

Code authenticator terms and conditions

Terms and conditions

These Terms and Conditions together with the information set out on the Code authenticator application form, form the agreement between the Bank and you the customer named on the Code authenticator application form in relation to your giving the Bank instructions by Secure Email or fax.

1 Definitions and interpretation

The following definitions shall apply to this Agreement:

“Account” means your account(s) held with the Bank to and from which payments are made;

“this Agreement” means the agreement between you and the Bank relating to the Service subject to the terms and conditions hereinafter set out;

“the Bank” means Lloyds bank;

“Business Day” means 9am to 5pm Monday to Friday other than public and bank holidays in England and Wales, unless transacting through one of our branches which opens for shorter hours or we notify you of different times for the processing of payments to and from your Account.

“Micro-Enterprise” means:

- (i) an enterprise which, at the date that you sign the application form for this Agreement, employs fewer than 10 persons and its annual turnover and/or annual balance sheet total does not exceed 2 million euro; or
- (ii) anybody whose annual income, at the date that you sign the application form for this Agreement, is less than £1 million and is:
 - in England and Wales, a charity as defined by section 1(1) of the Charities Act 2006;
 - in Scotland, a charity as defined by section 106 of the Charities and Trustee Investment (Scotland) Act 2005; or
 - in Northern Ireland, a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008.

“instruction” means any kind of instruction or message that may be sent to the Bank by fax using a code authenticator in accordance with this Agreement;

“Lloyds Banking Group” means Lloyds Banking Group plc and its subsidiaries for the time being;

“Secure Email” means an email communication made using PGP data encryption software;

“the Service” means the acceptance by the Bank of instructions from you by Secure Email or fax subject to and in accordance with this Agreement;

“Service Administrator” means an individual appointed by you to be a Service Administrator. A Service Administrator may also be a User;

“User” means an individual authorised by you to generate authentication codes;

“User Guide” means the guide which the Bank provides in support of the Service from time to time and any other guidance or information relating to the Service which the Bank may publish or supply from time to time;

“you” means the person, firm, company or other organisation whose name appears in the Code authenticator application form.

2 Instructions by Secure Email / fax

- 2.1 You will be responsible for the content and accuracy of all instructions issued by you. Instructions for setting up a payment instruction will only be accepted by Secure Email and on completed standard Bank forms available through your relationship team.
- 2.2 You may submit instructions at any time, but save as otherwise specified in these terms and conditions, instructions will only be acted upon by the Bank on Business Days.
- 2.3 You agree that you will not challenge the legal effect, validity or enforceability of any instruction on the basis that such instruction is in electronic form or that the instruction constitutes a breach of this Agreement.

- 2.4 Notwithstanding anything to the contrary in this Agreement express or implied the Bank may decide not to carry out instructions or delay the carrying out of instructions if the Bank in its absolute discretion considers that to do so will assist it to comply with applicable money laundering laws or regulations (in which case the Bank may not be able to inform you of the reasons for its decision) or if it reasonably believes that by following such instructions it would infringe any law or regulation. The Bank will not be liable to you for any loss, damage or expense thereby incurred or sustained.

- 2.5 The Bank reserves the right at any time to suspend the acceptance of instructions for such period or periods as it considers appropriate in its absolute discretion by notice to you if:

2.5.1 suspension is necessary for the purpose of (routine or emergency) maintenance;

2.5.2 for technical reasons acceptance of instructions by Secure Email or fax is not possible;

2.5.3 suspension is necessary if there are reasonable grounds to suspect compromise of security or any unauthorised or fraudulent instructions; or

2.5.4 you breach any of your obligations hereunder.

If the Bank suspends the acceptance of instructions under this Agreement it will tell you as soon as possible unless to do so would compromise the Bank's reasonable security measures or is otherwise unlawful. When the reasons for suspension have ceased to prevail the Bank shall notify you that acceptance of instructions has been resumed and shall take such other action as is appropriate in pursuance thereof.

- 2.6 You will be responsible for the accuracy and completeness of all instructions given to the Bank when submitting instructions to the Bank and shall indemnify the Bank against any claims from third parties for all damages, costs and expenses which may be incurred or sustained by the Bank and arising out of compliance therewith.

- 2.7 The Bank reserves the right to decline to act on any instruction if it considers it to be inaccurate or requires further explanation or to demand additional identification or authentication before acting pursuant to any instruction or message. If in the case of an instruction or message related to setting up a payment the Bank declines a transaction, it will where reasonably possible notify you that the transaction was declined as soon as possible. Subject to any legal or regulatory requirements which may apply, the Bank will tell you why it refused to act on your instructions and declined the transaction. If this was due to you giving incorrect information to the Bank, the Bank will tell you how to put this right.

- 2.8 You acknowledge that processing an instruction is subject to successful receipt thereof by the Bank.

- 2.9 You acknowledge that systems will from time to time be under threat from viruses and other intrusive devices which may have a deleterious effect on their operation. You will be responsible to take all appropriate and necessary measures for the protection of your own systems and equipment from any such intrusion and the Bank shall not be liable for any loss or damage caused thereby.

3 Acceptance of risks associated with Secure Email / faxed instructions

- 3.1 An instruction sent by Secure Email or fax is not as secure a method of giving instructions to the Bank as an original instruction. The possible risks include:

- Forgery of signatures – it is not possible for the Bank to know whether the signature on an instruction is genuine;
- Fraudulent composition or alteration – it may be impossible for the Bank to detect that an instruction has been “cut and pasted”, or altered;
- System failure - the Bank may not be able to receive an instruction sent by you due to system failure or slow running;
- Alteration of headers – it is possible to alter the header of an instruction so that it appears to have come from a source other than the real one;
- Interception or garbling in transmission - a third party may have access to confidential information or the message received may not be the same as the message sent.

- 3.2 When we are assessing whether an instruction was authorised by you:
- 3.2.1 For clients who are not Micro-Enterprises, you agree that Regulation 60 of the Payment Services Regulations 2009 will not apply and that receipt by the Bank of any instruction issued or purporting to be issued to it in accordance with the relevant authentication procedures and which appears to be signed by the relevant authorised signatory or signatories will constitute full and unconditional authority to the Bank to carry out or act upon that instruction and the Bank shall not be bound to enquire as to the authenticity of any such instruction, unless the Bank has received prior notification from you which casts doubt upon its validity.
- 3.2.2 For clients who are Micro-Enterprises, while we cannot necessarily treat the use of the Code Authenticator as sufficient evidence of authorisation in all cases, it is one of the factors that we will take into consideration should you claim that a particular payment transaction was not authorised by you.

- 3.3 In consideration of the Bank agreeing to accept instructions you agree:

- 3.3.1 that the Bank is authorised to accept any instruction which has a valid code (if required) and appears to the Bank to have been given by you in relation to your Account(s);
- 3.3.2 that the Bank does not have to check, by telephone or any other method, that the instruction was in fact properly given, but if in doubt the Bank may (if practicable) contact you before carrying out the instruction and may delay or decline to carry out the instruction without written confirmation;
- 3.3.3 that the Bank will not be responsible for not carrying out instructions which have not been received by the Bank in a legible form;
- 3.3.4 to ensure that the cards and reader(s) are kept secure and are used only by those authorised to do so;
- 3.3.5 that the level of encryption used by the Code authenticator card and reader may be restricted or illegal in jurisdictions outside the United Kingdom. As the Bank is unable to verify the status from time to time of the laws in any particular jurisdiction, it is your responsibility to ensure that any use of the Code authenticator Service outside the United Kingdom is permitted by and complies with the relevant local law; and
- 3.3.6 to use the Code authenticator in accordance with these terms and conditions and the User Guide.

4 Code authenticator

- 4.1 The Code authenticator Services uses a combination of a card, reader and PIN, to produce a unique code to be used on the appropriate payment instruction form before submission to the Bank. The code verifies the originator of the instruction only and does not replace your Bank mandate or Account authority. All instructions must be signed in accordance with this mandate or Account authority.
- 4.2 The types of instructions which require a payment code or those which require a non-payment code are set out in the Code authenticator application as may be varied from time to time by the Bank. When submitting instructions that require a code to the Bank you must include the code on the instruction prior to submission. The sender's username and the date the code was generated must also be included. The Bank will use this information to validate the authenticity of the sender.

The instruction should be submitted to your normal service centre that deals with your Account(s) and any queries relating to the instruction should be directed to them.

The code is only valid for seven days from its generation.

- 4.3 Where an instruction requires a code pursuant to the terms of this agreement, in addition to the signing of the instruction, the User must add the code and other details required in condition 4.2 above on the instruction before submission to the Bank. Unless the instruction is for a payment to be made on a specified future date, once the instruction has been received by the Bank your consent cannot be withdrawn. In the case of an instruction to execute a payment on a future date, you may withdraw your consent to that transaction at any time up to the end of the Business Day before that specified future date.

5 Replacement of cards

- 5.1 If you or any of the authorised Users have lost or misplaced their card or believe that a card is liable to misuse or has been misused, please contact the Helpdesk immediately on 0870 900 2070 so that the card can be cancelled and a replacement issued. If a reader has been lost or misplaced you should contact the Helpdesk so that a replacement can be issued.

6 Service Administrators and Users

- 6.1 You must appoint a Service Administrator.
- 6.2 You are responsible for ensuring that each Service Administrator and User complies with both the Bank's and your security requirements in connection with the use of the Service and these terms and conditions and the User Guide (as relevant to Service Administrators and Users).
- 6.3 All Service Administrators and Users must select a username for use with this Service. It can be the User's actual name, a nickname, employee number or any combination of between six and eighteen alphanumeric characters.
- It should be something easily remembered as it must be provided every time the User contacts the Bank.
- In the event that a selected username proves not to be unique for this Service, the Bank will add a suffix to the chosen username and advise you accordingly.

7 Additional Service Administrators/Users

- 7.1 You may authorise additional Service Administrators using the forms provided by the Bank for this purpose. Requests for new Service Administrators must be authorised in accordance with your Bank Mandate or Account authority.
- Requests for additional Users must be authorised by the use of a non-payment code.

8 Charges and payment

- 8.1 The Service shall be deemed to have commenced and charges (if any) payable with effect from the date of your application.
- 8.2 The charges (if any) payable by you in respect of the Service shall be those published by the Bank from time to time or otherwise agreed between you and the Bank in writing.
- 8.3 The Bank may at any time impose charges or increase the charges for the Service (which shall include the introduction of a new charge) by giving you notice in accordance with condition 10.1.
- 8.4 Charges do not include VAT (which shall be payable by you at the applicable rate in addition to the charges) or any other taxes or duties payable by you in connection with the Service.
- 8.5 Charges payable by you comprise amounts payable in respect of the Service and do not include any charges or other amounts payable in respect of other banking services, whether or not supplied, pursuant to instructions issued via the Service (so far as the same may be applicable).
- 8.6 You will pay the charges to the Bank at the times and otherwise as may be notified to or agreed with you.
- 8.7 In the event that any charges are not paid by the due date for payment then, without prejudice to any other rights of the Bank, interest shall accrue on such amounts at the rate of 8% per annum commencing on the due date and continuing until fully paid whether before or after judgment.
- 8.8 This Agreement shall not affect any right of set-off which the Bank may have against any monies held in any of your Accounts with the Bank.

9 Changes to this Agreement

- 9.1 The Bank will notify you in writing at least two months before it makes any change to this Agreement. You will be deemed to have accepted any such change if you do not notify the Bank to the contrary before the date any such change comes into effect. However if you do not accept any change:
- 9.1.1 you can end this Agreement at any time before the change comes into effect; or
- 9.1.2 the Bank's notice of the change will be deemed to be notice of termination given under condition 16.3 and this Agreement will terminate the day before any change comes into effect.

10 Warranties and indemnities

- 10.1 You warrant to the Bank that you have the power and authority to enter into and perform this Agreement without infringing the rights of any third party.
- 10.2 You warrant and represent that the information provided in your application and any information provided by any Service Administrator is accurate, complete and up to date.
- 10.3 You warrant and represent that you are not a consumer as described by Section 12 of the Unfair Contract Terms Act 1977.

10.4 You agree to indemnify the Bank and keep the Bank indemnified against any actions, claims, demands, costs and expenses arising out of any claim or allegation that material comprised in your instructions or otherwise provided by you infringes any applicable laws, regulations or third party rights including intellectual property rights.

11 Confidentiality

11.1 The Bank will take reasonable precautions to ensure that information related to your business or affairs which become known to the Bank is maintained in confidence and not disclosed to third parties except that nothing herein shall prevent the Bank from disclosing any such information to third parties including its subcontractors, agents or other members of the Lloyds Banking Group where the Bank reasonably considers such disclosure to be necessary in pursuance of the compliance with your instructions submitted to the Bank in pursuance of this Agreement or to comply with any duty or obligation imposed by law, regulation or the order of a court of competent jurisdiction.

12 Limitation of liability

12.1 General

12.1.1 You must notify the Bank as soon as possible after you become aware of any incorrectly executed transaction or any unauthorised transaction on your Account.

12.1.2 You will be liable for all unauthorised transactions on your Account if you have acted fraudulently.

12.1.3 The Bank will not be liable for:

- any losses not directly associated with the incident that may cause you to claim against it whether or not such losses were reasonably foreseeable; nor
- any loss of profits, loss of business, loss of goodwill or any form of special damages.

12.2 Micro-enterprises

The provisions of this condition 12.2 shall apply if you are a Micro-enterprise.

12.2.1 If the Bank fails to execute, or incorrectly executes a payment transaction on your Account, it will refund the payment to your Account unless the payment was received by the payee's bank. The Bank will also refund to you any interest and charges directly incurred by you on your Account that would not have been incurred had the Bank executed the transaction correctly.

12.2.2 Unless the Bank can show that you or an authorised User have acted fraudulently or without all reasonable care in keeping a Code authenticator card and reader safe, in accordance with the Bank's security requirements you will not have to pay anything in respect of the use of a Code authenticator card and reader that:

- are used before you receive them;
- are lost or stolen, provided you tell the Bank as soon as you become aware of such loss or theft.

12.2.3 Unless the Bank can show that you or an authorised User have acted fraudulently you will not have to pay anything in respect of the unauthorised use of the Code authenticator Service.

12.2.4 Unless the Bank can show that you or an authorised User have acted fraudulently or without all reasonable care in keeping a Code authenticator card, reader or PIN safe in accordance with the Bank's security requirements the Bank will refund the amount of any unauthorised transaction and any interest charged in respect of that transaction together with any charges directly incurred on your Account which would not otherwise have been incurred.

Warning: If you or any authorised User have acted fraudulently in connection with the use of the Service or have not taken all reasonable care in keeping a Code authenticator card, reader and PIN safe and in accordance with the Bank's security requirements, you will be responsible for all losses arising out of or in connection with unauthorised transactions.

12.3 Non-Micro-enterprises

Condition 12.2 shall not apply if you are not a Micro-enterprise. Instead this condition 12.3 shall apply, and the Payment Services Regulations 2009 (as amended or replaced from time to time) shall apply only insofar as they are provided for herein.

12.3.1 If the Bank fails to execute, or incorrectly executes a payment transaction on your Account, the Bank shall be liable to you for any reasonable losses incurred by you but only if they arise directly from the Bank's breach of this Agreement or its own negligence, and if in the ordinary course of events and with the knowledge the Bank had, it might reasonably have expected such loss to result directly from such breach or negligence. The Bank's liability pursuant to this condition 12.3.1 shall be limited:

- to the amount of the relevant transaction pursuant to which its breach or negligence occurred; and
- to the amount of any interest and charges directly incurred by you on your Account that would not have been incurred otherwise.

Beyond this the Bank shall have no further liability to you for a failure to execute properly or at all.

12.3.2 The Bank will only be liable to you for unauthorised transactions arising from the use of the Code authenticator Service after you have notified the Bank of the loss or theft of a card or reader.

Warning: If you or any authorised User have acted fraudulently in connection with the use of the Service or have not taken all reasonable care in keeping a Code authenticator card, reader and PIN safe and in accordance with the Bank's security requirements, you will be responsible for all losses arising out of or in connection with unauthorised transactions.

13 Force majeure

13.1 The Bank shall have no liability to you under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by any abnormal or unforeseeable circumstances beyond its reasonable control including (without prejudice to the generality of the foregoing and without limitation) acts of God, expropriation or confiscation of facilities, any form of war, hostilities, rebellion, terrorist activity, local or national emergency, sabotage or riots, and floods, fires, explosions or other catastrophes or natural disasters, compliance with a law or governmental order, rule, regulation or direction, or failure of equipment, software or communications network(s) or other circumstances affecting the supply of goods or services.

14 Sanctions

14.1 The Bank and/or any member of the Lloyds Banking Group may be subject to sanctions and/or embargoes imposed by the international community including the UK, EU, UN and the USA. The Bank may not accept instructions and may refuse to make any payment or take any action pursuant to an instruction if it would result, or in the Bank's reasonable opinion is likely to result, in a breach by it or any member of the Lloyds Banking Group or any of their respective employees of any sanction or embargo whether or not imposed in the UK and the Bank will not be liable for any loss, damage, cost or expense by reason aforesaid. The Bank shall be permitted to disclose to the relevant authorities such information in relation to any instruction and/or payment as may be required.

15 Term and Termination

15.1 This Agreement shall continue in force until terminated as provided in this condition 16.

15.2 The Bank may terminate this Agreement or, at its option, suspend the supply of the Service supplied hereunder forthwith by notice to you, if:

- 15.2.1 you breach any of your obligations; or
- 15.2.2 you use or permit the use of the Service for or in connection with any purpose which is or may be unlawful; or
- 15.2.3 an order is made or a resolution is passed for your winding up, or circumstances arise which entitle a court of competent jurisdiction to make a winding up order in relation to you; or
- 15.2.4 an order is made for the appointment of an administrator to manage your affairs, business and property, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of you, or notice of an intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- 15.2.5 a receiver is appointed of any of your assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of you, or if any other person takes possession of or sells your assets; or

- 15.2.6 you make any arrangement or composition with your creditors, or make an application to a court of competent jurisdiction for the protection of your creditors in any way, or becomes bankrupt; or
- 15.2.7 you take any similar or analogous action in consequence of debt; or
- 15.2.8 in the case of a receipt by the Bank from you of an instruction to make a payment which is to be made subject to a credit line, the Bank reasonably believes there is a significantly increased risk that you may be unable to fulfil your liability to pay.

15.3 Subject to condition 16.2 this Agreement may be terminated at any time by:

- 15.3.1 you giving the Bank not less than one month's written notice; or
- 15.3.2 the Bank giving you not less than two months' written notice.

15.4 In the event that your relationship with the Bank or your Account agreement(s) is/are terminated this Agreement will terminate automatically without further act of the parties.

15.5 On termination of this Agreement for any reason:

- 15.5.1 your right to use the Service shall cease with immediate effect and no further action may be taken by the Bank in respect of any instructions received from you even if received prior to the date of termination;
- 15.5.2 within 7 days of the date of termination, you shall make satisfactory arrangements for the return to the Bank of any materials or items supplied by the Bank to you for use in connection with the Service; and
- 15.5.3 the accrued rights of the parties as at termination, or the continuation after termination of any provision that is intended to apply after termination, shall not be affected or prejudiced.

16 Notices and communications

- 16.1 All notices or other communications to the Bank in respect of the appointment, removal or replacement of Service Administrators and other Users or other matters relating to this Agreement shall be sent to the EBR Team, Lloyds Banking Group, 3rd Floor, Citymark, Edinburgh. EH3 9PE.
- 16.2 Unless otherwise permitted under this Agreement, all notices by you shall be sent by post to or delivered by hand at the relevant address of the Bank. All notices or other communications by the Bank to you shall be sent by post or delivered at your address set out in the application or otherwise notified by you to the Bank and marked for the attention of a Service Administrator or sent by e-mail to a Service Administrator at the relevant e-mail address notified to the Bank. It shall be sufficient for the Bank to have given notice to one Service Administrator even if there is more than one.

16.3 Any notice submitted by post in the UK shall be deemed to have been delivered on the second Business Day after posting and any notice submitted from outside the UK shall be deemed to have been delivered on the eighth Business Day after posting.

16.4 Any notice submitted by e-mail before 4pm on a Business Day shall be deemed to have been delivered on that day but otherwise on the next Business Day.

16.5 All notices or other communications between the parties shall be in the English language.

17 General

17.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

17.2 If any clause or part of this Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable, that provision will to the extent required be severed from this Agreement and this will not affect any other provisions of this Agreement, which shall remain in full force and effect.

17.3 This Agreement and the documents referred to in it, are made for the benefit of the parties to them and their successors and permitted assigns and are not intended to benefit, or be enforceable by, anyone else.

17.4 You shall not assign or transfer any of your rights and obligations under this Agreement without the prior written consent of the Bank. The Bank may assign, transfer or sub-contract all or any of its rights or obligations under this Agreement.

17.5 If there are two or more persons comprised in the expression "you" your undertakings and liabilities shall be joint and several and the reference to "you" shall be deemed to mean any one or more of you.

17.6 If you are a partnership this Agreement shall continue in full force and effect and bind each of the partners notwithstanding any change in the name, style or constitution of the partnership whether by the death or the retirement of a partner or partners or the introduction of a new partner or partners or otherwise.

17.7 This Agreement and any disputes or claims arising out of or in connection with its subject matter (including non-contractual obligations) shall be governed by, construed and take effect in all respects in accordance with the laws of England. The parties irrevocably agree to submit to the non-exclusive jurisdiction of the English courts to settle any dispute or claim that arises out of or in connection with this Agreement (and any non-contractual obligations).

Other information

Help and information

If you have any queries about Code authenticator or require a copy of these Terms and Conditions please contact your relationship team. These Terms and Conditions can also be found on our website at www.lloydsbank.com/business

Our Service promise

We aim to provide the highest level of customer service possible. However if you experience a problem, we will always seek to resolve this as quickly and efficiently as possible. A copy of our 'How to voice your concerns' leaflet can be obtained in branch or by contacting your relationship team. The complaint procedures are also published on our website www.lloydsbank.com/business/contactus

Please contact us if you'd like this in Braille, large print or on audio tape.

We accept calls via Text Relay
Calls may be monitored or recorded in case we need to check we have carried out your instructions correctly and to improve our quality of service.
www.lloydsbank.com/business

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