

# **Corporate Banking Terms and Conditions**

1	<b>INTRODUCTION</b> .....	2
2	<b>TERMS AND CONDITIONS - GENERAL</b> .....	2
2.1	RESPONSIBILITY .....	2
2.2	APPLICABLE LAW / TRANSFER RIGHTS .....	4
2.3	CLOSURE AND SUSPENSION OF ACCOUNTS AND SET-OFF .....	4
2.4	RESTRICTIONS ON HSBC'S LIABILITY .....	5
2.5	CURRENCY CONVERSION .....	5
2.6	DISCLOSURE STATEMENT .....	5
2.7	DISCREPANCIES, ERRORS, QUESTIONS OR COMPLAINTS .....	5
2.8	HSBC BANK CHARGES AND GOVERNMENT FEES AND TAXES .....	6
2.9	IMAGING OF DOCUMENTS .....	7
2.10	COLLECTION, PROCESSING AND SHARING OF CUSTOMER INFORMATION .....	7
2.11	FINANCIAL CRIME RISK MANAGEMENT ACTIVITY .....	10
2.12	VARIATION OF PRODUCTS / ACCOUNT TERMS AND CONDITIONS .....	11
2.13	ACCOUNT ACCESS .....	11
3	<b>ACCOUNTS</b> .....	12
3.1	CHEQUES .....	12
3.2	DISHONOURING OF BANK CHEQUES .....	13
3.3	OVERDRAWN ACCOUNTS .....	13
3.4	SPECIAL ANSWER .....	13
3.5	TERM DEPOSITS .....	13
3.6	PAYMENTS AND LOST CHEQUES .....	15
3.7	REVERSAL OF ELECTRONIC PAYMENTS AND SAME-DAY CLEARED PAYMENTS .....	15
4	<b>TRANSACTIONS</b> .....	17
4.1	ELECTRONIC PAYMENTS OR TRANSFERS .....	17
4.2	AUTOMATIC PAYMENT .....	17
4.3	DIRECT DEBITS .....	17
4.4	DIRECT CREDITS .....	18
4.5	PAYMENTS BETWEEN ACCOUNTS IN DIFFERENT CURRENCIES .....	18
5	<b>FOREIGN CURRENCIES</b> .....	19
6	<b>FEES AND CHARGES</b> .....	19
7	<b>BEARER SHARES</b> .....	19
7.1	BEARER SHARES RESTRICTIONS .....	19
7.2	BEARER SHARES TERMINATIONS .....	19
8	<b>INDEMNITY FOR INSTRUCTIONS RECEIVED BY FAX, EMAIL OR TELEPHONE</b> .....	19
9	<b>TAX COMPLIANCE</b> .....	21
10	<b>MISCELLANEOUS</b> .....	21
11	<b>SURVIVAL OF TERMS AND CONDITIONS</b> .....	21
12	<b>GLOSSARY OF TERMS</b> .....	21

## 1 Introduction

These Terms and Conditions only apply to the accounts or facilities that you may (either now or in the future) open or operate through HSBC's Corporate Banking division. You must complete and agree to the requirements set out in the Account Mandate. In addition to these Terms and Conditions additional conditions may be applicable to a particular product, implied by law or may be agreed to in writing by or with you.

It is important for you to carefully read, understand and keep these Terms and Conditions. They outline both your and our rights, obligations and responsibilities that may arise when you operate a bank account with HSBC and/or use services offered by us.

If there is a conflict between the terms and conditions applying to a particular product and these Terms and Conditions, then (subject to section 10) the terms and conditions of the particular product will prevail.

You may also wish to read the Code of Banking Practice, which is available from any of our branches. The Code of Banking Practice sets out the minimum standards of good banking practice to be observed by member banks when dealing with their customers. We will comply with the Code of Banking Practice where it applies.

If you have any doubts about entering into any arrangement or contract with us, including this contract, we suggest that you obtain independent advice from your professional advisor.

Unless the context otherwise requires the capitalised terms or words referred to in these Terms and Conditions have the meanings set out in section 12 (Glossary of terms).

## 2 Terms and Conditions - General

### 2.1 Responsibility

It is your responsibility, unless we notify you in writing otherwise, to:

- act quickly to inform us about any financial problems you may be having;
- act fairly and reasonably towards us in a consistent and ethical way;
- make sure that you get enough information to choose the products or services that meet your needs by asking us to clarify anything you do not understand and seeking independent legal advice where you think it is necessary;
- ensure you understand the product or service information that we provide before you make a decision to act on it;
- ensure you understand your contractual rights and obligations when you open an account or select any other product;
- explain your circumstances and/or financial position fully when applying for credit;
- advise us without delay if you have a change in financial circumstances that may make your credit facility inappropriate;
- inform us promptly if you change your address and make sure that we have acted on the change;

- ensure that any information you provide to us at any time is up to date, true, complete, correct and not misleading;
- advise us if any proceedings under the Insolvency Act 2006, or its amendments, are brought against you and advise us if any Authorised Signatory is adjudicated bankrupt;
- inform us (if applicable) if an Insolvency Event occurs;
- notify us of any changes in your personal information, e.g. name, address details, residency status, payment authority;
- ensure that you have sufficient funds in your account(s) to meet any debit transactions including fees and charges;
- check your statements to ensure their accuracy and advise us immediately you become aware of any error or discrepancy as covered in section 2.7. If you do not notify us in writing within 60 days of the date of the statement that contained the discrepancy/error you waive any rights of remedy against us; and
- safeguard your documents and chequebooks issued to you.

What may be fair and reasonable in any situation will depend on the circumstances, including our conduct and yours. Subject to acting with reasonable care and subject to any other obligations that are implied by law, we:

- will accept no responsibility for the loss, destruction or delay in processing, of cheques and other documents;
- may decline to act or delay acting, on any instruction given where we consider that we have reasonable grounds to do so;
- will not be responsible or liable for any loss suffered by you or any other person due to matters outside our control; and
- will not be responsible or liable for any claim that arises where we have acted reasonably in accordance with your instructions.

We have the right to decide not to provide you with credit. Where you wish to obtain credit from us the following will apply:

- you should seek independent professional advice;
- you should contact us immediately if you find yourself in financial difficulty so that we can consider your particular situation;
- we will consider whether you should have future access to funds in light of your particular circumstances;
- if you do not comply with the terms and conditions of the credit facility, we will contact you at your last known address to try to resolve the problem. If the problem cannot be mutually resolved, we may take action to recover the debt and refer the debt to a third party for collection; and
- we may disclose information about you to third parties for recording and/or collecting the debt if your debts are not repaid. This may make it difficult for you to get credit in the future.

If we offer you credit facilities or an increase in credit facilities which you believe is inappropriate to your financial circumstances and which may lead to financial difficulties, you must tell us without delay.

## 2.2 Applicable law/Transfer rights

Subject to any other agreement you make with us these Terms and Conditions shall be governed by New Zealand law and you agree to submit to the non-exclusive jurisdiction of the New Zealand Courts.

If there is a change in any law that would mean that we could not provide the service or product as it was originally offered to you then we will invoke that change. For example, if there was a change in the law that set a maximum fee or charge on any type of account, you would not be required to pay more than the maximum. Alternatively, if there were a change in the law prohibiting a fee or charge, you would not be required to pay that fee or charge.

We may transfer or assign any of our rights in relation to your account(s). We may also transfer or assign any of our obligations but only to someone we reasonably consider capable of performing them. References to "HSBC", "we", "us" and "our" in these Terms and Conditions would then be read as references to the person or entity to whom the right or obligation was transferred to. You may not transfer any of your rights or obligations in relation to your account(s).

## 2.3 Closure and suspension of accounts and set-off

You may at any time request us to close your account(s) by giving us written notice. Please contact your relationship manager should you wish to close your account(s).

We reserve the right to close your account(s) if we believe we have reasonable grounds for doing so. If we close your account(s) for a reason other than those listed below, you will be given a reasonable period of notice, which will be sent to your last known address.

We may close an account without prior notice if:

- we are complying with a court order;
- you have breached these Terms and Conditions;
- you have acted unlawfully;
- you have acted abusively to our staff; or
- it is unlawful for us to maintain the account.

We may suspend the operation of an account if:

- we are complying with a court order;
- we are notified by any party of a dispute over either the ownership of the funds or the operation of the account;
- we learn of the death, bankruptcy or other lack of legal capacity of any Authorised Signatory or any guarantor;
- any third party claims an interest in any of your accounts;
- there is an Insolvency Event; or
- we consider that your account(s) is not being conducted in a satisfactory manner or we have other reasonable grounds to do so.

We will not be responsible or liable to you for any loss resulting from a suspension or closure of your accounts with us. You are required to pay us any expenses we may incur in closing or suspending any of your accounts.

If you owe us money whether alone or with others, which is due but unpaid, we may without prior notice and prior consent from you, apply all or any part of any credit balance in your accounts that you have in New Zealand or elsewhere, towards the unpaid amount. For this purpose we may transfer funds from one account to another, use funds in one currency to buy another currency (if applicable), and may break any of HSBC Term Deposit(s) and Call Deposit(s) held by you.

If any amount is contingently due or not quantified, we can withhold repayment of any credit balance until the amount becomes due or quantified. We may set off the maximum liability, which may at any time be or becoming owing. These rights are in addition to any rights of set-off, combination of accounts, lien or other rights which we are entitled to, by way of operation of law, contract or otherwise.

If your account is closed, whether by you, or us you must return all chequebooks issued to you or any Authorised Signatory. We may then refund any government cheque duty that you have paid on the unissued cheques you return. If you have any direct debits, standing instructions or third party payments you should advise the parties concerned that your accounts with us have been closed.

If you become insolvent and you are indebted to us in some way, you agree that you have no right to withdraw any credit balance held with us or to require repayment of that amount. We will withhold and retain such amount until we are satisfied that the indebtedness has been repaid.

## 2.4 Restrictions on HSBC's liability

The provisions of the Consumer Guarantees Act 1993 do not apply to services provided by us if your bank accounts are established for the purposes of operating a business.

We will compensate you for any losses directly attributable to our negligence or wilful default, but we will not be liable for any indirect or consequential loss, any loss contributed to by you as a result of your own acts or omissions, or any loss caused by circumstances outside our control.

We will not be liable for any losses you may suffer if we are prevented from or delayed in providing you with any banking or other services due to strikes, industrial action, failure of suppliers or equipment or anything else beyond our control.

## 2.5 Currency conversion

For the purposes of these Terms and Conditions, if any sum must be converted into another currency, then the conversion shall be made using HSBC's prevailing rate of exchange for the currency.

## 2.6 Disclosure statement

You may obtain a copy of our latest disclosure statement under section 81 of the Reserve Bank Act of New Zealand 1989 free of charge from any HSBC branch, our Customer Service Centre on 0508 443 924, or our website at [www.hsbc.co.nz](http://www.hsbc.co.nz).

## 2.7 Discrepancies, errors, questions or complaints

Please contact us immediately if:

- you think there is an error/discrepancy on your statement; or

- you have any questions or complaints.

If either of the above occurs you will need to give us:

- your name;
- your account number; and
- any details you can provide about the suspected error or malfunction or the nature of your question or complaint, including the amount of money involved.

We may request further information from you to assist with our inquiries. We will make every effort to answer/resolve your questions or complaints quickly and fairly.

Where we establish that an error has occurred and it was caused by us, we will promptly correct the error (to the extent possible) and reimburse any interest or fees charges to you as a result of the error.

If you remain dissatisfied with the way your complaint has been handled by us and are unable to gain a satisfactory resolution, then you can refer the matter to the Banking Ombudsman.

Contact details for the Banking Ombudsman are as follows:

Office of the Banking Ombudsman  
 Freephone: 0800 805 950 (within New Zealand)  
 Telephone: +64 4 915 0400 (from overseas)  
 Email: help@bankomb.org.nz

Physical address:	Postal address:
Level 5, Huddart Parker Building	Freepost 218002
1, Post Office Square	PO Box 25327
Wellington 6011	Featherston Street
	Wellington 6146

The Banking Ombudsman Scheme Terms of Reference govern the handling of complaints referred for consideration.

## 2.8 HSBC bank charges and government fees and taxes

We may at any time impose fees and charges on any account you may have with us for our services.

Additionally we will give you a copy of our latest list of charges when you open an account with us. We are entitled to debit your account for these fees and charges whenever they are payable and for any other amounts owed to us by you. In particular we will deduct from your account:

- any interest, including penalty interest, when you exceed your agreed borrowing/overdraft limit or when your account(s) become overdrawn (with or without prior arrangement); and
- interest on any unpaid interest.

We may also debit government fees and charges from your account. These include government cheque duty on cheques, resident withholding tax, non-resident withholding tax or approved issuer levy.

We are legally required to deduct resident withholding tax direct from any credit interest credited or paid to you if you are a resident of New Zealand and you do not hold a current Certificate of Exemption. Where a current Certificate of Exemption is held a copy of this must

be supplied to us. If your IRD number has not been supplied, we may have to make this deduction at a higher tax rate.

Where you are a non-resident for New Zealand tax purposes, we are legally required to deduct from any interest credited or paid to you either non-resident withholding tax at the relevant country rate, or approved issuer levy ("AIL") and pay the deducted amount to the Inland Revenue Department. You must agree in writing that AIL rather than relevant nonresident withholding tax will apply to credit interest payable. You are required to advise us if you obtain residency for New Zealand tax purposes.

Wherever possible, we will inform you of non-standard fees before payment is due. There may be charges from other parties (including overseas banks) of which we have no knowledge or control.

We have the right to levy any service or facility fees and/or charges as we see fit. All fees, charges and credit and debit interest will be calculated and credited or debited to any account (as the case may be) in accordance with our usual practices and at the rates we prescribe for such purposes.

You are liable for all expenses (including our legal costs) regarding the preservation of our rights or the enforcement or attempted enforcement of your obligations under these Terms and Conditions, and these may be debited to an account you hold with us.

If you close any account within three months of opening, we may, at our discretion, charge a fee.

## 2.9 Imaging of documents

We reserve the right, subject to applicable law, to destroy any original documents relating to your accounts after microfilming or imaging them.

## 2.10 Collection, processing and sharing of Customer Information

This section 2.10 explains 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 this section.

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

- 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 section.

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.

When you are dealing with us by telephone, your conversation with us may be recorded for verification, authentication, training quality control or evidential purposes.

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

- the provision of Services and to approve, manage, administer or effect any transactions that you request or authorise;
- meeting Compliance Obligations;
- conducting Financial Crime Risk Management Activity;
- collecting any amounts due and outstanding from you;
- conducting credit checks and obtaining or providing credit references, as described in more detail below;
- enforcing or defending our rights, or those of a member of the HSBC Group;
- 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); and
- maintaining our overall relationship with you (including marketing or promoting financial services or related products and market research),

(the “Purposes”).

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, use, transfer and disclose such Customer Information for the Purposes):

- any member of the HSBC Group;
- any sub-contractors, agents, service providers, or associates of the HSBC Group (including their employees, directors and officers);
- any Authorities;
- 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);
- any party to a transaction acquiring interest in, or assuming risk in, or in connection with, the Services;
- other financial institutions, credit reporting/reference agencies or credit bureaus, for the purposes of obtaining or providing credit references, as described in more detail below;

- any third party fund manager who provides asset management services to you;
- any introducing broker to whom we provide introductions or referrals; and
- in connection with any HSBC business transfer, disposal, merger or acquisition,

wherever located, including in jurisdictions which do not have data protection laws that provide the same level of protection as jurisdiction in which the services are supplied.

As part of the application and review process for providing and maintaining the Services, you (and each Authorised Signatory or director) acknowledge that Personal Data will be disclosed to credit reporting agencies for the purpose of obtaining credit checks at any time and that:

- credit reporting agencies will provide us with information about you or a Connected Person as requested;
- we will give your Personal Data to the credit reporting agencies and that the credit reporting agencies will hold that information on their systems and use it to provide their credit reporting service to other customers or users of that service;
- when other customers of the credit reporting agencies use the same credit reporting service the credit reporting agencies may give your Personal Data to those customers;
- if you are in default of any payment obligation to us, information about that default may be given to credit reporting agencies and credit reporting agencies may give that information about your default to other customers or users of that credit reporting service;
- we may use credit reporting services in the future for purposes related to the provision of credit or account maintenance. This may include using a credit provider’s monitoring services to receive updates if any of the information held about you changes; and
- the Privacy Act 1993 and Credit Reporting Privacy Code 2004 give you the right to access and correct personal information held by a credit reporting agency. Contact details for credit reporting agencies we use are available on request.

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.

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 and Conditions 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.

Where:

- you fail to provide promptly Customer Information that we reasonably requested;
- you withhold or withdraw any consents that we may need to process, use, 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:

- 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;
- take actions necessary for us or a member of the HSBC Group to meet the Compliance Obligations; and/or
- 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, which 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.

Whether it is processed in a home 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.

Under the Privacy Act 1993 and any other relevant data protection legislation, you have the right to request copies of certain categories of Personal Data which may be held and to request that any errors in such data are corrected. A fee may be payable by you for access to, or correction of, your Personal Data.

## 2.11 Financial Crime Risk Management Activity

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:

- screening, intercepting and investigating any instruction, communication, drawdown request, application for Services, or any payment sent to or by you, or on your behalf;
- investigating the source of or intended recipient of funds;
- combining Customer Information with other related information in the possession of the HSBC Group; and/or
- 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.

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.

You acknowledge and agree that neither we nor any member of the HSBC Group warrants that any information on our systems relating to any payment messages and your instructions which are the subject of any action taken in connection with any Financial Crime Risk Management Activity is accurate, current or up-to-date at the time it is accessed, whilst such action taken is being taken.

## 2.12 Variation of products/Account Terms and Conditions

We reserve the right to vary, change or withdraw a product or service at any time. We may alter any of these Terms and Conditions at any time. We will inform you when there is a variation to these Terms and Conditions including fees and charges. We will give you at least 14 days' notice of such variation before it takes effect by:

- direct communication with you (e.g. by letter, email, facsimile or notice on your account statement);
- by display in our branches;
- by notice in the media (including public notices in major daily newspapers);
- by notice on our website; or
- by any electronic banking channel used by you.

For variations that are subject to market fluctuations such as interest rates, prior notice will not be given.

If you use your accounts after the date upon which the change to these Terms and Conditions are said to be effective (as specified in our notice) this will constitute acceptance by you of the change provided that you have been notified beforehand. You understand and agree that if you do not accept any proposed change, you will return your HSBC card and/or chequebook to us before the date on which the change comes into effect. If you are not sure what a communication from us means you should contact us and ask for an explanation.

Any notice sent to you by post under these Terms and Conditions will be deemed to have been received by you 5 business days after posting to the address you last notified us in writing. You must inform us promptly if you change your address.

## 2.13 Account access

When funds credited to your account become available may depend on the type of deposit or payment used to credit funds to your account.

We will inform you on request when the different forms of payment are cleared and therefore available for drawing by you.

We will do our best to make sure that cheques deposited to your account are cleared as soon as possible. You should check with us to find out how long this is likely to take. Cheques drawn on an overseas bank will take longer to clear.

Payments made in error can only be recovered by us from the account they have been paid to with the consent of the account holder.

## 3 Accounts

### 3.1 Cheques

There are a number of reasons why cheques issued by a Business or a person may not be paid, and may be dishonoured. Some of these include:

- the account did not have enough cleared funds at the time the cheque was presented;
- the cheque is presented more than 6 months after the cheque was dated;
- the cheque was incorrectly completed;
- the cheque has been stopped; or
- the account has been frozen because we are complying with a court order.

When a cheque you have deposited into your account has been dishonoured, the amount of the deposit is reversed from your account. The cheque will be returned to you along with a notice stating that the deposit has been dishonoured and you will be charged a fee.

If we permit you to draw against uncleared funds, we are providing credit and we will require to be repaid (including interest and charges) if any payment to your account is reversed.

If you write a cheque that is dishonoured you may be charged a fee, which will be debited, from your account.

Cheques are not available on foreign currency accounts. Chequebooks are issued to you at our sole discretion. You authorise us to automatically mail a chequebook to your recorded postal address upon receiving nominated cheques in your current cheque book. Government stamp duty is payable on a cheque book and will be automatically deducted from the account when the first cheque is presented for payment.

Unless otherwise agreed, overdrafts are repayable immediately on demand. Any of our authorised officers may, from time to time, require the outstanding amount (comprising of principal, interest and all other charges), to be repaid in full on demand, or to be reduced by regular instalments, as we may at our discretion specify.

You agree to take all reasonable care necessary to ensure that cheques are not forged or altered in any way and to prevent any other fraudulent use of the account.

If you wish to withdraw funds overseas you can send us a letter or facsimile (if a Telephone, Electronic Mail and Facsimile Indemnity is in place) or an authenticated cable may be used if sent through bankers overseas.

### 3.2 Dishonouring of Bank Cheques

Bank Cheques need to clear and the funds may not be available to you until cleared. There are a number of situations where payment of a Bank Cheque may be refused. Generally this is only when:

- a court has issued an order restraining the payment;
- the cheque has been fraudulently used, is forged or counterfeit, or has been altered since its issue;
- the cheque has been reported lost or stolen;
- the person presenting the cheque has obtained the cheque by fraud;
- there has been improper payment for the cheque; or
- the person presenting the cheque knows that the cheque was obtained by fraud or that it was originally obtained from the bank without proper payment.

A Bank Cheque issued on your behalf cannot be stopped unless the cheque has been lost, stolen or destroyed.

### 3.3 Overdrawn Accounts

We are not obliged to honour cheques, or to pay other transactions which would overdraw your account or exceed your agreed credit limit. If we exercise our discretion to honour a cheque or to pay a transaction where no such arrangement exists, or which causes an overdraft limit to be exceeded, you agree to return the account to a positive balance or a balance within the agreed overdraft limit immediately. If we allow your account to become overdrawn or to exceed any agreed overdraft limit, the resulting debit balance does not constitute the offering of, or increase to, an overdraft facility for that account.

Notwithstanding you may be in credit in another account held by us, if your account has no approved overdraft arrangement and it becomes overdrawn, debit interest will be charged on the daily closing debit balance of your account at rates and times as we determine. Interest will accrue daily and be debited to the account on or about the last business day of each month. Interest may be charged on unpaid interest.

### 3.4 Special Answer

If you deposit a cheque issued by a New Zealand bank in your account and do not want to wait the standard time before you can draw on those funds, then you can request a Special Answer. We charge a fee for this service.

### 3.5 Term Deposits

Term Deposits are unsecured deposits with us for a fixed term and at a fixed interest rate. The principal sum invested is repayable by us to you on maturity of the investment and interest is paid either at agreed intervals or on maturity. Interest will accrue to the day prior to maturity of the deposit(s). Details of interest paid and the amount of tax deducted will be advised each time a deposit is withdrawn or renewed.

The term of a Term Deposit can range from seven days to five years

and we may change these timeframes from time to time. You may make an investment of any sum as long as the investment is above the minimum levels of investment for Term Deposits. These minimum levels and the currencies on offer are subject to change from time to time and as at the date of issue of these Terms and Conditions are:

7 day term, minimum investment amounts:

New Zealand Dollars	NZD100,000
US Dollars	USD40,000
Australian Dollars	AUD80,000
Hong Kong Dollars	HKD300,000

1 month to 5 year terms, minimum investment amounts:

New Zealand Dollars	NZD10,000
Hong Kong Dollars	HKD50,000
US Dollars	USD5,000
Japanese Yen	JPY500,000
Canadian Dollars	CAD7,000
Singapore Dollars	SGD8,000
Australian Dollars	AUD8,000
Swiss Francs	CHF6,500
Pounds Sterling	GBP3,000
Euro	EUR4,500

Interest is paid or credited on the sum invested at the agreed frequency and rate of interest for the term you have agreed with us. On maturity of the Term Deposit you will have the following options:

- re-invest the principal and interest for a further term decided by you;
- re-invest the principal for a term decided by you; or
- withdraw the entire Term Deposit.

On maturity of a Term Deposit we will act in accordance with your instructions for dealing with the principal and interest as recorded when you opened the Term Deposit. If you have not specified or instructed us as to how to deal with principal and interest then we will renew the deposit (that is, principal and any interest that has not already been paid) for the same or similar term and amount and at the interest rate and on the terms and conditions applying at that time to Term Deposits.

Returns will be affected by taxation. We are required to deduct resident withholding tax from the gross interest payable to you as a New Zealand resident investor unless you hold a certificate of exemption. We are required to deduct non-resident withholding tax from the gross interest payable to non-New Zealand residents unless you agree with us to have the approved issuer levy deducted from the gross interest payable. We are legally obliged to pay the tax to the IRD on your behalf.

Once an investment is made its terms cannot generally be altered, and you cannot make withdrawals or process payments from a Term Deposit except on maturity without our consent. A break cost administration fee and reduced interest rate will be payable if you wish to terminate or withdraw your Term Deposit before its maturity date, or alter the terms of the investment. If we, in our sole discretion,

allow you to terminate or alter the terms of your Term Deposit before its maturity date, then we may:

- charge you a break cost administration fee of \$100;
- reduce the interest rate payable on your Term Deposit by 50%; and
- recover from you any interest that was paid on your Term Deposit at the higher original rate by deducting the excess amount from your Term Deposit.

The reduced interest rate will be calculated from the date you invested in your Term Deposit until the date of withdrawal or alteration.

Any tax or approved issuer levy that has already been paid on interest earned in prior income tax years (ending 31 March) cannot be refunded to you by us. Any tax refund applicable must be claimed from the IRD directly. The approved issuer levy is not refundable.

You agree that a statement of account need not be provided for a Term Deposit. You will however receive an annual withholding tax certificate in April if the gross domestic interest paid exceeds \$50 during the tax year, and a statement of advice at maturity or a consolidated account if you hold other Call Accounts with us. You are not entitled to sell or assign your Term Deposit to another person.

HSBC's Term Deposits or term investments are not guaranteed by HSBC Holdings plc or any other member of the HSBC Group.

## 3.6 Payments and lost cheques

### 3.6.1 Stopped payments

If you provide us with a written request we will make all reasonable efforts to cancel payment of the cheque issued on your account. If we hold a Telephone, Electronic Mail and Facsimile Indemnity we will act on that instruction.

### 3.6.2 Lost cheques

You agree to promptly report to us any lost or stolen cheques. If you lose a cheque or cheque book or have your cheque book stolen, you must report the loss to us immediately and confirm this in writing as soon as possible. We will need details of the number of cheques lost or stolen, and serial numbers if known. You should also inform the Police.

We will not be liable if payment is made before the request to stop the payment of the cheques is actioned. In some cases a cheque may be incapable of being stopped perhaps because a "Special Answer" has been obtained. A fee will be charged for canceling or stopping a cheque unless it was stolen. The bank will require you to produce evidence that any stolen cheque(s) has been reported to the Police.

## 3.7 Reversal of Electronic Payments and Same-day Cleared Payments

Any electronic payment credit (including but not limited to automated payments, direct credits, bill payments and internal electronic transfers between HSBC accounts) received by you may be reversed by HSBC or the paying bank after the payment date (even in the situation where funds may be made available to you for use). Electronic payment credits do not constitute cleared funds and may

be reversed in certain circumstances including insufficient funds in the payer's bank account. The Payment NZ Limited Rules ("NZ Payment Rules") apply to the reversal of electronic payment credits between banks and when these reversals can be made by a paying bank. Should an electronic payment credit be reversed in accordance with those rules, your account will be debited with the amount of the reversal even if this means placing your account into temporary overdraft.

Electronic payment credits between HSBC bank accounts may also be reversed for the same reasons and at the same times set out in the NZ Payment Rules and your account debited accordingly.

If you are wanting cleared funds on the day the electronic payment credit is received then you should ask the payer to order a Same-day Cleared Payment ("SCP").

You can make SCP if you wish to ensure that payment cannot be dishonoured. If you want us to issue a SCP we will require a payment instruction, which includes the account number to be credited.

It is your responsibility to ensure that all the information included or to be included in a payment instruction is complete, accurate and correct. You must not make or send a payment instruction that is subject to any condition. We will not act on that condition.

SCP only recognises the account number you specify in your payment instruction and it is this account that the payment will be credited to. If you specify an incorrect account number, the payment you wish to send via SCP may be credited for the account of the wrong person and you may suffer loss as a result. You accept that we are under no obligation, nor is any receiving bank under any obligation to validate the account number with other information you may advise such as the beneficiary's name.

Once a payment instruction has been accepted you cannot withdraw, cancel or amend it.

If a payment instruction is received during operating hours on a business day, then your payment will normally be credited to the account number specified in that payment instruction on the same business day or within such period as we may advise you from time to time. However delays in payment may be experienced if the SCP service is not fully operational.

If, due to a mistake on our part, we fail to act on a payment instruction received from you or we do not follow your payment instructions or we accidentally duplicate a payment instruction and you suffer loss as a result we will take reasonable steps to remedy that mistake and will provide you with a full refund of all fees paid in connection with that payment instruction.

In no event shall we have any liability to you or anyone else for or in respect of:

- any consequential, indirect, or special damages or losses (including but not limited to loss of profit or loss of business opportunity) suffered or incurred by you, as a result of our acting or failing to act correctly or at all in relation to a payment instruction or a payment made or to be made through SCP, even if we are advised of or become aware of the possibility that such damage or loss has or may occur; or

- any act or failure to act correctly or at all in relation to a payment instruction or a payment made or to be made through SCP if that act or failure to act correctly or at all, is due to any failure in the SCP service or for any reason that is beyond our reasonable control.

## 4 Transactions

### 4.1 Electronic payments or transfers

This section refers to all payments made by Automatic Payment, Direct Debit and Direct Credit or other medium whereby funds are transferred electronically by us on your behalf. We will endeavour to make payments as instructed but will accept no liability for any error or delay in payment. We may stop or alter a payment without notice, and shall have no responsibility to ensure funds are available.

You cannot normally stop or reverse electronic payments or transfers once they have been made.

It is your responsibility to ensure sufficient funds are available in the account at all times during the required payment date.

If the payment is not made for any reason, then it is your responsibility to make sure the payment is subsequently made.

If the required payment date is a non-business day, payment will be made on the next business day, provided there are sufficient funds available.

### 4.2 Automatic Payment

We accept no responsibility or liability for the accuracy of the information contained in the payment information fields on the Automatic Payment authority or for failure to transmit such information in the manner requested.

An Automatic Payment authority may be terminated or reduced by us, without notice to you. We will not be liable for any losses suffered as a result of such termination or reduction. Otherwise the Automatic Payment authority will remain in effect in respect of all payments made in good faith, until we receive notice of death, bankruptcy, dissolution, insolvency or cancellation.

If we receive a facsimile cancellation request from you together with the necessary written confirmation at least one day prior to the day that the payment is due, we will make all reasonable efforts to cancel your Automatic Payment.

### 4.3 Direct Debits

Direct Debit amounts and payment dates vary. They are initiated by the entity or person receiving the payment, and are not initiated by us.

You must notify the entity or person receiving the payment of any change to your account details. Direct Debits can be cancelled when advice is received from you in writing, which must be presented to us at least 4 business days before the payment is due. You should also inform the entity or person receiving the payment that the Direct Debit is to be cancelled so that they do not process a payment unnecessarily.

Any queries regarding a Direct Debit payment should be made to the entity or person receiving the payment and not us, as all payments details are controlled by that entity or person.

## 4.4 Direct Credits

It is your responsibility to inform any person making Direct Credits into your account, of any changes to your account details.

## 4.5 Payments between accounts in different currencies

If you instruct us to make a payment in the same currency as your account to an account in a different currency, we may route the payment through an intermediary (which may be a member of the HSBC Group). We may have commercial arrangements with them.

If we do use an intermediary, you accept that we are not acting as your agent by routing your payment through them.

The intermediary may carry out the currency conversion themselves (but is not obliged to). If they do, they will convert the payment at whatever the current market rate is at that time (chosen by the intermediary).

We are not responsible to advise you of:

- any exchange control or similar restriction which may be imposed by the local laws or regulations in the country in which payment is to be effected and shall not be liable for any loss or delay as a result of the payment being subject to such control and restriction. You are strongly advised to make your own enquiries; and
- any charges which may be imposed by another bank and we shall not be liable if such information cannot be provided.

## 5 Foreign Currencies

All interest accruing on an Account (whether credit or debit interest) will usually accrue and be paid or payable in the currency in which the account is denominated. We are only obliged to perform our other obligations in relation to an Account in the currency in which those obligations are denominated. However, we reserve the right to perform any obligation in any currency, at any rate and in any manner in each case as we determine, and such performance shall constitute a good and valid discharge of those obligations.

Fees and charges and any other amount payable by you under the Terms and Conditions which are payable or expressed in New Zealand Dollars may, in relation to an Account in a currency other than New Zealand Dollars, be converted to the currency of the Account by us before being debited to the Account.

If for any reason, including bankruptcy, any amount is received by us in a currency other than that in which it is payable, you must immediately indemnify us for any exchange loss.

We may make any currency conversion at our spot rate of exchange for the relevant currencies.

You acknowledge that we have no liability or responsibility whatsoever, and have given no advice, in respect of movements in interest rates or exchange rates. You will make your own judgements and decisions whether to open an Account in a currency other than New Zealand Dollars. We do not monitor movements in exchange rates for you – this is your responsibility.

## 6 Fees and charges

Your account will be debited directly by us for all customary fees, charges and expenses payable or chargeable in accordance with any fees and charges guide applicable from time to time. This guide is available from us on request. All fees are subject to change from time to time. We will communicate changes, either by direct communication or display in all branches and by notice in the media (including public notices).

Unless agreed with you, we may impose fees and charges for services provided in connection with any account. Details of these fees and charges can be obtained upon request. You are responsible to us for all liabilities incurred in relation to your accounts and will indemnify us against any liability or expense which may be incurred in connection with your accounts (unless the liability results directly from our negligence).

## 7 Bearer shares

### 7.1 Bearer Shares Restrictions

You represent and undertake to us and each member of the HSBC Group as follows:

- all shares which you and your shareholders (whether direct or indirect, legal or beneficial) have issued are currently issued in the registered form, and no shares not in registered form (“Bearer Shares”) are issued and outstanding; and
- neither you nor any such shareholders will issue any Bearer Shares or to convert any outstanding registered shares into Bearer Shares.

You agree to tell us immediately if you or any such shareholders have issued Bearer Shares or converted any outstanding registered shares into Bearer Shares.

### 7.2 Bearer Shares Terminations

If any information provided by you in connection with section 7.1 is incorrect or you or any of your shareholders breach any of the undertakings under section 7.1, we may:

- suspend any or all Services provided to you by us;
- demand full repayment and/or liquidate all investments with us; and/or
- terminate in accordance with these Terms and Conditions any or all Services provided to you by us.

## 8 Indemnity for instructions received by fax, email or telephone

In consideration of us agreeing to accept from time to time and in our sole discretion any instructions from you by telephone, facsimile transmission or email (“Instructions”) for the operation of your account/facilities with us without requiring written confirmation bearing actual signatures in accordance with the Account Mandate for such account(s) before acting on the Instructions, you confirm that, so far as permissible at law:

- we are authorised to act on the Instructions which we in our sole discretion believe emanate from you without requiring written confirmation, and we shall not be liable for acting in good faith on Instructions which emanate from unauthorised individuals;
- we shall not be under any duty to verify the identity of the person or persons giving Instructions purportedly in your name or to make enquiries as to the genuineness or validity of any Instructions and any transaction(s) made pursuant to or action taken in connection with Instructions shall be binding upon you whether made with or without your authority, knowledge or consent;
- all risks of unauthorised Instructions due to fraud lie with you and are not borne by us;
- you accept that information or electronic files sent or transmitted by email or via the internet cannot be guaranteed to be secure or error free as they can be intercepted, corrupted, lost, arrive late or contain viruses. You acknowledge and accept that we are not liable for any errors or omissions or late arrival or receipt or loss or corruption of or any virus contained in any information or electronic files sent or transmitted to us by email or via the Internet (“Electronic Transmission Error(s)”);
- you undertake to keep us indemnified at all times against and to save us harm from all actions, proceedings, claims, loss, damage, costs and expenses which may be brought against us or suffered or incurred by us and which have arisen either directly or indirectly, and whether foreseeable or not, out of or in connection with:
  - (a) our accepting Instructions (including any Instructions affected by an Electronic Transmission Error) and acting thereon; or
  - (b) our failure to act upon any Instructions where:
    - we, in our sole discretion, consider or suspect that such Instructions may have been communicated to us fraudulently, mistakenly or without authority or contain material omissions or errors; or
    - our failure to act on any Instructions relates to an Electronic Transmission Error;
- you advise that you will not be sending us separate confirmation of the Instructions by mail and you acknowledge that good and proper receipt by us of the Instructions shall be conclusive evidence of our proper receipt of the Instructions or confirmation of those Instructions; and
- you acknowledge that if your Account Mandate or signatory list for specified transactions (where applicable) specifies that two or more signatories are required on your account, the Instructions must be transmitted to us by facsimile with all required signatures attached and Instructions transmitted by email or telephone will not be accepted.

## 9 Tax Compliance

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 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 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 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.

## 10 Miscellaneous

Notwithstanding anything else in these Terms and Conditions, in the event of any conflict or inconsistency between sections 2.10 and 2.11 of these Terms and Conditions and those in any other service, product, business relationship, account or agreement between you and us, sections 2.10 and 2.11 of these Terms and Conditions 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.

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

## 11 Survival of Terms and Conditions

These Terms and Conditions 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.

## 12 Glossary of terms

### Account Application

Form to be completed to initiate the opening of an account.

### Account Mandate

The authority you sign when you open an HSBC account.

### Authorised Signatory

Any individual person nominated and authorised to operate the account(s).

### 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.

### **Automatic Payments**

Arrangements by which you instruct HSBC to make regular payments for a fixed sum from your HSBC account for the credit of another person's bank account or transfers between your accounts.

### **Bank Cheque(s)**

A cheque issued by a bank.

### **Business**

Any customer who is a firm, trust, company, corporation, statutory body, government body, partnership, society, sole proprietor, club, association or other incorporated body of persons or other person that we designate a "Business".

### **Certificate of Exemption**

A certificate issued by the IRD exempting payments from liability to resident withholding tax deductions.

### **Code of Banking Practice**

The most recent edition of the Code of Banking Practice prepared and adopted by the member banks of the New Zealand Bankers' Association.

### **Compliance Obligations**

Obligations of the HSBC Group to comply with:

- Laws or international guidance and internal policies or procedures;
- any demand from Authorities or reporting, disclosure or other obligations under Laws; and
- Laws requiring us to verify the identity of our customers.

### **Connected Person**

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**

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.

### **Current Accounts**

A transactional-based New Zealand Dollar account provided by HSBC which issues a cheque book.

### **Customer Information**

Your Personal Data, confidential information, and/or Tax Information or that of a Connected Person.

### **Customer Service Centre**

A customer service representative can be contacted 24 hours a day, 7 days a week by phoning 0508 443 924. These hours may change.

### **Direct Credits**

Arrangements by which you receive regular payments, such as salary, by direct lodgement to your HSBC account.

### **Direct Debits**

An arrangement whereby you authorise a company or other organisation (called an "initiate") to debit an amount directly from your HSBC account. The amounts to be deducted can be fixed or variable; e.g. payment of the gas or electricity bill.

### **Financial Crime**

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.

### **HSBC**

The Hongkong and Shanghai Banking Corporation Limited, incorporated in the Hong Kong SAR, acting through its New Zealand branch.

### **HSBC Group**

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.

### **Insolvency Event**

An event where:

- the Business is a company or incorporated body and an application or order is made, or a resolution is passed or proposed for the liquidation or winding up of the Business or the removal of the Business from the relevant register;
- a receiver, manager, statutory manager, trustee, administrator, inspector, or similar official is appointed in respect of the Business or any of its assets whether by a court, by the Business or by its creditors;
- an assignment, arrangement or composition for the benefit of or with creditors of the Business is proposed or made, or a moratorium or administration is proposed, ordered or arranged;
- the Business is unable or deemed or presumed by law to be unable to pay its debts as they fall due;
- the Business suspends, stops or threatens to suspend or stop payment of its indebtedness;
- the Business ceases or threatens to cease to carry on all or a material part of its business;
- any holder of a security interest for the purposes of the Personal Property Securities Act 1999 in any asset of the Business enters into or takes possession of that asset or takes any other step to realise or enforce that security interest; or
- a distress execution, attachment or other legal process is claimed or issued against any of the assets of the Business remains unsatisfied for more than 7 days.

## **IRD**

Inland Revenue Department.

## **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**

Any information relating to an individual from which they can be identified.

## **Services**

Includes, the opening, maintaining and closing of your bank accounts, providing you with credit facilities and other banking products and services, processing applications, credit and eligibility assessment, and maintaining our overall relationship with you, including marketing services or products to you, market research, insurance, audit and administrative purposes.

## **substantial owners**

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**

New Zealand or foreign tax, revenue or monetary authorities (for example, the IRD).

## **Tax Information**

Documentation or information about your tax status and the tax status of any owner, "controlling person", "substantial owner" or beneficial owner.

## **Telephone, Electronic Mail and Facsimile Indemnity**

An indemnity given by you to us in respect of instructions received via the telephone, electronic mail or facsimile.

## **Term and Call Deposit Accounts**

A Term Deposit means any deposit for a fixed period from 7 days up to 3 years. A Call Deposit means a deposit, which can be withdrawn or added to at any time.

## **Term Deposit**

Term Deposit(s) account(s).

## **Terms and Conditions**

The terms and conditions as outlined in this booklet (as amended from time to time).

**When we refer to "you" or "your" we are referring to the person or person(s) on whose behalf these Terms and Conditions are signed and, where appropriate, an Authorised Signatory or Connected Person. When we refer to "we", "us" or "our" we are referring to HSBC.**

**For more information**

**Call 0800 802 380**

**Visit [www.hsbc.co.nz](http://www.hsbc.co.nz)**

