

# Account General Terms and Conditions

## Retail Banking



The following General Terms and Conditions apply to all accounts opened with The Hongkong and Shanghai Banking Corporation Limited ("the Bank"). In addition, there are other Specific Terms and Conditions applicable to particular types of accounts operated by the Bank. Copies of such Terms and Conditions are available upon request from any branch of the Bank (e.g. Conditions related to Telegraphic Transfers and Demand Drafts).

## SECTION 1

### • DEFINITIONS

Capitalised terms used in this clause shall have the following meanings

“**We**”, “**our**” and “**us**” refer to The Hongkong and Shanghai Banking Corporation Limited.

“**You**” or “**your**” means each person in whose name an Account is maintained or to whom a Service is provided and includes any individual authorised by you to give Instructions relating to the Account or Service.

“**Account**” means any bank accounts held with us.

“**Services**” includes (a) the opening, maintaining and closing of your bank accounts, (b) providing you with credit facilities and other banking products and services, processing applications, credit and eligibility assessment, and (c) maintaining our overall relationship with you, including any other such services which are incidental and necessary to banking.

Reference to the singular includes the plural (and vice versa).

### 1 Bank-Customer Relationship

1.1 In respect of a deposit placed by you with us, we are the debtor and you are the creditor. In respect of an item held by us for you in safe custody such as in a safety deposit box, we are the bailor and you are the bailee. Other types of relationship may arise between us depending on the Services provided.

1.2 You confirm that you act as principal (and not as an undisclosed agent or nominee for any other person) in relation to any Accounts held with or any Services provided by us.

### 2 Your data and information

2.1 To enable us to consider whether to provide any Services to you, you are required to provide us, from time to time, your personal information and failure to do so may result in our inability to provide you with such Services.

2.2 Your personal information will be used for considering your requests and subject to us agreeing to provide you with such Services, any personal information and details and all information relating to transactions or dealings with us may be used in connection with the provision of such Services to you.

- 2.3 You acknowledge that, from time to time, we may be asked to provide banker's reference to other financial institutions or other parties about you and you are agreeable to us providing such reference.
- 2.4 We may record, exchange, analyse and use relevant information about you and your relationships with any HSBC Group office (including the nature of your transactions) for various assessments, customer service, or any other such services which are incidental and necessary to banking. This may include information provided by yourself, or someone acting on your behalf.
- 2.5 We may use and share relevant information about you, your transactions and your relationship with us to give you information about products, services and promotions available from HSBC Group companies which may interest you, whether by post, telephone, electronic and other means. If you do not want us to contact you about such products and services, please let us know.
- 2.6 Your account is confidential, but should it be necessary to disclose any particulars of same in terms of the law or of an order of a Judge or of a Court, we shall have no alternative but to do so.

### **3 Change in personal details**

- 3.1 You warrant that all particulars given to us (whether in an account opening form or otherwise), are, to the best of your knowledge, accurate. You undertake to notify us in writing of any change of address or other pertinent particulars recorded with us.
- 3.2 All communications sent by post addressed to the last address registered with us shall be deemed to have been duly delivered to you. Where in our opinion communications sent to the last address registered with us will fail to reach you, we may in our sole discretion stop sending further communication (including without limitation account statements, debit/credit advices and other communications) to such address. Copies of account statement and/or documents evidencing transactions performed on the account can be produced, and provided to you upon request in writing. A handling fee may be charged by us.
- 3.3 You undertake to inform us in the event of a change in beneficial ownership, directorship, and shareholding or authorised signatories.

### **4 Right of set off**

- 4.1 You agree that the Bank's indebtedness to the account holder shall not exceed the net amount we owe you after deducting from any credit balance held by us or providing for the aggregate of all your liabilities including, in the case of a joint account, the liabilities of all or anyone or more of the joint account holders to us on any account or in any respect whatsoever whether such liabilities be actual, present, future, deferred, contingent, primary, collateral, several, joint, or otherwise (together the "account holder's aggregate liabilities").

4.2 Without prejudice to the generality of the foregoing and in addition to any general lien, right of set-off or other right by way of security which the Bank may have on any account whatsoever, you agree that we shall have the right, at our sole and absolute discretion and without notice to you, to refuse to repay when demanded or when the same falls due any of our indebtedness to you if and to the extent that your aggregate liabilities at the relevant time are equal to or exceed our indebtedness to you at that time.

4.3 If the Bank exercises such right with respect to any of its indebtedness to you, such indebtedness shall remain outstanding from us on substantially the Terms and Conditions in effect immediately prior to such exercise or on such other terms as we may, at our discretion, consider appropriate in the circumstances, but we may, at any time and without notice to you, consolidate any or all your credit balance or credit balances with us with all or any of your aggregate liabilities. In the case of an individual account holder, our rights hereunder shall not be affected by the account holder's death or legal incapacity.

## **5 Collection and recovering of debts**

5.1 We have the right to employ any person to assist us in collecting and recovering any outstanding or overdue amount owing by you to us, including collection agent or any other service provider. You shall keep us indemnified for costs (including legal fees) and expenses incurred in recovering such outstanding or overdue amount.

## **6 Laws, regulations and requests**

6.1 The Bank and other members of the HSBC Group are required to act in accordance with the laws, regulations and requests of public and regulatory authorities operating in various countries/regions/jurisdictions which relate to, amongst other things, the prevention of money laundering, terrorist financing and the provision of financial and other Services to any persons or entities which may be subject to sanctions.

6.2 We may take, and may instruct (or be instructed by) any other member of the HSBC Group to take, any action which it or such other member, in its sole and absolute discretion, considers appropriate to take in accordance with or by reference to all such laws, regulations and requests.

6.3 Such action may include but is not limited to: the interception and investigation of any payment messages and other information or communications sent to or by you or on your behalf via our systems or the systems of any other member of the HSBC Group; and making further enquiries as to whether a name which might refer to a sanctioned person or entity actually refers to that person or entity.

6.4 Neither we nor any member of the HSBC Group will be liable for loss (whether direct or consequential and including, without limitation, loss of profit or interest) or damage suffered by any party arising out of:

- (a) any delay or failure by us or any member of the HSBC Group in processing any such payment messages or other information or communications, or in performing any of

our duties or other obligations in connection with any accounts or the provision of any Services to you, caused in whole or in part by any steps which we or such other member, in our sole and absolute discretion, considers appropriate to take in accordance with or by reference to all such laws, regulations and requests; or

(b) the exercise of any of our rights under this clause.

6.5 In certain circumstances, the action which the Bank may take may prevent or cause a delay in the processing of certain information. Therefore, neither us nor any member of the HSBC Group warrants that any information on our systems relating to any payment messages or other information and communications which are the subject of any action taken pursuant to this clause is accurate, current or upto-date at the time it is accessed, whilst such action is being taken.

## **7 Records**

7.1 In the course of providing the Services, we (or any of our agents) may record instructions or communications with you by tape, video or other means. We have the right to destroy these recordings after such period of time as we consider appropriate.

7.2 We reserve the right to destroy any documents relating to the account in accordance with our policy.

## **8 Account statements**

8.1 We will provide you with account statements at regular intervals, unless otherwise requested or advised. Additional request for bank statements may be subject to a fee as set by us from time to time.

8.2 A Statement of account will be considered as having been received by you:

(a) on the day of personal delivery to you;

(b) on the day we post it to you;

(c) on the day we email it to you; or

(d) on the day we place it in your Personal Internet Banking profile if it is made available there.

8.3 You should examine each account statement provided by us to check its accuracy and to

see if there is any error, omission, discrepancy, unauthorised debit or irregularity in its contents arising from any cause, including forged signature or other forgery, fraud, lack of authority or negligence of any person. You should notify us of any alleged error, omission, discrepancy, unauthorised debit or irregularity in account statement within 90 days after we issue it by the means set out in Clause 8.2. If we do not receive any such notice from you within the specified period, the account statement will be considered as correct and accepted by you and you will be considered to have waived any right to raise any objection or pursue any remedies against us in relation to that account statement.

8.4 Your attention is specifically drawn on sections 58(1) and 58(2) of Banking Act 2004 which

read as follows:-

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- (a) Where a bank sends or makes available a statement of account or cheque pursuant to section 57, the customer shall exercise reasonable promptness in examining the statement or the cheque to determine whether any payment was not authorised because of an alteration of a cheque or because a purported signature by or on behalf of the customer was not authorised.
- (b) Where, based on the statement or cheque provided, the customer ought to have reasonably discovered the unauthorised payment, the customer shall promptly notify the Bank of the relevant facts.

## **9 Account operations**

- 9.1 If the standing instruction (transfer of funds) based on balance is inactive for 12 consecutive months, we will terminate the instruction under notification to you.
- 9.2 We have the right to restrict or impose conditions for accessing an Account if it has been inactive for a period of time set by us.
- 9.3 Where you have set up a direct debit authorisation on an Account, and there have been unsuccessful attempts from us to debit your funds for a continuous period of at least 3 months, we have the right to cancel the direct debit arrangement without prior notice to you
- 9.4 We have the right not to pay a cheque if there are insufficient funds in your Current Account or if there is an error on the cheque or for any other reason that we may consider appropriate. In that case, we have the right to return the cheque and a service charge may be applied.

## **10 Fees, expenses and commissions**

- 10.1 You are required to pay us fees for the Services we provide to you or for the Accounts we maintain for you as notified to you from time to time. Our fees and charges are available upon request at any of our branches or can be downloaded from our website.
- 10.2 You are required to pay all costs and expenses of reasonable amounts and reasonably incurred by us in connection with the Services or the Accounts from time to time, including all applicable taxes, duties and levies payable in respect of your assets and any expenses for preserving or enforcing our rights in connection with the Services and the Accounts (including fees of any collection agent employed by us and legal fees in demanding, collecting, suing or recovering any outstanding or overdue amount).
- 10.3 Our fees and charges may be changed from time to time upon giving you notice by way of display in our premises or by such other method as we may decide at least 30 days prior to the effective date. We reserve the right not to write to you individually to advise of such changes.

## **11 Joint accounts**

- 11.1 Each of you are bound by these Terms and Conditions even though (i) any of you or any other person intended to be bound is not bound; or (ii) any of these Terms and Conditions may be invalid or unenforceable against any one or more of you due to fraud, forgery or any other reason .
- 11.2 We have the right to deal separately with any of you (without limiting or reducing our rights, powers and remedies against the others) on any matter including (i) varying or discharging any liability to any extent; or (ii) granting time or other indulgence or making other arrangements.
- 11.3 We are authorised to comply with any instruction or other directions given by any of you for or in connection with the Account, including an instruction to close the Account (unless we agree or decide otherwise)
- 11.4 Acceptance of any terms and conditions governing the Account or any Service by any of you will be considered as acceptance by each of you and such terms and conditions will be binding on each of you.

## **12 Termination or suspension of services or accounts**

- 12.1 You may terminate the Services, or the Account by giving us prior written notice of such period as we may accept. Even after the suspension or termination of all or any part of the Services, or any Account, you remain responsible for performing and discharging any of your obligations or liabilities created or accrued before suspension or termination.

Under normal circumstances, we will not close your account without giving you a written notice of 30 days, at the last address known.

## **13 Terms and conditions**

- 13.1 The terms herein and those pertaining to any Services provided by the Bank, may at our sole discretion, be changed from time to time upon giving you prior notice by way of display in the Bank's premises or by such other method as the Bank may decide. If you do not close the account or cancel the Services prior to the expiry of the notice period, you shall be deemed to have agreed to such change.
- 13.2 These Terms and Conditions shall be governed by and construed in accordance with the laws of Mauritius.

## SECTION 2

### DEFINITIONS

Capitalised terms used in this clause shall have the following meanings

“**Authorities**” includes any judicial, administrative, public or regulatory body, any government, any Tax Authority, securities or futures exchange, court, central bank or law enforcement body, or any of their agents with jurisdiction over any part of the HSBC Group.

“**Compliance Obligations**” means obligations of the HSBC Group to comply with: (a) Laws or international guidance and internal policies or procedures, (b) any demand from Authorities or reporting, disclosure or other obligations under Laws, and (c) Laws requiring us to verify the identity of our customers.

“**Connected Person**” means a person or entity (other than you) whose information (including Personal Data or Tax Information) you provide, or which is provided on your behalf, to any member of the HSBC Group or which is otherwise received by any member of the HSBC Group in connection with the provision of the Services. A **Connected Person** may include, but is not limited to, any guarantor, a director or officer of a company, partners or members of a partnership, any “substantial owner”, “controlling person”, or beneficial owner, trustee, settler or protector of a trust, account holder of a designated account, payee of a designated payment, your representative, agent or nominee, or any other persons or entities with whom you have a relationship that is relevant to your relationship with the HSBC Group. “**Controlling Persons**” means individuals who exercise control over an entity. For a trust, these are the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and anybody else who exercises ultimate effective control over the trust, and for entities other than a trust, these are persons in equivalent or similar positions of control.

“**Customer Information**” means your Personal Data, confidential information, and/or Tax Information or that of a Connected Person.

“**Financial Crime**” means money laundering, terrorist financing, bribery, corruption, tax evasion, fraud, evasion of economic or trade sanctions, and/or any acts or attempts to circumvent or violate any Laws relating to these matters.

“**We**”, “**our**” and “**us**” refer to **The Hongkong and Shanghai Banking Corporation Limited**.

“**HSBC Group**” means HSBC Holdings plc, its affiliates, subsidiaries, associated entities and any of their branches and offices (together or individually), and “member of the HSBC Group” has the same meaning. “**Laws**” include any local or foreign law, regulation, judgment or court order, voluntary code, sanctions regime, agreement between any member of the HSBC Group and an Authority, or agreement or treaty between Authorities and applicable to HSBC or a member of the HSBC Group.

“**Personal Data**” means any information relating to an individual (and corporate entities, in those countries/jurisdictions where data privacy law applies to corporates), from which they can be identified.

“**Services**” includes (a) the opening, maintaining and closing of your bank accounts, (b) providing you with credit facilities and other banking products and services, processing applications, credit and eligibility assessment, and (c) maintaining our overall relationship with you, including marketing services or products to you, market research, insurance, audit and administrative purposes.

“**substantial owners**” means any individuals entitled to more than 10% of the profits of or with an interest of more than 10% in an entity either directly or indirectly.

“**Tax Authorities**” means Mauritius or foreign tax, revenue or monetary authorities (for example, Mauritius Revenue Authority).

“**Tax Certification Forms**” means any forms or other documentation as may be issued or required by a Tax Authority or by us from time to time to confirm your tax status or the tax status of a Connected Person.

“**Tax Information**” means documentation or information about your tax status and the tax status of any owner, “**controlling person**”, “**substantial owner**” or beneficial owner.

Reference to the singular includes the plural (and vice versa).

## 1. Collection, processing and sharing of customer information

These clauses [1-4] explain how we will use your information and that of Connected Persons. By using the Services, you agree that we and members of the HSBC Group shall use Customer Information in accordance with such clauses.

Customer Information will not be disclosed to anyone (including other members of the HSBC Group), other than for any of the following reasons:

- We are legally required to disclose;
- We have a public duty to disclose;
- Our or a third party’s legitimate business purposes require disclosure;
- the disclosure is made with your consent; or
- it is disclosed as set out in this clause.

### Collection

1.1 We and other members of the HSBC Group may collect, use and share **Customer Information** (including relevant information about you, your transactions, your use of our products and Services, and your relationships with the HSBC Group). **Customer Information** may be requested by us or on our behalf or that of the HSBC Group, and may

be collected from you directly, from a person acting on your behalf, from other sources (including from publically available information), and it may be generated or combined with other information available to us or any member of the HSBC Group.

## Processing

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

- (a) the provision of Services and to approve, manage, administer or effect any transactions that you request or authorise,
- (b) meeting Compliance Obligations,
- (c) conducting Financial Crime Risk Management Activity,
- (d) collecting any amounts due and outstanding from you,
- (e) conducting credit checks and obtaining or providing credit references,
- (f) enforcing or defending our rights, or those of a member of the HSBC Group,
- (g) for our internal operational requirements or those of the HSBC Group (including credit and risk management, system or product development and planning, insurance, audit and administrative purposes),
- (h) maintaining our overall relationship with you (including [if you agree] marketing or promoting financial Services or related products and market research (the “**Purposes**”).

## Sharing

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

- (a) any member of the HSBC Group;
- (b) any sub-contractors, agents, service providers, or associates of the HSBC Group (including their employees, directors and officers);
- (c) any Authorities, in response to their requests or as required by laws and regulations;
- (d) persons acting on your behalf, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks, clearing houses, clearing or settlement systems, market counterparties, upstream withholding agents, swap or trade repositories, stock exchanges, companies in which you have an interest in securities (where such securities are held by us for you);
- (e) any party to a transaction acquiring interest in, or assuming risk in, or in connection with, the Services;

- (f) other financial institutions, credit reference agencies or credit bureaus, for the purposes of obtaining or providing credit references;
- (g) any third party fund manager who provides asset management services to you;
- (h) any introducing broker to whom we provide introductions or referrals;
- (i) in connection with any HSBC business transfer, disposal, merger or acquisition; wherever located, including in countries/regions/jurisdictions which do not have data protection laws that provide the same level of protection as the country/region/jurisdiction in which the Services are supplied.

- **Your obligations**

1.4 You agree to inform us promptly, and in any event, within 30 days in writing if there are any changes to Customer Information supplied to us or a member of the HSBC Group from time to time, and to respond promptly to any request from us or a member of the HSBC Group.

1.5 You must ensure that every Connected Person whose information (including Personal Data or Tax Information) you (or anyone else on your behalf) provided, or will from time to time provide, to us or a member of the HSBC Group has been notified of and agreed to the processing, disclosure and transfer of their information as set out in these Terms before their information is provided. You must at the same time advise them that they have rights of access to, and correction of, their Personal Data.

1.6 Where:

- you fail to provide promptly Customer Information that we reasonably requested, or
- you withhold or withdraw any consents that we may need to process, transfer or disclose Customer Information for the Purposes (except for purposes connected with marketing or promoting products and Services to you), or
- we have, or a member of the HSBC Group has, suspicions regarding Financial Crime or an associated risk,

We may:

- (a) be unable to provide new, or continue to provide all or part of the Services to you and reserve the right to terminate our relationship with you;
- (b) take actions necessary for us or a member of the HSBC Group to meet the Compliance Obligations; and/or
- (c) block, transfer or close your account(s) where permitted under local Laws.

In addition, if you fail to supply promptly your, or a Connected Person's, Tax Information and accompanying statements, waivers and consents, as may be requested, then we may make our own judgment with respect to your status, including whether you are reportable to a Tax Authority, and may require us or other persons to withhold amounts as may be legally required by any Tax Authority and paying such amounts to the appropriate Tax Authority.

## 2. Data protection

- 2.1 Whether it is processed in a home country/region/jurisdiction or overseas, in accordance with data protection legislation, Customer Information will be protected by a strict code of secrecy and security which all members of the HSBC Group, their staff and third parties are subject to.
- 2.2 Under relevant data protection legislation, you have the right to request copies of certain categories of Personal Data which may be held.

## 3. Financial Crime Risk and Management activity

- 3.1 We, and members of the HSBC Group, are required, and may take any action to meet Compliance Obligations relating to or in connection with the detection, investigation and prevention of Financial Crime (“**Financial Crime Risk Management Activity**”).
- Such action may include, but is not limited to: (a) screening, intercepting and investigating any instruction, communication, drawdown request, application for Services, or any payment sent to or by you, or on your behalf, (b) investigating the source of or intended recipient of funds (c) combining Customer Information with other related information in the possession of the HSBC Group, and/or (d) making further enquiries as to the status of a person or entity, whether they are subject to a sanctions regime, or confirming your identity and status.
- 3.2 *Exceptionally, our Financial Crime Risk Management Activity may lead to us delaying, blocking or refusing the making or clearing of any payment, the processing of your instructions or application for Services or the provision of all or part of the Services. To the extent permissible by law, neither we nor any other member of HSBC Group shall be liable to you or any third party in respect of any loss (however it arose) that was suffered or incurred by you or a third party, caused in whole or in part in connection with the undertaking of Financial Crime Risk Management Activity.*

## 4. Tax compliance

- 4.1 You acknowledge that you are solely responsible for understanding and complying with your tax obligations (including but not limited to, tax payment or filing of returns or other required documentation relating to the payment of all relevant taxes) in all countries/regions/jurisdictions in which those obligations arise and relating to the opening and use of account(s) and/or Services provided by us and/or members of the HSBC Group. Each Connected Person acting in their capacity as a Connected Person (and not in their personal capacity) also makes the same acknowledgement in their own regard. Certain countries/regions/jurisdictions may have tax legislation with extra-territorial effect regardless of your or Connected Person’s place of domicile, residence, citizenship or incorporation. Neither we nor any member of the HSBC Group provide tax advice. You are advised to seek independent legal and/or tax advice. Neither we nor any member of the HSBC Group have responsibility in respect of your tax obligations in any country/region/jurisdiction which they

may arise including any that may relate specifically to the opening and use of account(s) and/or Services provided by us and/or members of the HSBC Group.

## **5. Miscellaneous**

5.1 In the event of any conflict or inconsistency between any of these Terms and those in any other service, product, business relationship, account or agreement between you and us, these Terms shall prevail. Any consents, authorisations, HSBC requested waivers and permissions that already exist from you in relation to Customer Information shall continue to apply in full force and effect, to the extent permissible by applicable local law.

5.2 If all or any part of the provisions of these Terms become illegal, invalid or unenforceable in any respect under the law of any country/region/jurisdiction, that shall not affect or impair the legality, validity or enforceability of such provision in any other countries/regions/jurisdictions or the remainder of these Terms in that country/region/jurisdiction.

## **6 Survival upon termination**

These Terms shall continue to apply notwithstanding their termination, any termination by us or a member of the HSBC Group of the provision of any Services to you or the closure of any account.

Issued by the Hongkong and Shaghai Banking Corporation Limited in June 2018.

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