

# Master Services Agreement

## 1 Relationship Documents

The Relationship Documents contain the whole agreement between the Parties relating to the transactions contemplated by the Relationship Documents and replace all previous agreements between the Parties relating to the Services.

## 2 Authority

The Bank may rely on the authority of each person designated as an Authorised Person by the Customer (or any party duly authorised by the Customer to act on its behalf) to send Communications, Instructions or perform all actions (including delegating their authority) until the Bank has received written notice, in form acceptable to the Bank, of any change to an Authorised Person, and the Bank has had a reasonable opportunity to act on it.

## 3 Communications, Instructions and Security Procedures

**3.1** The Parties will comply with the Security Procedures. The Customer shall follow the Security Procedures upon accessing Communication Channels and issuing Instructions or Communications via such channels. The Bank shall follow the Security Procedures upon receipt of such Instructions or Communications to establish their validity. The Bank is not obliged to do anything outside of the Security Procedures to establish and rely upon the authority or identity of any person sending an Instruction or Communication on behalf of the Customer.

**3.2** The Customer is responsible for the accuracy, completeness and correct transmission of its Instructions and for ensuring they will achieve the Customer's intended purpose, including when the Customer requests the Bank to forward information to a third party.

**3.3** The Bank will not be liable to the Customer where the Bank chooses to comply with an Instruction and the Customer must take reasonable steps to ensure that an Instruction will not give rise to any claim against the Bank. The Bank is not responsible for errors or omissions made by the Customer and may act on any Instruction by reference to a bank identification or account number only, even if a bank or account name is provided.

**3.4** If the Bank doubts the legality, origination or authorisation of an Instruction, it shall take such steps as it considers appropriate to investigate the matter. If such investigation results or, in the opinion of the Bank, is likely to result in the Instruction being declined or executed outside the applicable value date or other agreed time period, the Bank will notify the Customer as soon as practicable.

**3.5** The Bank will use its reasonable efforts to comply with any request made by the Customer to vary or cancel an Instruction and, subject to the Bank using such efforts, the Customer shall be responsible for any Losses related to such an Instruction.

**3.6** If the Bank accepts a manually initiated Instruction (being an Instruction which is not submitted through Communication Channels but, for example, by telephone, e-mail, fax or physical delivery), then, provided the Bank acts in accordance with the applicable Security Procedures, the Customer is responsible for any Losses related thereto.

**3.7** Without prejudice and subject to Clauses 3.1 to 3.6, if the Bank acts on an Instruction which the Customer claims was unauthorised, the Bank shall only be responsible for acting on such Instruction if:

- (a) the Bank cannot demonstrate that it acted in accordance with the Security Procedures, or
- (b) the Bank demonstrates that it acted in accordance with the Security Procedures, but the Customer can demonstrate that the unauthorised Instruction was not caused by a person: (i) entrusted at any time to act for the Customer with respect to Instructions or the applicable Security Procedures; or (ii) who obtained access to the Customer's premises, equipment, systems or transmitting facilities; or (iii) who obtained from a source controlled by the Customer, information (such as keys and passwords) which facilitated breach of the Security Procedures.

Unless one of the conditions set out in paragraphs (a) and (b) of this Clause is satisfied, the Bank shall be entitled to enforce or retain payment from the Customer with respect to such an Instruction.

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

## 4 Credits and Debits

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

**4.2** The Bank is not obliged to carry out an Instruction:

- (a) which causes the Account to (i) be overdrawn without the Bank's approval; or (ii) exceed any agreed or advised overdraft facility; or
- (b) where the Account is subject to a right of a third party that has been enforced.

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

**4.4** If an Account is overdrawn without the Bank's approval or if an overdraft limit is exceeded for any reason the Customer shall immediately transfer sufficient cleared funds to bring such Account into credit or within the overdraft limit.

The Bank is not hereby offering the Customer, or agreeing an increase to, any overdraft facility and, unless otherwise provided in an agreement executed by the Bank and the Customer, any extension of credit can be cancelled by the Bank at any time.

## 5 Statements

The Customer shall notify the Bank, as soon as practicable and in any case within 30 days of delivery of a statement of account or report of transactions, of any errors in that statement or report. Notice may be provided by the Customer after this period, however the Bank shall not be responsible for any Loss resulting from the delay by the Customer in providing such

notice.

## 6 Interest

Any interest will accrue or, if applicable to the Customer, negative interest may be charged on the applicable credit balance of an Account on the days and at the applicable rate for those days as set out in any relevant guide or as the Bank may agree with the Customer from time to time.

Unless agreed otherwise by the Parties, the Bank may change such rates and the Bank shall notify the Customer or otherwise make available such changes. The Customer acknowledges that, as applicable:

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

## 7 Security Interest

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

## 8 Set-Off

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

## 9 Representations, Warranties and Undertakings

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

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

9.2 The Customer undertakes to:

- (a) comply with all reasonable requests of the Bank necessary to provide the Customer with the Services, including but not limited to, promptly providing to the Bank all documents and other information reasonably requested by it from time to time in relation to any Account or Service. The Bank may rely on any documents and information provided until the Customer notifies the Bank in writing of any changes and the Bank has had a reasonable

opportunity to act thereon; and

- (b) notify the Bank as soon as possible if it becomes aware of any theft, fraud, illegal activity, loss, damage or other misuse in relation to the Services or in relation to any associated documentation, Instruction, Communication or payment instrument.

## 10 Performance and Liability

10.1 The Bank will perform its obligations under the Relationship Documents using such level of skill and care as would be considered commercially reasonable by reference to the standards and practices of the banking industry.

10.2 Neither Party shall be liable for any:

- (a) consequential, incidental or indirect Loss including, without limitation, fines, penalties or punitive damages; or
- (b) any direct or indirect loss of (i) profit (actual or anticipated); (ii) goodwill; or (iii) business opportunity,

whether or not foreseeable, even if one Party advised the other of the possibility of such loss or damage.

10.3 The Bank may operate through a branch in some jurisdictions. Any obligation of the Bank relating to an Account will only be enforceable in the jurisdiction in which such branch operates. The obligations of the Bank shall not be enforceable at or against another branch or member of the Group.

10.4 The Bank is only required to perform its obligations in the currency in which those obligations are denominated. Unless otherwise agreed in writing, the Bank, or any intermediary reasonably selected by the Bank, may make any currency conversion in connection with the exercise of its rights and obligations pursuant to the Relationship Documents, using exchange rates that are reasonable in the relevant market at the time and for the size and type of foreign exchange transaction.

10.5 The Parties shall not be liable for any Loss caused by a Force Majeure Event. If either Party or member of the Group is prevented or delayed in the performance of any of its obligations under the Relationship Documents by a Force Majeure Event, such party shall as soon as reasonably practicable notify the relevant Party of the existence of the Force Majeure Event. The duty of:

- (a) the Bank or any member of the Group to act upon any Instruction or Communication, or perform any obligation; and
- (b) the Customer to perform any obligation;

shall be suspended to the extent that and for as long as such party is prevented or restricted from doing so by a Force Majeure Event.

10.6 The Bank may use Infrastructure Providers to provide the Services and are therefore subject to their rules and regulations as well as the guidelines and procedures of relevant regulatory or industry bodies. Neither the Bank nor any other member of the Group shall be liable for any Loss suffered as a result of the acts of an Infrastructure Provider, but will provide commercially reasonable assistance to the Customer in the recovery of any such Loss.

10.7 The Customer shall indemnify the Bank and any other member of the Group in full against any direct Loss arising from or in connection with a third party making a claim or demand against the Bank or other member of the Group as a result of

the Bank or any other member of the Group processing an Instruction or otherwise performing its obligations hereunder in accordance with the Relationship Documents, except to the extent that such Loss has been caused by the negligence or willful misconduct of the Bank.

- 10.8 Neither the Customer, the Bank nor any member of the Group is obliged to perform any of its obligations under the Relationship Documents if to do so would result in such party being in breach of any Law.

## 11 Fees and charges

- 11.1 The Customer shall pay to the Bank Fees in connection with the Services.
- 11.2 The Bank may change the Fees either with reasonable notice to the Customer or immediately with the Customer's agreement.
- 11.3 Subject to any agreement made between the Customer and the Bank, the Bank may debit Fees owed by the Customer to the Bank from any Account.
- 11.4 Unless otherwise stated, all amounts payable pursuant to Clause 11:
- (a) are exclusive of value added, sales, use, goods and services, business, stamp or any similar taxes or duties that may be applicable; and
  - (b) will be clear and free of any deduction or withholding for or on account of tax, set-off, counterclaim or other charges so the Bank receives such amounts in full.
- 11.5 If a deduction or withholding for or on account of tax is required to be made by law, the payment shall be increased to an amount which after making any deduction or withholding leaves an amount equal to the payment which would have been made if no deduction had been required.

## 12 Amendments and Assignment

- 12.1 The Bank may amend the Relationship Documents by written notice to the Customer. Such amendments will become effective no less than 60 days after delivery of such notice.
- 12.2 Notwithstanding the provisions of Clause 12.1, the Bank may, by written notice to the Customer, make amendments to the Relationship Documents at any time in order to comply with any Law, which will become effective in accordance with the terms of such notice. The Bank will use reasonable efforts to give the Customer as much advance notice as possible in such circumstances.
- 12.3 Neither Party may assign its rights or transfer its obligations under these Relationship Documents without the written consent of the other, such consent not to be unreasonably withheld or delayed. However, the Bank may, without the Customer's consent, assign the Bank's rights and/or transfer the Bank's obligations to
- (a) any member of the Group; or
  - (b) to the Bank's successor following a merger, consolidation or disposal of all or substantially all of the Bank's shares, capital, assets or the business to which the Relationship Documents relate,
- provided that such assignment does not adversely affect the provision of the Services to the Customer.

## 13 Termination

- 13.1 Either Party can terminate any or all Relationship Documents and/or, in the case of the Bank, withdraw any or all of the Services or close any Account by giving 30 days' prior written notice to the other. Any liabilities owing to the Bank will become immediately due and payable on termination of the terms of the relevant Relationship Document.
- 13.2 Either Party can terminate any or all Relationship Documents and/or, in the case of the Bank, withdraw any or all of the Services or close or suspend any Account immediately if the other Party commits a material breach which, with respect to the Bank, includes any activity by the Customer which puts the Bank or any member of the Group at material risk of violating its Compliance Obligations.
- 13.3 Termination shall not affect any accrued rights or liabilities of either Party with respect to Clauses 1, 3.5, 10, 12.3, 13.1, 13.3, 14-20 inclusive, and the CARA.

## 14 Waiver

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

## 15 Severability

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

## 16 Third Party Rights

To the fullest extent permitted by Law, anyone not a Party to the Relationship Documents (other than members of the Group) has no right to enforce any of their terms, regardless of whether such right is provided under Law.

## 17 Notices

Notices in writing from:

- (a) the Bank shall be effective if delivered to an address specified by the Customer on an Application Form; and
- (b) the Customer shall be effective if delivered to the Bank's address specified on the most recent statement for the relevant Account.

In each case a Party may, from time to time, specify another address in writing to the other Party as effective for delivery of notices pursuant to the Relationship Documents, including an address for notices to be sent electronically.

## 18 Governing Law and Jurisdiction

- 18.1 The Relationship Documents and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with the law of the jurisdiction in which the relevant Account is maintained or the relevant Service is provided unless specified otherwise in any applicable Relationship Document.
- 18.2 Unless otherwise mutually agreed by the Parties, they submit to the non-exclusive jurisdiction of the courts of the jurisdiction

whose governing law applies.

## 19 Electronic Signatures

If the Bank makes available to the Customer and the Customer uses any electronic method of providing agreement to the provision of the Bank's products and services (including use of digital or electronic signatures or any other form of electronic consent) such use shall, subject to any additional terms and conditions provided to the Customer prior to such use (as the case may be), constitute full and binding consent by the Customer as if the Customer had provided such consent executed in writing.

## 20 Definitions

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

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

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

- **Group** means HSBC Holdings plc, its subsidiaries, related bodies corporate, associated entities and undertakings and any of their branches.
- **Infrastructure Provider** means any third party, excluding sub-contractors or agents of the Bank, providing shared market infrastructure necessary for a Party to perform its obligations under the Relationship Documents including any communications, clearing, settlement or payment system, or intermediary or correspondent bank.
- **Instruction** means any communication which is received by the Bank in relation to a Service which:
  - (a) contains the necessary information for the Bank to act on the Customer's behalf; and
  - (b) has or, in the reasonable opinion of the Bank, appears to have been provided by an Authorised Person or otherwise originated by the Customer.
- **Law** means any applicable local or foreign statute, law, regulation, ordinance, rule, judgment, decree, voluntary code, directive, sanctions regime, court order, agreement between any member of the Group and an Authority, or agreement or treaty between Authorities and applicable to the Bank or a member of the Group.
- **Loss** means any loss, damages, liability, costs, claims, demands and expenses of any kind whether or not foreseeable.
- **MSA** means this Master Services Agreement.
- **Party** means the Customer or the Bank, and Parties means the Customer and the Bank.
- **Personal Data** means any data relating to an individual and allowing the identification of that individual, and such other data which is protected by Data Protection Legislation.
- **Purposes** means the circumstances in connection with which Customer Information will be processed, transferred and disclosed by the Bank and/or members of the Group, as set out in Clause 2.2 of the CARA.
- **Relationship Acceptance Form** means the Application Form in which the Customer agrees to the provision of the Services by the Bank.
- **Relationship Documents** means (in order of priority) the Supporting Documents and the MSA, as amended or supplemented from time to time.
- **Security Procedures** means, with respect to Communication Channels, security measures or protocols governing the Customer's access to such Channels and

used to verify the origination of Instructions or Communications between them and, with respect to manually initiated Instructions, the procedures set up to verify the origination of such Instructions.

- **Service Amendment Form** means the Application Form in which the Customer agrees to the provision of any additional Services by the Bank at any time after the Relationship Acceptance Form has been executed.
- **Services** means the services provided by the Bank and members of the Group under the Relationship Documents and requested in an Application Form.
- **Services Schedule** means a schedule to the MSA or a separate agreement between the Parties that expressly incorporates the MSA and relates to a specific Service.
- **Supporting Documents** means any document, agreement or Application Form which the Bank requires the Customer to enter into in connection with the receipt or maintenance of any Services in a particular jurisdiction including (in the order of priority) Country Conditions, Application Forms, Appendices, Annexes and Service Schedules.
- **Tax Authorities** means domestic or foreign tax, revenue, fiscal or monetary authorities.
- **Tax Information** means any documentation or information relating, directly or indirectly, to a Customer and any owner, controlling person, substantial owner or beneficial owner of the Customer, that the Bank considers, acting reasonably, is needed to comply with any Group member's obligations to any Tax Authority.