

# **General Terms & Conditions of Business**

September 2018

## 1. Definitions and Interpretation

### 1.1 Definitions:

In these General Terms and Conditions of Business (the “General Terms”), the following terms shall have the following meaning:

**“Account”** means, except where otherwise expressly provided, all current and future accounts held with the Bank in the name of its Customers, including Payment Accounts, and includes all moneys or balances thereof, deposited therein, all accrued and accruing interest and all related rights.

**“Additional Conditions”** mean the terms and conditions issued by the Bank from time to time regulating the obligations of the Bank and the Customer in relation to certain Bank products, services and/or Facilities such as the FIMBank Direct Terms and Conditions annexed herewith.

**“Application Form”** means any forms completed by a Customer or by any potential customer in terms of which the applicant is applying to be provided with a Bank product or service;

**“Assets”** means any tangible or intangible movables or any immovables and including but not limited to money, goods, currencies, securities, rights under contracts and other rights and instruments conferring rights to receive money or goods or other interests.

**“Bank”** means FIMBank p.l.c., a credit institution registered and existing under the laws of Malta, bearing registration number C17003 and having its registered office at Mercury Tower, The Exchange Financial and Business Centre, Elia Zammit Street, St.Julians, STJ 3155, Malta and the terms “we”, “us” and “our” shall be interpreted accordingly. The Bank’s main business is the provision of banking and financial services and it is licensed and regulated by the Malta Financial Services Authority, Notabile Road, Attard, BKR3000, Malta, website: [www.mfsa.com.mt](http://www.mfsa.com.mt).

The Bank’s principal place of business is situated at its registered office. This is also the contact address for the purposes of the Customer’s Account with the Bank. Alternatively, the Customer may email the Bank on [info@fimbank.com](mailto:info@fimbank.com).

**“Bank Mandate”** means the written instructions given to the Bank by the Customer for the appointment of the Bank as the Customer’s banker and the operation of the Account/s in the format that the Bank might choose from time to time, including any instructions given in any online forms as may be applicable.

**“Burgan Bank”** means a bank in Kuwait and subsidiary of public holding company Kuwait Projects Company Holding (known as KIPCO), with business address at Burgan Bank Tower Sharq Area, Abdulla Alahmed St, Kuwait, established in 1977 registered in Kuwait and bearing company registration number 321501.

**“Business Day”** means Mondays to Fridays (both days inclusive) excluding public and bank holidays in Malta.

**“Business Hours”** means 0900 hours to 1700 hours Malta time or as may be otherwise determined by the Bank from time to time.

**“Customer”** means any person, in whose name an Account is held with the Bank and the words “you”, “your” and “yourself” shall be interpreted accordingly. Except where otherwise specified, the Customer can be an individual person or a corporate entity.

**“Currency”** means any freely convertible currency.

**“Cut-Off Times”** means the time before which, on a Business Day, Payment instructions are treated as received by the Bank. Cut-Off Times may vary as set out in the applicable terms and conditions and as may be revised and amended from time to time by the Bank.

**“Data Carriers”** means any means, including email, which allows the Bank to store information directed to it by the Customer in a way to make future consultation and use possible during a period that matches the purpose for which the information is destined, and unaltered reproduction of the stored information possible.

**“Digital Banking”** means the electronic banking service provided by the Bank through the Internet. Digital Banking is regulated by the FIMBank Direct Terms and Conditions annexed herewith as Annex I and subject to clause 2 of the General Terms.

**“Event of Default”** means the occurrence of any of the following events:

- a) you fail to pay any sum whether of principal, interest, fees or charges, due by you at the time and in the manner stipulated in the document/s regulating the Facility; or
- b) you commit any breach of or omit to observe any provisions, obligations and undertakings in the document/s regulating the Facility; or
- c) any representation, statement or warranty made or deemed to be made, or repeated by or in your respect, is or proves to have been, incorrect or misleading in any material respect when made or deemed to be made; or
- d) any of your Indebtedness or any of your obligations towards the Bank falls due or is expressed to fall due to be paid, performed and discharged and is not paid, performed or discharged (as the case may be) in full on the due date therefor, or any of your creditors becomes entitled to declare any indebtedness or such obligation due and payable prior to the date when it would otherwise have become due or any guarantee or indemnity given by you in respect of the Indebtedness or such obligation is not honoured when due and called upon; or
- e) any consent, authorisation, licence or approval of, or registration with, or declaration to, governmental or public bodies or authorities, or courts, required by you in connection with, or pursuant to, the execution, delivery, validity, enforceability or admissibility in evidence of the document/s regulating the Facility or your performance of your obligations in the document/s regulating the Facility, is modified, or is not granted, or is revoked or terminated or expires and is not renewed or otherwise ceases to be in full force and effect; or
- f) you become insolvent or bankrupt;
- g) you become unable or admit inability to pay your debts as they fall due or are deemed to be or declared to be unable to pay your debts under applicable law;
- h) you cease, suspend or threaten to suspend your business and/or making payments on any of the debts or, by reason of actual or anticipated financial difficulties, commence negotiations with one or more of your creditors with a view to rescheduling any indebtedness or propose or enter into any composition or other arrangement for the benefit of your creditors generally or as a class of creditors, or proceedings are commenced in relation to you under any law, regulation or procedure relating to the reconstruction of debts; any corporate action, legal proceedings or other procedure or step is taken in relation to: (i) the adjudication or declaration of your bankruptcy or insolvency, the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise); or (ii) a composition, compromise, assignment or arrangement with any creditor; or (iii) the appointment of a liquidator, special controller, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of either yourself or any of your assets; or (iv) any security interest is enforced over any of your assets; or (v) any analogous procedure or step is taken in any jurisdiction;
- i) any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any of your, including without limitation any precautionary or executive garnishee order is issued in connection with moneys or moveable property due or belonging to you;
- j) it becomes unlawful at any time for you to perform all or any of your obligations in the documents regulating the Facility; or
- k) any other event occurs or circumstance arises which, in the opinion of the Bank, is likely, materially and adversely to affect your ability to perform all or any of your obligations under or otherwise comply with the terms of the document/s regulating the Facility; or
- l) there occurs in the opinion of the Bank, a Material Adverse Change in your financial condition.

For the purposes of this clause, the word “you” or “your” includes also the surety or a reference to the surety, as may be applicable.

**“Facility”** means any general or special banking facility which might be granted by the Bank to you from time to time and includes, without limitation, overdrafts, loans, letters of credit, back-to-back letters of credit, discounting and invoice financing.

**“FIMBank Direct”** means the Bank’s online product enabling Customers to manage their own Accounts and upload multiple payment instructions through one straight-through upload onto the Bank’s digital platform.

**“General Terms”** shall mean this agreement as the same may from time to time be amended.

**“Indebtedness”** means all sums and liabilities owed by you to the Bank, whether present or future, by way of principal or interest (before or after judgment), actual or contingent, matured or otherwise and whether incurred solely, severally or jointly, as principal or surety and in whatever currency, and together with any interest, commissions, fees, bank charges and any other cost, charges and/or expenses (including but not limited to legal expenses) on a full indemnity basis incurred by the Bank in relation to the Customer or as otherwise arising from or contemplated in these General Terms, any Additional Conditions or any other agreement entered into between you and the Bank.

**“International Payment”** means a payment in any currency made from the Customer’s Account to any other account outside the Republic of Malta.

**“Material Adverse Change”** means an event or circumstance which (when taken alone or together with any previous event or circumstance) constitutes or is likely to constitute:

- a) an adverse change in your or the surety’s business, assets, prospects, operations, condition (financial or otherwise) or trading position;
- b) an adverse change in the international financial markets;
- c) an adverse change in the political, social or economic situation in your or the surety’s country of domicile or residence, or in any country where Assets owned by you or the surety are situated (including any downgrading of that country’s credit rating by an International Credit Rating Agency);
- d) an adverse change in the validity or enforceability of any provisions of or rights arising from these General Terms or other documents regulating a Facility;

such that you or the surety might be expected to be unable to fully and punctually perform their respective obligations under the General Terms and/or under any other documents regulating a Facility.

**“Payment Account”** means any Account which can be used to effect Payments and whether held by the Customer in his or her sole name or whether jointly with a third party or parties;

**“Payment instruction”** means any instruction given by the Customer to the Bank to effect a transaction which results in a debit to a Customer’s Account;

**“Payments”** means any transaction which results in any debit to a Customer’s Account or in any credit to the Customer’s Account within the meaning of the PSD;

**“Payment Services”** means any such services offered by the Bank, provided that: payments made or received by cheque (if applicable) are not considered as “Payments” or “Payment Services”, unless otherwise indicated;

**“PSD”** means the Central Bank of Malta Directive no.1 on the provision and use of payment services implementing the relative EU Directive on payment services as may be in force in Malta from time to time;

**“SEPA Payments”** means payments in euro to accounts in the European Economic Area (EEA) countries, Monaco, San Marino and Switzerland under the Single Euro Payments Area (SEPA) scheme.

**“SWIFT”** means Society for Worldwide Interbank Financial Telecommunication.

**“Tariff of Charges”** means the Tariff of Charges which is issued by the Bank as may be revised from time to time and which is available at the Bank’s offices or on the Bank’s website or by calling on +356 2132 2100.

**“Writing”** means, unless otherwise expressly specified, any method of visually recording messages or instructions and includes physically written or signed documents, printing, telefax transmissions, electronic data, short message service (SMS), e-mail, completion of electronic documents or forms, messages or instructions, whether authenticated or otherwise, through email, Digital Banking and other similar methods of electronic reproduction.

## 1.2 Construction

In these General Terms, unless the context otherwise requires:

- a) any reference to the singular shall include the plural and vice versa, the use of the masculine pronoun shall include the feminine, the use of the neutral pronoun shall include the masculine or the feminine as the case may be and any reference to any Statute, Law or Regulation having the force of Law or any section thereof includes reference to any modification thereto or re-enactment of such Statute, Law or Regulation having the force of Law for the time being in force.
- b) a person shall include any physical person, firm, company corporation or any other body or association of persons, whether such body or association is corporate or unincorporated, or any two or more of the foregoing.
- c) The headings are used and inserted for convenience only and shall be ignored in the interpretation of these General Terms.

## 2. Scope of the General Terms and the Additional Conditions

2.1 These General Terms, as may be amended from time to time by the Bank, govern the entire business relationship between you and the Bank and detail the Bank's obligations towards you and your obligations towards the Bank.

2.2 Your agreement with us is contained in:

- a) these General Terms which are considered as incorporated into all and any contractual or other relationship which may arise between us;
- b) the Additional Conditions (where applicable);
- c) any Bank Mandate signed by you, the Customer;
- d) any Application Form for any products or services signed by you as an applicant for a Bank product or service; and
- e) any other documentation entered into between the Bank and the Customer from time to time.

2.3 Additional Conditions generally complement the General Terms and therefore should not be read in isolation, but in conjunction with the General Terms. However, where the terms of the Additional Conditions or the provisions of any other agreement entered into between the Bank and the Customer conflict with the General Terms, the Additional Conditions and/or the provisions of any other agreements shall prevail in relation to the Facility and/or product and/or service they regulate.

2.4 The General Terms are available on the Bank's website or free of charge at the Bank's premises upon request.

2.5 Unless otherwise expressly provided or unless otherwise agreed with the Customer, any notices to the Customer in connection with any Bank products or services will be notified to the Customer individually including by post, by messages on or with statements as well as by electronic means such as SMS or email, including through Digital Banking.

## 3. Basis of the Relationship, Compliance and Cooperation

3.1 The relationship between the Bank and the Customer is based on mutual trust and good faith.

3.2 The Bank shall carry on its business in accordance with international banking practices.

3.3 When executing the Customer's instructions, when carrying out Payments, and when performing its obligations towards the Customer or on the Customer's behalf the Bank shall exercise diligence and care in accordance with the prevailing banking practices.

3.4 In the relationship with the Customer, the Bank relies on the representations made to it by the Customer or by third parties on behalf and at the request of the Customer, in particular relating to:

- (a) the identity of the Customer;
- (b) the business activities and financial assets and situation of the Customer;
- (c) the credentials of the Customer;

- (d) the legal powers and authority of the Customer and, in case of a legal entity, its authorised signatories; and
- (e) the source of funds or Assets of the Customer entrusted to the Bank and on such other matters relevant to particular Facilities as stated in specific agreements.

- 3.5 The Customer shall comply with all applicable laws and regulations, including but not limited to any applicable international conventions and resolutions of the Security Council of the United Nations, the legislation on anti-money laundering and anti-terrorist financing and any orders issued by any relevant authorities in so far as the Bank's services are involved.
- 3.6 The Customer hereby undertakes to cooperate with the Bank and supply all information and documentation which the Bank may require in connection with its compliance obligations, in particular its customer identification obligations (Know Your Customer obligations) and record-keeping procedures in terms of the applicable anti-money laundering and anti-terrorist financing legislation.
- 3.7 The Customer is obliged to immediately inform the Bank of any change in its circumstances, in particular changes in the ultimate shareholders, changes in the directors, controllers and other persons who are able to bind the Customer as well as changes relating to the Customer's business and source of the funds and any other matters which will impinge on the relationship with the Bank, including any intention of liquidation and voluntary creditor arrangements.
- 3.8 Without prejudice to the provisions on termination in clause 32, in the event that any representation appears to the Bank to be incomplete or incorrect or otherwise fraudulent or given in bad faith, then the Bank shall be entitled to suspend all and any instructions and/or transactions of the Customer and unless satisfactory information and/or evidence is provided to the Bank within a time deemed reasonable by the Bank, the Bank shall be entitled to terminate its relationship with the Customer.

## 4. Death and Change in Legal Status of Customer and Joint Accounts

### Individuals

- 4.1 Upon your death, we shall, in relation to the Account or Assets, take instructions from the person who is legally entitled to give the said instructions.
- 4.2 We shall be entitled to receive to our satisfaction such evidence, including legal opinions at the cost of your estate, as we may require to establish the entitlement and authority of the person claiming power to give us instructions and we shall not be bound to act upon such instructions until such time as we are satisfied of such authority.
- 4.3 In the event of your death any Payment instructions in relation to your Account(s) will be valid and binding on your estate if the instructions were received before the Bank had been informed in writing of your demise.

### Legal Entities

- 4.4 In the event that you are placed into liquidation, bankruptcy or administration or any other analogous process wherein a liquidator, curator or trustee or similar officer is appointed, whether voluntarily by yourself or by a Court or other body, and in whom legal authority and representation is vested to the exclusion of yourself or the persons you may have nominated in the Bank Mandate, we shall be entitled to receive to our satisfaction such evidence, including legal opinions at your cost, as we may require to establish the proper entitlement and authority of the person claiming power to give us instructions and we shall not be bound to act upon such instructions until such time as we are satisfied of such authority.

### Joint Accounts

- 4.5 When an Account is opened in the joint names of two or more Customers, the Account shall be held by them on a joint and several basis. This means that the joint Account holders are bound by the General Terms and will be jointly and severally liable for all transactions and dealings on the Account effected using any of the Bank's products or services.
- 4.6 Remittances to any of the Account holders without specific reference to the joint Account shall not be credited to the joint Account except upon written instructions of the beneficiary. Remittances specifically made to the joint Account will be credited to the joint Account notwithstanding the fact that the named beneficiary is only one of the joint Account holders.

The Bank may disclose to any of the joint Account holders any information which the Bank holds about the Account including historical statement information. Any correspondence to be sent by post in relation to the joint Account shall be sent to the mailing address on the joint Account indicated in the appropriate account opening form and as such is deemed to be proper and valid notification to all joint holders.

## 5. Liability of the Bank

- 5.1 The Bank shall not be responsible to you for any loss (whether direct, indirect, consequential or otherwise) or damage you may incur if the Bank or any of its agents or correspondents are prevented from or delayed in providing you with any service, including any Digital Banking service or from carrying out any instruction, as a result of or caused by circumstances beyond the Bank's reasonable control, including but not limited to, the failure, malfunction or unavailability of telecommunications, data communications, computer systems and Digital Banking, including suspension of services resulting from upgrades and maintenance to the Bank's systems or the systems of any third party used to provide the Bank's services including Digital Banking, outages on any phone network or in the case of mobile network where you are not in an area of mobile coverage, war, civil unrest, government action, strikes, lockouts or other industrial action or trade disputes (whether involving your, the Bank's or third party's employees). Any delay or failure of this kind will not be deemed to be a breach of the General Terms and where applicable, the time for performance of the affected obligation will be extended by a period which is reasonable in the circumstances.
- 5.2 The Bank will be liable to you for any losses, injury or damage suffered by the Customer resulting from our wilful default or gross negligence.
- 5.3 In no event, we will not be liable to you or any third party for:
- loss of business, loss of goodwill, loss of opportunity, loss of profit, loss of revenue or anticipated savings;
  - any type of special, consequential or indirect loss or damage whatsoever.
- 5.4 Unless the Bank expressly agrees in Writing, the Bank does not provide advice on the suitability of Accounts, Facilities or other Bank products or services for the Customer and neither the Bank nor its employees will be liable for any loss arising as a direct or indirect result of indications given of such suitability.

## 6. Language, Communication with the Customer, Customer's duty to notify changes

- 6.1 Unless otherwise agreed, the English language will be used for the purpose of interpreting and for all communications in connection with these General Terms, the Additional Conditions and any other agreement with the Customer.
- 6.2 The Customer shall inform the Bank of the mailing address and other contact details to which communications and notices intended for it are to be sent and through which the Bank can contact the Customer and the Bank shall be entitled to send all communications and notices including statements to such address and to contact the Customer using such address. Unless otherwise indicated by the Customer to the Bank, the address and other contact details indicated by the Customer in the Bank Mandate shall be deemed to be the chosen address and contact details for all such communications and notices hereunder or under any agreement entered into with the Bank.
- 6.3 Each notice or other communication sent to the Customer hereunder shall be deemed received:
- if delivered by hand or sent by courier, on the day it is delivered; or
  - if sent via regular mail, three (3) working after the date it was sent if it is sent to an address in Malta, or five (5) working days after the date it was sent if it is sent to an address overseas; or
  - if sent by SMS, immediately, unless a delivery failure report is received by the Bank; or
  - if sent by facsimile transmission, or by electronic mail or through Digital Banking on the date transmitted, unless a delivery failure report or other message showing failure to deliver is received by the Bank, provided, however, that in the case of (a), (b) and (d) if a notice or communication is delivered, transmitted or received on a day that is not a Business Day, the notice or communication shall be deemed delivered or received by the Customer on the next Business Day.
- 6.4 The Customer shall inform the Bank in Writing immediately of any changes in the mailing address and other communication details as well as of any changes in the name of the Customer, in its civil status and capacity to dispose of Assets and generally to contract, or as applicable in the powers of the Customer or of its representatives or agents. The duty to notify shall also apply if such facts are recorded in any public register and even if they are published. The names of the persons authorised to represent the Customer in relations with the Bank, together with a specimen of their signatures, shall be notified to the Bank.
- 6.5 The Bank shall not be liable for any losses arising to the Customer as a result of any action taken on the basis of existing information that has been supplied to it by the Customer in the event that a change to such information has not been notified to the Bank.

- 6.6 Without prejudice to clause 7, where the Customer has provided the Bank with his or her email address, the Customer agrees that the Bank may communicate with the Customer via email and the Customer acknowledges that (i) such communication may include confidential information and that (ii) there are risks that any such communications may be intercepted, monitored, amended or otherwise interfered with by third parties. Except where occasioned by the wilful default or gross negligence of the Bank, the Bank is not responsible or liable to the Customer or to any third party in the event of any such occurrence in relation to any communication between the Bank and the Customer or any communication the Customer asks the Bank to enter into with any third party. In addition, the Bank is not responsible or liable to the Customer or any third party in the event of any loss, expenses or damages as a result of the use of such means of communication, in particular loss, expenses or damage resulting from the non-receipt, partial receipt or illegible or garbled receipt of the communication or unauthorised access by any third party or technical breakdown.

## 7. Instructions to the Bank

### General

- 7.1 You shall make sure that all instructions to and communications with the Bank are given in Writing. We will act upon verbal instructions only if and when the same are confirmed in Writing in accordance with this Clause.
- 7.2 Unless otherwise set out in these General Terms or in any Additional Conditions, instructions shall be accepted during the Bank's Business Hours and will be carried into effect within the time required for initiation of processing, as well as in accordance with the relevant banking practice. Where instructions are received after Business Hours on a Business Day, or on a day which is not a Business Day, or during Business Hours but after Cut-Off Times, such instructions are deemed to have been received on the next Business Day.
- 7.3 Where there exist relevant Bank forms, as directed and issued by the Bank, you shall make use of and fill in such forms. The Bank reserves the right not to execute instructions if such instructions are not given on the forms drawn up or approved by the Bank. There may also be specific situations where the Bank will require the Customer to provide additional information than what is contained in the Bank's forms or to provide instructions otherwise than on the Bank's forms.
- 7.4 You will make sure that all instructions given to us are clear and unambiguous. Instructions that are not clearly worded may lead to queries, which may in turn result in delays. Should you consider the execution of an instruction to be particularly urgent or should you have any special instructions, then you must notify us of the urgency of the special nature of the instructions. The Bank shall not be responsible for any delays in the execution of instructions where such delays are a direct result of unclear or ambiguous instructions or where the Bank is not properly informed about the urgency or the special nature of the instructions.
- 7.5 In the case of such special or urgent instructions the Bank reserves the right to charge additional fees or charges as set out in the Bank's Tariff of Charges.
- 7.6 Unless otherwise set out in these General Terms or in any other Additional Conditions, all instructions shall be in original and signed by you or by your authorised signatories in accordance with the Bank Mandate, the Board Resolution or as may otherwise be agreed with the Bank. You shall take all necessary and prudent steps to prevent forgeries and misuse by third parties of the banking facilities which we have granted to you. We undertake no liability for fraudulent use of your signature by a third party. Should we fail to recognise a fraudulent use of your signature on documents and carry out transactions on the basis of such documentation, we shall be released from all liability, except in cases of gross negligence or willful misconduct.
- 7.7 Without prejudice to the provisions on termination in clause 32, the Bank is entitled to refuse to carry out, suspend, immediately terminate or reverse a transaction and/or instructions received from the Customer, in whole or in part, howsoever received, for any valid reason, including in case of insufficient funds, or if the Bank or its correspondent bank reasonably believes that the instructions or the transaction are invalid, in any manner fraudulent or illegal or made in bad faith or that the transaction and/or the instruction has not been received from or carried out by the Customer or in case of any breach of the Customer's obligations in terms of any applicable terms and conditions. The Bank undertakes to notify the Customer of the said refusal, suspension, termination or reversal in any of the ways set out in these General Terms.

### Data Carriers

- 7.8 All the forms, Data Carriers and means of communication which we may have put at your disposal, must be kept and handled with care. Should you become aware of any irregularity, including loss, theft or misuse of these forms, Data Carriers or other means of communication, you must inform us immediately.



- 7.9 The liability and the consequences of the use of the forms, Data Carriers or means of communication by unauthorized third parties, shall be for your account and risk until such time as we receive written notification of the relevant circumstances, and subject to the contents of such notification being sufficient to enable us to take appropriate action.
- 7.10 We shall not be liable for any loss, damage or expense resulting from the loss, theft or misuse of forms, Data Carriers or means of communication even after we have been notified, if the circumstances of the case do not legally justify us in refusing to act (e.g. guaranteed instruments or relationships).
- 7.11 Upon termination of our relationship, you must return all unused forms, Data Carriers and means of communication placed at your disposal. You shall indemnify us for any losses directly or indirectly resulting from the misuse of any such unreturned items .

#### **Facsimile Instructions, Test Keys**

- 7.12 You may require us in the Bank Mandate to receive and accept instructions from you by means of facsimile. We reserve the right to act upon instructions received via facsimile (i.e. not in original) provided the instructions are signed by the Customer or the authorised signatories in accordance with the Bank Mandate. We shall not be liable for any loss, damage or expenses suffered as a result of the use of such means of communication, in particular loss, damage or expenses resulting from the non-receipt, partial receipt or illegible or garbled receipt of instructions. In so far as possible, you shall inform us without delay of any incorrect or faulty transmissions when they occur.

Notwithstanding the above, you shall endeavor to forward to us the original instructions within fifteen (15) days from the date of the facsimile instructions.

- 7.13 When you elect to send instructions by means of facsimile, for security purposes and in order to give authenticity to your instructions you may elect to use test key(s) provided by us. Each test key should only be used once and should follow in vertical order in each column. Strict order of application is to be adhered to, so that every number is used. When you elect to use test keys(s), we shall not accept or act upon instructions unless they contain such test key(s), and we shall be relieved from any liability towards you when, notwithstanding your agreement to use test keys, you fail to do so. Such arrangement shall continue until we receive notice to the contrary.

#### **Email Instructions, Test Keys**

- 7.14 You may require us to receive and accept instructions from you by means of e-mail. We shall act upon instructions received via e-mail, provided such instructions or information are sent or are purported to have been sent from one of the e-mail addresses listed in the Bank Mandate as the "Accepted E-Mail Addresses". In such case we shall discharge our duty to act with reasonable care by verifying that the e-mail when printed or viewed on screen, prima facie appears to originate from any one of the Accepted E-Mail Addresses.
- 7.15 Communication between us via e-mail may include confidential information. E-mail communication might not be free from interference by third parties and might not remain confidential. We cannot guarantee the privacy or integrity of such communication between us and cannot accept responsibility or liability for any losses, damages or expenses as a result of the use of such means of communication, in particular loss, damage or expenses resulting from the non-receipt, partial receipt or illegible or garbled receipt of instructions or unauthorized access by any third party or technical breakdown.
- 7.16 When you elect to send instructions by means of e-mail, for security purposes and in order to give authenticity to your instructions, you may elect to use test key(s) provided by us when giving out the said instructions. Each test key should only be used once and should follow in vertical order in each column. Strict order of application is to be adhered to, so that every number is used. When you elect to use test keys(s), the Bank shall not act upon or accept instructions unless they contain such test key(s), and we shall be relieved from any liability towards you when, notwithstanding your agreement to use test keys, you fail to do so. Such arrangement shall continue unless we receive notice to the contrary.
- 7.17 Without prejudice to clause 5, the Customer undertakes to keep the Bank fully indemnified against all losses, claims, actions, proceedings, demand, damages, costs and expenses, including legal expenses, which the Bank may incur or sustain directly or indirectly, in connection with accepting to act upon instructions received via facsimile or email in terms of this clause, except where the Bank acts fraudulently or with gross negligence. The termination of the Customer's relationship with the Bank and/or the closure of one or more Accounts will not release the Customer from any liability arising from the indemnity given under this clause in respect of any act performed by the Bank in accordance with the Customer's authority under this clause.

## 8. Payments

### 8.1 Making Payments

How can you ask us to make Payments from your Account?

#### *Through FIMBank Direct*

Please refer to the Terms and Conditions regulating FIMBank Direct.

*By calling at the Bank's Head Office or Branch:*

Payment details need to be provided on the relative Application Form and we will verify your identity. When you provide and confirm the payment details on the relative form, this constitutes your consent for us to make the Payment.

#### *Over the Phone*

In particular circumstances, at the sole discretion of the Bank, the Bank may agree to accept your instructions regarding your Account over the telephone, and the Bank will normally ask you for your Customer Number and for further security information in order to verify your bona fide identity. All details of the instructions will be taken by the Bank and then confirmed to you. You must confirm that these details are correct before your instructions are effected. Your confirmation will be your consent for the Bank to make effect your instructions. On satisfactory completion of our completion of our security procedures, we can act on any instructions given to us, even if these instructions were not given by you or with your authority.

#### *By Post*

By sending the relative Application Form to the Bank's Head Office or Branch.

The Customer needs to provide the details required in the relative Application Form in order to enable the Bank to effect the Payment and the Customer must sign the instructions including but not limited to your full name, Customer Number, date, and your original signature or that of an Authorised Representative. The signature must match the signature on the Bank Mandate or the signature of the signatories on the Board resolution (in case of a corporate customer) held with the Bank. This is considered the Customer's consent to make the Payment. Subject to clause 7 of these General Terms instructions given by post will be deemed to be received by the Bank when the Bank opens the instructions. The Bank will make the Payment once the fulfilment of all conditions required by the Bank to execute the Payment have been met.

#### *By Email or Facsimile*

Payment instructions may be received through email, fax or telex using the relative Application Form. Such instructions are subject to clause 7 of these General Terms. Your email, fax or telex communication will constitute your consent for the Bank to carry out your instructions.

Unless otherwise stated in this Section 8.1, we cannot accept payment instructions or requests for information about your Profile, Account(s) and Fixed Term Deposit(s) by post or by email.

### 8.2 A Customer may make or request:

- Internal Payments, that is, transfers between Accounts held with the Bank in the name of the Customer or in the names of other Customers;
- Outward Payments, that is, transfers from own Accounts to accounts held with other banks whether in Customer's own name or in the name of third parties, including transfers made through international money transmission services,
- SWIFT Payments and SEPA Payments.

Standing Instructions, namely regular Payments from the Customer's Payment Account to an identified recipient for a defined or undefined period.

#### **Payment Limits**

### 8.3 As a fraud prevention measure, daily and weekly limits may be placed by the Bank on the maximum amount and number of Payment transactions a Customer may effect on his or her Account. The amount/type of limits may be agreed with the

Customer from time to time by the Bank, as the Bank deems appropriate in the circumstances. If the Customer wishes to modify any of these limits imposed by the Bank, the Bank may do so at its own discretion but on the Customer's responsibility.

### **Information the Customer (the Payer) needs to provide when making a Payment**

8.4 The Customer is to provide the Bank with the following details (as may be applicable) to enable the Bank to effect a Payment:

- For Payments to a bank in the EU and EEA and SEPA payments, the International Bank Account Number ("the IBAN") and the payee name.

In the absence of these details, the Customer may still instruct the Bank to make a Payment as long as the Customer has other sufficient details which enable the Payment to reach the intended beneficiary. However, in such cases, the Payment could be delayed, could be rejected by the third party bank and can incur an additional charge due to a manual intervention at the Bank's end or at the third party bank's end.

- For Payments outside the EEA and non-SEPA payments, the Customer must give the Bank sufficient information to enable the Payment to reach the intended payee such as the payee's bank account number, the payee bank's name and the payee name, together with the sort code or national bank code or any other information which may be requested by the particular bank in the country to where the payment is intended.

- The amount of the payment (for SEPA payments, the amount must be indicated in euro);
- The date the payment is to be deducted from the Account (where applicable).

8.5 Because of regulatory requirements in certain countries and/or other payments industry requirements, when transmitting funds overseas, the Bank may be required to include, in addition to the Customer's (remitter's) name, details such as the remitter's account number, address and purpose of the transfer. Omission of requested details may result in processing delays at the beneficiary bank or return of funds.

8.6 Remittance of funds may become attached or blocked under prevailing EU, US or international sanctions. Remission of funds will therefore be made at the responsibility of the Customer.

### **Information required for Standing Instructions**

8.7 The Bank will require the following details from the Customer to enable the Bank to set up a standing instruction from the Customer's Account:

- The Account to be debited with the relative instructions;
- The Currency and amount to be debited;
- The payee's name, account number (or IBAN) and sort code (or BIC);
- The date the Bank is to start deducting the Payments from the Customer's Account;
- The date the Bank is to stop deducting the Payments from the Customer's Account;
- How often the Customer wants the Bank to make the Payments (the frequency of the Payment);
- The number of Payments to be made;
- Any reference identifying the payment (including a reference to the Customer or the recipient).

The Customer is to duly complete the Standing Orders Instructions Application Form or alternatively complete the relative details through Digital Banking so as to enter into a Standing Instruction agreement with the Bank.

The Bank shall execute the standing instructions on the Customer's Account on the dates provided by the Customer as referred to above provided there is availability of funds. If the dates provided by the Customer as stated herein fall on a day when the Bank is not open for business, the Bank will affect the instructions on the next Business Day.

### **Receipt and Processing of Payment instructions**

8.9 The Bank will process Payments from the Customer's Account if the Customer authorises it in any of the ways under these General Terms, the information required is provided by the Customer in accordance with this clause and:

- there are enough cleared funds in the Customer's Account to cover the Payment; or
- there is a formal overdraft facility on the Account which covers the Payment or we agree to provide a temporary

overdraft facility to cover the Payment. In such a case, unless otherwise specifically agreed with you, we shall be entitled to the repayment of such overdrawn amounts plus interest at the interest rate applicable from time to time on debit balances and which can be found in clause 14.2. You undertake to pay such amounts on demand in Writing.

The Bank may however refuse or delay the execution of Payment instructions for a valid reason as set out in these General Terms.

- 8.12 Unless otherwise specified, the point in time of receipt of a Customer's Payment instructions shall be the time when the Payment instructions are received by the Bank and the execution times referred to in this clause shall start running from that date. Instructions are, subject to all conditions required for the execution of payments having been satisfied, generally processed and the Account debited on the Business Day received. To do this, the Bank must receive the necessary instructions before the Cut-Off Time for that Business Day as set out in the clauses below. If the Payment instructions are not received before the Bank's Cut-Off Time on any Business Day, such instructions are deemed to have been received on the next Business Day and subject to all conditions required for the execution of payments having been satisfied, shall be processed and the Account debited on the next Business Day.

Where the Customer asks the Bank to make a Payment on a future date, the Bank will debit the Account and execute the Payment instructions on the future date provided there is availability of funds and subject to all conditions required for the execution of payments having been satisfied. If the Payment falls due on a day when the Bank is not open for business, the Bank will make the Payment on the next Business Day.

- 8.13 Provided the Customer's Account is interest-bearing and in credit, interest at the rate applicable to the relative Account will be paid on the amount of the Payment until it is debited. If the Account is overdrawn, the Customer will not be charged interest on the Payment until it has been debited to the Account.

**Cut-Off Times and Execution Times**

8.14

Payment Type	Cut-Off Time to receive instructions	How long does it take to reach Payee's bank (maximum execution time)
SEPA Payments	15:30	Next Business Day
International Payments	15:30	Two Days
Transfers to own Accounts with the Bank	15:30	Same Business Day
Transfers to third party Accounts with the Bank	15:30	Same Business Day

The execution times displayed in the above table are without prejudice and subject to the fulfilment of all conditions required by the Bank to execute the Payment, any third party bank policies and requirements or any other unforeseeable circumstances beyond the Bank's control.

For payment transactions within the EEA made in currencies other than in Euro, unless agreed otherwise, the execution time shall not exceed four (4) Business Days from the receipt of the order by the Bank.

In case the Customer requires a same day value payment instructions, this shall be subject to the Cut-Off Time related to the geographical location of the destination.

The Bank's responsibility for the Payment transaction ends when the Payment instruction is transmitted to the bank where the destination account is held. It is the payee's bank's responsibility to make sure that the Payment is correctly and timely credited to the bank account of the payee in accordance with any applicable laws, regulation, rulebooks or industry guidance.

**Different Payment instructions received on the same Business Day**

- 8.15 In assessing whether to effect Payments, the Bank may consider any other Payments or Payment instructions made or agreed to be made from the Account that day, even if those other Payments have not already been deducted from the Account. This must be taken into consideration when requesting Payments. If on any Business Day, the Bank receives

several Payment instructions to be processed from the Customer's Account and the amount of funds in the Account is insufficient to process all Payment instructions plus related costs and expenses, then the Bank shall be entitled to decide the order of execution of such Payments.

### Payments that involve a foreign currency exchange

8.16 For a list of exchange rates, please contact the Bank on +356 21322100 or refer to the Bank's website [www.fimbank.com](http://www.fimbank.com) or refer to Digital Banking.

8.17 When Payments to or from the Customer's Account are in a currency which is different from that of the Customer's Account, the Bank will apply the Bank's standard official exchange rate at the time the Payment is processed by the Bank.

8.18 In the case of a Payment returned to the Bank in a currency different from that of the Customer's Account from where it had been debited, the Bank will convert the returned Payment back to the currency of the Customer's Account at the Bank's standard official exchange rate when the Payment is processed.

8.19 Requesting an exchange rate to a Payment creates a commitment for the Customer to authorise the Bank to make the Payment in that currency. After authorisation to the Bank to execute the Payment, any Payment cancellation and unwinding of the transaction by the Customer or by the Bank in terms these General Terms, may result in a loss reflecting any underlying movements in foreign exchange rates which loss shall be borne by the Customer. To this end, the Customer authorises the Bank to immediately debit any of the Customer's Accounts held with the Bank to cover any such loss. Additionally, the Customer agrees that the Bank will retain any gain which may be made as a result of any such movements in foreign exchange rate upon cancellation of any transaction.

8.20 Clauses 8.49 and 8.50 apply to Payments in a currency other than the currency of the Customer's Account which are received into Customer's Account.

8.21 The exchange rates which the Bank applies will appear on the Customer's statement or any other advice or receipt, including electronic statements, receipts or advices as may be applicable.

Subject to any manifest error, the foreign exchange conversions shall be binding and may not be disputed.

8.22 Without prejudice to other provisions of these General Terms, we shall not be under any obligation to process any Payment instructions for any valid reason (and the Bank will not be responsible for any loss) including in any of the following cases:

- (a) the balance in your Account is not sufficient to cover the amount of the Payment plus related costs and expenses or the Customer has exceeded a limit the Bank has applied to the Customer's Account;
- (b) there exists a garnishee or other court order or an order from an authority or any other legal requirement in relation to your Account or funds which prohibits the Bank from executing the Payment;
- (c) there exists reasonable suspicion about the source, legality or use of funds or your Account and/or the Payment seems unusual compared with the way the Customer normally operates the Account;
- (d) for fraud prevention purposes and/or if the Bank reasonably believes that the Account has been or is likely to be misused;
- (e) instructions are not clear or are incomplete or the Customer has not provided the information required; and
- (f) for any other reason which may be separately set out in these General Terms or in any other Additional Conditions or in any other agreement with the Customer regulating a product or a service.

8.23 Unless the law prevents the Bank from doing so, the Customer will generally, otherwise than in the case of standing instructions, be immediately told that the Bank has refused to accept the Customer's Payment instructions (including where possible, the reasons for the refusal), when the Customer makes his or her request at the offices of the Bank. In all other cases, the Bank will seek to contact the Customer by telephone or through any other available and appropriate means to inform the Customer that the Bank has refused to act on his or her Payment instructions (including where possible the reasons for refusal). In any event, the Customer shall be informed by not later than the end of the next Business Day after the Bank's refusal of the instruction.

8.24 Where applicable, the Customer will also be informed of any procedure for correcting any factual errors that led to the refusal.

8.25 The Bank may charge for each occasion that the Customer is notified that the Payment request has been refused as per the Bank's Tariff of Charges.

### Returns

8.26 A Payment may be returned to the Bank by the bank to which the Payment had been made on the Customer's instructions.

8.27 In case of a return, the Bank will credit the Account from where the funds had been debited to effect the Payment, and unless the law prevents the Bank from doing so, the transaction advice will contain the reason for the return.

8.28 In terms of the Bank's Tariff of Charges, a charge may be due in case of such a notification and the Customer may also be liable for any third party bank charges, if applicable.

8.29 Unless the Customer instructs the Bank otherwise or unless the law prevents the Bank from doing so, the Bank will credit the amount of the returned funds, less the Bank's charges and any third party bank charges, if applicable, to the Account which had been debited. Where applicable, in case a currency conversion is required, the Customer may also be liable for any exchange rate differences.

### Cancelling or Changing a Payment

8.30 If the Customer asks the Bank to make a Payment immediately (a same-day value payment), the Customer may request a change or cancellation of such Payment provided that the Bank has not yet processed the Payment. Should the Payment have already been processed the Bank may, subject to clause 8.36 and upon the Customer's Written request, trigger a request for cancellation and await return of Payment.

8.31 A Customer may cancel a Standing Instruction and any Payment which the Customer asks the Bank to make on a future date at the latest by the relative Cut-Off Time of the Business Day preceding the agreed day for execution. Please refer to clause 8.14 for the relative Cut-Off Time. A charge for such cancellation may apply as per the Bank's Tariff of Charges.

8.32 In the case of a Payment which has been processed, if the Customer wishes to cancel such Payment, the Bank may charge the Customer the Bank's costs for trying to cancel it, whether or not the Bank succeeds, in accordance with the Bank's Tariff of Charges. There may also be third party bank charges, in which case, these will also be charged by the Bank.

### Charges

8.33 For outward transfers in any currency where both the payment service providers of the remitter and the beneficiary are located in the EEA, the remitter shall pay the charges levied by his payment service provider and the beneficiary shall pay the charges levied by his payment service provider (the "SHARE option"). For outward transfers in any currency to countries outside the EEA, the Customer shall instruct the Bank whether to use the OUR, SHARE or BEN option. If no such instructions are received, the SHARE option will be applied.

8.34 Apart from other charges specifically mentioned herein, further charges may be applied by the Bank in relation to payment inwards and outwards in accordance with the Bank's Tariff of Charges.

8.35 The Customer is also liable for any out of pocket expenses (such as third party bank charges or fees charged in view of manual intervention due to lack of or incorrect required information) incurred by the Bank in relation to the Customer's Payment instructions and in respect of which the Bank may not be in a position to inform Customer beforehand.

### Unauthorised, incorrectly executed or non-executed Payments, including refund rights

8.36 The Bank will make Payments on the basis of the information provided by the Customer. The Customer shall be responsible for the accuracy of information given, including but not limited to the beneficiary's name and account number or IBAN, the beneficiary's bank and the amount to be transferred. If the Customer provides the Bank with incorrect information, the Bank is not responsible if the Payment is not made, delayed, made incorrectly or received by the wrong person and any exchange loss arising on any such rejection, delay or incorrect Payment will be applied to the Account. If the Customer requests the Bank, the Bank will make reasonable efforts to recover an incorrect Payment and a charge may apply as per the Bank's Tariff of Charges.

- 8.37 The Bank will make sure that the Payments are sent to the beneficiary's bank. It is the beneficiary's bank's responsibility to make sure that the Payment is correctly and timely credited to the bank account of the beneficiary in accordance with the law, regulation or any applicable rulebook or industry guidance.
- 8.38 The Customer is responsible for checking statements, SMS or other information or notification about the Account on receipt or when such statements, information or notification about the Account are available on Digital Banking (as applicable). The Customer is responsible to check that the Bank has correctly executed any Payment instructions.
- 8.39 The Customer is to notify the Bank without undue delay on becoming aware of any unauthorised or incorrectly executed Payment transactions by informing the Bank in Writing on [helpdesk@fimbank.com](mailto:helpdesk@fimbank.com) or by telephone on freephone number 80073388 (within Malta) and telephone number +356 21322102. If the Customer does not tell the Bank promptly (and to the extent required by law, at the latest within thirteen (13) months of the date the Payment transaction has been deducted from the Account), the Customer may not be entitled to any applicable refunds.
- 8.40 The Customer must take all the reasonable precautions to prevent the loss, theft or fraudulent or unauthorised use of any payment instrument and/or the personalised security credentials (e.g. the password, codes or other user credentials for Digital Banking) and in particular the Customer is:
- not to leave the payment instrument and/or the personalised security credentials and/or any Account information out in an open area accessible by others, including on his or her computer screen;
  - not to leave the computer or any other device such as a mobile phone unattended while the Customer is connected to Digital Banking;
  - not to use the personalised security credentials when there are others nearby who could observe the Customer doing so;
  - not to choose a code or password that is easily guessed or identified as relating to the Customer, or is an obvious combination of letters and numbers (e.g. sequential numbers, birth date, etc.);
  - not to disclose the personalised security credentials to any other person including by email or through any other electronic manner;
  - not to keep any record of the personalised security credentials in a form that it can be easily identified;
  - not to store the personalised security credentials anywhere, in written or electronic form.

The Customer must notify the Bank in the manner set out above in clause 8.39 without undue delay upon discovery, or even a suspicion that the payment instrument and/or the personalised security features have been lost, stolen or misappropriated or that they may be misused or the Customer suspects or there is any reason for the Customer to suspect that the personalised security features have become known to another person.

- 8.41 The Customer shall cooperate with the Bank and may be asked to provide such evidence or other information as the Bank may require to establish whether the Payment in question was authorised or otherwise.
- 8.42 Without prejudice to the provisions below on liability in case of unauthorised transactions resulting on account of the unauthorised use of a payment instrument and/or any personalised security credentials, the Bank will refund the amount of a Payment and any charges or interest the Customer had paid as a result of it and where applicable, the Bank will pay the Customer any interest the Bank would have paid the Customer on that amount, if:
- the Customer asked the Bank to make the Payment to an account and this had not been properly processed by the Bank or was never received, unless there was a mistake in any of the details contained in the Payment instruction the Customer gave the Bank or the Bank can show that the Payment was received by the beneficiary's bank (in this case, the beneficiary's bank is required at law to make the payment immediately to that person) or if the circumstances giving rise to the incorrect Payment transaction were due to abnormal and unforeseeable circumstances beyond the Bank's control, the consequences of which would have been unavoidable despite all efforts to the contrary; or
  - the Customer informs the Bank that the Payment had been unauthorised and, after having investigated it, the Bank is reasonably satisfied that that payment had not been authorised and that the Customer is not liable. The Bank may also refund the amount claimed, whilst the investigation takes place, reserving the right to re-debit the monies should the Payment prove to be authorised.

- 8.43 In the case of unauthorised transactions resulting on account of the unauthorised use of a payment instrument and/or any personalised security credentials, the Bank will generally investigate the unauthorised transactions and, if the Bank is reasonably satisfied that the transaction was not authorised by the Customer and that the Customer is not liable as set out in this clause, the Bank will pay back to the Account the amounts of the unauthorised transactions (including any interest or charges paid by the Customer as a result of the transaction), as well as any interest which the Bank would have paid the Customer on that amount, over the amount of fifty Euro (€50). Thereafter, the Bank will not have any further liability to the Customer.

The Customer shall be however unlimitedly responsible for any and all unauthorised transactions carried out on the Customer's Account prior to notification to the Bank, resulting on account of the Customer having failed to keep safe any payment instrument and/or personalised security credentials (e.g. the password, codes or other user credentials for Digital Banking) and there has been misappropriation of any payment instrument and/or any personalised security credentials or if the Customer has acted in breach of any obligations in relation to the payment instrument and/or the personalised security credentials as set out in these General Terms. Provided that in case of fraud on the part of the Customer, the Customer shall be liable for all and any transactions including those arising after notification to the Bank.

### Incoming Payments in Customer's Account

- 8.44 If the Customer is receiving electronic fund transfers in the Account, the Customer must notify the sender of the payment, with the IBAN. The IBAN is available on all the statements of the Customer's Account or by phoning on +356 21322100 or on FIMBank Direct under Account Details.
- 8.45 For the purposes of this clause, the Cut-Off Times on Business Days shall be 1530 hours CET.

Without prejudice to clause 8.50, when the Bank receives a Payment for a Customer's Account before Cut-Off Time and there is no currency conversion or where there is a currency conversion between the EURO and an EEA currency and subject to the Bank having all necessary information to credit the amount to the Account, this will be immediately credited to the Customer's Account and, following any set-off with debit balances, the Customer will be allowed to use the funds straightaway. The Bank will pay interest on it (or use it to reduce the interest the Customer pays), as may be applicable, from the same day.

When the Bank receives a Payment for a Customer's Account after Cut-Off Time or on a non-Business Day and there is no currency conversion between the EURO and an EEA currency or between two EEA currencies and subject to the Bank having all the information necessary, the Bank will credit it to the Customer's Account on the next Business Day and following any set-off with debit balances, the Bank will allow the Customer to use the funds and will pay interest on it (or use it to reduce the interest the Customer pays), as may be applicable, as from the said Business Day.

- 8.46 Before crediting the Account with the amount received, the Bank will deduct any charges which may be due to the Bank for processing the payment. In such case, the full amount of the transaction and the charges shall be split and shall be shown in the statement and/or in any advice or receipt.
- 8.47 If a Payment is fraudulently or mistakenly paid into a Customer's Account, the Bank reserves the right to claim refund from the Customer and/or to immediately deduct the amount from the Customer's Account without prior notice. This may happen even if the funds are included in the Account's balance, or the Customer has used them to make a payment, or has withdrawn them or transferred them all or in part. If the deduction of the payment from the Account would either result in the Account being overdrawn or exceed an existing overdraft limit, interest will apply as set out in clause 17.2.
- 8.48 If we receive cleared funds in a currency different than the currency of your Account, prior to crediting your Account, we shall convert the amounts received into the currency of your designated Account in accordance with the Bank's exchange rate on the relevant day.
- 8.49 For Payments in your Account which are received in a currency which is different from the currency in which your Account is held, an additional charge related to the conversion/exchange may be deducted from your Account or from the amount of the payment as per the Bank's Tariff of Charges.
- 8.50 The Bank shall not be obliged to credit an Account until cleared funds are received.

## 9. Third party Service Providers

- 9.1 When required at law, the Bank will provide access to account information service providers ("AISPs") and payment initiation service providers ("PISPs") each as defined in the PSD, each a third party service provider (the "TPP"), to the Account to the extent that the Account is considered a Payment Account within the meaning of the PSD, and the Bank makes such Payment Account accessible online through Digital Banking, provided that the Customer has contracted with a TPP that is appropriately authorised or registered with the MFSA or an equivalent regulator in the EEA and the Customer has expressly consented to such TPP being given such access and the TPP adheres to any relevant access protocols that the Bank may apply from time to time. The Bank may deny a TPP access to a Payment Account where there are justified and evidenced reasons relating to unauthorised use or fraudulent activities by that TPP. Before doing so, the Bank will



inform the Customer that the Bank intends to deny access and will give reasons for doing so, unless it is not reasonably practicable to do so, in which case the Bank will inform the Customer immediately afterwards. In either case, the Bank will inform the Customer in the manner in which the Bank considers most appropriate in the circumstances and will not be obliged to inform the Customer where doing so would compromise our reasonable security measures or otherwise be unlawful. In the event the Bank denies access to a TPP the Bank is also required to notify the MFSA and/or any other Regulator who may be responsible.

## 10. Fraud Prevention

- 10.1 The Bank may carry out certain checks on transactions on the Account as part of the Bank's fraud prevention measures. The Bank may contact the Customer in any manner set out in the General Terms.
- 10.2 The Bank may, without any liability, take whatever action it considers appropriate to meet any obligations either in Malta or elsewhere, relating to the prevention of fraud, money laundering and terrorist activity and the provision of services to persons who may be subject to sanctions. The Bank may also, without any liability, take whatever action is considered appropriate in case it knows or suspects a breach of security or other suspicious circumstances in respect of or in connection with the operation of one or more of the Accounts or the products/services generally. Any such action may include, but is not limited to, investigating and intercepting payments into and out of the Accounts (particularly in the case of international transfers) and investigating the source or intended recipient of the funds.
- 10.3 Such action may also include making enquiries to establish whether a person is subject to sanctions. Exceptionally, this may delay the carrying out of the Customer's instructions or the receipt of cleared funds but, where possible, the Bank will advise the Customer of the reasons for and likely length of any delay. If the Bank is not satisfied that a payment in or out of the Account is lawful, the Bank may refuse to deal with it and in that case, where possible, it will advise the Customer of the reasons for refusal.

## 11. Statements and information on Payment Transactions

- 11.1 We shall, unless otherwise stated in any applicable terms and conditions, or as required by the type of Account, issue Account statements at the end of each calendar year.

### Information on Individual Payment Transactions and Statements of Account

- 11.2 Where the Customer is a subscriber to the Bank's Digital Banking:
- information on individual Payment transactions on the Customer's Payment Account and statements are available electronically and may be saved and printed by the Customer. If the Customer requires the information above or the statement on paper, a charge may apply as per the Bank's Tariff of Charges.
- 11.3 Where the Customer is not a subscriber to the Bank's Digital Banking:
- to the extent required at law, information on individual Payment transactions will be made available to the Customer, through the issue of a payment advice for that transaction, free of charge, upon request, at the Bank's offices or by calling the Bank on freephone number 80073388 (within Malta) and telephone number +356 21322102. Requesting more than one copy of a payment advice already issued may attract a charge as per the Bank's Tariff of Charges;
  - to the extent required at law, a statement for the Payment Account will be made available to the Customer, once monthly, free of charge, upon request, at the Bank's premises or by calling the Bank on freephone number 80073388 (within Malta) and telephone number +356 21322102. Additional statements may attract a charge as per the Bank's Tariff of Charges.

## 12. Evidential force of Bank records

- 12.1 An extract of the Bank's records relating to you or to your Account shall constitute 'prima facie' evidence of the contents of such records.

## 13. Errors in Bank Documents

- 13.1 If we find to have made a mistake in any confirmation, statement of Account, notice or other communication to the Customer, we shall notify you as soon as reasonably practicable.
- 13.2 You are required to examine all confirmations, statements of Account, notices and other statements or communications from the Bank immediately upon receipt or when they are available on Digital Banking, as may be applicable.

Without prejudice to the provisions of these General Terms or any Additional Conditions, in relation to unauthorized or incorrectly executed Payment Transactions, in case of any errors, inaccuracy or incompleteness, you are obliged to notify us immediately and following verification, we shall rectify the mistakes.

## 14. 14.Reversal and Correction of Entries by the Bank

### Manifest error

- 14.1 The Bank shall be entitled to reverse wrongful credit entries in case of manifest error. You will be duly notified as soon as reasonably possible in cases where the Bank reverses any entries.

### Debit interest

- 14.2 If your Account has a debit balance following correction you shall owe us debit interest at the rate applicable from time to time on debit balances as published by the Bank plus a margin of 4% per annum above the one month London Inter-bank Offered Rate.

### Information to you

- 14.3 Reversal and rectifying entries, including any interest or charges as may be applicable, shall be noted in the statement of Account.

## 15. 15.Appropriation of Payments

- 15.1 Whenever there shall be any debt owing by you to the Bank, the Bank is entitled to appropriate payments we receive from you or for your account at our sole discretion. Unless we determine otherwise, payments shall be appropriated in the following order:

- a) First towards any costs, expenses or disbursements which we may incur on your behalf;
- b) Secondly towards any accrued interests, fees and commissions due but unpaid to the Bank;
- c) Thirdly towards the principal amounts; and
- d) In case of several debts, we shall apply payments first towards unsecured debts and then to secured debts.

This Clause shall apply to the extent that we do not reach any written agreement to the contrary with you.

## 16. Currency of Indebtedness

- 16.1 Your Indebtedness shall be repaid in the currency in which it arises or has been granted. If any payments are received by the Bank in connection therewith in another currency, the Bank shall be entitled to convert the same into the currency of the Indebtedness and to credit such payment against the Indebtedness at the prevailing exchange rate at the time of conversion. You shall indemnify the Bank on demand in respect of any losses which arise or amounts which otherwise remain outstanding as a consequence of the conversion of such currency received into the currency of the Indebtedness. Furthermore we reserve the right to recover any expenses which we may incur in hedging the customer risk.

- 16.2 Without prejudice to the above, the Bank shall be entitled to change the currency of any Indebtedness and to require the discharge of the payment obligations vis-a-vis the said Indebtedness in the said currency, by a notice in Writing to the Customer in the event that it appears to the Bank that repayment or continuation in the existing currency is no longer possible or will result in the Customer being unable to perform its obligations towards the Bank, as a result of events relating to such currency which are beyond the reasonable control of the Bank or otherwise.

- 16..2 Except in cases of extreme urgency, we shall give you the opportunity to propose alternatives to curtail the risks of the situation, provided that in any event we shall not be bound by such proposals and we shall not be liable for any losses which may arise by virtue of such situation or the change in the relevant currency. Our rights to offset due claims against you in the same currency shall not be affected by the provisions of this paragraph.

## 17. Interest

### Payment of interest

- 17.1 Funds held by yourself with us shall NOT bear interest in your favour, unless in agreement with the Bank these are expressly credited to an interest bearing Account. In the event that interest is agreed upon, the said interest shall be credited to your Account at such times as would have been agreed. Unless expressly provided by law, we shall be at liberty to agree with you the rate of interest applicable to the Account. If applicable, interest on the Account will be at the rate of interest set by the Bank for the particular Account as may be published by the Bank from time to time or as agreed with the Customer.

Information about any current interest rates applicable for any particular Account is available at the Bank's offices, on the Bank's website [www.fimbank.com/en/interest-rates](http://www.fimbank.com/en/interest-rates) or by telephoning the Bank on freephone number 80073388 (within Malta) and telephone number +356 21322102. Please refer to clause 31 regarding changes in interest rates.

We may be bound by legislation to provide for automatic exchange of information regarding interest payments to the competent authorities in Malta or in other countries who may be legitimately entitled to such information. However, the onus of proof as to whether such authorities are legitimately entitled to such information shall not lie with the Bank. In the above-mentioned case you authorize us to disclose all information which we may be bound to provide.

Payments of interest may also be subject to the deduction of withholding of tax therefrom, in terms of any applicable legislation. Unless advised by the Customer, withholding tax at a rate fixed by the authorities will be deducted from interest paid on Accounts held by account holders who are resident in Malta.

### Debiting of Interest

- 17.2 Interest will accrue on any amounts borrowed from the Bank and on overdrawn amounts and/or withdrawals effected against amounts for which the Bank had not yet received value at the rates applicable for debit balances as may be published by the Bank from time to time. It may also be agreed with the Customer that the Bank may apply interest rates that are based on a reference rate plus a margin set by the Bank.  
Please refer to clause 31 on changes in interest rates.

Unless otherwise agreed in Writing with the Customer, we shall debit interest calculated on daily debit balances to your Account, at least once a year.

Unless otherwise agreed in writing with the Customer, debit interest rates shall apply at the debit interest rate set by the Bank from time to time and is available at the Bank's offices, on the Bank's website or by calling the Bank on +356 21322100. It may also be agreed with the Customer that the Bank may apply interest rates that are based on a reference rate plus a margin set by the Bank.

If the Customer is required by law to withhold any withholding or similar tax from any payment to be made to the Bank, the amount of the payment due from that Customer shall be increased to an amount which (after making any applicable withholding) leaves an amount equal to the payment which would have been due if no withholding had been required.

## 18. Bank Charges and Commissions

Charges which may be payable in connection with the Account and on other Bank products and services may change from time to time. In the absence of a written agreement providing otherwise, the charges and commissions for the products or services we customarily provide to you shall be those given in the Tariff of Charges as may be revised from time to time in accordance with these General Terms.

Other charges and commissions may apply in case of products or services which are not listed on the Tariff of Charges. Where required at law, the Bank will notify the Customer of any such charges and commissions prior to the Customer entering into an agreement with the Bank for such product or service.

Without prejudice to the Bank's right to close an Account in case of inactivity in terms of clause 32, we shall also be entitled to charge a fee for an Account which has been inactive for a period of at least 730 days. The fee and the Account to which it applies are set out in the Tariff of Charges.

All expenses which we may incur when acting upon your orders or in transacting your business (e.g. long-distance calls and postage) as well as expenses incurred in connection with the evaluation, release or realization of any collateral provided by you (including maintenance costs, insurance, legal and notarial fees and court expenses) shall be borne by you.

Through these General Terms, you are authorizing the Bank to debit your Account, without notice, with all such fees, charges, commissions and expenses due to the Bank in terms of these General Terms, the Additional Conditions and/or any agreement entered into with the Customer.

We may in appropriate circumstances require such fees, charges and expenses to be paid in advance of the Bank or the third party, as may be applicable providing the service and/or the product. Except where required at law, such advance payments shall not be refundable in the event that the agreement with the Customer is not entered into or is terminated.

We may, in our sole discretion, debit interest, charges, commissions and other costs and expenses due by you to a separate Account or Accounts which we are authorised to open in your name for the said purposes.

Please refer to clause 31 in relation to changes in charges.

## 19. Costs and General Indemnity

You shall bear all costs, fees and expenses, including legal and professional fees which we may incur in connection with the preparation of any agreements, including security agreements, between us. Any costs for enforcement of security or judgments against you shall also be borne by you.

Any costs incurred by the Bank as a results of disputes, litigation or any other action, whether in Court, in front of any other adjudicating body or tribunal, or out of Court, whether against you and/or against third parties and arising out of the relationship or agreements between the Bank and yourself shall also be for your account.

Except where otherwise provided in these General Terms and save in cases of gross negligence or willful default on our part or on the part of our employees or agents, you shall indemnify us on demand against all losses, actions, claims, expenses, demands and liabilities of whatever nature, made or incurred by or brought against us, arising under or pursuant to these General Terms, the Additional Conditions and/or any other agreement entered into between you and us.

## 20. Letters of Credit & Guarantee Facilities

Subject to any special conditions agreed to in writing, documentary credits, stand-by letters of credit, guarantees and similar arrangements are regulated and fully subject to the prevailing rules issued by the International Chamber of commerce, from time to time namely but not exclusively to:

- Uniform Customs and Practice for Documentary Credits
- Uniform Rules for Demand Guarantees
- International Standard Banking Practice Rules

You shall be liable to and undertake to indemnify and reimburse us for all payments made under any letters of credit, stand-by LC or Guarantees issued on your behalf or on your account, together with any commissions or charges, interest and currency exchange losses which we may suffer in relation thereto. In this respect we are authorised to debit your Account with such sums.

We shall also have the right to arrange for insurance on your behalf and at your expense in the event that the insurance you arrange, if any, is not to our satisfaction. Insurance may not be to our satisfaction with respect to, amongst others, the type of insurance cover and the margin over the value of the goods.

Any insurance policy which you arrange shall be delivered to us on our simple demand. Such insurance policy shall be endorsed in blank, or if we so require, it shall indicate us as a loss payee or have our interest noted.

As a security for all your Indebtedness towards us, irrespective of whether such Indebtedness arises in terms of the letters of credit, standby-Letter of Credits, guarantees or otherwise, you authorize us to retain the documents under such credits and any merchandise to which they relate. For the purposes of this clause, the Indebtedness includes the insurance costs, warehousing costs, costs for obtaining possession or disposing of the merchandise, costs for preserving or otherwise maintaining the value of the said merchandise.

We are authorised in our absolute discretion to dispose of such documents and/or merchandise for value, either before arrival or otherwise and with or without giving notice to you.

We may from time to time request cash or other collateral. The costs of obtaining such collateral shall be at your account.

In the event that we release documents to you prior to us being placed in funds, you shall hold such documents and any proceeds deriving from negotiation thereof in trust for us.

If you waive any discrepancies in the documents presented under the credit, or you request us to pay before having satisfactorily received all documents in terms of the credit, then we shall only pay upon receiving written instructions to this effect from you and subject to availability of funds in your account or against approved facilities made available by the Bank. In such case you hold us harmless and indemnified against any liabilities which may arise.

## 21. Security

Without prejudice to any security granted by you, we may request the provision of adequate security (including but not limited to cash collateral and margins) for all claims arising from these General Terms or from any agreement entered into between us, and for all charges, commissions and out-of-pocket expenses.

We may request the provision of security and/or further and/or different security if circumstances arise, which in our opinion, necessitate such request on our part including, but without prejudice to the generality of the foregoing where:

- a) Your economic (or that of your guarantor, where applicable) circumstances have changed, or are likely to change, in such a manner that they impinge negatively on your ability to fulfill your obligations towards the Bank;
- b) A Material Adverse Change occurs;
- c) The value of any existing security has deteriorated or is likely to deteriorate or the security has become inadequate.

You shall provide us with such security immediately upon demand.

You are obliged, at our request to execute all such documents, acknowledgements or agreements and to do all such acts as may be necessary for purposes of registering, completing, perfecting or otherwise correcting, modifying or updating any agreement entered into with the Bank or security provided to the Bank or in connection with the assignment or enforcement of any such agreement or security, or otherwise as may be necessary or appropriate from time to time in the context of our relationship.

## 22. Release of Security

If the Bank reasonably requires, it may decline to release any security, even if the Indebtedness shall have been paid in full, unless it is satisfied that any payment of the Indebtedness will not be avoided whether as a preference or otherwise.

Any release or discharge of the security will be subject to the condition that no security or payment to the Bank is avoided (whether under any statutory provision relating to insolvency or otherwise and whether reversed, revoked or declared null at any time).

If any security or payment is avoided, the Bank is entitled to recover from the Customer the value or amount of that security or payment as if there had been no release or discharge of the security and/or to request the reinstatement of security and/or the provision of alternative security and the Customer shall do all that it necessary in order to comply with the Bank's demands in terms of this clause.

## 23. Acceleration of Obligations

An Event of Default shall ipso jure occur under any agreement between the Bank and yourself, without the need of any authorisation and/or confirmation from a competent court.

On and at any time after the occurrence of an Event of Default the Bank may by notice in writing to you:

- a) cancel any commitments (if any) of the Bank with you, at which time they shall immediately be cancelled;

- b) declare that all or part of the Facility and/or the Indebtedness, together with accrued interest, and all other amounts accrued or outstanding by you towards the Bank be immediately due and payable, at which time they shall become immediately due and payable;
- c) declare that all or part of the Facility and/or the Indebtedness, together with accrued interest, be payable on demand, at which time they shall become payable by simple demand in writing by the Bank.

Whenever any of your obligations towards the Bank are not due and payable because of an agreement in relation to the time of performance or other conditions, such grant of time or conditions shall lapse and shall no longer be deemed applicable upon the happening of an Event of Default.

## 24. Right of Retention

In addition to any other rights to which we may be entitled to, on and at any time after the occurrence of an Event of Default, we shall also be entitled to retain and not repay any amount whatsoever which may at any time be owing by us to you, or any monies whatsoever which we may at any time hold in your Account (whether on current, deposit or any other Account), unless and until the Indebtedness shall have been discharged in full. If any Indebtedness is not discharged in full when due, we shall be entitled to the extent of such Indebtedness as remains undischarged, to appropriate any amount so owing to you from any money so held for your account in or towards the discharge of such indebtedness.

Any amounts standing from time to time to the credit of your Account with us shall mature on the earlier of the date on which the Bank determines that all Indebtedness has been unconditionally discharged, the date when the Bank determines that no other such Indebtedness is capable of arising or the date on which any Indebtedness becomes due and payable by you to the Bank. Proportionate maturity shall take place where the Indebtedness does not exceed the amount of the relevant deposits. The Bank shall be entitled to apply any such matured deposits in accordance with the provisions of this term.

The existence of any fixtures on any deposits shall not prejudice the Bank's rights under this term. Any remaining monies will be re-deposited at the Bank's discretion unless otherwise agreed.

## 25. Netting and Set-Off

In addition to the rights conferred by law, the Bank shall be entitled, in terms of the provisions of the Set-Off and Netting on Insolvency Act (Chapter 459 of the Laws of Malta), to set-off against monies due to it by the Customer all or any monies from time to time standing to the Customer's credit (whether in his or her sole name or jointly with any other person(s)) with the Bank, whether on current or any other Account, including those subject to a term whatsoever and any sums standing in a suspense or impersonal account.

For the purposes of the foregoing:

- a) we shall be entitled at our sole discretion (before as well as after demand) to combine or consolidate all monies now or hereafter standing to your credit on any Account with us and in any currency;
- b) we shall be entitled to bring to an end any fixed deposit period applying to any Accounts you hold with the Bank and to adjust any interest payable by us;
- c) all obligations between us shall be accelerated, and all amounts due from you to us and vice-versa shall be immediately due and payable;
- d) if the obligations are in different currencies, all obligations may be converted by us in any other currency at the Bank's applicable rate of exchange on the relevant day; and
- e) if any obligation by us or you is unliquidated or unascertained, we may set-off in an amount estimated by us in a commercially reasonable manner and in good faith to be the amount of that obligation.

However, it is expressly agreed that your Indebtedness shall in no way be extinguished, discharged or reduced or in any way affected by any right of set-off or counter-claim or any right whatsoever against the Bank and you are hereby expressly waiving all rights (including any and all rights of action) you may have against the Bank until after payment in full of the Indebtedness to the satisfaction of the Bank.

## 26. Realisation of Collateral

We shall be at liberty to choose which of the collateral provided by you we might realise.

Unless otherwise required at law, we may realise collateral without giving due notice.

## 27. Suretyship (Guarantees)

### 27.

Where applicable, these General Terms shall apply to any contract of suretyship (guarantee) securing your obligations towards us, and in so far as these General Terms are expressly incorporated into any such suretyship, they shall apply to the relationship between us and the surety (guarantor) with references to you being read as references to the surety (guarantor) in so far as appropriate.

The acceptance or otherwise of a person proposed by the Customer as a surety shall be at the discretion of the Bank.

Furthermore, you are obliged to keep us fully informed about any event affecting the surety (guarantor), its status and its ability to perform all its obligations towards us and to support the Bank in perfecting and enforcing its rights under any suretyship (guarantee).

In the event that any surety is liable to us for more than one debt, or in relation to more than one Customer, we shall have full discretion on how to apply any payment made by the surety, and this notwithstanding any statement, instruction or request made by the surety in making such payment.

## 28. Assignments

You are not entitled to assign, transfer, novate, delegate or dispose of any of your rights or obligations under these General Terms or in respect of any Account or in respect of any contract entered into between us without our express prior written consent.

The Bank may assign, transfer or dispose of any of its rights and/or obligations under these General Terms or in relation to the Account or any contract entered into with the Customer.

## 29. No Waiver

The rights of the Bank in these General Terms shall be in addition to and shall not prejudice and shall not be in any way prejudiced or affected by any collateral or other security or other rights at any time held by the Bank for or in relation to any of your Indebtedness.

No failure on our part to exercise, or delay in exercising any of our rights, remedies, powers or privileges under these General Terms shall operate as a waiver of any of our rights, remedies, powers or privileges, nor shall a single or partial exercise preclude any other or further exercise.

The rights and remedies under the General Terms are cumulative and not exclusive of any rights and remedies provided by law.

## 30. Invalidity

Each of the provisions of the General Terms is severable and distinct from the others, and if at any time, any of the provisions of these General Terms or of any agreement between us, shall be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be thereby in any way affected or impaired.

## 31. Changes to the General Terms

31.1 The Bank may change the General Terms including interest rates and charges:

- a) If the change is favourable to the Customer;
- b) Following, or in an anticipation of, and to reflect a change in relevant law or regulation or to reflect a change in industry guidance or code of practice or good banking practice;
- c) To enhance the security of the Bank's systems with respect to the products or services offered to the Customer;
- d) To reflect a recommendation, requirement or decision of any court, regulator or similar body;

- e) To reflect the costs or consequences of any event beyond the Bank's control that may impact the provision of accounts, services or facilities to the Bank;
- f) To make the terms clearer;
- g) To reflect changes in systems and procedures, including any change arising from any reorganisation of the business including acquisition by another bank or organisation;
- h) To reflect any change in the base rate or any rate that replaces it, as set by the European Central Bank or by any bank or equivalent country's central bank that takes over responsibility for setting such a rate;
- i) To reflect changes or anticipated changes in costs associated with relevant technology, the costs the Bank pays to others in respect of the product in question, inflation and/or in the Bank's costs of providing accounts, services or facilities;
- j) To reflect any changes or anticipated changes in money market interest rates or the cost to the Bank of the money lent by the Bank;
- k) To improve the services provided by the Bank and to increase the Bank's charges to reflect the additional costs associated thereto;
- l) To reflect the Bank's internal policies on competitiveness, market share and/or the profitability of the Bank's business as a whole;
- m) Where the Customer is in breach of or is likely to breach these General Terms or is otherwise in default.

31.2 For products or services that are regulated by Additional Conditions or by a specific agreement entered into with the Customer, information on the circumstances in which the Bank may make changes to the terms, including changes in interest rates and charges, may be found in the said Additional Conditions or in the specific agreement. If there is a conflict between the provisions of this clause of the General Terms and the Additional Conditions or the specific agreement, the provisions of the Additional Conditions or the specific agreement will apply.

31.3 Except where otherwise provided below in relation to interest rates and exchange rates, in the case of changes in the General Terms, the Bank will give the Customer two (2) months' notice or any such shorter period as may be allowed by law, in the manner set out in clause 2.5.

31.4 The Bank reserves the right to effect changes without notice in the case of a change due to a reason set out in (a), (b), (c), (d), (h) and (m) above.

31.5 The Customer will be deemed to have accepted these amendments, unless the Customer does not accept these amendments before their entry into force and notifies the Bank accordingly, in which case the Customer may end this agreement and the relevant product or service in accordance with clause 32. Except where otherwise agreed with the Customer, there will be no charge for this termination.

#### **Changes in exchange rates**

31.6 Changes in exchange rates are applied immediately and without notice.

##### *Changing interest rates that apply to money the Customer has borrowed from the Bank*

To the extent required by law, the Bank may change the interest rates in the following manner:

- If the change is favourable to the Customer, by immediately applying such change and by putting a notice at the Bank's premises, on the Bank's website or in the local press at the earliest opportunity;
- In the case of an interest rate based on a reference rate plus a margin, when the reference interest rate changes, the Bank's interest rates will change to reflect such a change. Any such change will take place immediately; however, the Bank will give the Customer notice periodically (at least on an annual basis) in the manner stated in clause 2.5.
- All other changes are effected by giving the Customer two (2) months' advance notice in the manner stated in clause 2.5. The Bank will also put a notice at its premises, on its website and in the local press.

##### **Changing interest rates that apply to money the Customer has with the Bank**

31.7 To the extent required by law, the Bank may change the interest rates in the following manner:

- If the change is favourable to the Customer, by immediately applying such change and by putting a notice at the Bank's premises, on the Bank's website or in the local press at the earliest opportunity;
- In the case of an interest rate based on a reference rate plus a margin, when the reference interest rate changes, the Bank's interest rates will change to reflect such a change. Any such change will take place immediately; however, the Bank will give the Customer notice periodically (at least on an annual basis) in the manner stated in clause 2.5.
- All other changes are effected by giving the Customer two (2) months' advance notice in the manner stated in clause 2.5. The Bank will also put a notice at its premises, on its website and in the local press.



## 32. Termination of the General Terms and Closure of Accounts

Except where otherwise agreed with the Customer in Writing, these General Terms are being entered into for an indefinite term.

Both the Customer and the Bank may by means of a written notice terminate these General Terms, close an Account and/or terminate any product or services in the manner set out in this clause, in so far as this right is not restricted by law or by any Additional Conditions or particular agreement between the parties. Such termination shall be without prejudice to any rights accruing hereunder prior to the termination.

The Customer may close any Account and/or terminate any product or service which is governed by these General Terms and/or terminate these General Terms at any time by notifying the Bank in Writing. Any such termination will bring to an end these General Terms and/or any Additional Conditions in so far as they apply to the Account and/or the product or service being terminated. The notification will not be effective until it has been received by the Bank and any Account will only be closed on the repayment of any sums which may be owing to the Bank on the Account including any interest accrued and/or charges. These sums are to be paid to the Bank on demand. If, after Account closure, the Bank incurs any charges relating to any transactions which had been carried out on the Account, these charges will be due by the Customer. Where required at law, any charges levied by the Bank on a regular basis will be refunded proportionately up to the time of termination of the product or service.

The Bank may close an Account and/or terminate any product or service which is governed by these General Terms and/or terminate these General Terms by giving the Customer two (2) months' notice or such shorter period as may be allowed by law: provided that the Bank reserves the right to close the Account and/or terminate any product or service and/or terminate these General Terms without notice if there is a valid reason for doing so, including without prejudice to the generality of the foregoing:

- i) if the Customer's Account has been inactive for a period of 730 days; or
- ii) where the Customer is in breach of these General Terms, the Additional Terms or any agreement with the Bank or is otherwise in default; or
- iii) if the Customer has conducted any of the Accounts in an unsatisfactory manner; or
- iv) if the Bank has valid grounds to believe, suspects or there has been fraud or any other criminal activity, suspicious activity or any abnormal activity involving any of the Accounts or any transactions on the Accounts; or
- v) if the Bank has reasonable grounds for believing that the Customer has committed or is about to commit an offence in relation to any of the Accounts; or
- vi) if the Customer has not satisfied or no longer satisfies due diligence and anti money laundering requirements; or
- vii) if the Customer has provided any false information at any point in time; or
- viii) if the Customer no longer satisfies any requirements or criteria which made him or her eligible for an Account or a product or service; or
- ix) in the event of change in the law and/or a decision or a recommendation of a court, regulator or similar body; or
- x) the Customer does not repay an overdrawn balance on any of the Accounts following a demand by the Bank; or
- xi) if the Customer suspends payments of any of his or her debts or is unable to or admits inability to pay his or her debts as they become due; or
- xii) in case of an Event of Default; or
- xiii) if circumstances arise or an event occurs which may reasonably affect the performance by the Customer of any of his or her obligations towards the Bank.

The Bank will give the Customer notice in writing immediately after the Account has been closed and/or the Agreement and/or the product or service terminated.

If the Customer does not close the Account(s) by the time the closure of these Account(s) takes effect the Customer agrees that the Bank will be entitled to repay any credit balance by mailing the Customer a cheque at the last mailing address the Customer has notified the Bank of.

On termination we shall be entitled to discharge ourselves from any liabilities we may have entered into on your behalf, and you accept to release the Bank from such obligations and to provide any collateral for such obligations where required for the release of our obligations.

### **33. Applicable Law and Jurisdiction**

The General Terms and any non-contractual obligations arising out of or in connection with the General Terms shall be governed by and construed in accordance with Maltese law. For the benefit of the Bank, you hereby agree that the Maltese Courts have jurisdiction to settle any disputes in connection with these General Terms, and accordingly submit to the jurisdiction of such Courts.

You waive any objection to the Maltese Courts on grounds of inconvenient forum or otherwise as regards proceedings in connection with these General Terms and agree that a judgment or order of such a Court shall be conclusive and binding on you and may be enforced against you in the courts of any other jurisdiction.

Nothing in the General Terms limits our right to bring proceedings against you in any other Court of competent jurisdiction or concurrently in more than one jurisdiction.

### **34. Service of Process**

Without prejudice to any other mode of service, you undertake to appoint an agent for service of process relating to any proceedings before the Maltese Courts in connection with these General Terms upon a written request of the Bank to do so. You agree that failure by a process agent to notify you of such process will not invalidate the relevant proceedings and consent to the service of process relating to any such proceedings by prepaid posting of the copy of the process to the process agent at its address specified in the appointment of the process agent delivered to the Bank.

### **35. Tax Compliance**

The Customer acknowledges that it is solely responsible for understanding and complying with its 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 Accounts and/or services provided by the Bank.

Certain countries may have tax legislation with extraterritorial effect regardless of the Customer's place of domicile, residence, citizenship or incorporation. The Bank does not provide tax advice. The Customer is advised to seek independent legal and/or tax advice. The Bank assumes no responsibility in respect of the Customer's tax obligations in any jurisdiction which may arise including, without limitation any that may relate specifically to the opening and use of Accounts and/or services provided by the Bank.

### **36. Central Credit Register**

Pursuant to the Central Bank of Malta Directive no. 14 issued under the Central Bank of Malta Act (Cap. 204) which provides for the establishment of a Central Credit Register for the purposes of registering information about exposures, data (including personal data falling within the meaning of the Data Protection Act (Cap. 440 of the laws of Malta)) related to any Facilities in excess of €5,000 will be made available to the Central Bank of Malta for inclusion in the said Register. All banks in Malta are legally obliged to provide this information to the Central Bank of Malta on a monthly basis in accordance with the provisions of the said Directive and by accepting these General Terms, you are hereby authorising the Bank to make available data in relation to you or your Facilities as aforesaid.

### **37. Payment Account Switching Service**

Information about the Payment Account switching service provided by the Bank in terms of the Credit Institutions and Financial Institutions (Payment Accounts) Regulations, (S.L. 371.18) is provided in Annex 2 of these General Terms.

## 38. Complaints

Any complaints you may have are to be addressed to the Complaints Officer, FIMBank p.l.c., Mercury Tower, The Exchange Financial and Business Centre, Elia Zammit Street, St. Julian's STJ 3155. Complaints by email may be sent to [info@fimbank.com](mailto:info@fimbank.com), and telephonically you may contact the Complaints Officer on +356 2132 2100.

We will try to resolve your complaint on the phone or as soon as we reasonably can. In the case we notice that the matter will require more attention to be resolved, we will take your details and arrange for your complaint to be fully investigated and addressed as soon as possible.

The Bank's reply to the Customer's complaint is required to address all points raised, within an adequate time frame and, where required by law, at the latest within 15 business days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the Bank, the Bank will send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the Customer will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 business days.

In any case, when we receive your complaint by email or by post, we will confirm this in writing (post and/or email) within five (5) business days.

If you are not satisfied with the Bank's reply, you may direct your complaint to the Financial Services Arbiter by writing to the Office of the Arbiter for Financial Services, 1st Floor, St Calcedonius Square, Floriana FRN 1530, Malta or via e-mail on [complaint.info@financialarbiter.org.mt](mailto:complaint.info@financialarbiter.org.mt).

## 39. Depositor Compensation Scheme

FIMBank p.l.c. is subject to the Depositor Compensation Scheme (the "**Scheme**") established in terms of the Depositor Compensation Scheme Regulations S.L. 371.09 (the "**Regulations**"). Deposits with FIMBank p.l.c. are protected by the Scheme. Subject to the Regulations, depositors may make a claim under the Scheme and are guaranteed up to €100,000 per depositor.

More information on the Scheme is available in the attached Depositor Compensation Scheme Information Sheet marked as Annex 3 or by calling the Bank on +356 21322100. You may also access the Scheme's website on [www.compensationschemes.org.mt](http://www.compensationschemes.org.mt) or by contacting the Scheme at c/o Malta Financial Services Authority, Triq Notabile, Attard, BRK3000, Malta, Tel: 356 21441155 and e-mail address: [info@compensationschemes.org.mt](mailto:info@compensationschemes.org.mt)

## 40. Data Sharing

40.1 For the purposes of this clause, "**FIMBank Group**" means and includes (i) the Bank and any entity which from time to time is a subsidiary or an associate company of the Bank; (ii) any entity over which from time to time any of the entities referred to in (i) either directly or indirectly exercises management control, even though it may own less than fifty percent (50%) of the shares therein; and (3) any entity otherwise notified by the Bank from time to time; and "**member of the FIMBank Group**" means any company or other entity forming part of the Fimbank Group.

40.2 By accepting these General Terms, you consent that the Bank may use, share, store, transmit or otherwise process relevant information about you, your transactions and Accounts (including personal data as defined in the Data Protection Act (Cap. 440 of the laws of Malta) ("**Personal Data**")) (collectively, "**Confidential Information**") for internal assessment and analysis including credit assessment, to be able to provide you with products and services, for customer service, for opportunity and knowledge sharing, for marketing and market research purposes, to enable a review, assessment or rating of the Bank, of any of its operations or processes as well as for insurance, audit and administrative purposes. This may include Confidential Information provided by you, or someone acting on your behalf. For the same purposes, the Bank may use, share, store, transmit or otherwise process Confidential Information (including Personal Data) with or through members of the FIMBank Group or by third parties engaged by the Bank or members of the FIMBank Group to provide such services for or on behalf of the Bank.

Withdrawal or refusal to provide consent may have an impact on our ability to provide, or the quality of, the Products or Services to you.

Withdrawal of consent may not affect our ability to process your personal data on the basis of other legal grounds.

Please visit our Privacy Policy available on our website [www.fimbank.com/en/privacy-policy](http://www.fimbank.com/en/privacy-policy) for further details.

- 40.3 For the purposes above, Confidential Information may be shared, stored, transmitted or otherwise processed overseas by or with members of the FIMBank Group or third parties engaged as aforesaid. For a list of the third parties who are engaged, please click [here](#).
- 40.4 You also consent that your Confidential Information may be disclosed to any of the FIMBank Group's professional advisers or consultants (including but not limited to financial, legal, regulatory and other advisors as might be engaged from time to time).
- 40.5 Whether it is processed in Malta or overseas, we will abide by any obligations under any applicable laws in order to ensure that your Confidential Information is treated confidentially and securely by the FIMBank Group member or by the third party to whom it is disclosed.
- 40.6 Confidential Information may also be shared, stored, used, transmitted or otherwise processed for the purposes of detection and prevention of fraud and any other criminal activity, to verify the Customer's identity, to recover debt and in compliance with applicable laws, including anti-money laundering and antiterrorism laws and regulations as well as for tax compliance or risk management purposes. This may require the disclosure of Confidential Information to members of the FIMBank Group, to Maltese or overseas governmental, regulatory or tax authorities, fraud prevention or law enforcement agencies, credit reference and debt recovery agencies, credit agencies, or to any other person we reasonably think necessary for these purposes.
- 40.7 We may also, subject to appropriate safeguards, disclose your Confidential Information to any potential acquirer of the Bank or the Bank's business or part thereof or to any person to whom we transfer or intend to transfer or assign our rights and/or our obligations under the General Terms or under any Additional Conditions or other agreements with the Customer or where the information is required to be disclosed or is requested in the course of a due diligence exercise and/or to any person who may otherwise enter into contractual relations with any member of the Group in relation to the business relationship with you and/or when the information is required in the normal course of business with institutions or other persons who are normally bound by similar obligations of confidentiality.
- 40.8 Confidential Information in relation to transactions effected via SWIFT (Society for Worldwide Interbank Financial Telecommunications) may be required to be disclosed to the United States authorities in order to comply with legal requirements applicable in the United States for the prevention of crime.

#### Information about Products, Services and Promotions

- 40.9 Unless we receive an objection in Writing from you, the Bank may use and share your Confidential Information (including Personal Data) to give you information about products, services and promotions available from the Bank and from members of the FIMBank Group and from selected third parties which may interest you by post, telephone, electronic and other means. You have a right to object to receive information about any such products and services when you open an Account by contacting:

**Mercury Tower, The Exchange Financial & Business Centre,  
Elia Zammit Street, St. Julian's STJ 3155, Malta  
Telephone Number: +356 21322100  
E-Mail Address: [dpo@fimbank.com](mailto:dpo@fimbank.com)**

#### Miscellaneous

- 40.10 Under data protection legislation, you can make a written request for a copy of certain personal records we hold about you. Whilst the Bank may periodically request you to re-confirm the information, you are required to inform the Bank immediately if such information is no longer correct and needs to be updated.

We will only retain your Personal Data for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or regulatory reporting requirements or other obligations as well as for the defence of existing or possible future legal claims.

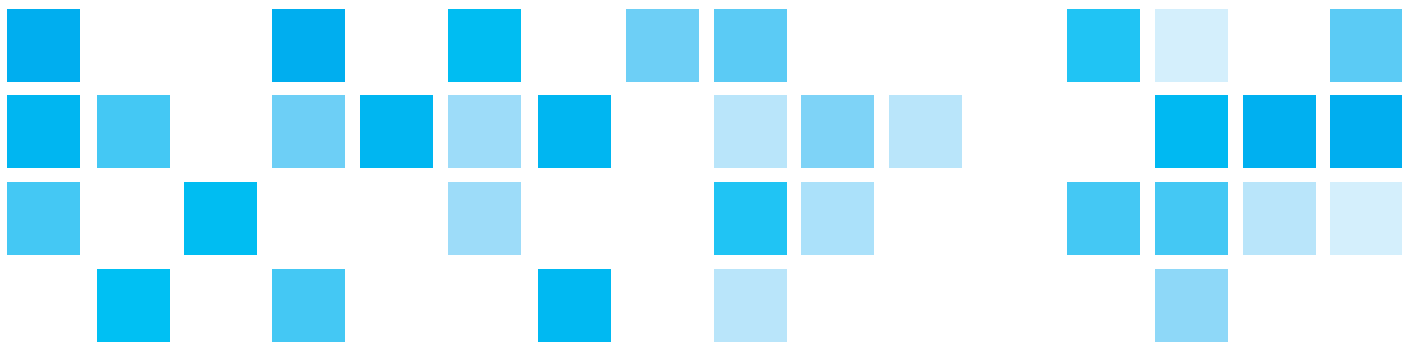
- 40.11 You undertake to comply with all applicable data protection laws. You confirm that all persons whose Personal Data or other data is provided to us (e.g. details of your officers, employees or shareholders) by you or transmitted, processed



or otherwise handled, have consented to such transmission, processing or other handling under the General Terms in accordance with any applicable laws, or will do so prior to any such transmission, processing or other handling. You further agree to indemnify and hold the Bank harmless from all costs, penalties, damages and other losses incurred as the result of any breach of this provision.

- 40.12 To ensure that we carry out your instructions accurately, to help us to improve our service, for the purposes of resolution of complaints and in the interests of security, we may monitor and/or record your telephone calls with us and conversations we have with you in our branches. Any recordings remain our sole property and may also be used as evidence in any disputes between the Bank and the Customer.





**FIMBank p.l.c**  
**Mercury Tower, The Exchange Financial & Business Centre,**  
**Elia Zammit Street, St. Julian's STJ 3155, Malta**  
**Telephone Number: +356 21322100 E-Mail Address: [dpo@fimbank.com](mailto:dpo@fimbank.com)**  
**[www.fimbank.com](http://www.fimbank.com)**