

SPECIAL TERMS AND CONDITIONS – PAYMENT SERVICES

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Governing the relationship between Compagnie de Banque Privée Quilvest S.A. (the “Bank”) and its Clients

## 1. PRELIMINARY PROVISIONS

### 1.1. DEFINITIONS

Capitalised terms used in these special terms and conditions, which are appended to the Bank’s General Terms and Conditions (the “Special Terms and Conditions”), shall have the meanings given to them below:

“**Strong Customer Authentication**”: an authentication procedure that requires the use of two or more “factors”: a knowledge factor, i.e. something that only the user knows; a possession factor, i.e. something that only the user has; and an inherence factor, i.e. something that the user is. Each factor is independent, insofar as, if one of them is compromised, the reliability of the others is not undermined. The procedure is designed to keep the authentication data private;

“**Payee**”: a Payment Service User who is the intended recipient of funds that are the subject of a Payment Transaction;

“**Payment Account**”: an account that is held in the Client’s name and is used for the execution of Payment Transactions; the Bank shall provide, either in the account opening documentation, or in a separate communication, information on whether accounts opened at the Bank are to be considered to be Payment Accounts for the purposes of these Special Terms and Conditions;

“**Member State**”: a Member State of the European Union. The States that are parties to the Agreement on the European Economic Area (“EEA”) other than the Member States of the European Union shall be treated as Member States of the European Union within the limits imposed by that agreement and any related acts;

“**Unique Identifier**”: the international bank account number (accompanied by the acronym “IBAN”) and, where applicable, the bank identifier code (accompanied by the acronym “BIC”), as well as the surname and first name of the Payee to be provided by the Client:

- to identify unambiguously the payment account of the other Payment Service User, and
- where applicable, to identify unambiguously the Payment Account of that Payment Service User, in order to correctly execute a Payment Order;

“**Incident**”: the loss or theft of a Payment Instrument, the disclosure to third parties (even if involuntary or only suspected) of any access code for a Payment Instrument, the misappropriation or other unauthorised use of a Payment Instrument by the Client or by a third party as well as the loss, theft, disclosure to third parties (even if involuntary or only suspected), misappropriation or other unauthorised use of the Client’s personalised security measures;

“**Payment Instrument**”: a personalised device or set of procedures agreed between the Client and the Bank within the meaning of these Special Terms and Conditions used by the Client to initiate a Payment Order;

“**Bank Business Days**”: days on which the Bank is officially open to the public in Luxembourg and on which it carries on an activity that enables Payment Transactions to be executed;

“**Payment Transaction**”: an act initiated by a Payment Service User or on his behalf, of transferring or withdrawing funds (such as the withdrawal of cash from a payment account, transfers and standing orders) irrespective of any underlying obligation between the Payer and the Payee;

“**Payment Order**”: an instruction by a Payment Service User requesting the execution of a Payment Transaction;

“**Payer**”: a Payment Service User who gives a Payment Order;

“**Account Information Service Provider**”: a Payment Service Provider that provides Account Information Services;

“**Payment Service Provider**”: a professional authorised to provide payment services;

“**Account Information Service**”: an online service to provide consolidated information on one or more Payment Accounts held by the Payment Service User either with another Payment Service Provider or with more than one Payment Service Provider;

“**Payment Service User**”: a natural or legal person, including the Client, who uses a payment service as a Payer or Payee, or both.

### 1.2. SCOPE

Unless expressly agreed otherwise, these Special Terms and Conditions govern the Bank’s and the Client’s rights and obligations in connection with any Payment Transaction carried out where:

- the Payment Service Provider of the Client’s counterparty in the Payment Transaction, which

may be the Bank, is located in Luxembourg or another Member State; and

- the Payment Transaction is carried out in euros or in the currency of a Member State; or
- the Payment Transaction is carried out in a currency that is not the currency of a Member State (hereinafter referred to as a "non-EU currency") and the Payer's and Payee's Payment Service Providers are both located in the EU/EEA or the single Payment Service Provider involved in the Payment Transaction, which may be the Bank in relation to parts of the Payment Transaction that are carried out in the EU/EEA, is located in the EU/EEA;
- one of the Payment Service Providers, which may be the Bank, is located in the EU/EEA and the Payment Transaction is executed in any currency, with respect to the parts of the Payment Transaction that are carried out in the EU/EEA.

These Special Terms and Conditions do not apply to:

- foreign exchange activities, i.e. "cash for cash" transactions in which the Bank does not exchange funds held in a Client's Payment Account;
- payments based on one of the following hard-copy documents:
  - a cheque;
  - a bill of exchange;
  - a service voucher, for example *chèques-services accueils* (childcare voucher system);
  - traveller's cheques; or
  - a postal order as defined by the Universal Postal Union.
- Payment Transactions in connection with servicing assets and securities, including the distribution of dividends, income or other amounts and redemptions or sales carried out by the Bank.

All services that are not governed by these Special Terms and Conditions are governed by the Bank's General Terms and Conditions.

### **1.3. INFORMATION ABOUT THE BANK**

Compagnie de Banque Privée Quilvest S.A., registered and existing under Luxembourg law, registered with the Luxembourg Trade and Companies Register under number B 117.963, is established and has its registered office at 48 rue Charles Martel, L - 2134 Luxembourg (the "Bank"). Communications with the Bank must be sent to the address referred to above and/or to:

[info@cbpquilvest.com](mailto:info@cbpquilvest.com) or B.P. 1106, L-1011 Luxembourg.

The Bank is authorised in the Grand Duchy of Luxembourg as a credit institution and is subject to the prudential supervision of the supervisory authority in Luxembourg, the Commission de Surveillance du Secteur Financier (the "CSSF"), located at L-1150 Luxembourg, 283 route d'Arlon and to the supervision of the European Central Bank.

## **2. USING A PAYMENT SERVICE**

### **2.1. MAIN FEATURES AND DESCRIPTION OF PAYMENT SERVICES AND PAYMENT INSTRUMENTS PROVIDED BY THE BANK**

#### **2.1.1. Bank transfers and standing orders**

The bank transfer service is a Payment Service under which a Client, as Payer, gives a Payment Order to the Bank whereby he/she instructs it, by debiting his/her Payment Account, to transfer funds that are available or covered by a credit facility to a payment account held by a Payee. In accordance with the Client's instructions, a bank transfer may be executed:

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

Unless otherwise indicated, a standing order shall remain valid until it is expressly cancelled by the Client.

In all cases, before ordering a bank transfer or setting up a standing order, the Client is advised to obtain the Unique Identifier for the Payee's account to which the funds are to be credited, on the headed notepaper of the Client's Payment Service Provider, with a view to reducing the risk of an error at the time the transfer or standing order is set up.

The transfer service also involves the Bank crediting the Client's Payment Account with funds transferred to the Bank by a Payer (which may be the Client himself/herself), via the Client's Payment Service Provider, to the Client as Payee.

#### **2.1.2. Withdrawals**

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

## **2.2. RULES FOR ONLINE ACCESS TO THE PAYMENT ACCOUNT IN RESPECT OF ACCOUNT INFORMATION SERVICES**

The Client has the right to use the services that provide access to Account Information Service Providers where Payment Accounts are accessible electronically.

Account Information Service Providers provide the Client with comprehensive online information on one or more Payment Accounts held with one or more other Payment Service Providers and accessible through the online interfaces of the Payment Service Provider that holds the account.

Where a Client decides to make use of an Account Information Service Provider, the Bank shall:

- communicate securely with the Account Information Service Provider;
- process data requests transmitted using the services of an Account Information Service Provider without any discrimination, other than for objective reasons.

The Bank reserves the right to decline access to a Payment Account by an Account Information Service Provider for objective reasons to do with security issues and unauthorised or fraudulent access or should the service provider not have the required approval or not be registered as an Account Information Service Provider with the relevant supervisory bodies.

## **2.3. AUTHORISATION OF PAYMENT TRANSACTIONS**

### **2.3.1. The Bank shall act in accordance with the Payment Orders provided by the Client**

A Payment Order may be given:

- by post,
- by fax, with confirmation by telephone,
- by email from a secure email address (SEPPmail secure message)
- by email from an email address previously communicated to the Bank, with confirmation by telephone;
- orally to the Bank against signature of a slip or by telephone.

Simply by transmitting a Payment Order to the Bank in accordance with the procedures described above the Client is deemed to have authorised the Payment Order.

The Client and the Bank expressly agree that, notwithstanding the provisions of Article 1341 of the Civil Code, the Bank shall, whenever useful or

necessary, be 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 Client's authorisation of the Payment Order and shall have the same value in evidence as an original written document.

The Client accepts that the technical procedures used by the Bank for the financial products and services to which he/she has subscribed electronically on the premises of the Bank or online may be used and presented by the Bank in court and may serve as evidence. If necessary, the Bank shall provide evidence that it has transmitted the information relating to the payment services.

### **2.3.2. Authorisation of Payment Transactions where their value is not known in advance**

Where a Payment Transaction is initiated by or via the Payee in connection with a card Payment Transaction and the exact amount is not known at the time the Client gives his/her consent to the execution of the Payment Transaction, the Client acknowledges that the Bank may only block funds on the Client's Payment Account if the Client has given his/her consent to the exact amount of the funds to be blocked.

The Bank shall release the blocked funds in the Client's Payment Account without undue delay once it receives information on the exact amount of the Payment Transaction and, at the very latest, immediately after it receives the Payment Order.

## **2.4. RECEIPT AND EXECUTION OF A PAYMENT ORDER**

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

a) A Payment Order shall be deemed to have been received by the Bank:

- if sent by post, when it is actually received by the Bank,
- if sent by e-mail, when it is actually received by the Bank,
- if communicated to the Bank by telephone, at the time the order is orally communicated to the Bank,
- if sent by fax, when the fax has been fully received by the Bank,

provided that any Payment Order or consent received by the Bank in accordance with the aforementioned rules after 2:30 p.m. on a Bank Business Day shall only be deemed to have been received on the next Bank Business Day.

Furthermore, the Client acknowledges that if he/she indicates that the execution of the Payment Order will commence on a given day, at the end of a specific period or on the day on which the Client makes the funds available to the Bank, the day thus agreed shall be considered to be the date on which the Payment Order is received unless that date is not a Bank Business Day for the Bank, in which case the Client's Payment Order is deemed to have been received by the Bank on the following Bank Business Day.

b) The Client may not revoke a Payment Order once it has been received by the Bank. Such Payment Order shall be executed by the Bank notwithstanding any subsequent revocation order from the Client.

c) Where the Payment Order is initiated by the Payee or his/her intermediary, the Client may not revoke the Payment Order once he/she has sent the Payment Order to the Payee of that Payment Order or once he/she has given his/her consent to the execution of the Payment Order in favour of the Payee of that order.

d) Notwithstanding the provisions of clauses b) and c) above, if it has been agreed that the execution of the Payment Order shall commence on a given day, at the end of a specified period or on the day on which the Client makes the funds available to the Bank, the Client may revoke that Payment Order by the latest on the Bank Business Day preceding the execution date.

e) The Bank reserves the right, without any obligation, to accept the revocation of a Payment Order by a Client after the time that Payment Order is received. In the event that the Payment Transaction is initiated by the Payee, the Payee's consent shall, however, also be required so that the Payment Order may be revoked.

The Bank may not be held liable for not exercising this right. If, however, the Bank accepts the revocation of a Payment Order at such a time, it shall then be entitled to charge the Client fees.

f) The rules set out in clause a) above apply to the receipt of Payment Orders by the Bank.

#### **2.4.2. Execution of Payment Orders**

a) Where Payment Transactions are carried out in euros, without any foreign exchange transaction, within the EEA or where domestic Payment Transactions are carried out in the currency of a Member State that is not within the eurozone, or where Payment Transactions involving a single conversion between the euro and the official

currency of a Member State that is not within the eurozone are carried out, provided that the necessary conversion is carried out in the Member State that is not within the eurozone and that, for cross-border Payment Transactions, the cross-border transfer is carried out in euros, the Bank shall ensure that the amount of the Payment Transaction is credited to the account of the Payee's Payment Service Provider no later than the first Bank Business Day following the date on which the Payment Order is received in accordance with these Special Terms and Conditions.

However, the Client and the Bank agree that in the event that the Payment Order has been given in hard copy (a Payment Order given by fax or email is deemed to have been given on paper if it needs to be processed by the Bank in hard copy format, e.g. printed), this period shall be extended by an additional Bank Business Day.

b) For all other Payment Transactions carried out within the EEA other than those described in a), the Bank shall ensure that the amount of the Payment Transaction is credited to the account of the Payee's Payment Service Provider no later than the fourth Bank Business Day following the date on which the Payment Order was received in accordance with these Special Terms and Conditions.

c) For all other Payment Transactions not referred to in a) and b), the Client acknowledges that the time limit for executing the Payment Transaction will depend on the operating rules of the international payment systems and that, in such circumstances, the Bank will not be bound by the deadlines set out above.

d) The user name, customer number, passwords, PIN numbers and any other electronic means of identifying and authenticating the Client (the "Identifiers") made available to the Client by the Bank are personal and non-transferable.

The Bank has robust safety mechanisms in place in order to guarantee the security and authentication of data transfer methods, mitigate as much as possible the risk of data corruption and unauthorised access, and prevent data leaks with a view to protecting data privacy at all times.

The Client must take all necessary steps to ensure that his/her Identifiers are kept secure and private and to inform the Bank immediately should his/her Identifiers be lost or stolen so that they can be deactivated.

In the event of suspected or known fraud, the Bank will contact the Client without delay.

e) In the event that the Bank does not detect the fraudulent or abusive use of a Payment Instrument and executes Payment Transactions initiated using such a Payment Instrument, the Bank shall, except in the event of gross or intentional misconduct, be deemed to have validly executed the Payment Transaction, as if the Payment Transaction had actually been initiated by the Client. The Bank shall not be required to reimburse the Client for funds deposited in his/her Payment Account that may have been used as a result of this fraudulent or abusive Payment Instrument.

#### 2.4.3. Refusal to execute a Payment Order

a) The Bank may, without any obligation, refuse to execute a Payment Order:

- if the Payment Order contains any factual error, in particular an incomplete or inaccurate Unique Identifier;
- if the Client has breached any of his/her obligations towards the Bank under these Special Terms and Conditions or any other agreement between the Client and the Bank;
- if the Payment Order does not comply with the forms agreed in these Special Terms and Conditions;
- if the Client's funds or the Client's credit facility are insufficient to fully execute a Payment Order;
- if the usage limits of one or more Payment Instruments agreed between the Bank and the Client have been reached;
- if the amount of the Payment Transaction exceeds the limit previously specified by the Client, beyond which the Client and the Bank had agreed that the Bank would not execute a Payment Order in accordance with the provisions of clause 2.5.7 a) below;
- if the Payment Order cannot be fully executed;
- if the Payment Order is issued by a person who does not have the authority to operate the Payment Account;
- if changes in the financial situation of the Client or a person financially linked to him/her may jeopardise the prompt and complete execution of the Client's commitments under these Special Terms and Conditions;
- if a legal or contractual provision or a decision of a competent authority requires the Bank to block the Client's Payment Account or Payment Instrument.

b) If the Bank refuses to execute a Payment Order in accordance with the paragraph above, it shall inform the Client of its refusal using the method of communication agreed with the Client in the

Account Opening Application, within the applicable execution period under these Special Terms and Conditions, unless otherwise provided by law. The Bank shall, where possible, state the reasons for its refusal and the procedure to be followed to correct any factual error that led to the refusal. The Bank shall be deemed to have complied with this obligation if it has sent such notice by the aforementioned deadline, regardless of the actual date on which such notice was received by the Client. Any notice issued by the Bank informing the Client that it has refused a Payment Order on justified grounds may give rise to fees.

c) If the Client wishes to execute a Payment Order in respect of which execution has been previously refused by the Bank, he/she must reissue a new Payment Order containing all necessary information and not simply correct the initial Payment Order.

d) Where the Payment Transaction is initiated by the Client or through a Payee, the Bank shall not refuse to execute an authorised payment order, unless prohibited from doing so under other relevant Community or national laws.

#### 2.4.4. Provision of funds

The funds or the amount of the Payment Transaction shall simply be credited to the Payment Account, even if the overall balance of this Payment Account remains in debit.

When the currency in which the funds were received differs from the currency of the Payment Account, the Bank shall automatically open a sub-account in that currency and credit the new sub-account with those funds.

The Client expressly authorises the Bank to confirm to a Payment Service Provider that is issuing Payment Instruments whether the amount required to execute a card Payment Transaction is available in his/her Payment Account.

#### 2.4.5. Information on executed Payment Transactions

An account statement containing information on Payment Transactions carried out via the Payment Account shall be issued at the frequency agreed with the Client in the Account Opening Application or, failing that, in accordance with regulatory requirements.

If the Client does not receive the account statement by the tenth Bank Business Day of the month following the end of the period to which the statement relates, he/she must immediately notify the Bank. If he/she fails to do so, the Client shall be

deemed to have received and actually read the account statement within that period.

## **2.5. DISPUTES RAISED BY THE CLIENT**

### **2.5.1. Deadline to dispute non-executed, incorrectly executed or unauthorised Payment Transactions that are not likely to give rise to an Incident notice**

The Client has 30 days from receiving and actually reading his/her account statement, within the meaning of clause 2.4.5 above, in which to dispute in writing any unauthorised or incorrectly executed Payment Transactions listed on that account statement or if he/she notes that a Payment Transaction has not been executed. The Client shall have 13 (thirteen) months to file a complaint from the date on which the payment has been debited to his/her account.

If the Client does not dispute a Payment Transaction by that deadline, he/she shall be deemed to have authorised the Payment Transactions listed on the account statement, which shall then be deemed to have been accepted by the Client.

### **2.5.2. Authorised Payment Transactions (where disputed by the deadline)**

If a Payment Transaction cannot be considered by the Bank as having been authorised by the Client, the Bank shall refund the amount of the Payment Transaction in question to the Client no later than the end of the first Bank Business Day after it is informed thereof and, where necessary, return the debited Payment Account to the position it would have been in if the unauthorised Payment Transaction had not been carried out. However, if the unauthorised Payment Transaction is the result of fraudulent conduct by the Client and this presumption is based on objective reasons communicated to the competent national authority, the Bank should be able to carry out an investigation, within a reasonable period, before repaying the Client.

The Client shall nevertheless remain liable for any losses that arise as a result of an unauthorised Payment Transaction in the following circumstances and conditions:

- until, in accordance with the rules on the notification of Incidents provided for in these Special Terms and Conditions, the Bank is notified of the loss or theft of a Payment Instrument or the misappropriation of a Payment Instrument, which was possible due to the Client failing to maintain the security of his/her

personalised security features: the Client shall be liable for up to EUR 50, unless:

- the loss, theft or misappropriation of a Payment Instrument was not detected by the Payer prior to payment, unless the Payer acted fraudulently;
  - the loss was caused by an act or omission of an employee, agent or branch of the Bank or an entity to which its business was entrusted.
- The Payer shall bear all losses associated with unauthorised Payment Transactions if those losses are incurred as a result of the Payer acting fraudulently or failing to comply with one or more of the obligations under the Payment Instrument and the personalised security certificates, either intentionally or with gross negligence. In such circumstances, the maximum amount referred to above shall not apply.
  - Where the Bank does not require Strong Customer Authentication, the Client shall not bear any financial loss unless the Client has acted fraudulently;
  - The Client shall not bear any financial consequences arising as a result of the lost, stolen or misappropriated payment instrument being used after he/she duly informs the Bank thereof, unless he/she has acted fraudulently.
  - In any event, the Client shall bear all losses associated with an unauthorised Payment Transaction in the event that he/she acts fraudulently, regardless of any notice sent to the Bank.

### **2.5.3. Notification in the event of loss, theft or misappropriation of a Payment Instrument**

The Client shall have the option of notifying the Bank, free of charge, as soon as he/she becomes aware of the loss, theft, misappropriation or unauthorised use of the Payment Instrument, using the methods enclosed with the Payment Instrument, and shall only be charged any replacement costs directly attributable to the Payment Instrument.

### **2.5.4. Authorised Payment Transactions that are not executed or are incorrectly executed (where disputed by the deadline)**

#### **a) Where the Client is the Payer**

##### *(i) The Client initiates the Payment Order*

Where a Payment Transaction is not executed or is incorrectly executed, and irrespective of whether the Bank is liable in respect of the non-execution or incorrect execution of the Payment Transaction, the Bank shall endeavour, if explicitly requested to do so

by the Client, without any liability in this respect, to find a record of the Payment Transaction and shall inform the Client of the results of its research.

The Bank may not under any circumstances be held liable for the incorrect execution of a Payment Order if it is able to establish that the amount stated in the Payment Order was received by the Payee's Payment Service Provider by the stated deadline.

To the extent that the Bank is liable for the non-execution or the incorrect execution of a Payment Transaction, it shall repay to its Client, where applicable, the total amount of the Payment Transaction and, where necessary, return the debited Payment Account to the position it would have been in if the incorrectly executed or non-executed Payment Transaction had not occurred.

If the funds are unable to be recovered, the Bank shall provide the Client, upon written request, with all information held by the Bank and relevant to the Client so that the Client may bring a legal claim to recover the funds.

The Bank shall take all reasonable steps to remedy the incorrect execution of a Payment Order, if the Payment Order contains all the information needed to remedy such incorrect execution, especially where the Bank has transferred an amount that differs from the amount of the Payment Order or where the transfer is an internal transfer from the Client's Payment Account to another account held by the Client at the Bank.

The late execution of a Payment Order shall not entitle the Client to be refunded the amount of the Payment Transaction under the paragraphs above, but shall simply entitle the Client to a refund of any costs and interest payments incurred by the Client as a result of the late execution.

*(ii) The Payment Order is initiated by the Payee*

Where the Bank executes a Payment Transaction without instruction from a Payment Initiation Service Provider (PISP) and the Client denies having authorised it or claims that it was incorrectly executed, the Bank shall be required to prove that the transaction in question was authenticated, duly recorded and accounted for, and not affected by a technical or other deficiency. If the Bank is unable to fulfil this requirement, it shall, other than in exceptional circumstances, refund the total amount of the Payment Transaction to the Client and, if necessary, restore the debited Payment Account to the position it would have been in had the incorrect Payment Transaction not occurred.

Where a Payment Transaction initiated by a PISP is not executed or is incorrectly executed, the Bank may seek recourse against the PISP in question. Accordingly, the Client hereby agrees to the Bank's subrogation with respect to all its applicable rights of recourse against the PISP in this regard.

The Bank may also, to the extent possible, take steps to remedy the incorrect execution of a Payment Order, if the Payment Order contains all the information needed to remedy such incorrect execution, especially where the Bank has transferred an amount that differs from the amount of the Payment Order.

The late execution of a Payment Order shall not entitle the Client to be refunded the amount of the Payment Transaction under the paragraphs above, but shall simply entitle the Client to a refund of any costs and interest payments incurred by the Client as a result of the late execution.

**b) Where the Client is the Payee**

*(i) Payment Order executed in accordance with the Unique Identifier*

A Payment Order executed by the Bank using the Unique Identifier shall be deemed to have been properly executed in relation to the Payee identified by the Unique Identifier, notwithstanding any additional information that may be provided to the Bank.

Insofar as the Unique Identifier is incorrect, the Bank may not under any circumstances be held liable for any losses resulting from the non-execution or incorrect execution of a Payment Order to the extent that the Bank executes the Payment Order in accordance with the Unique Identifier used. The Client shall therefore be responsible for taking action against the Payer and/or Payment Service Provider in this respect.

*(ii) The Payer initiates the Payment Order*

The Payer's Payment Service Provider shall be liable for the Payment Transaction's correct execution unless it can demonstrate to the Bank that the Bank, in its capacity as the Payee's Payment Service Provider, received the amount of the Payment Transaction. In such a case, other than in exceptional circumstances, the Bank shall be liable for the Payment Transaction's correct execution with regard to the Client.

In such circumstances, the Bank shall provide the Client with the amount of the Payment Transaction in his/her Payment Account.

The Bank and the Client agree that, where a Payment Transaction initiated by a Payer gives rise



to a reimbursement from the Bank, the Bank shall be irrevocably authorised to debit the Client's Payment Account by the amount that the Payer's Payment Service Provider claims in this respect, and shall not be required to check whether the request for reimbursement sent by the Payer to his/her Payment Service Provider is justified. It is the Client's responsibility, where applicable, to challenge the grounds of the request for reimbursement made by the Payer through direct contact with the Payer and/or the Payer's Payment Service Provider.

*(iii) The Client initiates the Payment Order as Payee*

The Bank is solely liable to the Client for the correct transmission of the Payment Order to the Payer's Payment Service Provider and for the processing of the Payment Transaction in accordance with the provisions of these Special Terms and Conditions. It may not therefore be held liable in the event that a Payment Order is not executed or is incorrectly executed if it has met these obligations.

Notwithstanding the above, and irrespective of whether the Bank is liable in respect of the non-execution or incorrect execution of a Payment Transaction, the Bank shall endeavour, if explicitly requested to do so by the Client, without any liability in this respect, to find a record of the Payment Transaction and shall inform the Client of the results of its research.

**2.5.5. Value dates in the event of non-execution, incorrect execution or late execution of a Payment Transaction**

This section applies where 1) either the Payer's bank or the Payee's bank is located in the EU/EEA and the payment involves one or more currencies of EU or EEA Member States (a "PSD Currency"), or 2) the Payer's bank and the Payee's bank are both located in the EU/EEA and the payment is made in a non-EU currency or where the single Payment Service Provider involved in the Payment Transaction is located in the EU/EEA in relation to parts of the Payment Transaction that are carried out in the EU/EEA.

**2.5.6. Payment Order initiated by the Payer**

The credit value date for the Payer's Payment Account must not be later than the date on which the amount was debited.

The credit value date for the Payee's Payment Account must not be later than the date that would have been ascribed to the amount if the Payment Transaction had been correctly executed.

**2.5.7. Payment Order initiated by or via the Payee**

In the event that the Payment Order is transmitted late, the amount shall be recorded in the Payee's Payment Account no later than the date that would have been ascribed to the amount if the transaction had been correctly executed.

Where the Bank is liable to the Payee for the processing of the Payment Transaction, the amount must be recorded in the Payee's Payment Account no later than the date that would have been ascribed to the amount if the Payment Transaction had been correctly executed.

**a) Particular case of Payment Transactions initiated by the Payee where the initial authorisation provided does not state a specific amount**

*(i) Where the Client is the Payer*

The Client undertakes to inform the Bank of a maximum payment limit for each Payee that may directly initiate a Payment Transaction that results in the Client's Payment Account being debited. This limit represents the amount beyond which the Client considers that the payment requested by the Payee is unreasonable. Beyond that limit, the Bank and the Client agree that the Bank shall refuse to execute any Payment Order issued by that Payee, unless otherwise instructed to do so in writing by the Client.

If the Client has not provided the Bank with a payment limit, the Bank shall consider that the Client authorises the Bank to comply with any Payment Order initiated by the Payee, irrespective of whether the amount of the Payment Transaction that is executed exceeds the amount that could reasonably be expected to be paid by the Client.

The Bank shall not be held liable for any losses that may result from the non-execution of a Payment Order, where the limits set by the Client would have been exceeded if the Payment Order had been executed by the Bank or as a result of the full execution by the Bank of a Payment Order initiated by the Payee in respect of which the Client has not set any limit.

In the event that the Client does not set a maximum payment limit and considers that the amount of the Payment Order initiated by the Payee exceeds the amount that could reasonably be expected to be paid by the Client, the Client is authorised to send the Bank a request for reimbursement of the Payment Transaction carried out pursuant to this Payment Order. The Client must support his/her request by providing factual information on his/her past expenses and the circumstances in which the

Payment Transaction in question took place. The Client may not, however, invoke reasons linked to a foreign exchange transaction when the reference exchange rate agreed between the Bank and the Client is used.

In any event, the Client may only claim reimbursement of the amount of the Payment Transaction in question. The Bank and the Client agree that the costs, fees and other charges incurred in connection with such a Payment Transaction shall not be reimbursed.

If the Client is entitled to reimbursement under this clause, a written reimbursement request must be received by the Bank on the conditions set out in these Special Terms and Conditions within eight weeks of the date on which the funds were debited from the Client's Payment Account.

In such circumstances, the amount of the Payment Transaction will then be credited to the Client's Payment Account within 10 Bank Business Days of the date on which the Bank receives the Client's request for reimbursement, provided that the Bank accepts the request for reimbursement.

In the event that the Bank refuses to reimburse the Client, the Bank must, within 10 Bank Business Days of the date on which it received the Client's reimbursement request, inform him/her of the reasons for its refusal. This information shall be provided using the methods agreed with the Client in the Account Opening Application.

In any event, the Bank and the Client agree that the Client shall not be entitled to any reimbursement if he/she provides his/her consent to the execution of such Payment Transaction directly to the Bank and any information relating to the future Payment Transaction is provided to the Payer or made available to him/her by the Payment Service Provider or by the Payee in the agreed manner, at least four weeks before the payment date.

*(ii) Where the Client is the Payee*

The Bank and the Client agree that, where a payment transaction initiated by the Client, acting as Payer, gives rise to a reimbursement from the Bank, the Bank shall be irrevocably authorised to debit the Client's Payment Account by the amount that the Payer's Payment Service Provider claims in this respect, and shall not be required to check whether the request for reimbursement sent by the Payer to his/her Payment Service Provider is justified. It is the Client's responsibility, where applicable, to challenge the grounds of the request for reimbursement made

by the Payer through direct contact with the Payer and/or the Payer's Payment Service Provider.

**b) No dispute or request for reimbursement by the specified deadline**

If the Client does not dispute the Payment Transaction or claim reimbursement by the aforementioned deadline, the Bank shall cease being liable for any losses arising as a result of the execution of an authorised or unauthorised transaction, or as a result of the non-execution or incorrect execution of a Payment Transaction.

### 3. THE BANK'S LIABILITY

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The Bank shall only be liable for losses arising as a result of the incorrect execution, non-execution or partial execution of its obligations (a "Breach") under these Special Terms and Conditions in the event of gross or wilful misconduct on its part.

In any event, the Bank shall not be liable for any Breach arising as a result of any abnormal and unforeseeable circumstances that are beyond the Bank's control, such as, for example, interruptions to or the unavailability of telecommunications systems or, more generally, the Bank's services (for example, due to fire or similar accidents, power outages, computer systems failures or attacks on the Bank's systems). The Bank shall not be liable for any damages due to the application of legal provisions, declared or imminent measures taken by the public authorities, war, revolutions, civil commotion, strikes, lockouts, boycotts and picketing, irrespective of the Bank being itself a party to the conflict or of its functions being only partly affected thereby or where the Breach is linked to the Bank's obligation to comply with certain legal obligations.

### 4. CHARGES

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#### 4.1. FEES

The Bank shall invoice the Client for its services based on the rates in force and the nature of the agreed services. The Client acknowledges that he/she/it has received a copy of the Bank's General Fee Schedule that sets out the rates charged by the Bank, and that he/she/it has read and accepted the contents thereof.

Where a Payment Transaction does not involve a currency conversion, the fees for executing the transaction shall be shared between the Payer and the Payee, in accordance with the SHARE principle.

Where the Client authorises a Payment Transaction involving a currency conversion, the Client may

decide to apply the SHARE (shared charges), OUR (the Client pays the charges) or BEN (the Payee pays the charges) principle. If no choice is made, the OUR principle will be automatically applied. However, if the account is closed, the Bank will apply the "BEN" principle.

The Bank shall provide the Client with details of the costs associated with the manner and frequency with which the information is provided or made available.

The relevant fee schedule of the Bank, as applicable from time to time, is at the permanent disposal of the Client at the premises of the Bank. A list of the Bank's fees has been provided to the Client prior to these Special Terms and Conditions entering into force.

If the Client so requests, before carrying out an individual Payment Transaction the Bank must provide him/her with information on the related execution times and rates, if required including a breakdown of the rates specifically applicable to that Payment Transaction.

The Client authorises the Bank to debit any expenses so due from his/her account.

The Client is deemed to accept the amount of those expenses simply as a result of asking the Bank to carry out a Payment Transaction or providing the Payee with his/her consent to initiate such a Transaction. Furthermore, the Client may request that the Bank send him/her more frequent statements, in which case the Bank shall reserve the right to charge additional fees. The Bank shall inform the Client of the amount of such fees and, where applicable, provide a breakdown thereof.

When the Client is the Payee under a Payment Transaction, he/she also authorises the Bank, before the Bank credits his/her Payment Account, to debit the costs payable to the Bank from the amount transferred to it.

The Client also agrees that additional costs may be invoiced to it, in particular in the event that the Bank notifies him/her of its refusal to execute a Payment Transaction, in the event that a Payment Transaction is successfully revoked, within the meaning of clause 2.4.1 above or in the event that a Payment Transaction is recovered following the provision of an incorrect Unique Identifier by the Client.

Charges remain payable by the Client even if their payment is requested only after the closure of the Payment Account.

## **4.2. INTEREST RATES AND EXCHANGE RATES**

Unless otherwise agreed, where the provision of a payment service pursuant to these Special Terms and Conditions involves an overdraft on a Payment Account, debit interest calculated by reference to the Bank's general fee schedule shall be automatically charged, without prior notice, to any debit balance in the account, without prejudice to any fees, charges, withholdings at source or other expenses or additional claims for damages by the Bank.

This provision may not be interpreted as authorising the holder of a Payment Account to operate overdrafts on his/her accounts.

Interest in respect of Payment Accounts with overdrafts is immediately due and payable and is automatically debited from the Client's Payment Account.

Deposits made to a Payment Account do not bear interest, unless expressly agreed by the Bank and the Client in respect of certain types of Payment Account.

Where the provision of a payment service pursuant to these Special Terms and Conditions involves a foreign exchange transaction, the Bank shall apply the exchange rate in force on the date of execution of the proposed payment transaction as applied by the Bank.

Exchange rates as applied by the Bank are internal rates calculated several times per day by reference to the rates applied on the foreign exchange markets. Since exchange rates vary from day to day, the Client undertakes to obtain details of the exchange rate applicable to any Payment Transaction involving a foreign exchange transaction prior to that Payment Transaction being carried out.

The Client acknowledges that interest and exchange rates may change at any time. The Client therefore acknowledges that the interest rate and/or the exchange rate actually applied to a Payment Transaction will be the rate in force at the time the Payment Transaction is executed.

The Client accepts that any change in interest rates and exchange rates shall apply immediately and without formal notice, if the changes are based on reference interest rates or exchange rates. Information on the interest rate that shall apply following such a change will be available to the Client at the Bank's premises and will be provided to the Client on request.

## **5. COMMUNICATIONS**

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### **5.1. COMMUNICATION METHODS**

Communications, notices and information transfers will be exchanged using the methods agreed with the Client in the Account Opening Application. Depending on the communication methods that are agreed, the Bank will provide the Client with information on the technical requirements to be complied with in a relevant document.

### **5.2. LANGUAGE(S)**

Any communications between the Bank and the Client shall be in the language chosen by the parties when the relationship with the Bank was entered into provided that, where no language is chosen, communications shall be conducted in English or French, at the Bank's discretion.

### **5.3. ACCESS TO INFORMATION**

At any moment during the period of his/her relationship with the Bank, the Client may request a copy of these Special Terms and Conditions.

## **6. AMENDMENTS TO THESE SPECIAL TERMS AND CONDITIONS**

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### **6.1. CONDITIONS OF MAKING AMENDMENTS**

In particular, in the event of changes in the legislation or regulations applicable to the banking sector, changes in banking practices or financial markets conditions, the Bank reserves the right at any time to amend these Special Terms and Conditions and/or to add new provisions thereto.

Should the Bank intend to amend these Special Terms and Conditions and/or to add new provisions, it will immediately inform the Client indicating the clauses it intends to modify or add, as well as the contents of these amendments or additions. The proposed amendments or additions may also be made by way of a separate document which shall then form an integral part of these Special Terms and Conditions.

### **6.2. ACCEPTANCE**

Unless otherwise provided in these Special Terms and Conditions, any amendments, additions and separate documents shall be deemed to be accepted by the Client if the Client does not send objections thereto to the Bank, in writing, within two months of the date on which the Bank sent those amendments, additions and separate documents. In the event that the Client wishes to object to such amendments and/or additions or separate documents, the Client is entitled to terminate these Special Terms and

Conditions with immediate effect and at no cost, until the date on which they come into force.

## **7. TERM AND TERMINATION**

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### **7.1. TERM AND CONDITIONS OF TERMINATION**

These Special Terms and Conditions are entered into for an indefinite period. Each party shall be entitled to terminate them at any time, without needing to provide any justification, by giving one month's notice (if they are terminated by the Client) and two months' notice (if terminated by the Bank) by registered letter.

Pending Payment Transactions shall not be affected as a result of these Special Terms and Conditions being terminated. The Special Terms and Conditions and the Bank's fee schedule shall continue to apply to the settlement of pending Payment Transactions.

The only effect of these Special Terms and Conditions being terminated is that the Client shall no longer be authorised to carry out Payment Transactions in accordance with these Special Terms and Conditions; such termination shall not result in the termination of any contractual relationship between the Client and the Bank.

The Client acknowledges and accepts that in the event that these Special Terms and Conditions are terminated within six months of being accepted in the Account Opening Application, termination fees as set out in the Bank's general fee schedule shall be payable by the Client, without prejudice to any other costs that he/she may owe the Bank in the event that an account is closed.

The Bank may, however, terminate its relationship with the Client under these Special Terms and Conditions with immediate effect and without any further formalities, in which case all the Client's payment obligations, including future obligations, shall become immediately due, i.e. if: the Client is in breach of his/her contractual obligations, if the Bank is of the opinion that by continuing its relationship with the Client it may be subject to a liability claim, if its Client's Payment Transactions appear to be contrary to public policy or standards of decency, or the Client breaches his/her duty of good faith.

The Bank may, at any time, request new or supplementary collateral from the Client to cover the Client's obligations to the Bank.

## **7.2. TERMINATION OF CONTRACTUAL RELATIONSHIP**

The termination of any contractual relationship between the Client and the Bank in accordance with the provisions of the Bank's General Terms and Conditions shall automatically result in the termination of these Special Terms and Conditions. However, during the notice period provided for in these Special Terms and Conditions, the Special Terms and Conditions shall continue to apply and the Payment Accounts shall remain open solely in order to carry out Payment Transactions. In this context, the Special Terms and Conditions and the relevant provisions of the Bank's General Terms and Conditions shall continue to apply during this notice period.

## **8. MISCELLANEOUS**

### **8.1. THE BANK'S GENERAL TERMS AND CONDITIONS**

The Bank's General Terms and Conditions shall apply to the provision of payment services, unless otherwise specified. In the event of conflict between these Special Terms and Conditions and the Bank's General Terms and Conditions, the provisions of these Special Terms and Conditions shall take precedence.

### **8.2. COMPLAINT AND DISPUTE RESOLUTION PROCEDURES AND LIMITATION PERIODS**

The dispute resolution procedure is described in clause 23 of the General Terms and Conditions. The Client accepts that the Bank may respond to his/her complaints by email up to the date falling 15 Bank Business Days after the date on which the Bank receives the complaint.

The complaint may also be dealt with using an out-of-court dispute resolution procedure. The Client may refer the matter to the CSSF if he/she qualifies as a consumer. Further information on the CSSF, in its capacity as a dispute resolution body, is available at <http://www.cssf.lu/en/consumer/complaints/>

Legal proceedings against the Bank are subject to a limitation period of 13 months. The limitation period starts to run on the date on which the action or omission of which the Bank is accused takes place.