complied with our instructions regarding the proper use of our Marks. But we reserve and will have the right in our discretion to refuse such listing references by you or to require you to obtain case by case written approval for them.

You agree that we may refer to you and list details of each of your Establishments in any and all of our guides, directories, or other lists of merchants participating in the American Express Card Service. You also agree that we may use your Marks for this purpose, so long as we have obtained and complied with your instructions regarding the proper use of your Marks.

26. Confidentiality

You shall keep confidential any information you receive from us that is not publicly available and this Agreement and its terms and conditions, including, without limitation, your Merchant Fee. You shall take all steps necessary to prevent the transfer or disclosure of Cardmember information to any third party and will not copy, reproduce or store in any form the names and addresses of Cardmembers for any purpose whatsoever. For the avoidance of doubt, the obligations of this Clause 26 shall survive the termination or expiration of this Agreement.

27. Term and Termination

This Agreement shall be deemed to have been concluded in Singapore, shall commence on the date your Establishment's account is set up on the American Express system and shall continue thereafter unless and until terminated by either party giving not less than thirty (30) days written notice to the other party or unless terminated under the following circumstances:-

- (1) either party materially breaches its obligations and fails to remedy such a breach within thirty (30) days after written notice from the other party specifying such a breach, then the party not in breach may terminate this Agreement immediately by written notice;
- (2) if:
 - (i) you become insolvent or enter bankruptcy, receivership or administration or make an assignment for the benefit of creditors generally;
 - (ii) you suffer an execution, attachment, repossession of or foreclosure on all or substantially all of your assets;
 - (iii) you cease all or a substantial portion of your business or operations;
 - (iv) you undergo a merger or substantial change in ownership or control; or
 - (v) any event occurs, or series of events occur, whether related or not, which in our opinion may affect your ability or willingness to comply with any of your obligations under this Agreement or to the Cardmember(s) in question; then in any such event this Agreement shall terminate automatically and all debts and obligations owed to us shall be deemed immediately due and payable. We shall be entitled to maintain a reserve from payments due to you and/or take such other action as we may be entitled to under this Agreement or under applicable law or equity;
- (3) You shall notify us immediately of the occurrence of any of the events described in Subclause 2 (i) to (v) above;
- (4) Notices of termination shall be effective immediately upon receipt thereof;
- (5) Immediately upon termination, you shall:-
 - (i) remove our name, trademarks, service marks and other proprietary marks, materials and equipment and await our instructions as to the disposal thereof; and
 - (ii) submit all Charges and Credits incurred prior to termination;

- (6) The rights and obligations with respect to Charges made prior to the effective date of termination of this Agreement are applicable to such Charges, whether processed by us before or after termination.
- (7) All obligations and rights of a continuing nature including but not limited to Full Recourse shall survive termination or expiry of this Agreement.

28. Notice Requirement

You agree to notify us immediately if you change address or ownership, cease operations, become insolvent, or if liquidation, receivership, or similar proceedings are filed with respect to you or your business. You can provide us with such notice in writing or by telephoning us at 1800-235-6755.

29. Assignment

You shall not assign, subcontract or transfer this Agreement in whole or in part to any person or entity without our prior written consent. We shall be entitled to assign or subcontract this Agreement in whole or in part to any of our holding, subsidiary or affiliate companies upon written notice to you.

30. Amendment

We shall be entitled to amend any term of this Agreement at any time. We shall give you notice in writing of any such change fifteen (15) days prior to the effective date thereof. If any change is not acceptable to you, you shall be entitled to terminate this Agreement under the provisions of Clause 27 (Term and Termination) above.

31. Waiver

Any failure or delay by us in enforcing any right, power or remedy under this Agreement or applicable law shall not be deemed a waiver thereof unless in writing signed by us.

32. Authority to Sign

You represent that the individual signing the Application is duly authorised on behalf of the Establishment(s) to so sign and bind the Establishment(s) to the provisions thereof and hereof.

33. Notices

All communications shall be in writing and shall be sent as follows: (a) if to you, at your head office or principal place of business as specified on the Application; and (b) if to us, to our address as follows or such other address notified to you by us from time to time: American Express International, Inc., 16 Collyer Quay, Level 13 Hitachi Tower, Singapore 049318 with a copy to American Express International, Inc. 300 Beach Road #19-01 The Concourse, Singapore 199555, Singapore. Notices of termination of this Agreement by you shall be sent by registered mail.

34. Information

American Express will:

- (a) disclose information about the Establishment and the Signer of this Agreement to companies within the American Express Group of companies worldwide (which shall include, other organisations who issue the Card or operate the Card Service to persons who have signed an agreement for the acceptance of the Card), in order to administer and service your account, process and collect Charges at your Establishment and manage any benefits or programmes in which you may be enrolled as a participant in the Card Service;
- (b) use information about you and information about how the Card is used at your Establishment (unless you ask us not to) to develop lists for use within the American Express Group of companies world-wide and other select companies in order that we or these companies may develop or make offers to you (by mail or telephone) of products and services in which you may be interested. The information used to develop these lists may be obtained from your Application, from surveys and research (which may involve contacting you by mail or telephone) and/or from other external sources such as merchants or marketing organisations. If you prefer not to receive offers of relevant products and/or services, please write to us at American Express International, Inc., Global Merchant Services, 16 Collyer Quay, Level 13 Hitachi Tower, Singapore 049318, Singapore. providing your full name, your trading name and your American Express Merchant number;
- (c) disclose information concerning all your Establishments that welcome the Card to agents or sub-contractors of American Express or to any other person for the purpose of fraud prevention in connection with card products;
- (d) to the extent permitted by law, exchange information about the Establishment and the signer of this Agreement with credit reference agencies which may be shared with other organizations in assessing applications from you and members of the Signer's household for other financial/credit facilities or for preventing fraud or tracing debtors;
- (e) to the extent permitted by law, carry out further credit checks (including contacting your bank or building society) and disclosing information about the Establishment and the Signer of the Agreement to collection agencies and lawyers for the purposes of collecting debts due to American Express;
- (f) disclose information where required by law;
- (g) analyse information about the Establishment and Charges to assist in managing your account and authorising Charges and to prevent fraud;
- (h) monitor and/or record your telephone calls to us, either ourselves or by reputable organizations selected by us, to ensure consistent servicing levels and account operation;
- (i) undertake all of the above in respect of any of your locations; and
- (j) undertake all of the above within and outside Singapore. This includes processing your information in the USA.

If you ask, we will tell you what information we hold about you and provide it to you in accordance with applicable law. There may be a charge for this, as permitted by law.

If you believe that any information we hold about you is incorrect or incomplete, you should write without delay to American Express International, Inc., 16 Collyer Quay, Level 13 Hitachi Tower, Singapore 049318, Singapore. Any information which is found to be incorrect or incomplete will be corrected promptly. We keep information about you only for so long as is appropriate for the above purposes or as required by law.

35. Compliance with Laws

You agree to comply with all laws, regulations and rules applicable to you.

36. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Singapore.

SECTION II – SPECIAL TERMS AND CONDITIONS FOR ACCEPTANCE OF THE AMERICAN EXPRESS CARD

1. Agreement

These Special Terms and Conditions govern your Establishment's participation in the Card Service for all your locations which are approved by us. In the event of conflict between the Special Terms and Conditions and the Basic Terms and Conditions, the former shall prevail over the latter with respect to the following relevant businesses or matters only.

If you are engaged, in any of the following industries you must comply with the following applicable provisions:

2. Lodging

(1) Authorisation

When a Cardmember wishes to use the Card to pay for a lodging stay, at the time of check-in, you will obtain Authorisation for the full estimated amount of the Charge based upon the room rate and the number of days that the Cardmember expects to stay, plus taxes and other known ancillary amounts (Estimated Lodging Charge). You shall not overestimate this amount. If you fail to obtain such Authorisation for the Estimated Lodging Charge, and submit the Charge, and the Cardmember fails to pay the Charge for any reason, we shall have Full Recourse for the full amount of the Charge. Upon check-out:

- (i) If the final Charge is no greater than the Estimated Lodging Charge plus 15% of the Estimated Lodging Charge, no further Authorisation is necessary.
- (ii) If the final Charge is greater than the Estimated Lodging Charge by more than 15%, you will obtain Authorisation for any additional amount of the Charge which is greater than the Estimated Lodging Charge.

If you fail to request such Authorisation for the additional amount, or request Authorisation for the additional amount but Authorisation is declined, and the Cardmember fails to pay the Charge for any reason, we will have Full Recourse for the amount of the Charge in excess of the Estimated Lodging Charge

(2) No Show

You will accept Charges on the Card only if:

- (i) the Cardmember has guaranteed the reservation with his/her Card;
- (ii) you have recorded the Card number, its expiry date and the Cardmember's billing address; and
- (iii) you have a documented "No-Show" policy which reflects common practice in your business and is in accordance with the prevailing law, which policy has been advised to the Cardmember at the time he/she makes the reservation. If the Cardmember does not honour his/her reservation, you shall submit a completed ROC with the words "No-Show" on the signature panel of the ROC. Authorisation is not required.

(3) Periodic Charges

In the case of any Cardmember who incurs Charges at your Establishment(s) over a period of time rather than at the end of the stay, you shall obtain, before accepting each Charge, Authorisation for each Charge. You shall submit the ROC in accordance with the Terms and Conditions.

3. Car Hire

When a Cardmember wishes to use the Card to hire a vehicle, you shall obtain Authorisation for the full estimated amount of the Charge (Estimated Rental Charge). The Estimated Rental Charge shall be determined by multiplying the rate (including insurance and other applicable charges) by the rental period reserved by the Cardmember. You shall not overestimate this amount and shall not include an amount for any possible damage to or theft of the vehicle. If you fail to obtain such Authorisation for the Estimated Rental Charge and submit the Charge, and the Cardmember fails to pay the Charge for any reason, we shall have Full Recourse for the full amount of the Charge. Upon return of the vehicle, the following terms shall apply:

- (1) If the final Charge is no greater than the Estimated Rental Charge plus 15% of such Estimated Rental Charge, no further Authorisation shall be necessary;
- (2) If the final Charge is greater than the Estimated Rental Charge by more than 15%, you shall obtain Authorisation for any additional amount of the Charge which is greater than the Estimated Rental Charge.

If you fail to request such Authorisation for the additional amount, or you request Authorisation for the additional amount but Authorisation is declined, and the Cardmember fails to pay the Charge for any reason, we shall have Full Recourse for the amount of the Charge in excess of the Estimated Rental Charge.

We have the right to periodically monitor you or Establishment's compliance with the Authorisation procedures set forth above. If we notify you that an Establishment is not complying with these procedures, you agree to cure such non-compliance. If, after thirty (30) days from the date you were notified of the non-compliance, the Establishment continues to fail to comply with these procedures, then we shall have Full Recourse for the full amount of any Charges made at that Establishment during such continued non-compliance. For the purposes of this provision, "non-compliance" shall occur when more than five percent (5%) of an Establishment's Authorisations or more than five percent (5%) of your Authorisations do not comply with these Authorisation procedures.

4. Third Party Charges

If you supply goods or services to someone other than the Cardmember ("Third Party Charges") and such goods or services are charged to the Cardmember's Card, then you do so entirely at your own risk. If the Cardmember notifies you or us of a dispute, complaint or query concerning the Charge, we shall have the right of Full Recourse in respect of such Charge, whether Authorisation was obtained or not.

5. Customer Activated Terminals (CAT)

Notwithstanding the requirement to present the Card under this Agreement but still subject to all other provisions of this Agreement, we will accept Charges which are activated at the terminal by a Cardmember and unattended by you subject to the following terms and conditions:

- (1) Authorisation, including provision of the full magnetic strip datastream, must be obtained for every transaction;
- (2) The Authorisation and Clearing messages should be flagged with a CAT indicator;
- (3) Petrol dispensers should initiate an authorization request for a nominal amount before any fuel is dispensed, valid for the maximum charge amount [shown on the Application]
- (4) No cashback must be provided through a CAT terminal
- (5) You agree that we will have the absolute right to be reimbursed by you or we can offset such amounts due to you for any and all Charges we purchased from you which are for any reason uncollectable due to fraud regardless of whether we had notice of such defect at the time of purchase. We will have this right even if you have received an Authorisation approval code and have complied with all other provisions of the General Terms and Conditions.

American Express International, Inc., 16 Collyer Quay, Level 13 Hitachi Tower, Singapore 049318, Singapore.

www.americanexpress.com.sg

SECTION III – SPECIAL EDC TERMS AND CONDITIONS

These Special EDC Terms and Conditions supplement and, where inconsistent with them, modify the Terms and Conditions and form part of your Agreement with us if we have supplied you with or agreed in writing to your use of point of sale computer terminals or other devices or systems designed to read the magnetic stripes on or otherwise capture data electronically from charge, credit or other payment cards for purposes of processing card transactions ("EDC Terminal").

1. Overview

You may use EDC Terminals to capture point of sale data from American Express Card transactions, generate ROCs and Credit Record Forms, obtain Authorisation from us, and submit to us electronically the data contained on ROCs and Credit Record Forms (in lieu of the forms themselves) for purposes of our payments to you. If we supply you with the EDC Terminals, you will be responsible to us for their care and use. If we agree in writing to your use of EDC Terminals supplied to you by a third party, your care and use of those terminals (except for their use in American Express Card transactions) shall be a matter between you and the third party. In either case, you must use the EDC Terminals in accordance with the technical specifications and other instructions we supply to you from time to time.

2. Capturing Data/Generating Forms

Whenever feasible, you must use EDC Terminals to:

- (i) capture at the point of sale all data from American Express Card transactions that must be included on ROCs and Credit Record Forms; and
- (ii) generate ROCs and Credit Record Forms that meet the requirements for these forms set forth in the Agreement.

3. Authorisation

Whenever feasible, you must use your EDC Terminals to obtain Authorisations, and you must obtain Authorisation for each Charge processed through an EDC Terminal regardless of the amount of the Charge. Whenever it is not feasible to obtain Authorisation through an EDC Terminal (due to a system malfunction, power outage, or any other reason), other Authorisation rules of the Agreement will apply.

4. Payment Processing

For purposes of our payments to you, you must submit to us electronically the data contained on the ROCs and Credit Record Forms you have generated (but not the forms themselves) in the format we have prescribed and subject to our other instructions. We will pay you on the basis of this electronic data, provided it is received by us in good order consistent with our instructions, and subject to all of our rights under the Agreement as a whole.

5. Record Requests

In the event we request from you a copy of a ROC or Credit Record Form (due to a Cardmember Claim or otherwise), you must supply it to us within 25 days of our request. If you do not and our request was within the twelve (12) month period in which you were required to retain such copies under the Agreement, we will have full recourse against you for any Charge or other amount we are unable to collect due to the absence of the form.

6. American Express EDC Terminals

In addition to Clauses 1-5 of these Special EDC Terms and Conditions, the following provisions apply if we supply you with the EDC Terminals ("American Express EDC Service"):

- (i) You agree to allow us to enter any of your premises to install, inspect, repair, service or remove the EDC Terminals for any reason during business hours or at any other reasonable time;
- (ii) You will not move or part with possession of the EDC Terminals. If you would like any EDC Terminal to be moved, you must tell us, and we will move the EDC Terminal, provided the proposed new location is acceptable to us in our discretion.
- (iii) We will be responsible for maintenance and repair of the EDC Terminals. You agree to cooperate fully in our maintenance and repair efforts. Although we shall endeavour in good faith to keep the EDC Terminals in good repair, we shall not be liable to you for our failure to do so or otherwise for the failure of the terminals to operate properly.
- (iv) The EDC Terminals are and will remain our property at all times. You shall take reasonable care of them and return them to us promptly upon our request. You also agree to take all necessary steps to prevent any person from acquiring any rights in the EDC Terminal, and to indemnify us against any loss and expense arising from the acquisition of such rights by any person. You further agree that you shall not, nor shall you permit any other person to, tamper, reverse-engineer, or otherwise misuse the EDC Terminal.
- (v) You agree to reimburse us US\$500, or local currency equivalent, for each damaged EDC Terminal whether or not the damage resulted from causes within your control. This includes but is not limited to damage caused by:
 - (a) the use of EDC Terminals for purposes other than those described in these Special EDC Terms and Conditions; or
 - (b) alterations and attachments to the EDC Terminals which were not previously authorised in writing by us; or
 - (c) the acts or omissions of you, your employees, agents, other representatives or contractors; or
 - (d) the negligent or otherwise improper care or operation of the EDC Terminals; or
 - (e) fire, theft, acts of God, or other causes.
- (vi) You agree not to assign, transfer or sell the services provided by the EDC Terminals, nor to allow any other party to use the EDC Terminals or to benefit from the EDC Terminals, unless otherwise agreed to in writing by us.
- (vii) You shall operate the EDC Terminals only in accordance with the procedures and instructions advised to you by us from time to time. We agree to train your then current staff in the operation of the EDC Terminals at the time of installation by us. You agree to train new staff at your own cost after the initial training.
- (viii) In addition to using the EDC Terminals for American Express Card transactions, you may use them for transactions involving charge, credit or other payment cards issued by third parties, provided such use is feasible, and subject to any and all technical specifications or other instructions we may issue for those transactions. You are solely responsible for any contractual or obligations you may have to those third parties.
- (ix) You must give us at least 30 days prior written notice if you plan to sell, transfer, close or otherwise dispose of one or more locations at which our EDC Terminals are installed or if you wish us to remove EDC Terminals from such locations. Upon receipt of that notice, we may remove the EDC Terminals from the applicable locations, and we may notify you that these Special EDC Terms and Conditions shall cease to apply to such locations or generally (except in relation to antecedent transactions) and we may take such other steps as we deem appropriate.
- (x) You agree to pay to us for each terminal a monthly rental fee as specified on the Application Form via direct debit, cheque payment or any other method acceptable to us and notified to you from time to time. We reserve the right to change these fees from time to time at our discretion with 30 days prior written notice to you.
- (xi) The monthly rental fee shall be non-refundable, even if you cease to have any EDC Terminals supplied by us or upon termination of the Agreement.

7. Third Party Terminals

In addition to Clauses 1-6 of these Special EDC Terms and Conditions, the following provisions apply if we agree in writing to your use of EDC Terminals supplied to you by third parties for American Express Card transactions:

- (i) we shall not be responsible for the operation of the EDC Terminals, including but not limited to the quality of their operation, their ability to communicate properly with our computer systems, their maintenance, and any and all costs associated with them;
- (ii) you shall comply with any request from us to modify or discontinue your electronic submission of American Express Card transaction data through use of the EDC Terminals;
- (iii) you agree that all costs and expenses associated with such modification or discontinuance shall be borne entirely by you;
- (iv) you must give us at least 10 days prior written notice if you plan to cease submitting American Express Card transaction data to us through EDC Terminals at one or more locations (whether as a result of your desire to switch to terminals supplied by another third party or otherwise). Upon receipt of that notice, we may notify you that these Special EDC Terms and Conditions shall cease to apply to such locations or generally (except in relation to antecedent transactions) and we may take such other steps as we deem appropriate.

8. Term and Termination

- A. These Special EDC Terms and Conditions will take effect if and when we supply you with EDC terminals or agree in writing to your use of EDC Terminals supplied to you by third parties.
- B. Either party may terminate the applicability of these Special EDC Terms and Conditions as a whole or as they apply to one or more particular locations (as the terminating party shall specify) such termination to be effective as follows:
 - 1. With regard to Amex supplied EDC Terminals, when you return the involved EDC Terminals to us. If we notify you that we are terminating the applicability of these Special EDC Terms and Conditions whole or in part and request return of Amex EDC Terminals, you agree to return those terminals involved to us promptly upon our request and in accordance with our reasonable instructions.
 - 2. With regard to EDC Terminals supplied by third parties, upon 10 business days advance written notice of your intention to no longer use third party EDC Terminals for American Express Card transactions.
- C. We reserve and shall have the right to terminate your participation in the American Express EDC Service immediately on notice to you if you do not pay the annual EDC Terminal rental fees when due.
- D. These Special EDC Terms and Conditions will continue to apply to any transaction processed through an EDC Terminal prior to the time of termination and unless and until all Amex EDC Terminals are returned to us as provided above.
- E. If these Special EDC Terms and Conditions are no longer applicable whether in respect of one or more of your locations but the Agreement remains in effect, you must process American Express Card transactions made at or through the involved locations manually in accordance with the Agreement.
- F. Upon termination of these Special EDC Terms and Conditions in whole or in part, you shall promptly return to us from the involved locations all materials we may have supplied to you in connection with your use of the EDC terminals.

representations, warranties, and liabilities with respect to our data security operating policy, the PCI standard, and the designation and performance of third party security assessors, whether expressed, implied, statutory, or otherwise, including any warranty of merchantability or fitness for a particular purpose.

For more information or for a copy of the Data Security Operating Policy, please visit www.americanexpress.com/datasecurity

Merchant T&C 09/10

SECTION IV – DATA SECURITY OPERATING POLICY

As a leader in consumer privacy protection, American Express has a long-standing commitment to protect Cardmember transaction and payment information, ensuring that data is kept private and secure. Compromised data negatively impacts consumers, merchants and card issuers.

- A. Except as otherwise specified, you must cause your Covered Parties, to: (i) store Cardmember Information only to facilitate Card transactions in accordance with this Agreement and (ii) comply with the then-current Payment Card Industry Data Security Standard (PCI Standard). You must protect all Charge Records and Credit Records retained pursuant to this Agreement in accordance with these data security provisions; you must use these records only for purposes of this Agreement and safeguard them accordingly. Your data security procedures for the Card shall be no less protective than for Other Payment Products you accept. You are liable for your Covered Parties' compliance with this section. Covered Parties means any or all of your employees, agents, representatives, subcontractors, Processors, providers of your point of sale equipment or systems or payment processing solutions, and any other parties to whom you may provide Cardmember Information access in accordance with this Agreement.
- B. You further must comply with our Data Security Operating Policy, which we may amend from time to time. You have additional obligations under that policy based on your transaction volume, including providing to us documentation validating your compliance with the PCI Standard performed by a third party security assessor acceptable to us. We have the right to assess non-compliance fees in accordance with that policy for your failure to comply with those obligations.
- C. You must notify us immediately if you know or suspect that Cardmember Information has been accessed, used without authorization, or used other than in accordance with this Agreement. You must provide (and obtain any waivers necessary to provide) to us and our auditors, on request, full cooperation and access to conduct a thorough audit of such data incident, including providing all Card account numbers related to the incident and audit reports of the incident. You must work with us to rectify any issues arising from the incident, including consulting us about your communications to Cardmembers affected by the incident, and providing (and obtaining any waivers necessary to provide) us all relevant information to verify your ability to prevent future incidents in a manner consistent with this Agreement. Audits must include forensic reviews and reports on compliance, any and all information related to the incident, and they must identify the cause of the incident and confirm whether or not you were in compliance with the PCI Standard at the time of the data incident.
- D. Your indemnity obligations to us under this Agreement include, without waiving any of our other rights and remedies, liability for all fraudulent transactions related to such data incidents and all costs, fees, and expenses (including claims from third parties and all costs incurred by us related to (i) the notification of Cardmembers, (ii) cancellation and reissuance of Cards, (iii) reasonable legal fees and disbursements, and (iv) costs of investigation, litigation, settlement, judgment, interest, and penalties) we incur as a result of such data incidents unless (i) you notify us pursuant to this section, (ii) you are and were in compliance at the time of the data incident with our Data Security Operating Policy, and (iii) the data incident was not caused by the wrongful conduct of you or your employee(s) or agent(s).
- E. Except as otherwise specified in these data security provisions or our Data Security Operating Policy, your compliance with our Data Security Operating Policy shall not in any way relieve your indemnity obligations to us under this Agreement, nor relieve or decrease your liability in any way. You are responsible at your sole expense for providing any additional data security measures that you deem necessary to protect your particular data and interests. We do not in any way represent or warrant that the measures contained in these data security provisions or our Data Security Operating Policy are sufficient or adequate to protect your particular data and interests. We hereby disclaim any and all