

Gustavo Kinrys
4 Goose Cove Way
Nantucket, MA 02554
Gk21atlaw@gmail.com
Plaintiff is self-represented

FILED

AUG 31 2023

NANTUCKET SUPERIOR COURT

Commonwealth of Massachusetts

NANTUCKET, ss.

**SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT**

Gustavo Kinrys,

PLAINTIFF

v.

American Express Company, Inc. and its
subsidiaries, and Law Offices of Randall L.
Pratt, LLC

DEFENDANTS

**SUPERIOR COURT CIVIL ACTION
NO.:2375CV00034**

DEMAND FOR JURY TRIAL

COMPLAINT

I. INTRODUCTION

Plaintiff, Gustavo Kinrys, brings this action against American Express Company and its subsidiaries ("AMEX"), and Law Offices of Randall L. Pratt, LLC, (collectively, "Defendants") for violations of the Fair Debt Collection Practices Act (FDCPA), the Massachusetts Consumer Protection Act (Chapter 93A), allegations of misuse of arbitration clauses, filing coercive lawsuits, engaging in an orchestrated scheme to obtain default judgments, targeting marginalized and vulnerable communities, violations of the Truth in Lending Act (TILA), unfair and deceptive acts or practices (UDAP), violations of the Fair



Credit Reporting Act (FCRA), violations of the Credit Card Accountability Responsibility and Disclosure Act (CARD Act), violations of the Consumer Financial Protection Bureau (CFPB) Arbitration Rule, intentional infliction of emotional distress, and reputational harm.

II. VENUE AND JURISDICTION

This Court has jurisdiction over this matter pursuant to Massachusetts General Laws, Chapter 218, Section 19, which grants jurisdiction to the Nantucket Superior Court for civil actions involving breach of contract and violations of Massachusetts Consumer Law (Chapter 93A) over \$50,000.

III. PARTIES

Plaintiff, Gustavo Kinrys, is an individual residing at 4 Goose Cove Way, Nantucket, MA 02554, Nantucket County, Massachusetts, who has been targeted by the coercive debt collection practices of AMEX and its representing law firms, in this case, Randall Pratt & Associates, LLC, operating as debt collectors.

Defendant American Express Company (AMEX) is a nationwide corporation with headquarters in the state of New York, with its principal place of business located at 200 Vesey Street, New York, NY, 10285. AMEX, is the parent company of American Express National Bank, and American Express Centurion Bank, subsidiaries which issue credit cards and manage bank accounts on its behalf.

Defendant Law Offices of Randall L. Pratt, LLC, is a law firm engaged by AMEX to file debt collection lawsuits and represents AMEX's interests in coercive collection practices, and other debt collection activities on behalf of AMEX, with its headquarters located at 1 Cate St Portsmouth, NH 03801.

IV. STATEMENT OF FACTS

Plaintiff, Gustavo Kinrys, brings this lawsuit against American Express Company ("AMEX") and Law Offices of Randall L. Pratt, LLC ("Randall Pratt"), seeking redress for the defendants' systematic abuse, misuse, and deceptive practices surrounding the arbitration clause in Amex's credit card agreements. This lawsuit seeks to preserve, strengthen, and enforce consumer protection laws, including the Massachusetts Consumer Protection Act (MCPA), Fair Debt Collection Practices Act (FDCPA), and

Fair Credit Reporting Act (FCRA), which prohibit deceptive, unfair, and unconscionable practices, to provide effective relief to victimized consumers.

Every state's consumer protection statute broadly prohibits deceptive practices, and many also prohibit unfair or unconscionable practices, with some states further prohibiting abusive practices. These Unfair and Deceptive Acts and Practices (UDAP) statutes serve as a crucial shield for consumers against unscrupulous businesses, ensuring that they are protected from deceptive and predatory practices that erode consumer rights.

Defendants, Amex and Randall Pratt, have constructed their entire business model around the filing of coercive lawsuits, overwhelmingly targeting individuals from marginalized and vulnerable communities who lack the means to respond to debt collection lawsuits. They employ a carefully articulated and coordinated scheme to obtain default judgments and coerce settlements through the misuse of the courts, circumventing the Mediation and Arbitration clauses in the credit card agreements.

The arbitration clause, a centerpiece of these credit card agreements, is characterized by deceptive, unfair, and unconscionable practices that undermine consumer rights and protection. Amex and Randall Pratt deliberately bury the arbitration provision within the credit card agreements, presenting it in dense legal language to deprive consumers of adequate notice and the opportunity to make informed decisions about their dispute resolution options.

By exploiting consumers' lack of knowledge and resources, Defendants induce consumers into accepting the arbitration provision without fully understanding its implications. Moreover, they use the arbitration clause to prevent consumers from joining together in group lawsuits, restricting their right to pursue justice collectively and perpetuating harmful practices.

Additionally, Amex and Randall Pratt misrepresent the arbitration process as a fair and efficient alternative to court litigation, concealing its limitations and disadvantages from consumers. Their abusive debt collection tactics further exploit the arbitration clause as a tool to intimidate and coerce consumers into unfavorable settlements, leading to a lack of accountability for their predatory practices. This lawsuit contends that the defendants' actions surrounding the arbitration clause constitute fraudulent inducement, as consumers are misled into accepting a clause that deprives them of their rights, inhibits their access to justice, and erodes confidence in the arbitration and judicial systems.

Plaintiff, Gustavo Kinrys, seeks restitution, injunctive relief, and appropriate penalties to hold Amex and Randall Pratt accountable for their deceptive, unfair, and unconscionable practices surrounding the arbitration clause, as well as their violations of the MCPA, FDCPA, TILA, CARD Act, and FCRA. The

pattern of deceptive and coercive activity throughout the existence of the fraudulent scheme has been directed at deceiving the public, causing injuries to Plaintiff.

This legal action aims to enforce consumer protection laws, safeguard consumer rights, and ensure that unscrupulous business practices are halted, preserving consumer trust and promoting equitable treatment in financial transactions. Through these efforts, the lawsuit seeks to protect consumers' financial well-being and uphold the integrity of the arbitration and judicial systems. Defendants failed to fulfill their contractual obligations as specified in the Agreement (Exhibit A). Specifically:

1. Defendants, Amex and Randall Pratt & Associates, LLC, have engaged in a systematic scheme to file coercive lawsuits targeting vulnerable and underserved individuals, knowing that such individuals are less likely to respond and defend themselves in court.
2. Randall Pratt & Associates, LLC, acting as a debt collector on behalf of Amex, has engaged in a systematic practice of filing baseless lawsuits, using incomplete or inaccurate documentation, and pursuing default judgments without proper legal justification.
3. Randall Pratt & Associates, LLC has failed to conduct a reasonable investigation into the validity and accuracy of the debts it seeks to collect, violating the Fair Debt Collection Practices Act and the Massachusetts Consumer Protection Act.
4. Randall Pratt & Associates, LLC has misrepresented its authority and legal standing in debt collection matters, falsely implying that it has the power to initiate legal proceedings and enforce judgments.
5. Randall Pratt & Associates, LLC has used deceptive and coercive tactics, including making false representations about the consequences of non-payment, engaging in harassing phone calls, and threatening legal action without a genuine intent to follow through.
6. Amex has intentionally and deceptively obscured the arbitration clause within the credit card agreements in dense legal language, preventing consumers from fully understanding its significance.
7. Defendants have failed to provide clear and conspicuous notice of the arbitration clause, depriving consumers of the opportunity to make informed decisions about their rights to resolve disputes through arbitration.
8. Defendants have coerced and misled consumers into accepting the arbitration provision without fully understanding its implications, perpetuating the lack of accountability for their predatory practices.

9. The arbitration clause in the credit card agreements effectively prohibits consumers from joining together in group lawsuits, restricting their right to seek collective relief and pursue justice.
10. Defendants have misrepresented the arbitration process as a fair and efficient alternative to court litigation, concealing its limitations and disadvantages from consumers.
11. Amex and Randall Pratt & Associates, LLC have abused the arbitration process by frequently opposing arbitration when consumers respond to lawsuits, despite using it themselves whenever advantageous.
12. Defendants have deliberately targeted individuals from marginalized and vulnerable communities, exploiting their financial difficulties and lack of access to legal resources.
13. The arbitration clause imposes exorbitant fees on consumers, creating a financial barrier that effectively denies consumers access to the arbitration process.
14. Defendants have deliberately attempted to hinder and dismiss the arbitration process whenever invoked by consumers, further exploiting their financial difficulties and lack of access to legal resources.
15. Defendants have willfully engaged in obstructive tactics aimed at impeding and undermining the arbitration process when initiated by consumers. This strategy exploits the financial challenges and limited legal resources of consumers, perpetuating their vulnerability and hindering their pursuit of fair dispute resolution avenues.
16. The defendants have engaged in deceptive practices within the legal realm by initially agreeing to arbitration upon consumer invocation, only to subsequently seek its dismissal upon arbitration initiation by the consumer through the American Arbitration Association (AAA). This deliberate strategy not only misleads the court but also obstructs the arbitration process, further disadvantaging consumers seeking fair dispute resolution.
17. The defendants have engaged in a pattern of behavior wherein they purposefully attempt to dismiss arbitration proceedings invoked by consumers based on claims of non-payment, despite being fully aware of their obligation to cover the costs for consumers if such costs surpass the consumers' court-related expenses. This practice unfairly burdens consumers and undermines the arbitration process, illustrating a deceptive attempt to discourage consumers from pursuing their rightful claims through arbitration.
18. Defendants have failed to provide adequate records of arbitration proceedings, hindering consumers' ability to appeal or challenge arbitration decisions.

19. The arbitration clause's placement and presentation in the credit card agreements are intentionally designed to obscure its significance and prevent consumers from fully understanding its implications.
20. Defendants' deceptive practices of inadequate notice and misrepresentation of the arbitration clause erode consumer confidence in financial institutions and the arbitration process.
21. The defendants' abusive use of the arbitration clause disproportionately harms vulnerable consumers, perpetuating economic inequality and undermining consumer protection laws.
22. Defendants unilaterally modify the arbitration clause without providing sufficient notice to consumers, depriving them of the opportunity to reject the changes or seek alternative dispute resolution methods.
23. The defendants have made false representations about the outcomes of arbitration, misleading consumers into believing that it is a more favorable resolution method than court litigation.
24. Defendants have used the arbitration clause to avoid accountability for their predatory practices and to deprive consumers of their right to seek justice through group (class action) lawsuits.
25. Amex and Randall Pratt & Associates, LLC have failed to disclose clearly and prominently to consumers that arbitration is an option to resolve a consumer debt.
26. Defendants have intentionally made interest and fees calculations in the credit card agreements impossible to understand, misleading consumers about their financial obligations.
27. Defendants have used the court system, which is already overburdened, to sue consumers despite knowing of the arbitration clause, unfairly hindering consumers' access to justice.
28. Defendants have eroded confidence in the arbitration system and judicial system by engaging in one-sided, indiscriminate, abusive, and wanton use of the arbitration clause.
29. The defendants' actions surrounding the arbitration clause constitute fraudulent inducement, as consumers are misled into accepting a clause that deprives them of their rights and access to justice.
30. Defendants have inappropriately and selectively removed lawsuits against them from the courts when it is convenient, undermining the integrity of the arbitration process.
31. Defendants have used the arbitration clause to deny groups of consumers their day in court, preventing them from joining together to sue for wrongdoing, in violation of the MCPA, FDCPA, and FCRA.
32. Amex and Randall Pratt & Associates, LLC have engaged in unfair debt collection practices, violating the FDCPA and causing harm to consumers.

33. Defendants' abuse, misuse, and deceptive practices surrounding the arbitration clause constitute a pattern of unfair and unconscionable conduct.
34. The defendants' actions have resulted in unjust enrichment, as they have avoided accountability for their wrongful actions and have unjustly profited from the misuse of the arbitration clause.
35. Defendants have failed to disclose to consumers that they have the right to reject the arbitration provision within 45 days after their first card purchase, deceiving consumers into believing they are bound by the clause without recourse.
36. The defendants have knowingly and deliberately failed to clearly disclose to consumers that the arbitration clause only allows up to a 45-day opt-out period, after the first use of the issued credit card, further deceiving consumers and limiting their ability to make informed decisions.
37. Defendants have abused the court system by filing lawsuits they have no intent to pursue, clogging the already burdened judicial system and depriving consumers of a fair resolution.
38. Amex and Randall Pratt & Associates, LLC have exploited consumers' lack of awareness about the existence and implications of the arbitration clause, misleading them into unknowingly waiving their right to access the court system.
39. The Defendants make the arbitration opt-out process needlessly complex in order to dissuade consumers from successfully rejecting arbitration. This violates consumer protection laws against unfair and deceptive practices that aim to ensure consumers can freely exercise their rights without undue barriers.
40. Defendants have knowingly and deliberately failed to clearly disclose to consumers that they have the right to reject the arbitration provision within 45 days after their first card purchase. Defendants have intentionally and deceptively concealed the rejection of arbitration terms within the credit card agreements in dense legal language, preventing consumers from fully understanding its significance. Thus, deceiving consumers into believing they are bound by the arbitration clause without recourse. Moreover, the defendants have further deceived consumers and limited their ability to make informed decisions about their dispute resolution options. This intentional lack of transparency has deprived consumers of their rights and hindered their ability to pursue fair and impartial dispute resolution methods.
41. The Defendants intentionally make the rejection process for the arbitration provision cumbersome and complex, adding unnecessary hurdles, language, and requirements that deter consumers from exercising their right to reject the provision. This intentional complexity is designed to dissuade consumers from navigating the process successfully, thus coercing them into accepting the arbitration provision unwittingly. By creating a convoluted and challenging

rejection process, the Defendants engage in deceptive and unfair practices, depriving consumers of their rights to make informed decisions about their dispute resolution options, and further violates consumer protection laws.

42. Defendants' practice of stating in their card agreement that rejecting the arbitration provision in one account will exempt consumers from all arbitration clauses is deceptive and coercive. This misleading representation creates the false impression that consumers can forego their right to arbitration altogether, potentially causing them to unknowingly give up their rights. This deceptive and coercive practice deprives consumers of their right to make informed decisions about their dispute resolution options. It also potentially coerces consumers into accepting the arbitration provision in accounts where they might have intended to reject it.
43. The 45-day opt-out window is too short and unfairly rushes consumers into making a critical decision about their legal rights. Most consumers do not scrutinize card agreements immediately and need more time to learn about arbitration and make an informed choice. This sharp limit on opting out exploits consumer behavior and is likely an unfair and deceptive practice.
44. Prohibiting consumers from selectively opting out of arbitration on specific accounts restricts consumer choice. Consumers may want arbitration for some financial relationships but prefer litigation rights for others. By coercing an all-or-nothing decision, this restriction provides less consumer autonomy over dispute resolution and penalizes tailored opt-out decisions. This undermines basic consumer protection principles.
45. The arbitration opt-out terms utilize legalistic language and complex phrasing. This makes it quite difficult for the average consumer to understand and successfully complete the process. Constructively suppressing opt-outs through confusion contradicts the duty to provide clear, transparent terms and stalks consumer protection law violations.
46. Forced arbitration strips consumers of access to the court system, jury trials, class actions, and full discovery. Without a clear arbitration agreement, compelling these waivers violates notions of consensual due process and fundamental fairness. This coercion into arbitration may render the terms unconscionable.
47. The arbitration clause imposes exorbitant fees on consumers, creating a financial barrier that effectively denies consumers access to the arbitration process. This practice is a violation of the Consumer Financial Protection Bureau (CFPB) Arbitration Rule, which prohibits financial institutions from using arbitration clauses that include excessive fees. By imposing unreasonable fees, Defendants are preventing consumers from accessing a fair and impartial dispute resolution process.

48. AMEX and Randall Pratt & Associates, LLC have failed to disclose clearly and prominently to consumers that arbitration is an option to resolve a consumer debt. This lack of clear disclosure violates the Truth in Lending Act (TILA) and the Consumer Financial Protection Bureau (CFPB) Arbitration Rule, which require businesses to provide clear and conspicuous information about dispute resolution options. By failing to disclose arbitration as an option, Defendants are depriving consumers of their right to make informed decisions about how to resolve their disputes.
49. Recent CFPB guidance from 2017 and MA State consumer laws emphasize that consumers should have meaningful control over arbitration. By limiting the time and scope of opt-outs, these terms contradict that guidance by severely restricting consumer choice over arbitration. This violates the spirit of pro-consumer arbitration reform laws.
50. AMEX's claims notice process lacks transparency and fails to provide consumers with clear and effective communication, violating consumer protection laws, including state consumer protection statutes, the Truth in Lending Act (TILA), and the Credit Card Accountability Responsibility and Disclosure Act (CARD Act). By sending the claims notice through billing statements or billing addresses without verification or confirmation of receipt, AMEX deprives consumers of their rights to be duly informed about their dispute resolution options. This deceptive practice exploits consumers' lack of awareness and comprehension, creating an unfair advantage for AMEX and hindering consumers' access to a fair and impartial alternative to court litigation.
51. Burden on consumers: The claims notice provision places the burden of receiving the notice solely on the consumer without any requirement for the company to obtain proof of receipt. This could create an unfair advantage for the Defendants, making it difficult for consumers to challenge the company's claims of sending the notice in case of a dispute.
52. AMEX's claims notice process intentionally incorporates complex and burdensome procedures, employing tactics designed to create obstacles and confusion for consumers who wish to initiate arbitration. By following strict instructions and sending the claim notice to a specific address, AMEX aims to deter consumers from exercising their right to pursue a fair and impartial resolution to their disputes. This obstructive practice violates consumer protection laws, including state consumer protection statutes, the Truth in Lending Act (TILA), and the Credit Card Accountability Responsibility and Disclosure Act (CARD Act).
53. The convoluted claims notice process undermines the essence of consumer protection laws, which seek to promote consumer access to justice, transparency, and fairness in dispute

resolution. AMEX's deliberate attempt to deter consumers from utilizing arbitration infringes upon consumers' rights, stifles consumer autonomy, and deprives them of a viable and equitable alternative to court litigation. Such deceptive practices violate the principles and objectives of consumer protection laws, which seek to empower consumers and foster a balanced and just marketplace for financial transactions.

54. The claims notice provision is unconscionable as it deliberately imposes an unfair burden on consumers without offering any practical means of verification or ensuring that consumers are duly informed of important notices. As such, it is a violation of various state Consumer Protection Laws, that require businesses to provide consumers with certain types of notices and communications in a clear and conspicuous fashion.
55. Defendants have included unconscionable terms and conditions in their agreements to exploit and take advantage of consumers, depriving them of their rights and subjecting them to unfair and oppressive practices. These unconscionable terms are deliberately crafted to tilt the balance of power heavily in favor of the Defendants, leaving consumers in a vulnerable position with limited recourse. This conduct violates consumer protection laws, which prohibit unconscionable practices that are oppressive, unfair, and designed to benefit one party at the expense of the other. Such practices undermine consumers' ability to make informed decisions and seek justice in case of disputes, and they run counter to the principles of fairness and transparency that the law seeks to uphold. Specifically:
 - a) The short 45-day opt-out window exploits inattention and rushes important legal decisions, making meaningful consent unlikely. This procedural unconscionability prevents informed acceptance.
 - b) Requiring account-wide opt-out, rather than allowing selective arbitration, forces harsh all-or-nothing choices that suppress consumer preferences. This substantive coercion is highly unfair.
 - c) Complex legalese and confusing terms prevent average consumers from exercising opt-out rights. This constructive suppression of material information negates knowing consent.
 - d) Forced waiver of litigation rights and class actions provides inadequate consideration compared to the significant rights relinquished. This one-sided exchange lacks meaningful bargained-for exchange.
 - e) Arbitration strips procedural protections like discovery that would likely be available in court. Surrendering so much legal recourse provides insufficient compensation.

- f) Individual arbitration prevents class actions despite their importance for low-value claims. Eliminating this material right provides inadequate substantive value.
- g) Consumers cannot reasonably anticipate or understand drastic restrictions imposed by arbitration. Violating reasonable expectations makes the clause oppressive.
- h) The terms are non-negotiable, provided on a take-it-or-leave-it basis. This adhesive nature leaves no meaningful option but acceptance, even if unwanted.
- i) Arbitration exempts the consumer finance company from public accountability since proceedings happen in secret. This lack of transparency exacerbates the power imbalance.
- j) Aggressive terms that compel arbitration and limit opt-out indicate deliberate overreach. This bad faith runs afoul of conscionability standards.

The Plaintiff has suffered significant damages as a result of Defendants' wrongful conduct, breach of contract and numerous violations of various laws, including MCPA, FDPA, FCRA, CARD act, and TILA. The detailed allegations demonstrate the misuse, abuse, coercive and deceptive practices surrounding the arbitration clause in the credit card agreements, which have led to harm and financial hardship for the Plaintiff and consumers alike. The lawsuit seeks to hold Defendants accountable for their actions, obtain appropriate relief for Plaintiff, and affected consumers, and ensure that consumer rights are protected from unfair and exploitative practices.

V. STATEMENT OF CLAIMS

Count I: Violation of the Massachusetts Consumer Protection Act (MCPA) - Deceptive Business Practices and Fraudulent Inducement (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants, Amex, and Randall Pratt & Associates, LLC, engaged in deceptive business practices by intentionally deceiving consumers about the arbitration clause in the credit card agreements. They fraudulently induced consumers to accept the clause, misrepresenting its significance and depriving consumers of their rights to seek legal recourse in case of disputes.

Count II: Violation of the MCPA - Deceptive Business Practices (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants' deceptive practices include misleading consumers about the arbitration clause, its implications, and the fairness of the arbitration process. They have obscured the clause's significance and restrictions, leading consumers to unknowingly waive their right to access the court system for dispute resolution.

Count III: Violation of the Truth in Lending Act (TILA) - Disclosure Violations (15 U.S.C. § 1638(a)(2)(A))

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have failed to provide accurate and timely disclosures of credit terms, including the arbitration clause, as required by TILA. Their deceptive practices mislead consumers into believing that the arbitration process is more favorable than court litigation, depriving them of their right to make informed decisions.

Count IV: Violation of the MCPA - Unfair and Unconscionable Business Practices (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants' practices surrounding the arbitration clause are both unfair and unconscionable. They have unilaterally modified the clause without providing sufficient notice to consumers, creating an unjust advantage for themselves.

Count V: Violation of the MCPA - Restriction of Consumer Rights (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have restricted consumers' rights to access the court system and seek collective relief by blocking group lawsuits through the arbitration clause. This restriction limits consumers' ability to pursue justice collectively and hinders their efforts to hold Defendants accountable for wrongdoing.

Count VI: Violation of the MCPA - Misrepresentation (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have misrepresented the arbitration process as a fair and efficient alternative to court litigation, concealing its limitations and disadvantages from consumers. Their false representations have led consumers to accept terms that heavily favor Defendants' interests.

Count VII: Violation of the MCPA - Lack of Adequate Notice (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. The arbitration clause's inclusion in the credit card agreement is buried in dense legal language and is not clearly and conspicuously disclosed to consumers, depriving them of the opportunity to make informed decisions about their rights.

Count VIII: Violation of the MCPA - Failure to Disclose Opt-Out Rights (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have failed to disclose to consumers that they have the right to reject the arbitration provision within 45 days after their first card purchase, deceiving consumers into believing they are bound by the clause without recourse.

Count IX: Violation of the MCPA - Failure to Clearly Disclose Opt-Out Period (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have knowingly and deliberately failed to clearly disclose to consumers that the arbitration clause usually only allows up to a 6-month opt-out period, further deceiving consumers and limiting their ability to make informed decisions.

Count X: Violation of the MCPA - Targeting Marginalized and Vulnerable Individuals (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

2. Defendants have deliberately targeted individuals from marginalized and vulnerable communities, exploiting their financial difficulties and lack of access to legal resources. This targeted approach violates consumer protection laws, which aim to protect vulnerable consumers from unfair and predatory practices.

Count XI: Violation of the MCPA - Erosion of Consumer Confidence in Arbitration and Judicial System (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants' one-sided, indiscriminate, abusive, and coercive use of the arbitration clause has eroded consumers' confidence in the arbitration and judicial systems. This lack of trust hinders consumers' willingness to pursue legal action and seek fair resolution to their disputes.

Count XII: Violation of the MCPA - Violation of Consumer Rights and Unjust Enrichment (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have violated consumers' rights by denying them the opportunity to pursue collective relief through group lawsuits. This has allowed Defendants to unjustly enrich themselves by avoiding accountability for their predatory practices.

Count XIII: Violation of the MCPA - Coercive Use of Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have coerced consumers into accepting the arbitration clause by filing coercive lawsuits that overwhelmingly go unanswered, leading to immediate requests for default judgments. This coercive use of the arbitration clause violates consumer protection laws.

Count XIV: Violation of the MCPA - Exploitation of Consumer Awareness (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

2. Defendants have exploited consumers' lack of awareness regarding the arbitration clause, targeting those who are underserved, poor, and disenfranchised, and taking advantage of their inability to respond to debt collection lawsuits.

Count XV: Violation of the MCPA - Intentional Lack of Intent to Pursue Lawsuits (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have filed lawsuits they do not intend to pursue, seeking default judgments without genuine intent to pursue legal action. This intentional lack of intent to pursue lawsuits constitutes a violation of the MCPA.

Count XVI: Violation of the MCPA - Unconscionable and Coercive Use of the Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have used the arbitration clause in a one-sided, indiscriminate, abusive, and coercive manner, targeting individuals who cannot afford or are unaware of how to respond to debt collection lawsuits. This unconscionable and coercive use of the arbitration clause constitutes a violation of the MCPA.

Count XVII: Violation of the MCPA - Intentional Misuse of the Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have deliberately misused the arbitration clause and filed coercive lawsuits to circumvent the Mediation and Arbitration clauses, depriving consumers of a fair and impartial dispute resolution process.

Count XVIII: Violation of the MCPA - Exploitative and Predatory Practices (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

D

2. Defendants have engaged in exploitative and predatory practices by targeting vulnerable individuals, coercing consumers into accepting the arbitration clause, and depriving consumers of their rights to seek collective relief through group lawsuits.

Count XIX: Violation of the MCPA - Failure to Clearly and Prominently Disclose Arbitration Option (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have failed to clearly and prominently disclose to consumers that arbitration is an option to resolve a consumer debt prior to filing a lawsuit. This lack of disclosure deprives consumers of their right to make informed decisions about their dispute resolution options.

Count XX: Violation of the MCPA - Coercive and Abusive Use of the Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have engaged in coercive and abusive practices by overwhelmingly filing coercive lawsuits and seeking immediate default judgments, preventing consumers from exercising their rights and options under the arbitration clause.

Count XXI: Violation of the MCPA - Targeting Vulnerable and Underserved Communities (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have deliberately targeted individuals from marginalized and vulnerable communities, exploiting their financial difficulties and lack of access to legal resources. This targeted approach violates consumer protection laws, which aim to protect vulnerable consumers from unfair and predatory practices.

Count XXII: Violation of the MCPA - Erosion of Consumer Confidence in Arbitration and Judicial System (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

2. Defendants' one-sided, indiscriminate, abusive, and coercive use of the arbitration clause has eroded consumers' confidence in the arbitration and judicial systems. This lack of trust hinders consumers' willingness to pursue legal action and seek fair resolution to their disputes.

Count XXIII: Violation of the MCPA - Violation of Consumer Rights and Unjust Enrichment (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have violated consumers' rights by denying them the opportunity to pursue collective relief through group lawsuits. This has allowed Defendants to unjustly enrich themselves by avoiding accountability for their predatory practices.

Count XXIV: Violation of the MCPA - Coercive Use of Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have coerced consumers into accepting the arbitration clause by filing coercive lawsuits that overwhelmingly go unanswered, leading to immediate requests for default judgments. This coercive use of the arbitration clause violates consumer protection laws.

Count XXV: Violation of the MCPA - Exploitation of Consumer Awareness (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have exploited consumers' lack of awareness regarding the arbitration clause, targeting those who are underserved, poor, and disenfranchised, and taking advantage of their inability to respond to debt collection lawsuits.

Count XXVI: Violation of the MCPA - Intentional Lack of Intent to Pursue Lawsuits (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

2. Defendants have filed lawsuits they do not intend to pursue, seeking default judgments without genuine intent to pursue legal action. This intentional lack of intent to pursue lawsuits constitutes a violation of the MCPA.

Count XXVII: Violation of the MCPA - Unconscionable and Coercive Use of the Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have used the arbitration clause in a one-sided, indiscriminate, abusive, and coercive manner, targeting individuals who cannot afford or are unaware of how to respond to debt collection lawsuits. This unconscionable and coercive use of the arbitration clause constitutes a violation of the MCPA.

Count XXVIII: Violation of the MCPA - Intentional Misuse of the Arbitration Clause (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have deliberately misused the arbitration clause and filed coercive lawsuits to circumvent the Mediation and Arbitration clauses, depriving consumers of a fair and impartial dispute resolution process.

Count XXIX: Violation of the MCPA - Exploitative and Predatory Practices (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have engaged in exploitative and predatory practices by targeting vulnerable individuals, coercing consumers into accepting the arbitration clause, and depriving consumers of their rights to seek collective relief through group lawsuits.

Count XXX: Violation of the MCPA - Failure to Clearly and Prominently Disclose Arbitration Option (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

2. Defendants have failed to clearly and prominently disclose to consumers that arbitration is an option to resolve a consumer debt prior to filing a lawsuit. This lack of disclosure deprives consumers of their right to make informed decisions about their dispute resolution options.

Count XXXI: Violation of the MCPA - Deceptive Representations Regarding Arbitration (Chapter 93A, Section 2)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants made deceptive representations to consumers regarding the arbitration clause, misrepresenting its benefits while downplaying its limitations and disadvantages. These deceptive practices violate consumer protection laws.

Count XXXII: Violation of the FDPA - Unfair Debt Collection Practices (15 U.S.C. § 1692)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants, acting as debt collectors, engaged in unfair practices in violation of the FDPA. They utilized coercive and abusive strategies to file lawsuits and obtain default judgments without properly notifying consumers about their rights under the arbitration clause.

Count XXXIII: Violation of the FCRA - Misuse of Arbitration Clause Information (15 U.S.C. § 1681)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants violated the FCRA by misusing consumer credit information obtained during the debt collection process to coerce consumers into accepting the arbitration clause and preventing them from seeking legal remedies.

Count XXXIV: Violation of the FCRA - Failure to Provide Accurate Credit Information (15 U.S.C. § 1681)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants failed to provide accurate credit information to credit reporting agencies, harming consumers' creditworthiness and subjecting them to undue financial hardships.

Count XXXV: Violation of TILA - Failure to Properly Disclose Arbitration Clause (15 U.S.C. § 1601)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants violated the TILA by failing to properly disclose the arbitration clause in the credit card agreements, depriving consumers of the opportunity to make informed decisions about their dispute resolution options.

Count XXXVI: Violation of TILA - Misrepresentation of Arbitration Clause (15 U.S.C. § 1601)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants made misrepresentations regarding the arbitration clause's benefits and disadvantages, leading consumers to accept the clause under false pretenses.

Count XXXVII: Failure to Provide Clear and Conspicuous Disclosure of Arbitration Clause (15 U.S.C. § 1632)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants, Amex and Randall Pratt & Associates, LLC, have violated the Credit Card Accountability Responsibility and Disclosure Act (CARD Act) by failing to provide clear and conspicuous disclosure of the arbitration clause in the credit card agreements.

Count XXXVIII: Failure to Provide Required Information in Credit Card Agreement (15 U.S.C. § 1637)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have failed to include essential information related to the arbitration clause in the credit card agreements. This includes details about the arbitration process, the costs involved, and the implications of accepting or rejecting arbitration. By omitting this critical information, Defendants have deprived consumers of their rights to make informed decisions and have violated the CARD Act.

Count XXXIX: Failure to Provide Adequate Notice and Communication (Violation of Massachusetts Consumer Protection Act – MCPA MGL c. 93A)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. AMEX's claims notice process lacks transparency and fails to provide consumers with clear and effective communication, violating consumer protection laws, including state consumer protection statutes, the Truth in Lending Act (TILA), and the Credit Card Accountability Responsibility and Disclosure Act (CARD Act). By sending the claims notice through billing statements or billing addresses without verification or confirmation of receipt, AMEX deprives consumers of their rights to be duly informed about their dispute resolution options. This deceptive practice exploits consumers' lack of awareness and comprehension, creating an unfair advantage for AMEX and hindering consumers' access to a fair and impartial alternative to court litigation. This inadequate notice and communication tactic undermines the core principles of consumer protection laws, which aim to safeguard consumer interests, promote transparency, and empower consumers to make informed choices. AMEX's failure to provide adequate notice violates the fundamental objectives of consumer protection laws and unjustly exploits its position of power to the detriment of consumers.

Count XL: Obstructive Claims Notice Process (Violation of Consumer Protection Laws)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. AMEX's claims notice process intentionally incorporates complex and burdensome procedures, employing tactics designed to create obstacles and confusion for consumers who wish to initiate arbitration. By requiring consumers to follow strict instructions and send the claim notice to a specific address, AMEX aims to deter consumers from exercising their right to pursue a fair and impartial resolution to their disputes. This obstructive practice violates consumer protection laws, including state consumer protection statutes, the Truth in Lending Act (TILA), and the Credit Card Accountability Responsibility and Disclosure Act (CARD Act). The convoluted claims notice process undermines the essence of consumer protection laws, which seek to promote consumer access to justice, transparency, and fairness in dispute resolution. AMEX's deliberate attempt to deter consumers from utilizing arbitration infringes upon consumers' rights, stifles consumer autonomy, and deprives them of a viable and equitable alternative to court litigation. Such deceptive practices violate the principles and objectives of consumer protection

laws, which seek to empower consumers and foster a balanced and just marketplace for financial transactions.

Count XLI: Breach of Contract - Modification of Arbitration Clause

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants breached the credit card agreement by unilaterally modifying the arbitration clause to their advantage, effectively depriving consumers of their rights under the original agreement.

Count XLII: Fraudulent Inducement - Misrepresentation of Arbitration Clause Benefits

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants fraudulently induced consumers into accepting the arbitration clause by misrepresenting its benefits, coercing them into unfavorable agreements.

Count XLIII: Unjust Enrichment - Coercive Use of Arbitration Clause

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants have been unjustly enriched by coercively using the arbitration clause to obtain default judgments and depriving consumers of their rights to fair dispute resolution.

Count XLIV: Fraudulent Concealment - Concealing Arbitration Clause's Limitations

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants fraudulently concealed the limitations and disadvantages of the arbitration clause from consumers, preventing them from making informed decisions about their dispute resolution options.

Count XLV: Emotional Distress and Financial Harm

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

2. Defendants' coercive debt collection practices, including the intentional filing of lawsuits without the intent to pursue them, have caused significant emotional distress and financial harm to consumers. Their predatory targeting of vulnerable individuals exacerbates the harm inflicted, warranting compensation for emotional distress and financial losses.

Count XLVI: Reputational Harm

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants' deceptive, unfair, and abusive practices surrounding the arbitration clause have caused reputational harm to consumers. The actions taken by Defendants have resulted in damaged credibility and standing within the community, harming Plaintiff's reputation and that of other affected individuals.

Count XLVII: Intentional Obstruction of the Arbitration Process (Violation of Consumer Protection Laws)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants, American Express Company ("Amex") and Randal Pratt, have engaged in a calculated and deliberate pattern of obstructive tactics to impede and undermine the arbitration process initiated by consumers. This strategy exploits the financial challenges and limited legal resources of consumers, perpetuating their vulnerability and hindering their pursuit of fair dispute resolution avenues. Such conduct not only violates consumer protection laws that require fair and accessible resolution methods but also demonstrates a disregard for consumers' rights and the principles of equitable justice.

Count XLVIII: Deceptive Legal Practices and Obstruction of Justice

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Amex and Randal Pratt are in violation of ethical and legal standards by engaging in deceptive practices within the legal realm. Specifically, the defendants have engaged in a pattern of behavior wherein they initially agree to arbitration upon consumer invocation, only to subsequently seek its dismissal after the consumer initiates arbitration proceedings through the American Arbitration Association (AAA). This calculated strategy not only misleads the court

but also obstructs the arbitration process, further disadvantaging consumers seeking fair dispute resolution. Such actions undermine the integrity of the legal system, violate consumer rights, and thwart the principles of honesty and fairness.

Count XLIX: Attempted Dismissal of Arbitration Proceedings (Violation of Consumer Protection Laws)

1. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.
2. Defendants, Amex and Randal Pratt, have deliberately and knowingly attempted to dismiss arbitration proceedings invoked by consumers under deceptive pretenses. This pattern of behavior involves the defendants' seeking dismissal based on claims of non-payment for arbitration costs, despite being fully aware of their obligation to cover such costs for consumers if they exceed the consumers' court-related expenses. This practice unfairly burdens consumers and undermines the arbitration process, illustrating a deceptive attempt to discourage consumers from pursuing their rightful claims through arbitration. Such actions violate consumer protection laws that require transparency, fairness, and adherence to contractual obligations.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Gustavo Kinrys respectfully requests that this Court enter judgment against Defendants as follows:

- a) A declaration that Defendants' actions violate the FD CPA, Chapter 93A, the Truth in Lending Act, the Fair Credit Reporting Act, and other applicable laws;
- b) Injunctive relief enjoining Defendants from engaging in further coercive debt collection practices, misuse of the courts, deceptive tactics, and violations of consumer protection laws, to prevent the continuation of said deceptive practices that harm consumers, and to protect the public interest.
- c) Actual damages, statutory damages, and treble damages as provided by law; in an amount to be determined at trial, but expected to substantially exceed Five Hundred Thousand Dollars (\$500,000);
- d) Compensatory, incidental, and punitive damages in an amount to be determined at trial, but expected to substantially exceed One Hundred Million Dollars (\$100,000,000);
- e) Restitution and disgorgement of any ill-gotten gains obtained by Defendants as a result of their unlawful conduct;

- f) Reasonable attorneys' fees and costs incurred in prosecuting this action;
- g) Creation of a non-profit foundation, funded with the largest portion of the relief awarded in this case, in the amount of One Hundred Million Dollars (\$100,000,000), to disburse funds to consumers who have been victims of AMEX's abuses, providing financial compensation for their losses;
- h) The non-profit foundation shall also provide legal assistance to consumer victims at no cost, ensuring that affected individuals have access to the legal representation necessary to protect their rights;
- i) Compensatory damages for emotional distress and financial harm caused by Defendants' coercive practices;
- j) Any other relief this Court deems just, equitable, and proper.

IX. DEMAND FOR JURY TRIAL

The Plaintiff demands a trial by jury on all issues so triable.

I, Gustavo Kinrys, the Plaintiff in the above-captioned action, hereby verify under the pains and penalties of perjury that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information, and belief.

Dated: 08/31/2023

Respectfully submitted.

/s/ Gustavo Kinrys

Plaintiff's signature
Self-represented

Name: Gustavo Kinrys
Address: 4 Goose Cove Way
Nantucket, MA 02554
Telephone No.: 617-953-8282



EXHIBIT A

Cardmember Agreement: Part 1 of 2

As of: 09/30/2022

Amex Everyday® Card
 Issuer: American Express National Bank

Rates and Fees Table

Interest Rates	
Annual Percentage Rate (APR) for Purchases	Prime Rate + 9.74% to Prime Rate + 20.74% This is a variable APR. See <i>Explanation of Variable Rates</i> below.
APR for Balance Transfers	Prime Rate + 9.74% to Prime Rate + 20.74% for any balance transfer requests we may accept. This is a variable APR. See <i>Explanation of Variable Rates</i> below.
APR for Cash Advances	Prime Rate + 21.99% This is a variable APR. See <i>Explanation of Variable Rates</i> below.
Penalty APR and When it Applies	Prime Rate + 26.74% This is a variable APR. See <i>Explanation of Variable Rates</i> below. This APR will apply to your account if you: 1) make one or more late payments; or 2) make a payment that is returned by your bank. We may also consider your creditworthiness in determining whether or not to apply the penalty APR to your Account. How Long Will the Penalty APR Apply? 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.
Paying Interest	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 and balance transfers on the transaction date.
Plan Fee (Fixed Finance Charge)	A monthly fee up to 1.33% of each purchase amount moved into a plan based on the plan duration, the APR that would otherwise apply to the purchase, and other factors.
For Credit Card Tips from the Consumer Financial Protection Bureau	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 http://www.consumerfinance.gov/learnmore.
Fees	
Annual Membership Fee	None
Transaction Fees	<ul style="list-style-type: none"> • Balance Transfer: Either \$5 or 3% of the amount of each transfer, whichever is greater. • Cash Advance: Either \$10 or 5% of the amount of each cash advance, whichever is greater. • Foreign Transaction: 2.7% of each transaction after conversion to US dollars.
Penalty Fees	<ul style="list-style-type: none"> • Late Payment: Up to \$40 • Returned Payment: Up to \$40 • Overlimit: None

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. The variable penalty APR will not exceed 29.99%.

How Rates and Fees Work

Rates	
Penalty APR for new transactions	<p>The penalty APR may apply to new transactions if:</p> <ul style="list-style-type: none"> • you do not pay at least the Minimum Payment Due by the Payment Due Date on one or more occasions; or • your payment is returned by your bank. <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.	
Annual Membership	This fee is on the <i>Rates and Fees Table</i> on page 1 of Part 1.
Plan Fee	Up to 1.33% of each purchase amount moved into a plan based on the plan duration, the APR that would otherwise apply to the purchase amount(s), 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.
Late Payment	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.
Returned Payment	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.
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.
Overlimit	None. See <i>Credit limit and cash advance limit</i> in Part 2.
Account Re-opening	\$25 if your Account is cancelled, you ask us to re-open it, and we do so.
Balance Transfer	3% of the transaction, with a minimum of \$5. A different fee may apply if stated in a promotional offer or at the time of a transaction. This fee is a finance charge. We will add it to the same balance as the balance transfer.
Cash Advance	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.
Foreign Transaction	2.7% of the converted U.S. dollar amount. This fee is a finance charge. See Part 2 for <i>Converting charges made in a foreign currency</i> .

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

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.

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.

We cannot increase the interest rate on existing balances except in limited circumstances.

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, cash advances, balance transfers, fees and interest charges.

A **purchase** is a charge for goods, services, or person-to-person transactions. A **cash advance** 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 **balance transfer** is a charge to pay an amount you owe on another credit card account. A **person-to-person transaction** is a charge for funds sent to another person or a charge to add funds to your Amex Send™ Account. A **plan** 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.

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. 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.

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.

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.

Credit limit and cash advance limit

We assign a **Credit Limit** to your Account. We may make part of your Credit Limit available for cash advances (**Cash Advance Limit**). 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.

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.

You agree to manage your Account so that:

- your Account balance (including fees and interest) is not more than your Credit Limit, and
- your cash advance balance (including fees and interest) is not more than your Cash Advance Limit.

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.

Limits on person-to-person transactions

Your person-to-person transactions may not exceed the \$2,000 person-to-person transactions limit within any 30-day period.

You must manage your Account so that the total of your person-to-person transactions in any 30-day period do not exceed the limit on person-to-person transactions.

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.

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 the charge would not cause you to go over your Credit Limit

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.

About the Plan It feature

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.

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 prior to your establishing the applicable plan and will be based on the plan duration, the APR that would otherwise apply to the purchase amount(s), and other factors. When you set up a plan, the purchases or amount will be moved to a plan balance and will be subject to a plan fee instead of the APR for purchases.

A *qualifying purchase* for Plan It is a purchase of at least a specified dollar amount. A *qualifying amount* for Plan It is a specified portion of your balance. These qualifying purchases or a qualifying amount do not include: cash or cash equivalents, purchases subject to Foreign Transaction Fees, or any fees owed to us, including Annual Membership fees.

Your ability to initiate plans will be based on a variety of factors such as your creditworthiness or your Credit Limit. You will not be able to initiate plans if your Account is cancelled. You will also not be able to initiate plans if one or more of your American Express accounts is enrolled into a debt management program, or has a payment that is returned unpaid, or is delinquent. 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.

Plans cannot be cancelled after they have been set up 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.

About your payments

When you must pay

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.

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

Minimum Payment Due in such time and manner by the Payment Due Date shown on your billing statement.

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.

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).

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.

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

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:

- 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.

- 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.

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 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.

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 ten thousandth of a percentage point. Your DPRs are shown in *How Rates and Fees Work* on page 2 of Part 1.

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.

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 = $\$29.57$

Determining the Prime Rate

Unless otherwise specified, 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* on 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

Military Lending Act

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).

To listen to this statement, as well as a description of your payment obligation for this Account, call us at **855-531-0379**.

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 *Claims Resolution for Covered Borrowers* section will apply.

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.

If an Annual Membership fee applies for an Additional Card, please refer to the refund policy disclosed in the *Closing your Account* 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.

Converting charges made in a foreign currency

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.

Changing your billing address

You must notify us immediately if you change the:

- mailing address to which 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.

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.

If your billing address is in the Commonwealth of Massachusetts at the time you close your account, this policy will not apply to you.

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.
-

<p>About default</p>	<p>If we consider your Account to be in default if:</p> <ul style="list-style-type: none"> • 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. 	<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"> • 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.
<p>Collection costs</p>	<p>You agree to pay all reasonable costs, including attorneys' fees, that we incur to collect amounts you owe.</p>	
<p>Credit reports</p>	<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>	
<p>Sending you notices</p>	<p>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.</p>	
<p>We may contact you</p>	<p>Servicing and Collections</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>Call monitoring</p> <p>We may monitor and record any calls between you and us.</p>	
<p>About insurance products</p>	<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>	
<p>How we handle electronic debits from your checking account</p>	<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"> • the amount, • the routing number, • the account number, and • the check serial number. 	<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>
<p>Privacy Act of 1974 notice</p>	<p>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.</p>	
<p>Convenience checks</p>	<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"> • 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. • purchase APR if you make it payable to a merchant. • balance transfer APR if you use it to transfer a balance from another creditor. • penalty APR if it applies to your Account.
<p>Changing benefits</p>	<p>We have the right to add, modify or delete any benefit, service, or feature of your Account at our discretion.</p>	
<p>Assigning the Agreement</p>	<p>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.</p>	
<p>Assigning claims</p>	<p>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.</p>	

We do not waive our rights

We choose to delay enforcing or to not exercise rights in 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, 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) 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 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-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-member 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 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 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 of 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 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) 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 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

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.