

## General Part Harmonised Business Conditions

### 1. Interpretation

#### 1.1 Scope of interpretation

The Harmonised Business Conditions apply to all present and future relations between the Bank and the Customer, subject to Clause 1.3(a). The Harmonised Business Conditions include the applicable Country Conditions, which as between the Customer and the Bank, shall be the Country Conditions specified in the applicable account opening arrangements.

#### 1.2 Definitions

In this General Part and, where the context so permits, in the Country Conditions:

**"The Royal Bank of Scotland"** means:

- (a) The Royal Bank of Scotland N.V., acting through its head office and/or any branch;
- (b) any Affiliate of The Royal Bank of Scotland N.V., acting through the Affiliate's head office and/or any branch; or
- (c) any successor to The Royal Bank of Scotland N.V.

**"Account"** means each account of the Customer held at the Bank in a jurisdiction where the Customer and the Bank have agreed to be bound by the Harmonised Business Conditions.

**"Affiliate"** means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person or any entity directly or indirectly under common control with that person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

**"Authorised Signatory"** means each person authorised (whether solely or jointly) to operate an Account or enter into any agreement or transaction with the Bank on behalf of the Customer.

**"Bank"** means that head office or branch of The Royal Bank of Scotland that has agreed with the Customer to be bound by the applicable Harmonised Business Conditions.

**"Business Day"** means any day on which banks in the relevant jurisdictions are generally open for business and as required for the execution of the relevant transaction or service, other than weekends and local bank holidays.

**"Communication"** means any notice, order, instruction or other communication between the Customer and the Bank.

**"Country Conditions"** means, in relation to each jurisdiction, the local country conditions for that jurisdiction which amend or supplement this General Part.

**"Customer"** means a customer of the Bank that agrees to be bound by the Harmonised Business Conditions.

**"General Part"** means this part of the Harmonised Business Conditions.

**"Harmonised Business Conditions"** means this General Part, any applicable Country Conditions and any applicable account opening arrangements (each, as may be amended from time to time).

**"Liabilities"** means all present and future obligations and liabilities (whether actual or contingent) of the Customer to the Bank and/or its Related Entities.

**"Payment Instrument"** means any personalised device(s) and/or set of procedures agreed between the Bank and the Customer and used by the Customer to initiate a payment transaction.

**"Payment Order"** means any consent given by the Customer to the Bank requesting execution of a payment transaction (where as an individual payment transaction or a series of payment transactions).

**"Related Entity"** means any subsidiary, branch, office or other part of The Royal Bank of Scotland plc other than the Bank.

**"Statement"** means any statement, confirmation or advice (whether in written or electronic form) supplied by the Bank to the Customer.

**"Unique Identifier"** means the combination of letters, numbers or symbols specified from time to time to the Customer by the Bank (e.g. the beneficiary's account number and sort code) to be provided by the Customer to the Bank to identify unambiguously the beneficiary to the Payment Order and/or the beneficiary's payment account.

### 1.3 Interpretation

- (a) In the event of conflict between the Country Conditions and this General Part, the Country Conditions shall prevail.
- (b) In the event of conflict between the Harmonised Business Conditions and any terms, conditions or provisions applying to specific products or services provided by the Bank, the terms, conditions or provisions of the latter, shall prevail.
- (c) Subject to paragraph (b) above, the Harmonised Business Conditions shall supersede any term, provision or condition previously agreed with or entered into by the Customer in connection with its relationship with the Bank in the jurisdiction where the Account is located. Without prejudice to any security or right granted by the Customer in favour of the Bank and/or any of its Related Entities, any existing account opened by the Customer with the Bank shall be considered an Account and shall be subject to the Harmonised Business Conditions.
- (d) Nothing in the Harmonised Business Conditions shall constitute a commitment by the Bank to provide the Customer with any overdraft or other credit facilities or any other product, service or relationship.
- (e) Persons may acquire or claim rights only from the Harmonised Business Conditions, with particular reference to the Country Conditions, applicable to the jurisdiction in which the Account is located.
- (f) Words importing the singular shall include the plural and vice-versa.
- (g) In the Harmonised Business Conditions, unless the context requires otherwise, a reference to a person shall be construed so as to include its successors, assignees and transferees.
- (h) If the Harmonised Business Conditions are translated into a language other than English, the English language version shall prevail.

## 2. Interest and Default Interest

### 2.1 Interest

- (a) The Bank will only credit interest to an Account that is agreed with the Customer to be interest bearing.
- (b) The Bank may debit interest payable by the Customer from any Account.
- (c) The Bank will credit or may debit (as the case may be) interest to or from an Account with such frequency and at such rates as:
  - (i) are agreed between the Bank and the Customer; or
  - (ii) in the absence of agreement, the Bank notifies to the Customer by Communication from time to time and such frequency or rates shall become effective 15 days after receipt or deemed receipt by the Customer of the Communication.

### 2.2 Default interest

If the Customer fails to pay any amount payable by it under the Harmonised Business Conditions, it shall on demand by the Bank pay interest on the overdue amount from the due date up to the date of actual payment at such a rate as:

- (a) is previously agreed between the Bank and the Customer; or
- (b) in the absence of agreement, the Bank notifies to the Customer by Communication from time to time and such rate shall become effective 15 days after receipt or deemed receipt by the Customer of the Communication.

## 3. Operation of an Account

### 3.1 General duties of the bank and the customer

- (a) The Bank and the Customer shall exercise reasonable skill and care in all their present and future dealings with each other. In ascertaining whether or not a party has exercised reasonable skill and care, parties shall have regard to the then current applicable laws and regulations and established commercial practices:
  - (i) in the case of the Bank, practised by a bank comparable to the Bank in the banking industry in the relevant jurisdiction; and
  - (ii) in the case of the Customer, practised by a commercial entity comparable to the Customer in the relevant sector.
- (b) The Customer will not act or omit to act in a manner that may facilitate fraud, forgery or similar misconduct, including but not limited to the use of Payment Instrument other than in accordance with the terms agreed to.

### 3.2 Opening and maintaining an account

The Customer will provide the Bank with any information, authorisation or other document, which the Bank considers necessary in connection with opening and maintaining an Account including, without limitation, provision of specimen of the signature of each Authorised Signatory.

### 3.3 Notification of change

- (a) The Customer will promptly notify the Bank in writing of any change in:
- (i) its name or address;
  - (ii) the authority of any Authorised Signatory even if such a change has been recorded in a public register; or
  - (iii) any of the information, authorisation or document provided by the Customer under Clause 3.2

Until such time as the Bank has received notice of any change, it is entitled to rely on any information, authorisation or document previously provided to it.

### 3.4 Statements and bank records

- (a) The Customer shall:
- (i) promptly examine all Statements; and
  - (ii) check whether the instructions given by or on behalf of the Customer have been executed correctly and in full by the Bank and shall notify the Bank of any error or omission as soon as possible.  
  
If the Customer has not informed the Bank in writing of any error or omission contained in any Statement, or in the execution of any instructions, within 45 days of the date on which the Customer's account was credited or debited, the Customer shall be deemed to have:
  - (iii) confirmed the accuracy of the contents of any such Statement; and
  - (iv) waived its right to bring an action against the Bank in respect of any error or omission which could have been brought to the attention of the Bank within the said time limit.
- (b) Without prejudice to the provisions of Clause 14.2(b) below and the Bank's rights and remedies on failure of the Customer to meet its obligations pursuant to paragraph (a) above, if the Customer does not receive a Statement within 21 days of the date on which the Customer should ordinarily expect to receive such a Statement, it shall immediately notify the Bank and request a copy.
- (c) The Bank's records and statements as to dates, amounts or rates shall, in absence of manifest error, be conclusive evidence of the facts reflected in those records or statements.

### 3.5 Cheques and payment orders

- (a) The Bank may provide cheques to the Customer. The Customer shall indemnify the Bank against all losses, costs and liabilities incurred by it which may arise in connection with the loss, theft, fraud, misuse or dishonour of any cheque. The Customer shall notify the Bank as soon as possible of the loss or theft of any cheque and shall destroy or return to the Bank any unused cheques and related materials upon the closure of any Accounts.
- (b) If the relevant Account does not contain sufficient available funds (or if the limit of any overdraft facility made available by the Bank to the Customer is insufficient) or has been attached, or any comparable event occurs, the Bank is not obliged to execute or process any Payment Order but may, at its absolute discretion:
- (i) execute a Payment Order, whether in whole or in part; and/or
  - (ii) execute Payment Orders in whatever order it sees fit.

- (c) The Bank or any Related Entity, in accordance with the Harmonised Business Conditions, shall execute a Payment Order on the instructions of the Customer and debit or credit (as appropriate) the relevant Account.

### **3.6 Consent and authorisation**

- (a) The Payment Order is to be in the agreed form and shall be authorised, in the agreed manner, by the Customer. The Bank may, in its discretion, refuse to accept a Payment Order that is not in the agreed form or when the Customer has not given its consent.
- (b) In executing a Payment Order, the Bank or any Related Entity shall rely exclusively on the payee's Unique Identifier.
- (c) The Bank is permitted, at its absolute discretion, to accept or to agree to accept authorisation for a transaction after the execution of such transaction. If the Bank accepts authorisation after execution, the transaction will be deemed to have been authorised by the Customer prior to execution.

### **3.7 Timing and execution**

The point in time of receipt of a Payment Order is:

- (a) The time the Bank receives the Payment Order if this is before the agreed cut-off time on a Business Day. Payment Orders that are received after the cut-off time or on a non-Business Day will be deemed to have been received on the following Business Day; or
- (b) The time established by agreement between the Bank and the Customer as the time to begin execution of the Payment Order.

### **3.8 Dealings with itself and third parties**

The Bank is authorised to deal with and use the services of third parties and/or deal with itself in executing orders, performing agreements and depositing goods and/or documents of title in custody and for any other purpose in connection with its relations with the Customer. The Bank shall exercise reasonable skill and care in the choice of such third party provided that the Bank shall at no time be liable for any loss, damage or liability arising from the act or omission of any such third party.

### **3.9 Reverse entries and correction of errors**

- (a) If, at any time, the Bank credits any Account in anticipation of the receipt of funds, securities or other items of value at a later time, the Bank may debit that Account to the extent that such funds, securities or other items of value:
  - (i) are not actually received for value in the relevant currency at such later time; or
  - (ii) are received but, as a result of, error, omission, negligence or fraud on the part of the transferor or other relevant third party in relation to their transfer, the Bank is required to refund or return such funds, securities or other items of value to the transferor or other relevant third party.
- (b) The Bank or the Customer shall notify the other party of any error or omission it discovers in any Communication from the other party and the relevant party shall correct that error or omission as soon as possible.
- (c) Any adjustment made to give effect to paragraphs (a) or (b) above shall, so far as possible, be made for value on the date on which the credit was made by the Bank or (as appropriate) to which the error or omission related. Where such an adjustment is not possible, the adjustment actually

made shall have the same economic effect as if made on that date. If any exchange of currency is required, the rate used by the Bank shall be the one available to it at the time of the exchange.

### **3.10 Payment and clearing systems**

- (a) For the purposes of giving effect to any Communication, the Bank or any Related Entity is authorised to use any payment or clearing system or intermediary bank it reasonably selects. The Bank or any Related Entity shall act in accordance with the rules and regulations from time to time of such payment or clearing system and (in respect of reimbursement, documentary collection and letter of credit related services) with guidelines and procedures of the International Chamber of Commerce in effect at the time of performance unless otherwise agreed.
- (b) The Bank may from time to time at its discretion communicate to the Customer the mandatory cut-off times applicable to Payment Orders given by the Customer to the Bank to effect a Payment Order with the required times for transfer, clearing and settlement of the funds. Should a Payment Order be received by the Bank after the established cut-off time as communicated to the Customer, the Customer shall have no right to require from the Bank execution of the Payment Order on the same Business Day and the Bank shall be entitled to execute the Payment Order on the next Business Day.

### **3.11 Recording of telephone conversations**

The Bank and the Customer may record telephone conversations between them and both parties consent to such recording. Both parties may use such recordings in evidence should any dispute arise between them.

### **3.12 Performance**

Without prejudice to Clause 5(b)

- (a) only the Bank (and not any of its Related Entities) shall be obliged to perform the Bank's obligations in respect of each Account or other product or service to which the Harmonised Business Conditions apply; and
- (b) the Bank shall only be obliged to perform those obligations in the currency in which they are denominated although, where any restrictions or controls are imposed on the availability, convertibility or transfer of any funds of the Customer or any other person (whether before, on or after maturity and in whatever jurisdiction those controls or restrictions are imposed), the Bank may (but shall not be obliged to) perform those obligations in any currency, at any rate and in any manner which in each case it reasonably determines, and such performance shall constitute a good and valid discharge of those obligations.

### **3.13 Blocking of payment instruments**

The Bank reserves the right to block any Payment Instrument if it has reason to believe that:

- (a) the security of the Payment Instrument has been compromised;
- (b) there has been unauthorised or fraudulent use of the Payment Instrument;
- (c) the payer may be unable to fulfil his liability to pay;
- (d) the Payment Instrument may be used in violation of sanctions legislation, anti-money laundering or terrorism financing legislation.

#### 4. Fees

The Bank may impose such costs and charges in respect of its services in connection with the Accounts and such other services or products to which the Harmonised Business Conditions are applicable as are agreed with the Customer from time to time. Agreed costs and charges shall be confirmed in writing by the Bank. In the absence of any such agreement, the Bank may impose such costs and charges as may be usual for the Bank to impose and may vary the amount and the means of calculating those costs and charges upon prior notice to the Customer. The Customer shall be deemed to agree to such costs, charges or variation 15 days after receipt or deemed receipt by the Customer of the notice. The Bank may (without notice) debit the amount of all costs and charges to any Account. All payments by the Customer under this Clause 4 shall be made free of withholding or deduction on account of tax or other charges.

#### 5. Liability

- (a) The Bank shall be liable only for its negligence or wilful misconduct.
- (b) The Bank shall not be liable for any consequential loss, damages or loss of profit to the Customer notwithstanding that the Customer may have advised the Bank of the possibility of such loss or damage.
- (c) The Bank or any of its Related Entities shall not be liable for any loss or damage, arising from any delay or failure to perform any obligation to the Customer where such delay or failure results from its compliance with what it reasonably considers to be its obligations (i) under any legal enactment, decree or moratorium or any regulation, rule, practice or act, inaction, direction or guideline of a public authority (de jure or de facto); (ii) exchange control or currency restrictions and taxes, levies or imposts applicable to any Account balance (or part of it) attributable to the Customer; or (iii) sanctions legislation, anti-money laundering or terrorism financing.
- (d) Neither the Bank nor any of its Related Entities nor the Customer shall be liable for any loss or damage, arising from any delay or failure, to perform any obligation, when such delay or failure results from:
  - (i) an intervention of a public authority (de jure or de facto), an act of nationalisation, confiscation or expropriation, an act of war, a violent or armed action or inaction; or
  - (ii) a failure of a payment or communications system, a power failure, a breakdown of equipment, a software malfunction or a deficiency in a software program; or
  - (iii) a strike, a lock-out, a boycott, a blockade by or amongst the staff of the Bank, any of its Related Entities or any other person;
  - (iv) a disaster (whether natural or manmade); or
  - (v) abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances

Without in any way limiting, reducing or otherwise qualifying the obligations of the Customer under the Harmonised Business Conditions, the Bank or the Customer shall take such reasonable steps which it considers in its sole opinion to be available to it to mitigate any of the adverse effects on the other party of any of those circumstances listed in sub-paragraph (i) to (v) (inclusive) above.

#### 6. Disclosure of Information

The Customer hereby expressly agrees that:

- (a) the Bank or its Related Entities may from time to time provide or obtain information about the Customer, its accounts and transactions to or from the Bank or its Related Entities and its or their contractors, data carriers, agents or other third parties around the world for the purpose of

transaction and payment processing and for other purposes directly related to the services which the Bank or its Related Entities may provide (including other financial products and services) to the Customer

- (b) the Bank or its Related Entities shall also be entitled to disclose information as permitted or required by any applicable law, legal process, regulation or by an order, judgement or decree of a court or for the purposes of any legal process which concerns the Bank or its Related Entities. Disclosure may also be made to government and regulatory agencies and authorities and to credit rating agencies; and
- (c) this permission to transfer and disclose information shall continue notwithstanding any termination of any agreement or cessation of any service with or to the Customer.

## 7. Set Off

- (a) The Bank may set off any Liabilities against any obligation owed to the Customer by the Bank and/or any Related Entity, whether such obligation is matured or not matured and whether actual or contingent, regardless of the place of payment, booking branch or currency of any such obligation. Unless the law otherwise requires, the Bank is not obliged to give prior notice to the Customer of any exercise of its right of set off.
- (b) If the relevant obligation owed by the Customer to the Bank or any of its Related Entities has not matured, the Bank shall not exercise its right of set off unless:
  - (i) any asset of the Customer has been attached or seized, its recovery has been sought or a security interest has been created over it; or
  - (ii) the Customer transfers any rights it has against the Bank to a third party without the Bank's consent.
- (c) If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set off. If any obligation is unliquidated or unascertained, the Bank may set off in an amount estimated by it in good faith to be the amount of that obligation.

## 8. Default

Without prejudice to any provision agreed upon in writing between the Bank and the Customer, if the Customer has been given notice in writing by the Bank that:

- (a) the Customer is in breach of any of its payment obligations to the Bank and the breach is continuing; or
- (b) the Customer is in breach of any of its obligations other than its payment obligations to the Bank and the Bank has notified the Customer in writing that, in the Bank's reasonable opinion, the breach is likely to have a material adverse effect on the ability of the Customer to perform its obligations to the Bank hereunder; or
- (c) any of the Customer's assets have been (or the Bank considers any of them to be in danger of being) seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy and, in the reasonable opinion of the Bank, such seizure, sale or jeopardy is likely to have a material adverse effect on ability of the Customer to perform its obligations to the Bank hereunder; or
- (d) any proceedings are commenced against the Customer in relation to its insolvency, dissolution or winding up or in respect of legislation directed at the staying of creditors' claims.

all Liabilities shall thereupon become due and payable and the Bank shall be immediately entitled to close any Account.

## 9. Closure of Accounts

- (a) In addition to the Bank's rights under Clause 8 and subject to any other provisions agreed in writing between the Customer and the Bank, the Bank may, at any time, close any Account upon giving one month's (or such other period required or permitted by any applicable law) notice in writing to the Customer, such period starting from the date that the Customer receives or is deemed to receive such notice. The Harmonised Business Conditions shall continue to apply after the closure of any Account until all Liabilities have been paid in full.
- (b) The Customer may, at any time, close any Account by giving notice in writing to the Bank, which notice shall take effect immediately upon its receipt or deemed receipt by the Bank unless such later time is specified in the notice.
- (c) Upon notification to the Customer by the Bank under paragraph (a) above or by the Customer to the Bank under paragraph (b) above, all of the Liabilities in relation to the relevant Account shall become due and payable when the closure of the Account becomes effective.
- (d) Any closure of an Account shall be without prejudice to:
  - (i) any Liabilities arising prior to the closure, or
  - (ii) the right of the Bank to utilise the Account number for the purposes of administering the Liabilities.
- (e) On closure or termination of any Account, by the Bank or the Customer, the Customer will return all credit cards and any other forms or means of communication, to the Bank, prior to the date specified as the date for the closure of the Account.

## 10. Costs and Expenses

- (a) Customer shall pay to the Bank all reasonable costs and expenses (including legal fees on a full indemnity basis) incurred by the Bank in connection with:
  - (i) relationship with the Customer under the Harmonised Business Conditions;
  - (ii) exercise and preservation of the Bank's rights under the Harmonised Business Conditions; or
  - (iii) any legal proceedings or disputes between the Customer and a third party where the Bank becomes involved.
- (b) The Customer shall on demand indemnify the Bank against any liability or expense it incurs in respect of any payment on account of tax or any other liability to tax (not being tax on the Bank's overall net income) or in respect of any stamp, registration and similar tax incurred by the Bank in connection with the relationship between the Bank and the Customer.

## 11. Severability

- (a) If any provision of the Harmonised Business Conditions is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
  - (i) the validity or enforceability in that jurisdiction of any other provision of the Harmonised Business Conditions; or

- (ii) the validity or enforceability in other jurisdictions of that or any other provision of the Harmonised Business Conditions.
- (b) If any provision of the Harmonised Business Conditions is or becomes illegal, invalid or unenforceable in any jurisdiction, the Customer and the Bank agree to use their best efforts to negotiate a clause to substitute for the affected clause. In doing so, the Customer and the Bank will take into consideration the context of the General Part and the intended purpose of the affected clause.

## 12. Amendments and Waivers

### 12.1 Procedure

The Bank may from time to time change the Harmonised Business Conditions and such change shall take effect as between the Customer and the Bank 60 days after receipt or deemed receipt by the Customer of a notice in writing setting out the details of the change. Where a change is a result of a legal or regulatory requirement applicable to the Bank, such change shall come into effect as and when required by the applicable law or regulation.

## 13. Waivers and Remedies Cumulative

The rights of the Bank and the Customer under the Harmonised Business Conditions:

- (a) may be exercised as often as necessary,
- (b) are cumulative and not exclusive of their rights under any applicable law, and
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any such right is not a waiver of that right.

## 14. Communications

### 14.1 Communications by the Customer

- (a) Each Communication given by the Customer to the Bank shall be clear and unambiguous, state any relevant Account number and shall be addressed to each part of the Bank for which the Communication is intended. The Bank is not obliged to verify the accuracy of the information contained in any Communication.
- (b) The Bank may rely upon a Communication where the Bank reasonably considers it is given by or emanating from the Customer:
  - (i) by letter or facsimile;
  - (ii) orally; or
  - (iii) by telex, electronic banking arrangement or electronic mail.

Without prejudice to the Bank's reliance on any oral Communication, at the Bank's request, the Customer shall provide prompt written confirmation of any oral Communication made by the Customer.

- (c) Each Communication given by the Customer shall be in a form acceptable to the Bank. The Bank is authorised, at its absolute discretion, to act or not to act on those Communications which are not in an agreed form.
- (d) The Bank and the Customer may, subject to applicable legal or regulatory provisions, agree methods or procedures to authenticate or validate any Communication issued by the Customer in electronic form.

- (e) The Customer shall indemnify the Bank against all losses, costs and liabilities incurred by the Bank as a result of:
  - (i) an error in or a misunderstanding arising from a Communication by the Customer; and/or
  - (ii) acting on a Communication given by or on behalf of the Customer.

#### **14.2 Making of Communications**

- (a) Any Communication made by the Bank in connection with the Harmonised Business Conditions may be made by any method referred to in Clause 14.1(b).
- (b) Any Communication will be deemed to be given as follows:
  - (i) if by letter, when left at the recipient's address, on the day it was so left, or, if sent by post, two business days after the time when the same was put in the post and in proving delivery it shall be sufficient to prove that the same was properly addressed and put in the post;
  - (ii) if by telex, when despatched, but only if, at the time of transmission, the correct answerback appears at the start and at the end of the sender's copy of the notice;
  - (iii) if by facsimile, when a positive transmission report is received by the Bank;
  - (iv) if by telephone, when audibly heard by the receiver of the Communication; and
  - (v) if by electronic banking arrangement or electronic mail, when received in comprehensible form by the receiver of the Communication in its electronic mail box.

However, a notice given in accordance with the above but received on a non-working day or after applicable business hours in the place of receipt will only be deemed to be given on the next working day in that place.