

## Electronic banking conditions

Version 2024

### Article 1: Definitions

- a BMG Channel: Megabank and any other secure online banking system and/or an electronic communication channel provided by the Bank.
- b Channel: a BMG Channel or any secure online banking system and/or electronic communication channel provided by a third party or an interface of the Bank via which PSPs can initiate payment orders and Information requests regarding accounts.
- c Cross-currency transfer: payment transaction with a currency exchange component and value date up to and including spot, between currencies and with minimum and maximum amounts as determined by the Bank.
- d Electronic services: the services rendered by the Bank to the Customer and acquired by the Customer from the Bank, whether or not through the internet, using, among others, Megabank and e-mail.
- e Electronic orders: all orders, instructions and notifications which the Customer sends to the Bank, whether or not through a Channel or the internet, using, among others, Megabank and e-mail.
- f Electronic Banking Conditions: the general terms and conditions contained herein for Bank Mendes Gans Telephone and Electronic services.
- g General Terms and Conditions of the Bank: the General Terms and Conditions, as drafted by the Dutch Banking Association.
- h Information request: a request by a third party PSP providing services to the Customer to disclose information on the Customer's account(s) with the Bank regarding the balance, payment transactions and/or availability of funds for an intended payment transaction.
- i PSP: an institution that provides and executes payment services, also named payment services provider.
- j The Bank: ING Bank N.V., acting under the trade name Bank Mendes Gans.
- k The Customer: the legal entity acquiring services from the Bank.

### Article 2: Applicable conditions

#### 2.1

The **General Terms and Conditions of the Bank** shall apply insofar as the Electronic Banking Conditions or the special terms and conditions (applicable to products) have not expressly provided otherwise.

#### 2.2

The Customer shall be deemed to have accepted the Electronic Banking Conditions when he makes use of the Electronic services for the first time.

### Article 3: System requirements, security and blocking

#### 3.1

- a To the extent required, the Bank will make available security measures, such as a security calculator and/or security code(s) and software, to enable the use of the Electronic services. Unless explicitly indicated otherwise, the information in or provided via the Electronic services does not constitute advice.

- b The Customer is obliged to ensure that up-to-date anti-virus software, anti-spy software, firewall software or any other relevant security tools and/or measures are used to ensure the security of (the access to) the Electronic services. The Bank shall not be liable for any loss and/or damage incurred by the Customer as a result of (i) changes to the software or equipment supplied by the Bank or a third party, (ii) improper functioning of equipment or software belonging to the Customer (iii) failure to act upon instructions of the Bank or (iv) failure to comply with the conditions for implementation, access and use of the Electronic services. To the extent required, the Bank will make available security measures, such as a security calculator and/or security code(s) and software, to enable the use of the Electronic services.
  - c The Customer shall use the security calculator or any other security measures made available by the Bank in accordance with the instructions or information on the use provided by the Bank. A security code or any other secured identification tool provided for by the Bank is strictly personal, and is not transferable. The Customer shall take all measures required by the Bank to keep the security calculator and the security codes connected thereto safe against unauthorized persons. The Customer shall furthermore take any measure to ensure the confidentiality in respect of the security code allotted to him, as against all unauthorized persons. Subject to evidence to the contrary, the fact that a personalized security code and/or any other secured identification tool or measure is used by an unauthorized third party will constitute proof that the Customer has failed to keep or store such items safe and secure and that they were accessible to third parties.
  - d Upon becoming aware of any improper, unauthorized or fraudulent access or use of the Electronic services by a third party, the Customer shall immediately terminate or block such person's access to and use of the Electronic services and shall inform the Bank promptly thereof. If the Customer discovers or suspects a virus, spyware or of any technical incident or other fault linked to the use of his means of access to the Electronic services or of any technical incident or other fault which might jeopardize the security of the Electronic services, the Customer shall promptly inform the Bank, namely through his account- or product manager and shall immediately take all necessary measures to prevent any loss and/or damage. A failure to notify the Bank without due delay constitutes gross negligence of the Customer.
- 3.2
- Upon receipt of a notification mentioned in article 3.1 (d). hereof or at the Bank's own initiative for reasons relating to i) the security of the Electronic services or ii) the suspicion of improper, unauthorized or fraudulent use of the Electronic Services, the Bank reserves the right to block the access to the Electronic services. In case of a blockage by the Bank, the Bank shall, where possible, prior to such blockage, inform the Customer of such blockage and the reasons thereof, unless such communication would compromise objectively justified security or is restricted or prohibited by applicable laws or regulations. The Bank shall unblock the Electronic services once the reasons for blockage no longer exist. The Bank shall not be liable for any loss and/or damage

incurred by the Customer or a third party as a result of the blockage.

### 3.3

The Bank shall inform the Customer in the event of suspected or actual fraud or security threats regarding an Electronic service or security instrument provided by the Bank and used by the Customer, unless such communication would compromise objectively justified security reasons or is restricted or prohibited by applicable laws or regulations.

## Article 4: Refusal and suspension of Electronic orders

### 4.1

- a The Bank may (fully or partially) (i) refuse to execute or forward any Electronic order or Information request or (ii) suspend execution or forwarding of any Electronic order or Information request, if:
- b the Electronic order or Information request is incomplete, incorrect, ambiguous or inaccurate;
- c the Electronic order entails a payment order and the relevant account is blocked or attached;
- d the Electronic order or Information request violates or may violate any applicable laws or regulations or the Bank's internal policy;
- e the Electronic order or Information request is received via a third party PSP and there is any doubt as to the identity or authority of such party or suspicion of unauthorized or fraudulent initiation of the Electronic order or Information request by such party; or
- f there is a suspicion of unauthorized or fraudulent use of a security measure or irregularities related to its security, until it is evident that this suspicion is without grounds.

### 4.2

The Bank will not be liable for any loss and/or damage resulting from the non-execution or non-timely execution of an Electronic order as a result of:

- a refusal or suspension in accordance with article 4.1; or
- b a refusal or suspension of the execution or forwarding of an Electronic order by a third party, which party's services the Bank uses for executing or forwarding the Electronic order, because any of the circumstances mentioned in article 4.1(a) or article 4.1(c) applies mutatis mutandis to such third party.

## Article 5: Unauthorized payment transactions

### 5.1

Until the Customer has notified the Bank, the Customer will bear any loss and/or damage resulting from unauthorized payment transactions that result from the use of a lost or stolen security measure provided by the Bank to the Customer, personalized security credentials of a security measure provided by the Bank to the Customer or any means of access to a BMG Channel or, if the Customer has failed to keep the personalized security credentials safe, from the misappropriation or unauthorized use of a security instrument provided by the Bank to the Customer.

### 5.2

Without prejudice to articles 6.1 and 6.3, when the Bank is responsible for the execution of a payment transaction and has established that such payment transaction has not been authorized by the Customer, the Bank will refund the Customer the amount of such unauthorized payment transaction no later than by the end of the following business day after being notified of the

unauthorized payment transaction. The value date of such refund shall be the date the amount of the unauthorized payment transaction has been debited.

#### 5.3

The Customer shall bear any loss and/or damage relating to any unauthorized payment transaction if incurred by acting fraudulently or by failing to fulfill one or more of its obligations under article 3.1 intentionally or with gross negligence. If so, the Customer shall be liable for any loss, damage, costs and expenses incurred by the Bank as a result thereof or to prevent further loss and/or damage to the Bank or third parties.

#### 5.4

When the Bank demonstrates that the payment transaction has been executed through the use of a security measure provided by the Bank to the Customer, the Customer is deemed to have authorized and consented to the payment transaction.

#### 5.5

The Customer expressly acknowledges and agrees that if the Bank receives a payment order through a Channel initiated without (the use of) a security measure provided by the Bank to the Customer, the Bank may rely that it is issued by authorized persons. The Bank excludes any liability for any such payment transaction claimed to be unauthorized.

### Article 6: Defective execution of payment transactions

#### 6.1

Unless agreed otherwise, the Bank, if responsible for the execution of payment orders or payment transactions, will be liable to the Customer for the correct execution initiated by or on behalf of the

Customer, unless, if relevant, it can prove to the Customer, and where relevant to the beneficiary's payment service provider, that the beneficiary's payment service provider received the amount of the payment transaction.

#### 6.2

If the Bank is liable for the defective execution, it will credit to the relative account the amount of the defectively executed payment transaction without undue delay. The value date of such credit shall be the date the amount of the defective payment transaction has been debited or should have been credited.

#### 6.3

Without prejudice to articles 6.1 and 6.2, the Customer expressly acknowledges and agrees that if the Bank receives a payment order through a Channel initiated without (the use of) a security measure provided by the Bank to the Customer, the Bank has executed the payment order correctly if executed based on the information contained in the received payment order.

### Article 7: Charging principles for payment transactions

When the Bank executes a payment transaction from an account of the Customer held with the Bank to an account held with a payment service provider located in an EEA country, the transaction will be executed by the Bank based on SHA, even if the Customer has opted for OUR or BEN.

### Article 8: Cross-currency transfers

#### 8.1

No valid and binding Cross-currency transfer shall be established if the Customer, cash pool coordinator or a user appointed by the cash pool coordinator

(User) reasonably knew or should have known that a rate or price received from Megabank contains an error or difference. It should be apparent to the Customer, cash pool coordinator or User that a rate or price obtained from Megabank contains an error or difference, such as, but not limited to a Cross-currency transfer at a price (for the Bank and/or the Customer) that in normal market conditions deviates more than 0.2% from the prevailing price in the market as shown on the relevant page of Reuters or the page of another reliable data provider, at the time of the conclusion of the transaction.

#### 8.2

The Customer is obliged to notify the Bank immediately if, at any time before or after a Cross-currency transfer, the Customer, the cash pool coordinator or a User detects a rate, error or difference in respect of any rate or Cross-currency transfer or the operation of Megabank in general that, in its view, is inappropriate.

#### 8.3

Megabank is available for Cross-currency transfers on every business day of the Bank. They can be entered during the following hours:

Time zone: Amsterdam time

Opening hours: 08:30 - 18:30

#### 8.4

The Bank reserves the right to modify the hours during which Megabank is available for Cross-currency transfers.

## Article 9: Instructions and information statements

### 9.1

The Customer shall comply with and act upon the most recent instructions and system, software and other requirements for implementing, accessing and using the Electronic services as stated by the Bank. The Bank shall have full authority to change the said instructions, and shall inform the Customer as soon as reasonably possible about any such changes.

### 9.2

The Customer accepts full responsibility for monitoring all information, records and transaction history and overviews sent by the Bank. The Customer is obliged to verify whether the Electronic services have been executed by the Bank correctly. If the Customer contests any of the information it must inform the Bank immediately. The Customer is deemed to accept the accuracy of the information if the Customer fails to object to the Bank within two months of receipt.

## Article 10: Data about the equipment

### 10.1

The Customer shall ensure the purchase of all the connections, telecommunications equipment, and software that the Bank may prescribe for the Electronic services. The costs associated with the same shall be borne by the Customer, unless otherwise agreed in writing.

### 10.2

The Bank shall have the right to record and use information concerning the goods mentioned in article 10.1, exclusively in connection with the Electronic services.

## Article 11: Liability

### 11.1

Subject to article 11.2, the Bank shall not be liable to the Customer for any loss or damage as a result of, or in relation to:

- a the interruption, inaccessibility or incorrect functioning of the Electronic services, in particular but not limited to the case of unavailability in connection with maintenance of or repairs to a computer system, a technological failure of a computer system, software, servers or telecommunication lines or because the Customer is unable to log in because of problems with the login;
- b theft, damage, destruction or change of data, software, passwords or computer equipment resulting from unlawful access by third parties to the Bank's or the Customer's computer systems, or resulting from a virus originating from a website or from the internet, a computer system or a server belonging to the Bank or the Customer;
- c negligence by a third party or errors made by a third party whose services the Bank uses in connection with the Electronic services;
- d shortcomings in the performance of contractual obligations by third-party suppliers of hardware, services and/or information that the Bank has to rely on for the performance of the Electronic services or for the functioning of the computer hardware that is required for the performance of the Electronic services;
- e any other situation that, in the Bank's opinion, forms a risk for the security or correct functioning of the Electronic services;
- f overburdening of the internet or unavailability of internet communications supplied by third parties;

- g interruption or inaccessibility of the Electronic services due to overburdening of the Bank's own computer systems and networks in the event of unusually high Electronic orders and/or Information requests;
- h mandatory provisions, judgments, directions and measures imposed by an authority, supervisor or court;
- i in general, any failure, error or delay attributable to third parties or any other case of force majeure, including war, terrorism, strikes, riots or disasters;
- j damage caused to the Customer's systems resulting from support by the Bank and/or not complying with instructions given by the Bank in respect of the Electronic Services;
- k access to the Electronic services by unauthorised persons;
- l the Customer not complying with the provisions of article 3; or
- m volatile market conditions, market distortion, the impossibility to obtain a rate or an equivalent value for a Cross-currency transfer, overburdening or unforeseen closure of markets.

### 11.2

The Bank shall only be liable for direct damages, and not for indirect damages, consequential damages and/or loss of profit. Indirect and consequential loss or damage include, but is not limited to, damage to reputation, cost of procuring an equivalent service or product, or loss of profit, business, business opportunity, goodwill, data, anticipated savings, customers and contracts, and regardless whether or not such loss or damage was foreseeable.

## Article 12: Indemnity

The Customer shall indemnify the bank against any direct, indirect and/or

consequential loss, damage, cost and expense (including legal expenses) incurred by the Bank and arising from or in connection with:

- a The Bank becoming involved in a dispute between the Customer and a third party;
- b The collection of amounts owed by the Customer to the Bank;
- c Claims by third parties made against the Bank regarding the Electronic services, unless caused by the gross negligence or willful misconduct of the Bank;
- d Failure by the Customer to comply with the Electronic Banking Conditions;
- e Fraud committed by the Customer or any party that is authorized by the Customer in accordance with article 16 of these Electronic Banking Conditions; and/or
- f Any failure of the Customer to take all required corporate actions for the validity and enforceability of a power of attorney.

### **Article 13: Force Majeure**

The Bank shall not be liable vis-a-vis the Customer for its failure to perform any obligation under these Electronic Banking Conditions if such failure results from any cause beyond the Banks' control including, but not limited to, acts of God, war or acts of terrorism, industrial disputes, strikes, any breakdown or failure of transmission or communication facilities or clearing and settlement organizations, power disruptions, acts, laws or regulations of national or international administrative, civil, or judicial authorities. If a force majeure event occurs, the Bank will take such actions or measures as may be reasonably be required to limit the adverse effects of such event.

### **Article 14: Remuneration**

The Bank shall have the right to raise invoices on the Customer for the Electronic services. The Bank shall notify the Customer about changes in the amount of such remuneration well in time.

### **Article 15: Use of internet and telecommunications services**

The Bank shall not be a party to agreements entered into, or to be entered into at a future date, between the Customer and the internet and telecommunications service providers. All the costs of access and the use of the services to be supplied by the providers shall be borne by the Customer.

### **Article 16: Delivery by a third party**

#### **16.1**

This article 16 shall apply in cases where the Customer sub-contracts the creation and delivery of Electronic orders to third parties.

#### **16.2**

The authorization of such third party for Electronic orders must be notified to the Bank in writing, and the same shall apply to changes and withdrawals of such authorization.

#### **16.3**

The General Terms and Conditions and these Electronic Banking Conditions shall continue to apply in full measure even where Electronic orders are created and delivered by a third party.

#### **15.4**

The third party in question shall only be authorized to send Electronic orders to the Bank after such third party has entered into an agreement with the Bank in this connection.



## Article 17: Channels

### 17.1

If agreed, the Bank shall enable the Customer to use a BMG Channel to submit payment orders to and receive account information from the Bank and third party PSPs.

### 17.2

The Customer can use a third party PSP to submit payment orders and/or receive account information regarding its accounts held with the Bank. The Customer can only use a third party PSP if and to the extent there is an agreement between the Bank and such third party PSPs.

## Article 18: BMG Channels and third party PSPs

### 18.1

This article 18 only applies in case a BMG Channel is used by the Customer to initiate payment orders or receive information with respect to an account held with a third party PSP.

### 18.2

The Bank shall forward payment orders to third party PSPs and/or make available information from third party PSPs provided that:

- a the use of the BMG Channel for these services has been agreed with the Bank;
- b agreements to forward, receive and execute payment orders and information are in place between the Bank and the relevant third party PSPs to facilitate the relevant services;
- c a payment order is given in compliance with the requirements and instructions of the Bank;
- d the account holder has authorized the Customer to add the account holder's account(s) held with a third party PSP

to the BMG Channel, dispose of such account(s), forward payment orders and/or receive information with respect to such account(s); and

- e the account holder has authorized the third party PSP where the account is held to execute payment orders forwarded by the Bank and send information regarding the account to the Bank.

### 18.3

The Customer herewith expressly acknowledges and agrees that the Bank may rely that all authorizations as specified in this article are in full force and effect until the Bank has received written notice to the contrary.

### 18.4

The Customer authorizes the Bank to forward a payment order by entering the required means of authentication and submitting it or otherwise completing the initiation of the payment order.

### 18.5

The Bank shall forward a payment order to the third party PSP upon its receipt.

### 18.6

The Bank shall only be responsible for forwarding the payment order to the third party PSP. The Bank is not liable for conformity of the forwarded payment order with the format standards as specified by the third party PSP. The execution of forwarded payment orders shall be subject to the conditions of the third party PSP and the Bank is not responsible for the execution of those instructions or liable for the actions of such third party PSPs.



18.7

A payment order (to be) forwarded by the Bank cannot be revoked with the Bank. Revocation of a payment order is only possible directly with the third party PSP responsible for the execution of the payment order and subject to its conditions.

## Article 19: Account information

19.1

The Bank will inform the Customer of the payment transactions and the balance on its account, and, if the Customer is so authorized, a third party account with the Bank with the frequency and in the manner as agreed. If agreed, BMG will provide such information through the Channel of the Bank or a third party PSP.

19.2

Upon receipt of a (series of) Information request(s) the Bank shall disclose information regarding the balance and the initiation and execution of payment transactions, and confirm whether the available balance is sufficient for an intended payment transaction, to authorized third party PSPs.

## Article 20: Termination

20.1

The Customer may at any time terminate the Electronic services in writing with one month notice period. The notice period will be calculated from the first day of the calendar month following receipt of such notice of termination. The Bank may at any time terminate the Electronic services in writing with two months' notice period.

20.2

The Bank shall have the right to change, suspend or terminate the Electronic service with immediate effect at any time, without such termination giving rise to any

compensation for damages in connection herewith:

- a if it is unlawful for the Bank to provide the Electronic services;
- b if the Bank has established or reasonably suspects that the Customer uses or used the Electronic services for activities or purposes that i) are contrary to laws or regulations, ii) can harm the Bank's reputation or iii) undermine the integrity of the financial system;
- c in the event of bankruptcy, insolvency, moratorium, statutory debt adjustment, dissolution or liquidation of the Customer or any other analogous proceedings;
- d in case the Customer breaches any of its obligations under article 3; and/or
- e After the termination of the Electronic services, the Customer shall be bound to return all the security equipment and software to the Bank immediately.

20.3

Rights and obligations under these Electronic Banking Conditions which by nature should survive, including, but not limited to, any and all indemnification provisions, will remain in effect after termination or expiration thereof.

## Article 21: Privacy statement

With regard to the obtaining, using and processing of personal data, the Customer acknowledges that the Bank's privacy statement applies. This privacy statement can be found on [www.mendesgans.com](http://www.mendesgans.com).

## Article 22: Megabank copyright

22.1

Megabank is developed by the Bank. All content and the 'look and feel' of Megabank – including trademarks, service marks and logos – are protected by copyright, owned by the Bank or its

licensors. The Customer expressly acknowledges and agrees that it shall not modify, copy, distribute, transmit, display, publish, sell, license, create derivative works or use any website content for any other purposes than for liquidity and information management within the boundaries of its agreements with the Bank.

#### 22.2

All information on Megabank, including but not limited to graphics, text and links to other websites, is provided 'as is', and the Bank may change information from time to time without prior notice. While the Bank strives to always present accurate, complete and up-to-date information on Megabank, errors or omissions may occur.

### Article 23: Applicable law and disputes

#### 23.1

These Electronic Banking Conditions are construed under and governed by Netherlands law and shall apply to any present and future Electronic services, to the extent that the special terms and conditions (applicable to products) have not expressly provided otherwise.

#### 23.2

If the Customer is not satisfied with the Electronic services provided by the Bank, the Customer will first raise any complaints arising for or relating to the use of Electronic services with the Bank, taking into account the complaint procedure of the Bank. Excluding out-of-court complaints and/or redress procedure, disputes between the Bank and the Customer are exclusively submitted to the competent court of Amsterdam. If the Bank acts as a plaintiff, the Bank may

initiate proceedings with another competent court.

### Article 24: Changes in the Electronic Banking Conditions

Changes and additions to these Electronic Banking Conditions shall be binding on the Customer 30 calendar days after publication on Megabank or notification in any other way.