

## **Mobile Banking Service - Terms & Conditions**

Terms and conditions governing the use of the Mobile Banking Service provided by American Express Banking Corp. ("American Express").

### **1. Definitions**

**"Account"** shall mean a Credit or Charge Card Account or any other Account held by a Customer with American Express in which a Customer requests for availing the Mobile Banking Service has been registered or re-registered with American Express or in which a Customer avails of the Mobile Banking Service.

**"Alerts"** shall mean the customized messages sent by American Express in response to the Triggers sent as SMS (Short Messaging Service) to the Customer to his/her mobile phone/mobile number.

**"Authorized User"** shall mean the Customer and/or a Client and/or a person(s) authorized by the Customer and/or a Client to have access to the Account through Mobile Banking Service.

**"Cellular Telephone Service Provider(s)"** shall mean any person permitted by the Government of India or any other competent authority in India to provide cellular/mobile telephone services in India.

**"Customer"** shall mean a Cardmember and/or a Client holding a Credit or Charge Card Account or any other Account with American Express and who has accepted these Terms & Conditions and owns and/or controls a mobile phone device/mobile phone number that supports availing of Mobile Banking Service offered by American Express.

**"Intermediary"** shall mean any person(s) appointed /authorized by American Express and/or any agent/third party appointed by such Intermediaries under a contract to provide any service(s) related to the Mobile Banking Service.

**"Mobile Banking Service"/ "Mobile Banking Facility"** shall mean any and all of the services/facilities (such services/facilities may entail payment of a fee by the Customer) including Payment Platform, provided/to be provided, from time to time, by American Express to its Customers through a mobile phone device/mobile number, including but not limited to, giving and/or receiving of instructions through mobile phone(s) and shall include the facility of sending Alert, access to Account, transactions, Payments or any other services/facilities as may be offered by American Express as part of Mobile Banking Service from time to time.

**"Mobile Phone(s)"** shall mean mobile phone(s) owned and/or in the control of the Customer which supports voice and data exchange offered by any Cellular Telephone Service Provider and having distinctive phone number(s) that have either been registered with American Express by the Customer or is/are available with American Express or any such distinctive number(s) which Customer has consented to use by American Express to correspond with and for sending transactional messages/communication to the Customer or to avail of the Mobile Banking Service.

**"Payments"** shall mean the payments that the Customer intending to make in favour of Merchant Establishments for the services availed of /to be availed of, goods/services purchased by the Customer and such payment the Customer intends to make by using the Mobile Phone under the Mobile Banking Facility by debit to Customer's Account.

**"Payment Platform"** shall mean the facility made available by American Express in association with the Intermediaries to the Customer, in accordance with the Terms & Conditions contained herein and such other Terms & Conditions as may be communicated to the Customer by American Express from time to

time, which enables the Customer to make Payments from his Account to Merchant Establishments for availing of services and/or for purchase of goods/services using the Mobile Phone(s) under the Mobile Banking Service.

**"Triggers"** shall mean the customized triggers that are required to be set by the Customer with American Express with respect to specific event/transactions on his/her Account which shall enable American Express to send Alerts to the Customer.

**"Website"** shall mean the website of American Express with the domain name <http://www.....>

## **2. Applicability**

It is mandatory for all the Customers who intent to use the Mobile Banking Service to understand, agree and abide by these Terms and Conditions. By using the Mobile Banking Service, the Customers thereby agree and consent to these Terms and Conditions, which form the binding contract between the Customer and American Express. Mobile Banking Service shall be governed by such terms and conditions as amended by American Express from time to time. Unless explicitly stated otherwise, these terms and conditions shall be in addition to and not in derogation of other terms and conditions relating to any Account of the Customer and/or the respective product and/or the service provided/offered by American Express.

## **3. Accuracy of Information**

The Customer hereby confirms, declares and acknowledges that the Mobile Phone number(s) provided to American Express is/are owned and/or in the control of the Customer and that, unless otherwise intimated to American Express in writing or through other means as permitted by American Express, any communication from and to the said Mobile Phone number(s) is and shall be with the knowledge of and within the control of the Customer. The Customer undertakes (and further undertakes to require Authorized Users) to provide accurate information and disclosures wherever required and shall be responsible for the correctness of the information provided by him/her to American Express at all times including for the purposes of availing of the Mobile Banking Service. The Customer shall, in all circumstances, accept full responsibility for the use of the Mobile Banking Service and/or any and all instructions sent to American Express from the Mobile Phone(s) and hereby authorises American Express to rely on and act on such instructions and process any and all transactions, make Payments to Merchant Establishments for services availed of/to be availed of and goods/services purchased, debit the Customer's Account and do any and all such things and take all such actions as may be necessary to carry out the instructions, unless the Customer has informed American Express, prior to the receipt of any such instructions, of any change with regard to the Mobile Phone(s) and/or Phone number(s) and such change has been intimated, in writing, to the Customer as having been taken on record by American Express and that the Customer shall not contest the same in any manner whatsoever. American Express shall not be liable for any consequences arising out of incorrect/inaccurate information supplied by the Customer or the Authorized Users. The Customer shall indemnify and hold American Express harmless against any loss, damage or costs suffered / incurred by American Express as a result of such incorrect/inaccurate information supplied by the Customer or the Authorized Users. The Customer understands that American Express will try, to the best of its ability and effort, to provide accurate information and Customer shall not hold American Express responsible for any errors, inaccuracies or omissions that may occur due to reasons beyond the control of American Express. If the Customer/Authorized User has reason to believe that the Mobile Phone Number is / has been allotted to another person and / or there has been an unauthorized transaction in the Account and / or the Mobile Phone Number is lost, the Customer / Authorized User, as the case may be, shall immediately intimate the same in writing to American Express under acknowledgment.

#### **4. Fee**

American Express reserves the right to charge the Customer a fee for the use of the services provided under the Mobile Banking Service and may change the fee structure at its sole discretion. The details of such fee shall be displayed on American Express's website and that shall be deemed as sufficient notice of such fee and changes thereof and the same shall be applicable and binding on the Customer.

#### **5. General Terms & Conditions**

- American Express shall endeavor to provide to the Customer through the Mobile Banking Service, such services as American Express may decide from time to time. American Express reserves the right to decide what services may be offered to a Customer on the Account and such offers may differ from Customer to Customer. American Express may also make additions / deletions to the services offered through the Mobile Banking Service at its sole discretion.
- The Customer agrees that access to the Mobile Banking Service shall only be through the Mobile Phone Numbers and any transaction which originates from the same, whether initiated by the Customer and/or the Authorized User or not, shall be deemed to have been originated from such Customer and/or Authorized User and shall be binding upon the Customer. The instructions received by American Express from any of the Mobile Phone Numbers (or purporting to have originated from any Mobile Phone Number) shall be effected only after such authentication as may be required by American Express, generally or specifically for any particular type of instruction, from time to time, including verification of password allotted by American Express to the Customer/Authorized User against whose name the Mobile Phone Number is registered. American Express may however, in its discretion, act upon any such instruction as it may deem fit and the Customer agrees to be bound to such actions of American Express.
- The Mobile Banking Service shall be availed through the Mobile Phone Number in the manner indicated by American Express. American Express shall have the right to suspend the Mobile Banking Service, whether generally or specifically in relation to a particular Customer and/or an Authorized User, if American Express has reason to believe that the operation of the Mobile Banking Service or acting upon any instructions of a Customer and/or an Authorized User may lead to direct or indirect loss to American Express.
- The Customer accepts that all information / instructions will be transmitted to and / or stored at various locations and may be accessed by personnel of American Express, its Affiliates, Subsidiaries, Agents and Group entities for the purpose of providing and/or facilitating services relating to Mobile Banking Service. American Express is authorized to provide any information or details relating to the Customer to a third party to facilitate American Express in providing the Mobile Banking Service and to the extent necessary to give effect to any instructions.
- The Customer is solely responsible for protecting his Account credentials such as username, password, TPIN / IPIN/MPIN etc., and the Mobile Phone device/Mobile Phone Number.
- The Mobile Banking Facility will be available to the Customer only if the Customer is within the cellular circles of the Cellular Telephone Service Providers or in the telecom circles forming part of the roaming network of such Cellular Telephone Service Providers.
- In the event that the Customer makes a Payment under the Mobile Banking Service and such Payment is rejected or returned by the Merchant Establishment for any reason whatsoever, American Express shall refund the amount of the Payment to the Customer and shall not be liable for any late charges, penalty, loss, damage, whether direct or indirect, costs, charges or expenses incurred by the Customer in this regard.
- Without prejudice to the generality of the aforesaid, processing of all the instructions is subject to the availability of limits in the Customer's Account/Card. In the event of limits not being available, American Express shall not process the instructions and shall not make Payments. The Customer understands that American Express shall not be liable for any late charges, penalty, loss, damage, expenses, whether direct or indirect, incurred/to be incurred by the Customer in this regard and/or the services/goods not being delivered to the Customer by the Merchant

Establishments on account of such non-processing of instructions and the Customer hereby agrees not to hold American Express liable in this regard.

- The Customer acknowledges that the Mobile Banking Service is dependent on the infrastructure, connectivity and services provided by the Cellular Telephone Service Providers and the Intermediaries engaged directly or indirectly by American Express. The Customer accepts that the availability, timeliness, accuracy and reliability of Mobile Banking Service shall depend on factors affecting the Cellular Telephone Service Providers and Intermediaries. American Express shall not be liable for non-availability, delay, interruptions in Mobile Banking Service including Alerts, instructions, transactions, Payments etc., and error, loss or distortion in transmission of information and instructions to/from the Customer or the Merchant Establishments.
- American Express reserves the right, but shall not be obliged, to make changes, enhancements, and/or modifications to the Mobile Banking Service offered by American Express from time to time.

## **6. Disclaimer**

6.1. American Express shall be absolved of any/all liability under the following circumstances:

- American Express is unable to receive or execute any of the requests/instructions from the Customer or there is loss of information during processing or transmission or any unauthorized access by any other person or breach of confidentiality or due to reasons beyond the control of American Express.
- The Customer and/or any other Person incurs any kind of loss, direct or indirect, due to any failure or lapse in the Mobile Banking Service which are beyond the control of the American Express.
- Any failure or delay in transmitting of information or any error or inaccuracy of information or any other consequence arising from any cause beyond the control of the American Express which may include but not limited to technology failure, mechanical breakdown, power disruption, etc.
- Any lapse or failure on the part of the Cellular Telephone Service Providers or any other service providers/Intermediaries or any third party affecting the Mobile Banking Service and that American Express makes no warranty as to the quality of the service provided by any such provider/Intermediary.

6.2 American Express, its employees, representatives, agent or contractors, shall not be liable for and in respect of any loss or damage whether direct, indirect or consequential, including but not limited to loss of revenue, profit, business, contracts, anticipated savings or goodwill, loss of use or value of any equipment including software, whether foreseeable or not, suffered by the Customer or any person howsoever arising from or relating to any delay, interruption, suspension, resolution or error of American Express in receiving and processing the request and in formulating and returning responses or any failure, delay, interruption, suspension, restriction, or error in transmission of any information or message to and from the mobile phone device of the Customer and the network of any Cellular Telephone Service Provider and/or any service provider/Intermediary and American Express's system or any breakdown, interruption, suspension or failure of mobile device of the Customer, American Express's system or the network of any Cellular Telephone Service Provider and/or any service provider/Intermediary and/or any third party who provides such services as is necessary to provide the Mobile Banking Service.

6.3 American Express will not be responsible if the Application is not compatible with or non-functional on Customer's mobile phone.

## **7. Records**

All records pertaining to the Account and / or arising out of the use of the Mobile Banking Service, including the recorded time of the transaction and the details of Customer/Authorized User originating the transaction, shall be conclusive proof of the genuineness and accuracy of the transactions in the Account. The Customer hereby expressly and irrevocably grants American Express the authority to record and maintain all the transaction details pertaining to the use of Mobile Banking Service.

## **8. Indemnity**

In consideration of American Express agreeing to provide to the Customer the Mobile Banking Service, the Customer hereby irrevocably agrees, to indemnify and keep American Express indemnified, at all times hereafter, from and against actions, claims, demands proceedings, loss, damages, costs, charges and expenses which American Express may at any time incur, sustain, suffer or be put to as a consequence of or arising out of or in connection with any services provided to the Customer pursuant hereto including but not limited to any and all transactions initiated by the use of the Mobile Banking Service, whether with or without the knowledge of the Customer, or whether the same have been initiated bona fide or otherwise. Further, the Customer holds American Express and its Affiliates, Subsidiaries and Group entities (collectively American Express) harmless against any loss incurred by the Customer due to failure in the network of the Cellular Telephone Service Provider/Intermediaries. The Customer also agrees to indemnify and hold American Express harmless for any losses occurring as a result of (a) the Customer permitting persons other than the Authorized Users to use the Mobile Banking Service through any means; and/or (b) any Authorized User permitting any other person to have access, whether deliberately or inadvertently, to the Mobile Phone Number and /or Mobile Banking Service. This indemnity shall remain valid and subsisting and binding upon the Customer notwithstanding withdrawal, either partially or fully, or termination of the Mobile Banking Service.

## **9. No Warranty**

Without prejudice to the provisions contained in this Terms & Conditions, American Express makes no express or implied warranty with respect to the Mobile Banking Service provided hereunder including, without limitation, any warranties of non-infringement of third party rights, title, satisfactory quality/performance, fitness for a particular purpose etc.

## **10. Limitation of Liability**

Without prejudice to any other provisions of this Terms & Conditions, American Express shall not be liable to the Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the use of Mobile Banking Service by the Customer.

NOTWITHSTANDING ANY OTHER PROVISION HEREOF, IN NO EVENT SHALL AMERICAN EXPRESS, ITS DIRECT OR INDIRECT SUBSIDIARIES, CONTROLLED AFFILIATES, AGENTS, EMPLOYEES OR REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, NOR FOR ANY LOST PROFITS OR REVENUES, IN CONNECTION WITH OR ARISING OUT OF THE USE OF MOBILE BANKING SERVICE BY THE CUSTOMER AND/OR THESE TERMS & CONDITIONS.

## **11. Termination**

The Customer may terminate, in part or in whole, of the Mobile Banking Service at any time by giving a written notice of at least .....days to American Express. The Customer will remain responsible for any/all transactions originating from the Mobile Phone Number through the Mobile Banking Service till the

elapse of the aforementioned 15 days time period. American Express may, at its discretion, withdraw temporarily or terminate the Mobile Banking Service, either wholly or in part, at any time without giving prior notice to the Customer. American Express may, without prior notice, suspend the Mobile Banking Service at any time during which any system down time is scheduled or any system up-gradation/maintenance work required to be carried out or in case of any emergency situations or for any security reasons, which require the suspension of the Mobile Banking Service or if the Customer has breached these Terms and Conditions or if American Express notices the existence of any circumstance which in its sole opinion would result in the Customer being unable to carry out his/her obligations herein. The closure of the Account(s) by the Customer will automatically terminate the Mobile Banking Service.

## **12. Governing law and jurisdiction**

The construction, validity and performance of these Terms & Conditions and any dispute or differences arising out of or in connection with the Mobile Banking Service shall be governed by and construed in accordance with the laws of India and shall be subject to the exclusive jurisdiction of the Courts of Delhi.