

*Adam & Company*



## **Online Service Agreement**



The terms and conditions of this Agreement apply if We agree that You may use the Service allowing You to operate the Account(s) by accessing Our Website whether via Your Desktop Browser, Your Mobile Browser or the Mobile Banking Application.

This Agreement explains Your and Our rights and responsibilities in respect of the use of the Service. Subject to the specific rights given to Users, You can 'view and provide Instructions' in relation to any Account where We let You make transactions using the Service. For all other Account(s), You can 'read' information relating to the Account(s).

The terms and conditions of this Agreement are in addition to all Existing Account Terms and Conditions. This Agreement relates solely to the provision and operation of the Service and does not otherwise affect the Existing Account Terms and Conditions or other agreements between Us and the Client, each of which will apply. In the event of any conflict between this Agreement and the Existing Account Terms and Conditions, the terms of this Agreement will prevail in so far as the conflict relates to the specific subject matter covered in this Agreement. In all other circumstances, the Existing Account Terms and Conditions will prevail.

Please read the terms of this Agreement carefully as they apply in respect of all use of and transactions undertaken via the Service.

## Definitions

In this Agreement:

**'Account'** means any account held by Us in the Client's name which is enabled for use with the Service and 'Account' also includes any account (including a third party's account) that the Client is appropriately authorised to access using the Service;

**'Administrator'** means (where relevant) the person appointed by the Client to administer and operate the Service on behalf of the Client and for the purposes of this Agreement, an Administrator is also a User;

**'Agreement'** means the agreement between You and Us for the provision of the Service;

**'Business Client'** means, at the time the Agreement is entered into, a business (or the group of businesses of which it forms part) which is not a Micro-Enterprise nor a Small Business Client;

**'Client'** means the person(s), entity or entities (and for example, including a company, partnership, trust or other unincorporated body) who is or are Our customer and with whom We have a contractual agreement to provide banking or investment services;

**'Desktop Browser'** means Your internet browser on Your desktop machine including, but not limited to, PC, MAC, Laptop or Netbook;

**'Existing Account Terms and Conditions'** means the conditions of use or other equivalent terms governing a Client's Account and already provided to a Client;

**'Instruction(s)'** includes any instruction received whether to debit, make transfers, cancel and/or set up regular payments (including standing orders and Direct Debits) or any other transaction permitted by the Service;

**'Micro-Enterprise'** means, at the time the Agreement is entered into, a business (or the group of businesses of which it forms part) employing fewer than 10 persons and whose annual turnover and/or balance sheet total does not exceed €2million, a charity with an annual income of less than €1million or a trust with a net asset value of under €1million. References to Euro include the sterling equivalent;

**'Mobile Browser'** means Your internet browser on Your mobile or other device;

**'Mobile Banking Application'** or **'Application'** means the application which You download onto Your mobile or other device to access the Service (which shall include any updates made available to You from time to time provided You agree to any additional terms and conditions notified to You at the time such update is made available);

**'Online Messaging'** means the online banking mailbox available within the online banking Service;

**'Paperless'** allows Clients to view documentation through their online banking and Clients will not receive paper copies of those documents via post.

**'Security Credentials'** means the codes and/or authentications used to gain access to the Online Service. These are unique to You and should not be shared.

**'Service'** means Our online banking service when accessed using the internet whether via Your Desktop Browser, Your Mobile Browser or the Mobile Banking Application. Full details of our range of services can be found on our website at [www.adambank.com/online](http://www.adambank.com/online). Our services offered to You may vary depending on the type of device you are using;

**'Small Business Client'** means (i) a sole trader, (ii) a partnership consisting of two or three persons, or (iii) an unincorporated body with, in the case of (ii) or (iii), at least one member who is an individual;

**'Third Party'** means the Client's nominated User (if any) who has been granted access to the Account information by the Client and, in respect of a Client who is an individual or a sole trader, where required by Us, has signed the third party application form and provided satisfactory proof of identity;

**‘User’** means (a) where the Client is an individual or a sole trader, the Client and any other persons authorised by the Client to give Instructions on an Account or to access and use the Service on behalf of the Client and (b) where the Client is not an individual or a sole trader, the Administrator and any other persons authorised by the Administrator to give Instructions on an Account or to access and use the Service on behalf of the Client;  
**‘We’, ‘Us’, ‘Our’** means Adam & Company, a business name of The Royal Bank of Scotland plc;  
**‘Website’** means the website for the Service;  
**‘Working Weekday’** means any day between Monday and Friday (inclusive) except UK bank or public holidays;  
**‘You’** and **‘Your’** shall have the meaning set out below in clauses 1.1.1, 1.2 and 1.4.1.

**1. How the Agreement applies to different types of Clients**

**1.1 Private Individuals and/or Sole Traders**

- 1.1.1 If Our Client is a private individual or a sole trader, references to ‘You’ and ‘Your’ mean the Client. If You have a joint Account, references in this Agreement to You include each of You together and separately.
- 1.1.2 You authorise Us to accept and act on Your Instructions (and if You have a joint Account, We will act on the Instructions of any one of You) and to pay to and from the Account(s) the amounts involved when the transaction has been authenticated by the use of the security procedure We require You to follow. We reserve the right to make further reasonable enquiries where We consider such enquiries to be reasonably necessary.
- 1.1.3 If You have a joint Account, all the Account holders must sign the application form for the Service. If a joint Account is to be removed from the Service, any one party to that joint Account can give the Instruction. The Service will not be available for joint Accounts where the authority of all Account holders is required for Instructions on the Account. Also, if We become aware that there is a dispute between You, We may decide to only accept Instructions from both of You acting together.

**1.2 Commercial and other Clients**

If Our Client is a company, references to ‘You’ and ‘Your’ mean the company. If Our Client is a partnership, references to ‘You’ and ‘Your’ mean the partnership and each of the partners of the partnership individually and collectively (details

of whom are set out in the account opening application form). If Our Client is a trust which is not a company, references to ‘You’ and ‘Your’ mean the trust and each of the trustees individually and collectively (details of whom are set out in the account opening application form). If Our Client is an unincorporated body, references to ‘You’ and ‘Your’ mean the unincorporated body and all authorised officers/signatories of the unincorporated body (details of whom are set out in the account opening application form). In each case, references to ‘You’ and ‘Your’ also refer to any User(s).

**1.3. Appointment of Administrators, Users and Authority**

- 1.3.1 Where the Client is not a private individual or a sole trader, We recommend that the Client appoints one or more Administrators to manage the Service.
- 1.3.2 The Client gives the Administrator full power to administer and operate the Service for the Client. In the case of dual administration (which is where the Client requires any act performed by one Administrator to be authorised by another Administrator), those two Administrators must act together. Where dual administration is required, We recommend that the Client appoints a minimum of three Administrators to allow for situations where one Administrator is not available for any reason.
- 1.3.3 Administrators are responsible for:
  - a) authorising, appointing, removing and supervising Users to access and use the Service for the Client. Each Administrator will also be a User;
  - b) allocating the password controls and the levels of authority and access of each User (the Privileges). For the purposes of the Service only, the Privileges are in place of any other mandate or authority held by Us for the operation of the Accounts.
- 1.3.4 We will send to the Administrator any Security Credentials (including smartcards and readers) and information relating to Users and the Service. We will send any personal identification numbers direct to the Users at the nominated address as specified by an Administrator.
- 1.3.5 The Client acknowledges and agrees that We are not responsible for performing any checks on any User.

- 1.3.6 The Client authorises Us to accept and act on the Instructions of a User and to pay to and from the Account the amounts involved when the transaction has been authenticated by the use of the security procedure We require You to follow. We reserve the right to make further reasonable enquiries where We consider such enquiries to be reasonably necessary and until We are able to contact You to verify the Instruction, the Instruction may be delayed or not made.
- 1.3.7 The Client gives the User full power to operate the Service on its behalf. The Client also agrees and acknowledges that it will be responsible for a User's compliance with this Agreement and shall ensure that each User complies at all times (while he/she remains a User with this Agreement) with all applicable laws, rules and regulations in relation to the Service and the Website.
- 1.3.8 The Client must ensure that any Instructions or operations affecting a third party's Account are done with the authority of the third party. Any third party that wants to allow You to access any of its Accounts must complete a third party authority form which You can obtain from Your private banker.

#### 1.4 Third Party access

- 1.4.1 Where the Client has appointed a Third Party, references to 'You' and 'Your' shall also include any such Third Party. The Client agrees and acknowledges that it will be liable for any Third Party's compliance with this Agreement and shall ensure that each Third Party complies at all times (while they remain a User in accordance with this Agreement) with all applicable laws, rules and regulations in relation to the Service and the Website.
- 1.4.2 By entering into this Agreement, the Client authorises Us to act on any Instruction given, or apparently given to Us, by a Third Party through or by use of the Service and the Client confirms that it has (a) satisfied itself as to the standing and trustworthiness of the Third Party and (b) Our checks on the Third Party are purely to establish evidence of identity as required by applicable law and regulation.
- 1.4.3 The terms of this Agreement will apply to a Third Party with full access rights to view

and transact using the Service. Such Third Party will have the right to give Instructions and perform all of the transactions that it is authorised to do under the Third Party mandate.

- 1.4.4 If a Third Party has 'Read Only' access rights, the extent of such Third Party's ability to use the Service will be limited to viewing Account(s) related information only. Any terms of this Agreement that deal with giving Instructions and performing transactions in relation to an Account will not apply to a Third Party with 'Read Only' access rights.
- 1.4.5 Some third party providers might ask You for Your online banking log in details and password to provide their service to You. If You decide to give them this information, this means that they will be able to see and do anything You can on Your Accounts. You must be aware that if You give Your online banking password and log in details to a third party provider, we are not responsible for what they do with Your details or Account information.

## 2. Use of the Service

- 2.1 The Service may only be used by persons aged 18 years or over. Completion of the application form does not allow You an automatic right to access the Service and acceptance for and continued use of the Service is subject to clause 13.4.
- 2.2 Subject to clause 11, You may access the Service via Your Desktop Browser, Your Mobile Browser and the Mobile Banking Application.
- 2.3 You will need access to the internet to use the Service and You will be responsible for any telephone costs and/or charges made by any internet service provider or mobile network operator. We make no guarantees as to the speed, resolution or access to the Service via the internet.
- 2.4 You must exit the Service when leaving Your computer terminal or mobile device unattended and You must take care that only persons authorised by You can operate the Service on Your behalf.
- 2.5 The Client is responsible for all Instructions and transactions carried out by You using the Service and for repayment of any debt on an Account that arises from Your use of the Service.
- 2.6 It is Your responsibility when in countries outside the UK to ensure that the use of the Service is not prohibited by local laws and regulations.

- 2.7 You acknowledge that We will use all reasonable endeavours to provide information relating to the Client's cash deposit accounts and to update it on a 'real-time basis'. There may be some occasions where this is not possible, for example in the event of system failures. Additionally, information relating to mortgage and investment account(s) may also be updated on a daily (or in some cases, less frequent) basis and We do not therefore give any warranty as to the frequency of the updates of the Account information. Please contact Your private banker if You have any questions.
- 2.8 We shall not be held responsible for the accuracy and/or completeness of the Service, the Website and the Account information, which are provided to You on an 'as is' and 'as available' basis at Your sole risk and without representations or warranties of any kind.
- 2.9 We reserve the right to reject the Service user name You have chosen if, in Our reasonable opinion, it is inappropriate for the Service.
- 2.10 Use of the Service does not confer any right on the Client to overdraw on an Account (where relevant) except to the extent of any overdraft facility, which We may have agreed from time to time.
- 3. Security**
- 3.1 We will use all reasonable endeavours to monitor and maintain the security of the Service but, due to the nature of the internet, We cannot guarantee absolute security at all times.
- 3.2 Please note that after initial registration or enrolment We will never contact You, or ask anyone to do so on Our behalf, with a request to disclose Your Security Credentials in full. If You receive any such request from anyone (even if they are using Our name and logo and appear to be genuine) then it is likely to be fraudulent and You must not supply Your Security Credentials to them in any circumstances. You should report any such requests to Us immediately.
- 3.3 Your Security Credentials are used to gain access to the Online Service. The Security Credentials should not be kept together. Your Security Credentials are the Security Credentials You use when accessing the Online Service. Your Security Credentials include any Security Credentials provided to You as part of the Online Service such as Your card reader or any other device as agreed between You and Us.
- 3.4 You must:
- 3.4.1 keep Your Security Credentials safe and take all reasonable precautions to prevent unauthorised or fraudulent use of Your Security Credentials;
- 3.4.2 You must take care that only persons authorised by You can use the Online Service on Your behalf;
- 3.4.3 control and monitor the use of the Service to prevent unauthorised or erroneous Instructions and to minimise the risk of fraud;
- 3.4.4 make no link or other connection between the Service and any third party's website;
- 3.4.5 comply with the rules, procedures and security measures and operate the Security Credentials, as required by Us on the Website and in any material(s);
- 3.4.6 keep secret and confidential the operation and details of the Service, even after termination of this Agreement;
- 3.4.7 use equipment and systems suitable for the Service as specified by the Website;
- 3.4.8 maintain Your own hardware and take appropriate measures to prevent contamination by viruses or similar threats; and
- 3.4.9 back up the Client's data in case of any failure, suspension or withdrawal of the Service.
- 3.5 You must contact the Adam Digital Helpdesk without undue delay by calling 0131 278 0888 if You suspect or believe that:
- 3.5.1 someone who has not been authorised by You knows or has discovered or otherwise obtained access to Your Security Credentials;
- 3.5.2 any Security Credentials are lost, misused or stolen;
- 3.5.3 any security measures may be known to someone who has not been authorised by You other than an Administrator or another User;
- 3.5.4 there has been any unauthorised use of the Service;
- 3.5.5 the Service security measures may no longer be adequate;
- 3.5.6 there has been a failure or delay in Us receiving any Instruction or know or suspect a programming or transmission error, defect or corruption in any Instruction. You will help Us to remedy the problem;

- 3.5.7 any Client related information on the Website is incorrect. If You fail to do so, the Client will be liable for any unauthorised payments on Your Account. The Client will only be liable until You notify Us in accordance with this clause 3.5, however, where You have acted fraudulently, the Client will be liable and will continue to be liable for all losses incurred even after You have notified Us in accordance with this clause 3.5.
- 3.6 You are responsible for the security of any Client data which You download from the Service onto any hardware You may be using.
- 3.7 The Client must use a separate email address for each User.
- 3.8 If We suspect or become aware that Your Account may be subject to fraud or security threats, We will contact You via the contact number We have registered with us. You will be contacted on this number by Our fraud team, Your private banker (during working hours on a Business Day) or a member of Our Adam 24 team (outside of working hours).
- 3.9 Reduced security risks for the Service are achieved through the use of browser based encryption and various security measures described in the Service material and on the Website. We do not guarantee that the Service is free from viruses or other security risks. We will monitor computer security threats and take appropriate action, exercising the care reasonably expected of a bank providing similar services.
- 3.10 The Client will tell Us by telephoning the Adam Digital Helpdesk on 0131 278 0888 or by contacting its private banker if it wishes to change an Administrator.
- 3.11 If information accessed or received through the Service is not intended for the Client, You will:
- 3.11.1 immediately notify Us;
  - 3.11.2 not access the information further and immediately delete it;
  - 3.11.3 keep the information confidential.
- 3.12 We reserve the right to amend access rights or block access to the online service at any time without notifying You if We believe that Your, or a User's or Administrator's security is at risk. You can contact Us at any time to unblock restrictions to the online service.
- 4. Instructions to Us**
- 4.1 We will not accept any Instructions made through the Service, which do not relate to the Service or which require Us to act at a specified time, exchange or other rate or price nor can We take account of any conditions to which an Instruction may be subject.
- 4.2 We will act on any Instruction during the hours of operation on a Working Weekday and in accordance with the cut-off times advised by Us on the Website and/or in any Existing Account Terms and Conditions or otherwise in material provided by Us to You. If a Client makes a payment Instruction in sterling to another account within the UK outside of normal business hours, where the payment can be processed and accepted, the payee's bank may be credited with the funds on the same day.
- 4.3 Instructions can only be cancelled or amended if We have not acted on Your Instruction.
- 4.4 You can also give Instructions through third parties You have authorised to act on Your behalf, for example third party providers (like account aggregator services).
- 4.5 The fact of Our having made any payment in response to an Instruction shall not amount to or be taken as an acknowledgement by Us as to any related receipt of funds or other matter.
- 4.6 Receipt of Instructions by Us is not guaranteed by the use of the Service.
- 4.7 You must ensure all Instructions contain the correct sort code and account number in the UK, or International Bank Account Number (IBAN) and (in some cases) Bank Identifier Code (BIC) for overseas payments, as required by Us. The omission of any of the details required to make a particular payment may result in delay, or loss and We are entitled to charge for the recovery of funds where they are omitted or incorrect payment details are contained in the Instruction. We are not responsible for checking the beneficiary name or other account details. We will not be liable for any losses that You incur as a result of Us processing an Instruction using incorrect payment details supplied by You even where such payment details are ambiguous, incomplete or inaccurate. However, We will try to recover the funds involved on Your behalf. If We refuse to make a payment, unless there is a security or other legal reason not to, We will notify the Client on the Website or through the Client's private banker and, if possible give Our reason for doing so.
- 4.8 Any confirmation that a payment should reach the beneficiary's bank by a certain date is no guarantee that the funds will be available to the beneficiary by that date.
- 4.9 The Client must ensure that any Instructions or operations affecting a third party's accounts are done with the authority of the third party.

- 4.10 We reserve the right to reverse any payment or other step taken in reliance on an Instruction made using the Service when, in Our reasonable opinion, the circumstances so require. Where We reverse any payment or other step taken in reliance on an Instruction made using the Service You can obtain information about the reversal and, if possible Our reasons for the reversal by phoning 0131 278 0888 (from within the UK) or +44 (0)131 278 0888 (from outside the UK) unless a legal reason or other circumstance beyond Our control prevents Us from providing You with this information.
- 4.11 Instructions must be made through the completion of the relevant input screens that form part of the Service.
- 4.12 We can refuse to act or delay acting upon any Instructions received if:
- 4.12.1 We have reasonable grounds for believing that You did not send the Instructions; or
  - 4.12.2 the Instructions are not clear; or
  - 4.12.3 in Our reasonable opinion, the Instructions would create an unarranged overdraft or an excess of an agreed facility; or
  - 4.12.4 in Our opinion, the Instructions are unlawful.
- 4.13 Subject to clauses 4.11 and 11.2, We will endeavour to act on Your Instructions promptly, once received but We will not be liable to You as a result of any refusal to act or delay acting on such Instructions in accordance with those clauses.
- 4.14 Adding additional Accounts to the Service.
- 4.14.1 If You are a private client, all new loan, mortgage, current and deposit accounts that You open with Us in Your sole name will be automatically added to Your online banking profile. We may, at Our discretion, also add any loan, mortgage, current and deposit accounts that You opened in Your sole name before 2 April 2012 to Your profile. You will be able to ask Us to remove any accounts that You do not wish to be included by contacting Your private banker.
  - 4.14.2 If You are a private Client, We may, at Our discretion, add any investment accounts held in Your sole name to Your online banking profile. Again, You will be able to ask Us to remove any accounts that You do not wish to be included by contacting Your private banker.
  - 4.14.3 If You are a private Client, We may also be able to add loan, mortgage, current, deposit and investment accounts held in joint names to Your online banking profile if You ask Us to, and if the other account holders agree.
  - 4.14.4 If You have a commercial banking relationship with Us, You can ask Us to add any additional accounts, including loan, mortgage, current, deposit and investment accounts to Your online banking profile, which We may do at Our discretion.
- 5. Mobile Banking Application**
- Where You access the Service via the Mobile Banking Application on Your mobile device, the following additional conditions and/or restrictions apply: Licence for Adam & Company Mobile Banking Application (the 'Licence')
- 5.1 We hereby grant You a non-assignable, non-transferable, non-exclusive licence to use the Mobile Banking Application subject to the following obligations and/or restrictions:
- 5.1.1 You may only use the Application on one single registered mobile device belonging to You or under Your control. You will need to register separately each additional mobile device or replacement mobile device;
  - 5.1.2 Where the Client is not a private individual or sole trader, the Application will only be available to an Administrator appointed in accordance with clause 1.3 above. The Administrator may then grant access to the Application to other users;
  - 5.1.3 You may only download and use the Application and the material and/or content in the Application (including the intellectual property rights in such material and/or content) for the purpose of receiving the Service and for no other purpose whatsoever;
  - 5.1.4 You must not (and You must not assist or facilitate any third party to) copy, reproduce, distribute, commercially exploit in any way or create derivative works of the whole or any part of the Application or the material and/or content in the Application;
  - 5.1.5 You must not alter or modify, adapt, translate, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the whole or any part of the Application;

- 5.1.6 You must not remove or tamper with any copyright notice attached to or contained within the Application and You acknowledge and agree that as between Us and You all rights including all present and future copyright, trademarks, and all other intellectual property rights, in the Application and all materials and/or content made available as part of Your use of this Application or the Service shall remain at all times vested in Us or our licensors;
- 5.1.7 On any termination of the Licence or the Service all rights granted to You in connection with the Application shall immediately cease;
- 5.1.8 You must uninstall Our Application from Your mobile device if You change Your mobile device or dispose of it;
- 5.1.9 If You have not used the Application for 12 months, Your Account may be deactivated and You will have to re-register to use Our Application again.
- 5.2 You will be deemed to have accepted the terms of the Licence by installing the Application on any mobile device.
- 5.3 The Licence shall commence upon Your acceptance of the Licence or when You install the Application (whichever is first) and shall continue until terminated in accordance with the following clause or otherwise in accordance with the Licence.
- 5.4 The Licence will terminate automatically if the Service is cancelled or terminated for any reason. In addition, We may terminate the Licence with immediate effect if You fail to comply with any term or condition of the Licence.
- 5.5 Upon termination or cancellation of the Licence for any reason whatsoever You must uninstall the Application and destroy all copies of the Application including components of it in Your possession.
- 5.6 We will use reasonable skill and care to verify the accuracy of any information on or available through the Application but We cannot guarantee the accuracy of the contents available through the Application. Neither can We guarantee the availability of the Application or that it will be timely or error-free, that defects will be corrected, or that the Application or the server that makes it available are free of viruses or bugs.
- 5.7 Other than where the Client is an individual using the Service outside his trade, business or profession We exclude all representations, guarantees and warranties of any kind (whether express or implied) in connection with the Application to the fullest extent permitted under applicable law.
- 5.8 You are free to cancel the Licence at any time and/or uninstall the Application at any time. Details on how to cancel the Application can be found at [adambank.com/mobile](http://adambank.com/mobile).
- 5.9 Further details on how to register and use the Application can be found at [adambank.com/mobile](http://adambank.com/mobile).
- 6. Online Messaging/Chat**  
Where You access the Services and make use of Online Messaging/Chat, the following additional conditions and/or restrictions apply:
- 6.1 You must not use Online Messaging/Chat to request or instruct payments to be made.
- 6.2 You must not use Online Messaging/Chat for time-critical or time-limited messages (eg time-critical stock exchange or payment orders, blocking of credit cards or other services).
- 6.3 Each message shall be deemed received when the message becomes retrievable in the addressee's mailbox.
- 6.4 You may be granted the option to temporarily save individual messages in an archive folder with a memory that is restricted in time and size. You must not use this option to fulfil any legal archiving obligation.
- 6.5 In the event that You request Us to cancel or modify any instruction for whatever reason, We will make all reasonable efforts to comply with Your request. We are not liable for any failure to cancel or modify the Instruction if processing has already commenced, or if We are otherwise unable reasonably to comply with the request.
- 7. Charges**
- 7.1 The Client will pay the fees and charges which apply when You use the Service or any part of it. Current charges will be displayed on the Website.
- 7.2 Any charges will be debited to the Account used for the Instruction or applied to the Account specified by the Client for charging purposes.
- 7.3 We may apply all amounts due to an Account of the Client with Us, even if it causes the Account to be overdrawn or exceed any limit.
- 7.4 Your mobile network operator may charge You when using Your mobile device to access the Service. These charges may vary if You use Your mobile device abroad.



## 8. Confidentiality

- 8.1 We will take reasonable care to maintain the confidentiality of Your information. You authorise Us to provide third parties with information We believe is necessary, where We engage a third party (a 'third party supplier') in connection with the Service, or to carry out an Instruction.
- 8.2 To carry out an Instruction, We may be required to transfer personal information to third party suppliers. This may mean personal information is transferred to countries which do not provide the same level of protection for personal information as the UK. By giving an Instruction, You agree to this and confirm that You are authorised to instruct Us to transfer personal information relating to others. Information transferred to third party suppliers may subsequently be accessed and used by law enforcement agencies and other authorities to prevent and detect crime and comply with legal obligations.

## 9. Liability

- 9.1 We shall not be liable for any loss arising from any cause beyond Our control or arising from any of the following, unless caused by Our or Our third party suppliers' negligence, fraud or wilful default:
- 9.1.1 unauthorised access to any confidential information accessible via the Service, Your Security Credentials and Your mobile device;
- 9.1.2 disruptions to the Service;
- 9.1.3 any malfunction of Your equipment or the provision of services from Your internet service provider;
- 9.1.4 if You have failed to take appropriate measures to prevent contamination of Your equipment by viruses or similar threats; or
- 9.1.5 security related information or advice provided by Us.
- 9.2 If an unauthorised payment has been taken from Your account via the Service You should notify Us as soon as possible and:
- 9.2.1 if You are a private individual/personal Client, You will be liable up to a maximum of £35/ not be liable for any losses incurred in respect of unauthorised payments from Your Account (including any charges and interest lost or paid as a result of the payment being taken). However You will be liable for all such losses incurred where You have:
- a) acted fraudulently;
- b) allowed someone to use Your Security Credentials (except where necessary for

any third party provider You ask to provide You with Account information or payment services);

- c) intentionally or with gross negligence failed to use or keep safe and confidential Your security details in accordance with the Agreement, and the payment was not made from an overdrawn balance; or
- d) intentionally or with gross negligence failed to tell Us without undue delay as soon as You became aware that Your security details were lost or stolen or that an unauthorised payment was taken from Your Account, and the payment was not made from an overdrawn balance.

If You acted fraudulently, We will not refund the payment. In the other two cases listed above, We will only refund any unauthorised payments which happen after You notify Us. We will refund unauthorised payments no later than the next business day including any charges and interest lost or paid. If We discover that You were not entitled to a refund, We can take the payment back from Your Account and charge any interest or charges You owe for making the payment. If You were not able to detect the misuse of Your Security Credentials prior to the payment, or if the unauthorised payment was Our fault, You will not be liable for any loss.

- 9.2.2 If You are a Micro-Enterprise and/or Small Business Client, You will be liable up to a maximum of £35 for any losses incurred in respect of unauthorised payments from Your Account (including any charges and interest lost or paid as a result of the payment being taken. However You will be liable for all such losses incurred where You have:
- a) acted fraudulently;
- b) allowed someone to use Your Security Credentials (except where necessary for any third party provider You ask to provide You with Account information or payment services);
- c) intentionally or with gross negligence failed to use or keep safe and confidential Your security details in accordance with the Agreement, and for a Small Business Client, the payment was not made from an overdraft facility of £25,000 or less; or

d) intentionally or with gross negligence failed to tell Us without undue delay as soon as You became aware that Your security details were lost or stolen or that an unauthorised payment was taken from Your Account and, for a Small Business Client, the payment was not made from an overdraft facility of £25,000 or less.

If You acted fraudulently, We will not refund the payment. In the other two cases listed above, We will only refund any unauthorised payments which happen after You notify Us. We will refund unauthorised payments no later than the next business day including any charges and interest lost or paid. If We discover that You were not entitled to a refund, We can take the payment back from Your Account and charge any interest or charges You owe for making the payment. If You were not able to detect the misuse of Your Security Credentials prior to the payment, or if the unauthorised payment was Our fault, You will not be liable for any loss.

- 9.2.3 If You are a private individual, a Micro-Enterprise or a Small Business Client, then, unless You have acted fraudulently, You shall not be liable for any losses incurred as a result of an unauthorised payment from Your Account:
- i) which arises after You have notified Us in accordance with General Condition 3.5.1;
  - ii) where We have not, at any time, provided You with the appropriate means to make notification under General Condition 3.5.1;
  - iii) for payments made over the telephone or Internet (or any other payments where the user of the card or security details does not have to be physically present); or
  - iv) which arises from the misuse of Your card or Security Credentials before You have received them.

- 9.2.4 If You are a Business Client:
- a) We are not liable for any loss or damage suffered (including any indirect or consequential loss such as loss or compromise of data, reputational loss, loss of business, loss of revenue, goodwill or anticipated savings), except where caused by Our or Our third party suppliers' negligence, wilful default or fraud; and

- b) You are liable for all costs (including the costs of taking legal and other professional advice), expenses, losses, liabilities, damages or claims incurred or suffered by Us arising from or in connection with Our provision, and Your misuse (or misuse by anyone authorised by You), of the Service, where there is no negligence, wilful default or fraud by Us or Our third party suppliers;
- c) If You fail to notify Us through the Adam Digital Helpdesk that You suspect or believe that Your information on the Service is incorrect You will be liable for any unauthorised payments until You notify Us. Where You have acted fraudulently, You will be liable (and will continue to be liable) for all losses incurred even after You have notified Us. If You were not able to detect the misuse of Your Security Credentials prior to the payment, or if the unauthorised payment was Our fault, You will not be liable for any loss.

## 10. Call and message recording

- 10.1 Telephone calls and electronic messages to Us may be monitored and recorded for security purposes and to maintain and improve Our Service.

## 11. Availability of the Service

- 11.1 While We will make reasonable efforts to provide the Service, We do not guarantee the availability of the Service. We will not be liable for any failure to provide the Service, in part or full, for any cause that is beyond Our reasonable control nor due to any suspension of the Service resulting from maintenance and upgrades to Our systems or the systems of any party used to provide the Service.
- 11.2 You acknowledge that, due to the nature of the internet and electronic communication, there is a risk that communications may not operate free from error or interruption. We shall not be liable to You:
- 11.2.1 in the event of any error or interruption in communications;
  - 11.2.2 for any losses or delays in the transmission of Instructions to the Service caused by any internet service provider; or
  - 11.2.3 for any breaches of security of the Service beyond Our reasonable control; or
  - 11.2.4 for any indirect loss You may suffer as a result of using or seeking to use the internet to access the Service (eg Your inability to fund a purchase because the Application is not available).

**12. Maintenance**

12.1 In order to maintain the Service We may need to archive historic statements, messages (including any opened and unopened messages contained within Online Messaging regardless of which folder they are in) and any other necessary data, seven years from the date of creation.

**13. Variation and Termination**

- 13.1 The Client may terminate this Agreement by writing to its private banker. The notification will only be effective once it is received by Us. If You have any queries regarding the Service or this Agreement You can call Our Digital Helpdesk on 0131 278 0888.
- 13.2 We reserve the right to change the Service from time to time and use of the Service at any time. Any variation to the terms of the Agreement or termination of the Agreement will (subject to clauses 13.5 and 13.6) only take place after We have notified You through the Service, giving You at least two months' prior notice.
- 13.3 If We make a variation to the terms of this Agreement under clause 13.2 and You do not wish to accept any proposed change, You may end this Agreement at any time before the date specified for the change to take effect. If You do so, You and any Third Party that You have authorised will no longer be able to access the Service. There will be no charge for this. If You do not tell Us that You want to end this Agreement before the date the change is due to take effect, then You will be deemed to have accepted the change and it will take effect automatically.
- 13.4 We may suspend, withdraw or restrict access to your Account or to the use of the Service or any part of the Service where:
  - a) We have reasonable grounds to suspect that Your Security Credentials have not been kept safe; or
  - b) We have reasonable grounds to suspect unauthorised or fraudulent use of Your Security Credentials; or
  - c) as a result of a change in the way You operate an Account or in the Client's financial circumstances, We have reasonable grounds to believe that the Client may have difficulty in meeting its commitments; or
  - d) We consider it appropriate for the Client's protection; or
  - e) We reasonably believe that continuing to provide access to Your account or to certain services would mean that We breach a law or regulation that We must comply with.

Unless We are unable to contact You or there is a legal reason or other circumstances beyond Our control preventing Us from doing so, We will notify You before taking this action and provide Our reasons for doing so. If We are unable to contact You beforehand, where possible We will notify You and give Our reasons as soon as possible afterwards.

- 13.5 We may terminate the Service with immediate effect, or suspend or limit Your use of the Service if:
  - 13.5.1 You breach this Agreement;
  - 13.5.2 the Client proposes a voluntary arrangement with its creditors;
  - 13.5.3 there is any resolution or petition for liquidation or insolvency proceedings are commenced, in relation to the Client in any jurisdiction, except as part of a re-organisation agreed by Us;
  - 13.5.4 any security is enforced or a receiver or similar official is appointed in respect of any of the assets of the Client;
  - 13.5.5 there is an application or petition for an administration order, or notice is given to any person of intention to appoint an administrator, or an administrator or similar official is appointed, in relation to the Client.
- 13.6 Access to the Service will terminate automatically if the Account on which the Service is set up is closed unless the Client nominates an alternative Account.
- 13.7 On termination of the Service:
  - 13.7.1 We may act on Instructions received before the date of termination;
  - 13.7.2 You will within 14 days, return to Us any Service material used to access the Service (if requested by Us).
- 13.8 Termination of the Service will not affect any rights of the Client or Us accrued to the date of termination.

**14. Transfers**

- 14.1 We may give to anyone any information about the Client or the Service in connection with any proposed transfer of, or financial arrangement by reference to, the Service. We may allow any person to take over any of Our rights and duties under this Agreement. References to Us in this Agreement include Our successors.
- 14.2 The Client may not transfer the benefit of this Agreement.

**15. Waiver**

If We waive any of Our rights under this Agreement, it does not mean We will waive that right in the future.

**16. Severability**

If any of the terms in this Agreement are determined to be unlawful or unenforceable, this Agreement will be severed from the remaining terms which will continue in full effect.

**17. Entire Agreement**

- 17.1 This Agreement forms the entire agreement between the parties in relation to the Service. To the maximum extent permitted by law, all implied terms in relation to Your use of the Service are excluded.
- 17.2 Except as set out in this Agreement, the parties do not have any rights against each other in relation to, and have not relied on, any oral or written representation, warranty or collateral contract made before the parties entered into this Agreement. Nothing in this Agreement excludes liability for fraudulent misrepresentation, death or personal injury.

**18. Communications**

- 18.1 All notices and other communications relating to this Agreement must be in writing.
- 18.2 We may deliver a notice or communication to the Client by the Website, at the contact details last known to Us (or, where relevant, at the Client's registered office).
- 18.3 A notice or communication by Us will be effective at the time a message is posted on the Website; at the time of personal delivery; on the second Working Weekday after posting; or, if by fax, at the time of sending, if sent before 6.00pm on a Working Weekday, or otherwise on the next Working Weekday.
- 18.4 A notice from the Client to Us must be addressed to the Client's private banker and will be effective on receipt.
- 18.5 As part of the Service You can choose to select paperless statements. If You choose paperless statements, You will no longer receive paper statements by post.
  - 18.5.1 If You select paperless statements, no statements will be sent via post to that statement address and You accept that any joint Account holder, Administrator or Third Party with access to Your Account who currently receive paper statements for that address will no longer receive paper statements.

18.5.2 If You select paperless statements, any parties You have given authority to on Your Account including any Third Party, will not be notified that paper statements have been turned off.

18.5.3 If You cancel 'the Service', You will automatically start to receive paper statements.

18.5.4 If Your name, address, telephone number or email address changes, You must notify Us. If You notify Us by telephone, We may ask You to confirm the change in writing.

18.5.5 You can receive alerts by email or SMS notifying You when Your statement is available to view online. You should ensure that these alerts are switched on so that You receive the reminder that Your statement is ready to view.

18.5.6 You accept that as part of the Service, We recommend that You log onto Your online banking monthly to access Your statements and any notifications or information in relation to the Service.

**19. Applicable law**

If the Client's address is in Scotland, this Agreement shall be construed in accordance with Scots law. English law will apply if Your address is elsewhere. The English Courts have jurisdiction where English law applies and the Scottish Courts exclusive jurisdiction where Scots law applies.

**20. Your information**

- 20.1 If You contact Us electronically, We may collect Your electronic identifier (e.g. Internet Protocol (IP) address or telephone number) supplied by Your service provider.
- 20.2 Please note that We will use Your information in accordance with the clause headed 'Your information' which forms part of the terms and conditions of Your existing agreement with us. If You require a copy of that clause, please ask Your private banker.
- 20.3 The Service, the Website and the Service material are the property of Us and Our suppliers and are protected by copyright and other intellectual property rights. We grant You a non-transferable licence to use the Service while this Agreement is in full force and effect.

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Financial Conduct Authority and the Prudential Regulation Authority.

Calls may be recorded.

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