

## Cardmember Agreement: Part 1 of 2

As of: 01/01/2024

Delta SkyMiles® Platinum Card  
 Issuer: American Express National Bank

### Rates and Fees Table

| Interest Rates  |  |
|---|--|
| <b>Annual Percentage Rate (APR) for Purchases</b>   | <b>Prime Rate + 12.49% to Prime Rate + 21.49%</b><br>This is a variable APR. See <i>Explanation of Variable Rates</i> below.   |
| <b>APR for Cash Advances</b>  | <b>Prime Rate + 21.99%</b><br>This is a variable APR. See <i>Explanation of Variable Rates</i> below.  |
| <b>Penalty APR and When it Applies</b>  | <b>Prime Rate + 26.74%</b><br>This is a variable APR. See <i>Explanation of Variable Rates</i> below.<br>This APR will apply to your account if you: <ol style="list-style-type: none"> <li>1) make one or more late payments; or</li> <li>2) make a payment that is returned by your bank.</li> </ol> We may also consider your creditworthiness in determining whether or not to apply the penalty APR to your Account.<br><br><b>How Long Will the Penalty APR Apply?</b> If the penalty APR is applied, it will apply for at least 6 months. 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. |
| <b>Paying Interest</b>  | Your due date is at least 25 days after the close of each billing period. We will not charge you interest on purchases if you pay each month your entire balance (or, if you have a plan outstanding, your balance adjusted for plans) by the due date. We will begin charging interest on cash advances on the transaction date.  |
| <b>Plan Fee (Fixed Finance Charge)</b>  | A monthly fee up to <b>1.33%</b> of each purchase or amount placed in a plan based on the plan duration, the APR that would otherwise apply to the purchase, and other factors.  |
| <b>For Credit Card Tips from the Consumer Financial Protection Bureau</b>   | <b>To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at <a href="http://www.consumerfinance.gov/learnmore">http://www.consumerfinance.gov/learnmore</a>.</b>   |
| Fees  |  |
| <b>Annual Membership Fee</b>  | <b>\$250</b>   |
| <b>Transaction Fees</b>   |  |
| <ul style="list-style-type: none"> <li>• Cash Advance</li> <li>• Foreign Transaction</li> </ul>                   | Either <b>\$10</b> or <b>5%</b> of the amount of each cash advance, whichever is greater.<br><b>None</b>   |
| <b>Penalty Fees</b>   |  |
| <ul style="list-style-type: none"> <li>• Late Payment</li> <li>• Returned Payment</li> <li>• Overlimit</li> </ul> | Up to <b>\$40</b><br>Up to <b>\$40</b><br><b>None</b>  |

**How we calculate interest:** We use the Average Daily Balance method (including new transactions). See the *How we calculate interest* section in Part 2.

**Explanation of Variable Rates:** 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. The Daily Periodic Rate (DPR) is 1/365th of the APR, rounded to the nearest one ten-thousandth of a percentage point. Variable APRs will not exceed 29.99%.

## How Rates and Fees Work

| Rates  |   |
|--|---|
| <b>Penalty APR for new transactions</b>                          | <p>The penalty APR may apply to new transactions if:</p> <ul style="list-style-type: none"> <li>• you do not pay at least the Minimum Payment Due by the Payment Due Date on one or more occasions; or</li> <li>• your payment is returned by your bank.</li> </ul> <p>We may also consider your creditworthiness in determining whether or not to apply the penalty APR to your Account.</p> <p>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.</p> <p>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.</p> |
| Fees   |   |
| We add fees to a purchase balance, unless we tell you otherwise. |   |
| <b>Annual Membership</b>   | This fee is on the <i>Rates and Fees Table</i> on page 1 of Part 1.   |
| <b>Plan Fee</b>  | Monthly up to 1.33% of each purchase or amount placed in a plan based on the plan duration, the APR that would otherwise apply to the purchase or amount, and other factors. This fee is a fixed finance charge that will be charged each month that a plan is active. The dollar amount of your plan fee will be disclosed when you set up a plan. For more information, see <i>About the Plan It Feature</i> in Part 2 of your Cardmember Agreement.  |
| <b>Late Payment</b>  | Up to \$40. If we do not receive the Minimum Payment Due by its Payment Due Date, the fee is \$29. If this happens again within the next 6 billing periods, the fee is \$40. However, the late fee will not exceed the Minimum Payment Due. Paying late may also result in a penalty APR. See <i>Penalty APR for new transactions</i> above.  |
| <b>Returned Payment</b>  | Up to \$40. If you make a payment that is returned unpaid the first time we present it to your bank, the fee is \$29. If you do this again within the same billing period or the next 6 billing periods, the fee is \$40. However, the returned payment fee will not exceed the applicable Minimum Payment Due. A returned payment may also result in a penalty APR. See <i>Penalty APR for new transactions</i> above.   |
| <b>Returned Check</b>  | \$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.   |
| <b>Overlimit</b>   | None. See <i>Credit limit and cash advance limit</i> in Part 2.   |
| <b>Account Re-opening</b>  | \$25 if your Account is cancelled, you ask us to re-open it, and we do so.  |
| <b>Cash Advance</b>  | 5% of the cash advance transaction (including fees charged by the ATM operator, if any), with a minimum of \$10. We will add this fee to the Cash Advance balance.  |
| <b>Foreign Transaction</b>                                       | 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

#### Delta SkyMiles® Platinum American Express Card

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##### How you receive miles

You receive 1 mile for each \$1 of eligible purchases on your Delta SkyMiles® Platinum American Express Card (*Card Account*).

*Eligible purchases* are purchases for goods and services minus returns and other credits.

Eligible purchases do NOT include:

- fees or interest charges,
- cash advances,
- purchases of traveler's checks,
- purchases or reloading of prepaid cards,
- purchases of any cash equivalents, including gift cards, or
- person-to-person transactions

##### How you receive additional miles

You receive **2 additional miles (a total of 3)** for each \$1 of eligible purchases on your Card Account for the following purchases submitted to us using a Delta merchant code:

- air travel on a Delta flight
- air travel on a Delta partner flight with a DL flight number
- Delta Vacations® packages
- other Delta services

You will NOT receive additional miles for:

- purchases of air travel on a Delta flight that are part of all-inclusive air or sea tour packages

You receive **2 additional miles (a total of 3)** for each \$1 of eligible purchases on your Card Account charged directly with hotels worldwide (excluding timeshares, banquets, and events).

You receive **1 additional mile (a total of 2)** for each \$1 of eligible purchases on your Card Account charged at restaurants worldwide.

You receive **1 additional mile (a total of 2)** for each \$1 of eligible purchases on your Card Account charged at supermarkets located in the United States. Superstores and warehouse clubs are not considered supermarkets.

Merchants are assigned codes based on what they primarily sell. We group certain merchant codes into categories that are eligible for additional miles. A purchase with a merchant will not receive additional miles if the merchant's code is not included in a reward category. You

may not receive additional miles if we receive inaccurate information or are otherwise unable to identify your purchase as eligible for a reward category. For example, you may not receive additional miles when:

- a merchant uses a third-party to sell their products or services; or
- a merchant uses a third-party to process or submit your transaction to us (e.g., using mobile or wireless card readers); or
- you choose to make a purchase using a third-party payment account or make a purchase using a mobile or digital wallet.

For questions about additional miles on a purchase, call the number on the back of your Card. Please visit [americanexpress.com/rewards-info](https://americanexpress.com/rewards-info) for more information about rewards.

From time to time, we may make promotional offers of bonus miles. These offers include terms about how you can earn the bonus miles and when you can use them. These offer terms may differ from the terms above concerning miles earned for charges to your Card Account, including about when you can use the miles.

You can view your miles balance by logging onto your online account at [americanexpress.com](https://americanexpress.com) and viewing your account summary page.

##### When we transfer miles

We transfer the miles you receive to your Delta SkyMiles account after the end of the billing period in which you received them.

Bonus miles awarded for promotional offers will be posted to your Delta SkyMiles account 8 to 12 weeks after the end of each month. To be eligible to earn bonus miles, your account must not be cancelled or delinquent at time of bonus fulfillment.

##### When you will forfeit miles

If the Minimum Payment Due is not paid by the Payment Due Date of the billing period in which it is due, you will forfeit the miles you earned for eligible purchases during that billing period. For example, if your billing period closes January 15 and the minimum payment for that billing period is due on February 10, and you do not make that

minimum payment due by the due date on February 10, then you will not earn miles for purchases in the billing period ending February 15.

You may reinstate those miles within the next 12 billing periods if your Card Account is not past due and you pay a \$35 fee.

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**Other things you should know about this program**

You will receive miles only for eligible purchases intended for personal, family or household use.

We may change the terms of this reward program at our discretion. If you violate or abuse this reward program, you may forfeit some or all of your miles.

We are not responsible for miles after they are credited to your SkyMiles account. We are also not responsible for the actions of Delta on your SkyMiles account.

Miles are subject to the Delta SkyMiles Membership Guide and Program Rules. You should refer to that document for details on:

- how to redeem your miles,
- Delta's right to change its program terms, and
- other conditions that may apply to Delta's program.

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**MQD Boost**

You will earn one (1) Medallion Qualification Dollar (MQD) for each \$20 of eligible purchases charged to your Card Account during a Qualification Year. MQDs earned during a Qualification Year are used to determine qualification for Medallion Status for the subsequent Medallion Year for the SkyMiles account associated with your Card Account. MQDs have no cash value and are not redeemable for Award Travel or other SkyMiles redemptions. MQDs are not transferrable or assignable to any other person and cannot be gifted to another SkyMiles member.

All Medallion Status Qualification and Medallion Benefits rules and policies apply and may be viewed at [delta.com/medallion](https://delta.com/medallion). MQDs will not extend or roll over from year to year, and MQD balance will be reset to zero on or about January 1 each calendar year. Medallion Status is calculated annually based on activity during a Qualification Year. A Qualification Year is from January 1 to December 31 of a given year. The close of the Qualification Year is December 31, without regard to the time of the year that the Card Account is opened. This means that for the first year of Card Membership, the Card Member's eligible purchase period for the MQD Benefit may be shorter than twelve months.

Eligible purchases are purchases for goods and services minus returns and other credits. Eligible purchases do NOT include fees, interest charges, cash advances, purchases of travelers' checks, person-to-person transactions, purchases or reloading of prepaid cards, purchases of gift cards, or purchases of other cash equivalents. American Express relies on the transaction date submitted to us by the merchant, which may differ from the date you make a purchase, to determine whether the purchase counts toward the MQD threshold in that Qualification Year. This means that in some cases your purchases may not count toward the MQD threshold in the year in which you made the purchases. For example, if you make a purchase on December 31 and the merchant lists the transaction date as January 1 when they submit the transaction data to us, your purchase will be counted in the Qualification Year which began on that January 1. MQDs will be deducted from the MQD Balance (and may result in a negative MQD Balance) for any returns or other credits, and Delta reserves the right to adjust, remove, or suspend Medallion Status if you return, reverse or charge back eligible purchases in a way that reduces your MQD balance below the threshold of any Medallion Tier for the preceding Qualification Year. If Delta and/or American Express determine that you have engaged in abuse, misuse, or gaming in connection with this MQD Benefit in any way or that you intend to do so, Delta may not credit, Delta may freeze, or Delta may take away MQDs from your account or terminate your participation in the SkyMiles Program.

MQDs may take 8 to 12 weeks after the eligible transaction posts to the Card Account to be posted to the Basic Card Member's Delta SkyMiles account. Basic Card Members can confirm their MQD progress for a Qualification Year by logging into their SkyMiles account on [delta.com](https://delta.com) or in the Fly Delta app.

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## How Your American Express Account Works

### Introduction

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| <b>About your Cardmember Agreement</b>     | This document together with Part 1 make up the Cardmember Agreement ( <i>Agreement</i> ) for the <i>Account</i> 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.  |
| <b>Changing the Agreement</b>              | 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.<br><br>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.  |
| <b>Words we use in the Agreement</b>       | <b>We, us, and our</b> mean the issuer shown on page 1 of Part 1. <b>You and your</b> 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 <b>Basic Cardmember</b> . You may request a card for an <b>Additional Cardmember</b> (see <i>About Additional Cardmembers</i> in Part 2).<br><br><b>Card</b> means any card or other device that we issue to access your Account. A <b>charge</b> is any amount added to your Account, such as purchases, cash advances, balance transfers, fees and interest charges. | A <b>purchase</b> is a charge for goods, services, or person-to-person transactions. A <b>cash advance</b> is a charge to get cash or cash equivalents, including travelers cheques, gift cheques, foreign currency, money orders, digital currency, casino gaming chips, race track wagers, and similar offline and online betting transactions. A <b>balance transfer</b> is a charge to pay an amount you owe on another credit card account. A <b>person-to-person transaction</b> is a charge for funds sent to another person or a charge to add funds to your Amex Send™ Account. A <b>plan</b> is a portion of your account balance that you have selected to pay over time through a set number of monthly payments using Plan It.<br><br>To <b>pay</b> by a certain date means to send your payment so that we receive it and credit it to your Account by that date (see <i>About your payments</i> in Part 2). |
| <b>About using your card</b>               |   |  |
| <b>Using the card</b>                      | You may use the card to make purchases. At our discretion, we may permit you to create plans, make cash advances or balance transfers. You cannot transfer balances from any other account issued by us or our affiliates.<br><br>You may arrange for certain merchants and third parties 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 and third parties if your expiration date or card number changes or if your account status is updated, including if your account is cancelled. If you do not want us to share your updated account information, please contact us using the number on the back of your card.<br><br>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.  |
| <b>Promise to pay</b>                      | You promise to pay all charges, including: <ul style="list-style-type: none"> <li>• charges you make, even if you do not present your card or sign for the transaction,</li> <li>• charges that other people make if you let them use your Account, and</li> <li>• charges that Additional Cardmembers make or permit others to make.</li> </ul>  |  |
| <b>Credit limit and cash advance limit</b> | We assign a <i>Credit Limit</i> to your Account. We may make part of your Credit Limit available for cash advances ( <i>Cash Advance Limit</i> ). There may also be a limit on the amount you can withdraw from ATMs in a given period. The Credit Limit and Cash Advance Limit are shown on page 1 of Part 1 and on each billing statement.<br><br>We may increase or reduce your Credit Limit and Cash Advance Limit. We may do so even if you pay on time and your Account is not in default.<br><br>You agree to manage your Account so that:   | <ul style="list-style-type: none"> <li>• your Account balance (including fees and interest) is not more than your Credit Limit, and</li> <li>• your cash advance balance (including fees and interest) is not more than your Cash Advance Limit.</li> </ul> We may approve charges that cause your Account balance to go over your Credit Limit. If we do this, we will not charge an overlimit fee. If we ask you to promptly pay the amount of your Account balance above your Credit Limit, you agree to do so.   |

|  |  |   |
|--|--|---|
| <b>Limits on person-to-person transactions</b> | <p>Your person-to-person transactions may not exceed the <b>\$2,000</b> person-to-person transactions limit within any 30-day period.</p> <p>You agree to manage your Account so that the total of your person-to-person transactions in any 30-day period</p>   | <p>do not exceed the limit on person-to-person transactions.</p> <p>We may not approve a person-to-person transaction if it would cause your Account to exceed the person-to-person transaction limit or your Credit Limit.</p>   |
| <b>Declined transactions</b>                   | <p>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 the charge would not cause you to go over your Credit Limit</p>  | <p>and 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.</p>  |
| <b>About the Plan It feature</b>               | <p>We may offer you Plan It, which allows you to create a payment plan for qualifying purchases or a qualifying amount, subject to a plan fee. This fee is a fixed finance charge that will be charged each month that a plan is active.</p> <p>You may use this feature by selecting qualifying purchases or a qualifying amount and a plan duration. You will be able to view the monthly plan payments, including the plan fee, for your selection. Each plan fee will be disclosed before you create the applicable plan and will be based on the plan duration, the APR that would otherwise apply to the purchases or amount, and other factors. When you set up a plan, the purchases or amount will be added to a plan balance and will be subject to a plan fee instead of the APR for purchases.</p> <p>A <i>qualifying purchase</i> for Plan It is a purchase of at least a specified dollar amount. A <i>qualifying amount</i> for Plan It is a specified portion of your balance. Qualifying purchases or a qualifying amount do not include purchases of cash or cash equivalents, balance transfers (if offered), purchases subject to Foreign Transaction Fees, or any fee owed to us, such as Annual Membership fees.</p> | <p>Your ability to create plans will be based on a variety of factors such as your creditworthiness and your Credit Limit. You will not be able to create plans if your Account is cancelled. You will also not be able to create plans if one or more of your American Express accounts is enrolled in a payment program, or has a payment that is returned unpaid, or is past due. We will tell you the number of active plans you may have and we may change this number at any time. The plan durations offered to you, and your ability to include multiple qualifying purchases or a qualifying amount in a single plan, will be at our discretion and will be based on a variety of factors such as your creditworthiness, the purchase amount(s), and your Account history. You agree to manage your Account so that the total of your plan balances (including plan fees) is not more than your Credit Limit.</p> <p>Plans cannot be cancelled after they have been created but you can choose to pay them early by paying the New Balance shown on your most recent billing statement in full. If you pay a plan off early, you will not incur any future plan fees on that plan.</p> |
| <b>About your payments</b>                     |  |   |
| <b>When you must pay</b>                       | <p>You must pay at least the Minimum Payment Due by the Payment Due Date. The Minimum Payment Due and Payment Due Date are shown on each billing statement.</p> <p>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. For your payment to be considered on time, we must receive at least the</p>   | <p>Minimum Payment Due in such time and manner by the Payment Due Date shown on your billing statement.</p> <p>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.</p>   |
| <b>How to make payments</b>                    | <p>Make payments to us in U.S. dollars with:</p> <ul style="list-style-type: none"> <li>• a single check drawn on a U.S. bank, or</li> <li>• a single negotiable instrument clearable through the U.S. banking system, for example a money order, or</li> <li>• an electronic payment that can be cleared through the U.S. banking system.</li> </ul> <p>When making a payment by mail:</p> <ul style="list-style-type: none"> <li>• make a separate payment for each account,</li> <li>• mail your payment to the address shown on the payment coupon on your billing statement, and</li> <li>• write your Account number on your check or negotiable instrument and include the payment coupon.</li> </ul> <p>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.</p>   | <p>If we receive it after that time, we will credit the payment on the day after we receive it.</p> <p>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 <i>How Rates and Fees Work</i> on page 2 of Part 1).</p> <p>We will not accept a payment made in a foreign currency or a payment drawn on an account at a bank located outside of the U.S.</p> <p>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.</p>   |
| <b>How we apply payments and credits</b>       | <p>Your Account may have balances with different interest rates. For example, purchases may have a lower interest rate than cash advances. Your Account may also have Plan balances which are assessed plan fees. If your Account has balances with different interest rates, Plan balances, or plan fees, here is how we generally apply payments in a billing period:</p> <p>We apply your payments, up to the Minimum Payment Due, first to any plan amounts included in your Minimum Payment Due, then to the balance subject to the lowest interest rate, and then to balances subject to higher interest rates.</p> <p>After the Minimum Payment Due has been paid, we apply your payments to the balance subject to the highest interest rate, then to balances subject to lower interest rates, and then to any Plan balances.</p>   | <p>In most cases, we apply a credit to the same balance as the related charge. For example, we apply a credit for a purchase to the purchase balance. We may apply payments and credits within balances, and among balances with the same interest rate, in any order we choose. If there is a negative balance in any balance on the account at the end of a billing period, that excess credit will be redistributed to other balances in accordance with how we apply payments described above. This means that in certain circumstances, Plan balances may get paid before they otherwise would. If you receive a credit for a purchase placed into a plan, you must call us at the number on the back of your card to have the credit applied to the Plan balance.</p>   |

## About your Minimum Payment Due

### How we calculate your Minimum Payment Due

To calculate the Minimum Payment Due for each billing statement, we start with the *highest* of:

- (1) Interest charged on the billing statement plus 1% of the New Balance (excluding any interest, penalty fees, overlimit amount, and plan balances); or
- (2) 2% of the New Balance (excluding any penalty fees, overlimit amount, and plan balances); or
- (3) \$40.

Then we add any penalty fees shown on the billing statement, up to 1/24th of any overlimit amount, any plan payment due, and any amount past due.

Your Minimum Payment Due will not exceed your New Balance. You may pay more than the Minimum Payment Due, up to your New Balance, at any time.

**EXAMPLE:** Assume that your New Balance is \$2,900, interest is \$29.57, and you have no active plans, overlimit amount, penalty fees, or amounts past due.

(1)  $\$29.57 + 1\%$  multiplied by  $(\$2,900 - \$29.57) = \$58.27$

(2)  $\$58$  (2% of \$2,900)

(3)  $\$40$

The highest of (1), (2) or (3) is \$58.27

If your account has any active plans, overlimit amount, penalty fees, or amounts past due, your Minimum Payment Due will be higher.

## About interest charges

### When we charge interest

- You are not charged interest on purchases when you are in an Interest Free Period.
- Your account enters an Interest Free Period when you pay your New Balance as shown on your statement by the Payment Due Date or your account had no previous balance.
- When your account is not in an Interest Free Period, we charge interest on purchases from the date of the transaction.
- After you enter an Interest Free Period again, interest may appear on your next billing statement. This reflects interest charged from the beginning of that billing cycle through the date the payment was received.
- If you have an active plan created through Plan It, you can enter an Interest Free Period by paying at least the Balance Adjusted for Plans (or Adjusted Balance) by the Payment Due Date.
- Balance Transfers and Cash Advances will be charged interest from the date of the transaction and do not have an Interest Free Period.

For more details about how we calculate your interest charges, see the *How we calculate interest* section of this agreement.

### How we calculate interest

We calculate interest for a billing period by first figuring the interest on each balance. Different categories of transactions--such as purchases and cash advances--may have different interest rates. Balances within each category may also 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) multiplied by
- Daily Periodic Rate (DPR) multiplied by
- 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  $15.99\%$  divided by 365 days = 0.0438%

The Interest is  $\$2,250$  multiplied by 0.0438% multiplied by 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.

|                                   |  |
|-----------------------------------|--|
| <b>Determining the Prime Rate</b> | <p>We use the Prime Rate from the rates section of <i>The Wall Street Journal</i>. The Prime Rate for each billing period is the Prime Rate published in <i>The Wall Street Journal</i> on the Closing Date of the billing period.</p> <p><i>The Wall Street Journal</i> 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 <i>The Wall Street Journal</i> 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.</p> <p>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.</p> |
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**Other important information**

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| <b>Military Lending Act</b> | <p>Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee (other than certain participation fees for a credit card account).</p> <p>To listen to this statement, as well as a description of your payment obligation for this Account, call us at <b>855-531-0379</b>.</p> <p>If you are a covered borrower, the Claims Resolution section of this Agreement will not apply to you in connection with this Account. Instead, the <i>Claims Resolution for Covered Borrowers</i> section will apply.</p> |
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| <b>About Additional Cardmembers</b> | <p>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.</p> <p>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.</p> <p>You authorize us to give Additional Cardmembers information about your Account and to discuss it with them.</p> <p>If you want to cancel an Additional Cardmember's right to use your Account (and cancel their card) you must tell us.</p> <p>If an Annual Membership fee applies for an Additional Card, please refer to the refund policy disclosed in the <i>Closing your Account</i> sub-section of your Cardmember Agreement. If a single Annual Membership fee applies for a group of Additional Cards on your Account, this policy will apply when you cancel the Additional Card on which the fee was assessed. If an Annual Membership fee applies to Additional Cards on your Account, it is shown on page 2 of Part 1 of the Cardmember Agreement.</p> |
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| <b>Converting charges made in a foreign currency</b> | <p>If you make a charge in a foreign currency, AE Exposure Management Ltd. ("AEEML") will convert it into U.S. dollars on the date we or our agents process it, so that we bill you for the charge in U.S. dollars based upon this conversion. Unless a particular rate is required by law, AEEML will choose a conversion rate that is acceptable to us for that date. The rate AEEML uses is no more than the highest official rate published by a government agency or the highest interbank rate AEEML identifies 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.</p> |
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| <b>Changing your billing address</b> | <p>You must notify us immediately if you change the:</p> <ul style="list-style-type: none"> <li>• mailing address to which we send billing statements; or</li> <li>• e-mail address to which we send notice that your billing statement is available online.</li> </ul> <p>If you have more than one account, you need to notify us separately for each account.</p> <p>We may update your billing address if we receive information that it has changed or is incorrect.</p> |
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| <b>Closing your Account</b> | <p>You may close your Account by calling us or writing to us.</p> <p>If an Annual Membership fee applies, we will refund this fee if you notify us that you are voluntarily closing your Account within 30 days of the Closing Date of the billing statement on which that fee appears. For cancellations after this 30 day period, the Annual Membership fee is non-refundable. If an Annual Membership fee applies to your Account, it is shown on page 1 and page 2 of Part 1 of the Cardmember Agreement.</p> <p>If your billing address is in the Commonwealth of Massachusetts at the time you close your account, this policy will not apply to you.</p> |
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| <b>Cancelling or suspending your Account</b> | <p>We may:</p> <ul style="list-style-type: none"> <li>• cancel your Account,</li> <li>• suspend the ability to make charges,</li> <li>• cancel or suspend any feature on your Account, and</li> <li>• notify merchants that your Account has been cancelled or suspended.</li> </ul> <p>If we do any of these, you must still pay us for all charges under the terms of this Agreement.</p> <p>We may do any of these things at our discretion, even if you pay on time and your Account is not in default.</p> <p>If your Account is cancelled, you must destroy your cards.</p> <p>We may agree to reinstate your Account after a cancellation. If we do this, we may:</p> <ul style="list-style-type: none"> <li>• reinstate any additional cards issued on your Account,</li> <li>• charge you any applicable annual fees, and</li> <li>• charge you a fee for reinstating the Account.</li> </ul> |
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| <b>About default</b>  | <p>We may consider your Account to be in default if:</p> <ul style="list-style-type: none"> <li>• you violate a provision of this Agreement,</li> <li>• you give us false information,</li> <li>• you file for bankruptcy,</li> <li>• you default under another agreement you have with us or an affiliate,</li> <li>• you become incapacitated or die, or</li> <li>• we believe you are unable or unwilling to pay your debts when due.</li> </ul>  | <p>If we consider your Account in default, we may, to the extent permitted by federal and applicable state law:</p> <ul style="list-style-type: none"> <li>• suspend your ability to make charges,</li> <li>• cancel or suspend any feature on your Account,</li> <li>• require you to pay more than your Minimum Payment Due immediately, and</li> <li>• require you to pay your Account balance immediately.</li> </ul>  |
| <b>Collection costs</b>   | You agree to pay all reasonable costs, including attorneys' fees, that we incur to collect amounts you owe.  |  |
| <b>Credit reports</b>   | <p>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 (for example, marketing to you or evaluating you for a new account), subject to applicable law.</p> <p>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.</p> <p>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.</p> |  |
| <b>Sending you notices</b>  | 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.  |  |
| <b>We may contact you</b>   | <p><b>Servicing and Collections</b></p> <p>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, such as debt collection agencies and service providers) to contact you at any phone number or email address you provide, from which you contact us, or at which we believe we can reach you. We may contact you in any way, such as calling, texting, emailing, sending mobile application push notifications or using any other method of communication permitted by law. 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.</p> <p><b>Call monitoring</b></p> <p>We may monitor and record any calls between you and us.</p>  |  |
| <b>About insurance products</b>                                   | <p>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.</p> <p>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.</p>  |  |
| <b>How we handle electronic debits from your checking account</b> | <p>When you pay us by check, you authorize us to electronically deduct the amount from your bank or other asset account.</p> <p>We may process the check electronically by transmitting to your financial institution:</p> <ul style="list-style-type: none"> <li>• the amount,</li> <li>• the routing number,</li> <li>• the account number, and</li> <li>• the check serial number.</li> </ul>   | <p>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.</p> <p>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.</p>  |
| <b>Privacy Act of 1974 notice</b>                                 | 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.   |  |
| <b>Convenience checks</b>   | <p>Convenience checks (including balance transfer checks) are checks that we may send you to access your Account. The following terms will apply to use of those checks unless otherwise disclosed with the check.</p> <p>If you use a convenience check, we may decline it. If we decline it, you may have to pay returned check fees or other penalties to whomever you wrote the check.</p> <p>If you use a convenience check and we honor it, we will charge interest beginning as of the date we receive the check. You cannot avoid paying interest on convenience check transactions.</p> <p>We will charge a fee for each convenience check transaction. This fee is 3% of the transaction, with a minimum of \$5. This fee is a finance charge. We will</p>   | <p>add the fee to the same balance that we add the convenience check transaction to.</p> <p>We will charge \$29 each time you ask us to stop payment on a convenience check.</p> <p>A convenience check is not a card. You may not use convenience checks to pay this or any other account with us or our affiliates. If you use a convenience check, we will apply the:</p> <ul style="list-style-type: none"> <li>• cash advance APR if you make it payable to cash, to you, or to a bank, brokerage or similar asset account, or to a mortgage or insurance provider.</li> <li>• purchase APR if you make it payable to a merchant.</li> <li>• balance transfer APR if you use it to transfer a balance from another creditor.</li> <li>• penalty APR if it applies to your Account.</li> </ul> |
| <b>Changing benefits</b>  | We have the right to add, modify or delete any benefit, service, or feature of your Account at our discretion.   |  |
| <b>Assigning the Agreement</b>                                    | 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.  |  |
| <b>Assigning claims</b>   | 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.   |  |

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| <b>We do not waive our rights</b>               | 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.   |  |
| <b>Governing law</b>                            | 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. |
| <b>Notice to Oregon Residents</b>               | 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.   |  |
| <b>Notice for residents of Washington State</b> | 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](http://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, 28 Liberty Street, New York, New York 10005. 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](http://jamsadr.com)) or the American Arbitration Association ("AAA") (1-800-778-7879, [adr.org](http://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 from the date you or we send the claim notice 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 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. 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. sec. 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.**

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. You and we agree that the arbitration will be confidential. You and we agree that we will not disclose the content of the arbitration proceeding or its outcome to anyone, but you or we may notify any government authority of the claim as permitted or required by law. 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, subject to each party's right to appeal as stated in this section and/or to challenge or appeal an arbitration award pursuant to the FAA. To initiate an appeal, a party must notify the arbitration organization and all parties in writing within 35 days after the arbitrator's award is issued. The arbitration organization will appoint a three-arbitrator panel to decide anew, by majority vote based on written submissions, any aspect of the decision objected to. The appeal will otherwise proceed pursuant to the arbitration organization's appellate rules. 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 the final hearing in 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](http://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.



## Claims Resolution for Covered Borrowers

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 litigation, non-binding mediation or, at your election, arbitration. You are not required to resolve any claims by mediation and arbitration. 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 Card account, 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, cross-claims 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, arbitration or non-binding mediation, you may send a written notice (a **claim notice**) to us. Go to [americanexpress.com/claim](http://americanexpress.com/claim) for a sample claim notice. The claim notice should describe the claim and state the specific relief demanded. We may also request that we resolve a claim by mediation or arbitration, but you are not required to accept

our request. We may include our request with your billing statement or mail it to your home address. Notice to us must include your name, address and Account number and be sent to American Express ADR c/o CT Corporation System, 28 Liberty Street, New York, New York 10005. If the claim proceeds to litigation, mediation or arbitration, the amount of any relief demanded in a claim notice will not be disclosed. **You are not required to resolve your claim through mediation or arbitration. You may decline our request to resolve a claim through mediation or arbitration. You may elect to resolve your claim through litigation.**

#### Mediation

If you elect to resolve your claim through mediation, a neutral mediator will help resolve the 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](http://jamsadr.com)) or the American Arbitration Association ("AAA") (1-800-778-7879, [adr.org](http://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 from the date you or we send the claim notice 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 litigation or arbitration. **The outcome of mediation proceedings is non-binding. You may proceed to litigation or arbitration regardless of the outcome of mediation.**

#### Arbitration

You may elect, but are not required, to resolve any claim by individual arbitration. We may

also request to resolve any claim by individual arbitration, but you are not required to accept our request. Claims are decided by a neutral arbitrator.

**If you elect or agree to resolve a claim through arbitration, your or our right to litigate that claim in court or have a jury trial on that claim may be limited. Further, you and we may 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 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. 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

If you and we agree to proceed to arbitration, 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. sec. 1-16 (**FAA**). We will not request arbitration for any claim you file in small claims court, so long as the claim is individual and pending only in that court. You 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.

#### **Limitations on Arbitration**

**If the parties agree to resolve a claim by arbitration, that claim will be arbitrated on an individual basis pursuant to that agreement, and the agreement would not allow 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.**

Notwithstanding any other provision and without waiving the right to appeal such decision, if any portion of these *Limitations on Arbitration* provisions 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* provisions, the arbitrator may otherwise award any relief available in court. You and we agree that the arbitration will be confidential. You and we agree that we will not disclose the content of the arbitration proceeding or its outcome to anyone, but you or we may notify any government authority of the claim as permitted or required by law. 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, subject to each party's right to appeal as stated in this section and/or to challenge or appeal an arbitration award pursuant to the FAA. To initiate an appeal, a party must notify the arbitration organization and all parties in writing within 35 days after the arbitrator's award is issued. The arbitration organization will appoint a three-arbitrator panel to decide anew, by majority vote based on written submissions, any aspect of the decision objected to. The appeal will otherwise proceed pursuant to the arbitration organization's appellate rules. 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 the final hearing in 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.

#### **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.