

SPECIAL BANKING CONDITIONS

in respect of payment services

Preliminaries

These Special Conditions govern payment services in accordance with the law of 10th November 2009 implementing directive 2007/64/CE in respect of payment services. These Special Conditions came into force on the 1st November 2009 with immediate effect.

Since Delen Private Bank Luxembourg S.A. is not a retail bank, these Special Conditions, in respect of certain payment services, are only intended to apply in exceptional and incidental circumstances.

Article 1 - Definitions

- 1) "Beneficiary": a natural or legal person or entity that is the due recipient of funds which are the subject of a payment transaction;
- 2) "Payment account": an account which is held in the name of one or several users of payment services and which is used for the purpose of carrying out payment transactions;
- 3) "Consumer": a natural person who, within the context of the payment service contracts governed by these Special Conditions, acts on the basis of objectives outside his commercial or professional activities;
- 4) "Member State": a State which is a member of the European Union. Included with States that are members of the European Union are those States which are party to the Agreement on the European Economic Area (EEA) other than the member States of the European Union, within the limits defined by that agreement and the acts pertaining thereto;
- 5) "Unique identifier": the International Bank Account Number (IBAN) and, if relevant, the Bank Identifier Code (BIC) which the user of payment services should provide to enable sure identification of another user of payment services and / or his payment account for a payment transaction;
- 6) "Payment instrument": any personalised device (such as a payment card) or collection of procedures (such as systems of the "e-banking" type) agreed between the user of payment services and the payment service provider and to whom the user of payment services has recourse so as to initiate a payment order;
- 7) "Business day": the days that the Banque in Luxembourg is officially open to the public and during the course of which it carries out activities enabling payment transactions to be made;
- 8) "Payment transaction": an action, initiated by the payer or the beneficiary, consistent with depositing, transferring or withdrawing funds ;
- 9) "Payment order": any instruction from a payer or beneficiary to his payment service provider requesting that a payment transaction be made;
- 10) "Payer": a natural or legal person or entity that is a payment account holder and authorises a payment order from that payment account ;
- 11) "Payment service provider": any professional person or entity authorised to provide payment services ;
- 12) " Assets and securities services" : payment transactions linked in particular to services and transactions related to financial instruments, including, amongst others, the purchase, sale, or also the issue and redemption of financial instruments, the distribution of dividends, income or others ;
- 13) "Payment services user": a natural or legal person or entity that uses a payment service as a payer or beneficiary, or both.

Article 2 - Scope of application

These Special Conditions govern the rights and duties of the Bank and the Customer for all payment transactions when :

- the payment service provider of the Customer's counter-party (which can be the Bank), is situated within the territory of Luxembourg or that of another member State ; and
- the payment transaction is made in euros or in the currency of a member State.

It is to be noted that these Special Conditions are not applicable to payment transactions linked to the assets and securities service, including the distribution of dividends, income or others and reimbursements or sales, carried out by the Bank.

All services which are not governed by these Special Conditions are governed by the General Conditions of the Bank.

Article 3 - Information about the Bank

Delen Private Bank Luxembourg S.A. (the "Bank") is an established bank with its registered office at L-1150 Luxembourg, route d'Arlon, 287 (info@delen.lu). Any communication with the Bank should be made via one of the two aforementioned addresses.

The Bank is registered in the Grand Duchy of Luxembourg as a credit institution and is subject to the prudential supervision of the inspection authority of Luxembourg, namely the Commission de Surveillance du Secteur Financier (the « CSSF »), located at L-2991 Luxembourg, route d'Arlon, 110.

Article 4 - Main characteristics of the payment services provided by the Bank

At the current moment, without prejudice to what is stated in article 23.1, paragraph 2 of the **General Conditions** (credit cards), the Bank **does not directly provide payment instruments** (within the meaning of article 1, 6°) to its Customers.

Payment services provided by the Bank on an exceptional and incidental basis are as follows :

4.1 Transfers and standing orders

Transfer is a payment service by means of which a Customer, who is making payment, gives an payment order to the Bank to transfer available funds by debiting his payment account and crediting them to the payment account held by a Beneficiary. A transfer can be made on a one-off basis or it can be of a recurring nature at regular intervals, always for the same amount to the same beneficiary, in which case it is referred to as a Standing Order.

4.2 Withdrawals

Withdrawal is a payment service by means of which a customer withdraws from his payment account at the Bank's registered office a certain amount in cash which is debited to his payment account.

4.3 Deposits

Lodgement of deposits is a payment service by which a Customer can put a certain amount of cash into the Bank and this will be credited to his payment account.

The deposit service also involves the Bank in crediting to the Customer's payment account cash remitted at the counter for the benefit of the Customer.

4.4 Direct debits

Direct debiting is a payment service designed to debit the payment account of a payer when a payment transaction is initiated by the beneficiary on the basis of consent given by the payer to the beneficiary, to the beneficiary's payment service provider or to the payer's own payment service provider.

Article 5 - Information to be provided so that a payment order can be correctly executed (unique identifier)

So that a payment order can be executed, it is absolutely necessary for the Customer to indicate his International Bank Account Number (IBAN) and Bank Identifier Code (BIC).

The Bank reserves the right to agree to execute a payment transaction on the basis of other information supplied by the Customer. However, carrying through a payment order for which the account number is identified other than with an IBAN code, or for which the account number does not have an IBAN code, requires the BIC code of the beneficiary's bank to be shown or any other number or item of data enabling it to be identified. A payment order of this kind will be executed at the full responsibility of the Customer and could entail delays and additional costs.

Article 6 - The authorisation of payment operations (consent)

A payment order cannot be raised **without supporting paper documentation** (mail or fax) on which it is absolutely necessary for the hand written signature of the Customer to appear.

The Bank nevertheless reserves to itself, by exception and at its absolute discretion, the possibility of accepting a payment order by telephone, via Delen on-line or over the internet (e-mail).

Article 7 – Time of receipt of payment order and deadlines for its execution

7.1 The time of receipt of the payment order is the time when the payment order, which was sent directly by the Customer or indirectly by or via the beneficiary (direct debit) is received by the Bank. A payment order is deemed to have been received by the Bank :

- if sent by mail, at the time of its actual receipt at the Bank ;
- if in the presence of the Customer at the Bank's Registered Office, at that time ;
- if sent by fax, at the time when receipt of the fax at the Bank has been completed.

7.2 If the time of receipt is not on one of the Bank's business days, the payment order is deemed to have been received on the first subsequent business day.

7.3 If the bank has received a payment order which has been raised on paper (e.g. a transfer) **after 1:30pm**, the payment order is deemed to have been received on the first subsequent business day.

7.4 If the customer and the Bank agree that a payment order is to be executed commencing on either a given day or after a pre-determined period, the time of receipt is deemed to be the agreed day. If the agreed day is not a business day, the payment order is deemed to have been received on the first subsequent business day.

7.5 When the account to be debited has insufficient funds, orders sent to the Bank without stipulating a date of execution are deemed to have been received by the Bank on the day that the Customer has made the necessary funds available.

Article 8 - Cancellation of a payment order (withdrawal of consent)

8.1 The customer may not cancel a payment order once it has been received by the Bank, except under the circumstances set out by this article.

8.2 If it has been agreed that the execution of a payment order shall start on a given day, after a pre-determined period or the day on which the customer has made the funds available to the Bank, the Customer can cancel a payment order at the latest at the end of the business day preceding the agreed day.

8.3 The same applies to payment orders initiated by the beneficiary (direct debit).

Article 9 – Maximum time limit for the execution of a payment order – outgoing payments

9.1. The execution date is the date upon which the Customer's account is debited. The time limit for execution is the time necessary for the funds to be credited to the account of the beneficiary's service provider. It runs counting from the date of receipt of the order or the date of execution stipulated by the Customer.

9.2. When payment transactions are carried out in euros, with no currency exchange, within the EEA, the Bank will ensure that the amount involved in the payment transaction is credited to the account of the beneficiary's payment service provider at the latest :

- until 31st December 2011, the third business day following the time of receipt of the payment order ;
- from 1st January 2012, the first business day following the time of receipt of the payment order.

For paper-based payment orders, this time delay will increase by one business day.

9.3. For all other payment transactions carried out in the currencies of member States of the EEA other than the euro, within the EEA, or in euros involving currency exchange, the Bank will ensure that the amount involved in the payment transaction is credited to the account of the beneficiary's payment service provider at the latest on the fourth business day following the time of receipt of the payment order.

9.4. For all other payment transactions, the Bank will not be held to the time limits as envisaged above. However, it will make every effort to carry them out within very reasonable time limits.

Article 10 - Refusal to execute a payment order

10.1. The Bank can refuse to execute a payment transaction if, amongst other things, the unique identifier is incomplete or imprecise, the information provided is insufficient or the supporting paper work does not bear the Customer's signature.

10.2. If the Bank refuses to carry out a payment transaction, it will inform the Customer within the shortest possible time delay and, insofar as the law demands otherwise, inform the Customer of the reason for refusal. This notification (or availability of this notification) will be made by any means at the latest at the end of the business day following the refusal (three business days until 1st January 2012). If the original payment order was paper-based, this time delay will increase by one day.

Article 11 – Maximum time limit for execution - incoming payments (cash deposits)

Remittances received by the Bank in a currency of a member State of the EEA will be deposited and made available in the payment account stipulated by the payer :

- on the day the funds are received, in the case of deposits by a consumer in cash of the same currency as the payment account ;
- at the latest the banking business day following, in the case of deposit, by a non-consumer, of cash in the same currency as the payment account ;
- immediately following upon currency conversion, in the case of a deposit in a currency other than that in which the payment account is held.

Remittances received by the Bank in a currency other than a currency of a member State of the EEA are deposited and made available to the Customer within very reasonable time limits.

Article 12 - Value date

12.1 Outgoing payments

For the payment account of the payer, the value date of the debit will not be prior to the time at which the amount involved in the payment transaction is debited to this payment account.

12.2. Incoming payments

For the payment account of the beneficiary, the value date of the credit will not be later than that of the business day during the course of which the amount involved in the payment transaction is credited to the account of the beneficiary's payment service provider.

Article 13 - Information about payment transactions executed

To the extent that payment transactions have been executed, statements of account relating thereto will be available on the first business day of each month and will be sent to the Customer in accordance with the terms agreed in the framework contract. Unless agreed otherwise, the Bank will send out all documents by ordinary mail.

In the case where a Customer has reached an agreement with the Bank in respect of a "Post Office box", the Bank will make statements of account available in accordance with the relevant terms of the General Conditions of the Bank. The Customer is deemed to have received and taken note of the statements of account at the time when they become available.

Article 14 - Time limits for lodging objections to unauthorised or unexecuted or incorrectly executed payment transactions

14.1. Consumer Customers only obtain correction of a transaction by the Bank if they indicate to the Bank without delay that they have noticed an unauthorised or unexecuted or incorrectly executed payment transaction giving rise to a claim and at the latest within the **thirteen months** following the date of the transaction.

14.2. Non-consumer customers only obtain correction of a transaction from the Bank if they indicate without delay to the Bank that they have noticed an unauthorised or unexecuted or incorrectly executed payment transaction giving rise to a claim and at the latest within **thirty days** following upon receiving and taking actual note of their statements of account in the sense indicated in article 13 above.

Article 15 - Unauthorised payment transactions (in the case of objection beyond the stipulated time limit)

If a payment transaction cannot be considered by the Bank as having been authorised by the Customer, the Bank will refund to the latter the amount involved in the payment transaction in question and, if need be, restore the payment account debited to the position that would have prevailed if the unauthorised payment operation had not taken place.

15.1 Consumer Customers bear in full any losses associated with an unauthorised payment transaction in the event of fraudulent acts on their part, independently of any notification addressed to the Bank.

15.2 Non-consumer Customers are responsible in full for any losses associated with an unauthorised payment transaction, if it is established that they have made any mistake, however slight.

Article 16 - Authorised but unexecuted or incorrectly executed payment transactions (in the case of objection beyond the stipulated time limit)

16.1 Customer as payer

This article only applies to consumer Customers.

16.1.1. The Customer initiates the payment order.

In the case of an unexecuted or incorrectly executed payment transaction, and independently of the question of the Bank's responsibility for this non-execution or incorrect execution, the Bank will make every effort, on the express request of the consumer Customer, without incurring any liability in this respect, to trace through the payment transaction and will notify the results of its searches to the consumer Customer.

The Bank cannot under any circumstance be considered responsible for the incorrect execution of a payment order if it can establish that the amount covered by the payment order was received by the beneficiary's payment service provider within the time limit.

To the extent that the Bank is responsible for the non-execution or incorrect execution of a payment transaction, it will restore, as appropriate, to its consumer Customer the total amount involved in the payment transaction and, if need be, restore the payment account debited to the position that would have prevailed if the incorrect payment transaction had not taken place.

16.1.2. The payment order was initiated by the beneficiary (direct debits)

In the case of an unexecuted or incorrectly executed payment transaction, if the consumer Customer is able to establish that the beneficiary's payment service provider transmitted the payment order within the time limit, the Bank will restore, as appropriate, to its consumer Customer the total amount of the payment transaction and, if need be, restore the payment account debited to the position which would have prevailed if the incorrect transaction had not taken place.

16.2 Customer as payee

Items 16.2.2 and 16.2.3 of this article only apply to consumer Customers.

16.2.1. Payment order executed in accordance with the unique identifier

A payment order executed by the Bank in accordance with the unique identifier is deemed as duly executed in respect of the beneficiary identified, notwithstanding any supplementary information that may possibly be provided to the Bank.

To the extent that the unique identifier is inexact, the Bank will in no circumstance be held responsible for harmful consequences arising from failure to execute or incorrect execution of a payment order. From that point, it is the Customer's responsibility to seek recourse against the payer and / or the payer's payment service provider.

16.2.2. The payer initiates the payment order.

The Bank will be considered responsible for the incorrect execution of, or failure to execute, a payment order where the consumer Customer is the beneficiary only if the consumer Customer can prove that the Bank received the amount covered by the payment order initiated by the payer within the prescribed deadlines, but his payment account was not credited with the amount covered by the payment order.

In this case, the Bank will make available to the consumer Customer the amount involved in the payment transaction in the payment account within the shortest possible time delay.

16.2.3. The consumer Customer initiates the payment order as a beneficiary (direct debits)

The Bank is only responsible to the consumer Customer in respect of the successful transmission of the payment order to the payer's payment service provider. From that point, the Bank will not incur any liability whatsoever in the event of failure to execute or incorrect execution of a payment order if it has carried out this duty.

Notwithstanding the foregoing, and independently of the question of the Bank's liability relating to the failure to execute or the incorrect execution of a payment order, the Bank will make every effort, on the express request of the consumer Customer, without incurring any responsibility in this regard, to trace through the payment transaction and notify the results of its searches to the consumer Customer.

Article 17 - Special case of payment transactions initiated by the beneficiary and for which the initial authorisation given did not identify an exact amount (direct debits)

This article only applies to consumer Customers.

17.1 The consumer Customer is authorised, for a period of **eight weeks** counting from the date on which the funds were debited, to obtain reimbursement of a payment transaction initially authorised by the beneficiary, insofar as the following conditions are fulfilled :

- the authorisation did not indicate the exact amount of the payment transaction when it was given ;
- the amount involved in the payment transaction exceeded the amount which the Customer could reasonably expect taking into account the profile of his past expenditure, conditions foreseen by the Bank and circumstances relevant to the case.

The consumer Customer will make his request in writing and will identify therein his reasons.

17.2 Within a time limit of ten business days following receipt of the request for reimbursement, the Bank, will either reimburse the total amount of the payment transaction or justify its refusal to make reimbursement, indicating the organisations to which the Customer may then refer if he does not accept the justification offered.

17.3 He cannot obtain reimbursement relating to a payment transaction initiated by the beneficiary when he has given his consent to the execution of the transaction directly to the Bank and the latter has made available to him information relating to this future transaction at least four weeks before it falls due.

17.4 The right to reimbursement is also not available for all payment transactions initiated by the beneficiary outside the EEA.

Article 18 – Responsibilities of the Bank

The Bank cannot be held responsible for any harmful consequences arising from the incorrect execution, failure to execute, or partial execution of its obligations under these Special Conditions except in the event of intentional or gross error on its part.

Article 19 – Charges (pricing arrangements)

All charges related to the payment services carried out, to payment accounts and the management of payment accounts, are set out in the list of charges which is available on demand..

When a payment transaction does not involve currency conversion, the beneficiary must pay the charges raised by his payment services provider and the payer must pay the charges raised by his.

For transfers of funds within the EEA in euros or in a currency of a member State, it is not permitted for the beneficiary to be charged, except in the case of transfer due to closure of the account and the transfer of the balance.

When the payment transaction involves currency conversion, the exchange costs are borne by the party initiating the conversion.

Except by agreement to the contrary, the Bank deducts its charges from the amount transferred before crediting it to its Customer as payee. In the information given to the Customer, the Bank indicates, if necessary, as separate figures, the gross amount, the charges levied and the net amount involved in the payment transaction.

Article 20 - Interest rate and exchange rate

20.1 The interest rates used by the Bank are set out in the list of charges. Any change to interest rates will be communicated to the Customer by any method, in particular notification on statements of account.

20.2 Exchange rates used by the Bank are the exchange rates of the European Central Bank (ECB). Any change to exchange rates is applied immediately and without prior notice, except when required otherwise in mandatory legislation or special agreements.

Article 21 - Language(s)

The Bank undertakes, when communicating with the Customer in writing, to use the language (French, Dutch, or English) which the Customer has chosen when his association with the Bank began or, if necessary, subsequently.

Except by requirement to the contrary, these Special Conditions, the contracts, forms, charges and other documents will be available to the Customer or concluded with the latter in the language that the Customer has chosen for communication.

Article 22 - Information for the Customer

22.1 The consumer Customer can at any time ask to receive a copy of these Special Conditions and the pricing arrangements which relate to him.

22.2 Unless a legal or contractual requirement demands the contrary, the Bank has no obligation to provide information to the non-consumer Customer under these Special Conditions. The Bank reserves the right to accept any request for information on behalf of a non-consumer Customer and, if appropriate, to charge him for the provision of such information.

Article 23 - Conditions in respect of amendment

The Bank reserves the right, at any time, to amend these Special Conditions, subject to prior notification to the Customer of any anticipated amendment. Objections to these amendments can be made up to **two months** after notification to the Customer.

23.1 Consumer Customers are deemed to have accepted these amendments if, at the latest two months after the issue of the notification, their contract in relation to the payment service provided by the Bank has not been terminated. If the Customer terminates his contract for the payment service provided by the Bank during this period of two months, this is free of charge.

23.2 Non-consumer Customers are considered to have accepted these amendments if, at the latest one month after issue of the notification, their contract in relation to the payment service provided by the Bank has not been terminated. The Bank reserves the right to charge the non-consumer Customer in such an event.

Article 24 - Duration and termination conditions

These Special Conditions have been set up for an indeterminate period of time. Each party has the right to terminate their participation by registered letter, without giving reasons, by means of notice :

- of one month if the initiative comes from a consumer Customer or if the initiative comes from the Bank and the Customer is not a non-consumer Customer,
- of two months if the initiative comes from a non-consumer Customer, or if the initiative comes from the Bank and the Customer is a consumer Customer.

The cancellation of these Special Conditions does not imply the end of all contractual relationships between the Customer and the Bank but has as the only consequence that the Customer will no longer be authorised to carry out payment transactions in accordance with these Special Conditions.

Article 25 - The Bank's General Conditions

In the event of a contradiction between these Special Conditions and the Bank's General Conditions, the requirements of these Special Conditions will prevail. In any matter on which the Special Conditions do not differ, the General Conditions will be applied in an ancillary capacity.

Elsewhere, non-consumer Customers and the Bank agree that title III, articles 79, paragraph 1, 81, paragraph 3, 86, 88, 89, 90, 93, et 101 of the law of 10th November 2009 relating to payment services is not applicable in their contractual relationship.