

# Relationship Terms of Business

## 1. TERMS OF BUSINESS

**1.1** These terms of business, together with any schedules, supplemental terms, and accompanying documents, as introduced, amended or supplemented from time to time (the "**Terms**") will govern your banking relationship with The Hongkong and Shanghai Banking Corporation Limited, incorporated in the Hong Kong SAR, acting through its New Zealand branch ("**HSBC**" or "**we**") and the Services you receive from HSBC, from time to time.

**1.2** These Terms govern how HSBC will use your information and that of your Connected Persons.

**1.3** These Terms will:

- (a) supplement any terms of business provided to you, and any product documentation in place between us, whether such terms of business and/or product documentation is entered into before, on or after the date of these Terms; and
- (b) be in addition to the terms and conditions in all other agreements, express or implied, and whether entered into before, on or after the date of these Terms, between us.

**1.4** These Terms supersede all provisions previously in force between you and HSBC concerning the subject matter covered by these Terms, in particular to the extent of any conflict or inconsistency.

**1.5** These Terms shall prevail 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 HSBC (the "**Other Terms**"), whether entered into before, on or after the date of these Terms, notwithstanding the existence of any contrary provisions in such Other Terms regarding conflict or inconsistency between such Other Terms and these Terms. Any consents, authorisations, HSBC requested waivers and permissions that you have already provided in relation to Customer Information shall continue to apply in full force and effect, to the extent permissible by applicable local law.

## 1.6 INTERPRETATION

- (a) References to "the Customer" or "you" shall mean the members of your group listed in the Appendix (collectively and individually, "**the Customer**" or "**you**").
- (b) The definitions set out in clause 9 will apply except where the context requires otherwise.
- (c) Clause headings are included for convenience and do not affect interpretation.
- (d) A reference to these Terms includes any variation, supplement, novation or replacement of any of them.

(e) References to a person include a sole proprietorship partnership, body corporate, an unincorporated association or an authority and include that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns.

(f) References to the singular include the plural and vice versa.

## 2. COLLECTION, PROCESSING AND SHARING OF CUSTOMER INFORMATION

### 2.1 COLLECTION

HSBC and other members of the HSBC Group may collect, use and share Customer Information. Customer Information may be requested from you (or a person acting on your behalf), or may also be collected by or on behalf of HSBC, or members of the HSBC Group, from other sources (including from publicly available information), generated or combined with other information available to HSBC or any member of the HSBC Group.

### 2.2 PROCESSING

HSBC and/or members of the HSBC Group will process, transfer and disclose Customer Information in connection with the following purposes:

- (a) for 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 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); and
- (h) maintaining HSBC's overall relationship with you (including marketing or promoting financial services or related products to you and market research),

(the "**Purposes**").

### 2.3 SHARING

By using the Services, you agree that HSBC may (as necessary and appropriate for the Purposes) transfer and disclose any Customer Information, including to the following recipients (who may also process, use, 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;
- (d) anyone acting on your behalf, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks (e.g. for CHAPS, BACS, SWIFT), 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 HSBC for you);
- (e) any party acquiring an interest in or assuming risk in or in connection with the Services;
- (f) other financial institutions, credit reporting/reference agencies or credit bureaus, for obtaining or providing credit references;
- (g) any third party fund manager providing you with asset management services;
- (h) any introducing broker to whom HSBC provides introductions or referrals; and
- (i) in connection with any HSBC business transfer,
- (j) disposal, merger or acquisition,

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

## 2.4 CREDIT REPORTING AGENCIES

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

- (a) credit reporting agencies will provide HSBC with information about you or a Connected Person as requested;
- (b) HSBC 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;
- (c) 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;
- (d) if you are in default of any payment obligation to HSBC, 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;
- (e) HSBC 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
- (f) the Privacy Act 2020 and Credit Reporting Privacy Code 2020 give you the right to access

and correct personal information held by a credit reporting agency. Contact details for credit reporting agencies HSBC uses are available on request.

## 2.5 CUSTOMER OBLIGATIONS

- (a) You agree to supply Customer Information, and to inform HSBC promptly, and in any event, within 30 days in writing if there are any changes to Customer Information supplied to HSBC or a member of the HSBC Group from time to time, and to respond to any request from, HSBC, or a member of the HSBC Group.
- (b) You confirm that every Connected Person whose information (including Personal Data or Tax Information) you (or anyone on your behalf) have provided, or will from time to time provide to HSBC 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. You shall, at the same time, advise Connected Persons that they may have rights of access to, and correction of, their Personal Data.
- (c) You acknowledge that where:
  - you fail to provide Customer Information that HSBC reasonably requests; or
  - you withhold or withdraw any consents which HSBC may need to process, transfer or disclose Customer Information for the Purposes; or
  - HSBC, or a member of the HSBC Group, has suspicions regarding the possible commission of Financial Crime or a Customer presents a potential Financial Crime risk to a member of the HSBC Group,

HSBC may:

- (i) be unable to provide new, or continue to provide all or part of the, Services to you and reserves the right to terminate its business relationship with you;
- (ii) take actions necessary for HSBC or a member of the HSBC Group to meet the Compliance Obligations; and/or
- (iii) block, transfer or close your account(s) to the extent permitted under local Laws.

In addition, your failure to supply your, or your Connected Person's, Tax Information and accompanying statements, waivers and consents, or other relevant circumstances relating to you or your Connected Persons, may result in HSBC making its own decision with respect to your status, or that of your Connected Persons, including whether to report you to a Tax Authority, and may require HSBC or other persons to withhold amounts as may be legally required by any Tax Authority and paying such amounts to any Tax Authority or to take any of the other measures set out in (i) through (iii) above.

## 3. DATA PROTECTION

- 3.1** Whether it is processed in a home jurisdiction or overseas, in accordance with applicable 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.

- 3.2** Under relevant data protection legislation, an individual has 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.

#### **4. FINANCIAL CRIME RISK MANAGEMENT ACTIVITY**

- 4.1** HSBC, and members of the HSBC Group, are required, and may take any action they consider appropriate in their sole and absolute discretion, to meet Compliance Obligations 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 a Customer's identity and status.

- 4.2** 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 HSBC nor any other member of HSBC Group shall be liable to you or any third party in respect of any Loss whether incurred by you or a third party caused in whole or in part in connection with the undertaking of Financial Crime Risk Management Activity.

- 4.3** 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.

#### **5. TAX COMPLIANCE**

You, and each Connected Person acting in their capacity as a Connected Person (and not in their personal capacity), 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 HSBC and/ or members of the HSBC Group. Certain countries may have tax legislation with extra-territorial effect regardless of your or your Connected Person's place of domicile, residence, citizenship or incorporation. HSBC and/or any member of the HSBC Group does not provide

tax advice. You are advised to seek independent legal and/or tax advice. HSBC and/or any member of the HSBC Group has no responsibility in respect of your tax obligations in any jurisdiction which they may arise including, without limitation, any that may relate specifically to the opening and use of account(s) and/or Services provided by HSBC and/or members of the HSBC Group.

#### **6. REPRESENTATIONS**

- 6.1** You represent to us and each member of the HSBC Group and agree as follows:

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

- 6.2** If any information provided by you in connection with clause 6.1 is incorrect, or you or any relevant shareholders breach any of the undertakings under clause 6.1, we may:

- (a) suspend any or all Services provided to you by us;
- (b) demand full repayment and/or liquidate all investments with us; and/or
- (c) terminate with a reasonable period of notice any or all Services provided to you by us.

#### **7. MISCELLANEOUS**

##### **7.1 SURVIVAL UPON TERMINATION**

Clauses 1 to 4 and 7 of these Terms shall survive the termination of these Terms, any termination by HSBC or a member of the HSBC Group of the provision of any Services to you or the closure of your accounts.

##### **7.2 VARIATION**

HSBC may make amendments to these Terms which will become effective on 14 days notice to you. Any such notice may be given to you in writing or by publishing such amendments on our website at [www.hsbc.co.nz](http://www.hsbc.co.nz). However, we may, in exceptional circumstances, make amendments to these Terms at any time in order to comply with any law or regulation, which will become effective immediately on notice to you.

##### **7.3 ASSIGNMENT**

The obligations under these Terms bind you and your respective successors, permitted assigns and personal representatives as applicable. You may not novate or assign any of your rights and/or obligations under these Terms without our prior written consent.

##### **7.4 NOTICE**

In proving service or delivery of a relevant notice to you under these Terms, it shall be sufficient for HSBC to prove that it was correctly addressed and was posted or, where it was delivered otherwise than by post, that it was delivered to the correct address as last notified to HSBC or, where it was sent by fax or telex or other means of telecommunication, that it

was transmitted to the correct number or electronic mail address as last notified to HSBC.

You confirm that, for this purpose, you have regular access to the internet and consent to HSBC providing you with information by posting such information on HSBC's website at [www.hsbc.co.nz](http://www.hsbc.co.nz).

## 7.5 RIGHTS AND REMEDIES

The rights and remedies herein are cumulative and not exclusive of any rights or remedies provided by law. No failure to exercise or delay in exercising the same shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof.

## 7.6 WAIVER

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

## 7.7 SEVERABILITY

Each provision of these Terms is severable and if any provision is or becomes illegal, invalid or unenforceable in any jurisdiction, that provision is severed only in that particular jurisdiction. All other provisions shall continue to have effect.

## 7.8 FURTHER ASSURANCES

You shall from time to time execute such documents and perform such acts and things as we may reasonably require to give full effect to the provisions of these Terms.

## 8. GOVERNING LAW AND JURISDICTION

8.1 These Terms and any non-contractual obligations arising out of or in connection with them shall be governed by the laws of New Zealand and the parties submit to the exclusive jurisdiction of the courts of New Zealand.

8.2 A person who is not a party to these Terms has no right under the Contract and Commercial Law Act 2017 to enforce any Terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## 9. DEFINITIONS

**"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 and/or requests from Authorities or reporting, regulatory trade reporting, disclosure or other obligations under Laws, and (c) Laws requiring HSBC to verify the identity of our Customers.

**"Connected Person"** means a person or entity whose information (including Personal Data or Tax Information) you provide, or which is provided on your behalf, to any member of the HSBC Group in connection with the provision of the Services. 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, representative, your agent or nominee, or your principal where you are acting on another's behalf, or any other persons or entities with whom you have a relationship that is relevant to your banking or other service 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 any other individual who exercises ultimate effective control over the trust, and in the case of a legal entity other than a trust, such term means persons in equivalent or similar positions of control).

**"Customer Information"** means Personal Data, confidential information, and/or Tax Information of either the Customer or a Connected Person (including accompanying statements, waivers and consents).

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

**"HSBC Group"** means HSBC Holdings plc, and/or any of, 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"** means any applicable local or foreign statute, law, regulation, ordinance, rule, judgment, decree, voluntary code, directive, sanctions regime, court order, agreement between any member of the HSBC Group and an Authority, or agreement or treaty between Authorities and applicable to HSBC or a member of the HSBC Group.

**"Loss"** means any claim, charge, cost (including, but not limited to, any legal or other professional cost), damages, debt, expense, tax, liability, obligation, allegation, suit, action, demand, cause of action, proceeding or judgment, however calculated or caused, and whether direct or indirect, consequential, punitive or incidental.

**"Personal Data"** means any information relating to an individual, from which the individual can be identified, including, without limitation, sensitive personal data, name(s), residential address(es), contact information, age, date of birth, place of birth, nationality, citizenship, personal and marital status.

**"Services"** includes, without limitation, (a) the opening, maintaining and closing of your bank accounts, (b) providing you with credit facilities and other banking products and services (including, for example, securities dealing, investment advisory, broker, agency, custodian, clearing or technology procuring services), processing applications, ancillary credit assessment and product eligibility assessment, and (c) the maintenance of HSBC's overall relationship with you, including promoting financial services or related 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 domestic or foreign tax, revenue, fiscal or monetary authorities.

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

**"Tax Information"** means any documentation or information (and accompanying statements, waivers and consents) relating, directly or indirectly, to your tax status and the tax status of any owner, "controlling person", "substantial owner" or beneficial owner, that HSBC considers, acting reasonably, is needed to comply (or demonstrate compliance, or avoid non-compliance) with any HSBC Group member's obligations to any Tax Authority. "Tax Information" includes, but is not limited to, information about: tax residence and/or place of organisation (as applicable), tax domicile, tax identification number, Tax Certification Forms, certain Personal Data.

## **CUSTOMER ACCEPTANCE**

We kindly request that you sign these Terms where indicated below and return a signed copy to

**HSBC Corporate Banking**  
**HSBC Tower**  
**Level 21**  
**188 Quay Street**  
**Auckland 1010**  
**New Zealand**

You hereby consent to, accept and acknowledge these Terms of Business by signing below.

These Terms shall become effective upon the date of your execution, recorded below.

For and behalf of: <i>(Entity name)</i>	
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