

E-Channels Country Conditions - France

1. INTRODUCTION

1.1 The E-Channels Terms and Conditions are modified and completed by the conditions stated in this amendment ("**Country Conditions**") to the sole extent of this modification, in order to comply with the applicable laws and regulations of the French Republic and to the various directives and other administrative instructions issued under the laws and regulations referred to above. Insofar as these Country Conditions will confer rights on the Bank in addition to the rights of a similar nature granted to the Bank in connection with the E-Channels Terms and Conditions, these additional rights, contained in the said Country Conditions, will add to the provisions of the E-Channels Terms and Conditions dealing with similar rights, without cancelling or superseding such provisions, however except for the ones referred to hereinafter. The expressions defined in the E-Channels Terms and Conditions have the same meanings as those used in this amendment.

1.2 These Country Conditions forms a part of the E-Channels Terms and Conditions and must be read together with it. In the event of any conflict between these Country Conditions and the E-Channels Terms and Conditions, these Country Conditions shall prevail.

1.3 Definitions

In this Schedule:

"**Bank**" means HSBC France.

2. REPRESENTATION

The Customer represents and warrants that the entry into and performance of its contractual obligations under the E-Channels Terms and Conditions do not violate any legal or regulatory provision applicable to it or to any Customer Associate (and in particular, with the article L 511 -7, I, 3° of the French Code Monétaire et Financier (the "FFMC"), if the Customer, acting for its own account or on behalf of any Customer Associate, made or will made cash concentration operations).

3. MISCELLANEOUS

The Customer acknowledges and consents that, in accordance with Articles L. 133-2 and L. 314-5 of the French Monetary and Financial Code, the following provisions will not apply to your agreement with us: Articles L.133-1-1, paragraphs 3 et 4 of Article L.133-7, Articles L. 133-8, L. 133-19, L. 133-20, L. 133-22, L. 133-23, L.133-25, L. 133-25-1, L. 133-25-2, paragraphs I and III of Article L. 133-26 of the French Monetary and Financial Code and all the provisions of Section 3 and 4 of Chapter IV, Title I, Book III of the French Monetary and Financial Code (with the exception of paragraph III of Article L. 314-7 and VII of Article L. 314-13). In addition a different time period shall apply for the purposes of Article L. 133-24 of the FFMC (notification of unauthorised payments), this period will be 8 weeks from the date of your statement.

4. PROVISIONS APPLICABLE TO PAYMENT SERVICES

If you are receiving payment services these Country Conditions form a part of the terms and conditions which govern your payment accounts. Payments services provided through the E-Channels Services are provided in accordance with those terms and conditions.

4.1 The following provisions govern the relationship between the Customer and the Bank in relation to the provision of payment services, as defined by Article L. 314-1 of the French Financial and Monetary Code (the "FFMC"), and only apply in the following circumstances:

- a) the payment service providers of both the payer and the payee are located, one within either Metropolitan France, Guadeloupe, Guyane, Martinique, La Réunion, Mayotte or Saint-Martin and the other one within either Metropolitan France, Guadeloupe, Guyane, Martinique, La Réunion, Mayotte, Saint- Martin or any other EEA state and the transaction is carried out in euros or in the currency of an EEA state that has not adopted the euro as its currency; or
- (b) the payer and the payee's payment service providers are located, one within either Metropolitan France, Guadeloupe, Guyane, Martinique, La Réunion, Mayotte or Saint- Martin, and the other one within either Metropolitan France, Guadeloupe, Guyane, Martinique, La Réunion, Mayotte, Saint- Martin or any other EEA state and the transaction is carried in a currency that is not the currency of an EEA state (subject to specific conditions); or

(c) only one payment service provider is located in Metropolitan France, Guadeloupe, Guyane, Martinique, La Réunion, Mayotte or Saint- Martin, irrespective of the currency used for the payment transaction (subject to specific conditions).

In all case, the following provisions only apply to those parts of the payment services carried out within the EEA.

4.2 Payment Transactions

4.2.1 In order for a payment transaction to be properly executed, the Bank must be provided with the payee's bank sort code and account number or, where applicable, the bank identification code (BIC) or other relevant identification of the payee's bank and the payee's international bank account number (IBAN) or other relevant account number, and/or such information if any as the Bank may advise the Customer of from time to time.

4.2.2 The Bank must receive a payment transaction before the cut-off time specified in any reference material provided to the Customer or made available by the Bank or the Bank will deem the payment transaction to have been received on the next business day. Notwithstanding this, a payment transaction given to the Bank after the cut-off time specified in any reference material provided to the Customer or made available by the Bank and on a business day for the Bank may be processed by the Bank on that day but the Bank shall not be obliged to do so. Payment transaction received on days which are not business days for the Bank will also be deemed to have been received on the next business day. For the avoidance of doubt, a business day for the Bank means any day on which the Bank is open for business, allowing clients to conduct payment transactions.

4.2.3 Save from situations set out for under paragraph 4.1 (c) above, where the Bank receives a payment transaction for execution on a specific day, the Customer agrees that the time of receipt is deemed to be that specific day the Bank is to execute that payment transaction.

4.2.4 Payment transactions will be executed in the currency agreed between the parties. The parties may also agree financial limit(s) upon the amounts which can be subject to payment transaction.

4.3 Limits of the use of payment instruments

Without prejudice to any provisions in the E-Channels Terms and Conditions related to matters similar to those referred to below in this Clause 4.3, the Bank shall have the right to stop the use of a payment instrument (including the use of a password or token to access the relevant e-channel and services) on reasonable grounds relating to:

- (a) the security of the payment instrument;
- (b) the suspected unauthorised or fraudulent use of the payment instrument; or
- (c) a materially increased risk that the Customer will default on payment.

4.4 Execution times of payment transactions

4.4.1 The Bank shall make a payment on the Customer's behalf to the relevant payee's payment service provider within one business day following the receipt of the complete Customer's Instructions when:

- a) The payment transaction is carried out in euros when both payment service providers are located within the EEA; or
- b) The payment transaction involves a single conversion between the euro and the currency of a Member State of the EEA outside the euro area, provided that the required conversion is carried out in this Member State, and in the case of cross-border transactions, the cross border transfer is carried out in euros.

4.4.2 The Bank and the Customer agree that the Bank will execute payment transactions which are not included in article 4.4.1 above within a maximum of four business days. This rule does not however apply to payment transactions carried out in a currency that is not the currency of an EEA state subject for both payment services providers to be located within the EEA.

4.5 Changes to the E-Channels Terms and Conditions

In respect of payment services falling within the scope of these Country Conditions, Clause 3.6 of the E-Channels Terms and Conditions is deleted and replaced by the following provisions:

"Where permitted by applicable laws and regulations, we are entitled to debit your accounts, wherever they are situated and whenever they are opened, with any amounts that we have paid or incurred in accordance with a Customer Instruction, including, [inter alia], any costs and expenses incurred to notify an objectively justified refusal to execute a Customer Instruction or in connection with any request for modification or cancellation of a Customer Instruction."

4.6 Complaints

In the event you wish to make a complaint about any payment services, you should direct your complaint to your relationship manager. We undertake to acknowledge receipt of the complaint within 48 hours. We will reply to any such complaint on paper or any other durable medium within 15 (fifteen) business days following receipt of the complaint. In exceptional cases, if a response cannot be given within 15 (fifteen) business days for reasons outside the Bank's control, we will issue a pending response clearly explaining the reason for the additional period needed to address the complaint and indicating the deadline by which you will receive a final response. In any event, you will receive a final response no later than 35 (thirty-five) business days after the Bank receives your complaint.

5. THIRD PARTY PROVIDER

5.1 In this clause "Third Party Provider" means a payment initiation service provider or account information service provider which is authorised by or registered with the *Autorité de Contrôle Prudentiel et de Résolution* ('**ACPR**') or another EEA regulator or otherwise permitted by law to access information on accounts and/or give us your instructions to make payments from those accounts which are accessible online and which are subject to the French provisions implementing the European Directive 2015/2366 of 25 November 2015 on payment services (as from time to time amended, restated or re-enacted) (the '**Regulations**').

5.2 Notwithstanding anything else to the contrary in these Terms and Conditions, the Customer may instruct a Third Party Provider to access information on your accounts and/or give us instructions to make transfers from your accounts, without the need for a written agreement between us and the Third Party Provider, provided that in either case the Third Party Provider has identified themselves to us and acted in accordance with the requirements of the Regulations. Before entering into an agreement with a TPP you must check it is authorised. If you instruct an unauthorised third party, we will assume it is you that is authorising us to give access to information about your accounts and you will be responsible for any payments made as a result. If we are aware that an unauthorised third party is trying to access your accounts, we will block access to your accounts.

5.3 Any instructions from a Third Party Provider shall be deemed to be valid instructions from you to us for the purposes of these Terms and Conditions and shall be treated in the same way under the Terms and Conditions as an instruction given by you. This includes the right to refuse a Customer Instruction for the reasons set out in the Terms and Conditions.

5.4 We may deny a Third Party Provider access to an account where there are justified and evidenced reasons relating to unauthorised use or fraudulent activities by that Third Party Provider. Before doing so, we will inform you that we intend to deny access and will give reasons for doing so, unless it is not reasonably practicable to do so, in which case we will inform you immediately afterwards. In either case, we will inform you in the manner in which we consider most appropriate in the circumstances and will not be obliged to inform you, where doing so would compromise our reasonable security measures or otherwise be unlawful. In the event we deny access to a Third Party Provider we will also notify the *Banque de France*.

6. CONFIDENTIALITY

6.1 The following sentences are added to Clause 5.1 of Section 4 of the E-Channels Terms and Conditions, after the first sentence:

"We draw your attention to the fact that confidential information can be disclosed to third parties to the extent necessary and permitted by articles L. 511-33 and L. 511-34 of the FPMC.

To the fullest extent permitted by law, you hereby authorize us, under circumstances not specifically covered by the aforementioned articles, to disclose confidential information to other entities of the HSBC Group for the purposes of complying with HSBC Group compliance and auditing rules or for the purpose of the Agreement, or to any other third parties, for the purposes of the performance of the Agreement or its record-keeping, or where the applicable laws or regulations so require or at the request of any competent authorities or courts.

6.2 A new Article 5.4 is added to the Section 4 of the E-Channels Terms and Conditions:

"5.4.1 You consent to the collection and use of information relating to you, your Users, your transactions and/or your accounts ("Data") and to the disclosure of the Data to:

- institutions, agents or third parties used by the Bank for the purposes of providing the Services,*
- credit reference, fraud prevention and other similar agencies, as well as other financial institutions,*
- regulatory, prosecuting and other governmental authorities, courts and litigation counterparties,*
- individuals, entities and any authorities and for the purposes as set out in the Information Management Terms (as defined below)*

where such collection, use and/or disclosure is necessary for the performance of the Bank's obligations under this Agreement, to administer the accounts and the wider relationship between the Bank or HSBC Group entities and the Customer, to manage and improve the Bank's or HSBC Group entities' businesses and services (including for risk-management purposes, security and prevention of non-payment), to provide you with information regarding products and services provided by the Bank or HSBC Group, for regulatory, tax, legal and compliance purposes, and/or for credit checking, anti-money laundering and fraud, detection, investigation or prevention purposes, for fighting against market abuse or any other financial crime, for any of the purposes ascribed in the Information Management Terms (as defined below).

For these purposes, they may be disclosed to the companies of HSBC group or to subcontractors, in France or abroad, inter alia in states that do not belong to the European Economic Area. To this effect, the signatories of the Agreement agree to the aforementioned information being disclosed on the conditions describe above and to that end release HSBC France from professional secrecy. You are informed that the Data (including but not limited to your name, surname and account number) may be transferred, for the purposes above mentioned, to recipients located in countries outside the European Economic Area without strict data protection laws. In such a case, the Bank has taken the necessary measures to ensure that the Data are adequately protected, by entering into the appropriate international data transfer agreements. For any information on transfers of Data to a country located outside the European Economic Area, rules have been set out and are available at the following internet address: www.hsbc.fr

5.4.2 Further to French law no. 78-17 dated 6 January 1978 as modified, you have rights of access to, correction and deletion of information relating to you as well as a right to object to the processing of your information on legitimate grounds. If the persons to whom personal data held by the Bank relates wish to exercise any of those rights such persons should contact the Bank at the following address: HSBC France - Expérience Client- Relations Clients – 103, avenue des Champs Elysées – 75008 Paris-France.

5.4.3 Before disclosing information relating to its Users to the Bank, you shall ensure that those Users are aware of the matters set out in this Clause, that they have rights of access to, correction and deletion of information held about them by the Bank as well as a right to object to the processing of their information on legitimate grounds and that if they wish to exercise those rights they should contact the Bank at the address above mentioned."

6.3 A new Clause 5.5 is added to Section 4 of the E-Channels Terms and Conditions:

"The Bank informs the Customer and the Customer Associate that data concerning him/her/it may be disclosed, at their request, to official institutions and administrative or judicial authorities, especially with respect to the prevention of money laundering or of financing of terrorism. For the same reasons, pursuant to Regulation EC/1781 of 15 November 2006, some of these data must be forwarded to the recipient bank of the payment located in a country of the European Union or of the European Economic Area. "

7. LIABILITY

The Clause 9.3 of Section 4 of the E-Channels Terms and Conditions *«Neither party nor any other member of the HSBC Group purports to exclude or limit liability in relation to fraud, personal injury or death.»* is deleted.

8. 3SKEY SOLUTION

The Customer may decide to use the 3Skey Solution to encrypt and/or sign messages and files exchanged with the Bank on the E-Channel agreed to in accordance with the 3Skey Schedule E-Channels Terms and Conditions.

The Customer acknowledges and accepts that it shall be subject to the Terms and Conditions issued by SWIFT in the context of use of the 3Skey Solution and that the Bank shall not be liable for any damages arising out of the functioning and use of the 3Skey Solution, including but not limited to any suspension of service, technical problem, complaint, loss, or other nonconforming use of service.

In order that the Customer be able to use the 3Skey Solution, the Bank may distribute 3Skey tokens acquired from SWIFT to the Client if it so requests and bill the Customer for the same. The Customer acknowledges and accepts that the Bank shall not be liable for any damages arising out of the functioning and use of the 3Skey

9. INFORMATION MANAGEMENT TERMS

9.1 You may also have received one or more of the following documents from us setting out information management terms (the “**Information Management Terms**”):

(i) our Terms of Business; (ii) our Tax Reporting Obligations Terms; and/or (iii) our Bank Account – Terms and Conditions.

9.2 In the event of conflict between (a) the provisions of the E-Channels Terms and Conditions which relate to our management of information and (b) the Information Management Terms you have received (if any), the Information Management Terms will prevail.

9.3 Where you have not received Information Management Terms from us, the E-Channels Terms and Conditions shall apply in full until such time as you may receive any Information Management Terms.

10. GOVERNING LAW AND JURISDICTION

For the avoidance of doubt, the E-Channels Terms and Conditions (including these Country Conditions) and any dispute, claim or issue arising out of or in connection with them (whether of a contractual or non-contractual nature, such as claims in tort, for breach of statute or regulation or otherwise) shall be governed by the laws of the jurisdiction named in the section of this Agreement entitled “Principal Bank and Governing Law”. Each party irrevocably submit to the non-exclusive jurisdiction of the courts of that named jurisdiction.