

Terms and Conditions for the American Express Treasury Card Account (TCA)

General provisions

These General Terms and Conditions («GTC») apply to all American Express Treasury Card Accounts («TCA») issued by Swisscard AECS GmbH (hereinafter referred to as the «issuer»).

The following **definitions** apply:

- a) The term «*customer*» refers to the company stated in the TCA application for which a TCA is to be opened.
- b) All amounts charged to the TCA, including all possible fees, interest and claims for damages as well as other expenses, for example receivables due in case of debt collection, are referred to as «*charges*».
- c) The term «*user*» refers to the employees authorised to debit the TCA by the customer.

1. Use of the TCA

1.1 The TCA opened upon the application of the customer by the issuer entitles the users to purchase goods and services debiting the TCA.

1.2 The issuer shall pay to the points of acceptance the amounts debited based on orders and/or bookings of the users pursuant to the internal guidelines of the issuer and charge the amounts debited pursuant to clause 4 to the customer.

1.3 The customer is responsible for the authorisation of the users named by it to debit the TCA as well as for the compliance with the present terms and conditions by the users.

1.4 Neither the customer nor the users may resell goods and services debited to the TCA or return them for cash. The taking back by the points of acceptance in return for credit entries to the TCA corresponding to the terms and conditions of the points of acceptance in question remains reserved.

1.5 If there is the suspicion of an unauthorised use of the TCA, the customer shall be obliged to inform the issuer immediately in writing.

2. Fees (including interest and costs)

2.1 The use of the TCA may involve fees (e.g. annual fee, reminder fees), default interest and (third-party) costs (hereinafter jointly referred to as «*fees*»). With the exception of third-party costs occurring, the existence, type and amount of such fees will be made known to the customer in or in connection with the applications for the TCA and/or in another suitable form and may be requested at any time from the customer service of the issuer and/or accessed for example via www.american-express.ch.

2.2 In case of transactions in a currency other than the card currency, the customer accepts the selling foreign exchange rate applied and/or the conversion rates partly determined by the card organisations.

3. Payment obligations

3.1 The customer undertakes to pay all charges regardless of who caused them and/or whether these charges occurred in valid manner. Only those charges which have been clearly accepted by the issuer after receipt of the notification of the customer in writing pursuant to clause 1.5 and in contrary to corresponding instructions of the customer shall be excluded from this obligation.

3.2 The customer shall also be liable for delayed charges on the collective invoice.

4. Invoicing and modes of payment

4.1 If the TCA shows a balance in favour of the issuer, the issuer will send to the customer a collective invoice at the time of the agreed invoicing. The striking of the balance of the respective collective invoice does not result in the renewal of the contractual obligation. Unless otherwise agreed, the issuer has to receive the entire invoice amount within twenty-eight (28) days after the date of the invoice.

4.2 If the issuer does not receive the invoice amount shown in the collective invoice at all or not completely within the term of payment, default interest on the entire invoice amount shall be owed without reminder from the date of invoice until the date of receipt of payment and shall be owed on any remaining balance possibly unpaid until receipt of payment of such balance.

4.3 The outstanding invoice amount is to be settled by means of a mode of payment accepted by the issuer.

4.4 Collective invoices shall be deemed as approved by the customer if the issuer does not receive a written complaint of the customer within 30 days of the invoice date (date of the postmark).

4.5 The customer has to inform the issuer immediately of any changes of names and addresses in writing. Any collective invoices and other notices sent to the address last known to the issuer shall be deemed as validly served upon the customer.

5. Responsibility and liability

5.1 The issuer refuses any responsibility for any deals concluded using the TCA. In particular, possible discrepancies, complaints regarding services as well as disagreements and claims of the customer connected with them are to be directly and exclusively settled with the respective point of acceptance. The existence of such complaints or disagreements shall not release the customer from its obligation to pay the total amount pursuant to the respective collective invoice to the issuer in accordance with the contract.

5.2 The issuer shall not assume any responsibility for the case that the point of acceptance refuses to make bookings via the TCA. Points of acceptance shall be exclusively liable for the delivery of goods and/or performance of services pursuant to their own terms and conditions; a liability of the issuer for the offers and behaviour of the points of acceptance shall be excluded.

5.3 The customer shall bear all consequences resulting from the use – also the misuse – and/or disclosure of the means of identification.

6. Procurement, processing and passing on of data, involvement of third parties

6.1 The issuer processes the information relating to the customer or the TCA in connection with the opening or use of the TCA. In order to facilitate the use of the TCA, the issuer makes available such information to companies of the American Express group (including joint venture companies).

6.2 The customer authorises the issuer to obtain any information from third parties, in particular public authorities, commercial credit agencies and business organisations as well as the Zentralstelle für Kreditinformation («ZEK») [central office for credit information] and/or the agencies provided for by law such as the Informations-

stelle für Konsumkredit (IKO) [information centre for consumer credits] and similar organisations, required for the assessment of its creditworthiness within the framework of the consideration of the TCA application and the subsequent use of the TCA. The customer also agrees that data resulting from its TCA application, from generally accessible documents or within the course of the consideration of the TCA application or the execution of the contract are passed on to the central agency for credit information and that ZEK is informed of cases of qualified late payments as well as similar facts. ZEK shall be expressly authorised to make such data accessible to its members.

6.3 The customer authorises the issuer to offer products and services connected with the contractual relationship (incl. corporate loyalty programmes) but also insurances and other financial services (also of third parties) in writing or verbally and to send information materials in this respect to the customer. For the development and the offer of suitable products, the issuer may prepare and analyse customer, consumption and preference profiles. Analysis and data processing of individual transactions on customer basis (so-called shopping cart analysis) will not be carried out. The customer may renounce information and offers of the issuer at any time by means of written declaration.

6.4 The customer takes note that the issuer may involve other natural or legal persons in Switzerland and abroad for the handling of the TCA and authorises the issuer to exchange such data required for the handling of the TCA with such other persons – also via electronic systems operated by third parties.

6.5 If the customer takes part in a corporate incentive programme («CIP») of an airline, it shall authorise the issuer to exchange respective information required for the handling of the CIP with the airline mentioned in the TCA application – also via electronic systems operated by third parties.

6.6 The customer takes note that a procedure pursuant to clause 6.1 – 6.4 may result in third parties learning of its contractual relationship with the issuer and releases the issuer from any duty of confidentiality to the corresponding extent.

6.7 The customer acknowledges that the issuer is not a bank and that the cardholder relationship as well as related information is therefore not subject to the provisions relating to banking secrecy.

6.8 The issuer shall be authorised to transfer and/or offer for transfer this contractual relationship or individual claims and/or duties under such contractual relationship to third parties (e.g. collection agencies) in Switzerland and abroad and may make accessible any data in this respect to third parties to the extent required.

7. Termination of the TCA

7.1 The TCA may be terminated at any time in writing by any of the parties.

7.2 The issuer reserves the right to restrict or prohibit the use of the TCA at any time at its own discretion without stating reasons and without previous notification.

7.3 In case of termination of the contract, all outstanding charges and other receivables shall immediately become due for payment.

7.4 Charges of the TCA after termination of the contract shall not be allowed.

7.5 The issuer shall be liable towards the customer in no way whatsoever, neither for any determinations or notices

connected with the revocation nor the restriction of the use of the TCA nor the listing of the TCA in the cancellation bulletins.

8. Changes of the General Terms and Conditions

8.1 These General Terms and Conditions replace any previous General Terms and Conditions. The issuer reserves the right to change these General Terms and Conditions (incl. the fees pursuant to clause 2) at any time. Changes shall be made known to the customer in suitable form and shall be deemed as approved unless the TCA is terminated by means of written notice with effect as of a date

prior to the coming into effect of the change. The liability for charges previously occurred shall remain unaffected by that.

9. Applicable law and place of jurisdiction

9.1 The contractual relationship under these General Terms and Conditions is subject to Swiss laws under exclusion of (i) international conventions and (ii) conflict of laws principles.

9.2 Exclusive place of jurisdiction for all proceedings as well as the place of performance and place of operation

for customers not having their residence in Switzerland shall be Horgen. However, the issuer may assert its rights before any other competent authority. Mandatory statutory provisions of Swiss law remain reserved.

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