

Clarien Bank Limited Banking Terms and Conditions



We are Clarien Bank Limited, a bank licensed by the Bermuda Monetary Authority. We are a part of a legacy of financial services excellence that goes back over 60 years. Much of our success comes from providing our customers with an exceptional level of personal service built on trust, honesty, and fairness.

These banking terms and conditions outlines the terms of the business relationship between you, our valued customer and Clarien Bank Limited, as your financial services provider and covers such services as personal accounts (including term deposit accounts), debit cards (but not credit cards), telephone banking and electronic banking services.

In addition to services covered under these banking terms and conditions, Clarien Bank Limited may offer other individual products and services that may have additional terms and conditions and/or different rules that govern your use of those products or services. Individual terms and conditions for such products or services, including but not limited to Internet Banking and credit card services, should be read in conjunction with these general banking terms and conditions.

Please read these terms and conditions and contact us if you have any questions.

Thank you for choosing Clarien Bank Limited.

In exchange for us providing financial services to you, you agree as follows:

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1. Definitions in this Agreement

This section defines important terms used in this Agreement.

“Account” means each account you have with us (including any term deposit accounts) from time to time.

“Activate” means the activation of your card by following the instructions provided to you by the Bank.

“Agreement” means these Bank terms and conditions for the provision of Bank Accounts products or Services, which may be amended by us from time to time.

“Authorised Signatory” means, for each Account, each individual designated and whose signatures have been certified by you to us as a person who is authorised to give instructions or otherwise conduct banking activities on your behalf in accordance with this Agreement.

“Bank” means Clarien Bank Limited which is licensed by the Bermuda Monetary Authority.

“Call Deposit” means a Deposit account where you may make additions, at amounts as set by us from time to time, and withdrawals in accordance with this Agreement.

“Clarien Group” means all entities in which the Bank holds, directly or indirectly, a controlling interest and the Bank’s holding company.

“Confirmation” means a confirmation for each Deposit you make setting out the amount, term, maturity date (if applicable), interest rate and other particulars you have selected relating to the Deposit.

“Debit Card” means each Debit Card or other financial services card that is issued to you (but not any credit cards issued to you) and that is used to identify you and to authorise Transactions on your Accounts, and includes all or any part of a Debit Card number.

“Deposit” means any deposit made with the Bank or its subsidiaries including Call Deposits.

“Delegate” means any individual authorised by an Authorised Signatory (a “Primary Delegate”), or authorised by a Primary Delegate in accordance with your resolution or any person or entity authorised by you in accordance with a written agreement with us, to give instructions or otherwise conduct banking activities on your behalf.

“Digital Reproduction” means any imaged or electronic copy or representation of a cheque or other instrument sent by email, facsimile, computer or by the use of scanned or digital signatures or any other electronic means.

“Dormant Account” means an Account that shows no customer initiated activity (other than entries for charges pursuant to the Fee Schedule or interest credit or debits) for a period of twelve months.

“Electronic Means” includes communications sent by email, facsimile, computer, mobile devices or by the use of scanned or digital signatures or any other electronic means.

“Fee Schedule” means current charges, fees and interest rate schedule provided by us from time to time.

“Fixed Term Deposit” means a term deposit for a fixed period of time.

“Instrument” means any cheque, bill of exchange, promissory note, order for payment of money, security, cash, Deposit, coupon, note, clearing item, other negotiable instrument or items of deposit or withdrawal of a similar nature, and its electronic equivalent, including an electronic debit instruction.

“Instruction(s)” means any verbal or written instruction or instructions provided, or purportedly provided by you, or by your representative, including but not limited to instructions from an Authorised Signatory or Delegate and received by us directly or indirectly, via Electronic Means, telephone or by other communication channel or device, including without limitation instructions received in the form of a Digital Reproduction or through remote banking (with or without a Security Code).

“Joint Account” means any Account owned by you and one other person.

“Mechanical Signature” means a scanned reproduction system, a rubber stamp or a printed endorsement.

“Personal Information” means any personally identifiable information about you, including but not limited to your name, address, contact information, employment or residential status, anticipated Account usage and any Tax Information.

“PIN” means the secure Personal Identification Number selected by you in order to use your debit card.

“Private Banking Customer” means you have qualified as a private banking customer or you have been designated as a private banking customer.

“Records” means any information or record of our customers whether stored physically or stored by electronic means using a data storage device or computer or any other means used to store information or records electronically.

“Security Code” means each access code (whether a combination of letters, numbers or both), password, digital certificate, token or security device, logon user name or other identification or memorable data for your confidential use that confirms your identity, allows you to access your Accounts, authorise Transactions on your Accounts and use remote banking or other Bank products or Services.

“Service” means any and all of the financial and other services that are offered to you, including, but not limited to:

- banking at our branches;
- any loan products;
- Telephone Banking; or
- other services offered through our call centres;
- using a Debit Card at an automated teller machine (ATM) or point of sale/debit card terminal (POS terminal) which we approve for use;
- giving Instructions with a computer or other device (by private or wireless network, the Internet, or similar network when available); and
- any other ways developed to allow you to use a Debit Card or secret codes, such as stored value cards or similar devices when available.

“Statement of Account” means a statement of account of information, including Records, showing Transaction(s) for your Account(s) and includes periodic statements of account prepared and made available to you, a summary of accounts viewed or viewable by you each time you access Internet Banking, a statement sent by us by Electronic Means, and further includes a statement consolidating information for more than one of your Accounts.

“Tax Information” means your tax status in Bermuda or in any jurisdiction outside of Bermuda including but not limited to any relevant citizenship status, any tax residency status, any tax identification numbers and any other information intended to identify you to a local or foreign tax authority, and includes any supporting documentation.

“Telephone Banking” means a service provided by us which allows you to perform certain Transactions related to your Account over the telephone.

“Transaction” means a financial or other arrangement or exchange performed using any Service and includes a request for information about any Account.

“Unclaimed Account” means an Account that shows no customer initiated activity (other than charges pursuant to the Fee Schedule) for a period of thirty six months.

“We”, “our” or “us” means the Bank.

“Website” means our website located at www.clarienbank.com.

“Website User Agreement” means the terms and conditions governing the use of the Website.

“You” and “your” means you and each person (including a company) who has applied for any product or Service and each person’s heirs, executors, administrator’s successors and assigns. This term includes two or more persons who maintain a Joint Account.

References:

References to the singular shall include the plural and vice versa and references to the masculine shall include the feminine and/or neuter and vice versa unless the context requires otherwise; and the headings in this Agreement are inserted for convenience only and shall not affect the construction of this Agreement.

2. Use of Account for Banking

2.1 Use of Account for Banking: You agree to use your Accounts and Services for lawful banking purposes only. You will not use your Accounts or Services for purposes inconsistent with generally accepted community standards of conduct or propriety, including matters engaged in or associated with illegal activities. Improper use of any Accounts or Services entitles us to restrict, suspend or close some or all of your Accounts or restrict or withdraw a Service without notice to you or to place a hold on some or all of your Accounts pending investigation.

2.2 Information guides: We may provide you with updated information guides explaining the procedures for a particular Service. You shall use each Service in accordance with the terms of this Agreement and each information guide. Your use of any Service confirms that you have read and agreed to this Agreement and the applicable information guide.

2.3 Other agreements: This Agreement is in addition to any other agreements you have with us (now or in the future) concerning your Accounts or any Service. If there is a conflict between this Agreement and any of our other agreements, this Agreement will prevail unless the other agreement expressly states otherwise.

2.4 Applications: We can require that you apply in writing or by Electronic Means for an Account or Service. You represent that all information you provide in each such application is complete and true.

2.5 Other products: You acknowledge that some products have their own terms and conditions that are in addition to this Agreement. Your purchase or use of any such product confirms that you agree to its terms and conditions.

2.6 Trust funds: Unless you notify us otherwise in writing, you certify that your Accounts are not being used on behalf of a third party. Regardless of any such notice, if you are holding any funds as a trustee or fiduciary, we are not responsible to ensure that you use the funds in accordance with your trust or fiduciary duties.

3. Disclaimer

Your use of the Website is at your own risk. The Website and its contents are provided on an “as is” basis, and without any representations, warranties or conditions of any kind, whether expressed or implied, and including without limitation implied warranties of merchantability or fitness for a particular purpose, all of which are hereby disclaimed to the fullest extent permitted by law.

4. Use of Website

4.1 You (and not us) assume the entire cost of all necessary servicing, repair or correction to any equipment arising from or connected to your access to the Website.

4.2 Without limiting the above, we do not represent or warrant that:

- (a) The Website or its content will be available or will function without interruption or that they will be free of errors or that any errors will be corrected; or
- (b) your use of the Website, including the browsing and downloading of any content, will be free of viruses, Trojan horses, worms or other destructive or disruptive components; or
- (c) your use of the Website or its contents will not infringe the intellectual property rights or other rights of any third party.

5 Service Charges and Interest

You shall pay our services charges and fees in accordance with our Fee Schedule relating to the operation of your Accounts and the use of Services. Our Fee Schedule is available in our branches and on our website. You authorise us to withdraw fees or service charges from your Accounts. You are subject to our current disclosure statement setting out details of your service charges and fees, which can change from time to time. You are also subject to our details about the rate, payment, and calculation of interest currently applicable to each Account. In addition to service charges and fees relating to the operation of your Accounts and the use of Services, you shall pay, and authorise us to withdraw from your Accounts, all expenses we incur in order to respond to court process, comply with a court order, or address a government or regulatory issued directive affecting or regarding your Accounts, including but not limited to, to expenses for searches and production of documents.

6 Statements of Account and Records: Rights and Responsibilities

6.1 Receipt of Statements: We shall make available to you a Statement of Account for each Account either by ordinary mail to your most recent address appearing on your records, or through Internet Banking, or through such other method as applicable to the Account. It is your responsibility to verify that each Transaction has been properly executed by periodically checking the balance and summary of Transactions on your Accounts on a regular basis. You shall be deemed to have received and reviewed a Statement of Account for the preceding month, quarter or year, whether you actually receive one or not, on the earlier of: the day you actually receive or review a Statement of Account; the day on which you become aware of facts that reasonably put you on enquiry as to the possibility of errors, omissions or irregularities affecting your Account including any fraud or unauthorised activity; or 10 days after you receive your Statement of Account or are deemed to receive your Statement of Account. You shall further be deemed to have received a Statement of Account each time you access Internet Banking for applicable accounts.

6.2 Review of Statements: You agree to examine every Statement of Account as soon as you receive it or are deemed to have received it. You shall immediately and in any event no later than 90 days after receiving or being deemed to have received a Statement of Account, give notice to us of any errors, omissions or irregularities, including any fraud or unauthorised activity, included in or preceding each such Statement of Account. Unless objected to in writing within 90 days of the date on which the Statement of Account is received or is deemed to have been received by you, you agree that our records are conclusive evidence of our dealings with you regarding your Accounts and are correct, complete, authorised and binding upon you, and we will be released from all responsibility for Account activity preceding the Statement of Account pertaining to such errors, omissions, irregularities, fraud or unauthorised activity, including our negligence, (but excluding such due to your gross negligence or wilful misconduct).

6.3 We shall investigate on your behalf any discrepancy, errors, omissions or irregularities, including any fraud or unauthorised activity, you report to us on your Account without charge, however, if we investigate and discover that the discrepancy, errors, omissions or irregularities, including any fraud or unauthorised activity, are as a result of your negligence or wilful misconduct, you shall be charged for such investigation.

6.4 Immediate Notice Requirement: If you become aware of facts that reasonably put you on enquiry as to the possibility of errors, omissions or irregularities affecting your Accounts including any fraud or unauthorised activity, you shall immediately notify the branch of your Account so as to prevent any ongoing fraud or unauthorised activity. If you fail to do so, any preventable subsequent losses shall not be our responsibility.

6.5 Consequence of Breach: In addition to the consequences set out elsewhere, if you fail to abide by our obligations under this section of the Agreement, and if your conduct or omission causes or contributes to a loss on your Account, then you agree that we shall not have any responsibility to you with respect to such loss.

6.6 Records: You agree that our Records communicated to you are, in the absence of clear and compelling evidence to the contrary, conclusive evidence of your dealings with us.

6.7 Admissibility of Records: You will not object to the admission of our Records, including Statements of Account, as evidence in any legal proceeding on the ground that such Records are not originals, are not in writing, are hearsay, or are documents containing information extracted from a computer. In the absence of evidence to the contrary, our Records are conclusive for all purposes, including litigation, in respect of any Instructions given by you to us and any other matter or thing relating to the state of Accounts between you and us in respect of any Transaction.

6.8 Discrepancy of Records: Unless we, in our absolute discretion advise you otherwise, if there is any discrepancy between online information contained in any of the statements you may receive or are deemed to receive from time to time in connection with your Accounts or otherwise, the information contained in the statements will be deemed to be correct and the online information will be deemed to be amended accordingly.

6.9 Returned Mail: Where we have sent you a Statement of Account or other correspondence relating to your Account and it is returned to us as undeliverable, we will attempt to contact you using your Personal Information that we have on file, or from information that is publicly available where possible. If we are unable to make contact with you, we may take any action in relation to your Account we deem appropriate in our sole but reasonable discretion, including but not limited to disclosing your Personal Information in accordance with our legal and regulatory obligations, placing a hold on your Account, classifying your Account as dormant, or closing the Account.

7 Cheques and Other Instruments

7.1 Deposit of Instruments: Unless we receive written Instructions from you to the contrary, you waive presentment, protest and notice of dishonour of all cheques and other Instruments. Instruments that contain a time limit will be honoured up to the expiration of that time limit. Any requests to honour an Instrument beyond that time limit stated on the Instrument will be at the sole discretion of the Bank.

7.2 Our rights: We can note or protest any cheque because of any endorsement other than yours or for any other reason if we, in our discretion, consider it in the best interests of us or you. We will not under any circumstance be liable for failure to or wrongly noting or protesting of any cheque or other Instrument. All Instruments can be forwarded for collection or payment to the payer or to any correspondent who will be deemed your Delegate. We will not be liable for any default or negligence of any correspondent, or for any delays or losses in transit. We can accept a cheque, draft or credit as conditional payment in lieu of cash. We may honour any personal Instrument as long as there are funds in your account where the Instrument is being drawn. If there are no or insufficient funds in that account, the Instrument will not be honoured and we may also charge a fee for the dishonoured Instrument.

7.3 Holds: You agree that we may place a "hold" on funds in any of your Accounts, restricting your right to make a withdrawal:

- when funds on Account are based on any non-cash Instrument, until we receive actual irrevocable payment from the drawee (any credit to your Accounts for any non-cash Instrument before we receive actual irrevocable payment is provisional and subject to reversal); or
- if we become aware of suspicious or possible fraudulent or unauthorised Account activity that may give rise to a claim against or cause a loss to us, an identifiable third party or class, or you;
- where we have requested Personal Information from you further to any legal or regulatory obligations imposed on us, and you fail to provide such information within a reasonable period of time; or
- by relevant regulatory authority or by court order and any such notice in accordance with this section (c) may be without notice or confirmation to you.

7.4 You agree to indemnify us for any expenses or cost (including legal costs) incurred by us arising from the need to place a hold on any of your Accounts. If we place a hold in accordance with this Agreement, we will not be liable for any actual, direct, indirect, special, incidental, consequential or exemplary damages suffered by you as a result of any such hold.

7.5 Charge backs: We can, at any time, charge your Account with any Instrument, whether returned or not, if in our opinion, payment is not likely to be received, or if the payment was induced through fraud or forgery in any way whatsoever.

7.6 Stop Payments: If you wish to stop payment on an Instrument drawn on your Account you may do so by sending a written Instruction to us. You acknowledge and agree that we are not able to stop payment on any Instrument which has already been presented for payment or which has been certified, and that we are not able to reverse any previously requested stop payment if the Instrument has already been dishonoured. You agree that we will not be liable for complying with or failing to comply with a stop payment request, even if such failure is as a result of our negligence.

7.7 Mechanical Signatures: You will not adopt or use any Mechanical Signatures for any Instrument in relation to any of your Accounts. If you use a Mechanical Signature for any Instrument in relation to any of your Accounts, you agree that you are authorised to accept any similar Mechanical Signature as your actual endorsement or signature for any subsequent Instruments transacted on your Accounts (whether or not you have authorised such Mechanical Signature) and you agree to hold and keep us harmless for any Instruments so negotiated.

8 Joint Accounts

This section applies to each joint Account you have with us. Unless you specify to us in writing that you must give Instructions together, any one of you can give Instructions to us with respect to the Account, including Instructions for any of the following as permitted by this Agreement:

- (a) withdraw any portion of the Account;
- (b) sign Cheques on the Account;
- (c) accept Statements of Account, Confirmations, notices and give notice of errors or objections;
- (d) deposit in the Account any Cheque payable to or for the credit of one or more of you;
- (e) accept salaries which form part of or are linked with the Account;
- (f) require us to make payment to one of you alone (if the Account is a term deposit) and such payment by us to any one of you will be a complete discharge of our obligations for that Account;
- (g) add persons as additional joint account holders;
- (h) close the Account; and
- (i) amend the signing authority on the account.

Unless you specify to us otherwise in writing, you have rights of survivorship and all of you assign and transfer the money in the Account including any interest earned to all of you, subject to satisfaction of debts or liabilities owing by the deceased to us immediately prior to death. The money in the Account and all interest earned is your joint property with right of survivorship, so if one of you dies, the Account will automatically become the property of the survivors. The survivors' rights and duties under this Agreement will remain the same including the right to continue to deal with the Account.

9 Deposit Accounts

This section applies to each Account you have with us. We will issue you a Confirmation for each Deposit you make setting out the amount, term, maturity date (if applicable), interest rate and other investment particulars you have selected relating to the Deposit. You agree that the Confirmation is non-negotiable and that neither the Confirmation nor the Deposit is transferable. We may issue

the Confirmation in written form or in electronic form when it becomes available.

9.1 Interest: Interest on each Deposit is not compounded unless stated on the Confirmation.

9.2 Reinvestment: If you have selected a reinvestment option at the time you make a Deposit, we will, unless we notify you otherwise, reinvest the Deposit (and interest if applicable) on the maturity date for the same term as the original Deposit, unless you instruct us otherwise in writing before maturity. The interest rate payable by us on reinvestment will be the rate of interest applicable on the date of renewal as posted in the branch of your Account, and will be calculated and paid in the same manner as the maturing Deposit. You agree that we are not required to renew any Deposit upon maturity. You will not receive any interest for a Deposit after the end of any term unless the Deposit has been renewed at the end of such term. If a Deposit has not been renewed upon maturity, it will be a non-interest bearing demand deposit after the date of maturity.

9.3 Accumulators and Savers: If you have selected a deposit account that requires a fixed regular amount to be paid into that deposit account on a regular basis, you will be required to honour your regular commitment to that deposit account on the date that such commitment is due by way of a standing order via direct debit to another Bank current or savings account (the "servicing account") until the maturity of that deposit. If you have insufficient funds in your servicing account or fail to make the regular commitment, any interest accrued to date on that deposit account will be forfeited. The Bank may permit a break on that deposit account but you will be subject to a penalty fee and loss of interest. The Bank, in its sole discretion, may also close that deposit account. Once the deposit matures the account will default to a non-interest bearing deposit account after the date of the maturity.

9.4 Call Deposits: You may provide instructions to us to hold a Call Deposit. The minimum initial deposit that we will accept is an amount as advised by us from time to time. We may at any time pay you the deposit and accrued interest and close the account. Interest will be calculated on a 365 day year basis from the date of the Deposit or other day year basis from the date of Deposit, if applicable. The interest rate will be a floating rate and we may change the rate from time to time without giving you notice.

9.5 Withdrawal from Call Deposits: The withdrawal of the Call Deposit is subject to the following conditions:

- (a) if at the time of withdrawal there has been an overpayment of interest on the Deposit, we may deduct the overpayment from the Deposit;
- (b) In order to withdraw your Call Deposit, you must give a minimum amount of written notice to us of any withdrawal as set out in the Confirmation and you can only give such notice after the minimum amount of time after you deposited the funds has passed, as set out in the Confirmation;
- (c) a withdrawal must be a minimum amount as set by us from time to time;
- (d) the minimum permitted balance of the Call Deposit is an amount as advised by us from time to time, and you may not reduce the Call Deposit below the minimum permitted balance without the account being closed;
- (e) We may, at our sole discretion, allow for a withdrawal to be taken without the required written notice, provided that any such break will be subject to our standard break charges prevailing at the time;
- (f) where you give notice of withdrawal for any amount, no interest will accrue on that amount after the expiration of the notice of withdrawal;
- (g) we may, at our sole discretion, limit the amount of funds that may be withdrawn from this account during any single calendar month to an amount which will be advised by us from time to time.

9.6 Fixed Term Deposits: You may provide instructions to us to hold a Deposit for a fixed period of time (Fixed Term Deposit), A Fixed Term Deposit must be a minimum amount as advised by us from time to time. We will hold this Fixed Term Deposit at our prevailing rates as set out in the Confirmation. After the Fixed Term Deposit is established you will not be able to make withdrawals or further deposits prior to the maturity date. To terminate the Fixed Term Deposit prior to the maturity date you must provide us with written notice not less than 31 days from the date of termination you specify in your notice. If you terminate your Fixed Term Deposit prior to the maturity date, then you will incur the relevant penalty charges in accordance with our Fee Schedule available on our Website.

9.7 Payment: You agree that payment of principal or interest by us on a Deposit may be done either by crediting another Account of yours or by renewing the Deposit for an additional term (if applicable). You agree that payment made in this manner and in accordance with the Confirmation will fully discharge us of all obligations regarding the Deposit and any accrued interest on the Deposit.

9.8 Security: You agree that nothing contained in this Agreement or the Confirmation will prevent you from granting us a security interest in the Deposit or the Confirmation, nor will anything in this Agreement or the Confirmation diminish our right of set-off or compensation.

10 Account and Banking Service Limits

10.1 Limits: You will not make any withdrawal, transfer, or payment from any Account that exceeds the balances in the Account or the unused balance of an authorised overdraft or line of credit. You acknowledge that we can require you to give seven days' prior notice before you make a withdrawal, redemption, or transfer from any Account.

10.2 Account Charges/Set-off: We can charge to any Account or set-off or compensate as between your Accounts, any of your indebtedness or liabilities to us even if this creates or increases an overdraft you will be liable for any amount charged plus fees as applicable. On demand, you will pay to us the amount of any overdraft plus interest, compounded monthly, plus interest upon interest at our then current rate for such an overdraft. We can collapse any Deposit you have made with us and apply the proceeds, (including accrued interest, if any) to the overdraft, plus interest, owing to us. For joint Accounts, you all agree that the full amount on deposit, or any portion of the amount on deposit, can be applied or set-off to the payment of any indebtedness or liability to us, irrespective of contribution.

10.3 Collateral: All collateral held as security now or subsequently held by us, in respect of any of your indebtedness to us, will also be security for any and all of your indebtedness arising from the use of your Debit Card or any Service, and we can at any time, without notice to you, apply such security to such indebtedness.

10.4 Bank can set limits: At any time we can establish or change dollar or other limits in relation to any particular Service or any particular type of Account, with or without notice to you. For example, we can fix a limit on the amount of cash you can withdraw or transfer from any particular Account, in any one day, using a particular Service. We will not be liable for any loss or damage suffered by you by reason of establishing or changing any limit.

11 Providing Instructions

11.1 Types of Instructions: We can rely upon any Instructions that appear to be given by you, your Delegate or other representative, by telephone (by speaking or by pressing the number pads), fax or Electronic Means, but only if we reasonably believe that the Instructions have come from you, your Delegate or other representative. You authorise us to accept such Instructions, as if you had given signed written Instructions. Any unclear or ambiguous Instructions may be subject to delay.

11.2 Faxed Instructions: You authorise us to accept without any further verification, and you agree to be responsible for such faxed instructions. We agree that what in our reasonable determination appears as your signature on faxed Instructions or documents (whether or not actually signed by you) binds you legally and makes you responsible to the same extent and effect as if you had given original signed Instructions, (except if we have been grossly negligent or acted with wilful misconduct). There are some types of Instructions and documents we will not accept by fax and you understand that we reserve the right to refuse any fax Instructions or documents in our discretion.

11.3 Recordings: You consent to us making an audio recording of any telephone call, or a record of any electronic communication, with us to preserve the context of all Instructions or other information you provide to us and for us to use these recordings for the following purposes: so that we have a record of Instructions and information provided; so that we can meet your financial service needs as may be sought by you; so that we can monitor the service levels of Telephone Banking staff; or so that such record can be used as evidence to protect either you

or us.

11.4 Identity or authority: We are not required to confirm the identity or authority of any person giving us Instructions or using your Debit Card or secret codes to make Transactions. We can at our discretion require proof satisfactory to us at any time of the authority of any person seeking to make Transactions on your behalf (including a person purporting to act on your behalf pursuant to a power of attorney) and may defer acting on such Instructions while we conduct any such searches or investigations as we consider appropriate. We can refuse to accept Instructions from any such person if we are not entirely satisfied with such proof of authority, and in the case of a power of attorney, proof satisfactory to you that the power of attorney has been validly granted and is effective and is being used for a lawful purpose.

12 Liability and Indemnity

12.1 Other than as provided for in this Agreement, we will not under any circumstances be liable to you or anyone else for losses or damages relating to the use of the Website or any Service by you or anyone else, including without limitation:

- (a) loss of use;
- (b) loss of business;
- (c) loss of data;
- (d) loss of profits; and
- (e) third party claims.

12.2 We will not be liable to you or anyone else for any losses or damages suffered as a result of:

- (a) our failure or delay in accepting or processing a Transaction;
- (b) any failure for a Transaction attributable to any third party.

In no event will we be liable to you or anyone else for any losses suffered as a result of the operational failure, malfunction, interruption, change, amendment or withdrawal of a Service.

12.3 We will not be liable for any loss or damage suffered by you or by a third party as a result of us:

- (a) acting on Instructions, even if those Instructions are unauthorised or fraudulent; or
- (b) any failure of or refusal by us to give effect to any Instructions or for any delay in implementing Instructions regardless of the reasons for such failure, refusal or delay, (other than our gross negligence or wilful misconduct).

You acknowledge that it is your responsibility to do everything necessary to ensure maximum security in connection with sending us Instructions. You are responsible to notify us if you believe an error has been made in giving an Instruction.

12.4 We will not be liable to you or anyone else for:

- (a) failure of the internet, or other economic loss due to third party services and telecommunications; or
- (b) any special, indirect or consequential loss;

and such liability is excluded whether it is foreseeable, foreseen, known, or otherwise.

12.5 We will not be liable to you or anyone for your failure to inform in connection with foreign currency purchase tax matters. You agree to hold and keep us harmless against any damage we may suffer as a result of your failure to notify us of a change of employment which impacts your status with regard to foreign currency purchase tax.

12.6 For the avoidance of doubt section 14.1 to section 14.5 apply whether such loss or damage is direct, indirect, consequential, exemplary, punitive or otherwise.

12.7 You agree to indemnify and keep us indemnified and held harmless from and against any loss or damage we may suffer as a result of, Instructions, agreements

and documents for Transactions submitted to us by fax, if we reasonably believe that the Instructions have come from you, your Delegate or other representative.

12.8 You agree to defend, indemnify, hold and keep us and our subsidiary and affiliated companies and each of their shareholders, directors, officers, employees and consultants ("Indemnified Parties") harmless from and against any losses, claims, damages, charges, expenses (including legal and collection expenses) or any other additional costs we may suffer as a result of any action taken by you, or anybody on your behalf, or any improper use caused or contributed, by you, on any of your Accounts or Services. You agree to take all reasonable precautions to prevent or to mitigate fraud or unauthorised use of your Accounts or through use of Services.

13 Transfers into your Account

We will credit funds into your Account on the same business day that we receive them in accordance with our cut-off times. You will have access to those non-cheque funds as soon as possible, however, we may delay, hold or suspend access to some or all of the funds due to be transferred or transferred into your Account subject to our security checks in accordance with relevant interbank agreements, laws, regulations and this Agreement.

14 Transfers from your Account (bill payments, wire transfers, etc.)

14.1 Authorising transfers: You authorise us to make transfers from your Accounts to any other person (including a merchant or other company) designated in accordance with Instructions given through a Service. You understand that the processing of a transfer to another person, for example bill payments, can require 2 or more banking days for completion.

14.2 Bank not liable: We will not be liable for:

- (a) any loss resulting from the fault or negligence of the receiving bank or from delay in making a transfer to another person arising from such fault or negligence; or
- (b) any delay in giving effect to Instructions due to incomplete or inaccurate information provided to us.

14.3 Reversing transfers: After you request a transfer, we might not be able to reverse it. If you request that a transfer be reversed, you will not be credited with the funds until the receiving institution returns the funds. The funds you receive will be less the receiving institution's charges and any other charges made by us.

14.4 Other charges: Unless otherwise required by law, all charges, taxes, duties and tariffs of any kind imposed on a transfer by a receiving institution or government authority, inside or outside Bermuda, are the responsibility of the person remitting or receiving the funds.

15 Foreign Currency Transactions

For any Instructions relating to a foreign currency, using your Debit Card or a transfer from or to your Account, we will convert the funds on Account to the appropriate currency at the standard applicable exchange rate set by us at the time we complete the Transaction and your Account will be charged or credited, as applicable, for the converted amount in the currency of that Account, plus applicable fees and taxes.

16 Holds and Float Periods

16.1 You agree that all non-cash instruments deposited to your Account will be credited subject to us placing a 'hold' on the funds in any Account, restricting your right to withdraw an amount until such time as the instrument has fully cleared as 'cleared funds' through the banking systems and we have received actual and irrevocable payment in connection with that non-cash instrument.

16.2 In accordance with standard banking practices, we may, at our sole discretion, apply different 'hold periods' based amongst other matters, on the country of origin, issuing institution, and clearing systems used to clear the items.

In the case of local Bermuda cheques, a two-day hold will apply in accordance with the *Bermuda Domestic Clearing & Settlement Agreement*.

16.3 Notwithstanding, the expiry of the 'hold period', this does not mean that the item will not be subsequently returned for some other reason. Should a cheque that has been deposited (irrespective of whether the cheque was processed via a 'Special Clearing' process) be returned to us after the funds have cleared, we retain the right to charge the amount of that cheque to your account together with any additional charges, fees or expenses incurred by us.

16.4 You remain financially responsible for items deposited or cashed both before and after the hold period.

16.5 All dishonoured or returned cheques together with any additional expenses, fees and charges incurred as a result of the dishonoured or returned cheque(s) will be debited to the Account without notice and you will be liable, including where relevant, for any overdraft arising from payments made by us against such cheque deposits prior to final settlement by the drawee's bank, if we become aware of any suspicious or fraudulent or other activity deemed to be unauthorised by us, that may give rise to a claim against us, or loss or damage to us, or if any dishonoured cheque or returned cheque will be debited.

16.6 You understand that cheques in most major currencies will be accepted for credit to an Account. These cheques will be converted to the currency of the Account at our prevailing exchange rate on the day of the conversion.

16.7 You further indemnify us for any expenses, fees, charges or additional costs incurred by us arising from the transactions on the Accounts. We further reserve the right to wait for final clearing prior to releasing our hold.

17 Dormant Accounts

For your protection against fraud, in order to keep your Accounts active you should make regular deposits or withdrawals. An Account will be deemed "dormant" after an extended period of no activity which must have been initiated by you (typically after 1 year for chequing, savings and call accounts) and will be subject to special dormant and reactivation fees in accordance with our Fee Schedule. Once the Account is deemed dormant, we will apply more rigorous controls to an Account and any transaction applied to an Account may be declined. Once an Account is deemed dormant, statements may be discontinued. We will not be liable for any additional costs or charges as a result of any delays caused by validating transactions and or reactivating dormant Accounts.

18 Debit Cards

18.1 Application: This Agreement applies to any Debit Card that we supply to you. If we replace any Debit Card, this Agreement also applies to the new Debit Card. [Upon request] we will issue you with a Debit Card in your name. By signing the reverse side, activating and using the Debit Card, you confirm that you have read these terms and conditions, and that you agree to be bound by them.

18.2 Performing transactions: You can use your Debit Card and PIN to perform Transactions through an ATM or POS Terminal or similar device or on the Internet or other electronic medium, including deposits, withdrawals and transfers to and from specified Accounts. You understand we might need to verify any deposit made through your Debit Card before you can withdraw or transfer the money deposited.

18.3 Debit card charges: Foreign Currency Purchase Tax (FCPT) and Foreign Currency Conversion (FCC) will apply to all transactions conducted outside of Bermuda, and these will apply to the cardholder. Other fees may apply. Unless you are using the Debit Card to complete transactions over the telephone, by mail order or with an online merchant, you must either sign a sales or cash advance receipt or enter your pin upon performing transactions with the Debit Card. Failure to sign a sales or cash advance receipt does not relieve you from your obligations to pay the amount due in relation to that transaction. When paying for goods or services using your Bank account number without showing your Debit Card, you assume the same responsibilities as if you had shown your card and signed a sales or cash advance receipt or entered a PIN.

18.4 Bank property: All Debit Cards remain the Bank's property at all times. We reserve the right to cancel any Debit Card without notice. Upon being notified of such cancellation, you agree to return the cancelled Debit Card to us immediately.

18.5 The Bank shall not be responsible for the failure of any merchant or bank to honour your Debit Card.

18.6 Your Debit Card may only be used for legal and legitimate transactions. You agree that you will comply with the Bermuda Exchange Control Regulations at all times.

18.7 Your Debit Card has an expiry date. A new Debit Card will be assigned to you before the expiration date on your Debit Card. You agree not to use your Debit Card after the expiration date, and that any transactions conducted by you using your Debit Card after the expiration date are your sole responsibility.

18.8 We may establish and change daily dollar and transactions limits, from time to time, that shall apply to the use of your Debit Card at ATMs and POS terminals and other various transactions available to you, without prior notice to you.

19 Security and Confidentiality

Our Debit Card and PIN are for your use alone and you will keep them confidential and not reveal them to any person. You agree to keep your PIN confidential and separate from your card at all times, and accept that the security of your PIN is solely your responsibility. You will be responsible for selecting a PIN. You agree to abide by the MasterCard SecureCode terms and conditions (a copy of which may be found on the Bank's website at www.clarienbank.com).

20 Lost or Stolen Debit Cards and Secret Codes

If you know or suspect that your PIN is known by anyone else or if your Debit Card is lost, stolen or misused, you shall notify us immediately by telephone and in writing by contacting any of our branches or by phoning the numbers provided by us from time to time. Currently the main telephone number of the Bank is 441.296.6969.

21 Liability - ATM and POS Terminals

This section applies to losses that occur through an ATM or POS Terminal ("Losses").

21.1 You will be liable for the following Losses:

- (a) Authorised use: Losses that result from use of any Debit Card and/or PIN at an ATM or POS Terminal where you have not been the victim of trickery, force, intimidation or theft. Authorised use includes, but is not limited to, any entry errors, and all fraudulent, worthless or dishonoured deposits you make.
- (b) Unintentional contribution to unauthorised use: Losses which result from you unintentionally contributing to the unauthorised use of a Debit Card or PIN when you do not fully co-operate in any subsequent investigation; and
- (c) Contribution to unauthorised use: Losses that result from you contributing to unauthorised use of your Debit Card or PIN.

21.2 You will be deemed to have contributed to unauthorised use if:

- (a) you voluntarily disclose your PIN to anyone, write it on or near your Debit Card, or keep a poorly disguised written record of it on or near a Debit Card; or
- (b) you fail to notify us within a reasonable time that a Debit Card has been lost or stolen, or that you suspect that your PIN is known by another person; or

21.3 You will not be liable for Losses resulting from circumstances beyond your control, including, but not limited to, Losses occurring in the following circumstances:

- (a) After notification or cancellation: Losses which result from unauthorised use of a Debit Card or a secret code after we have received notification from you that the Debit Card has been lost or stolen or that you suspect the secret code is known by anyone else;

- (b) Co-operation with investigation: Losses which result from unauthorised use of a Debit Card or PIN where you have unintentionally contributed to such use, provided that you fully co-operate in the subsequent investigation; or

- (c) Our errors: Losses resulting from our errors, technical problems or system malfunctions.

21.4 Amount of Liability: The amount of your liability for Losses that occur each day, subject to the above paragraphs in this section 23, reflects the amount of the withdrawal(s) and/or point-of-sale transactions by which the loss occurred, and is limited to the amount of the daily withdrawal limit established by us. This amount can exceed an Account's cash balance if the Account has a line of credit and/or overdraft protection, or is linked with other accounts, or the Transaction is made based on a fraudulent or worthless deposit at an ATM or POS Terminal.

22 Liability - other than ATM/POS Terminals

22.1 This section applies to all losses that occur through any Service (such as Telephone Banking) and that are not covered by the section above ("Other Losses").

22.2 In no event will we ever be liable to you for Other Losses (including without limitation any claims, proceedings, liabilities, obligations, damages, losses, fees (including legal, financial or regulatory fees), penalties and costs, under any theory of law or equity, and regardless of any negligence or other fault or wrongdoing by us or for anyone for whom we are responsible, save that we shall be liable to you for unauthorised transactions on your Account, if such unauthorised transactions were due to our systems and protocols being breached. Our liability will be limited to the unauthorised amounts withdrawn from your Account and any interest lost as a result of such withdrawals. If we later become aware of evidence that shows we are not responsible for the unauthorised transaction on your Account, we will recover all amounts refunded to you, from any of your Accounts with us.

22.3 You shall be liable for Other Losses that occur as a result of authorised or unauthorised use of any Debit Card, PIN or Service, however, we will not be liable for Other Losses that occur after you notify us that your Debit Card has been lost or stolen, that we suspect any of your PIN might be known by anyone else, or that any other unauthorised use of a Service may be occurring.

23 Reversed Transactions

We can refuse to complete or reverse any Transaction if:

- (a) the Transaction is one that cannot be processed by us or cannot be completed for any cause beyond our reasonable control;
- (b) the Transaction exceeds your balance or credit limit;
- (c) the Transaction is a payment to a financial institution or other person that does not accept the Transaction;
- (d) there is an operational failure, malfunction or unavailability of a Service;
- (e) the Transaction involves any Account that we consider inactive;
- (f) the Transaction exceeds an established limit for the applicable Service or is not permitted by the terms of the Services; or
- (g) we do not receive proof satisfactory to us of the authority of a person giving Instructions on your behalf.

24 Payment Screening

24.1 Laws, rules and regulations: The Clarien Group is required to act in accordance with the laws and regulations operating in various jurisdictions which relate to the prevention of money laundering, terrorist financing, the provision of financial and other services to any persons or entities which may be subject to sanctions, and the exchange of Tax Information. We may take, and may instruct other members of Clarien Group (and may be instructed by other members of Clarien Group) to take, any action which we, in our sole and absolute discretion, consider appropriate to take to comply with any such laws and regulations to which we or any other member of Clarien Group is subject. Such

action may include but is not limited to: the interception and investigation of any payment messages and other information or Instructions sent to or by you or on your behalf via our systems or any other member of Clarien Group's systems; making further enquiries as to whether a name which might refer to a sanctioned person or entity actually refers to that person or entity; or whether a person or entity is subject to obligations of disclosure or reporting of Personal Information or Tax Information under legal and regulatory obligations to which we or our subsidiaries are subject.

24.2 Loss as a result of delay: Notwithstanding any provision of this Agreement, neither we nor any member of the Clarien Group will be liable for loss (whether direct, indirect, consequential or loss of profit, data or interest) or damage suffered by any party arising out of:

- (a) any delay or failure by us or any member of the Clarien Group in performing any of its duties under this Agreement or other obligations caused in whole or in part by any steps which we, in our sole and absolute discretion, consider appropriate to take in accordance with all such laws and regulations; or
- (b) the exercise of any of our rights under this section.

24.3 Action: In certain circumstances, the action which we may take may prevent or cause a delay in the processing of certain information. Therefore, neither we nor any member of the Clarien Group warrants that any information on our systems relating to any payment messages and Instructions which are the subject of any action taken pursuant to this section is accurate, current or up-to-date at the time it is accessed, whilst such action is being taken.

24.4 Notification: Subject to the overriding requirements of any applicable laws and regulations, we will endeavour to notify you of the existence of such circumstances as soon as is reasonably practicable.

25 Changes in Service

We can periodically and without prior notice to you change, discontinue or add to any Service and procedures, hours of operation and other attributes of a Service. We will not be liable for any loss or damage suffered by you as a result of any change, discontinuance or addition to any Service, or (subject to this Agreement) the operational failure, malfunction or unavailability of any Service for any reason.

26 Changes to Account Terms and Conditions

In the event that we discover an unacceptable risk to any accounts, we may change the terms and conditions of an Account unilaterally without prior notice to you.

27 Changes to this Agreement

We can change this Agreement periodically and will notify you of a change by, at our option:

- (a) displaying the notice at our branches, or automated teller machines or other locations designated by us for a period of 30 business days; or
- (b) providing written notice of the revised Agreement on your Statement of Account and posting a copy of the revised Agreement on our website for a period of 30 business days prior to its effective date. If you wish, you can also obtain a copy of the revised Agreement at any of our branches. If you make any Transaction or use any Service after the effective date of a change to this Agreement, it will mean that you agree to the terms of the revised Agreement for all Transactions thereafter.

28 Resolving Disputes

28.1 With the Bank: If you have a dispute with us regarding any matter affecting your Account or your use of a Debit Card or Service, you will bring it to the attention of your branch. During the process of resolving a dispute concerning a Debit Card, you will not be unreasonably restricted from the use of the funds that are the subject of the dispute. You shall not initiate any proceedings relating to any dispute arising from this Agreement, or use of your Accounts or Services until

after you provide us with written notice of the nature of the dispute and allow us 30 days, or such other reasonable time given the nature or complexity of the dispute, from the delivery of such notice to us to resolve the dispute to your satisfaction and any proceeding commenced in contravention hereof shall be a nullity.

28.2 With Others: If you purchase goods or services from a merchant using a Service, you must settle any dispute regarding the goods or services directly with the merchant. We are not responsible for any problems with such goods or services. If you have a dispute with a person to whom you send money (for example, a dispute regarding a bill payment, late fees, or interest penalties), you must settle the dispute directly with that person.

29 Cancelling this Agreement or a Service

The terms of this Agreement shall survive the termination or withdrawal of Services and shall continue to apply with respect to determination of responsibility and resolution of all disputes for events, acts or omissions occurring before or circumstances as exist as at the time of the termination or withdrawal. For example, we may subsequently exercise our right of set-off for amounts due or accruing due to us as at the time of termination; use personal information that you have given to us prior to termination; or us or you can refer to and rely on this Agreement in resolution of any dispute.

29.1 By the Bank: We can restrict, withdraw or terminate your right to use any or all Services at any time without prior notice to you. We will have no liability to you for any loss or inconvenience that may result, unless such was caused by our gross negligence or intentional wrongful act.

29.2 By You: You can terminate this Agreement (except as it applies to any Deposit you have made with us) at any time upon written notice to us and effective only when we receive the notice. You can give us notice at any of our branches at which you have an Account, or in any other way permitted by us. If you terminate this Agreement, you will immediately return to us all Debit Cards and other items identified by us as our property.

30 Use of Your Information

30.1 You expressly consent to Clarien's collection of your Personal Information, and agree to provide Clarien with such Personal Information, including where applicable any updated Personal Information in a form we may designate and further to our request, as we may reasonably require to enable us to verify your identity, prevent fraud, provide Services to you, and to comply with our local and international legal and regulatory obligations.

30.2 You warrant that the Personal Information you provide to us is accurate and complete to the best of your knowledge, information and belief.

30.3 You accept that your failure to provide us with accurate and complete Personal Information, including Tax Information, may result in our disclosure of such failure to any governmental or regulatory authorities we reasonably determine to be relevant in accordance with our legal obligations. You further understand and agree that any failure to provide us with accurate and complete Personal Information, or any additional or updated Personal Information, shall entitle us or any Group company as may be applicable, in its sole discretion, until such additional or updated information is provided to us by you, to take such action in relation to any of your Accounts held by you as a beneficial owner, whether solely or jointly with another, as may be reasonably required to fulfil its legal and regulatory obligations, including but not limited to the suspension or closure of any or all of your Accounts.

30.4 By using our Services, you authorize and consent to our disclosure of your Personal Information to other members within the Clarien Group and select third parties, including but not limited to third party vendors, counterparties, custodians, withholding agents, credit reference agencies and other lenders, to provide you with Services. You accept that such disclosure may involve the processing of your Personal Information through third party vendors in foreign jurisdictions. Where we use any third party to process your Personal Information outside of Bermuda, we will require them to protect your Personal Information to the standard of confidentiality and security to which we adhere.

30.5 By using our Services, you authorize and expressly consent to our disclosure of your Personal Information in our files, including but not limited to your Tax Information, to Bermuda or overseas government or regulatory authorities as required by our legal obligations, for the purposes of, but not limited to, proceeds of crime transaction monitoring and reporting obligations, and foreign tax information exchange obligations. You further authorize and consent to us disclosing your Personal Information to counterparties, including but not limited to any correspondent bank(s), as may reasonably be required to provide Services to you.

30.6 You agree that if your Personal or Tax Information changes, you will provide us with updated Personal or Tax Information as soon as practicable, but in any case within 30 days from the date on which the change in information became known to you.

30.7 In consideration of the Bank maintaining your Account(s), you agree to indemnify on a continuing basis, hold harmless, and release the Clarien Group, its shareholders, directors, officers, employees and consultants from any and all claims, liabilities, damages, loss, penalties or expenses arising from the disclosure and reporting of your Personal Information, including but not limited to your Tax Information, in accordance with this Agreement.

For more information about the principles of privacy that we observe, consult our privacy statement, available at our nearest branch or by visiting www.clarienbank.com.

31 Representations

31.1 You hereby represent and warrant to us that you have the requisite authority and capacity i.e. you are at least 18 years of age and in the case of a company Account, that the company has taken all necessary actions, required, to open any Account and to execute, deliver and perform this Agreement and any act hereunder.

31.2 You have taken all necessary steps to execute, deliver and perform this Agreement and other documentation which we require.

31.3 If applicable, you have all necessary exchange control permissions required for any Accounts operated hereunder.

31.4 You undertake at all times to comply with all tax and exchange control laws, regulations and reporting requirements imposed by any applicable jurisdiction, including but not limited to any jurisdiction with which the Government of Bermuda has signed an Intergovernmental agreement, treaty or such other agreement to share tax information or promote transparency in tax matters.

31.5 You agree to notify us immediately of any change of residential or tax status within thirty (30) days from the date that you become aware of such changes in information or status. You also undertake to notify us of any change of employment which may impact your status with respect to foreign currency purchase tax.^{33.6} These representations and warranties are deemed to be made by you at the time of the performance of each and every act that you do in connection with this Agreement.

31.6 These representations and warranties are deemed to be made by you at the time of the performance of each and every act that you do in connection with this Agreement.

32 Jurisdiction

This Agreement and all Services and issues relating to the operation of your Account will be governed exclusively, construed and interpreted by the laws of Bermuda with respect to any action, claim or proceeding and to settle any disputes arising out of or pertaining to this Agreement and you hereby agree to exclusively be bound by the courts of Bermuda.

33 General Terms

33.1 Notices: Except as expressly set forth in this Agreement or requested by us, all notices required to be given under this Agreement will be in writing and communicated by mail (whether postal or email), courier or hand delivery. If by postal mail, the document is deemed received 5 calendar days after posting.

33.2 Severance: If any part of this Agreement is held unenforceable for any reason, the unenforceable portion of this Agreement will not affect the enforceability of the remainder of this Agreement, which will continue in full force and effect as if this Agreement had been executed without the unenforceable portion.

33.3 No Waiver: No waiver by us of any breach of or default under this Agreement shall be deemed to be a waiver of any preceding or subsequent breach or default.



Clarien Bank Limited

Principal Offices and Subsidiaries

Registered Office

25 Reid Street
Hamilton HM 11
Bermuda

Main Branch

19 Reid Street
Hamilton HM 11

Paget Plaza

161 South Road
Paget DV04

Clarien Investments Limited

25 Reid Street
Hamilton HM 11

Clarien Trust Limited

25 Reid Street
Hamilton HM 11

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