Cardmember Agreement: Part 1 of 2

As of: 12/31/2014

Morgan Stanley Platinum Card
Issuer: American Express Bank, FSB

Fees Table

Fees	
Annual Membership Fee	**$450**
Transaction Fees • Foreign Transaction	**None**
Penalty Fees • Late Payment	Up to **$37**. However, if your account does not have a Pay Over Time feature or balance and you do not pay for two billing periods in a row, your fee will be **$37** or **2.99%** of the past due amount, whichever is greater.
• Returned Payment	Up to **$37**

How Rates and Fees Work

Rates for Pay Over Time balances	*See About Pay Over Time features in Part 2 of this Agreement*
Penalty APR for new transactions	The penalty APR applies to new transactions if: • you do not pay at least the Minimum Payment Due by the Closing Date of the billing period in which it is due 3 times in 12 billing periods, • you do not pay at least the Minimum Payment Due by the Closing Date of the billing period in which it is due and you still do not pay it by the Closing Date of the next billing period, or • your payment is returned by your bank. If the penalty APR applies to a balance, it will apply to charges added to that balance 15 or more days after we send you notice. We will review your Account every 6 months after the penalty APR is applied. The penalty APR will continue to apply until you have made timely payments with no returned payments during the 6 months being reviewed.
Penalty APR for existing balances	If you do not pay at least the Minimum Payment Due within 60 days after its Payment Due Date, we can apply the penalty APR to those balances it does not already apply to. After you pay on time for 6 billing periods in a row, the penalty APR will no longer apply to those balances (but it may still apply to other balances as described above).
Fees	
Annual Membership	This fee is on the *Rates and Fees Table* on page 1 of Part 1. We will not charge for 1 additional card, we will charge $175 for up to 3 more after the 1st card, then we will charge $175 for each additional card after the 4th card.
Late Payment	Accounts without a Pay Over Time Feature or Balance: Up to $37. However, if you do not pay the Amount Due for two billing periods in a row, your late fee will be $37 or 2.99% of the past due amount, whichever is greater. • Your first late fee is $26. This late fee will be charged if you do not pay the Amount Due on your billing statement before the 20th day after the Closing Date shown on your next billing statement. If you do this again within the next 6 billing periods, your late fee is $37 instead. • However, if you do not pay the Amount Due for two or more billing periods in a row, your late fee will be $37 or 2.99% of the past due amount, whichever is greater. This late fee will be charged on the Closing Date of the second consecutive billing period, and, if an Amount Due remains unpaid, on each Closing Date after that. • Your late fee will never exceed the Amount Due. Accounts with a Pay Over Time Feature or Balance: Up to $37. • Your first late fee is $26. If you pay late again within the next 6 billing periods, your late fee is $37 instead. However, your late fee will never exceed the Minimum Payment Due. • The applicable late fee will be charged if you do not pay the Minimum Payment Due on your billing statement before the 20th day after the Closing Date shown on your next billing statement, and, if the Minimum Payment Due remains unpaid, on each Closing Date after that. • Paying late may also result in a Penalty APR. See *Penalty APR for new transactions and Penalty APR for existing balances* above. In certain circumstances, because of the timing of the late fee charges described above, a billing statement may reflect two late fees, each one charged with respect to a different billing period.
Returned Payment	Up to $37. If you make a payment that is returned unpaid the first time we present it to your bank, the fee is $26. If you do this again within the same billing period or the next 6 billing periods, the fee is $37. However, the returned payment fee will not exceed the applicable Minimum Payment Due. A returned payment may also result in a penalty APR. See *Penalty APR for new transactions* above.
Returned Check	$38 if you use your card to cash a check at one of our approved locations and the check is returned unpaid. We will also charge you the unpaid amount.
Account Re-opening	$25 if your Account is cancelled, you ask us to re-open it, and we do so.
Foreign Transaction	None

Part 1, Part 2 and any supplements or amendments make up your Cardmember Agreement.

Supplement to the Cardmember Agreement

How Your Reward Program Works

Anniversary Spend Award for the Platinum Card from American Express exclusively for Morgan Stanley		
Things you should know about this program	The Platinum Card from American Express exclusively for Morgan Stanley is only available to you if you have an *eligible brokerage account.* *Eligible brokerage account* means a Morgan Stanley Smith Barney brokerage account held in your name or in the name of a revocable trust where you are the grantor and trustee, except for the following accounts: Charitable Remainder Annuity Trusts, Charitable Remainder Unitrusts, irrevocable trusts and employer-sponsored accounts. Eligibility is subject to change. We may cancel your card account and participation in this program, if you do not maintain an eligible brokerage account.	
How do you receive an Anniversary Spend Award	If the total eligible purchases charged to your Platinum Card from American Express exclusively for Morgan Stanley card account equals $100,000 or more during an anniversary year as described below, Morgan Stanley Smith Barney shall deposit five hundred dollars ($500) into an eligible brokerage account of yours that is determined by Morgan Stanley Smith Barney. If you qualify to receive the $500 deposit but your only eligible brokerage account is a trust account, joint account, retirement account, or sole proprietorship account, Morgan Stanley Smith Barney will instead send $500 to you in the form of a check that will be mailed to your address on record at Morgan Stanley Smith Barney. You will not receive your $500 award if your card account is cancelled or in default at the time of fulfillment. Limit one Anniversary Spend Award per anniversary year per card account.	An *anniversary year* is each one year period following the date your card account was opened. The $100,000 purchase threshold resets to $0 at the start of each anniversary year. *Eligible purchases* are purchases for goods and services minus returns and other credits. Eligible purchases do NOT include: • fees or interest charges, • balance transfers, • cash advances, • purchases of traveler's checks, • purchases or reloading of prepaid cards, or • purchases of any cash equivalents. Eligible purchases include purchases made by both the Basic and Additional Cardmembers on the card account. This offer may not be transferred.
Receiving your Anniversary Spend Award	It will take approximately 4-6 weeks after the end of the anniversary year to receive the Anniversary Spend Award from Morgan Stanley Smith Barney. Please contact Morgan Stanley Smith Barney with any questions about brokerage account eligibility and the fulfillment of the award.	Morgan Stanley Smith Barney LLC, its affiliates, and Morgan Stanley Smith Barney Financial Advisors and employees do not provide tax or legal advice. Clients may be subject to tax and information reporting with respect to any awards, including the Anniversary Spend Award. Clients should consult their tax advisors regarding the tax implications of any awards, including the Anniversary Spend Award, based upon their specific circumstances.

Cardmember Agreement: Part 2 of 2

How Your American Express Account Works

Introduction

About your Cardmember Agreement	This document together with Part 1 make up the Cardmember Agreement *(Agreement)* for the *Account* identified on page 1 of Part 1. Any supplements or amendments are also part of the Agreement.	When you use the Account (or you sign or keep the card), you agree to the terms of the Agreement.
Changing the Agreement	We may change this Agreement, subject to applicable law. We may do this in response to the business, legal or competitive environment. This written Agreement is a final expression of the agreement governing the Account. The written Agreement may not be contradicted by any alleged oral agreement.	We cannot increase the interest rate on existing balances except in limited circumstances. Changes to some terms may require 45 days advance notice, and we will tell you in the notice if you have the right to reject a change. We cannot change certain terms during the first year of your Cardmembership.
Words we use in the Agreement	***We, us,*** and ***our*** mean the issuer shown on page 1 of Part 1. ***You*** and ***your*** mean the person who applied for this Account and for whom we opened the Account. You and your also mean anyone who agrees to pay for this Account. You are the ***Basic Cardmember.*** You may request a card for an ***Additional Cardmember*** (see *About Additional Cardmembers* in Part 2).	***Card*** means any card or other device that we issue to access your Account. A ***charge*** is any amount added to your Account, such as purchases, fees and interest charges. A ***purchase*** is a charge for goods or services. To ***pay*** by a certain date means to send your payment so that we receive it and credit it to your Account by that date (see *About your payments* in Part 2).

About using your card

Using the card	You may use the card to make purchases. You may also use the card at an ATM to get cash from a checking account you designate. We decide whether to approve a charge based on how you spend and pay on this Account and other accounts you have with us and our affiliates. We also consider your credit history and your personal resources that we know about. You may arrange for certain merchants to store your card number and expiration date, so that, for example: ● the merchant may charge your account at regular intervals; or ● you may make charges using that stored card information.	We may (but are not required to) tell these merchants if your expiration date or card number changes or if your account is cancelled. You must notify the merchants directly if you want them to stop charging your Account. Keep your card safe and don't let anyone else use it. If your card is lost or stolen or your Account is being used without your permission, contact us right away. You may not use your Account for illegal activities.
Promise to pay	You promise to pay all charges, including: ● charges you make, even if you do not present your card or sign for the transaction, ● charges that other people make if you let them use your Account, and ● charges that Additional Cardmembers make or permit others to make.	
Declined transactions	We may decline to authorize a charge. Reasons we may do this include suspected fraud and our assessment of your creditworthiness. This may occur even if your Account is not in default.	We are not responsible for any losses you incur if we do not authorize a charge. And we are not responsible if any merchant refuses to accept the card.
About Pay Over Time features	We may add *features* to your Account that allow you to pay certain charges over time. These features include Select & Pay Later, Sign & Travel® and the Extended Payment Option. Select & Pay Later allows you to request that eligible purchases be moved to your Pay Over Time balance after the charge appears on your statement. If we approve your request, we will place the charge in your Pay Over Time balance. If we decline your request, you must pay the charge in full upon receipt of your billing statement. If you enroll in Sign & Travel, we will automatically place eligible travel-related charges into a Pay Over Time balance. Some examples are airline and cruise ship tickets, hotels, car rentals and charges made outside the U.S. If you enroll in the Extended Payment Option, we will automatically place all eligible charges into a Pay Over Time balance.	A charge is eligible if it equals or is more than a certain dollar amount. We will tell you this amount when you enroll, and it is subject to change. We will tell you if we change it. Certain charges are not eligible, such as cash and similar transactions. We assign a Pay Over Time limit to your Account. We will not place any charge into a Pay Over Time balance if it causes the total of your Pay Over Time balances to go over your Pay Over Time limit. We may reduce or increase this amount. We may do so even if you pay on time and your Account is not in default. We will tell you if we change that amount. You must pay in full upon receipt of your billing statement all charges that are not placed into a Pay Over Time balance. We may change which charges are eligible to be placed into a Pay Over Time balance.

About your payments

When you must pay

Payment of the New Balance is due upon receipt of your statement. If a statement includes a Pay Over Time balance, it will show a Minimum Payment Due. In this case, you must pay at least the Minimum Payment Due by the Payment Due Date. Each statement also states the time and manner by which you must make your payment for it to be credited as of the same day it is received.

Each statement also shows a Closing Date. The Closing Date is the last day of the billing period covered by the statement. Each Closing Date is about 30 days after the previous statement's Closing Date. Each statement also shows a Next Closing Date.

How to make payments

Make payments to us in U.S. dollars with:

- a single check drawn on a U.S. bank, or
- a single negotiable instrument clearable through the U.S. banking system, for example a money order, or
- an electronic payment that can be cleared through the U.S. banking system.

When making a payment by mail:

- make a separate payment for each account,
- mail your payment to the address shown on the payment coupon on your billing statement, and
- write your Account number on your check or negotiable instrument and include the payment coupon.

If your payment meets the above requirements, we will credit it to your Account as of the day we receive it, as long as we receive it by the time disclosed in your billing statement. If we receive it after that time, we will credit the payment on the day after we receive it.

If your payment does not meet the above requirements, there may be a delay in crediting your Account. This may result in late fees and additional interest charges (see *How Rates and Fees Work* on page 2 of Part 1).

If we decide to accept a payment made in a foreign currency, we will choose a rate to convert your payment into U.S. dollars, unless the law requires us to use a particular rate.

If we process a late payment, a partial payment, or a payment marked with any restrictive language, that will have no effect on our rights and will not change this Agreement.

How we apply payments and credits

If a statement includes a Pay Over Time balance, it will show a Minimum Payment Due. The Minimum Payment Due is the Pay In Full New Balance plus the Pay Over Time Minimum Due.

If you have a Pay Over Time balance, we generally apply payments-up to the Minimum Payment Due-first to the Pay Over Time Minimum Due and then to the Pay In Full New Balance. When applying a payment to the Pay Over Time Minimum Due, we apply it first to the balance with the lowest interest rate and then to balances with higher interest rates.

After the Minimum Payment Due has been paid, we apply payments to the remaining Pay Over Time balance. When we do this, we apply payments first to the balance with the highest interest rate and then to balances with lower interest rates.

In most cases, we apply a credit to the same balance as the related charge. We may apply payments and credits within balances, and among balances with the same interest rate, in any order we choose.

About your Minimum Payment Due

How we calculate your Minimum Payment Due

The Minimum Payment Due is the Pay In Full amount plus any Pay Over Time Minimum Due. To calculate the Pay Over Time Minimum Due for each statement, we start with the *higher* of:

(1) interest charged on the statement plus 1% of the Pay Over Time New Balance (excluding interest on the statement); or
(2) $35.

Then we round to the nearest dollar and add any Pay Over Time amount past due. Your Pay Over Time Minimum Due will not exceed your Pay Over Time New Balance. You may pay more than the Minimum Payment Due, up to your entire outstanding balance, at any time.

EXAMPLE: *Assume that you have a Pay Over Time New Balance of $3,000, interest of $29.57, no amounts past due, and a $400 Pay In Full amount.*

(1)*$29.57 + 1% x ($3,000 - $29.57) = $59.27*
(2) *$35*

The higher of (1) or (2) is $59.27, which rounds to $59.00. The Pay Over Time Minimum Due of $59.00 plus the Pay in Full amount of $400 together make up the Minimum Payment Due of $459.00.

About interest charges on Pay Over Time balances

When we charge interest

For transactions added to pay over time balances at your request (for example, *Select & Pay Later*), we charge interest from the date they are added to a pay over time balance until they are paid.

For transactions added automatically to a pay over time balance (for example, *Sign & Travel* and *Extended Payment Option*), we charge interest from the transaction date until they are paid. However, we will not charge interest on these transactions if:

- your *Pay Over Time Previous Balance* for the billing period is zero; or
- you paid the *Account Total Previous Balance* for each of the previous two billing periods in full by the closing date shown on their respective statements.

How we calculate interest

We calculate interest for a billing period by first figuring the interest on each balance. Balances within each feature-such as Select & Pay Later, Sign & Travel and Extended Payment Option-may have different interest rates.

We use the **Average Daily Balance method (including new transactions)** to figure interest charges for each balance. The total interest charged for a billing period is the sum of the interest charged on each balance.

Interest

The interest charged for a balance in a billing period, except for variations caused by rounding, equals:

- Average Daily Balance (*ADB*) ***x***
- Daily Periodic Rate (*DPR*) ***x***
- number of days the DPR was in effect.

ADB

To get the ADB for a balance, we add up its *daily balances*. Then we divide the result by the number of days the DPR for that balance was in effect. If the daily balance is negative, we treat it as zero.

DPR

A DPR is 1/365th of an APR, rounded to one tenthousandth of a percentage point. Your DPRs are shown in *How Rates and Fees Work* on page 2 of Part 1.

EXAMPLE: Calculating Interest

Assume that you have a single interest rate of 15.99%, your ADB is $2,250 and there are 30 days in the billing period.

*The **DPR** is 15.99% ÷ 365 days = 0.0438%*

*The **Interest** is $2,250 x 0.0438% x 30 days = $29.57*

Daily Balance

For each day a DPR is in effect, we figure the daily balance by:

- taking the *beginning balance* for the day,
- adding any new charges,
- subtracting any payments or credits; and
- making any appropriate adjustments.

We add a new charge to a daily balance as of its transaction date.

Beginning balance

For the first day of a billing period, the beginning balance is the ending balance for the prior billing period, including unpaid interest. For the rest of the billing period, the beginning balance is the previous day's daily balance *plus an amount of interest equal to the previous day's daily balance multiplied by the DPR for that balance*. *This method of figuring the beginning balance results in daily compounding of interest.*

When an interest rate changes, the new DPR may come into effect during-not just at the beginning of-the billing period. When this happens, we will create a new balance and apply the new DPR to it. To get the beginning balance on the first day for this new balance, we multiply the previous day's daily balance by the old DPR and add the result to that day's daily balance.

Other methods

To figure the ADB and interest charges, we may use other formulas or methods that produce equivalent results. Also, we may choose not to charge interest on certain types of charges.

Determining the Prime Rate

We use the Prime Rate from the rates section of *The Wall Street Journal.* The Prime Rate for each billing period is the Prime Rate published in *The Wall Street Journal* 2 days before the Closing Date of the billing period.

The Wall Street Journal may not publish the Prime Rate on that day. If it does not, we will use the Prime Rate from the previous day it was published. If *The Wall Street Journal* is no longer published, we may use the Prime Rate from any other newspaper of general circulation in New York, New York. Or we may choose to use a similar published rate.

If the Prime Rate increases, variable APRs (and corresponding DPRs) will increase. In that case, you may pay more interest and may have a higher Minimum Payment Due. When the Prime Rate changes, the resulting changes to variable APRs take effect as of the first day of the billing period.

Other important information

About Additional Cardmembers

At your request, we may issue cards to Additional Cardmembers. They do not have accounts with us but they can use your Account subject to the terms of this Agreement. We may report an Additional Cardmember's use of your Account to credit reporting agencies.

You are responsible for all use of your Account by Additional Cardmembers and anyone they allow to use your Account. You must pay for all charges they make.

You authorize us to give Additional Cardmembers information about your Account and to discuss it with them.

If you want to cancel an Additional Cardmember's right to use your Account (and cancel their card) you must tell us.

Converting charges made in a foreign currency

If you make a charge in a foreign currency, we will convert it into U.S. dollars on the date we or our agents process it. Unless a particular rate is required by law, we will choose a conversion rate that is acceptable to us for that date. The rate we use is no more than the highest official rate published by a government agency or the highest interbank rate we identify from customary banking sources on the conversion date or the prior business day. This rate may differ from rates that are in effect on the date of your charge. We will bill charges converted by establishments (such as airlines) at the rates they use.

Changing your billing address

You must notify us immediately if you change the:

- mailing address where we send billing statements; or
- e-mail address to which we send notice that your billing statement is available online.

If you have more than one account, you need to notify us separately for each account.

We may update your billing address if we receive information that it has changed or is incorrect.

Closing your Account

You may close your Account by calling us or writing to us.

Cancelling or suspending your Account	We may: ● cancel your Account, ● suspend the ability to make charges, ● cancel or suspend any feature on your Account, and ● notify merchants that your Account has been cancelled or suspended. If we do any of these, you must still pay us for all charges under the terms of this Agreement.	We may do any of these things at our discretion, even if you pay on time and your Account is not in default. If your Account is cancelled, you must destroy your cards. We may agree to reinstate your Account after a cancellation. If we do this, we may: ● reinstate any additional cards issued on your Account, ● charge you any applicable annual fees, and ● charge you a fee for reinstating the Account.
About default	We may consider your Account to be in default if: ● you violate a provision of this Agreement, ● you give us false information, ● you file for bankruptcy, ● you default under another agreement you have with us or an affiliate, ● you become incapacitated or die, or ● we believe you are unable or unwilling to pay your debts when due.	If we consider your Account in default, we may, to the extent permitted by federal and applicable state law: ● suspend your ability to make charges, ● cancel or suspend any feature on your Account, ● require you to pay more than your Minimum Payment Due immediately, and ● require you to pay your Account balance immediately.
Collection costs	You agree to pay all reasonable costs, including attorneys' fees, that we incur to collect amounts you owe.	
Credit reports	You agree that we will obtain credit reports about you, investigate your ability to pay, and obtain information about you from other sources, including information to verify and re-verify your employment and income. And you agree that we will use such information for any purposes, subject to applicable law. You agree that we will give information about the Account to credit reporting agencies. We will tell a credit reporting agency if you fail to comply with any term of this Agreement. This may have a negative impact on your credit report. If you believe information we have given to a credit reporting agency is incorrect, write to us at: American Express Credit Bureau Unit, P.O. Box 981537, El Paso, TX 79998-1537. When you write to us, tell us the specific information you believe is incorrect.	
Sending you notices	We mail you notices through the U.S. mail, postage prepaid, and address them to you at the latest billing address on our records. Any notice that we send you this way is deemed to be given when deposited in the U.S. mail.	
We may contact you	**Servicing and collections** If we need to contact you to service your account or to collect amounts you owe, you authorize us (and our affiliates, agents and contractors) to contact you at any number you provide, from which you call us, or at which we believe we can reach you. We may contact you in any way, such as calling or texting. We may contact you using an automated dialer or prerecorded messages. We may contact you on a mobile, wireless or similar device, even if you are charged for it. **Call monitoring** We may monitor and record any calls between you and us.	
About insurance products	We or our affiliates may tell you about insurance and non-insurance products, services or features that may have a fee. One of our affiliates may act on behalf of a provider of these products. The affiliate may be compensated for this. The insurance products are not offered or sold by us or on our behalf. Our affiliates may get additional compensation when AMEX Assurance Company or another affiliate is the insurer or reinsurer. Compensation may influence what products and providers we or our affiliates tell you about. We may share information about you with our affiliates so they can identify products that may interest you. We may be compensated for this information.	
How we handle electronic debits from your checking account	When you pay us by check, you authorize us to electronically deduct the amount from your bank or other asset account. We may process the check electronically by transmitting to your financial institution: ● the amount, ● the routing number, ● the account number, and ● the check serial number.	If we do this, your payment may be deducted from your bank or other asset account on the same day we receive your check. Also, you will not receive that cancelled check with your bank or asset account billing statement. If we cannot collect the funds electronically, we may issue a draft against your bank or other asset account for the amount of the check.
ExpressPay	Cards issued on your Account may be equipped with ExpressPay. ExpressPay enables you to make charges without having the card swiped or imprinted. You can call us to deactivate ExpressPay at any time. Also, we may deactivate ExpressPay at any time.	
Privacy Act of 1974 notice	Some federal agencies may accept the card under authority of statute. When you make charges at these agencies, we collect certain charge information. That information may be put to routine uses such as processing, billing and collections. It may also be aggregated for reporting, analysis and marketing use. Other routine uses by agencies may be published in the Federal Register.	
Changing benefits	We have the right to add, modify or delete any benefit or service of your Account at our discretion.	
Assigning the Agreement	We may sell, transfer or assign this Agreement and your Account. We may do so at any time without notifying you. You may not sell, assign or transfer your Account or any of your obligations under this Agreement.	

Assigning claims	If you dispute a charge with a merchant, we may credit the Account for all or part of the disputed charge. If we do so, you assign and transfer to us all rights and claims (excluding tort claims) against the merchant.	You agree that you will not pursue any claim against the merchant for the credited amount. And you must cooperate with us if we decide to do so.
We do not waive our rights	We may choose to delay enforcing or to not exercise rights under this Agreement. If we do this, we do not waive our rights to exercise or enforce them on any other occasion.	
Governing law	Utah law and federal law govern this Agreement and your Account. They govern without regard to internal principles of conflicts of law. We are located in Utah. We hold your Account in Utah. We entered into this Agreement with you in Utah.	In addition, if your billing address is in the State of Maryland, to the extent, if any, that Maryland law applies to your account, we elect to offer your card account pursuant to Title 12, Subtitle 9 of the Maryland Commercial Law Article.
Notice to Oregon Residents	Service charges not in excess of those permitted by law will be charged on the outstanding balances from month to month. You may pay more than the minimum payment due, up to your entire outstanding balance, at any time.	
Notice for residents of Washington State	In accordance with the Revised Code of Washington Statutes, Section 63.14.167, you are not responsible for payment of interest charges that result solely from a merchant's failure to transmit to us within seven working days a credit for goods or services accepted for return or forgiven if you have notified us of the merchant's delay in posting such credit, or our failure to post such credit to your account within three working days of our receipt of the credit.	

Claims Resolution

Most customer concerns can be resolved by calling our Customer Service Department at the number listed on the back of your card. In the event Customer Service is unable to resolve a complaint to your satisfaction, this section explains how claims can be resolved through mediation, arbitration or litigation. It includes an arbitration provision. **You may reject the arbitration provision by sending us written notice within 45 days after your first card purchase. See *Your Right to Reject Arbitration* below.**

For this section, ***you*** and ***us*** includes any corporate parents, subsidiaries, affiliates or related persons or entities. ***Claim*** means any current or future claim, dispute or controversy relating to your Account(s), this Agreement, or any agreement or relationship you have or had with us, except for the validity, enforceability or scope of the Arbitration provision. ***Claim*** includes but is not limited to: (1) initial claims, counterclaims, crossclaims and third-party claims; (2) claims based upon contract, tort, fraud, statute, regulation, common law and equity; (3) claims by or against any third party using or providing any product, service or benefit in connection with any account; and (4) claims that arise from or relate to (a) any account created under any of the agreements, or any balances on any such account, (b) advertisements, promotions or statements related to any accounts, goods or services financed under any accounts or terms of financing, (c) benefits and services related to card membership (including fee-based or free benefit programs, enrollment services and rewards programs) and (d) your application for any account. You may not sell, assign or transfer a claim.

Sending a Claim Notice

Before beginning a lawsuit, mediation or arbitration, you and we agree to send a written notice (a ***claim notice***) to each party against whom a claim is asserted, in order to provide an opportunity to resolve the claim informally or through mediation. Go to americanexpress.com/claim for a sample claim notice. The claim notice must describe the claim and state the specific relief demanded. Notice to you may be provided by your billing statement or sent to your billing address. Notice to us must include your name, address and Account number and be sent to American Express ADR c/o CT Corporation System, 111 8th Ave., NY, NY 10011. If the claim proceeds to arbitration, the amount of any relief demanded in a claim notice will not be disclosed to the arbitrator until after the arbitrator rules.

Mediation

In mediation, a neutral mediator helps parties resolve a claim. The mediator does not decide the claim but helps parties reach agreement.

Before beginning mediation, you or we must first send a claim notice. Within 30 days after sending or receiving a claim notice, you or we may submit the claim to JAMS (1-800-352-5267, jamsadr.com) or the American Arbitration Association ("AAA") (1-800-778-7879, adr.org) for mediation. We will pay the fees of the mediator.

All mediation-related communications are confidential, inadmissible in court and not subject to discovery. All applicable statutes of limitation will be tolled until termination of the mediation. Either you or we may terminate the mediation at any time. The submission or failure to submit a claim to mediation will not affect your or our right to elect arbitration.

Arbitration

You or we may elect to resolve any claim by individual arbitration. Claims are decided by a neutral arbitrator.

If arbitration is chosen by any party, neither you nor we will have the right to litigate that claim in court or have a jury trial on that claim. Further, you and we will not have the right to participate in a representative capacity or as a member of any class pertaining to any claim subject to arbitration. Arbitration procedures are generally simpler than the rules that apply in court, and discovery is more limited. The arbitrator's decisions are as enforceable as any court order and are subject to very limited review by a court. Except as set forth below, the arbitrator's decision will be final and binding. Other rights you or we would have in court may also not be available in arbitration.

Initiating Arbitration

Before beginning arbitration, you or we must first send a claim notice. Claims will be referred to either JAMS or AAA, as selected by the party electing arbitration. Claims will be resolved pursuant to this Arbitration provision and the selected organization's rules in effect when the claim is filed, except where those rules conflict with this Agreement. If we choose the organization, you may select the other within 30 days after receiving notice of our selection. Contact JAMS or AAA to begin an arbitration or for other information. Claims also may be referred to another arbitration organization if you and we agree in writing or to an arbitrator appointed pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (***FAA***).

We will not elect arbitration for any claim you file in small claims court, so long as the claim is individual and pending only in that court. You or we may otherwise elect to arbitrate any claim at any time unless it has been filed in court and trial has begun or final judgment has been entered. Either you or we may delay enforcing or not exercise rights under this Arbitration provision, including the right to arbitrate a claim, without waiving the right to exercise or enforce those rights.

Limitations on Arbitration

If either party elects to resolve a claim by arbitration, that claim will be arbitrated on an individual basis. There will be no right or authority for any claims to be arbitrated on a class action basis or on bases involving claims brought in a purported representative capacity on behalf of the general public, other cardmembers or other persons similarly situated.

The arbitrator's authority is limited to claims between you and us alone. Claims may not be joined or consolidated unless you and we agree in writing. An arbitration award and any judgment confirming it will apply only to the specific case and cannot be used in any other case except to enforce the award.

Notwithstanding any other provision and without waiving the right to appeal such decision, if any portion of these *Limitations on Arbitration* is deemed invalid or unenforceable, then the entire Arbitration provision (other than this sentence) will not apply.

Arbitration Procedures
This Arbitration provision is governed by the FAA. The arbitrator will apply applicable substantive law, statutes of limitations and privileges. The arbitrator will not apply any federal or state rules of civil procedure or evidence in matters relating to evidence or discovery. Subject to the *Limitations on Arbitration,* the arbitrator may otherwise award any relief available in court. The arbitration will be confidential, but you may notify any government authority of your claim.

If your claim is for $10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents, through a telephonic hearing, or by an in-person hearing. At any party's request, the arbitrator will provide a brief written explanation of the award. The arbitrator's award will be final and binding, except for any right of appeal provided by the FAA; however, any party will have 30 days to appeal the award by notifying the arbitration organization and all parties in writing. The organization will appoint a three-arbitrator panel to decide anew, by majority vote based on written submissions, any aspect of the decision objected to. Judgment upon any award may be entered in any court having jurisdiction. At your election, arbitration hearings will take place in the federal judicial district of your residence.

Arbitration Fees and Costs
You will be responsible for paying your share of any ***arbitration fees*** (including filing, administrative, hearing or other fees), but only up to the amount of the filing fees you would have incurred if you had brought a claim in court. We will be responsible for any additional arbitration fees. At your written request, we will consider in good faith making a temporary advance of your share of any arbitration fees, or paying for the reasonable fees of an expert appointed by the arbitrator for good cause.

Additional Arbitration Awards
If the arbitrator rules in your favor for an amount greater than any final offer we made before arbitration, the arbitrator's award will include: (1) any money to which you are entitled, but in no case less than $5,000; and (2) any reasonable attorneys' fees, costs and expert and other witness fees.

Your Right to Reject Arbitration
You may reject this Arbitration provision by sending a written ***rejection notice*** to us at: American Express, P.O. Box 981556, El Paso, TX 79998. Go to americanexpress.com/reject for a sample rejection notice. Your rejection notice must be mailed within 45 days after your first card purchase. Your rejection notice must state that you reject the Arbitration provision and include your name, address, Account number and personal signature. No one else may sign the rejection notice. If your rejection notice complies with these requirements, this Arbitration provision and any other arbitration provisions in the cardmember agreements for any other currently open American Express accounts you have will not apply to you, except for Corporate Card accounts and any claims subject to pending litigation or arbitration at the time you send your rejection notice. Rejection of this Arbitration provision will not affect your other rights or responsibilities under this Claims Resolution section or the Agreement. Rejecting this Arbitration provision will not affect your ability to use your card or any other benefit, product or service you may have with your Account.

Continuation
This section will survive termination of your Account, voluntary payment of your Account balance, any legal proceeding to collect a debt, any bankruptcy and any sale of your Account (in the case of a sale, its terms will apply to the buyer of your Account). If any portion of this Claims Resolution section, except as otherwise provided in the *Limitations on Arbitration* subsection, is deemed invalid or unenforceable, it will not invalidate the remaining portions of this Claims Resolution section.