

# Debit User Agreement

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**This Debit User Agreement covers Debit User Services. This Agreement governs the use by the Customer's instructions to HSBC Bank Bermuda Limited to make debits on Consumer Accounts. The Customer confirms that it has read the Agreement carefully before it uses Debit User Services. It exempts HSBC Bank Bermuda Limited and other persons from liability or limits their liability and contains other important provisions that the Customer has read. Each time the Customer uses the Debit User Services, this Agreement, as it then reads, will govern such use. Accordingly, when the Customer uses the Debit User Services, the Customer should check the date of this Agreement (which appears at the end of this Agreement) and review any changes since the last version.**

**All interest rates and charges that apply to the relevant products / services covered in this Agreement are covered in the "Fees and Charges applicable to your products / services" section which is published on our website at [www.hsbc.bm](http://www.hsbc.bm).**

The Bank agrees to allow the Customer to instruct the Bank to make debits on Consumer Accounts ("Debit Service") as set out as follows.

## 1. Definitions

**"Account"** means the Consumer's bank account with a Banking institution in Bermuda that will be debited as a result of the Direct Debit Request Service Agreement.

**"Agreement"** means this agreement as amended or supplemented from time to time and any supplementary terms and schedules for the provision of this Debit User Agreement published and amended by the Bank from time to time.

**"Bank"** means HSBC Bank Bermuda Limited and its subsidiaries.

**"Business Day"** means any day except Saturday or Sunday on which banks in Bermuda are open for business.

**"Customer"** means the organisation which is applying to be a Debit User.

**"Claims"** means all claims, liabilities, damages, indebtedness actions, causes of action, expenses (including legal, accounting and other professional expenses) and losses of any kind whatsoever, taxes, levies, fines, fees or penalties suffered and/or incurred by, or brought against, the Bank.

**"Consumer"** means each customer of the Customer.

**"Debit Service"** means a service pursuant to which the Bank will make debits on the Consumer accounts of the Customer regarding services provided by the Customer to the Consumer pursuant to the terms of a Direct Debit Request.

**"Debit User"** means the Customer who allows the Bank to make debits on Consumers' Accounts.

**"Details"** means the Customer details at the back of this Agreement.

**"Direct Debit Request"** means an authority and request from a Consumer to the Customer to debit amounts to a specified Account of that Consumer in a form agreed to by the Bank in writing.

**"Electronic Means"** means communications sent by email, facsimile, computer or by the use of scanned or digital signatures or any other electronic means.

**"Notice"** means a notice, request, consent and other communication in connection with this Agreement.

**"Person"** includes a corporation, unincorporated association, or authority and includes their successors and assigns.

Words in this Agreement that are in the singular include the plural and vice versa, unless the context requires otherwise; words importing the masculine gender include the feminine and are deemed gender neutral; and words importing persons include individuals, sole proprietors, corporations, partnerships, trusts and unincorporated associations.

## 2. Debit Service

2.1 The Bank agrees to:

2.1.1 allow the Customer to use the Debit Service on the terms and conditions set out in this Agreement; and

2.1.2 accept and act upon payment instructions received from the Customer to debit the Accounts of its Consumers.

## 3. Extent of Obligations

3.1 The Customer agrees to comply with all the conditions, accountabilities and responsibilities which apply to the Customer in:

3.1.1 this Agreement;

3.1.2 any Direct Debit Request the Customer enters into with a Consumer; and

3.1.3 any requirements under the laws of Bermuda.

## 4. Debit User Obligations

4.1 General

- 4.1.1 The Customer may only use a Direct Debit Request and any other information which the Customer must give Consumers in relation to a Direct Debit Request if the Customer has the Bank's written approval of the format, content and medium prior to printing them or publishing them by any other means to the Consumers;
- 4.1.2 The Customer must obtain from each Consumer a valid and binding Direct Debit Request in the form approved by the Bank from time to time. The Bank will not check that the Customer holds a valid and binding Direct Debit Request from a Consumer. The obligation to obtain a binding Direct Debit Request is the sole obligation of the Customer. If the Customer fails to obtain a valid Direct Debit Request from a Consumer or make any mistake, error, omission, misstatement or provision of incorrect information in connection therewith, the Customer will indemnify the Bank against any Claims incurred or suffered by the bank in connection therewith;
- 4.1.3 The Customer must not initiate instructions to the Bank for Debit Services for any Consumer unless the Consumer has signed a valid and binding Direct Debit Request;
- 4.1.4 The Customer must issue debit payment instructions strictly in accordance with the arrangements made between the Customer and a Consumer and ensure that such instructions do not exceed the conditions (if any) specified in the Direct Debit Request provided by the Consumer;
- 4.1.5 The Customer must inform a Consumer of any change in the terms of the debit arrangements made between the Customer and a Consumer at least fourteen (14) Business Days before the change is to be implemented;
- 4.1.6 The Customer must act promptly in accordance with any instructions given by a Consumer to cancel or suspend a Direct Debit Request or to stop or defer individual debit payment instructions from time to time;
- 4.1.7 The Customer must not make any representation in connection with any goods or services which may bind the Bank;
- 4.1.8 The Customer must ensure that the correct Account information for a Consumer appears on any Direct Debit Request given to the Customer and the Customer acknowledges that the Customer is solely responsible for ensuring this information is correct. If the Customer initiates a debit in accordance with incorrect Account information provided by a Consumer, the Customer acknowledges that it may result in the Bank being liable for any Claims suffered or incurred by such other financial institutions or arising out of or in connection with such debit. The Bank will then claim the amount payable to them from the Customer under the indemnities contained in this Agreement;
- 4.1.9 The Customer must notify the Bank within sixty (60) calendar days of any significant changes in the arrangements for the issuing of debit payment instructions including without limitation any changes relating to the amount of or frequency of debit payments;
- 4.1.10 The Customer must notify the Bank within sixty (60) calendar days of any proposed changes to the Customer's name, mergers, changes of shareholding control, and changes of a like kind. In this notification period the Bank will consider the proposed change and determine whether or not the Bank will continue the Debit Service and advise the Customer accordingly.
- 4.1.11 The Customer must ensure that the Consumer has sufficient funds in the Account that will be debited as a result of the Direct Debit Request before the Direct Debit Request is to be processed, failing which the Customer will indemnify the Bank against any Claims incurred or suffered by the Bank in connection therewith. The Bank may in its sole discretion cancel a Direct Debit Request if there are insufficient funds in the relevant Account to complete the Direct Debit Request on three (3) occasions.
- 4.2 Claims
- The Customer agrees that it:
- 4.2.1 must promptly and in good faith investigate and deal with any query, claim or complaint relating to alleged incorrect or wrongful debits received from the Bank and provide such assistance as is reasonably required by the Bank so the Customer may deal with and respond to such queries, claims or complaints within five (5) Business Days by either:

- 4.2.1.1 accepting the claim and paying the disputed amount (either to the Bank or in the manner the Bank directs the Customer to pay it); or
  - 4.2.1.2 disputing the claim and providing the Bank with full particulars of the Customer's reasons for disputing the claim including evidence of the Customer's authority to debit. If the Customer fails to satisfactorily respond to a claim received from the Bank within five (5) Business Days then the Customer acknowledges and agrees that an amount equal to the amount allegedly incorrectly or wilfully debited may be debited by the Bank to the Customer's account and that this amount will be credited by the Bank to the Consumer's Account.
- 4.2.2 must promptly and in good faith investigate and deal with any query, claim or complaint relating to alleged incorrect or wrongful debits received from a Consumer and advise the Consumer in writing of the Customer's conclusion.
- 4.3 Storage
- 4.3.1 The Customer must safely and securely retain all Direct Debit Requests given to the Customer for a period of not less than 7 (seven) years from the date the last debit was made under the relevant Direct Debit Request and produce them or any one of them upon request by the Bank or the relevant financial institution for verification of the Customer's authority to debit.
- 4.4 Settlement of transactions
- 4.4.1 The Customer must have at least 1 (one) account with the Bank which can be used for the purposes of this Agreement.
- 4.5 Access and Document Review
- 4.5.1 The Customer will allow the Bank's employees, contractors, officers, attorneys, and agents (the "Bank's Representatives") to enter the Customer's premises at reasonable times during normal business hours for any purpose relating to this Agreement. The Customer will provide the Bank's Representatives with access to, and, if requested, copies of documents and agreements relating to this Agreement and any services provided hereunder.

## 5. Debit User Rights

- 5.1 The Bank may enter into this Agreement as principal or agent. The Bank may also transfer its interest in this Agreement or give another person an interest in or form of security over it without obtaining the Customer's consent.
- 5.2 The rights, powers and remedies which the Bank and the Customer have under this Agreement are in addition to the ones provided independently by law. The Bank and the Customer may exercise the rights, powers and remedies under the law as well as any of those provided by this Agreement.
- 5.3 If the Bank or the Customer do not insist upon or enforce a right arising from a breach of this Agreement, that does not mean that the Bank or the Customer have given up or waived that right or any other right arising from that breach or any later breach.
- 5.4 This Agreement cannot be assigned by the Customer.

## 6. Bank Obligations

The Bank will accept and act upon the Customer's debit payment instructions given in accordance with this Agreement.

## 7. Costs, Fees and Other Payments

- 7.1 The Customer authorises the Bank to withdraw from any account the Customer has with the Bank, including the account maintained under section 4.4.1, without Notice:
  - 7.1.1 all fees, charges and costs in connection with the Debit Service of this Agreement;
  - 7.1.2 all amounts arising from any query, claim or dispute;
  - 7.1.3 all stamp duties and other government charges levied on or in connection with any Direct Debit Request, the Customer's accounts with the Bank and this Agreement;
  - 7.1.4 any amounts found to be due to the Bank during an audit or check by the Bank;
- 7.2 The Customer must pay on demand from the Bank any balance which remains unpaid because there are not enough funds in the Customer's account to pay the amounts due under section 6.1 above.

## 8. Confidentiality

- 8.1 Each party agrees that it will not, at any time during the continuance of this Agreement or at any time after its termination, use the other's name, logo or trademark in any advertising, press release or other written materials provided to third parties without the

prior written consent of the other party.

8.2 Notwithstanding any other provisions in this Agreement, the Bank may disclose confidential information to any third parties involved in consulting with respect to the Services and to attorneys, auditors, government or other agencies as prescribed by law.

## 9. Collection, Processing and Sharing of Customer Information

### General:

This section explains how you will use information about me and Connected Persons. By using the Services, I agree that you and members of the HSBC Group shall use Customer Information in accordance with the terms of this Agreement.

Customer Information will not be disclosed to anyone (including other members of the HSBC Group) other than where (i) you are legally required to disclose (ii) you have a public duty to disclose (iii) you or a third party's legitimate business purposes require disclosure (iv) the disclosure is made with my consent or (v) it is disclosed as set out as in this Agreement:

### 9.1 Collection

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

### 9.2 Processing

You and/or members of the HSBC Group will process, transfer and disclose Customer Information in connection with the following Purposes: (a) providing Services and for any transactions requested or authorised by me, (b) meeting Compliance Obligations, (c) conducting Financial Crime Risk Management Activity, (d) collecting any amounts due from me, (e) conducting credit checks and obtaining or providing credit references, (f) enforcing or defending your, or a member of the HSBC Group's, rights, (g) for internal operational requirements of you or the HSBC Group (including, without limitation, credit and risk management, system or product development and planning, insurance, audit and administrative purposes), (h) maintaining your overall relationship with me

(including marketing or promoting financial services or related products to me and market research) (i) responding to potentially legitimate third party claims for funds held in my Account(s) (the "Purposes").

### 9.3 Sharing

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

- (a) any member of the HSBC Group;
- (b) any sub-contractors, agents, service providers, or associates of the HSBC Group (including their employees, directors and officers);
- (c) in response to any requests from any Authorities;
- (d) anyone acting on my behalf, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks, clearing houses, clearing or settlement systems, market counterparties, upstream withholding agents, swap or trade repositories, stock exchanges, companies in which I have an interest in securities (where such securities are held by you for me);
- (e) any party acquiring an interest in or assuming risk in or in connection with the Services;
- (f) other financial institutions, credit reference agencies or credit bureaus, for obtaining or providing credit references;
- (g) any third party fund manager who provides asset management services to me;
- (h) any introducing broker to whom you provide introductions or referrals;
- (i) in connection with any of your business transfers, disposals, mergers or acquisitions;
- (j) wherever located, including in jurisdictions which do not have data protection laws that provide the same level of protection as the jurisdiction in which the Services are supplied;
- (k) professional advisers, consultants service providers or independent contractors or any person in compliance with, or in response to any order, notice or request for any court of any jurisdiction, any arbitral tribunal or pursuant to any dispute resolution or mediation proceedings in any jurisdiction.

### 9.4 My Obligations

- (a) I agree to inform you promptly, and in any event, within thirty (30) calendar days in writing if there are any changes to Customer Information supplied to you or a member of the HSBC Group from time to time, and to respond to any request from you or a member of the HSBC Group.
- (b) I confirm that every Connected Person/person whose information (including Personal Data or Tax Information) that has been provided to you or a member of the HSBC Group has been notified of and agreed to the processing, disclosure and transfer of their information as set out in this Agreement. I shall advise Connected Persons/such persons that they may have rights of access to, and correction of, their Personal Data.
- (c) Where:
  - I fail to provide Customer Information that you reasonably request, or
  - I withhold or withdraw any consents which you may need to process, transfer or disclose Customer Information for the Purposes, or
  - you or a member of the HSBC Group has suspicions regarding the possible commission of Financial Crime or I present a potential Financial Crime risk to a member of the HSBC Group,

You may:

- (a) be unable to provide new, or continue to provide all or part of the, Services to me and reserve the right to terminate your business relationship with me;
- (b) take actions necessary for you or a member of the HSBC Group to meet Compliance Obligations; and/or
- (c) block, transfer or close my Account(s).

In addition, my failure to supply my, or a Connected Person's Tax Information and accompanying statements, waivers and consents, may result in you making your own decision with respect to my status, including whether to report me to a Tax Authority, and may require you or other persons to withhold amounts as may be legally required by any Tax Authority and paying such amounts to any Tax Authority.

## 10. Indemnity

10.1 The Customer agrees to indemnify and save the Bank harmless and keep the Bank indemnified and held harmless against all Claims incurred or suffered by the Bank arising out of or in connection with this Agreement or

the provision of any services hereunder including but not limited to:

- 10.1.1 the debiting to the Account of any Consumer and the payment to the Customer of any sum or sums of money the debiting of which was not at the time authorised by a Direct Debit Request or to which the Customer was not then legally entitled; or
- 10.1.2 the making of any payment not in accordance with the terms of a Direct Debit Request; or
- 10.1.3 the failure to make payment in accordance with the terms of a Direct Debit Request.
- 10.1.4 any claim, action or cause of action made by any third party (including any third party financial institution against the Bank) as a result of this Agreement or any of the services provided by this Agreement.

10.2 The Customer will not be liable under this section 7 with respect to a Claim to the extent that the Claim was caused by the Bank's gross negligence or wilful misconduct or the gross negligence or wilful misconduct of any of the Bank's employees or agents in processing the Customer's debit payment instructions.

10.3 The Customer authorises the Bank to admit, compromise or reject any Claims without reference to or authority from the Customer and will not dispute the quantum of any payment made as a result of any admission.

10.4 Each indemnity is a continuing indemnity, and is separate and independent from any other obligations and survives termination of this Agreement.

10.5 It is not necessary for the Bank to incur expense or make payment before enforcing a right of indemnity conferred by this Agreement.

## 11. Variation

11.1 The Bank may, in its sole discretion, vary this Agreement or the terms at any time by giving the Customer Notice in writing. Any such change will become effective upon the thirtieth (30<sup>th</sup>) day following the Bank taking any of the following actions:

- (a) displaying the Notice of the revised Agreement at the Bank's branches, ATMs or other locations designated by the Bank;
- (b) mailing the Customer

a copy of the revised Agreement to the Customer's last known address;

(c) providing the Customer with written Notice of the revised Agreement on the Customer's Statement of Account;

(d) sending the Customer written Notice of the revised Agreement by electronic mail or other Electronic Means;

(e) posting a copy of the revised Agreement on the Bank's website.

The Customer may also obtain a copy of the revised Agreement from any of the Bank's branches.

11.2 The Customer may not change, supplement or amend this Agreement in any manner except in writing signed by the Bank.

## 12. Termination

12.1 Either party may end this Agreement by giving the other thirty (30) calendar days' Notice in writing. The Notice does not have to state a reason. Notwithstanding the aforementioned, the Bank reserves the right to terminate the Services at any time without notice but will endeavour to give the Customer sixty (60) calendar days prior written notice, including by Electronic Means, of such termination.

12.2 The termination of this Agreement does not affect any of the Customer's or the Bank's rights and obligations which arose before the termination date.

12.3 Notwithstanding section 12.1, the Bank may end this Agreement immediately if:

12.3.1 the Customer defaults in performing any of the Customer's obligations under this Agreement or any other agreement between the Customer and the Bank;

12.3.2 in the Bank's sole opinion there has been a material adverse change in the Customer's circumstances.

## 13. Disclaimer

13.1 Subject to Section 13.3 below, the Bank will use all reasonable endeavours to fulfil the Bank's obligations under this Agreement. The Bank will not be liable (whether in contract, tort or otherwise) for any loss or damage whatsoever arising out of any failure or other deficiency with respect to the Bank's obligations or any part of them, even if the possibility

of such loss or damage was known or ought to have been reasonably known to the Bank.

13.2 The Customer acknowledges the Bank may use third parties to perform various tasks in connection with this Agreement and the Customer agrees that the Bank will not be liable (whether in contract, tort or otherwise) for any loss or damage whatsoever arising out of any failure or other deficiency with respect to the Bank's obligations or any part of them, even if the possibility of such loss or damage was known or ought to have been reasonably known to the Bank.

13.3 The Bank expressly disclaims all conditions and warranties, express or implied, in respect of the subject matter of this Agreement including any condition or warranty of merchantability or fitness for a particular purpose.

## 14. Bank Consent

The Bank may give its consent for the purposes of this Agreement conditionally or unconditionally or withhold it in the Bank's absolute discretion unless this Agreement expressly indicates differently.

## 15. Force Majeure

The Bank will not be liable for any delay in performing or failure to perform any of its obligations under this Agreement as a result of any circumstances or events beyond its reasonable control, including without limitation the failure, malfunction or unavailability of power, telecommunications, data communications, computer systems or software and related services, act of God, war, terrorism, riot, civil unrest or commotion, fire, flood, wind storms, hurricanes, government action, strikes, lock-outs, labour disruption or other industrial action or trade dispute (whether involving the Bank's employees or those of any other person). Any delay or failure of this kind will not be deemed to be a breach of this Agreement and the time for performance of the affected obligation will be extended by a period that is reasonable in the circumstances.

## 16. Telephone Recording

The Bank may record all telephone conversations between the Customer and the Bank or between any other person and the Bank in relation to the affairs of the Customer and the Customer expressly consents to such recordings. The Customer agrees that any such tape recordings may be submitted in evidence in any proceedings relating to this Agreement.

## 17. Notices

17.1 A Notice must be in writing.

17.2 A Notice must be:



- 17.2.1 given personally to the addressee; or
  - 17.2.2 left at the address last advised; or
  - 17.2.3 sent by prepaid post to the address last advised; or
  - 17.2.4 sent by Electronic Means to the facsimile number last advised.
- 17.3 Until further Notice is given, the address last advised will be the address for Notices shown in the Details.
- 17.4 If a Notice is sent by post, it is taken to be received on the 5th (fifth) day after posting.
- 17.5 If a Notice is by Electronic Means, it is taken to be received on production of a transmission report by the transmitting machine which indicates that the whole facsimile was sent.
- 17.6 A Notice takes effect from the time it is delivered unless a later time is specified in it.
- 17.7 Any legal process or Notice of legal process (for example, a summons) may be served on the Bank or the Customer by delivering or leaving it at the Bank's or the Customer's last advised address or by any other method of service permitted by law.

## 18. Resolving Disputes

If the Customer has a dispute with the Bank regarding any matter affecting its use of the Debit Service, the Customer will bring it to the Bank's attention. The Customer will not initiate any proceedings relating to any dispute arising from this Agreement, or use of the Debit Services until after the Customer has provided the Bank with written notice of the nature of the dispute, and allows the Bank twenty-one (21) Business Days from the delivery of such notice to the Bank to resolve the dispute to the Customer's satisfaction and any proceeding commenced in contravention hereof will be a nullity.

## Signatures

Account signatories must sign this signature form exactly as they will sign payment instructions or notices and communications to the Bank. Please sign in black ink within the boxes provided.

Authorised Signatory	Authorised Signatory
Signature	Signature
Title	Title
Date (dd/mm/yyyy)	Date (dd/mm/yyyy)

## 19. Rights of Third Parties

Nothing in the terms of this Agreement shall confer any right on any third party to enforce or enjoy the benefit of any aspect of the terms of this Agreement. Without prejudice to the generality of the foregoing, it is not intended that any provision of the terms of this Agreement shall be enforceable by virtue of the Bermuda Contracts (Rights of Third Parties) Act 2016, as the same may be amended from time to time by any person who is not a party hereto.

## 20. Implied Terms

To the extent permitted by law agree that no statutory terms (which shall include warranties, conditions or other contractual provisions) or rights, duties or liabilities imposed under the Supply of Services (Implied Terms) Act 2003 shall apply to me or you in relation to the terms of this Agreement.

## 21. Declarations and Signatures

The Customer confirms that through its authorised signatory(ies), it has read and agrees to the terms and conditions of this Agreement for which it has applied and confirms to be bound by such terms and conditions and any changes that may occur from time to time.

## 22. Governing Law

This Agreement will be construed, interpreted and governed exclusively by the laws of Bermuda and the Bank and the Customer will submit to the exclusive jurisdiction of the courts of Bermuda.

***THIS VERSION OF THESE TERMS AND CONDITIONS IS IN EFFECT AS OF June 2024.***

[www.hsbc.bm](http://www.hsbc.bm)

HSBC Bank Bermuda Limited  
37 Front Street, Hamilton HM 11, Bermuda

June 2024

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**Details**

Debit User	
Insert full name	
Address for Notices to the Debit User	Address for Notices to the Debit User
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