

# Terms and Conditions for Payments by Direct Debit under the SEPA Core Direct Debit Scheme

Payments which the customer makes to payees (creditors) by SEPA core direct debit through his/her account with the Bank shall be subject to the following terms and conditions:

## 1. General

### 1.1 Definition

A direct debit is a payment transaction initiated by the payee and debited to the customer's account where the amount of the payment is specified by the payee.

### 1.2 Charges and their changes

#### 1.2.1 Charges for consumers

The charges for direct debits shall be set out in the »List of Prices and Services« (»Preis- und Leistungsverzeichnis«).

Any changes in the charges for direct debit transactions shall be offered to the customer in text form no later than two months before their proposed date of entry into force. If the customer has agreed an electronic communication channel with the Bank within the framework of the business relationship, the changes may also be offered through this channel. The customer may either agree or reject the changes before the proposed date of entry into force.

The changes shall be deemed to have been approved by the customer, unless the customer has indicated disapproval before their proposed date of entry into force. The Bank shall expressly draw the customer's attention to this consequent approval in its offer.

If the customer is offered changes in the charges, the customer may also terminate the business relationship free of charge with immediate effect before the proposed date of entry into force of the changes. The Bank shall expressly draw the customer's attention to this right of termination in its offer.

The amendment of charges for the payment service framework agreement (giro contract) is governed by No. 12 (5) of the General Business Conditions (»Allgemeine Geschäftsbedingungen«).

#### 1.2.2 Charges for customers who are not consumers

Charges for payments by customers and any changes in these shall continue to be governed by No. 12, paragraphs 2–6 of the General Business Conditions.

## 2. SEPA core direct debit

### 2.1 General

#### 2.1.1 Main characteristics of the SEPA core direct debit scheme

The SEPA core direct debit scheme enables the customer to make payments in euros to the payee through the Bank within the Single Euro Payments Area (SEPA). SEPA comprises the countries and territories listed in the Annex. For the execution of payments by SEPA core direct debit

- the payee and the payee's payment service provider must use the SEPA core direct debit scheme and
- the customer must give the SEPA core direct debit mandate to the payee before the payment transaction.

The payee initiates the respective payment transaction by presenting the direct debits to the Bank through his/her payment service provider. If a payment which has been made on the basis of a SEPA core direct debit is authorised, the customer shall be entitled to claim a refund of the amount debited from the Bank. Such claim must be made within eight weeks starting from the date on which the customer's account was debited.

#### 2.1.2 Unique identifiers

The customer must use the IBAN<sup>1</sup> notified to him/her, plus for cross-border payments outside the European Economic Area (EEA)<sup>2</sup> the BIC<sup>3</sup> of the Bank as his/her unique identifier vis-à-vis the payee, since

the Bank is entitled to execute the payment by SEPA core direct debit solely on the basis of the unique identifier provided to it. The Bank and the intermediary institutions involved will execute the payment to the payee using the IBAN, plus for cross-border payments outside the EEA the BIC, indicated by the payee in the direct debit data set as the customer's unique identifier.

#### 2.1.3 Transmission of direct debit data

When SEPA core direct debits are used, the direct debit data may also be forwarded through the message transmission system of the Society for Worldwide Interbank Financial Telecom munications (SWIFT), which is based in Belgium and has operating centres in the European Union, Switzerland and the United States.

### 2.2 SEPA direct debit mandate

#### 2.2.1 Giving the SEPA direct debit mandate

The customer shall give a SEPA direct debit mandate to the payee. With it, the customer authorises the Bank to pay SEPA core direct debits drawn by the payee. The mandate must be given in writing or in the manner agreed with the Bank. This authorisation also includes the express consent that the payment service providers involved in direct debit and any intermediary bodies that may be involved in direct debit can access, process, transmit and store the personal data of the customer necessary for the execution of the direct debit.

The SEPA core direct debit mandate must contain the following statements by the customer:

- a statement authorising the payee to collect payments from the customer's account by SEPA core direct debit and
- a statement instructing the Bank to pay SEPA core direct debits drawn by the payee on the customer's account.

The SEPA core direct debit mandate must contain the following authorisation data:

- identification of the payee
- creditor identifier
- indication of whether the mandate is for a one-off payment or recurrent payment
- name of the customer (if available)
- name of the customer's bank and
- customer's unique identifier (see Section 2.1.2).

The direct debit mandate may contain additional details supplementing the authorisation data.

#### 2.2.2 Collection authorisation (»Einzugsermächtigung«) as a SEPA direct debit mandate

If the customer has given collection authorisation (»Einzugsermächtigung«) to the payee, authorising the payee to collect payments from his/her account by direct debit, the customer thereby instructs the Bank at the same time to pay the direct debits drawn on his/her account by the payee. With the collection authorisation, the customer authorises the Bank to pay direct debits drawn by the payee. This collection authorisation shall be deemed to be a SEPA direct debit mandate. Sentences 1–3 shall apply also to collection authorisation given by the customer prior to the entry into force of these Terms and Conditions. Collection authorisation must contain the following authorisation data:

- name and address of the payee
  - name of the customer and
  - customer's unique identifier in accordance with Section 2.1.2 or account number (»Kontonummer«) and bank code (»Bankleitzahl«).
- Collection authorisation may contain additional details supplementing the authorisation data.

#### 2.2.3 Revocation of the SEPA direct debit mandate

The SEPA direct debit mandate may be revoked by the customer by means of a statement to this effect – if possible, in writing – to the payee or the Bank, with the result that subsequent payment transactions are no longer authorised. If notice of revocation is given to the Bank, it shall

1 IBAN - International Bank Account Number (Internationale Bankkontonummer)  
2 For the member countries, see Appendix.  
3 BIC - Bank Identifier Code (Bank-Identifizierungscode)

take effect from the banking business day, as stated in the »List of Prices and Services«, following the day on which it is received. Notice of revocation should, in addition, be given to the payee so that the payee does not collect any further direct debits.

#### **2.2.4 Limitation and disallowance of SEPA core direct debits**

The customer may separately instruct the Bank to limit or disallow payments under SEPA core direct debits. This instruction must be received by the Bank no later than the end of the banking business day, as stated in the »List of Prices and Services«, before the due date indicated in the direct debit data set. This instruction should, if possible, be given in writing and to the account-keeping branch of the Bank. It should, in addition, be given to the payee.

### **2.3 Collection of the SEPA core direct debit by the payee under the SEPA core direct debit mandate**

(1) The SEPA core direct debit mandate given by the customer shall remain with the payee. The payee shall takeover the authorisation data and enter any additional details in the data set for collection of SEPA core direct debits. The respective direct debit amount shall be specified by the payee.

(2) The payee shall send the data set for collection of the SEPA core direct debit to the Bank (payer bank) electronically through his/her payment service provider. This data set shall also represent the customer's instruction to the Bank in the SEPA direct debit mandate to pay the respective SEPA core direct debit (see Section 2.2.1, sentences 2 and 4 and Section 2.2.2, sentence 2). For delivery of this instruction, the Bank shall waive the form agreed for giving the SEPA direct debit mandate (see Section 2.2.1, sentence 3).

### **2.4 Payment transaction based on the SEPA core direct debit**

#### **2.4.1 Debiting the direct debit amount to the customer's account**

(1) On receipt of SEPA core direct debits drawn by the payee, the payee shall be debited to the customer's account on the due date indicated in the direct debit data set. If the due date is not a banking business day as stated in the »List of Prices and Services«, the account shall be debited on the next bank working day.<sup>4</sup>

(2) The customer's account shall not be debited or a debit entry shall be cancelled no later than the second bank working day<sup>4</sup> after it was made (see Section 2.4.2) if

- the Bank has received notice of revocation of the SEPA direct debit mandate pursuant to Section 2.2.3
- the customer does not have a sufficient credit balance on the account or sufficient credit for payment of the direct debit (lack of funds); the Bank shall not pay partial amounts
- the payer's IBAN indicated in the direct debit data set cannot be assigned to any account held by the customer with the Bank or
- the direct debit cannot be processed by the Bank because the direct debit data set
  - does not contain a creditor identifier or contains one which is evidently wrong to the Bank
  - does not contain a mandate reference
  - does not indicate the date on which the mandate was given or
  - does not indicate the due date.

(3) In addition, the customer's account shall not be debited or a debit entry shall be cancelled no later than the second bank working day after it was made (see Section 2.4.2) if this SEPA core direct debit is countermanded by a separate instruction from the customer pursuant to Section 2.2.4.

#### **2.4.2 Payment of SEPA core direct debits**

SEPA core direct debits are paid if the debit entry in the customer's account has not been cancelled later than the second bank working day after it was made.

#### **2.4.3 Notification of non-execution or cancellation of the debit entry or refusal of payment**

The Bank shall inform the customer without delay, and no later than the time agreed in Section 2.4.4, of non-execution or cancellation of the debit entry (see Section 2.4.1, paragraph 2) or refusal to pay a SEPA core direct debit (see Section 2.4.2). This may be done also through the agreed account information channel. The Bank shall, if possible, state the reasons and indicate ways in which errors that led to the non-exe-

cution, cancellation or refusal can be rectified. For a justified refusal to pay an authorised SEPA core direct debit due to a lack of funds (see Section 2.4.1 paragraph 2, 2nd bullet point), the Bank shall levy the charge set out in the »List of Prices and Services«.

#### **2.4.4 Execution of the payment**

(1) The Bank shall be obligated to ensure that the amount debited by it to the customer's account on the basis of the SEPA core direct debit presented by the payee is received by the payee's payment service provider within the execution period indicated in the »List of Prices and Services« at the latest.

(2) The execution period shall commence on the due date indicated in the direct debit data set. If this date is not a banking business day as stated in the »List of Prices and Services«, the execution period shall commence on the following banking business day.

(3) The Bank shall inform the customer of the execution of the payment through the agreed account information channel and at the agreed frequency.

### **2.5 Customer's entitlement to a refund for an authorised payment**

(1) If a payment which has been made on the basis of a SEPA core direct debit is authorised, the customer shall be entitled to claim a no questions-asked refund of the amount debited from the Bank. Such claim must be made within eight weeks starting from the date on which the customer's account was debited. The Bank shall restore the balance of the customer's account to what it would have been without debiting for the payment. Any claims by the payee against the customer shall not be affected by this.

(2) The entitlement to a refund under paragraph 1 shall be precluded as soon as the amount of the direct debit entry has been expressly authorised by the customer directly to the Bank.

(3) The customer's entitlement to a refund for a non-executed or incorrectly executed authorised payment shall be determined by Section 2.6.2.

### **2.6 Customer's entitlement to a refund, correction and compensation**

#### **2.6.1 Refund for an unauthorised payment**

If a payment is not authorised by the customer, the Bank shall have no claim against the customer for reimbursement of its expenses. It shall be obligated to refund the amount debited to the customer's account to the customer and to restore the balance of this account to what it would have been without debiting for the unauthorised payment. This obligation must be fulfilled no later than the end of the business day in accordance with the »List of Prices and Services« (»Preis- und Leistungsverzeichnis«), which follows the day on which the Bank was notified that the payment is unauthorised or has otherwise been notified to the Bank. If the Bank has informed a competent authority in writing of justified grounds for suspecting any fraudulent conduct on the part of the Customer, the Bank shall examine and fulfil its obligation under sentence 2 without delay if the suspicion of fraud is not confirmed.

#### **2.6.2 Entitlement for non-execution or incorrect or delayed execution of authorised payments**

(1) If an authorised payment is not executed or not executed correctly, the customer may request the Bank to refund the direct debit amount in full without delay insofar as the payment was not executed or executed incorrectly. The Bank shall then restore the balance of the customer's account to what it would have been without debiting for the incorrectly executed payment transaction.

(2) Over and above the entitlement under paragraph 1, the customer may request the Bank to refund the charges and interest levied on him/ her or debited to his/her account in connection with the non-execution or incorrect execution of the payment.

(3) If the direct debit amount is received by the payee's payment service provider only after expiry of the execution period specified in Section 2.4.4 (2) (delay), the payment recipient may demand that his or her payment service provider credit the direct debit amount to the payee's account as if the payment had been properly executed.

(4) If a payment transaction was not executed or not executed correctly, the Bank shall, at the customer's request, make immediate efforts to trace the payment transaction and notify the customer of the outcome.

<sup>4</sup> Bank working days are all working days except Saturdays and 24 and 31 December.

### 2.6.3 Compensation due to neglect of duty

(1) If an authorised payment is not executed, not executed correctly or delayed, or if a payment is unauthorised, the customer may request the Bank to provide compensation for any loss or damage not already covered by Sections 2.6.1 and 2.6.2. This shall not apply if the Bank is not responsible for the neglect of duty. The Bank shall be liable in this connection for any fault on the part of an intermediary institution to the same extent as for any fault on its own part. If the customer has contributed to the occurrence of any loss or damage through culpable conduct, the principles of contributory negligence shall determine the extent to which the Bank and the customer must bear the loss or damage.

(2) Liability under paragraph 1 shall be limited to €12,500. This limitation on liability shall not apply to

- unauthorised payments
- cases of deliberate intent or gross negligence by the Bank
- risks which the Bank has assumed on an exceptional basis and,
- if the customer is a consumer, loss of interest incurred by the customer.

### 2.6.4 Entitlement of customers who are not consumers

By way of derogation from the entitlements under Section 2.6.2 and Section 2.6.3, customers who are not consumers shall only have a claim for compensation in the case of an unauthorised payment that has not been made, is incorrectly or belatedly executed, or in the case of an unauthorised payment – besides any claims for restitution under Sections 667 and 812 ff. of the German Civil Code – in accordance with the following rules:

- If an authorised payment is not executed or executed incorrectly or if a payment is unauthorised, a customer who is not a consumer may request the Bank to provide compensation for any loss or damage incurred as a result. This shall not apply if the Bank is not responsible for the neglect of duty. If the customer has contributed to the occurrence of any loss or damage through culpable conduct, the principles of contributory negligence shall determine the extent to which the Bank and the customer must bear the loss or damage.
- The Bank shall not be liable for any fault on the part of intermediaries. In such cases, the Bank's liability shall be limited to the careful selection and instruction of the first intermediary body.
- The amount of the customer's claim for compensation shall be limited to the amount of the direct debit, plus the charges and interest levied by the Bank. Where claims for consequential loss or damage

are asserted, such claims shall be limited to a maximum of €12,500 per payment. These limitations on liability shall not apply to deliberate intent or gross negligence by the Bank, to risks which the Bank has assumed on an exceptional basis or to unauthorised payments.

### 2.6.5 Preclusion of liability and objection

(1) Any liability by the Bank under Sections 2.6.2 – 2.6.4 shall in the following cases be precluded:

- The Bank proves to the customer that the full amount of the payment reached the payee's payment service provider in due time.
- The payment was executed in conformity with the incorrect unique identifier of the payee provided by the payee. In this case, the customer may, however, request the Bank to make reasonable efforts to recover the amount of the payment. If it is not possible to recover the payment amount in accordance with sentence 2 of this subsection, the Bank shall be obliged to provide the Customer with all available information upon written request so that the Customer can assert a claim for reimbursement of the payment amount. For the activities referred to in sentences 2 and 3 of this subsection, the Bank shall levy the charges set out in the »List of Prices and Services«.

(2) Any claims by the customer under Sections 2.6.1 – 2.6.4 and any objections by the customer against the Bank as a result of non-execution or incorrect execution of payments or as a result of unauthorised payments shall be precluded if the customer fails to inform the Bank thereof within a period of 13 months at the latest after being debited for an unauthorised or incorrectly executed payment. This period shall start to run only once the Bank has informed the customer about the debit entry for the payment through the agreed account information channel no later than one month after the debit entry was made; otherwise the date on which the customer is informed shall determine when the period commences. The customer may assert claims for compensation under Section 2.6.3 also after expiry of the period referred to in sentence 1 if he/she was prevented, through no fault of his/her own, from adhering to this period.

(3) Any claims by the customer shall be precluded if the circumstances substantiating a claim

- are based upon an abnormal and unforeseeable event beyond the control of the Bank and whose consequences could not have been avoided even by exercising due diligence
- or were brought about by the Bank as a result of a statutory obligation.

## Appendix: List of states and regions belonging to SEPA

### Countries belonging to the European Economic Area (EEA)

**Member states of the European Union:** Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France (including French Guiana, Guadeloupe, Martinique, Mayotte, Réunion), Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

**Further countries:** Iceland, Liechtenstein, Norway.

### Other states and regions

Andorra, Guernsey, Isle of Man, Jersey, Monaco, Saint-Pierre and Miquelon, San Marino, Switzerland, Vatican City State.



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