

# MASTERCARD COMMERCIAL CARDS CORPORATE LIABILITY WAIVER

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## 1. INTRODUCTION

This document is not a contract of insurance but summarises the benefits provided to a **Company** by the Issuing Bank. The provision of these benefits is enabled by an insurance policy held by and issued to MasterCard by AXA Insurance Gulf B.S.C. ©. (policy number 5542701).

MasterCard is the only **Policyholder** under the insurance policy and only it has direct rights under the policy against the Insurer. This agreement does not give the **Company** direct rights under the policy of insurance but instead provides a series of contractual benefits provided to the **Company** by MasterCard. Strict compliance with the terms and conditions of this agreement is required for the **Company** to receive its benefits.

### EVIDENCE OF BENEFITS

This document is issued to confirm the terms and conditions on which your **Company** receives its benefits and to define the cover and limits available in accordance with the terms, limitations, conditions and exclusions contained in the policy from the Insurer.

### DURATION

This cover runs for the length of time that MasterCard has a policy in place with the Insurer and the **Company** is eligible for cover if it holds a MasterCard Commercial Card. MasterCard will inform the **Company** of any changes to the policy or the withdrawal of cover. The **Company** may wish to review cover periodically to ensure it continues to meet its needs.

### INSURER

The policy of insurance issued to MasterCard is underwritten by AXA Insurance Gulf, 39<sup>th</sup> Floor, ENI Churchill Towers, Business Bay, P.O. BOX 5862, Dubai, UAE.

## 2. COMPLAINTS PROCEDURE

**We** make every effort to provide the highest standards of service. If on any occasion **our** service falls below the standard expected, please follow the procedure below.

Please write to the Quality Manager, who will arrange an investigation on behalf of the General Manager, at: e-mail: [complaintsmru@axa-customerservices.com](mailto:complaintsmru@axa-customerservices.com)

These procedures do not affect a **Company's** right to take legal action.

## 3. USE OF DATA

In accordance with applicable law, the **Company** has the right to access, change, and correct any data about them or their **Cardholders** which appears on any file **we, our** representatives and relevant professional organisations may use.

**We** are prohibited from directly or indirectly disclosing any of the above information to unauthorised third parties, however, the information can only be disclosed in the event of litigation and/or legal proceedings, Telephone calls will be recorded to ensure consistent servicing levels and account operation.

## 4. IMPORTANT INFORMATION

- Limit of Indemnity: This agreement provides benefits to a maximum amount of
  - \$ 25,000.00 per **Cardholder** (or the euro equivalent) and
  - up to a maximum of \$ 1,600,000.00 per **Company** (or the euro equivalent).All of these amounts are on an annual basis and are not cumulative.
- This Policy and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of the United Arab Emirates
- Any disputes and controversies, difference or claim with regards to the validity, interpretation, performance or non-performance, interruption (including non-contractual claims and disputes) of this Policy will be submitted to, and finally resolved by, arbitration under the Arbitration Rules of the DIFC-LCIA Arbitration Centre, which rules are deemed incorporated by reference to this clause. The number of arbitrators will be one. The seat, or legal place, of arbitration will be Dubai. The language to be used in the arbitration will be English.

## 5. DEFINITIONS

Any word or expression to which a specific meaning has been attached will bear the same meaning throughout this agreement (unless otherwise noted) and is highlighted in bold print.

### **Cardholder**

– shall mean any person authorised by the **Company** to use Commercial Cards (SME, Corporate, Virtual, Purchase) for **Company** business only who are either:

- under a contract *off*/for service or apprenticeship with the **Company** or;
- are undergoing training under any government approved training scheme under the control of the **Company** in connection with the business, subject always to the **Cardholder** having reached the age of eighteen. The term **Cardholder** shall include a Director of the **Company** if such person:
  - is also employed by the **Company** under a contract of service and;
  - controls no more than 5% of the issued share capital of the **Company**.

### **Company**

– a corporation partnership, sole proprietorship or any other entity with which the Issuer Bank has a signed agreement to issue commercial cards.

### **Policyholder**

– MasterCard Asia/Pacific Pte Ltd., 152 Beach Road, #35-00, The Gateway East, Singapore 189721 (MasterCard)

### **We/our/us**

– AXA Insurance Gulf, 39<sup>th</sup> Floor, ENI Churchill Towers, Business Bay, P.O. BOX 5862, Dubai, UAE.

### **Termination date**

– is the date on which:

- a) the **Cardholder** gives notice to the **Company**; or
- b) the date the **Company** gives notice to the **Cardholder**; or
- c) the date the authorised card is withdrawn by the **Company** from the **Cardholder** whichever is the sooner.

### **Theft**

– any act of fraud or dishonesty by any **Cardholder** committed in connection with the authorised card issued to them with clear intent of obtaining an improper financial gain for themselves or for any other person or organisation intended by the **Cardholder** to receive such gain.

### **Waiver date**

– date the loss is discovered by the **Company**.

### **Waivable charges**

– are all amounts charged to the **Company's** commercial card account with the Issuer Bank which are not of either direct or indirect benefit to the **Company** and

- a) where the **Company** has paid the bill but been unable to obtain reimbursement from the **Cardholder**; or
- b) where the Issuer Bank has billed the **Cardholder** direct and the **Company** has reimbursed the **Cardholder** but the **Cardholder** has not paid the Issuer Bank or
- c) where the **Company** has received direct or indirect benefit but is contractually required to pay twice as a result of b) above.

## **6. GENERAL CONDITIONS**

1. It is understood and agreed that there can be no circumstances where **we** can pay a claim twice.
2. **We** will only play a claim provided that such unauthorised charges:
  - a) are billed up to 75 days preceding the **waiver date** and notified by the **Company** to the **Policyholder** by means of a waiver request letter on or within 14 days of the **waiver date**. An example waiver request letter is a document incorporated within the Guide to this policy (refer to example in Section 14); or
  - b) are incurred but are not yet billed as of the **waiver date** or up to 14 days after the date on which the Issuer Bank received a request to cancel that **Cardholder's** card; whichever occurs first; or
  - c) are discovered not later than 75 days after the termination of this agreement or the insurance in respect of the **Company** employing the **Cardholder** concerned with the loss whichever occurs first.
3. This agreement shall be voidable in the event of deliberate misrepresentation, misdescription or non-disclosure in any material particular.
4. The **company** must report all incidents of misuse to the police and any other relevant authorities upon discovery of fraudulent activity, in any event, within five working days of discovery. A police report indicating the incident reference number must be obtained.
5. Observance of the terms of this agreement relating to anything to be done or complied with by the **Policyholder** is a condition precedent to **our** liability.
6. The **Policyholder**, **Company** or Issuer Bank may cancel this Agreement by giving 90 days notice in writing to the other party at its last known address. Any such termination will not affect the rights of the Issuer Bank with respect to charges incurred by its **Cardholders** prior to the effective date of termination.

7. If this Agreement immediately supersedes a similar arrangement effected by MasterCard (hereinafter called the "Superseded Insurance") **we** will indemnify MasterCard in respect of any loss discovered during the continuation of the "Superseded Insurance" if the loss is not recoverable solely because the period allowed for discovery has expired. Provided that:
  - a) such insurance has been continually in force from the time of the loss until inception of this Agreement.
  - b) the loss would have been covered under this Agreement had it been in force at the time of the loss.
  - c) the liability of the **Company** shall not exceed whichever is the lesser of:
    - i. the amount recoverable under the insurance in force at the time of the loss or
    - ii. the limit of indemnity applicable under this Agreement.In any event our total liability in respect of any one claim continuing through both the terms of the 'Superseded Insurance' and the continuation of this Agreement shall not exceed the Limit of Indemnity applicable under this Agreement.
8. This Agreement shall be void if:
  - a) MasterCard or the **Company** be wound up or carried on by a liquidator or receiver or permanently discontinued or;
  - b) MasterCard or the **Company's** interest ceases otherwise than by death.
9. This Agreement shall be voided if MasterCard's or the Issuer Bank's or the **Company's** interest ceases and nothing herein contained shall give any right against **us** to any person other than MasterCard or **Company** except to a transferee approved by **us**.
10. Where a **Cardholder** is made redundant or dismissed by the **Company**, the **Company** must inform the Issuer Bank the same day and cancel the card.

## **7. WHAT IS COVERED**

**We** will provide cover for:

1. Loss of **waivable charges** due to the Issuer Bank or for which they are legally responsible caused by any act of **theft** committed during the period of insurance by any **Cardholder**.
2. Auditors fees incurred with **our** consent solely to substantiate the amount of the claim, provided that:
  - a) **our** total liability in respect of any one claim caused by any one **Cardholder** shall not exceed the limit of Indemnity applicable to that **Cardholder**, where one claim shall mean all acts of **theft** within the period of insurance committed by one **Cardholder** or two or more **Cardholders** acting in collusion (meaning all circumstances where two or more **Cardholders** are concerned or implicated together or materially assist each other in committing the act of **theft**).
  - b) In the event that one claim is caused by two or more **Cardholders** acting in collusion **our** total liability shall not exceed a x b where a = the number of **Cardholders** involved and b = the limit of indemnity applicable to each **Cardholder**.
  - c) **Our** total liability in any one period of insurance shall in any case not exceed the aggregate limit of indemnity per **Company**.
  - d) Any underlying policy shall be maintained in force and this Agreement shall apply only to the extent to which an indemnity for damages and claimants costs and expenses is not provided under such underlying policy by virtue of any limitation of cover or limits of indemnity.
  - e) The limit of indemnity under this Agreement shall be reduced by an amount equal to the indemnity provided by any underlying policy.
  - f) **We** may at any time pay the limit of Indemnity (less any sums already paid) or any lesser amount for which the claims arising out of such an event can be settled, **we** will then relinquish control of such claims and be under no further liability in respect thereof except for costs and expenses for which **we**

may be responsible in respect of matters prior to the date of such payment.

## 8. EXCLUSIONS

We shall not be liable for:

1. Loss of interest or any other loss, damage or additional expense following on from the event for which **you** are claiming. Examples of such loss, damage or additional expenses would be the cost incurred in preparing a claim, loss of earnings or loss or costs incurred arising from the interruption of **your** business.
2. Loss caused by any act of any **Cardholder** committed prior to the commencement date for that **Cardholder**.
3. Charges incurred to purchasing goods or services for the **Company** or for persons other than the **Cardholder** pursuant to the instructions of the **Company**; or acquiescence thereto by the **Company** if those goods or services are of the type which are regularly purchased by or for the **Company**.
4. Charges incurred by a **Cardholder** after the discovery date of the loss by the **Company** or charges incurred beyond 14 days after the Issuer Bank receives a request to cancel the **Cardholder's** commercial card whichever is the earlier.
5. Claims where the **Company** has not provided the necessary documentation requested by **us** in 12. MAKING A CLAIM at their expense. **We** may also ask for documentation than what is listed to substantiate the claim.

## 9. CLAIMS CONDITIONS

1. If any claim shall be in any respect fraudulent or if fraudulent means or devices are used by the **Policyholder** or **Company** or anyone acting on their behalf to obtain any benefit under this Agreement or if any loss is occasioned by the wilful act or with the connivance of the **Policyholder** or **Company** all benefit under this Agreement shall be forfeited.
2. **You** must report all incidents of misuse to the police and any other relevant authorities upon discovery of fraudulent activity, in any event, within 5 working days of discovery. A police report indicating the incident reference number must be obtained.
3. Upon knowledge of or discovery of loss or of any occurrence which may give rise to a claim for loss the Issuer Bank or **Company** whichever is appropriate shall:
  - a) give notice thereof as soon as practicable to **us**;
  - b) file detailed proof of loss with **us** within 30 days after the discovery of the loss.

Upon the **our** request the Issuer Bank or **Company** whichever is appropriate shall submit to examination by **us** and produce for **our** examination all pertinent records and all at such reasonable time and place as the **us** shall designate and shall cooperate with the **us** in all matters pertaining to loss or claims with respect thereto.

4. In the event of any payment under this Agreement **we** shall be subrogated to all the **Policyholder's** (or **Company's**) rights of recovery therefore against any person or organisation and the Issuer Bank (or **Company**) shall execute and deliver instruments to secure such rights. The **Policyholder** (or **Company**) shall do nothing after loss to prejudice such rights.
5. If at any time any claim arises under this Agreement there be any other insurance or indemnity or guarantee covering the same loss **we** shall not be liable except in respect of an excess of the amount which is payable under such other insurance or indemnity or guarantee.
6. If any difference shall arise as to the amount to be paid under this Agreement such difference shall be referred to an arbitrator to be appointed in accordance with the statutory provisions in that behalf for the time being in force.
7. The benefits provided under this Agreement shall not apply in respect of any loss caused by a **Cardholder** if the **Company**

possesses knowledge of any act or acts of fraud or dishonesty committed by such **Cardholder**:

- a) In the service of the **Company** or otherwise during the terms of employment by the **Company**.
  - b) Prior to employment by the **Company**.
- For the purposes of this Agreement knowledge possessed by the **Company** means knowledge possessed by a partner, director, elected or appointed officer who is aware of the employment of a person and that person's acts of fraud or dishonesty.
6. For a valid claim to arise it is a condition of this Agreement that the **Company** shall as soon as any act of **theft** is discovered make every effort to retrieve the commercial card from the **Cardholder** and destroy the commercial card.
  7. The **company** must provide evidence that the outstanding balance has been paid before **we** will reimburse the **company**.
  8. Immediately following the discovery by the **Company** of any act of **theft** by a **Cardholder**. It shall be the duty of the **Company** to inform the Issuer Bank immediately and to have the card placed upon the suspended card list. **We** shall bear no liability for future acts of **theft** by the **Cardholder** following the said discovery of fraudulent activity.
  9. a) Any money of the **Cardholder** in the **Company's** hands upon discovery of any loss and money which but for the **Cardholder's** **theft** would have been due to the **Cardholder** from the **Company** shall be deducted from the amount of the loss before a claim is made under this Agreement; and  
b) Any further monies which are recovered less any costs incurred in recovery shall accrue:
    - i. in the event that the **Company's** claim has exceeded the limit of indemnity firstly to the benefit of the **Company** to reduce or extinguish the amount of the **Company's** loss;
    - ii. thereafter to **our** benefit to the extent of the claim paid or payable;
    - iii. and finally any surplus thereafter shall be returned to the **Company**.

In the event of a claim or any circumstances giving rise to the possibility of a claim the **Company** must immediately notify:-

AXA Assistance Claims Centre Services  
MasterCard Commercial Card Services  
8 DBM Industrial Estate Coromandel - Port Louis,  
Mauritius - ile Maurice

More details on how to make a claim can be found in 12. MAKING A CLAIM.

## 10. SUGGESTED MINIMUM STANDARDS OF CONTROL

The **Company** may require the Issuer Bank to waive their liability for **waivable charges** only if they meet all the following requirements:

1. The **Company** has two (2) or more cards in good standing on or after establishing a card account with the issuing bank.
2. The **Company** sends a waiver request" by letter or fax to the Issuer Bank. An example letter can be found in section 11 of this Agreement document. The waiver request must state:
  - a) that the **Company** requests the waiver of covered charges.
  - b) the **Cardholder's** name, card number and last known business and home address.
  - c) in cases where the Issuer Bank invoices the **Cardholder** directly, that the **Company** has contacted the **Cardholder** in writing and directed him to immediately pay all outstanding charges to the Issuer Bank; and
  - d) whether the card was retrieved from the **Cardholder**.
3. The **Company** has delivered to the **Cardholder** or sent by first class mail a written notice stating that the **Cardholder's** card has been cancelled, that they should immediately discontinue all use of that card, that they must immediately pay any outstanding amounts

owed to the Issuer Bank, and that they must immediately return that card to the **Company**.

4. The **Company** has used and will continue to use its best endeavours to retrieve the card from the **Cardholder** and to return it, cut in half, to the Issuer Bank.
5. The **Company** shall promptly give written notice to the Issuer Bank if any **Cardholder's** employment has been terminated or in cases where the Issuer Bank invoices the **Cardholder**, if the **Company** knows or should know that a **Cardholder** is receiving reimbursement for charges but is not paying the Issuer Bank for those charges.

## **11. WAIVER REQUEST DECLARATION**

This is to declare we have canceled above card as a result of us being made aware that the above cardholder has made unauthorised charges, for which we are liable and we request a waiver of covered charges

We have on record the following, as being the last known address of the Cardholder:

The above card has been retrieved

We confirm that we will co-operate fully with you and your appointed representatives and will supply you / them with whatever documentation that we have, that will allow you to settle any claim we have once any recoveries have been made and / or as a result of any proceedings made against the Cardholder.

## **12. MAKING A CLAIM**

To submit a claim please call **our** claims team on: +971 45508 391 (Sunday-Thursday 09:00 – 18:00 United Arab Emirates time) to obtain a claim form. The **company** will need to provide some information about the claim before sending this back to **us**. This is listed in the DOCUMENTATION NEEDED section.

Please send the completed claim forms to: [claims@axa-assistance-claims.com](mailto:claims@axa-assistance-claims.com). Please ensure the claim reference number is in the subject box. Upon receipt of the claim forms and all documentation **we** will aim to reply within 10 working days, however this will be dependent on public holidays.

Please keep a copy of all documents sent to **us**. To help **us** agree a quick and fair settlement of a claim it may sometimes be necessary for **us** to appoint a claims handling agent.

### **DOCUMENTATION NEEDED**

**We** may ask for more documentation than what is listed below to substantiate the claim. If the **company** does not provide the necessary documentation the claim could be refused. Below is a list of the documents required to assist **us** to deal with the claim as quickly as possible:

- Commercial Card statement confirming the amount and date of fraudulent charges.
- List of items purchased on the Commercial card.
- Letter from the Issuing Bank confirming the charges will not be refunded and that the corporate card has been cancelled.
- A Police report including a reference number confirming the **company** reported the fraudulent activity if claim above USD 5,000
- Confirmation the outstanding balance has been paid, if not already shown on the credit card statement.
- A copy of the **company's** investigation, if one took place.
- Confirmation of any other insurance the **company** may have.