

## Specific Conditions – Payment Services

January 2021

### I. GENERAL INFORMATION

The Specific Conditions – Payment Services (hereafter referred to as “Specific Conditions”) constitute an Annex to the General Conditions of Eurobank Private Bank Luxembourg S.A., London Branch (the “Bank”).

#### Art. 1. Definitions

Terms denoted with a capital letter in these Specific Conditions will be given the following meaning:

1. **"Business Day"**: any day on which the Bank is open to the public in London and during which the Bank engages in activities which permit the execution of Payment Transactions;
2. **"Incident"**: the loss or theft of a Payment Instrument, the disclosure to a third party (even if involuntary or merely suspected) of any access codes to a Payment Instrument, misappropriation or any other unauthorised use of a Payment Instrument by the Client or by a third party as well as the loss, theft, or disclosure to a third party (even if involuntary or merely suspected), misappropriation or any other unauthorised use of the personalised security features of the Client;
3. **"Member State"**: a Member State of the European Union. The States which are a party to the Agreement creating the European Economic Area ("EEA"), other than the Member States of the European Union, are assimilated to the Member States of the European Union, within the limits defined by that agreement and the related acts;
4. **"Payee"**: a Payment Service User who is the intended recipient of funds which have been the subject of a Payment Transaction;
5. **"Payment Account"**: an account held in the name and on behalf of the Client which is used for the execution of Payment Transactions; the Bank will provide in the account opening documentation or in a separate document an indication of which accounts opened in its books are considered as a Payment Account for the purposes of these Specific Conditions;
6. **"Payment Instrument"**: any personalised device(s) and/or set of procedures (such as the Bank's web banking) agreed upon by the Client and the Bank in the present Specific Conditions and used by

Eurobank Private Bank Luxembourg S.A.

London Branch

2nd Floor, Devonshire House, 1 Mayfair Place, London W1J 6HN

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Fax: +44 (0)20 7973 8632

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the Client in order to initiate a Payment Order;

7. **"Payment Order"**: any instruction of a Payment Service User requesting the execution of a Payment Transaction;

8. **"Payment Service Provider"**: any professional authorised to provide payment services;

9. **"Payment Service User"**: a natural or legal person, including the Client, making use of a payment service in the capacity of either Payer or Payee, or both;

10. **"Payment Transaction"**: any act initiated by a Payment Service User whereby the latter places, transfers or withdraws funds (such as the placing on and withdrawal of cash from a Payment Account, payments executed under a direct debit order, transfers, standing orders, CHAPS payments, SWIFT payments and BACS payments);

11. **"Payer"**: a Payment Service User giving a Payment Order;

12. **"Unique Identifier"**: the International Bank Account Number (accompanied by the initials "IBAN"), and if appropriate, the Bank Identifier Code (accompanied by the initials "BIC") [or any other reference accepted by the Bank] to be supplied by the Client:

- in order to enable identification of his Payment Account and / or

- in order to enable identification of the payment account of the other Payment Service User so that the Bank may proceed with the correct execution of a Payment Order.;

13. **"Micro-enterprise"** is a business customer which holds one or more accounts with the Bank and whose annual turnover or balance sheet (and/or those of any partner or linked enterprises, if appropriate) is not more than €2 million and employs fewer than 10 people;

14. **"Small charity"** is a UK charity whose annual income is less than £1 million and which meets the other requirements of a "charity" in the Payment Services Regulations 2009;

15. **"Corporate business"** is a business customer (i.e. not acting in a consumer capacity) which holds one or more accounts with the Bank and which is not a "micro-enterprise" or "small charity" regardless of whether it is an "incorporated body" or an "unincorporated body";

## Art. 2. Scope and Client categorisation

Unless otherwise specified, these Specific Conditions are intended to govern the rights and obligations of the Bank and the Client for any Payment Transaction executed when:

- both the Payer's bank and the Payee's bank are located in the UK and the payment is carried out in sterling;
- both the Payer's bank and the Payee's bank are located in the UK and the payment is carried out in a currency other than sterling or euro, with respect to those parts of the payment transaction which are carried out in the UK;
- both the Payer's bank and the Payee's bank are located in the UK or the EU/EEA and the payment is carried out in euro under a payment scheme which operates across the UK and the EU/EEA or
- a sole payment service provider is located in the UK and the case does not fall into the above category with respect to those parts of the payment transaction which are carried out in the UK.

These Specific Conditions do not apply to, *inter alia*:

- exchange business, i.e. the cash for cash operations in which the Bank does not exchange funds by using funds held on the Client's Payment Account;
- payments based on one of the following paper documents:
  - (i) a cheque;
  - (ii) a bill;
  - (iii) a paper document that can be used to acquire goods or services, e.g. service vouchers;
  - (iv) travellers cheques; or
  - (v) a postal money order as defined by the Universal Postal Union.
- Payment Transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by the Bank.

All services which are not specified by these Specific Conditions are governed by the General Conditions of the Bank.

If the Bank has categorised the Client's business as a Micro-enterprise, the Client agrees to tell the Bank if, at any time, the annual turnover or balance sheet of its business is more than €2 million or more or it employs 10 people or more. The Bank will review the Client's categorisation and, where appropriate, re-

categorise the business as a Corporate business.

If the Bank has categorised the Client's business as a small charity, the Client agrees to tell the Bank if, at any time, the annual income of the charity is £1 million or more. The Bank will review the Client's categorisation and, where appropriate, re-categorise the business as a Corporate business.

If the Bank has categorised the Client's business as a Corporate business:

- the Client agrees to tell the Bank if, at any time, the annual turnover or balance sheet of the business is not more than €2 million or it employs fewer than 10 people; and if the Client is a charity, if the annual income of the charity is less than £1 million;
- if the Bank is told that the annual turnover or balance sheet of the Client's business is not more than €2 million; or that it employs less than 10 people; or that the annual income of the charity is less than £1 million, the Bank will review the Client's categorisation and, where appropriate, re-categorise it as a Micro-enterprise or Small charity, as appropriate; and
- if the Client is eligible under applicable law or regulation (including the Payment Services Regulations 2017 and the Banking Conduct of Business rules) for the benefits to which a Micro-enterprise or Small charity is entitled, the Bank's categorisation of it as a Corporate business will not affect its eligibility for such benefits and the provisions in these Specific Conditions which apply to a Micro-enterprise or Small charity will apply to the Client instead of the provisions applying to a Corporate business.

## Art. 3. Information about the Bank

Eurobank Private Bank Luxembourg S.A. is authorised and regulated by the financial supervisory authority in Luxembourg, the Commission de Surveillance du Secteur Financier, the address of which is L-1150 Luxembourg, 283, route d'Arlon. The Bank is deemed authorised by the Prudential Regulation Authority. It is subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details about the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority's website.

The address of the Financial Conduct Authority is 12

Endeavour Square, London E20 1JN, United Kingdom. The address of the Prudential Regulation Authority is 20 Moorgate, London EC2R 6DA, United Kingdom.

The Bank's Head Office address is: Eurobank Private Bank Luxembourg S.A., 534, rue de Neudorf, L-2220 Luxembourg, P.O. Box 897 L-2018 Luxembourg, tel: (+352) 42 07 24-1, fax: (+352) 42 07 24-650 [www.eurobankpb.lu](http://www.eurobankpb.lu). Communication with the Bank shall be addressed to the above address.

## II. USE OF A PAYMENT SERVICE

### Art. 4. Main features and description of the payment services and Payment Instruments provided by the Bank

#### 4.1. Transfers of funds and standing orders

The transfer of funds is a payment service whereby the Client, acting as Payer, gives a Payment Order to the Bank by which the Client instructs the Bank, by debiting his/her Payment Account, to transfer available funds or funds made available by a credit line, and to credit a payment account held by a Payee. In accordance with the instructions from the Client, a transfer may be performed:

- either on a one-off basis;
- either repeatedly at regular intervals, always with the same Payee and for the same amount, in which case it will be a standing order.

The Client may instruct internal transfers between accounts at the London Branch. To do so, the Client shall provide the following information to the Bank in addition to that required under Article 8:

- the account number for the Payee's account;
- the date the payment is to be deducted from the Client's account;
- the Payee's name; and
- any reference identifying the payment.

To set up a standing order, the Bank will require the Client to provide the following information in addition to that required under Article 8:

- the Payee's name, sort code and account number;
- the date on which payments should start to be deducted from the Client's account;
- how often the Client wishes the Bank to make payments; and
- the amount of each payment.

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Unless otherwise specified, a standing order shall be valid until expressly revoked by the Client.

In any case, before instructing a transfer or the implementation of a standing order, the Client shall request communication of the Unique Identifier for the payment account of the Payee on which the funds will be credited on the letterhead of the Payment Service Provider of the Payee in order to reduce the risk of error when implementing the said transfer or standing order.

If applicable, the transfer of funds equally entails the possibility for the Bank to credit the Client's Payment Account with funds transmitted to the Bank by a Payer (which may be the Client himself), to the benefit of the Client acting as Payee, via the Payment Service Provider of the Payer.

#### 4.2. Withdrawals

The withdrawal is a payment service whereby a Client withdraws from his Payment Account at the counter of the Bank, a certain amount of cash, which is debited from his/her Payment Account.

Cash withdrawals may be made over the counter at the London Branch. The Client must provide an item of identification acceptable to the Bank, and the chequebook for the account (if the Client has been issued with one).

Cash withdrawals will be deducted from the Client's Payment Account on the same day.

#### 4.3. Placements on a Payment Account

The placement is a payment service whereby a Client remits to the Bank, at the counter of the London Branch or at a day and night self-service depository, a certain amount of cash which will be credited to his/her Payment Account or to a payment account belonging to a third party and opened in the books of the Bank.

The service of placement equally entails the possibility for the Bank to credit the Client's Payment Account with the amount of cash remitted, to the Client's benefit, by a third party at the counter of the Bank or at a day and night self-service depository.

If the Client pays only cash into his/her Payment Account over the counter at the London Branch it will

be credited to the Client's Payment Account and available to withdraw immediately. It will be treated as cleared for interest calculation purposes (if applicable) on the same day.

Any foreign bank notes paid into the Client's account will be converted (where necessary) at the Bank's exchange rate advised to the Client at the time.

If the Client uses a paying-in slip to pay a mixture of cash and cheques into his/her Payment Account over the counter at the London Branch and in sterling only, the cash will be credited to the Client's Payment Account, available for the Client to withdraw and treated as cleared for interest calculation purposes as described above. For the treatment of cheques, please see clause 6 of the General Conditions.

#### 4.4. Direct debits

The direct debit is a payment service whereby a Client pays on a one-off basis or automatically any invoices and claims of his/her choice by directly debiting his/her Payment Account. The relevant Client must authorise the relevant Payee, the Payment Service Provider of the Payee and/or the Bank to domicile the claims of the Payee to his/her Payment Account. The Payment Transaction(s) for the settlement of claims is then initiated by the Payee on the basis of the authorisation given to it by the Client.

A direct debit payment will be taken from the Client's account and received by the Payee's bank on the direct debit agreed due date, provided that the Bank receives the request to make the payment from the Payee's bank by the end of the Business Day two Business Days before the due date.

The Client can withdraw his/her agreement for direct debit payments to be made at any time by writing to the Bank so that the Bank receives the Client's instruction prior to the end of the business weekday before the agreed date for the debit. The Client should also tell the Payee that he/she has cancelled the direct debit instruction. The Client may be charged for this service.

As a customer, the Client is protected by the Direct Debit Guarantee Scheme. Details of the scheme are provided at <https://www.directdebit.co.uk>

#### 4.5. CHAPS and SWIFT payments

CHAPS payments are payments made through the

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Clearing House Automated Payment System (CHAPS) in sterling in the UK.

SWIFT payments are payments which are made using the SWIFT system in any currency anywhere in the world.

Where these services are available, in order to make a CHAPS payment or SWIFT payment, the Bank will require the Client to provide the following information in addition to that required under Article 8:

- the correct details of the Payee's bank account;
- the name and address of the Payee;
- the Client's own account number, name and address (these details will be passed onto the recipient's bank); and
- the Payee's reference, if applicable.

If the Client is going to receive SWIFT payments, the Client must tell the sender of the payment the correct Unique Identifier.

If the Bank receives a CHAPS payment instruction before 14:00 pm GMT on a Business Day, it will start processing it on that Business Day. Payments made by CHAPS will generally be credited to the Payee's bank on the same Business Day.

The cut-off times and maximum execution times for SWIFT payments are set out in the Bank's schedule of fees.

#### 4.6. Faster payments

The Faster Payments scheme is a service which allows sterling payments to be received within two hours. The service can only be used where the amount to be sent is within the limits set by the bank sending the payment and if the Payee's account is able to receive payments through the service.

The Bank will use the Faster Payments scheme if it is available. The Client may instruct the Bank to make a payment using the Faster Payments scheme in accordance with Article 8 below, and the Bank will inform the Client if it is unable to send a payment using the Faster Payments scheme for any reason.

#### 4.7. BACS payments

The Client can make BACS payments to pay bills or suppliers. The Bank will only accept an instruction to make a BACS payment if the payment is due to be made on a future date, which must be a Business



Day at least two Business Days after the Bank receives the Client's instruction. The Bank will start processing the BACS payment on the Business Day immediately before the future date on which the payment is due to be made.

#### **Art. 5. Remittance of Payment Instruments**

**5.1.** Unless otherwise agreed, the Bank may only proceed to the remittance of Payment Instruments and/or Personalised Security Features in its premises.

In case the Client instructs expressly the Bank to send the Payments Instruments and/or the Personalised Security Features, the Client is aware of the fact that the Payment Instruments and/or the Personalised Security Feature are sent by normal mail. The various elements of the Payment Instruments provided by the Bank may be communicated via separated means.

The Client undertakes to confirm to the Bank the receipt of such Payment Instruments in accordance with the rules agreed with the Bank.

**5.2.** The Payment Instruments and the personalised security features remain the property of the Bank.

#### **Art. 6. Security rules in the use of Payment Instruments**

The Bank draws the Client's attention on the importance for the Client to take all necessary measures and precautions to preserve the Payment Instruments' security. The Payment Instruments provided by the Bank (including all personalised security features elements) shall not be transmitted and shall be strictly personal.

#### **Art. 7. Limits for the use of Payment Instruments**

In relation to the use of the Payment Instruments described in these Specific Conditions for the purpose of consenting to a Payment Transaction, the Bank and the Client may, as the case may be, agree upon spending limits, in particular by setting a spending cap for each Payment Instrument over a predetermined period.

The Bank and the Client may also agree upon a maximum number of authorised Payment Transactions over a predetermined period.

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The Bank reserves the right to refuse to execute one or more Payment Transactions through the use of one or more Payment Instruments where the spending caps and/or the maximum number of authorised Payments Transactions have been exceeded.

In such a case, the Bank will not be under any obligation to send another notification of its refusal to the Client, whether written or not.

The Bank also reserves the right to block one or more Payment Instruments if it reasonably believes:

- the security of the Payment Instrument is compromised, e.g. because of a problem or technical failure of the Payment Instrument itself or of the applications and various supports on which the Payment Instrument may be used or because of hacking attacks;
- the transaction may be suspicious in accordance with the Money Laundering, Terrorist Financing and Transfer of Funds Regulations;
- an Incident has occurred in relation to a Payment Instrument;
- the Client may be unable to fulfil his/her financial commitments to the Bank (for instance, where the balance of the Payment Account is insufficient to cover the execution of Payment Orders or when the maximum overdraft limit that may have been agreed upon between the Bank and the Client has been reached).
- it is obliged by law to effect such blocking.

Should any one of the aforementioned scenarios occur, the Bank shall inform the Client thereof, where possible, before the Payment Instrument is blocked and in accordance with the terms of these Specific Conditions, unless the provision of such information is legally prohibited.

The Bank shall not be liable for any damages which may arise from one or more Payment Instruments being blocked and/or a possible lack of/delayed information as regards such a blocking, except in case of gross negligence.

Once the reason for blocking a Payment Instrument no longer exists, the Bank will unblock the Payment Instrument or replace it.

### **III. PAYMENT TRANSACTIONS**

#### **Art. 8. Information to be provided to the Bank in order for the Bank to execute a Payment Order**

In order for the Client to initiate a Payment Order, the Client must provide the Bank with the Unique Identifier of the Payer and of the Payee, and any other information the Bank requests in relation to the Payer and/or the Payee such as the name of the Payee.

The Bank reserves the right to accept, without obligation, to execute a Payment Transaction based on other information provided to it by the Client. However, in the case of a discrepancy between the Unique Identifier provided by the Client and any other information, the Bank may, without incurring any liability, rely solely on the Unique Identifier. In such case, the funds will be deemed to have been transferred to the intended Payee.

If the Unique Identifier is not provided by the Client or if it is inaccurate, the Bank will under no circumstances be held liable for any consequence resulting from the defective or non-execution of a Payment Order and the Client will assume sole responsibility thereto. In case of defective execution, the Bank will, however, make reasonable efforts, and at the sole expense of the Client, to recover funds transferred to a third party which was not the intended Payee, but it shall not, in any case, incur any liability in relation thereto.

#### **Art. 9. The authorisation of Payment Transactions**

The Bank shall act in accordance with the Payment Orders of the Client.

A Payment Order may be given:

- by mail, fax or e-mail, in which case the hand-written signature, as the case may be, of the Client is required;
- orally at the London Branch by the signature of the relevant form or by telephone over a tape-recorded line.

The sole transmission to the Bank of a Payment Order in the above-described manner shall constitute authorisation of such Payment Order.

The validation of a Payment Order through the use of the automated telephone service shall have the same value as the original signature of the Client and shall have the same value in evidence as an original written document.

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The Client and the Bank expressly agree that the Bank is, whenever useful or necessary, entitled to prove its allegations by any means legally admissible in commercial matters.

Microfiches, microfilms or computerised records or other records effected by the Bank on the basis of original documents constitute *prima facie* evidence of the communications between the Bank and the Client and shall have the same value in evidence as an original written document.

The Client specifically empowers the Bank to tape-record his/her telephone conversations with the Bank. The tape may be used in court or in any other legal proceedings with the same value in evidence as a written document.

#### **Art. 10. Receipt and execution of a Payment Order**

##### **10.1. Receipt of a Payment Order**

**10.1.1.** A Payment Order shall be deemed to have been received by the Bank:

- if sent by mail, upon actual receipt by the Bank;
- if sent by e-mail, at the time of actual receipt by the Bank;
- in case of communication with the Bank by telephone, once the information is provided to the Client Relationship Officer (CRO);
- if sent by fax, upon receipt of the fax in full by the Bank.

Any Payment Order or consent thereof received by the Bank after the cut-off time mentioned in the Bank's schedule of fees (hereinafter referred to 'cut-off time') on a Business Day or at any time during a non-Business Day, will be deemed to have been received on the next Business Day.

**10.1.2.** Furthermore, the Client acknowledges that if he indicates that the execution of the Payment Order will begin on a specific day, at the end of a certain period or on the day on which the Client has made funds available to the Bank, such day is deemed to be the day on which the Payment Order is received unless it is not a Business Day, in which case the Payment Order is deemed to have been received by the Bank on the following Business Day.

**10.1.3.** The Bank will make/authorise a Payment Transaction from the Client's account if the Client authorises it in any of the ways set out in Article 9,

and:

- there are sufficient cleared funds in the Client's account; or
- the Payment Transaction is covered by an overdraft that the Bank has agreed following a formal or informal request from the Client for an overdraft or an increase to an existing overdraft facility. Please see clause 4.10 of the General Conditions for further details.

## **10.2. Revocation/cancellation of a Payment Order**

**10.2.1.** The Client may not revoke a Payment Order once it has been received by the Bank. Such Payment Order will be executed by the Bank notwithstanding any subsequent revocation order by the Client.

**10.2.2.** Where a Payment Transaction is initiated by the Payee (e.g. where the Payment Order is issued in execution of a direct debit order), the Client may not revoke the Payment Order after transmitting the Payment Order or giving his/her consent to the execution of the Payment Order to the intended Payee.

Notwithstanding the foregoing, if the Payment Order relates to the execution of a direct debit order, the Client may revoke the said Payment Order not later than the cut-off time, at the latest on the Business Day preceding the agreed day for debiting the funds.

**10.2.3.** Notwithstanding sub. 10.2.1. and 10.2.2. above, if it has been agreed that the execution of the Payment Order will be performed on a specific day, at the end of a certain period or on the day on which the Client has made funds available to the Bank, the Client may revoke such Payment Order by the cut-off time at the latest on the Business Day preceding the agreed day for debiting the funds.

**10.2.4.** The Bank reserves the right, without obligation, to accept the revocation of a Payment Order requested by the Client after receipt of such Payment Order. Where a Payment Transaction is initiated by the Payee, the consent of the Payee will also be required in order for any revocation to take place.

The Bank may not be held liable for not having exercised such right. Should the Bank accept a revocation after receipt of the Payment Order, it is entitled to charge the Client a fee.

**10.2.5.** Regarding the point of receipt in time of an order to revoke a Payment Order by the Bank, the

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rules set out sub. 10.1.1. above apply.

## **10.3. Execution of a Payment Order**

**10.3.1.** When Payment Transactions are made:

- in sterling or euros from a Payment Account denominated in sterling, euros; or
- in the currency of the Member State outside the euro area for national Payment Transactions; or
- involving only one currency conversion between the euro and the currency of a Member State outside the euro area, provided that the required currency conversion is carried out in the Member State outside the euro area concerned; or
- as a cross-border transfer in euro

the Bank will ensure that the amount of the Payment Transaction is credited to the account of the Payment Service Provider of the Payee by no later than the end of the Business Day following the moment of receipt of the Payment Order in accordance with these Specific Conditions.

The Client and the Bank agree, however, that, in the event that the Payment Order was given on paper (a Payment Order sent by fax, by e-mail may be considered as a Payment Order given on paper if such Payment Order needs to be processed by the Bank under a paper form, e.g. by print-out), the time limit as provided in the preceding paragraph will be extended by an additional Business Day.

**10.3.2.** For all other Payment Transactions effected within the UK or the European Union other than the Payment Transaction described under sub. 10.3.1. above, the Bank will ensure that the amount of the Payment Transaction is credited to the account of the Payment Service Provider of the Payee by no later than the fourth Business Day following the moment of receipt of the Payment Order in accordance with these Specific Conditions.

**10.3.3.** For all other Payment Transactions not covered under sub. 10.3.1. and 10.3.2. above, the Client acknowledges that the execution time for the Payment Transaction will be subject to the operating rules of international payment systems and that in this case, the Bank will not be bound by the deadlines set out above.

**10.3.4.** Where the Client denies having authorised an executed Payment Transaction or claims that the Payment Transaction was not correctly executed, it is for the Bank to prove that the Payment Transac-

tion was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the Bank.

Where the Client user denies having authorised an executed Payment Transaction, the use of a Payment Instrument recorded by the Bank shall in itself not necessarily be sufficient to prove either that the Payment Transaction was authorised by the Client or that the Client acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations in relation to Payment Instruments. The Bank shall provide supporting evidence to prove fraud or gross negligence on part of the Client.

#### **10.4. Refusal to execute a Payment Order**

**10.4.1.** The Bank may, without obligation, refuse to execute a Payment Order:

- if the Payment Order contains any factual error, in particular, an incomplete or imprecise Unique Identifier;
- if the Client has breached any of its obligations towards the Bank under these Specific Conditions or any other agreement entered into between the Client and the Bank;
- if the Payment Order does not meet the agreed form as set out in these Specific Conditions;
- if the funds of the Client or the credit line granted to the Client are insufficient to execute a Payment Order in full;
- if the spending limits for the use of one or more Payment Instruments as may have been agreed upon between the Bank and the Client have been reached;
- if the amount of the Payment Transaction exceeds the limit previously indicated by the Client and beyond which it has been agreed that the Bank shall not execute a Payment Order in accordance with Article 10.4;
- if the Payment Order cannot be executed in full;
- if the Payment Order has been made by a person who has no power to operate the Payment Account;
- if the financial position of the Client or of any other person who is financially related to him may jeopardize the prompt and full execution of the commitments of the Client in accordance with these Specific Conditions;
- if the Bank is legally or contractually obliged (or entitled) to freeze the Payment Account or a Payment Instrument of the Client.

**10.4.2.** In case of refusal in accordance with the preceding paragraph, notification of such refusal shall be sent to the Client through the agreed means of communication in the Application to open an account, within the execution time applicable under these Specific Conditions, unless legal provisions to the contrary. The Bank will provide, where possible, the reasons for the refusal and the procedure to be followed in order to correct any factual error that may have led to said refusal. The Bank will be deemed to have satisfied this obligation if it has sent the notification of refusal within the period of execution time regardless of the date of actual receipt by the Client of such notification. Any notification by the Bank of a justified refusal of a Payment Order may result in the Client being charged a fee.

**10.4.3.** Should the Client elect to proceed with the execution of a Payment Order notwithstanding refusal thereof by the Bank, the Client shall provide the Bank with a new Payment Order containing all the required elements. It will not be sufficient to correct the initial Payment Order.

#### **10.5. Availability of funds**

The availability of the funds or the amount of the Payment Transaction results from crediting the Payment Account even if the balance of such Payment Account remains negative.

When the currency in which the funds were received is different from the currency of the Payment Account, the Bank automatically opens a new sub-account in the relevant currency and credits the new sub-account with such funds.

#### **Art. 11. Information on executed Payment Transactions and claims**

A statement of account detailing the Payment Transactions executed on the Payment Account shall be issued on the first Business Day of each month. For complete details however of each Payment Transaction, the Client should revert to the advices produced immediately after the execution of such an instruction.

Should the Client not receive such statement of account by the tenth Business Day of the relevant month, he shall immediately notify the Bank thereof. In the absence of any notification, the Client will be deemed to have received the statement of account and to be aware of the contents thereof within the



aforementioned period.

The Client must read his/her statements carefully on receipt. To help the Bank prevent fraud, the Client must tell the Bank immediately if he/she does not recognise any transaction shown on his/her statement, if he/she thinks any payment he/she has authorised has been executed incorrectly or if he/she thinks a transaction has not been executed.

## **Art. 12. Claims from the Client**

### **12.1. Timeframe within which a claim concerning the non-execution or the defective execution of Payment Transactions or unauthorised Payment Transactions in relation to which no Incident notification is possible, can be lodged.**

Any claim with respect to the unauthorised or defective execution of a Payment Transaction referred to in a statement of account or the non-execution of a Payment Transaction shall be submitted to the Bank in writing within 13 months following receipt of such statement of account and upon awareness of the contents thereof within the meaning of Article 10 above. In the absence of any claim lodged before the expiration of the aforementioned period, the Client will be deemed to have authorised the Payment Transactions listed on the relevant statement of account, which shall be considered as definitively accepted by the Client.

### **12.2. Unauthorised Payment Transactions (in case a claim is lodged within the required timeframe)**

If a Payment Transaction cannot be considered by the Bank as authorised by the Client, the Bank shall refund the Client with the amount of the relevant Payment Transaction and any resulting interest and charges no later than by the end of the following Business Day after noting or being notified of the transaction and, where applicable, restore the debited Payment Account to the state in which it would have been, had the unauthorised Payment Transaction not occurred. However, where the Bank reasonably suspects an unauthorised Payment Transaction has resulted from fraudulent behaviour by the Client, and where that suspicion is based on objective grounds which (if required by applicable law and regulation) are communicated to the relevant national authority, the Bank shall be entitled to conduct, within a reasonable time, an investigation before refunding the Client.

The Client shall, however, remain liable for any loss resulting from an unauthorised Payment Transaction under the following circumstances and subject to the following conditions:

- Until notification to the Bank pursuant to the rules on notification of an Incident under these Specific Conditions, of the loss or theft of a Payment Instrument or misuse of a Payment Instrument which was made possible because the Client was unable to preserve the security of its personalised security features: the Client remains liable up to an amount of £35, unless ;
  - the loss, theft or misappropriation of a Payment Instrument was not detectable to the Client prior to a payment, except where the Client has acted fraudulently;
  - the loss was caused by acts or lack of action of an employee, agent or branch of the Bank or of an entity to which its activities were outsourced.
- The Client will bear all of the losses relating to any unauthorised payment transactions if they were incurred by the Client acting fraudulently or failing to fulfil one or more of the obligations relating to the Payment Instrument and personalised security credentials with intent or gross negligence. In that case, the maximum amount referred to above will not apply.
- Where the Bank does not require strong Client authentication, the Client will not bear any financial losses unless the Client acted fraudulently.

The Client shall not bear any financial consequences resulting from use of the lost, stolen or misappropriated payment instrument after he/she has duly notified the Bank except where he/she has acted fraudulently.

In any case, the Client shall bear the total sum of the losses resulting from an unauthorised Payment Transaction in the event that he/she has acted fraudulently, irrespective of the notification of an Incident sent to the Bank

### **12.3. Notification in case of loss, theft or misappropriation of a Payment Instrument**

The Client will be given the option to make a notification on becoming aware of the loss, theft, misappropriation or unauthorised use of the Payment Instrument free of charge and to charge, if at all, only re-

placement costs directly attributed to the Payment Instrument.

Once notified of the above, the Bank will prevent all use of the Payment Instrument until further notice.

#### **12.4. Notification in case of fraud or threat to security**

The Bank will notify the Client in the event of suspected or actual fraud or security threats via the means of secure communication agreed during the opening of the account.

#### **12.5. Non-execution or defective execution of authorised Payment Transactions (in case a claim is lodged in the required timeframe)**

##### **12.5.1. The Client acts in the capacity of Payer**

###### **a) Payment Order initiated by the Client**

In the event of a non-execution or a defective execution of a Payment Transaction, and regardless of the possibility for the Bank to be held responsible for such non-execution or defective execution, the Bank will, upon express request of the Client, and without incurring any liability in relation thereto, endeavour to trace the Payment Transaction and to notify the Client of the result of such tracing.

The Bank shall not be held liable for the defective execution of a Payment Order if it can establish that the amount indicated in the Payment Order has been received by the Payee's Payment Service Provider within the required execution time.

In the event that the Bank is liable for the non-execution or defective execution of a Payment Transaction, it shall, if applicable, refund the Client with the total amount of the Payment Transaction and, where applicable, restore the debited Payment Account to the state in which it would have been, had the wrong Payment Transaction not taken place. In the event the collection of funds is not possible, the Bank will provide to the Client, upon written request, all information made available to the Bank and relevant to the Client in order for the Payer to file a legal claim to recover the funds.

If the Unique Identifier provided by the Client is incorrect, the Bank shall not be liable for non-execution or defective execution of the Payment Transaction.

However, the Bank shall make reasonable efforts to recover the funds involved in the Payment Transaction. The Payee's Payment Service Provider shall cooperate in those efforts also by communicating to the Bank all relevant information for the collection of funds.

In the event that the collection of funds is not possible, the Bank shall provide to the Client, upon written request, all information available to it and relevant to the Client in order for the Client to file a legal claim to recover the funds.

To the extent possible, the Bank may also take steps to correct the wrongful execution of any Payment Order, if the Payment Order contains all the indications allowing the Bank to remedy such wrongful execution, in particular in case the amount transferred was different from the amount indicated in the Payment Order or in case of an internal transfer from the Client's Payment Account to another of his/her accounts opened in the books of the Bank.

The Client shall have no right to request to be refunded the amount of a Payment Transaction under the conditions set forth above in the case of a late execution of a Payment Order but may have the right to the refund of the fees and interest to which the Client has been subject because of such late execution.

###### **b) Payment Order initiated by the Payee**

In the event of non-execution or defective execution of a Payment Transaction, subject to proof by the Client of the Payee's Payment Service Provider having correctly transmitted the Payment Order within the required timeframe, the Bank shall refund the Client the total amount of the Payment Transaction and, if applicable, restore the debited Payment Account to the state in which it would have been, had the wrong Payment Transaction not taken place.

To the extent possible, the Bank may also take steps to correct the defective execution of a Payment Order, if the Payment Order contains all the indications allowing the Bank to remedy such wrongful execution, in particular in case the amount transferred was different from the amount indicated in the Payment Order.

The Client shall have no right to request to be refunded the amount of a Payment Transaction under

the conditions set forth above in the case of a late execution of a Payment Order but may have the right to the refund of the fees and interest to which the Client has been subject because of such late execution.

#### **12.5.2. The Client acts in the capacity of Payee**

##### **a) Payment Order executed in accordance with the Unique Identifier**

A Payment Order is deemed duly executed by the Bank as regards the Payee indicated by the Unique Identifier when it is executed in accordance with the Unique Identifier, notwithstanding the fact that the Client may have supplied the Bank with any additional information.

If the Unique Identifier is wrong, the Bank will not be held liable for any damages which could result from the non-execution or defective execution of a Payment Order when the Bank has executed such Payment Order in accordance with the indicated Unique Identifier. The Client shall have sole responsibility to challenge the Payer and/or, if applicable, the Payer's Payment Service Provider in this respect.

##### **b) Payment Order initiated by the Payer**

(i.) The Bank may be held liable for the non-execution or defective execution of a Payment Order for which the Client is the Payee only subject to proof by the Client of receipt by the Bank within the required timeframe of the amount mentioned in the Payment Order initiated by the Payer and that such amount has not been credited to his/her Payment Account after deduction, if applicable, of the fees charged by the Bank in accordance with Article 14.

In such case, the Bank shall ensure that the amount of the Payment Transaction is made available to the Client in his/her Payment Account as soon as possible and, where applicable, credit the Payment Account with the corresponding amount.

(ii.) if applicable, the Bank and the Client hereby agree that, should the Bank be required to do a refund in respect of a Payment Transaction initiated by a Payer, the Bank shall be irrevocably authorised to debit the amount requested by the Payer's Payment Service Provider in such context from the Payment Account, without having to make any prior inquiry with regard to the legitimacy of the refund request sent by the Payer to his/her Payment Service Pro-

#### **Eurobank Private Bank Luxembourg S.A. London Branch**

2nd Floor, Devonshire House, 1 Mayfair Place, London W1J 6HN

Tel: +44 (0)20 7973 8630

Fax: +44 (0)20 7973 8632

[www.eurobankpb.lu](http://www.eurobankpb.lu)

[Swift.ERBKGB2L](mailto:Swift.ERBKGB2L)

vider. The Client shall have sole responsibility to directly challenge the Payer and/or the Payer's Payment Service Provider with regard to the legitimacy of the Payer's refund request.

##### **c) Payment Order initiated by the Client as Payee**

The Bank is only liable towards the Client for the correct transmission of the Payment Order to the Payer's Payment Service Provider, if applicable, and the execution of the Payment Transaction in accordance with the terms of these Specific Conditions. The Bank shall not incur any liability in the case of non-execution or defective execution of a Payment Order if it has fulfilled these obligations.

Notwithstanding the above, and regardless of the possibility for the Bank to be held responsible for the non-execution or defective execution of a Payment Order, the Bank will, upon express request of the Client, and without incurring any liability in relation thereto, endeavour to trace the Payment Transaction and to notify the Client of the result of such tracing.

#### **12.6. Intermediaries**

When Intermediaries or other Payment Service Providers are involved in the execution of a Payment Order, the Bank only takes responsibility for the non-execution or defective execution of a Payment Order by an Intermediary which is chosen by the Bank. The Bank shall under no circumstances be liable for actions taken by any other intermediaries.

Where a liability of the Bank for an unauthorised or defectively executed Payment Transaction under these Special Conditions is attributable to another Payment Services Provider or intermediary, the Bank may seek compensation from such Payments Services Provider or intermediary for any losses incurred or sums paid pursuant to such liability.

#### **12.7. Specific rules for Payment Transactions initiated by the Payee and for which the initial authorisation did not specify an exact amount.**

##### **12.7.1. The Client acts in the capacity of Payer**

a) The Client undertakes to provide the Bank with a maximum payout limit for each Payee which may directly initiate a Payment Transaction that may entail a debit on the Payment Account of the Client, in particular in the case of direct debit. Such payout

limit represents the limit beyond which the Client considers that the payment required by the Payee is unreasonable. Beyond this limit, the Bank and the Client agree that the Bank will refuse to execute any Payment Order from the said Payee, unless instructed otherwise in writing by the Client.

If the Client did not indicate any payout limit to the Bank, the Bank considers that the Client authorises the Bank to execute any Payment Order initiated by the Payee, regardless of whether the amount of the executed Payment Transaction exceeds the amount the Client could have reasonably expected.

The Bank cannot be held liable for the consequences that might result from the non-execution of a Payment Order when the payout limits set by the Client have been exceeded or from the execution in full of a Payment Order initiated by the Payee when the Client has set no limit.

b) If the Client has not set any payout limit, and if the Client believes that the amount of the Payment Order initiated by the Payee exceeds the amount the Bank could have reasonably expected, the Client may address to the Bank a request for the refund of the Payment Transaction executed further to such Payment Order. The Client shall accompany such request by relevant factual information, in particular elements on his/her past spending patterns and the circumstances under which the Payment Transaction occurred. The Client may, however, not invoke any elements in relation to a foreign exchange operation when the foreign exchange rate agreed between the Bank and the Client has been applied.

The Client will in any case be solely entitled to the reimbursement of the amount of the relevant Payment Transaction. The Bank and the Client agree that the fees, commissions and other expenses created by such a Payment Transaction will not be reimbursed to the Client.

Where the Client may request a refund in accordance with the present clause, a written refund request must have reached the Bank in accordance with these Specific Conditions without undue delay on becoming aware of any such transaction giving rise to a claim, and no later than 13 months after the debit date.

Within fifteen (15) Business Days following receipt of the refund request and provided that the Bank accepts the refund request, the amount of the Payment

**Eurobank Private Bank Luxembourg S.A.**

**London Branch**

2nd Floor, Devonshire House, 1 Mayfair Place, London W1J 6HN

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Fax: +44 (0)20 7973 8632

[www.eurobankpb.lu](http://www.eurobankpb.lu)

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Transaction will be credited to the Client's Payment Account with a credit value date no later than the date on which the transaction was debited.

In case the Bank refuses to reimburse the Client, it shall, within fifteen (15) Business Days following receipt of the refund request, indicate to the Client the reasons for its refusal. Such communication will be done according to the means of communication agreed with the Client in the General Conditions.

c) The Bank and the Client hereby agree that the Client shall have no right to a refund in the event that the Client gave directly his/her consent to the execution of such Payment Transaction directly to the Bank.

#### **12.7.2. The Client acts in the capacity of Payee**

The Bank and the Client hereby agree that should the Bank be required to effect a refund in respect of a Payment Transaction initiated by the Client acting as Payee, the Bank shall be irrevocably authorised to debit the Payment Account with the amount requested by the Payer's Payment Service Provider in such context, without having to make any prior inquiry with respect to the legitimacy of the refund request sent by the Payer to his/her Payment Service Provider. The Client shall have sole responsibility to challenge the legitimacy of the Payer's refund request by acting against the Payer and/or the Payer's Payment Service Provider directly.

#### **12.8. Absence of claims or refund requests within the mandatory delays**

In the absence of receipt of any claim or refund request from the Client within the aforementioned delays, the Bank cannot be held liable for any damages arising from the execution of a Payment Transaction, whether authorised or not, the non-execution or the defective execution of a Payment Transaction.

### **IV. LIABILITY OF THE BANK**

#### **Art. 13. Liability**

##### **13.1. Liability non-execution, defective or late execution**

Without prejudice to Article 12, the Bank will not be held liable for damages arising from the defective execution, non-execution or partial execution of its obligations ("Default") under these Specific Condi-



tions, except in the case of gross negligence or wilful misconduct.

In any case, the Bank will not incur any liability should a Default result from abnormal and unforeseeable circumstances beyond the control of the Bank, such as e.g. interruptions or unavailability of telecommunication systems or more generally of its services (e.g. due to fire or similar disasters, power cuts, failure of computer systems or attacks against the systems of the Bank). The Bank shall not be liable for damages resulting from the implementation of legal provisions, measures taken by public authorities, declared or imminent, acts of war, revolutions, civil wars, *fait du Prince*, strikes, lockouts, boycotts and picketing, regardless of whether the Bank is itself a party to the conflict or if its services are only partially affected or where such a Default occurs as a result of the Bank complying with its legal obligations.

### **13.2. Value dates in case of non-execution, defective or late execution of a Payment Transaction**

This section applies where 1) both the Payer's bank and the Payee's bank are located within the UK and the Payment Transaction is in sterling, 2) both the Payer's bank and the Payee's bank are located within the UK and/or EU/EEA and the service relates to a transaction in euro executed under a payment scheme which operates across the UK and EU/EEA or 3) both the Payer's bank and the Payee's bank are located within the UK and the Payment Transaction is in a currency other than sterling or euro.

#### **13.2.1. Payment Order initiated by the Payer**

The debit value date for the Payer's payment account shall be no earlier than the date on which the amount was debited.

The credit value date for the Payee's payment account shall be no later than the date on which the amount would have been value dated, had the Payment Transaction been correctly executed.

#### **13.2.2. Payment Order initiated by or through the Payee**

In case of a late transmission of the Payment Order, the amount shall be value dated on the Payee's payment account no later than the date the amount would have been value dated had the transaction

been correctly executed.

Where the Bank is liable to the Payee for handling the Payment Transaction, the amount shall be value dated on the Payee's payment account no later than the date the amount would have been value dated had the Payment Transaction been correctly executed.

### **V. FEES**

**Art.14.** The Bank shall charge the Client for its services in accordance with its schedule of fees applicable to the type of services to be provided.

Charges are made for CHAPS payments in sterling in the UK and for SWIFT payments in any currency anywhere in the world, as notified in the Bank's schedule of fees.

Unless otherwise specifically agreed, for Payment Transactions carried out within the European Union between:

- the Bank and the Payer's or the Payee's Payment Service Providers located in the UK;
- the Bank acting as the Payer's Payment Service Provider and the Payee's Payment Service Provider located in a Member State;
- the Bank acting as the Payee's Payment Service Provider and the Payer's Payment Service Provider located in a Member State; or
- where the Bank is the sole Payment Service Provider involved in the Payment Transaction;

the Bank will process all payments under the principle of shared fees, i.e. the Payee and the Payer must bear the charges levied by their respective Payment Services Providers under the charging code SHARE.

The Bank shall apply its fees, as applicable from time to time, a list of which shall be available to the Client at the premises of the Bank, and a copy of which has been provided to the Client before these Specific Provisions come into force.

The Bank will notably disclose to the Client the charges connected to the manner in and frequency with which information is provided or made available.

Before each individual Payment Transaction, the Client undertakes to inform himself about the amount of fees payable in respect of such Payment Transaction.

The Client hereby authorises the Bank to automatically debit from his/her Payment Account the amount of fees owed in respect of each Payment Transaction to the Bank.

Where the Client is the Payee of a Payment Transaction, he authorises the Bank to debit from the amount to be credited to his/her Payment Account any fees that may be due to the Bank, before crediting his/her Payment Account.

The Client hereby accepts that he/she may be charged additional fees, in particular in case of notification by the Bank of its refusal to execute a Payment Transaction, in case of revocation of a Payment Transaction accepted by the Bank within the meaning of Article 10.2.4. above or in case of recovery by the Bank of the amount of a Payment Transaction where the Client has supplied an inaccurate Unique Identifier.

The Client shall remain liable for the payment of fees which are due, even if payment thereof is requested following the closure of the Payment Account.

#### **Art. 15. Interest rate and exchange rate**

**15.1.** Unless otherwise agreed, should an overdraft on a Payment Account be required for the purposes of effecting a payment service in accordance with these Specific Conditions, debit interest at the rate set out in the schedule of fees of the Bank shall be charged automatically, without prior notice, on any debit balance in the Payment Account, without prejudice to any other fees, charges, withholding tax or any other expenses or claims that the Bank may have as damages.

In the absence of such an interest rate, the reference interest rate will be determined by the Bank according to the Bank's Base Debit Rate (as defined in the schedule of fees) plus a maximum spread as agreed from time to time with the Client.

This provision shall not be laid out as an authorisation for the Client to create overdrafts on his Payment Account.

Interest charged on an overdraft of the Payment Account is immediately due and payable and will be automatically debited from the Payment Account.

Deposits on the Payment Account shall not bear

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2nd Floor, Devonshire House, 1 Mayfair Place, London W1J 6HN

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credit interest, unless otherwise agreed between the Bank and the Client for certain types of Payment Accounts.

**15.2.** Should a foreign exchange transaction be executed for the purposes of providing a payment service under these Specific Conditions, the Bank applies the rate of exchange prevailing at the date of execution of the proposed Payment Transaction.

The exchange rates applied by the Bank are the ones specified in the Bank's schedule of fees. As exchange rates vary from day to day, the Client undertakes to inform himself prior to any Payment Transaction implying a foreign exchange transaction of the applicable exchange rate.

**15.3.** The Client acknowledges that the interest and exchange rates may vary at any time. The Client acknowledges thus that the interest rate and/or exchange rate applied to a Payment Transaction will be the rate prevailing at the time of execution of the Payment Transaction.

The Client hereby agrees that any change in interest rates and exchange rates will immediately be applied, without notice, if such change is based on the reference interest or reference exchange rates. Information on the interest rates applicable after such a modification will be held at the Client's disposal in the Bank's premises and will be provided to him upon request.

Changes in interest and exchange rates, even for fixed rates, which are more favourable to the Client will be applied without notice.

The Bank may make any other change in interest rates with notification to the Client as follows: where the Client is a Micro-enterprise or Small charity, by informing the Client personally about the change at least two months in advance of making the change; and where the Client is a Corporate business, by informing the Client personally about the change within 30 days of the change.

#### **VI. PRIVACY**

##### **Art. 16. Compliance with applicable data protection laws**

The Bank collects, uses and is responsible for certain personal information about the Client. When the Bank does so it is regulated under applicable data protection laws and the Bank is responsible as "con-

troller" of that personal information for the purposes of these laws.

Clause 7 of the Bank's General Conditions sets out how the Bank collects and uses the Client's personal information in accordance with applicable data protection laws.

## **VII. COMMUNICATIONS**

### **Art. 17. Means of communication**

Any communication, notification and information transfer shall be made in the manner agreed upon between the Bank and the Client in the Account Opening Application. Depending on the means of communication agreed upon, the Bank will provide the Client with information with regard to the technical requirements to be met either in the Manual or in any other relevant document.

### **Art. 18. Language**

Any communication between the Bank and the Client will be made in English.

### **Art. 19. Access to information**

The Specific Conditions are available at the Bank's internet site.

The Client may at any time request a copy of these Specific Conditions.

## **VIII. AMENDMENTS TO THESE SPECIFIC CONDITIONS**

### **Art. 20. Conditions of amendment**

In particular in the event of changes in the legal and regulatory framework of the banking sector, changes to banking practices or changes affecting the conditions on the financial markets, the Bank reserves the right at any time to amend and/or to add new provisions to these Specific Conditions.

Should the Bank elect to amend and/or add new provisions to these Specific Conditions, Bank will inform the Client immediately by giving the Client no less than two months' advance notice, indicating the clauses it will modify or add as well as the content of these amendments or addition. The contemplated modifications or additions may also be made through a separate document which will then form part of these Specific Conditions.

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## **Art. 21. Acceptance**

Unless otherwise provided in these Specific Conditions, the amendments, additions or separate documents are deemed to be accepted by the Client if the Client does not lodge a written opposition with the Bank within two months from the day of communication to the client of such amendments, additions or separate documents by the Bank. Should the Client wish to oppose such amendments, the Client may terminate the account relationship with immediate effect and without any charge.

## **IX. DURATION AND TERMINATION**

### **Art. 22. Duration and conditions for termination**

These Specific Conditions are concluded for an undetermined period of time. Each party has the right to terminate the agreement, at any time and without having to state any reason, with one month's notice on the initiative of the Client and two months' notice on the initiative of the Bank. Such notice shall be sent by registered mail.

Outstanding Payment Transactions shall not be affected by the termination of these Specific Conditions.

The Client hereby acknowledges and agrees that in the case of termination of the account relationship within 6 months from the opening the cancellation fee as provided for in the schedule of fees will be debited, without prejudice to any other fees that may be payable to the Bank should the account be closed.

Should the Client fail to meet his/her contractual obligations or should the Bank have reason to believe that it may incur any liability through the continuation of its relationship with the Client or should the Payment Transactions of the Client appear to be contrary to public order or morality, or should the Client fail to meet its obligation to act in good faith, the Bank may terminate with immediate effect, and without prior notice, its relationship with the Client under these Specific Conditions, in which case all obligations, even obligations with a term, of the Client shall become immediately due and payable.

The Bank may at any time request new collateral or additional guarantees from the Client to cover the commitments of the Client.

## **Art. 23. Termination of contractual relationship**

Termination of the entire contractual relationship between the Client and the Bank in accordance with the General Conditions of the Bank will automatically result in the termination of these Specific Conditions. However, during the period of notice as provided for in these Specific Conditions, the Specific Conditions will continue to apply and the Payment Accounts will remain open only to carry out Payment Transactions. In this context, the Specific Conditions and the relevant provisions of the general terms and conditions of the Bank will continue to apply during such notice period.

## **X. MISCELLANEOUS**

### **Art. 24. General terms and conditions of the Bank**

In case of any discrepancy between these Specific Conditions and the general terms and conditions of the Bank (which also apply to the provision of payment services), the provisions of the Specific Conditions prevail.

### **Art. 25. Complaints and out-of-court redress**

The dispute resolution procedure is described in the Bank's General Information Document. The Client accepts that the Bank will reply to his/her complaint by email or via the mean of communication agreed between the Client and the Bank at the latest within ten (15) business days.

The complaint may also be dealt with through an alternative dispute resolution ("ADR") procedure.

The Client may be able to refer a complaint to the Financial Ombudsman Service if he/she is an eligible complainant.

Further details about the Financial Ombudsman Service can be found in the General Conditions and on the Financial Ombudsman Service's website at <https://www.financial-ombudsman.org.uk>.

Legal action against the Bank is time barred by 13 months. The limitation period runs from the date of commission or omission of the facts alleged against the Bank.

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