

## 1 Relationship Documents

- 1.1 The Relationship Documents govern the provision of the Services. In the event of any conflict among the Relationship Documents, the following order of priority shall apply:
- the applicable Country Conditions;
  - the applicable Supporting Documents;
  - any relevant Appendix;
  - any relevant Annex;
  - any relevant Services Schedule; and
  - the Terms.
- 1.2 In the event of any conflict between any of the terms of the Relationship Documents that rank equal in order of priority in accordance with Clause 1.1, the term which applies to a specific Service shall prevail in relation to the provision of that Service by the Bank to the Customer.
- 1.3 The Relationship Documents contain the whole agreement between the Parties relating to the transactions contemplated by the Relationship Documents and replace all previous agreements between the Parties relating to the Services and each Party confirms that in agreeing the terms of the Relationship Documents it has not relied on any express or implied warranties, representations, collateral contracts or other assistance made by or on behalf of the other Party unless set out in the Relationship Documents. Each Party waives all rights and remedies which, but for this Clause 1.3, might otherwise be available to it in respect of any such express or implied representation, warranty, collateral contract or other assurance. Nothing in this Clause 1.3 limits or excludes any liability for fraud.
- 1.4 In the Relationship Documents, references to the singular include the plural and vice versa. Clause headings are included for convenience only and do not affect interpretation. Unless otherwise defined in a Relationship Document, any capitalised term in the Relationship Documents shall have the meaning given to it in the Terms. Each reference to a document or agreement (whether online or in hard copy) is a reference to that document or agreement as amended or restated from time to time.

## 2 Authority

- 2.1 The Customer or any party duly authorised by the Customer to act on its behalf shall provide to the Bank documents identifying the Authorised Persons. The Bank is authorised to rely upon any such documents provided by any means, including electronically, and accepted by the Bank.
- 2.2 Subject to any written restriction received and accepted by the Bank, the Customer confirms that each Authorised Person shall be authorised to:
- perform all lawful acts on behalf of the Customer in connection with any Account or Service, including, but not limited to, opening, closing and operating Accounts, signing any agreements (including facility agreements), declarations or other documents relating to any Accounts or Services and execution of any guarantees, indemnities or other undertakings to the Bank; and
  - delegate their authority to perform such acts to any person indicated in any document provided to the Bank by any means, including electronically, and accepted by the Bank.
- 2.3 The Customer confirms that each Authorised Person is authorised to act as described in Clauses 2.2(a) and 2.2(b) until the Bank has received written notice, in form and substance acceptable to the Bank, of any change to an Authorised Person, or to a person to whom authority has been delegated in accordance with this Clause, and the Bank has had a reasonable opportunity to act on it.

## 3 Communications, Instructions and Security Procedures

- 3.1 The Parties will comply with the Security Procedures. The Customer shall follow the Security Procedures upon accessing communication channels provided by the Bank and issuing Instructions or Communications via such channels. The Bank shall follow the Security Procedures upon receipt of such Instructions or Communications to establish their validity.
- 3.2 The Bank is not obliged to do anything outside of the Security Procedures to establish and rely upon the authority or identity of any person sending an Instruction or Communication on behalf of the Customer. The Bank is not responsible for errors or omissions made by the Customer or the duplication of any Instruction by the Customer and may act on any Instruction by reference to a bank identification or account number only, even if a bank or account name is provided. An authenticated SWIFT message issued to the Bank in the name of the Customer (or of an entity authorised by the Customer to issue SWIFT messages on its behalf) may be relied on by the Bank as having been issued by an Authorised Person.
- 3.3 If the Bank doubts the legality, origination or authorisation of an Instruction, it shall take such steps as it considers appropriate to investigate the matter. If such investigation results or, in the opinion of the Bank, is likely to result in the Instruction being declined or executed outside the applicable value date or other agreed time period, the Bank will notify the Customer as soon as practicable, provided it is not prohibited from doing so by any law, regulation, order or Authority.
- 3.4 The Bank will use its reasonable efforts to comply with any request made by the Customer to vary or cancel an Instruction and, subject to the Bank using such efforts, the Customer shall be responsible for any Losses related to such an Instruction.
- 3.5 The Customer is responsible for the accuracy, completeness and correct transmission of its Instructions and for ensuring they will achieve the Customer's intended purpose, including when the Customer requests the Bank to forward information to a third party. The Bank will not be liable to the Customer where the Bank chooses to comply with such a request and the Customer must take reasonable steps to ensure that its request will not give rise to any claim against the Bank. If the Bank accepts a manually initiated Instruction (being an Instruction which is not submitted through electronic communication channels provided by the Bank, but, for example, by telephone, fax or physical delivery), then, provided the Bank acts in accordance with the applicable Security Procedures, the Customer is responsible for any Losses related thereto.
- 3.6 Without prejudice and subject to the foregoing provisions of Clause 3, if the Bank acts on an Instruction which the Customer claims was unauthorised, the Bank shall only be responsible for acting on such Instruction if:
- the Bank cannot demonstrate that it acted in accordance with the Security Procedures, or
  - the Bank demonstrates that it acted in accordance with the Security Procedures, but the Customer can demonstrate that the unauthorised Instruction was not caused by a person (i) entrusted at any time to act for the Customer with respect to Instructions or the applicable Security Procedures or (ii) who obtained access to the Customer's premises, equipment, systems or transmitting facilities or (iii) who obtained from a source controlled by the Customer, information (such as keys and passwords) which facilitated breach of the Security Procedures.
- Unless one of the conditions set out in paragraphs (a) and (b) of this Clause is satisfied, the Bank shall be entitled to enforce or retain payment from the Customer with respect to such an Instruction.

3.7 In some circumstances, Communications (including electronic mail, voicemail, SMS, telephone calls and website usage) as well as paper correspondence received by either Party such as envelopes or packages may be monitored, recorded or inspected (as appropriate) using monitoring devices or other technical or physical means. Such monitoring may take place where necessary insofar as required or allowed by and for purposes permitted by any applicable law, regulation, order or Authority from time to time, including, without limitation, to record evidence of business transactions and so as to ensure compliance with the Parties' respective policies and procedures. Subject to any applicable laws and regulations, all telephone conversations may be recorded by or for either Party without warning. Such records or recordings are and shall remain the sole property of the Party that made them and either Party may produce them as evidence in any proceedings brought in connection with the Relationship Documents.

3.8 Communication channels provided by the Bank may be suspended by the Bank for maintenance or for any other reason where it reasonably considers it necessary to do so. The Bank will provide the Customer with reasonable prior notice of the suspension where it is practical to do so.

## 4 Credits and Debits

4.1 If an Account is credited in error or in anticipation of receiving funds, where those funds are not received or the underlying funds transfer is reversed, the Bank may reverse all or part of such credit including any interest accrued thereon, make the appropriate entry to the Account, and, except in case of the Bank's error, debit or demand immediate repayment of any Losses incurred by the Bank in connection therewith, as appropriate.

4.2 The Bank is not obliged to carry out an Instruction which would result in a debit to an Account where this causes the Account to be overdrawn without the Bank's approval or to exceed any agreed or advised overdraft facility, or where the Account is subject to a right of a third party that has been enforced, such as a freezing order in favour of a creditor.

4.3 If the Customer gives Instructions which would result in multiple debits on an Account which would in aggregate cause the Account to be overdrawn or an agreed or advised facility to be exceeded, the Bank may decide the order in which to make those debits and whether to make any of them in whole or in part.

4.4 If an Account is overdrawn without the Bank's approval or if an overdraft limit is exceeded due to (i) any debit or (ii) such limit being withdrawn or varied by the Bank in accordance with applicable terms, the Customer shall immediately upon demand, or otherwise becoming aware thereof, transfer sufficient cleared funds to bring such Account into credit or within the overdraft limit. For the avoidance of doubt, the Bank is not hereby offering the Customer, or agreeing an increase to, any overdraft facility and, unless otherwise provided in an agreement executed by the Bank and the Customer, any extension of credit can be cancelled by the Bank at any time.

## 5 Statements

The Customer shall notify the Bank, as soon as practicable and in any case within 30 days of delivery of a statement of account or report of transactions, of any errors (including any errors arising as a result of fraudulent or unauthorised transactions) in that statement or report. If notice is received by the Bank after this time period, the Bank shall not be responsible for any Loss resulting from the delay by the Customer in providing such notice.

## 6 Interest

Any interest will accrue or, if applicable, be charged on the applicable credit balance of an Account on the days and at the applicable rate for those days as set out in any relevant guide or as the Bank may agree with the Customer from time to time. Unless agreed otherwise by the Parties, the Bank may change such rates and the Bank shall notify the Customer or otherwise make available such changes. The Customer acknowledges that, as applicable:

- (a) interest payments made by the Bank may be made net of taxes and subject to deduction or withholding; and
- (b) the Bank may debit from an Account any interest to be charged to such Account as and when due and such payment will be free of any deduction or withholding of tax or other charges so the Bank receives the full amount of such interest.

## 7 Security Interest

The Customer shall not grant any security interest over or transfer or assign its rights in connection with any Account without prior written consent from the Bank, such consent not to be unreasonably withheld or delayed.

## 8 Set-Off

The Bank may set off any of the Customer's obligations owed to the Bank that are due and payable against any obligations of the Bank owed to the Customer.

## 9 Representations, Warranties and Undertakings

9.1 Each Party represents and warrants, solely as to itself, that:

- (a) it is duly incorporated or, if the Party is not a body corporate, is otherwise validly constituted and existing under the laws of the jurisdiction of its incorporation or constitution (as the case may be);
- (b) it has all necessary corporate or equivalent power and legal capacity to execute (where applicable) and deliver, and to perform its obligations under, the Relationship Documents; and
- (c) the execution and performance of the Relationship Documents by it will not violate its constitutional documents, organisational documents or bylaws, the terms of any material contract or other instrument (including, for the avoidance of doubt, any trust instrument) to which it is a party or by which it is bound or any duty, obligation, limitation or prohibition imposed on it by any law or regulation applicable to it; and
- (d) the terms of the Relationship Documents constitute legal, valid and binding obligations, enforceable against it.

9.2 Each Party furthermore warrants and undertakes to take all reasonable steps to ensure that its warranties and representations in Clause 9.1 shall remain valid and effective in all respects until such time as all Relationship Documents are terminated or expire in accordance with their terms.

9.3 A breach of Clause 9.1 or 9.2 shall constitute a material breach of the Relationship Documents. If a Party becomes aware that it is in breach of Clause 9.1 or 9.2 it shall notify the other Party as soon as reasonably practicable.

- 9.4 The Customer undertakes to:
- (a) comply with all reasonable requests of the Bank necessary to provide the Customer with the Services, including but not limited to, promptly providing to the Bank all documents and other information reasonably requested by it from time to time in relation to any Account or Service; the Bank may rely on the documents and information provided until the Customer notifies the Bank in writing of any changes and the Bank has had a reasonable opportunity to act thereon; and
  - (b) notify the Bank as soon as possible if it becomes aware of any theft, fraud, illegal activity, loss, damage or other misuse in relation to the Services or in relation to any associated documentation, Instruction, Communication or payment instrument.
- 9.5 Where multiple Customer Parties acting pursuant to an arrangement without separate legal capacity (such as participants in an unincorporated joint venture) are identified on an Application Form as joint holders of an Account and/or joint recipients of the Services, each Customer Party undertakes and agrees that:
- (a) it shall be jointly and severally liable with each Customer Party for any obligation owed by the Customer to the Bank or any other member of the Group under the Relationship Documents;
  - (b) any demand, notice, agreement, Instruction or Communication given by the Bank to one or more Customer Parties, or received by the Bank from one or more Customer Parties, in connection with the Relationship Documents will be deemed to be a demand, notice, agreement, Instruction or Communication (as the case may be) given to or received from all Customer Parties;
  - (c) if the Bank becomes aware of or reasonably suspects a dispute between any of the Customer Parties, the Bank may decline to act on any Instruction until all Customer Parties have confirmed the Bank's authority to act on it in form and substance satisfactory to the Bank; and
  - (d) to the extent any Customer Party ceases to exist for any reason, the Relationship Documents shall continue to bind the remaining Customer Parties.
- 9.6 The Bank undertakes to maintain a business continuity plan setting out contingency arrangements for the continuing performance of the Bank's services, including the Services, in the event of a Force Majeure Event. The Bank shall test and review such business continuity plan at least once in each calendar year.
- 10 Confidentiality and Data Protection**
- 10.1 The Parties agree that Confidential Information shall be kept confidential, except as disclosed in accordance with the Confidentiality and Regulatory Annex.
- 10.2 The Parties will process and transfer Customer Information in accordance with the Confidentiality and Regulatory Annex.
- 11 Performance and Liability**
- 11.1 The Bank will perform its obligations under the Relationship Documents using such level of skill and care as would be considered commercially reasonable by reference to the standards and practices of the banking industry.
- 11.2 Neither Party shall be liable for any:
- (a) consequential, incidental or indirect Loss including, without limitation, fines, penalties or punitive damages; or
  - (b) any direct or indirect loss of (i) profit (actual or anticipated), (ii) goodwill or (iii) business opportunity,
- whether or not foreseeable, even if one Party advised the other of the possibility of such loss or damage.
- 11.3 Any obligation of the Bank with respect to an Account shall be enforceable only at the Bank or, where the Account is held at a branch of the Bank, such branch, which in each case, is the sole place of payment, and not at or against another branch or member of the Group.
- 11.4 The Bank is only required to perform its obligations in the currency in which those obligations are denominated. Unless otherwise agreed in writing, the Bank, or any intermediary reasonably selected by the Bank, may make any currency conversion in connection with the exercise of its rights and obligations pursuant to the Relationship Documents, using exchange rates that are reasonable in the relevant market at the time and for the size and type of foreign exchange transaction.
- 11.5 The Parties shall not be liable for any Loss caused by a Force Majeure Event. If either Party is prevented or delayed in the performance of any of its obligations under the Relationship Documents by a Force Majeure Event, such Party shall as soon as reasonably practicable notify the other of the existence of the Force Majeure Event. The Bank's duty or the duty of any member of the Group to act upon any Instruction or Communication, or perform any obligation, shall be suspended to the extent that and for as long as the Bank and/or any member of the Group is prevented or restricted from doing so by a Force Majeure Event.
- 11.6 In providing the Services, the Bank may use certain Infrastructure Providers and the Services are therefore subject to the rules and regulations of those Infrastructure Providers as well as the guidelines and procedures of relevant regulatory or industry bodies. Neither the Bank nor any other member of the Group shall be liable for any Loss suffered as a result of the acts or omissions of an Infrastructure Provider, but will provide commercially reasonable assistance to the Customer in the recovery of any such Loss.
- 11.7 The Customer shall indemnify the Bank and any other member of the Group in full against any Loss arising from or in connection with a third party making a claim or demand against the Bank or other member of the Group as a result of the Bank or any other member of the Group processing an Instruction or otherwise performing its obligations hereunder in accordance with the Relationship Documents.
- 11.8 Neither the Bank nor any member of the Group is obliged to perform any of the Services or any other obligation under the Relationship Documents, including without limitation any obligation to give notice or provide information to the Customer, if to do so would result in the Bank or any member of the Group being in breach of any Law.
- 12 Fees and charges**
- 12.1 The Customer shall pay to the Bank fees, costs, charges, interest and expenses in connection with the Services. These will be the Bank's standard fees and charges unless the Bank separately agrees different fees and charges with the Customer. Unless otherwise stated, all amounts payable pursuant to this Clause are exclusive of value added, sales, use, goods and services, business, stamp or any similar taxes or duties that may be applicable. All such taxes or duties will be applied in accordance with applicable legislation and the Bank will issue valid invoices or other documents as appropriate. The Bank may change the fees and charges either with reasonable notice to the Customer or immediately with the Customer's agreement. Payment of all amounts due pursuant to this Clause will be clear and free of any deduction or withholding for or on account of tax, set-off, counterclaim or other charges so the Bank receives such amounts in full. If a deduction or withholding for or on account of tax is required to be made by law, the payment shall be increased to an amount which after making any

deduction or withholding leaves an amount equal to the payment which would have been made if no deduction had been required. The Customer shall make any payment required in connection with such tax deduction or withholding within the time allowed by law.

**12.2** The Bank may debit fees, costs, charges, interest and expenses owed by the Customer to the Bank from any account advised by the Customer for such purposes. However, in the event of the Customer's breach of the Relationship Documents, the Customer's insolvency (which includes, where the Customer acts as a trustee, the insolvency of the trust and which may also include the Customer's bankruptcy in certain jurisdictions), or where acting in accordance with the Customer's advice is not possible, the Bank may debit fees, costs, charges, interest and expenses owed by the Customer to the Bank from any account the Customer has with the Bank. If the Customer fails to pay any amount due under the Relationship Documents, the Customer shall, to the extent permitted under applicable law, pay to the Bank interest and charges on the overdue amount at the rate the Bank determines, unless otherwise agreed, acting reasonably and in good faith.

## **13 Amendments and Assignment**

**13.1** If at any time the Bank makes amendments to terms governing the provision of services which include any of the Services to its customers generally or to customers belonging to the same market segment as the Customer, the Bank may, by written notice to the Customer, make the same (or substantially the same) amendments to the Relationship Documents. Such amendments will become effective on the expiry of no less than 45 days after delivery of such notice.

**13.2** Notwithstanding the provisions of Clause 13.1, the Bank may, by written notice to the Customer, make amendments to the Relationship Documents at any time in order to comply with any law or regulation, which will become effective in accordance with the terms of such notice. The Bank will use reasonable efforts to give the Customer as much advance notice as possible in such circumstances.

**13.3** Neither Party may assign its rights or transfer its obligations under these Relationship Documents without the written consent of the other, such consent not to be unreasonably withheld or delayed. However, the Bank may, without the Customer's consent, assign the Bank's rights and/or transfer the Bank's obligations to:

- (a) any member of the Group; or
- (b) to the Bank's successor following a merger, consolidation or disposal of all or substantially all of the Bank's shares, capital, assets or the business to which the Relationship Documents relate,

provided that such assignment does not adversely affect the provision of the Services to the Customer.

## **14 Termination**

**14.1** Either Party can terminate any or all Relationship Documents and/or, in the case of the Bank, withdraw any or all of the Services or close any Account by giving 30 days prior written notice to the other. Any liabilities owing to the Bank thereunder will become immediately due and payable on termination of the terms of the relevant Relationship Document.

**14.2** Subject to any applicable legal or regulatory restriction, either Party can terminate any or all Relationship Documents and/or, in the case of the Bank, withdraw any or all of the Services or close any Account immediately if:

- (a) the other Party commits a material breach of the Relationship Documents which is incapable of remedy or not remedied within a reasonable time period;

- (b) any step is taken by or in respect of the other Party for a moratorium, composition, compromise or arrangement with creditors, administration, bankruptcy, liquidation, dissolution (other than for the purposes of amalgamation or reconstruction), receivership, distress or execution, debt relief orders, interim orders or the other Party becomes insolvent (including, where a Party acts as a trustee, the insolvency of the trust and which may also include the Customer's bankruptcy in certain jurisdictions) or is deemed unable to pay its debts as they fall due, or anything analogous to the foregoing occurs in any applicable jurisdiction;
- (c) it is or may become unlawful for that Party to perform its obligations under any of the Relationship Documents or if to do so would result in that Party or, in the case of the Bank, any member of the Group, being in breach of any regulation or requirement or request of any governmental or other authority; or
- (d) the Customer has provided false or misleading information, or failed to provide Customer information reasonably requested by the Bank, in connection with any know-your-customer or financial due diligence performed by the Bank or if otherwise required, in the Bank's reasonable opinion, in connection with any Compliance Activity.

**14.3** Termination of the Terms by either Party shall have the immediate effect of terminating each of the Relationship Documents.

**14.4** Termination shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or continuation in force of any other Clauses and provisions of the Relationship Documents which are expressly or by implication intended to come into force or continue in force on or after termination or expiry of the Relationship Documents including, without limitation Clauses 1, 3.5, 9.5, 10, 11, 13.3, 14.1, 14.4, 15-21 inclusive, and the Confidentiality and Regulatory Annex.

**15 Waiver**  
In the event that any Party fails or delays to exercise a right under the Relationship Documents, that Party may still exercise that right later. Any waiver of any right shall be in writing and limited to the specific circumstances.

**16 Severability**  
Each provision of the Relationship Documents is severable and if any provision is or becomes illegal, invalid or unenforceable in any jurisdiction or in relation to any particular Service, then that provision is severed only in that particular jurisdiction or in relation to that particular Service. All other provisions shall continue to have effect.

**17 Third Party Rights**  
Any law, statute or regulation which may bestow upon a person who is not a Party the right to enforce any of the terms of the Relationship Documents shall be disappplied to the fullest extent permitted.



## 18 Notices

Notices in writing from the Bank shall be effective if delivered to an address specified by the Customer on an Application Form or to such other address as the Customer may specify in writing from time to time as effective for delivery of notices pursuant to the Relationship Documents, including an address for notices to be sent electronically. Notices in writing from the Customer shall be effective if delivered to the Bank's address specified on the most recent statement for the relevant Account or to such other address as the Bank may specify in writing from time to time as effective for delivery of notices pursuant to the Relationship Documents, including an address for notices to be sent electronically.

## 19 Governing Law and Jurisdiction

19.1 The Relationship Documents and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with the law of the jurisdiction in which the relevant Account is maintained or the relevant Service is provided unless specified otherwise in any applicable Relationship Document.

19.2 Unless otherwise mutually agreed by the Parties, they submit to the non-exclusive jurisdiction of the courts of the jurisdiction whose governing law applies.

## 20 Counterparts

The Relationship Documents may be entered into by the execution of any number of copies of the relevant Application Form, all of which taken together shall form one document.

## 21 Definitions

- **Account** means any account which is to be opened or which has been opened by the Customer with the Bank under the Relationship Documents.
- **Annex** means an annex to a Services Schedule or the Terms which sets out additional terms in relation to the particular Services being provided.
- **Appendix** means an appendix to an Annex which sets out additional terms in relation to the particular Services being provided.
- **Application Form** means any form that must be completed to apply for the provision of a Service including without limitation the Relationship Acceptance Form and the Service Amendment Form.
- **Authorised Person** means any person identified to the Bank and authorised to act on behalf of the Customer in accordance with Clause 2.
- **Authority** means any judicial, administrative or regulatory body, any government, or public or government agency, instrumentality or authority, any Tax Authority, securities or futures exchange, court, central bank or law enforcement body, or any agents thereof, having jurisdiction over the relevant Party or a member of its group.
- **Bank** means the member of the Group that is or becomes a Party to the Relationship Documents and that provides the Customer with Services as specified in an Application Form.
- **Clause**, whenever used in a Relationship Document and not defined or identified otherwise therein, means a clause of that Relationship Document.
- **Communication** means communication (in any form) between Customer and Bank, but which shall not include Instructions.
- **Compliance Activity** means any activity performed by the Bank or any other member of the Group considered appropriate, acting reasonably, to meet Compliance Obligations relating to or in connection with the detection, investigation and prevention of Financial Crime, international and national guidance, relevant Group procedures and/or the direction of any public, regulatory or industry body relevant to any member of the Group.
- **Compliance Obligations** means obligations of any member of the Group to comply with: (a) Laws, or international guidance and the Bank's mandatory policies or procedures, (b) any demand from Authorities or reporting, regulatory trade reporting, disclosure or other obligations under Laws or (c) any Laws requiring the Bank to verify the identity of its Customers.
- **Confidential Information** means any information, about or relating to either Party or members of its group, received or accessed by the other Party in the course of the relationship established by them pursuant to the Relationship Documents, including without limitation, the business, operations, Personal Data or customers of the disclosing Party or members of its group and the provisions of the Relationship Documents.
- **Confidentiality and Regulatory Annex** means the Annex to the Terms which sets out each Party's obligations in relation to Confidential Information, Customer Information and tax compliance.
- **Connected Person** means a person or entity whose information (including Personal Data or Tax Information) is provided by, or on behalf of, the Customer to any member of the Group or otherwise received by any member of the Group in connection with the provision of the Services and any owner, controlling person, substantial owner or beneficial owner of the Customer in relation to whom the Bank considers, acting reasonably, Tax Information is required to be provided to any Tax Authority to comply with any Group member's Compliance Obligations.
- **Country Conditions** means, for each relevant jurisdiction, the specific terms which supplement and/or amend any Relationship Document.
- **Customer** means the Customer Party and, where there is more than one Customer Party, refers to the Customer Parties jointly and severally.
- **Customer Information** means Personal Data, Confidential Information, and/or Tax Information of or in relation to either the Customer or a Connected Person.
- **Customer Party** means an entity or person receiving the Services identified as a customer on an Application Form.
- **Data Protection Legislation** means all data protection, privacy and other laws to the same or similar purpose in all relevant jurisdictions applicable to a Party.
- **Financial Crime** means money laundering, terrorist financing, bribery, corruption, tax evasion, fraud, evasion of economic or trade sanctions, and/or violations, or attempts to circumvent or violate any laws or regulations relating to these matters.
- **Force Majeure Event** means any event beyond the reasonable control of a Party affecting that Party's ability to comply with the Relationship Documents, such as:
  - (a) any natural event such as flood, storm or earthquake,
  - (b) war, civil disturbance or act of terrorism,
  - (c) industrial action,
  - (d) Act of God,

- (e) action of a government or governmental agency,
- (f) change of law or regulation (or change in the interpretation of law or regulation),
- (g) power or equipment failure or interruption, or
- (h) interruption, failure or delay in receiving or acting on any Communication or Instruction caused by an Infrastructure Provider,

PROVIDED ALWAYS that any non-compliance with the Relationship Documents resulting from such an event could not be avoided by the exercise of commercially reasonable skill and care by the affected Party which, in the case of the Bank, may include invocation of the business continuity plan referred to in Clause 9.6.

- **Group** means HSBC Holdings plc, its subsidiaries, related bodies corporate, associated entities and undertakings and any of their branches.
- **Infrastructure Provider** means any third party providing shared market infrastructure necessary for a Party to perform its obligations under the Relationship Documents including any communications, clearing, settlement or payment system, or intermediary or correspondent bank.
- **Instruction** means any communication which is received by the Bank in relation to a Service which:
  - (a) contains the necessary information for the Bank to carry out the payment or other act on the Customer's behalf; and
  - (b) has or, in the reasonable opinion of the Bank, appears to have been provided by an Authorised Person.
- **Law** means any applicable local or foreign statute, law, regulation, ordinance, rule, judgment, decree, voluntary code, directive, sanctions regime, court order, agreement between any member of the Group and an Authority, or agreement or treaty between Authorities and applicable to the Bank or a member of the Group.
- **Loss** means any loss, damages, liability, costs, claims, demands and expenses of any kind whether or not foreseeable.
- **Party** means the Customer or the Bank, and **Parties** means the Customer and the Bank.
- **Personal Data** means any data relating to an individual and allowing the identification of that individual, and such other data which is protected by local Data Protection Legislation.
- **Purposes** means the circumstances in connection with which Customer Information will be processed, transferred and disclosed by the Bank and/or members of the Group, as set out in Clause 2.2 of the Confidentiality and Regulatory Annex.
- **Relationship Acceptance Form** means the Application Form in which the Customer agrees to the provision of the Services by the Bank.
- **Relationship Documents** means, separately and together, as the case may be:
  - (a) the Terms,
  - (b) any Services Schedules,
  - (c) any Annexes,
  - (d) any Appendices,
  - (e) each of the applicable Country Conditions, and
  - (f) the applicable Supporting Documents,as amended or supplemented from time to time.
- **Security Procedures** means security measures or protocols governing the Customer's access to the communication channels made available to the Customer by the Bank from time to time and used to verify the origination of Instructions or Communications between them transmitted via such channels. A Security Procedure may include, but is not limited to, one or more of the following measures: encryption algorithms or other codes, user entitlements, identifying words and numbers, and similar security devices.
- **Service Amendment Form** means the Application Form in which the Customer agrees to the provision of any additional Services by the Bank at any time after the Relationship Acceptance Form has been executed.
- **Services** means the services provided by the Bank and members of the Group under the Relationship Documents and requested in an Application Form.
- **Services Schedule** means a schedule to the Terms or a separate agreement between the Parties that expressly incorporates the Terms and relates to a specific Service.
- **Supporting Documents** means any document, agreement or Application Form which the Bank requires the Customer to enter into in connection with the receipt or maintenance of any Services in a particular jurisdiction, other than Country Conditions, Appendices, Annexes, Service Schedules or the Terms.
- **Tax Authorities** means domestic or foreign tax, revenue, fiscal or monetary authorities.
- **Tax Information** means any documentation or information relating, directly or indirectly, to a Customer and any owner, controlling person, substantial owner or beneficial owner of the Customer, that the Bank considers, acting reasonably, is needed to comply with any Group member's obligations to any Tax Authority.
- **Terms** means this Master Services Agreement.

## 1 Disclosure of Confidential Information

- 1.1 Subject to Clauses 1, 2 and 6 of this Annex, the Parties agree that any Confidential Information shall be kept confidential. The Customer may disclose the Bank's Confidential Information as set out in Clause 1.2 of this Annex. The Bank may disclose the Customer's Confidential Information as set out in Clause 2 of this Annex.
- 1.2 The Customer may disclose the Bank's Confidential Information to:
- (a) members of its group and service providers, sub-contractors, agents, and any Infrastructure Provider provided always that the Customer may only make such disclosure on a confidential basis, and in connection with receipt of the Services under the Relationship Documents;
  - (b) Authorities, auditors, professional advisers or as otherwise required or reasonably necessary under law, regulation, order of a court, or binding request from an Authority; and
  - (c) any other person with the Bank's written consent.
- 1.3 Restrictions on the disclosure of Confidential Information by either Party shall not apply to information that:
- (a) is in or enters into the public domain other than in breach of the Relationship Documents;
  - (b) is lawfully obtained by the recipient party from a third party or is already known by the recipient party, in each case without notice or duty to maintain it as confidential; or
  - (c) was independently developed by the recipient party without reference to the disclosing party's Confidential Information.

## 2 Collection and Use of Customer Information (including Confidential Information)

### 2.1 Collection

Members of the Group may collect, use and share Customer Information, which may be requested from a person acting on the Customer's behalf. Customer Information may also be collected by or on behalf of members of the Group from other sources, and generated or combined with other information available to members of the Group.

### 2.2 Processing and Sharing

Customer Information will be processed, transferred and disclosed by the Bank and/or members of the Group in connection with the following Purposes:

- (a) the provision of services and as necessary for the Bank to approve, manage, administer or effect any transactions requested or authorised by the Customer;
- (b) meeting Compliance Obligations;
- (c) conducting Compliance Activity;
- (d) the collection of any amounts due and outstanding from the Customer;
- (e) conducting credit checks and obtaining or providing credit references;
- (f) to enforce or defend the Bank's, or a member of the Group's rights;
- (g) for internal operational requirements of the Bank or the Group (including, without limitation, credit and risk management, system or product development and planning, insurance, audit and administrative purposes); and
- (h) the maintenance of the Bank's overall relationship with the Customer.

By using the Services, the Customer agrees that the Bank may also, as necessary and appropriate for the Purposes, transfer and disclose any Customer Information to the following recipients globally (who may also process, transfer and disclose such Customer Information for the Purposes):

- (a) any member of the Group;
- (b) any sub-contractors, agents, service providers, or associates of the Group (including their employees, directors and officers);
- (c) in response to any requests from any Authorities;
- (d) persons acting on behalf of the Customer, Infrastructure Providers, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks, clearing houses, clearing or settlement systems, market counterparties, upstream withholding agents, swap or trade repositories, stock exchanges, and companies in which the Customer has an interest in securities (where such securities are held by the Bank for the Customer);
- (e) any party to a transaction acquiring interest in or assuming risk in or in connection with the Services; and
- (f) other financial institutions, credit reference agencies or credit bureaus, for the purposes of obtaining or providing credit references;

wherever located, including in jurisdictions which do not have data protection laws that provide the same level of protection as the jurisdiction in which the Services are supplied.

### 2.3 Protection of Customer Information

Whether it is processed in a home jurisdiction or overseas, in accordance with Data Protection Legislation, Customer Information will be protected by a strict code of secrecy and security which all members of the Group, their staff and third parties are subject to. Customer Information will be treated with the same degree of care that the Group exercises to protect its own Confidential Information of a similar nature.

2.4 Under relevant Data Protection Legislation, an individual has the right to request copies of certain categories of Personal Data which may be held and to request that any errors in such data are corrected.

## 3 Customer Obligations

3.1 The Customer confirms, warrants and has responsibility for ensuring that every person whose information (including Personal Data or Tax Information) they have provided to a member of the Group has (or will at the relevant time have) been notified of and agreed to the processing, disclosure and transfer of their information as set out in the Relationship Documents. The Customer shall advise such persons that they may have rights of access to, and correction of, their Personal Data.

3.2 The failure of a Customer to supply its, or its Connected Person's, Tax Information and accompanying statements, waivers and consents, as may be requested, may result in the Bank making its own decision with respect to the status of the Customer and/or its Connected Persons, including whether such Customer and/or its Connected Persons is reportable to a Tax Authority. Such failure may require the Bank or other persons to withhold amounts as may be legally required by any Tax Authority and paying such amounts to the appropriate Tax Authority.

## 4 Tax Compliance

The Customer acknowledges that it is solely responsible for understanding and complying with its tax obligations in all jurisdictions in which those obligations arise, and relating to the opening and use of accounts and/or services provided by the Bank and/or members of the Group. Except to the extent required otherwise by applicable law, the Customer shall be responsible for the deduction or withholding on account of any tax with respect to any amount paid, transferred or held by the Bank pursuant to any Service and shall be responsible for the payment and proper reporting of any such tax. The Customer confirms that, whenever required by applicable law and regulation, it has reported and will continue to report the assets deposited at the Bank and/or members of the Group as well as the income generated by those assets to the competent tax authorities.

## 5 Bearer Shares

- 5.1 Except to the extent that the Customer has either provided such confirmation to the Bank or received written confirmation from the Bank that it is on notice to the contrary, the Customer confirms on behalf of itself and any shareholder and affiliates (the "Associated Entities") that none of its shares or shares of Associated Entities have been issued in, or are held in a form that assigns or entitles ownership to whomever has possession of the physical share certificates, warrants or equivalent instruments ("Bearer Shares").
- 5.2 If the Customer or any of the Associated Entities issues, or converts existing shares to, Bearer Shares, the Customer undertakes to:
- notify the Bank immediately and include the name of the beneficial owners of such Bearer Shares; and
  - comply with the Bank's requirements regarding issued Bearer Shares.

## 6 Compliance Activity

The provision of Services by the Bank and members of the Group may be affected by Compliance Activity and any impact on the performance of the Bank's obligations due to Compliance Activity or any actions taken by the Bank as a result thereof shall not constitute a breach of the Bank's agreements with the Customer.

## 7 Regulatory Disclosures

Where the Bank provides the Accounts and/or Services in the following jurisdictions, the Bank is required to provide the Customer with the following information:

### Algeria

HSBC Bank Middle East Limited Algeria Branch, Algeria Business Center, Pins Maritimes, El Mohammadia, 16212 Algiers, is regulated by the Central Bank of Algeria for the purposes of this promotion and lead regulated by the Dubai Financial Services Authority.

### Bahrain

HSBC Bank Middle East Limited Bahrain Branch, P.O. Box 57, Manama, Kingdom of Bahrain, is licensed and regulated by the Central Bank of Bahrain as a Conventional Retail Bank for the purposes of this promotion and lead regulated by the Dubai Financial Services Authority.

### Egypt

HSBC Bank Egypt S.A.E., PO Box 124, Maadi, Cairo, Egypt, is regulated by the Central Bank of Egypt.

### Kuwait

HSBC Bank Middle East Limited Kuwait Branch, PO Box 1683, Safat 13017 is regulated by the Central Bank of Kuwait for the purposes of this promotion, and lead regulated by the Dubai Financial Services Authority.

### Oman

HSBC Bank Oman S.A.O.G is regulated by the Central Bank of Oman and Capital Market Authority, Oman.

### Qatar

HSBC Bank Middle East Limited Qatar Branch, P.O. Box 57, Doha, Qatar, is regulated by Qatar Central Bank for the purposes of this promotion and lead regulated by the Dubai Financial Services Authority.

### UAE

HSBC Bank Middle East Limited U.A.E. Branch, P.O. Box 66, Dubai, U.A.E., is regulated by the Central Bank of the U.A.E for the purposes of this promotion and lead regulated by the Dubai Financial Services Authority.

### United Kingdom

HSBC Bank plc is a company registered and established in England and Wales under registration number 14259. The Bank's registered office is at 8 Canada Square, London E14 5HQ. The Bank's VAT registration number is GB 365684514. HSBC Bank plc is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (the Bank's firm reference number is 114216).

Sample



# E-Channels Security Measures

This document sets out the security measures for any electronic banking systems ("E-Channels") provided by any member of the HSBC group (the "Profile Bank") to its customers (the "Profile Owner").

## 1 Profile Bank Security Measures

- 1.1 The Profile Bank shall employ measures to deny access by unauthorised external parties to the environment in which its internet service operates.
- 1.2 The Profile Bank shall ensure that its systems are strictly controlled including having business continuity plans.

## 2 Profile Owner Security Measures

- 2.1 The Profile Owner shall only access E-Channels using the authentication method prescribed by the Profile Bank.
- 2.2 The Profile Owner shall ensure that all of the users it authorises to use any E-Channels ("Users") keep their security credentials (password, memorable answer, security answers, smart card PIN, Security Device PIN or any other security credential required to access E-Channels, as applicable) secure and secret at all times and not facilitate any unauthorised use of these credentials. In particular, the Profile Owner shall not share any security credentials or access of an E-Channel with any third party and the Profile Owner shall ensure that users always remove smartcards from readers when they're not accessing an E-Channel.
- 2.3 The Profile Owner is responsible for the careful selection of its Users, noting such Users are provided with access to a wide range of capabilities including assigning entitlements to accounts or other services and sending instructions in relation to those accounts or services.
- 2.4 Users who have not logged in HSBCnet within a 6 month period are subject to automatic suspension as part of the Profile Bank's security measures.
- 2.5 The Profile Owner shall notify the Profile Bank promptly if any security devices are lost or stolen.
- 2.6 The Profile Owner shall:
  - (a) promptly take appropriate action to protect any User's profile if it has any suspicion that such User's credentials have been in full or part compromised in any way;
  - (b) review recent activity on its accounts and User profiles if it suspects any User's credentials have been compromised and inform the Profile Bank promptly of any discrepancies; and
  - (c) regularly review its account and Users' profile activity to ensure that there are no irregularities and report any discrepancies promptly to the Profile Bank.
- 2.7 The Profile Owner shall promptly suspend the use of the EChannels by any User if such User leaves the Profile Owner's organisation or where there is any concern about the conduct of that User or their entitlements. The Profile Owner shall ensure that the security credentials or devices of any User (which are issued to and specific to the individual User) are not transferred to another User or shared with another User, even in the event of that User being on leave or leaving the Profile Owner's organisation.
- 2.8 The Profile Owner shall ensure that individuals do not maintain more than one username or set of security credentials.

- 2.9 The Profile Owner shall inform the Profile Bank within seven days of dispatch of a physical security token or PIN by the Profile Bank that it has not received the package sent, provided that the Profile Owner is made aware of the dispatch.
- 2.10 The Profile Owner shall return any security devices to the Profile Bank promptly if requested by the Profile Bank.
- 2.11 The Profile Owner shall review its internal security measures on a regular basis to ensure protection remains up to date and in line with regulatory and industry best practice guidance. These should include, but not be limited to, malware protection, network restrictions, physical access restrictions, remote access restrictions, computer security settings, monitoring of improper usage.
- 2.12 The Profile Owner shall have internal procedures which include guidance on acceptable web browser and email usage including how to avoid acquiring malware.
- 2.13 The Profile Owner shall have processes in place to prevent users being socially engineered or acting on fraudulent communications. This is to prevent business email compromise and similar schemes where a fraudster sends an email impersonating someone known to the authorised user for an E-Channel and seeking to change an address or bank account number where payments are to be sent. Such processes should include, for example, where communications are received by users seemingly from known senders (including, but not limited to, senior management, suppliers and vendors) the authenticity of those communications are independently verified (through a means other than email).
- 2.14 If any E-Channel is accessed by a User via a mobile device, the Profile Owner shall require that the User:
  - (a) does not leave the mobile phone unattended after logging on to any E-Channels;
  - (b) clicks the 'Logout' button when the User is finished with accessing any E-Channels; and
  - (c) enables the mobile device's automatic pass code lock feature.
- 2.15 The Profile Owner acknowledges and agrees that in the event that its E-Channel is suspended for any reason, any subsequent reactivation of that E-Channel will automatically reinstate all original entitlements, limits, user access and access to the same accounts and services as prior to such suspension.
- 2.16 The Profile Owner should be aware that Users may access E-Channels via biometric authentication measures available on certain mobile devices (for example, fingerprint scan or facial recognition). The Profile Owner should be aware that such methods of authentication still pose a risk of being compromised or permitting unauthorised access (for instance where close family members are involved). In addition, the Profile Owner should ensure that Users register only their own biometrics on mobile devices for authentication purposes.

# Cash Concentration Services Schedule

## 1 Relationship Documents

- 1.1 This Services Schedule is a schedule to and incorporates the terms of the Master Services Agreement.
- 1.2 This Services Schedule sets out the specific terms that apply to the Cash Concentration Services.
- 1.3 Capitalised terms used but not defined in this Services Schedule are as defined in the Master Services Agreement.

## 2 Cash Concentration Service

- 2.1 In accordance with the Customer's instructions as set out in the Cash Concentration Form, the Bank will in respect of each Currency:
- (a) transfer the Credit Sweep Amount from all relevant Subordinate Accounts to the Master Account or to any relevant Subordinate Account (as the case may be); and
- (b) transfer the Debit Sweep Amount to any relevant Subordinate Account from the Master Account or from any relevant Subordinate Account (as the case may be).

For the avoidance of doubt, if any transfer referred to in this Clause 2.1 would cause any CC Account to be overdrawn or exceed an existing overdraft limit, the provisions set out in Clause 4 (Credits and Debits) of the Master Services Agreement shall apply.

- 2.2 For any transfers involving Third Party Accounts:
- (a) any obligation to transfer funds shall be satisfied by the relevant amount being requested by the Bank from the Third Party Bank and any such amounts will only be credited to the relevant CC Account by the Bank in cleared funds if received by the Bank prior to its cut-off time for the relevant Currency; and
- (b) the Bank is entitled to rely on any information received by it from a Third Party Bank with respect to the Third Party Account and the Bank shall not be liable for any Loss incurred by the Customer in relation to any such information provided that it has acted reasonably.

## 3 Cash Concentration Agent

- 3.1 This Clause 3 shall only apply where the Cash Concentration Services are provided to any Participant other than the Customer.
- 3.2 The Customer represents and warrants on entering into this Schedule and continually while the Cash Concentration Services are provided that the Cash Concentration Agent is authorised by the Customer to negotiate and agree any Relationship Document, any change in the Cash Concentration Services or any amendment to the Cash Concentration Terms and to execute any document setting out such agreement for the Customer.
- 3.3 If the Customer wishes to:
- (a) cease to receive the Cash Concentration Services; or
- (b) add, withdraw or suspend a CC Account to or from the Cash Concentration Services,
- an Application Form must be completed and delivered to the Bank by the Cash Concentration Agent together with such other information and documents as the Bank may require (each in form and substance satisfactory to the Bank).
- 3.4 The Customer agrees that:
- (a) the Cash Concentration Agent shall notify each Participant of any of the events in Clause 3.3 above;
- (b) any notice served under the Cash Concentration Terms may be served on the Cash Concentration Agent and the Cash Concentration Agent shall forward any such notices to the Customer,

and any failure of the Cash Concentration Agent to do so will not affect either of the Party's rights, duties and obligations pursuant to the Cash Concentration Terms.

- 3.5 The Bank may disclose to the Cash Concentration Agent any Confidential Information concerning the Customer and any CC Account.

## 4 Suspension of the Cash Concentration Services

If an account that is necessary for the provision of the Cash Concentration Services (such as the Master Account) is closed or suspended, the Bank may suspend the Cash Concentration Services until such time as the account is replaced within the cash concentration structure or the structure is able to be modified so that the Cash Concentration Services may continue without the closed or suspended account. The Bank shall inform the Customer of any such suspension as soon as practicable.

## 5 Definitions

- **Cash Concentration Agent** means the party listed as such in the relevant Cash Concentration Form.
- **Cash Concentration Form** means the form, as amended from time to time, relating to the Cash Concentration Services.
- **Cash Concentration Services** means the cash concentration services supplied to the Customer in accordance with this Services Schedule.
- **Cash Concentration Terms** means:
  - (a) this Services Schedule;
  - (b) any relevant Annex(es);
  - (c) any applicable Country Conditions; and
  - (d) the applicable Supporting Documents.
- **CC Account** means any account specified as such in the relevant Cash Concentration Form held with the Bank.
- **Cleared/Value Dated Balance** means the debit or credit balance (a) recorded in a CC Account at the Sweep Time, after taking into consideration all the transactions for which value has been received for and up to the Sweep Time or (b) in respect of a Third Party Account, notified to the Bank by the relevant Third Party Bank before the Sweep Time.
- **Credit Sweep Amount** means the amount by which the Cleared/Value Dated Balance exceeds the Peg Balance on any CC Account.
- **Currency** means each of the currency/ies listed in the relevant Cash Concentration Form.
- **Debit Sweep Amount** means the amount by which the Minimum Balance exceeds the Cleared/Value Dated Balance on any CC Account.
- **Master Account** means the CC Account specified as such in the relevant Cash Concentration Form for each Currency.
- **Master Services Agreement** means the master services agreement that forms part of the Relationship Documents contained in the Customer Pack referred to in the Relationship Acceptance Form or the Service Amendment Form (as applicable) issued together with this Services Schedule.
- **Minimum Balance** means the amount specified as such in the relevant Cash Concentration Form.
- **Participant** means each party listed as such in the relevant Cash Concentration Form.

- **Peg Balance** means the amount specified as such in the relevant Cash Concentration Form.
- **Subordinate Account** means, in respect of each Currency, each CC Account other than the Master Account.
- **Sweep Time** means the time specified as such in the relevant Cash Concentration Form.
- **Third Party Bank** means each party listed as such in the relevant Cash Concentration Form.
- **Third Party Bank Account** means a CC Account held with a Third Party Bank.

# Sample

# Corporate Card Service Schedule

## 1 Relationship Documents

- 1.1 This Services Schedule is a schedule to and incorporates the terms of the Master Services Agreement.
- 1.2 This Services Schedule sets out the specific terms that apply to the Corporate Card Services.
- 1.3 Capitalised terms used but not defined in this Services Schedule are as defined in the Master Services Agreement.

## 2 Card issue and renewal

- 2.1 The Bank will issue Cards and renew and replace them unless cancelled and if requested and appropriate for the relevant Card type, issue a PIN or other identifier to each Cardholder. Cards may be issued to anyone the Customer requests, unless the Bank otherwise objects or refuses, which it may do in its absolute discretion.
- 2.2 The Customer shall be responsible for delivery of Cards to each Cardholder and ensuring that each Cardholder signs the Card (if applicable) promptly after receiving it.
- 2.3 The Customer shall be bound by, and agrees to ensure acceptance and compliance by Cardholders with any relevant Conditions of Use.
- 2.4 The Bank shall be under no responsibility to the Customer to:
  - (a) ensure that a Cardholder and members of the Customer's group comply with the Relationship Documents, any relevant Conditions of Use or any variation of or supplement to them;
  - (b) take any legal action or proceedings against a Cardholder; ensure that a Card is used for the purposes of the Customer's business; or review, monitor or investigate the use of a Card.
- 2.5 To allow the Bank to meet its regulatory obligations, the Customer agrees to collect, on the Bank's behalf, such information and documents with respect to each Cardholder as the Bank may request from time to time, and to provide such information and documents to the Bank at such times and in such format as it may request.

## 3 Accounting and billing

- 3.1 The Bank will open one or several Card relationship programmes for use under the Relationship Documents with a financial limit not exceeding the Customer Limit for the relevant Card type. When a Card is issued to a Cardholder, the Customer must ensure that the Cardholder is also notified of any Card Limit.
- 3.2 The aggregate of balances outstanding on all Cards of a certain type shall not exceed the Customer Limit for that Card type. The Bank may make changes to the Customer Limit and Card Limit from time to time and shall give the Customer written notice as soon as practicable, and as permitted by applicable law, of such changes and, where such changes lead to an outstanding balance being in excess of the revised Customer Limit or Card Limit, the written notice will include the period within which the Customer is required to make a payment to the Bank to reduce such balance so that it is equal to or less than the revised Customer Limit or Card Limit.
- 3.3 If any Customer Limit or Card Limit is exceeded without the Bank's approval, the Customer shall immediately repay the excess upon demand or otherwise becoming aware thereof.

- 3.4 The Bank is authorised to debit each Card with the value of all transactions and cash advances made by use of the Card (whether with or without use of a PIN or other identifier) or transacted via a Card whether or not properly authorised by the Cardholder or the Customer, including (without limitation) all transactions and cash advances for which a merchant does not require express authorisation from the Bank and any transactions and cash advances which may exceed the Card Limit or the relevant Customer Limit.
- 3.5 When asked to authorise a transaction or cash advance, the Bank will take into account any other transactions or cash advances already debited to the relevant Card or for which authorisation has been given, whether that transaction has been completed or not. This may lead to the transaction or cash advance being declined. The Bank may refuse to authorise use of a Card if it considers that the Card has been or is likely to be misused. As part of the Bank's decision-making process and in an effort to minimise the misuse of Cards, it may refer an authorisation request back to the merchant for further information. This may result in the Cardholder, and if applicable the Customer's nominee or approved travel management company initiating the transaction or cash advance being asked to produce further means of identification or other information. This may also be done on a random basis for fraud prevention purposes.
- 3.6 A payment made by use of a Card or transacted on a Card cannot be stopped. If a merchant or supplier agrees to make a refund, the Bank will credit the relevant Card only upon receipt of a written instruction in a form acceptable to the Bank from the merchant or supplier. The Bank cannot be held responsible for any delay in the receipt of such instructions.

## 4 Payments

- 4.1 The Customer, and the Cardholder where requested, will be provided with Statements by the Bank. The Customer must notify, and ensure that any Cardholder notifies, the Bank immediately of any change to contact details for Statements.
- 4.2 The Customer promises to pay to the order of the Bank, in immediately available funds in the currency in which the Card is denominated:
  - (a) a payment equal to the entire balance of each Card; and
  - (b) all applicable interest, fees and charges which apply for the relevant Card type(s) in accordance with the Pricing Letter or on such basis as agreed between the Bank and the Customer in writing from time to time, in connection with the provision of the Corporate Card Services;as specified on the Statement by the Payment Date. This may include (without limitation) charges payable if the Bank does not receive a payment in full by the Payment Date or if an outstanding balance exceeds an applicable Customer Limit or Card Limit.
- 4.3 The Customer shall be liable for all transactions on the Card and agrees to pay the Bank in accordance with the terms of the Relationship Documents and the Statement. The Bank, in its sole discretion, has the right to apply payments to a Card programme in such order as it may determine.

## 5 Liability for transactions

5.1 Save as provided in Clause 5.2, the Customer shall be solely liable to the Bank for payment of the value of all transactions made by use of a Card which are made after delivery of the Card to the Customer or the first use of the Card, whether or not that transaction has been made for the purposes of the Customer's business or with the authority of the Cardholder or the Customer's authority, together with any charges, fees and interest payable under the Relationship Documents. This will include (without limitation) any transactions made after the cancellation of a Card, subject to the Bank's failure to comply with Clause 7.

5.2 Subject to Clause 5.3, the Customer shall have no liability for any transactions not authorised by the Customer or a Cardholder using a Card after it has been reported to the Bank (in accordance with any Conditions of Use) that the Card has been lost or stolen or that the Card details may be known by a third party or that unauthorised or fraudulent use is suspected. The amount of any such transactions that may have been debited in these circumstances will be provisionally credited to the relevant Card, including (without limitation) any related interest or charges. The Bank shall have no further liability to the Customer whatsoever. The Bank may require written notification that an item on the Customer's Statement is not a recognised transaction of the Card before the Bank can process any refund to which the Customer may be entitled.

5.3 Upon a report being made under Clause 5.2, the Bank will follow its usual procedures to cancel or block use of the Card, but if any Loss, theft, fraudulent or unauthorised use of a Card or the disclosure of the Card details is attributable to the fraud or negligence of a Cardholder or the Customer's negligence (or the negligence of any agent, representative, employee or officer of a Cardholder or the Customer from time to time), the Customer shall remain liable for any transactions made by use of the Card. For the purpose of this clause, "negligence" shall include (without limitation) any relevant failure by the Cardholder or the Customer to observe any Conditions of Use.

5.4 In no event shall a Cardholder be liable to the Bank for Card transactions, and any credit extended hereunder is extended solely to the Customer.

5.5 The Customer must continue to pay the Bank any money outstanding under the Relationship Documents without any deduction, set-off or withholding and the Customer shall remain liable to make payments required under the Relationship Documents even if the Customer is in dispute with or has a claim against a merchant or supplier over a transaction or a cash advance made under the Relationship Documents.

5.6 The Bank shall have no liability if any merchant, supplier, cash machine, terminal, bank or approved travel management company (if applicable) refuses to or cannot accept a Card transaction for any reason or for the way in which such refusal is communicated.

## 6 Termination

Clauses 5 and 8 shall survive termination of all or any part of the Relationship Documents.

## 7 Cancellation and surrender of Cards

7.1 Cards remain the Bank's property and it may suspend or cancel a Card at any time. The Bank will use reasonable endeavors to notify the Customer prior to such suspension or cancellation but in any event shall inform the Customer of such suspension or cancellation as soon as practicable and legally permissible.

7.2 The Bank will cancel a Card once it has had a reasonable opportunity to act upon receipt of a request to cancel from a Customer.

7.3 Upon a request by the Customer to cancel a Card or on notice that the Bank has cancelled a Card or on termination of the Relationship Documents, however caused, the Customer shall return to the Bank the relevant Card or Cards, cut in half vertically, or destroy such Cards and give written confirmation to the Bank that this has occurred.

7.4 In cancelling a Card, the Bank will follow its usual procedures to block use of the Card (whether or not returned to the Bank), but if transactions or cash advances are made by use of a Card or its details after cancellation, the Relationship Documents shall continue to apply in relation to that Card and transactions and cash advances made under it until the receipt by the Bank of all sums outstanding in respect of the Card.

## 8 Governing law

The Customer agrees that the Corporate Cards Services shall be deemed to be provided in the jurisdiction where the Bank is located, irrespective of the Customer's location or where a Cardholder uses a Card (if such location or use is in a different jurisdiction).

## 9 Definitions

- **Card** means any card issued by the Bank in physical or electronic form.
- **Card Limit** means a credit limit applicable to a Card as initially determined by the Customer.
- **Cardholder** means any person to whom the Bank has agreed to issue a Card under the Relationship Documents following receipt from the Customer of a duly completed cardholder application or nomination form in a format specified by the Bank.
- **Conditions of Use** means any terms or conditions issued by the Bank from time to time for a relevant Card type, to be provided by the Customer to each Cardholder to whom a Card of that type has been issued.
- **Corporate Cards Services** means the corporate cards services supplied to the Customer in accordance with this Services Schedule.
- **Customer Limit** means the maximum allowable outstanding balance on all Cards of a certain type as notified by the Bank to the Customer in writing from time to time.
- **Master Services Agreement** means the master services agreement that forms part of the Relationship Documents contained in the Customer Pack referred to in the Relationship Acceptance Form or the Service Amendment Form (as applicable) issued together with this Services Schedule.
- **Payment Date** means the date specified in the Statement which payment of the balance is to be received by the Bank.
- **PIN** means personal identification number.
- **Pricing Letter** means any guide or facts statement related to fees, charges, interest, pricing and/or pricing related matters that the Bank agrees with the Customer from time to time.
- **Statement** means the periodic statement issued by the Bank which sets out details of the Card balance and any interest, fees and charges.



# Canada Country Conditions

The following terms amend and/or supplement the Relationship Documents which shall apply to the provision of Services by the Bank to the Customer in Canada only ("Canada Country Conditions").

## 1 Use Accounts and Services

The Customer represents and warrants that it will not access or use the Account or Services for any illegal purpose, to evade the application of any Laws or for purposes of Financial Crime.

## 2 Electronic Disclosure

The Customer designates facsimile, electronic mail and all internet banking Services and electronic channels to which the Customer subscribes as information systems through which the Bank may deliver notices, documents and other information to the Customer. The Customer consents to the Bank using the above information systems to deliver notices, documents (such as disclosure statements and agreements) and other information that the Bank is required by law to provide to the Customer about product and service features, rates, fees, the Bank's policies and procedures and collection practices. The Customer understands that:

- (a) its consent is effective immediately;
- (b) it may revoke its consent at any time;
- (c) it must inform the Bank of any changes to its designated information systems, such as its facsimile number or email address; and
- (d) it should print and keep a copy of each document the Bank provides to it via its designated information systems and that the Bank may only keep and make copies available to it for the period specified in the Bank's record retention policy.

## 3 Commercial Electronic Messages

The Customer expressly consents to the Bank sending the Customer commercial electronic messages via any form of telecommunications and to the Bank installing computer programs on the Customer's systems for the purposes of the Customer's access to and use of the Accounts and/or Services.

## 4 Operation of Accounts

- 4.1 Bills of exchange, promissory notes, cheques, orders for payment of money, securities, coupons and notes are referred to here as "Instruments".
- 4.2 The absence of any contrary Communication, the Customer waives in favour of the Bank presentment, notice of dishonour and protest of any Instrument.
- 4.3 The Bank may note or protest any Instrument if the Bank considers it to be in the Customer's best interest to do so and the Bank shall not be liable for any failure to do so.
- 4.4 The Bank may restrict the availability of deposited funds relating to Instruments where irrevocable funds have not been received by the Bank.

## 5 Electronic Signatures

The Customer authorises the Bank to accept a reproduction or copy of a signature of an Authorised Person made or applied electronically, with a laser reproduction system, rubber stamp, or other printed endorsement or impression in place of an original signature, or transmitted electronically ("Electronic Signature") on an Instrument, Communication or contract. The Bank will not be liable for any Loss arising in connection with reasonable use of or reliance on an Electronic Signature.

## 6 Interest

Positive balances in Accounts shall bear interest, if any, at an annual rate and as disclosed to the Customer in accordance with the Bank Act (Canada) failing which positive Account balances will not bear interest.

## 7 Set-off

The Customer agrees that the Bank may consolidate and set-off any of the Customer's obligations owed to the Bank against any obligations owed to the Customer by the Bank, irrespective of currency.

## 8 Liability

The Bank will not be liable to the Customer for any Loss relating to an Instrument arising from or in connection with:

- (a) any act or omission by the Customer's employees, agents or other representatives;
- (b) any forged or unauthorised endorsement on, or alteration of, an Instrument drawn on or deposited to the Customer's Account; or
- (c) any forged or unauthorised signature upon an Instrument unless the Customer proves that the Loss was not caused in whole or in part by its failure to comply with any provision of the Relationship Documents, its failure to take reasonable precautions to control access to its banking activities or to supervise and monitor its employees, to promptly verify statements, or due to incomplete or incorrect information the Customer supplied to the Bank, and that the Loss was unavoidable despite the Customer having taken all reasonable steps to prevent the fraudulent or unauthorised conduct and resulting Loss.

## 9 Changes

The Bank may make amendments to the Relationship Documents, as contemplated by the Relationship Documents or for purposes of Compliance Activity, and may change provisions relating to fees and charges applicable to Services at any time by providing the Customer with at least 30 days' written notice, which may be provided in writing or posted on the Bank's website. The notice shall be deemed received by the Customer on the earlier of actual receipt of the notice by the Customer or on the date that the noticed of the amended provisions is posted on the Bank's website. If the Customer issues instructions or continues to access an Account or the Services after the effective date of the changes, the Customer will be deemed to have been notified and accepted the amended terms.

## 10 Termination

The Bank may terminate any or all Accounts and Services or the Relationship Documents at any time without notice to the Customer for Compliance Activity purposes. Nothing herein or in any Relationship Document limits the Customer's right to close an Account as set out in the Bank Act (Canada).

## 11 Law and Jurisdiction

The Customer submits to the non-exclusive jurisdiction of the courts of the Province in which the relevant Account is located or the relevant Service is provided.

## 12 Language

It is the express wish of the parties that the terms of the Relationship Documents be drawn up and executed in English. Il est de la volonté expresse des parties que les conditions relatives au compte soient rédigées en anglais.

## Direct Debit Country Conditions

These Clauses shall apply where the Bank provides a service to the Customer that facilitates the collection of claims by direct debit by the Customer, as the payee.

### 1 Interpretation

- **"Account Agreement"** means the relevant Relationship Documents or other account agreement between the Customer and the Bank which governs the general operation of each Bank Account.
- **"Bank Account(s)"** means the Customer's account(s) at the Bank designated in the EFT application form as being account(s) for which payment instructions may be taken through this Service.
- **"Cash Management PAD"** means a PAD drawn on the account of the Payor for the purpose of transferring, consolidating or repositioning funds between a Bank Account and an account at another financial institution, for the same business or closely-affiliated businesses.
- **"Channel Agreement"** means the agreement between the Customer and the relevant member of the Group which governs the Customer's use of electronic banking services through which the Customer transmits EFT Instructions to the Bank.
- **"Confirmation"** means the mandatory written notice from the Customer to the Payor prior to the first PAD wherein the details agreed to by the Payor in setting up an EFT agreement with the Customer are communicated in accordance with Appendix IV of Payments Canada Rule H1.
- **"EFT"** means Electronic Funds Transfer.
- **"EFT Instruction"** means a PAD.
- **"EFT Service Operating Guide"** means the operating instructions for the Customer's use of the Service from time to time issued or made available by the Bank to the Customer in a user guide or other communication.
- **"Electronic Service Interface"** means the electronic, computer and/or other information system (such as HSBCnet, HSBC Connect or HSBC File Exchange) designated on the EFT Application Form as the channel through which the Customer (or its agent) may transmit EFT Instructions for this Service.
- **"PAD"** means a pre-authorized debit issued at the instruction of the Customer that is drawn on an account of a Payor held by a Processing Institution.
- **"Payments Canada Rules"** means the Canadian Payments Act and all related by-laws, rules and standards.
- **"Payor"** means the owner of the account who has pre-authorized the Customer to issue PADs against their account.
- **"Payor's PAD Agreement"** means a continuing but revocable written or otherwise recorded authority that has been signed or otherwise authorised containing the mandatory provisions set out in Appendix II of Payments Canada Rule H1, given by the Payor to the Customer that provides an authorisation for the Customer to issue PADs against the Payor's account at its Processing Institution.

- **"Pre-notification"** means the required written notice by the Customer to the Payor of the amount or change in amount to a PAD and the date(s) of such debiting, prior to the date of the actual PAD.
- **"Processing Institution"** means a financial institution that holds the account of the Payor.
- **"Reimbursement Claim"** means either a duly completed and signed written statement of a Payor in the form set out in Payments Canada Rule H1 or a written or otherwise recorded communication from a Payor to its Processing Institution by way of internet, e-mail, telephone or other electronic means that has been authenticated pursuant to the Processing Institutions customary security measures relating to such means.
- **"Re-resentation Service"** means is a service provided by the Bank whereby the Customer may, in accordance with the Relationship Documents, instruct the Bank to re-submit a PAD transaction returned either for reason of "Non-Sufficient Funds" or "Funds Not Cleared" on a one-time only basis, for the same amount as the original debit.
- **"Sporadic"** means occurring occasionally, irregularly, intermittently, infrequently, periodically, and not at set intervals.

### 2 EFT Instructions - General

2.1 The Customer covenants and agrees as follows:

- (a) to provide the Bank with EFT Instructions in the form, formatted and containing the details specified in the EFT Service Operating Guide;
- (b) to transmit all EFT Instructions solely through the Electronic Service Interface (or as otherwise instructed by the Bank) and in accordance with the Relationship Documents, the Channel Agreement and any applicable Supplemental Services Agreement;
- (c) to comply with the EFT Service Operating Guide and any applicable Account Agreement, Channel Agreement and any Supporting Documents;
- (d) to comply with all applicable laws and Payments Canada Rules, including those relating to the processing, exchange and settlement of EFT Instructions;
- (e) to ensure that at no time the outstanding EFT Instructions submitted through the Service (including forward dated transactions) exceed any EFT limits; and
- (f) to provide full transparency and information as requested by the Bank as to the identity of payors and the purpose and nature of EFT payments.

2.2 The Customer further acknowledges and agrees that the EFT Instructions provided to the Bank under the Relationship Documents are Instructions subject to the terms and conditions of the Channel Agreement, any Supporting Documents and Account Agreement(s) with the Bank.

## 3 Pre-authorised Debit (PAD) Instructions

### 3.1 Payor's Approval

The Customer represents and warrants that each Payor on whose behalf any debit purports to have been drawn or direction purports to have been given shall have signed or otherwise duly authorised and delivered to the Customer an authority instructing the Customer to issue debits and, where applicable, shall have given the Customer a direction pursuant to such an authority to issue a debit as though it were signed or otherwise duly authorised by the Payor instructing such direction to be acted upon as though it were a written instruction signed by the Payor.

The Customer will indemnify the Bank if the form of any authorisation deviates from any requirements under the Payments Canada Rules, including but not limited to Payments Canada Rule H1, whether or not provided to the Bank prior to use.

### 3.2 Payor's Identity

The Customer will provide the Bank with its procedures for verifying the Payor's identity upon request.

The Customer will indemnify the Bank if it fails to correctly verify the Payor's identity using a commercially reasonable method.

### 3.3 Signing Authorities & Continuing Effect

The Customer represents and warrants that every PAD authorisation is signed by current, valid signing authorities for such Payor's account, remains in effect and has not been revoked or cancelled. The Customer shall verify the identity of Payors using a commercially reasonable method when entering into an electronic agreement as required by Payments Canada Rules.

### 3.4 Indemnity

The Customer will indemnify the Bank and any Processing Institution from and against any and all losses, costs, fees, damages, expenses, liabilities, claims, suits and demands whatsoever that the Bank or any applicable Processing Institution may suffer, incur or be under or that may be made or brought against the Bank or any such Processing Institution by reason of or in any way arising out of the action in drawing and issuing any debit issued by the Customer, except where such loss, costs, fees, damages, expenses, liabilities, claims, suits or demands result from erroneous information provided or an error committed by the Bank or any Processing Institution. In addition, the Customer undertakes to reimburse the Bank for any claim paid by the Bank as a result of a Reimbursement Claim filed by a Payor or other person alleging that a PAD was not drawn in accordance with the Payor's PAD Agreement, a Payor's PAD Agreement was revoked, any required Pre-notification was not given at least 10 calendar days before the date a related PAD was processed to the account of a Payor, Confirmation was not provided in accordance with section 16 of Payments Canada Rule H1 or no Payor's PAD Agreement existed between the person making the Reimbursement Claim and the Customer with respect to a particular PAD. The Customer shall be liable for any interest claim associated with the return of a PAD for the reason that no Payor's PAD Agreement existed between the Customer and the Payor with respect to the returned PAD.

### 3.5 Compliance with Payments Canada Rules

The Customer represents and warrants that it is familiar with and will abide by, comply with, respect and apply all relevant provisions of the Payments Canada Rules in force from time to time as they apply to PADs including, without limitation, the Confirmation/Pre-notification requirements or waiver of Pre-notification requirements and cancellation requirements as set out in Payments Canada Rule H1.

## 3.6 Notices of Change

The Customer undertakes and agrees to:

- (a) accept and act on any notice of change of a Payor's payment routing information that it receives from the Bank; and
- (b) deem such notice of change to be that Payor's authorisation to change its relevant payment routing information, provided that the Bank shall be responsible to the Customer only for the accuracy of information provided in any such notice of change that it provides to the Customer.

## 3.7 Re-presentation

In the event that the Bank advises the Customer that it will offer Re-presentation Services as part of this Service, the following shall apply. The Customer provides instruction to the Bank in accordance to the Relationship Documents that upon the return of a PAD for reason of "Non- Sufficient Funds" or "Funds Not Cleared", the Bank may re-present the PAD electronically on behalf of the Customer on a one-time only basis for the same amount as the original debit within 25 calendar days. A re-presentation shall not contain interest, "Non- Sufficient Funds" charges or any other charges in addition to the original PAD amount.

## 3.8 Cancellation

The Customer agrees that, subject to the expiry of any reasonable cancellation notice period (which shall not exceed 30 calendar days) that has been clearly set out in any agreement between the Payor and the Customer (including in a Payor's PAD Agreement), upon receipt by the Customer of any written or otherwise oral communication from a Payor clearly instructing the Customer to cease issuing PADs or otherwise revoking a Payor's PAD Agreement or an authorisation to issue PADs, the Customer shall use its best efforts to cancel the PAD in the next business, billing or processing cycle but shall within not more than 30 calendar days from the notice cease to issue any new PADs against the Payor and not issue any further PADs against that Payor unless and until that Payor provides the Customer with a new Payor's PAD Agreement.

## 3.9 Informing Payor

The Customer will, prior to issuing a PAD, inform the Payor of the recourse, notification and all other provisions of Payments Canada Rule H1 relevant to Payors. The Customer agrees that it will make the terms and conditions of the Payor's PAD Agreement available to the Payor. Where possible, the Customer will provide each Payor with a copy of the authorisation signed by that Payor.

## 3.10 Payor Acknowledgement Required for Cash Management PADs

For Cash Management PADs where the Customer and the Payee are the same person, the Payor must provide a continuing but revocable authorisation to the Customer to debit its designated account with such Cash Management PADs in a form that constitutes proper authority for the Payor's Processing Institution to debit the Payor's account as may be set out in the Payor's account agreement with its Processing Institution and as otherwise required by Payments Canada Rules.

For Cash Management PADs where the Customer and the Payee are not one and the same entity, but are closely-affiliated businesses, in addition to the other requirements in CPA Rule H1, the Payor shall sign or duly authorise this Agreement related to that Cash Management PAD in a form that constitutes proper authority for the Payor's Processing Institution to debit the Payor's designated account as may be set out in the Payor's account agreement with its Processing Institution prior to any Cash Management PADs being issued against the Payor's account and as otherwise required by Payments Canada Rules.

## 3.11 Sporadic PADs

Where the Customer intends to issue Sporadic PADs against a Payor, the Customer agrees and undertakes to obtain due authorisation from the Payor in accordance with Payments Canada Rule H1 for each and every Sporadic PAD that it issues.

## 3.12 Record-Keeping and Inspection

The Customer undertakes to:

- (a) retain records, including Payors' PAD Agreements and evidence of Payors' authorisation for a minimum of 12 months following issuance of a PAD; and
- (b) provide evidence of the authority of a Payor for whom the Bank has issued or caused to be issued any PAD within a reasonable time, upon the request of the Payor, an authorised representative of the Payor (including the Payor's Processing Institution) or the Bank.

## 3.13 Assignment

The Payor's PAD Agreement shall not be assigned by the Customer, whether directly or indirectly, by operation of law, change of control or otherwise, except if the Customer has:

- (a) an assignment clause that is prominently displayed in the Payor's PAD agreement, or if the Confirmation contains (in addition to the clauses on the mandatory form set out in CPA Rule H1) an assignment clause that is prominently displayed, (e.g. in bold print, highlighted or underlined) and the Customer has provided to the Payor written notice of the full details of such assignment including the identity and contact information of the assignee; or
- (b) provided the Payor prior written notice of the full details of such assignment, including the identity and contact information of the assignee, a minimum of ten (10) calendar days in advance of the next PAD being issued in the assignee's name.

## 3.14 Customer's Name Change

The Customer will provide a minimum of ten (10) calendar days' written notice to the Payor in advance of the next PAD, where the Customer's name has changed.

## 4 Termination

The Bank may terminate this Service at any time without prior notice to the Customer. The Customer may terminate this Service at any time by giving thirty (30) calendar days' written notice of termination to the Bank at any branch where a Bank Account is located. Upon termination of the Service the Bank may in its absolute discretion and without notice or liability to the Customer cancel or process payment instructions, including forward dated transactions that have not yet been processed as of the date of termination. The Bank may change the terms of the Service upon thirty (30) calendar days' written notice to the Customer. Notices with respect to this Service may be delivered by either party by hand, mail, courier, fax or electronic transmission to the address of the other specified in any Account Agreement, Channel Agreement or Supplemental Services Agreement(s). Notwithstanding any termination, the provisions of CPA Rule H1 shall continue to apply with respect to any PAD drawn and issued or other media delivered by the Bank in accordance with the Relationship Documents and the disclaimer, liability limitations and indemnities in the Relationship Documents shall survive expiration or termination of the Relationship Documents.

## Incoming Bill Payments Country Conditions

These Clauses shall apply where the Bank provides a service to the Customer that facilitates the collection of bill payments.

### 1 Interpretation

- "CCIN" means the Corporate Creditor Identification Number issued or to be issued by Payments Canada to the Customer in connection with the Remittances and which is the subject of the Relationship Documents.
- "Corporate Creditor Agreement" means an agreement between the Customer and a financial institution substantially similar to this agreement in respect of the CCIN.
- "Payments Canada Rules" means the Rules and Standards of Payments Canada, however named, as amended from time to time.
- "Payor" means a customer of the Customer who pays bills issued by the Customer at or through the Payor's financial institution.
- "Remittance(s)" means the portion of the Customer's invoice(s) which conform(s) to Part II of Payments Canada Rule H6, or the electronic data representing the invoice.

### 2 Appointment of Bank

The Customer appoints the Bank as its lead financial institution to provide bill payment remittance processing in connection with the CCIN.

### 3 Other Agreements

The Customer shall not enter into any other Corporate Creditor Agreement in relation to the Remittances using the CCIN while the Relationship Documents are in force.

### 4 Use of CCIN

The Customer shall use the CCIN only in connection with the Remittance(s) and shall not use it for any other purpose which does, or is likely to, interfere with the processing of Remittances or other payments items.

### 5 Compliance with Payment Canada Rules

The Customer shall comply with all applicable Payments Canada Rules regarding bill payment remittances, including, without limitation, Payments Canada Rule H6.

### 6 Delivery of Remittances to Customer

The Bank may decline to process any Remittance received in a format that does not comply with a delivery format specified by the Bank.

### 7 Deemed Payment by Payor

The Customer acknowledges and agrees that a Payor shall be deemed to have paid the Remittance amount on the day on which the Payor made the bill payment at the Payor's financial institution or on the next business day where the Payor has been so notified by its financial institution.

## 8 Bank's Liability

The Bank makes no representation or warranty respecting any financial institution's agreement or willingness to accept Remittances.

## 9 Returned Items

The Customer acknowledges that the Bank may charge the Customer's account, and that the Customer will reimburse and indemnify the Bank for, the amount of any Remittance that is subsequently dishonoured, revoked or recalled by a Payor or its financial institution for any reason, whether in accordance with Payment Canada Rules or otherwise.

## 10 Termination or amendment

This Service may only be terminated or subsequently amended by either party on a minimum of ninety (90) calendar days' written notice to the other party.

## 11 CCIN Termination

The Service shall be terminated immediately upon the revocation of the Customer's CCIN by Payments Canada pursuant to Payments Canada Rules.

## Corporate Card Country Conditions

The following are specific terms which amend and/or supplement the Corporate Card Services Schedule in respect of the Services provided by the Bank to the Customer in Canada only ("Canada Corporate Card Country Conditions").

### 1 General

1.1 USE OF CORPORATE CARD SERVICES. Customer agrees to use the Corporate Card Services in accordance with any supplemental agreement, implementation guide or product and service guide issued by the Bank from time to time.

1.2 ENTIRE AGREEMENT. The Relationship Documents contain the entire understanding and agreement between the Customer and the Bank regarding the subject matter hereof. Neither the Customer nor the Bank shall be bound by or be liable for any alleged representation, promise, inducement, statement or intention not set forth herein.

1.3 APPLICABLE LAW. These Canada Country Conditions, the Relationship Documents and any other obligations arising thereunder shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to rules of conflicts of laws.

#### 1.4 DAMAGE EXCLUSION

The Bank shall have no liability to the Customer or any other person for any consequential, special or other damages, including without limitation aggravated damages, punitive and exemplary damages, damages for lost profits, or loss or injury as a result of any wrongful dishonor, resulting from any injury or loss caused by any error, act, delay or omission by the Bank even if the Bank has been advised of the possibility of such injury or loss.

1.5 CAPITALIZED TERMS. Capitalized terms used but not defined in this Canada Corporate Cards Country Conditions shall have the meanings given to them in the Relationship Documents.

- **Affiliate** means a parent, subsidiary or other legal entity under common control with a party. "**Common Control**" means 50% or more common ownership.
- **Affiliate Participant** means any of the Affiliates of the Customer

which are approved by the Bank, and which sign an Affiliate Participation Agreement, pursuant to which such Affiliate agrees to all the terms and conditions thereof.

- **Billing Currency** means the currency in which transactions are reported on the Statements (Canadian dollar or United States dollar).
- **Card Administrator(s)** means any of the Customer's employees, agents and any other individuals authorized by the Customer to issue Cards and/or to access Card details of any Cardholder for administration of the Corporate Cards Services on behalf of the Customer.
- **Loan(s)** means an advance of money from the Bank obtained by: (i) using a Card to obtain a cash advance at a financial institution; (ii) using a Card to obtain cash at an automated teller machine; or (iii) any other available electronic or telephonic method.
- **Portal(s)** means the web-based user interfaces made available to the Customer from time to time for the Customer to manage its part of the Corporate Card Services.
- **Purchase(s)** means a purchase or lease of goods or services from a merchant that participates in the Mastercard® commercial credit card program.
- **Purchase Control Strategy** means a restriction requested by the Customer on the use of a Card issued to a Cardholder.

### 2 Canadian Corporate Card Program and Issuance

2.1 MASTERCARD® MEMBERSHIP. The Customer understands that benefits enjoyed by the Customer as a result of the Bank's Mastercard® membership may be terminated or amended at any time at the sole option of Mastercard®, without notice to either the Bank or the Customer.

2.2 FOREIGN CURRENCY. All transactions made in a currency other than the Billing Currency will be converted to a Billing Currency at an exchange rate in effect on the date the conversion takes place. The exchange rate used for currency conversions is determined by Mastercard®. In addition, for each foreign currency transaction, Customer will be subject to the foreign currency conversion fee set out in the Pricing Letter. The Statement will reflect the transaction in the Billing Currency.

2.3 CHANGES TO CARDHOLDER STATUS. Promptly following any changes to Cardholder status, the Card Administrator(s) shall update the applicable fields on the Portal(s), or notify the Bank by email or telephone if a Portal is not available.

### 3 Credit Line Limits and Purchase Control Strategies

3.1 The Bank shall establish the Customer Limit under the Corporate Card Services. Initially, the Customer shall advise the Bank in writing of the names, Card Limits, and Purchase Control Strategies for the Customer's authorized Cardholders. The individual Card Limits and Purchase Control Strategies may be amended from time to time, by the Customer and/or the Customer's Card Administrator(s) for individual Cardholders via the Portal(s). In addition, the Bank has the right to monitor all Card(s) activity Accounts, adjust Customer Limits and Card Limits and Purchase Control Strategies, in its sole and absolute discretion.

3.2 The Customer agrees that the Customer will not knowingly permit Cardholders to make a transaction that would exceed the Card Limit or the Customer Limit. The Bank may, in its sole discretion, permit the aggregate indebtedness incurred to exceed the Customer Limit or any Card Limit. The Customer shall be liable to the Bank for any such excess amount and shall pay such excess amount, together with interest accrued thereon, to the Bank, on demand.



## 4 Commercial Card Portal(s) Access

- 4.1 The Customer may appoint Card Administrator(s) in accordance with the Bank's requirements. The Bank shall not be responsible for and will not give or remove access to the Portal(s) unless and until written notice is received in accordance with the Bank's requirements. Upon receipt of written notice from the Customer, the Bank will remove any Card Administrator's access within two (2) Business Days. The Bank reserves the right to revoke access to the Portal(s) for the Customer or any user, at any time, with or without cause, and without notice.
- 4.2 The Portal(s) are made available for the Customer's internal use only, and may not be otherwise copied, displayed, distributed, downloaded, disassembled, reverse engineered, modified, published, transmitted, incorporated in other products or services, or otherwise used for public or private or commercial purposes, without the Bank's express written permission. The Customer assumes sole responsibility and liability for all requests, changes and modifications made on the Portal(s) and will indemnify and hold the Bank harmless from any claims relating to such access. The Customer understands that the information available through the Portal(s) is updated periodically and therefore, at any point in time, may not reflect the information on the Bank's records at such time.
- 4.3 The Customer is responsible, at the Customer's own expense, for obtaining, installing, maintaining, and operating all internet access services, any computer hardware or software necessary for accessing and utilizing the Portal(s), and for providing appropriate security with respect thereto. The Bank will not be liable for any errors, failures, interruptions, or security breaches in the Customer's internet services, any data that is lost or destroyed in connection with the use of the Portal(s), or the Customer's inability to use the Portal(s) due to a mechanical failure of the Customer's or any third party's hard drives, personal computers, servers or other systems or hardware.
- 4.4 The Portal(s), the information contained therein, and any reports or other materials generated by or in connection with the Portal(s) are the Bank's sole property.

## 5 Representations, Warranties & Undertakings

- 5.1 The Customer represents and warrants to the Bank that there is no pending or threatened claim, audit, investigation, action or other legal proceeding or judgment, order or award of any court, agency or other governmental authority or arbitrator which involves the Customer or its assets which the Customer is aware of, which might have a material adverse effect upon the Customer or threaten the validity of the Relationship Documents or any related document or transaction.
- 5.2 The Customer will immediately notify the Bank of: (i) any such action noted above; (ii) any change in the Customer's address; (iii) any material change in the Customer's ownership or management; or (iv) any material adverse change in the Customer's ability to pay amounts to become due under the Corporate Cards Services.

## 6 Interest Rate and Calculation

- 6.1 In the event the balance on any Card is not paid in full by the Payment Date indicated on the Statement, interest will be charged on the unpaid amount at an annual interest rate disclosed in the Pricing Letter or any amendments thereto. Interest accrues daily and is calculated by applying the daily periodic rate to the unpaid balance each day on the basis of a year of 365 days. Interest is charged on a periodic basis and will appear on the Statement.

6.2 Notwithstanding any provision herein to the contrary, in no event will the aggregate "interest" (as defined in section 347 of the *Criminal Code* (Canada)) payable under the Relationship Documents exceed the maximum effective annual rate of interest on the "credit advanced" (as defined in that section 347) permitted under that section and, if any payment, collection or demand pursuant to the Relationship Documents in respect of "interest" (as defined in that section 347) is determined to be contrary to the provisions of that section 347, such payment, collection or demand will be deemed to have been made by mutual mistake of the Customer and the Bank and the amount of such payment or collection will be refunded to the Customer. For purposes of the Relationship Documents, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Relationship Documents on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Agent will be *prima facie* evidence, for the purposes of such determination.

6.3 Interest on Purchases begins to accrue from the date transactions are made but will not be charged if payment in full is received by the Bank by the payment due date indicated on the Statement. Interest on Loans begins to accrue from the date such Loan is advanced and is always charged irrespective of payment in full being received by the Bank by the payment due date indicated on the Statement. Interest on Loans stops accruing once a payment is received which covers the full amount of the Loan transaction(s).

## 7 Affiliate Participants

7.1 Customer may designate one or more Affiliates to be considered by the Bank to participate in the Corporate Card Services as Affiliate Participants. Any Affiliates of the Customer which are approved by the Bank must sign an Affiliate Participation Agreement with the Bank in the form provided by the Bank.

7.2 Customer shall be responsible and liable to the Bank for each Affiliate Participant's compliance with, and fulfillment of, the terms and conditions of this Agreement. Customer represents and warrants to, and covenants with, the Bank that it has the power and authority to accept such responsibility and liability and further that Customer has the authority to act for itself and to bind any Affiliate Participant with respect to any and all matters relating to this Relationship Documents, including without limitation, obtaining or requesting credit, satisfying payment obligations, acceptance of notices (which will be effective against any Affiliate Participant even if such notices or other communications are sent only to the Customer), issuing instructions and agreeing to waivers, or modifications or amendments to the Relationship Documents. Customer expressly agrees that the Bank may look to Customer for payment of any amounts owed by an Affiliate Participant under the terms of the Relationship Documents, whether or not the Bank shall have first proceeded against any such Affiliate Participant. The Bank shall have no direct liability or obligation to any Affiliate Participant and Customer shall be the only entity entitled to make a claim against the Bank on behalf of itself or an Affiliate Participant under or in connection with the Relationship Documents.

7.3 Customer agrees to indemnify and hold the Bank harmless from and against any and all claims, losses, damages, expenses and costs of any nature whatsoever (including but not limited to reasonable legal fees and court costs and those costs incurred in the enforcement of the Relationship Documents) arising from or relating to:

- (i) the unenforceability, invalidity or illegality of the Relationship Documents as against any Affiliate Participant;
- (ii) any Affiliate Participant's participant in the Corporate Cards Services or its failure to comply with the terms of the Relationship Documents; and
- (iii) any and all claims or actions by an Affiliate Participant against the Bank; provided, however that Customer shall not be obligated to indemnify the Bank for claims, losses or damages attributable to the Bank's gross negligence or wilful misconduct.

Customer expressly agrees that any such liability or indemnity obligation shall be joint and several (and in Quebec, solidarily) with the liability or obligation owed by the Affiliate Participant. This Section 7 shall survive termination of the Relationship Documents.

## Cash Concentration Country Conditions

The following are specific terms which amend and/or supplement the Cash Concentration Services Schedule in respect of Services provided thereunder ("Cash Concentration Canada Country Conditions").

- 1 The Cash Concentration Services may result in inter-company loans and benefits. The Bank has no obligation to determine the amount, if any, of inter-company loans or benefits that may arise from the operation of the Cash Concentration Services.
- 2 The Customer confirms and acknowledges, on behalf of itself and each of the Participants; (i) its understanding of the Cash Concentration Services; (ii) receipt of satisfactory consideration in respect of the Cash Concentration Services; (iii) it will seek independent legal and tax advice with respect to the Cash Concentration Services as it considers appropriate; and (iv) it is responsible for any tax consequences and other costs that may arise in connection with the Cash Concentration Services. The Bank makes no representation as to the tax or accounting consequences of the Cash Concentration Services for the Customer and each of the Participants.
- 3 The Customer represents and warrants on entering into the Cash Concentration Services Schedule and continually while the Cash Concentration Services are provided to it that the execution, delivery and performance of the Cash Concentration Services Schedule is in the Customer's corporate interest and will not constitute or result in a breach of any order of any court, governmental authority or regulatory body or any law or regulation, including without limitation, any law or regulation governing the provision of financial assistance by a corporation.

## Cheque Outsourcing Services (COS)

These Clauses shall apply where the Bank provides a way for the Customer to send electronic instructions for bulk issuance of paper instruments (domestic and cross-border) by the Bank.

## 1 Authorisation and Binding Effect

- 1.1 The Customer represents and warrants that the person(s) signing the Application Form is/are authorised to delegate cheque preparation, signing and issuance activities to the Bank.
- 1.2 The Customer acknowledges and agrees that all cheques prepared and delivered on behalf of the Customer by the Bank under the Cheque Outsourcing Service are valid and binding on the Customer, and that the Bank may enforce any rights arising in favour of the Bank in connection with the cheques as drawee, holder or otherwise, as if the cheques were prepared, signed and issued directly by the Customer. Without limitation, the Customer confirms that the preparation, signature and issuance of cheques as contemplated by the Cheque Outsourcing Service, including the affixation of electronic signatures to cheques by the Bank, comply with requirements of any signing authorisations, resolutions and by-laws of the Customer.

## 2 Volume and Schedule

The Customer will provide the Bank with an estimate of its schedule and volume of payment instructions prior to implementation and at least 30 days prior to any material change in such schedule or volume.