

# **BANK OF AMERICA CORPORATE TRAVEL CARD AND CORPORATE CARD CARDHOLDER AGREEMENT**

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### **1. AGREEMENT**

The Bank of America Corporate Travel Card or Corporate Card was issued to you at the request of your Employer and pursuant to a contract between your Employer and FIA Card Services, N.A. ("Bank of America" or "we" or "our" or "us") for a Corporate Travel Card program. This Agreement ("Agreement") governs your use of the Card and the Account. By accepting, signing, activating or using the Card or Account you agree to the terms of this Agreement. If you do not agree to the terms of this Agreement, you must notify Bank of America, cut the Card in multiple pieces and properly dispose of the pieces.

### **2. DEFINITIONS**

In addition to other terms defined throughout the Agreement, the following terms have the meaning indicated in this Section. "Account" means the Visa or MasterCard Corporate Travel Card account or Corporate Card account issued to you by Bank of America. "Card" means the plastic charge card issued by Bank of America for the Account. A "Cash Advance" is a transaction in which you (i) obtain cash from a participating financial institution or automated teller machine (ATM); (ii) write a Convenience Check; or (iii) purchase money orders, travelers checks, foreign currency, lottery tickets, casino chips or vouchers and similar items that VISA USA, Inc. ("Visa") or MasterCard International, Inc. ("MasterCard") designates. "Charge" is a purchase, Cash Advance, or fee associated with the use of the Account. "Employer" means the organization that authorized Bank of America to issue the Account to you, an employee or agent of the organization. The words "you" and "your" refer to the employee named on the Card. A "Convenience Check" is a check drawn on your Account. "Unauthorized Charge" means a charge made on your Account by a person, other than you, who does not have actual, implied or apparent authority to make such Charge, and from which you do not benefit.

### **3. YOUR CREDIT HISTORY**

Bank of America reserves the right to obtain such other information deemed necessary concerning the granting and maintaining of your Account, including the obtaining of credit bureau and other reports concerning your credit experience and other information from credit reporting agencies, creditors, and other persons; and (ii) as permitted by applicable law, to share its credit experience about you and your Account. Bank of America reserves the right to terminate or decline to issue, replace or renew a Card or Account based on information we receive upon review of your credit history.

### **4. OWNERSHIP OF THE CARD**

The Card remains the property of Bank of America. Bank of America can revoke your rights to use the Card or Account at any time. Bank of America can do this with or without cause or consent from Employer and without giving you notice. You must surrender the Card to your Employer or to Bank of America at their request.

### **5. USE OF THE CARD AND ACCOUNT**

The Account is to be used only by you. You agree to use the Account only for business purposes, and not for personal, family, household or other purposes. You agree to notify Bank of America upon termination of your employment or affiliation with your employer and you agree immediately to cease using the Account.

Bank of America will withdraw your charging privileges upon receipt of notice of termination of your employment or affiliation with your Employer or upon termination of the contract between Bank of America and your Employer. You will sign the Card immediately upon receipt. When you present the Card to conduct a transaction, you may be required to sign a sales draft or Cash Advance draft; however, failure on your part to sign a sales draft or Cash Advance draft will not relieve you of your obligations under this Agreement. You should keep the copy of the sales draft or Cash Advance draft each time the Card is used as a record of the transaction. You agree not to use the Account after the expiration date marked on the Card. You will only use the Account for transactions that are legal. For example, internet gambling transactions may be illegal in some states. Bank of America will not be liable if you engage in an illegal transaction. Bank of America may deny authorization for any transaction if Bank of America suspects fraudulent activity or use by someone who is not authorized or for other reasons. Bank of America is not liable for any failure to authorize a transaction.

### **6. CREDIT LIMIT**

Each Account has a credit limit ("Limit") shown on your card carrier or Billing Statement assigned by us and your Employer. You will not allow your Account balance to exceed the amount of this Limit. We and your Employer may change your Limit at any time. We may, but are not required to, approve transactions that exceed your available Limit.

### **7. CASH ADVANCES**

If your Employer consents, you may be able to use your Account to obtain a Cash Advance. Your Employer or Bank of America may limit the number and dollar amounts of Cash Advances at an ATM. Bank of America may set a Cash Advance limit. You will not allow your Cash Advance balance to exceed your Cash Advance limit. We may change the Cash Advance limit at any time. We may, but are not required to, approve transactions that exceed your available Cash Advance limit. Each billing statement will show the "Cash Advance Limit" and "Advance Balances" if they apply to your Account. Convenience Checks cannot be used to pay any debt to Bank of America or its affiliates. Convenience Checks will not be returned to you. Bank of America may pay a Convenience Check and post its amount to the Account regardless of any restriction on payment including, without limitation, one which is post-dated, states that it is void after a certain date, or states a maximum or minimum amount for which it can be written.

### **8. BILLING STATEMENT**

Bank of America will send you a billing statement ("Billing Statement") for each monthly billing cycle in which there is a balance or activity on the Account. The Billing Statement lists all Charges made to the Account during the previous cycle.

### **9. LIABILITY FOR ACCOUNT CHARGES; PAYMENT**

You are liable to Bank of America for, and agree to pay in full, all Charges and finance charges, whether or not you are reimbursed by your Employer, except to the extent that your personal liability for Unauthorized Charges is expressly restricted by law. You are required to pay the entire amount of the new balance shown as due on each Billing Statement on or before the payment due date shown on the Billing Statement (the "Payment Due Date"). If you make the Account, any Card or any Convenience Check available for use by another person, you will be liable for all Charges made by that person. You will send your payment to Bank of America at the address shown on your Billing Statement. Payments will be applied in the order determined by Bank of America. We may accept late payments, partial payments or checks and other types of

payment marked "Paid in Full" or using other language to indicate satisfaction of your debt without losing any rights under this Agreement. You agree not to submit a post-dated check to make a payment; however, if you do submit a post-dated check, we may elect to honor it upon presentment or return it undated. Because the Card is a charge card, the new balance shown on the Billing Statement must be paid in full each month. You agree to pay Bank of America in U.S. dollars that are drawn on a financial institution located in the United States. Bank of America may, at its option, accept payments made in foreign currency or checks drawn on non-U.S. banks. If it does, Bank of America may impose service and collection charges. Bank of America's determination of service and collection charges will be final.

#### **10. DEFAULT; CLOSING THE ACCOUNT**

Your Account is in default (i) if you fail to comply with any of the terms of this Agreement or any other loan agreement with Bank of America or anyone else; (ii) in the event of your death, incompetency, bankruptcy, insolvency, fraud or misrepresentation; (iii) if Bank of America reasonably believes that you will be unwilling or unable to pay debts you owe to anyone, or (iv) if it is determined by Bank of America that you fail to meet the credit criteria initially used by Bank of America to approve your Account. If your Account is in default, Bank of America may close your Account without notice and you must immediately pay your unpaid balance. If your Account is in default, you will pay Bank of America's collection costs, attorneys' fees (including allocated costs for attorneys who are employed by Bank of America or an affiliate of Bank of America), court costs, and other expenses of enforcing Bank of America's rights under this Agreement. You may cancel your Account at any time by notifying Bank of America in writing at the address on your Billing Statement and by destroying or returning the Card to Bank of America cut in multiple pieces. Your Employer or Bank of America may suspend or cancel your Account at any time for any reason. You agree to surrender the Card upon request to your Employer or to any authorized representative of Bank of America. Use of the Card or Account after notification of its cancellation may be fraudulent and may result in Bank of America taking legal action against you. Even after the Account is closed, you remain responsible for payment of any outstanding balance, according to the terms of this Agreement.

#### **11. FINANCE CHARGES**

A. On Past-Due Balance. In the event you fail to pay the total amount shown as due on a Billing Statement by the Payment Due Date shown on that Billing Statement, the amount unpaid shall be subject to a finance charge starting on the first day of the next billing cycle, unless otherwise agreed between Bank of America and your Employer. To calculate the finance charges for a billing cycle, the daily periodic rate is multiplied by the average daily balance, and that product is multiplied by the number of days in the billing cycle. The average daily balance is the sum of the daily past due balances (including, for each day, finance charges from previous day) less payments credited to the past due balance, divided by the number of days in the billing cycle. The daily periodic rate is the annual percentage rate divided by 365. The annual percentage rate is the prime rate published in the Money Rates section of The Wall Street Journal in effect on the first day of each calendar month (the "Index") plus a margin of five (5) percentage points, unless a lower margin is agreed to between your Employer and Bank of America. The Annual Percentage Rate and corresponding Daily Periodic Rate will increase if the Index increases or decrease if the Index decreases. The changes to the variable rates will apply immediately to each Billing Cycle ending on or after the date of the change in the Index rate. An increase to your periodic rate and corresponding Annual Percentage Rate will increase the amount of finance charges on your Account. B. Cash Advance Fee. Each Cash Advance will be subject to a Cash Advance Fee. The amount of the Cash Advance Fee will be up to 3% of the amount of the Cash Advance (\$5 minimum), as agreed upon by your Employer.

B. Cash Advance Fee. Each Cash Advance will be subject to a Cash Advance Fee. The amount of the Cash Advance Fee will be up to 3% of the amount of the Cash Advance (\$5 minimum), as agreed upon by your Employer.

#### **12. OTHER ACCOUNT FEES**

We will charge the following fees and other charges. A. Annual Fee. An Annual Fee of up to \$40, as agreed upon by your Employer, will be charged to your Account during the first billing cycle and annually thereafter. The fee will be shown on the Billing Statement as Annual Fee. B. Late Payment Fee. If you do not pay the total amount shown as due on a Billing Statement by the Payment Due Date, Bank of America will charge you a Late Payment Fee of up to \$29, as agreed upon by your Employer. C. Overlimit Fee. If the balance on your Account exceeds the limit established by Bank of America at any time during the billing cycle, Bank of America may assess you an Overlimit Fee of up to \$29, as agreed upon by your Employer. D. Returned Payment Fee. If your payment is not honored, or if Bank of America must return it to you because it cannot be processed, then Bank of America will charge a Returned Payment Fee of up to \$29, as agreed upon by your Employer. E. Copy Charge. For each copy of a requested document, Bank of America will charge a Copy Charge Fee of up to \$3.00, as agreed upon by your Employer.

#### **13. RENEWAL AND REPLACEMENT CARDS**

Unless canceled, the Card will be valid until the expiration date which is printed on the Card. Bank of America will continue to issue renewal or replacement Cards as long as your Account is in good standing, or until you or your Employer tells Bank of America to cancel the Account.

#### **14. EXCHANGE OF INFORMATION BETWEEN BANK OF AMERICA & YOUR EMPLOYER**

Information concerning your use of the Card (including, without limitation, transaction information) and other Account information may be provided by Bank of America to your Employer. Information concerning reimbursement received, employment status, and personal information necessary to enforce this Agreement may be provided by your Employer to Bank of America.

#### **15. PERIODIC CREDIT REVIEWS**

Bank of America may periodically review your credit standing by obtaining information from credit reporting agencies and others concerning your accounts. You will provide updated financial information upon Bank of America's request.

#### **16. LOST OR STOLEN CARDS**

You agree to notify Bank of America immediately of any loss or theft of the Card or Account or Unauthorized Charge. To notify Bank of America, call or write Bank of America Commercial Card Services, at the phone number or address provided on your Billing Statement. Also, you agree to notify your Employer in accordance with your Employer's instructions. If your Card is returned to you after you have notified Bank of America, you agree not to use the Card and to return it to Bank of America cut in half. You understand you may be liable for Unauthorized Charges; however, you will not be liable for Unauthorized Charges that occur after you notify Bank of America of the loss, theft or possible Unauthorized Charges and your liability for Unauthorized Charges, in any event, will not exceed \$50.

#### **17. MERCHANT-CARDHOLDER RELATIONSHIP**

Bank of America shall have no liability for merchandise or service purchased by use of any Account. You are responsible for making good faith efforts to settle any claim or disputes for purchases with the merchant and waive any claim against Bank of America for any merchant's refusal to honor any Card. You agree that Bank of America will be subrogated to, and you assign to Bank of America, all of your rights against the merchant in any case in which you have disputed a transaction against the merchant and Bank of America has elected to credit the Account for the amount alleged to have been in error. You will do whatever is necessary to enable Bank of America to exercise those rights and will do nothing to prejudice those rights. Bank of America reserves the right to reverse any credits applied.

#### **18. FOREIGN TRANSACTIONS/FEES**

If you make a Transaction in currency other than U.S. dollars, Visa or MasterCard will convert the charge or credit into a U.S. dollar amount. The conversion rate on the processing date may differ from the rate on the date of your Transaction. The exchange rate used by Visa will either be (i) a rate selected by Visa from a range of rates available in wholesale currency markets for the applicable central processing date, which rate may differ from the rate Visa receives, or (ii) the government-mandated rate in effect for the central processing date. MasterCard will use an exchange rate of either (i) a wholesale market rate or (ii) a government-mandated rate. We may add a 1% fee to the U.S. dollar amount of any Transaction amount that is made in foreign currency or that is made outside the United States even if you pay in U.S. dollars (the "International Transaction Fee"). The International Transaction Fee will be shown in the Activity section on your billing statement.

The International Transaction Fee will aggregate to the Other Fees section in the Summary section on your statement.

#### **19. AUTHORIZATIONS**

Some purchases and Cash Advances will require prior authorization by Bank of America. Bank of America may limit the number of authorizations it gives on an Account on any one day or for other reasons. Bank of America is not liable if a merchant, financial institution or ATM does not honor a Card, or if an authorization for a transaction is not given.

#### **20. TELEPHONE MONITORING**

From time to time, Bank of America's supervisory personnel will listen to and/or record telephone calls between you and a Bank of America employee for the purpose of monitoring and improving the quality of service.

#### **21. GOVERNING LAW**

This Agreement is considered made in Delaware. This Agreement and the Account, as well as Bank of America's rights and duties regarding this Agreement and the Account, shall be governed by federal law and the laws of the State of Delaware, regardless of where you reside or where you use the Account at any time. Bank of America is a national banking association with its headquarters in Delaware. All financial accommodations extended under this Agreement will be extended from Delaware.

#### **22. ENFORCEABILITY**

Bank of America's failure to exercise any of its rights under this Agreement will not waive any of its rights in the future. If any term of this Agreement is found to be unenforceable, all other provisions will remain in full force.

#### **23. ARBITRATION**

Any dispute, claim or controversy ("Claim") by or between you and us (including each other's employees, agents or assignees) arising out of or relating to this Agreement, your Account, or the validity or scope of any provision of this Agreement including this arbitration clause shall, upon election by either you or us, be resolved by binding arbitration. Arbitration shall take place before a single arbitrator on an individual basis without resort to any form of class action. Arbitration may be selected at any time unless a judgment has been rendered or the other party would suffer substantial prejudice by the delay in demanding arbitration. Arbitration, including selection of an arbitrator, shall be conducted in accordance with the rules and procedures for initiating arbitration of the American Arbitration Association ("AAA"). You may contact AAA at 335 Madison Avenue, Floor 10, New York, NY 10017-4604 to obtain rules and forms to initiate arbitration. If AAA is unable or unwilling to serve as the provider of the arbitration, we may substitute another national arbitration organization with similar procedures. Judgment upon arbitration may be entered in any court having jurisdiction. Arbitration shall be conducted in the federal judicial district in which your billing address is located at the time the claim is filed. If we request arbitration, we will advance applicable AAA fees and expenses. If the arbitrator rules in favor of one party against the other, the other party shall pay all reasonable attorneys' fees and costs of the action on behalf of both parties (including any fees and expenses paid by one party on behalf of the other) unless the arbitrator or court decides such an award would cause a substantial injustice based on the facts and legal arguments set forth in the action.

YOU UNDERSTAND AND AGREE THAT IF EITHER YOU OR WE ELECT TO ARBITRATE A CLAIM, THIS ARBITRATION SECTION PRECLUDES YOU AND US FROM: (1) HAVING A RIGHT OR OPPORTUNITY TO LITIGATE CLAIMS THROUGH COURT; (2) HAVING CLAIMS HEARD BY A JURY; OR (3) PARTICIPATING OR BEING REPRESENTED IN LITIGATION FILED IN COURT BY OTHERS OR IN CLASS ARBITRATION OF CLAIMS. EXCEPT AS OTHERWISE PROVIDED ABOVE, ALL CLAIMS MUST BE RESOLVED THROUGH ARBITRATION IF YOU OR WE ELECT TO ARBITRATE.

#### **24. AMENDMENTS**

Bank of America may amend this Agreement by changing, adding or deleting any term, condition, service or feature of an Account or of this Agreement upon written notice to you and your Employer. Unless otherwise stated, the amended Agreement will apply to the Account's unpaid balance and to new activity on your Account. Unless, prior to the effective date of any amendment, you terminate this Agreement and pay all outstanding balances, you will be deemed to have agreed to the amendment.

#### **25. SHARING INFORMATION**

Bank of America shares information about our transactions or experiences with you or your Account with our affiliates or to others in order to provide the services covered by this Agreement. For example, we may share information with outside service providers that work on our behalf and are obligated to keep the information that Bank of America provides to them confidential. In addition, we may share information with your Employer as set forth in Section 14.

#### **26. LIMITATION OF BANK OF AMERICA LIABILITY**

**BANK OF AMERICA SHALL NOT BE LIABLE FOR ANY ACTION TAKEN OR OMITTED TO BE TAKEN IN CONNECTION WITH THIS AGREEMENT EXCEPT FOR DIRECT DAMAGES ARISING FROM BANK OF AMERICA'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. IN NO EVENT SHALL BANK OF AMERICA BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OR LOST PROFITS OR LOST DATA.**

#### **27. MISCELLANEOUS**

If any part of this Agreement is found to be invalid, the remaining provisions will continue to be effective. You must notify Bank of America in writing immediately if you change your name, address, or home or business telephone number. Bank of America's failure to exercise any of its rights under this Agreement will not waive any of its rights in the future. The section headings are inserted only for convenience and are not to be interpreted as part of this Agreement.