

# BACSTEL-IP SERVICES CUSTOMER TERMS AND CONDITIONS – DIRECT SUBMITTER

## 1. Introduction

These Terms and Conditions together with the Bacstel-IP Direct Submitter Customer Application Form and the PKI Terms and Conditions (including the PKI Application Form) will constitute the terms and conditions between You and the Bank for the provision of Bacstel IP Services (the “Bacstel-IP Services Customer Terms and Conditions”).

These Bacstel-IP Services Customer Terms and Conditions supplement the Bank’s General Terms and Conditions - Corporate Banking. Any defined terms used in these Bacstel-IP Services Customer Terms and Conditions will have the same meaning given in the General Terms unless stated otherwise. In the case of any conflict between the conditions set out in the General Terms and those in the Bacstel-IP Services Customer Terms and Conditions, then the terms of these Bacstel-IP Services Customer Terms and Conditions shall prevail in relation to the provision of Bacstel-IP Services only.

These Bacstel-IP Services Customer Terms and Conditions have been provided to You on the basis that you are a

Corporate Opt-Out Customer (as explained in a separate letter which has been sent to you). If you believe that You are not in fact a Corporate Opt-Out Customer, or if you have any queries in relation to the corporate opt-out, You should contact the Bank.

## 2. Interpretation

2.1 In these terms and conditions:

2.1.1 **“Access Code”** means the access code associated with a Contact ID as issued by Bacs to the relevant Contact in connection with the use of ASM by that Contact or as subsequently changed by Bacs (whether at its own instigation or at the request of the Bank or the Contact’s Primary Security Contact) or the Contact himself as contemplated by these Bacstel IP Services Customer Terms and Conditions and the Customer Service User Guide;

2.1.2 **“Additional Contact”** means a person (who is not a Primary Security Contact) appointed by You as a Service User who is permitted to access and use the Bacs System via Bacstel-IP (either using a PKI

Service or ASM) on Your behalf and to whom a Contact ID and an Access Code have been issued by Bacs;

2.1.3 **“Applicable Requirement”** means any law, statute, regulation, order, rule, guidance, voluntary code or standard applicable to You (including, without limitation, all import and export controls and requirements);

2.1.4 **“ASM” or “Alternative Security Method”** means an alternative security method available from Bacs within Bacstel-IP which uses a combination of Contact IDs and Access Codes;

2.1.5 **“Authorised User”** means any Person (including an individual) nominated as such by You as stated in the Bacstel-IP Direct Submitter Customer Application Form or Supplementary Security Contact Details Form;

2.1.6 **“Bacs”** means Bacs Limited or, as the context may require, Bacs Payment Schemes Limited, and includes any entity which succeeds in whole or in part to the rights, obligations, functions and responsibilities ascribed to or contemplated as applicable to Bacs

	Limited or Bacs Payment Schemes Limited (as the case may be);		Participation in Bacs Approved Software Service;		customer of such a Person;
2.1.7	<b>"Bacs Approved Software"</b> means any software which is at the relevant time approved by Bacs under the Bacs Approved Software Service;	2.1.9	<b>"Bacs Confidential Information"</b> means all information of Bacs or any Member (including the Bank) which is disclosed or made available to You in connection with or for the purposes of Bacstel-IP and which:	(e)	information relating to the operation, internal management, structure, personnel, policies or business strategies of Bacs, the Bank, any Member or Bacstel-IP; and
2.1.8	<b>"Bacs Approved Software Service"</b> means the process whereby Bacs assesses and evaluates:		(a) is by its nature confidential;	(f)	computer object or source codes and related documentation;
	(a) the capability of suppliers' software to generate Bacstel-IP Transmissions which would effect a payment from or to an account held by You or any of Your Group Companies with the Bank to Bacs using the PKI Service; and		(b) is designated as confidential by the party who discloses it or to whom it relates; or	2.1.10	<b>"Bacs Payment Instruction"</b> has the meaning given to it in clause 3.2.2;
	(b) the software's ability to interface, and be interoperable, with Bacstel-IP and the Bacs payment clearing system,		(c) You know or ought reasonably to know is confidential,	2.1.11	<b>"Bacs System"</b> means the system relating to the automated clearing and settlement of payments between Members or, as the context may require, the processes and all that is comprised in them for the clearing of payments between Members in relation to that system, as administered and operated by Bacs;
	on the terms and subject to the conditions of the Agreement for		including (without limitation):	2.1.12	<b>"Bacstel-IP"</b> means the mechanism and processes adopted by Bacs to enable a user of the Bacs System, by using a public key infrastructure service provided by a Member or (in
			(d) information relating to any customer of the Bank or any Member, any Person to whom the Bank or any Member provides a PKI Service (or an alternative public key infrastructure service as the case may be) or ASM, or any		

the case of (d) and (e) only) by either using a PKI Service or ASM:

(a) to authenticate and sign payment messages submitted to the Bacs System and to validate, confirm receipt and report on the processing of such payment messages;

(b) to authenticate and sign certain other instructions, messages, files and other communications transmitted to the Bacs System, including (without limitation) any such communication which allows access to, or changes to be made to, the Reference Database;

(c) to sign certain instructions, messages, files and other communications transmitted by the Bacs System (which may be authenticated by the recipients);

(d) to monitor and retrieve reports on the processing of payment messages; and

(e) to gain access to, or to make changes to, the Reference Database;

2.1.13 **“Bacstel-IP Direct Submitter Customer Application Form”** means the form of that name to be completed by You to which these Bacstel-IP Services Customer Terms and Conditions apply or any additional or other form that the Bank may decide to use as appropriate in relation to the provision of the Bacstel-IP Services to You;

2.1.14 **“Bacstel-IP Materials”** means all documents, information and other materials (excluding any software) provided or made available to You or Your Personnel at any time by or on behalf of the Bank or Bacs in connection with the implementation and operation of Bacstel-IP, including (without limitation) the Service User Guide - Bacstel-IP;

2.1.15 **“Bacstel-IP Services”** means the services the Bank provides to You to enable You as a Service User to

access via Bacstel-IP and use the Bacs System, including (without limitation) a PKI Service;

2.1.16 **“Bacstel-IP Services: Extract from the Minutes of a Meeting of the Directors of the Customer”** means the document of that name being a constituent part of the Bacstel-IP Direct Submitter Customer Application Form;

2.1.17 **“Bacstel-IP Transmission”** means an instruction, message, file or other communication which is transmitted in electronic form by a Member or a Service User to Bacs or by Bacs to a Member or a Service User, via Bacstel-IP in connection with the Bacs System, including (without limitation) any such communication which allows access to, or changes to be made to, the Reference Database;

2.1.18 **“Bank”** means Danske Bank A/S, London Branch, acting through its office at 75 King William Street, London EC4N 7DT, and its successors and assigns;

2.1.19 **“Business Day”** means a day (other than Saturdays, Sundays or bank or public holidays) on which the Bank is open for business in England to

	provide services of the kind contemplated in these Bacstel-IP Services Customer Terms and Conditions and also on which the Bacs System is fully open and operational;	2.1.25	<b>"Digital Signature"</b> has the meaning given to it in the PKI Terms and Conditions;		associates, subsidiary companies of any such holding company, for the time being.
2.1.20	<b>"Certification Authority"</b> has the meaning given to it in the PKI Terms and Conditions;	2.1.26	<b>"Digital Transmission"</b> has the meaning given to it in the PKI Terms and Conditions;	2.1.31	<b>"IdenTrust"</b> means IdenTrust, Inc., a corporation established in the state of Delaware, USA, operating digital integrity or identity validation services (the <b>"IdenTrust Service"</b> );
2.1.21	<b>"Contact"</b> means each Primary Security Contact and any Additional Contact appointed by You as a Service User;	2.1.27	<b>"DPA"</b> means the Data Protection Act 1998;	2.1.32	<b>"IdenTrust Participant"</b> means an entity that has entered into an agreement with IdenTrust for the provision of the IdenTrust Service, or an entity that offers the IdenTrust Service;
2.1.22	<b>"Contact ID"</b> means the unique reference contact ID issued by Bacs for each Contact;	2.1.28	<b>"General Terms"</b> means the Bank's General Terms and Conditions – Corporate Banking (Corporate Opt-Out Terms) as amended from time to time;	2.1.33	<b>"Insolvency Event"</b> means in relation to You (or in relation to any of Your Group Companies, which will also be included in the terms "You" or "Your" for the purposes of this clause 2.1.33), any of the following:
2.1.23	<b>"Customer Service User Guide"</b> means the document(s) (by whatever name called) issued by the Bank to You setting out the Bank's requirements for providing Bacs support, including but not limited to the Service User Guide - Bacstel-IP;	2.1.29	<b>"Good Response"</b> means a response that indicates that the Digital Certificate in question:		(a) that You are unable or admit You are unable to pay Your debts as they fall due within the meaning of section 123 of the Insolvency Act 1986 (the <b>"Act"</b> ) [other than by reason of the service of a written demand pursuant to section 123(1)(a) of the
2.1.24	<b>"Digital Certificate"</b> means an electronic attestation which links a Public Key to the person for whom the corresponding Private Key was generated and confirms the identity of that person;		(a) was issued by or on behalf of the Bank; and		
			(b) is valid, and has not expired, been revoked or suspended, and is not unknown;		
		2.1.30	<b>"Group Companies"</b> means, in relation to a party, that company or other body corporate and all of its associates, subsidiary companies and holding companies and all other		

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|     | Act where You contest such demand in good faith);   |      | within 28 days unless and for so long as the same is being contested in good faith;  |       | or arrangement with any of Your creditors; or  |
| (b) | an order is made by a court of competent jurisdiction, or a resolution is passed, for Your winding up;  | (f)  | any legal proceedings or other procedure or step is taken in relation to:  | (iii) | a liquidator is appointed (other than in respect of a solvent liquidation of Your business or undertaking), or a provisional liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer is appointed in respect of or over all or a material part of Your undertaking or assets; or |
| (c) | the presentation of a petition for Your winding up where such petition is not restrained from being advertised or is not dismissed within 28 days of its presentation;  | (i)  | a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise), other than a solvent liquidation or reorganisation, in relation to Your business; |       |  |
| (d) | any individual comprising the Service User has a petition for a bankruptcy order presented against him or her;  |      |  |       |  |
| (e) | a seizure order, order appointing a receiver, attachment, sequestration, execution or other legal process is levied or enforced against all or a material part of Your property or assets and is not fully paid or discharged | (ii) | a composition, assignment  |       |  |

- (g) if any event analogous to (a) to (f) of this definition shall occur in any other jurisdiction to which You are subject;
- 2.1.34 **"Intellectual Property Rights"** means all intellectual property rights in any part of the world and shall include (without limitation) patents (including, without limitation, supplementary protection certificates), utility models, rights in inventions, registered and unregistered trade and service marks, rights in business and trade names and get-up, rights in domain names, registered designs, unregistered rights in designs, copyrights and neighbouring rights, database rights, rights in trade secrets, know how and other confidential information, and in each case rights of a similar or corresponding character and all applications and rights to apply for or for the protection of any of the foregoing;
- 2.1.35 **"Member"** means any institution which is a member of the Bacs System from time to time;
- 2.1.36 **"Person"** means (but is not limited to) any company, corporation, firm, partnership, joint venture,
- association, organisation, institution, trust or agency, whether or not having a separate legal personality, but excluding any individual except as expressly stated in these Bacstel-IP Services Customer Terms and Conditions;
- 2.1.37 **"Personnel"** means any of Your agents, contractors and employees, or those of the Bank, or any of Your Authorised Users, as the context requires;
- 2.1.38 **"PKI Application Form"** means the form of that name to be completed by You to which the PKI Terms and Conditions apply;
- 2.1.39 **"PKI Service"** means the public key infrastructure service (consisting of a certification authority, registration authority and certificate validation authority that in combination are able to issue, manage and certify digital certificates to enable the authentication and encryption of digital communications) provided to You by or on behalf of the Bank;
- 2.1.40 **"PKI Terms and Conditions"** means the document of that name which applies to the PKI Application Form and which forms a constituent part
- of these Bacstel-IP Services Customer Terms and Conditions;
- 2.1.41 **"Primary Security Contact"** means each or all (as the context requires) of the Persons appointed by You as a Service User:
- (a) who is authorised or permitted (as appropriate) to access via Bacstel-IP and use the Bacs System (either using a PKI Service or ASM) on Your behalf;
- (b) to whom a Contact ID and an Access Code have been issued by Bacs; and
- (c) who is authorised by You to perform certain functions including (without limitation) to set up and maintain Additional Contacts;
- 2.1.42 **"Private Key"** has the meaning given to it in the PKI Terms and Conditions;
- 2.1.43 **"Public Key"** has the meaning given to it in the PKI Terms and Conditions;

- 2.1.44 **"Reference Database"** means the database held by Bacs which records details input by Bacs. You and the Bank, as the case may be, about You, including (without limitation) the levels of authorisation and permission in relation to Bacstel-IP Transmissions submitted to Bacs by You as part of Bacstel-IP;
- 2.1.45 **"Service User"** means You once You have agreed to be bound by these Bacstel-IP Services Customer Terms and Conditions and You have been granted the authority and the relevant permissions to enable You to be registered as a service user on the Bacs System or (as the context may require) any Person who is registered as a service user on the Bacs System;
- 2.1.46 **"Service User Guide - Bacstel-IP"** means the document entitled "Service User Guide - Bacstel-IP", as such is amended from time to time;
- 2.1.47 **"Settlement Account"** has the meaning given to in clause 3.2.3;
- 2.1.48 **"Sign"** means the use of a Person's Private Key and associated Digital Certificate to create a Digital Signature on or for a Bacstel-IP Transmission, and **"Signed"** and **"Signing"** shall be construed accordingly;
- 2.1.49 **"Trust Service"** means a Public Key Infrastructure (PKI) Service consisting of a Certification Authority (CA), Registration Authority (RA) and Validation Authority (VA) that in combination are able to issue, manage and certify Certificates to enable the authentication and encryption of digital communications.
- 2.1.50 **"Virus"** means any virus, worm, trojan horse, malicious code, locking or destructive mechanism or any thing or things similar to any of the foregoing or analogous to them;
- 2.1.51 **"You", "Your" and "Yourself"** refers to the customer set out in the Bacstel-IP Direct Submitter Customer Application Form who applies to use the Bacstel-IP Services, and where more than one Person (including an individual) comprises the customer, **"You"** means all of them jointly and each of them severally, and shall include Your successors and assigns. Where the context demands, **"You"** also includes any Contact, Primary Security Contact, Additional Contact or Authorised User who the customer has authorised to make payment transactions on its behalf; and
- 2.1.52 **"Your Agreement"** means the agreement (comprising the signed Bacstel-IP Direct Submitter Customer Application Form) to which these Bacstel-IP Services Customer Terms and Conditions apply.
- 2.2 Although the Bacstel-IP Services shall be provided to You by the Bank and the Bank is responsible accordingly, You acknowledge that the Bank may use a third party to perform certain of the Bank's obligations in relation to the provision to You of the PKI Service (which forms part of the Bacstel-IP Services) as set out in the PKI Terms and Conditions. Unless the context otherwise requires, references to the Bank also include a reference to any such third party.
- 3. Use of the Bacstel-IP Services**
- 3.1 You may use the Bacstel-IP Services to access via Bacstel-IP and use the Bacs System. You may only use the Bacstel-IP Services in connection with the Bacs System, including (without limitation):
- 3.1.1 for submitting payment messages and other instructions to Bacs directly

(using a PKI Service) which specify or relate to an account maintained by You or any of Your Group Companies with the Bank as the account to be debited or, as the case may be, credited;

3.1.2 for monitoring and retrieving reports on the processing of such payment messages;

3.1.3 for gaining access to or making changes to details held on the Reference Database about You, Your Contacts and Authorised Users and accounts maintained by You or any of Your Group Companies with the Bank; or

3.1.4 for gaining access to any other information held by the Bacs System relating to accounts maintained by You or any of Your Group Companies with the Bank (including, without limitation, any information relating to the processing of payments made or to be made to or from those accounts).

3.2 To enable You to use the Bacstel-IP Services, the Bank shall:

3.2.1 where the Bank accepts your application (but not otherwise) register You as a Service User and

allocate to You a Service User Number;

3.2.2 set, monitor and revise from time to time any financial limit applicable to payments that the Bank is prepared to make pursuant to a valid payment instruction submitted by You to the Bacs System whether submitted using the Trust Service of the Bank or of any other Member or in any other manner permitted by the rules of the Bacs System, where the account specified in any such Bacstel-IP Transmission is maintained by You or any of Your Group Companies with the Bank, authorising the Bank to pay funds in or out of an account specified by You (see clause 3.2.3) (a "**Bacs Payment Instruction**") on any Business Day. The Bank may, where it deems it appropriate, notify You of a financial limit and any revision thereto in accordance with these Bacstel-IP Services Customer Terms and Conditions. You acknowledge that any reduction in or disablement of a financial limit made by the Bank shall not affect Your payment obligation under a valid Bacs Payment Instruction generated prior to the effective time of the reduction in or disablement of such financial limit; and

3.2.3 comply with any Bacs Payment Instruction and settle the relevant payment by debiting or crediting the relevant account, where the Bacs Payment Instruction relates to a payment to be made to or from:

(a) an account held by You with the Bank (such account being as nominated by You in Section A or Section C of the Bacstel-IP Direct Submitter Customer Application Form, or as otherwise notified to the Bank in writing); or

(b) an account held by one of Your Group Companies with the Bank as may be agreed by You with the Bank from time to time,

any account referred to in subclauses (a) and (b) being the "**Settlement Account**".

## 4. Making Payments Using the Bacstel IP Service - Consent Required

4.1 You can send a payment to a person or company within the United Kingdom. You will need to include

<p>in the Bacs Payment Instruction the following information:</p>	<p>4.3</p>	<p>It will be Your responsibility to ensure that the information set out in clause 4.1 is accurate. If the information provided in the Bacs Payment Instruction is not accurate, there may be a risk of loss of or delay to Your electronic payment. For the avoidance of doubt the Bank will be liable only for the execution of the Bacs Payment Instruction in accordance with the information set out at clause 4.1.2, irrespective of any other information that You have provided.</p>	<p>4.6</p>	<p>In relation to Your use of the Bacstel-IP Services, You shall:</p>
<p>4.1.1 The name of the Payee;</p>				<p>4.6.1 comply with such documentation relating to the use of the Bacstel-IP Services as is applicable from time to time, including (without limitation) the Service User Guide – Bacstel-IP; and</p>
<p>4.1.2 The sort code and account number of the account to which the funds are to be transferred (the Payee will be able to provide these to You);</p>				<p>4.6.2 comply with the provisions of any existing contractual arrangement between You and the Bank.</p>
<p>4.1.3 The Sort Code and Account Number of the Account from which the funds should be sent; and</p>	<p>4.4</p>	<p>In order for the Bank to execute any Bacs Payment Instructions You have submitted using the Bacstel- IP Service, You will need to give us Your consent. You will consent to the execution of any Bacs Payment Instruction by submitting a valid payment message to the Bacs System, whether submitted using the Trust Service of the Bank or of any other Member or in any other manner permitted by the rules of the Bacs System, where the Settlement Account specified in any such Bacstel-IP Transmission is maintained by You or any of Your Group Companies with the Bank and where the payment message is Signed in accordance with the provisions of these Bacstel-IP Services Customer Terms and Conditions including the detailed provisions set out in the PKI Terms and Conditions.</p>	<p>4.7</p>	<p>By consenting to the execution of any Payment Instruction in accordance with clause 4.4 You hereby irrevocably and unconditionally authorise and request the Bank to do all such acts and things and execute all such documents as may be required to enable the Bank fully to observe and perform its obligations under these Bacstel-IP Services Customer Terms and Conditions. In particular, (but without limitation) You irrevocably authorise the Bank to debit or credit, as appropriate, the Settlement Account on the same Business Day with such amount or amounts as shall represent payments incurred and received by the Bank in relation to You or any of Your Group Companies in respect of Bacs Payment Instructions arising in relation to You or any of Your Group Companies to be carried out that Business Day.</p>
<p>4.2 You confirm that in nominating any Person as a Contact You are giving authority to:</p>				
<p>4.2.1 that Person to give consent to any transaction on Your behalf; and</p>				
<p>4.2.2 the Bank to act upon any instruction given by that Person using the correct procedures and security information as an instruction by You.</p>	<p>4.5</p>	<p>Subject to these Bacstel-IP Services Customer Terms and Conditions, the Bank shall either make payment or receive payment for Your account in accordance with a Bacs Payment Instruction, such payments to be debited or credited (as the case may be) by the Bank to the Settlement Account.</p>	<p>4.8</p>	<p>You shall at all times comply with the PKI Terms and Conditions when using the PKI Service in connection with the use of Bacstel-IP Services,</p>

including (without limitation) when Signing any Bacstel-IP Transmission.

4.9 You shall notify the Bank immediately if You become aware of or suspect:

4.9.1 any material breach by You of, or any material non-compliance with, these Bacstel-IP Services Customer Terms and Conditions; or

4.9.2 any fraud in or affecting Bacstel-IP giving reasonable details of the circumstances.

4.10 Any notification required to be made by You under clause 4.9 shall be made in accordance with clause 15.4. The Bank may require any notification made by telephone or fax to be confirmed in writing before taking any action in relation thereto.

**5. Revoking a Payment Instruction**

Requests carried out in accordance with the Instructions where consent has been given as set out in clause 4 are binding and You cannot withdraw Your consent to a payment once the Bank has received the Payment Instruction. The date when the Bank receives Your instruction is the Cut-off time as set out in the Payment Table.

**6. Unauthorised Payments out of Your Account**

6.1 Your liability

You will have to pay all losses incurred where:

- (a) You are a Corporate Opt-Out Customer;
- (b) You have acted fraudulently;
- (c) You have (with intent or gross negligence) failed to notify Us without undue delay after becoming aware of the loss, theft or unauthorised use of any of Your Account details or other items allowing access to Your Account (including but not limited to any Access Code, Digital Signature, Contact Id and/or Private Key); or
- (d) You have (with intent or gross negligence) not acted in accordance with the provisions of these Bacstel-IP Services Customer Terms and

Conditions, the General Terms or the relevant Special Terms and Conditions.

**7. Entry Date, Value Date, Withdrawal Date and Guaranteed Date**

7.1 The Electronic Payments - Bacs Payment section of the Payment Table sets out the Entry Date, Value Date, Cut-off time and maximum execution time that apply to transactions made using the Bacstel-IP Service. The Payment Table is subject to various assumptions as stated and sets out the different time periods that apply to transactions processed through the Bank's range of service channels. You must therefore ensure that You refer to the correct section of the Payment Table for the relevant information for Bacs payments.

**8. Use of PKI Service**

8.1 You shall be entitled to use the PKI Service in connection with Bacs for submitting Bacstel-IP Transmissions directly to Bacs via Bacstel-IP for Your own account or on behalf of any of Your Group Companies which either:

- 8.1.1 specifies the Settlement Account held by You or an account held by any of Your Group Companies as the

account to be debited or, as the case may be, credited; or

8.1.2 makes changes to the details held on the Reference Database regarding or associated with any such account or provides access to any other information held by Bacs relating to that account (including, without limitation, any information relating to the processing of payments made or to be made to or from that account).

8.2 Without prejudice to the generality of clause 8.1, You shall not use the PKI Service in connection with Bacs for submitting Bacstel-IP Transmissions to Bacs via Bacstel-IP for any other purpose or in any other capacity (including as a bureau) and must not hold Yourself out as capable of sponsoring any person with respect to the use of the Bacstel-IP Services.

9. **Use of ASM**

9.1 Subject to and in accordance with these Bacstel-IP Services Customer Terms and Conditions, You shall be entitled to use ASM for accessing via Bacstel-IP and using the Bacs System if You have been sponsored by the Bank as a Service User and have been authorised by the Bank to use ASM (pursuant to the relevant provisions of the Service User Guide – Bacstel-IP) for accessing the Bacs System via Bacstel-IP.

9.2 You shall not be permitted to use ASM except via a Contact who is permitted to use ASM.

10. **Use of Bacs Approved Software**

10.1 Subject to any specific waiver granted in writing from time to time by the Bank, when submitting a Bacstel-IP Transmission which would effect a payment from or to an account held with the Bank, such account being the Settlement Account held by You or an account held by any of Your Group Companies, from or to Bacs using the PKI Service, You shall:

10.1.1 only use software which at the relevant time is Bacs Approved Software;

10.1.2 act in accordance with any instructions, guidance or procedures provided to You by the Bank; and

10.1.3 comply with the provisions of the Service User Guide – Bacstel-IP.

11. **Confidentiality**

11.1 You shall keep any Bacs Confidential Information which You receive confidential at all times, and shall not:

11.1.1 use such Bacs Confidential Information or any part of it for any purpose other than Your participation in Bacstel-IP or any payment, clearing or other scheme run by Bacs; nor

11.1.2 disclose such Bacs Confidential Information or any part of it to any Person (including an individual) other than to Your Personnel or any of Your Group Companies to whom disclosure is necessary for Your participation in Bacstel-IP or any payment, clearing or other scheme run by Bacs, provided that You ensure that such Persons to whom Bacs Confidential Information is disclosed are at all times subject to and maintain this obligation of confidentiality.

11.2 Notwithstanding clause 11.1, You are entitled to disclose the Bacs Confidential Information:

11.2.1 to the extent necessary to comply with these Bacstel-IP Services Customer Terms and Conditions; and/or

11.2.2 to a third party to the extent that this is required by any court of competent jurisdiction or by a governmental authority or regulatory authority or that a disclosure is legally required

provided that in the case of paragraph 11.2.2 above, where You are able to do so without

	breaching any legal or regulatory requirements. You give the owner of the Bacs Confidential Information in question written notice as soon as reasonably practicable of the intended disclosure.	11.4	Where You cease to participate in Bacstel-IP or any payment, clearing or other scheme run by Bacs, You shall not be entitled to keep any Bacs Confidential Information except to the extent that You are required to do so in order to comply with any Applicable Requirement or to maintain a record of Bacstel-IP Transmissions or any other materials relating to Your participation in Bacstel-IP. The provisions of this clause 11 shall continue to apply to You for so long as You retain any such Bacs Confidential Information.	12.1.4	There are insufficient funds available in Your Settlement Account to fund the payment transaction or it would cause You to exceed any financial limit set by the Bank under clause 3.2.2;
11.3	The obligations set out in clause 11.1 do not apply to information which:			12.1.5	There is any dispute over Your entitlement to the funds in Your Settlement Account;
11.3.1	You can show You knew before You received such information (or learnt of the same) under or in connection with Bacstel-IP or any payment, clearing or other scheme run by Bacs and had not previously been obtained under an obligation of confidence;	11.5	The provisions set out in this clause 11 are in addition to (and not in substitution for) all other confidentiality obligations between You and the Bank, Bacs and/or any Member.	12.1.6	You are aware that the security of Your Settlement Account may have been breached; or
11.3.2	is in or comes into the public domain, and has not come into the public domain through a breach of this clause 11 or any other confidentiality obligation;	12.	<b>Refusal of Payment Instructions</b>	12.1.7	You are in breach of any other condition of these Bacstel-IP Services Customer Terms and Conditions, the General Terms, the PKI Terms and Conditions or the conditions of any other agreement You have with the Bank.
11.3.3	You can show was independently developed by You;	12.1	You may not give a Bacs Payment Instruction, whether for sums to be credited to or debited from Your Settlement Account if:	12.2	The Bank may refuse to carry out any Bacs Payment Instruction where any of these Bacstel-IP Services Customer Terms and Conditions, the General Terms or any condition of any other agreement You have with the Bank has not been complied with, or where it would be unlawful for the Bank to do so.
11.3.4	is disclosed to You without restrictions and without breach of any obligation of confidentiality by a third party who has the right to make such disclosure; or	12.1.1	The payment transaction is illegal or for an illegal purpose;		
11.3.5	is required to be disclosed by any Applicable Requirement (but only to the extent and for the purpose of that disclosure).	12.1.2	An Insolvency Event has occurred;	12.3	The Bank may stop the use of the Bacstel-IP Service if it reasonably believes that:
		12.1.3	Your relationship with the Bank has broken down or You have shown threatening or abusive behaviour towards any member of the Bank's staff;	12.3.1	The security of Your Settlement Account has been breached;

12.3.2 There may have been an unauthorised or fraudulent transaction on Your Settlement Account;

12.3.3 There is a credit facility on Your Settlement Account (such as an Overdraft), and there is a significantly increased risk that You may be unable to pay the Bank what You owe or that You will exceed any financial limit that the Bank has set under clause 3.2.2 (for example where the Bank has reasonable grounds for believing that You are bankrupt or insolvent or have entered into a voluntary arrangement with Your creditors);

12.3.4 The Bank has to do so under an applicable law or regulation or order of a court or other regulatory body.

12.4 Where reasonably possible (and where it would not be a breach of security or be against the law), the Bank will attempt to contact You either by telephone or in writing when it takes action under either clause 12.2 or clause 12.3, and explain its reasons for doing so. If the Bank cannot contact You in advance, it will attempt to contact You as soon as possible afterwards (and in any event, no more than three days after it receives the relevant Bacs Payment Instruction).

12.5 Where the Bank has taken action under this Clause 12, unless it terminates Your Agreement as a result, it will allow the normal use of the

Bacstel-IP Service to resume as soon as practicable once the Bank's reasons for taking such action cease to exist.

12.6 Upon any suspension in accordance with clause 12.2 and/or 12.3:

12.6.1 You shall not (and shall ensure that Your Personnel shall not) Sign or submit any Bacstel-IP Transmissions using the PKI Service or ASM after such suspension or withdrawal unless and until, in the case of a suspension, such suspension is lifted by the Bank giving written notice to that effect to You; and

12.6.2 the Bank shall provide reasonable assistance to You on the basis set out in clause 18.7 if You wish to extract or recall any Bacs Payment Instruction.

12.7 You may request that the provision of the Bacstel-IP Services to You by Bacs shall be suspended or revoked on 30 days' written notice to the Bank.

12.8 The Bank may from time to time notify You of the days or portions of days on which the Bacstel-IP Services may not be available.

### 13. Data Protection

13.1 You and the Bank shall at all times comply with the DPA and any regulations or other legislation made under the DPA, and in particular with the data protection principles set out in the DPA.

13.2 Where personal data is provided or disclosed to the Bank or Bacs by You, You shall ensure that all necessary consents have been obtained from the relevant data subjects to allow the Bank and its data processors (including Bacs) to receive such personal data and to use and process it in order to validate and process Bacstel-IP Transmissions submitted by You or on Your behalf.

13.3 For the purposes of this clause 13, the terms "personal data", "data subjects" and "data processors" shall have the meaning given to them by the DPA.

### 14. Intellectual Property Rights

14.1 All right, title, interest and Intellectual Property Rights in the Bacstel-IP Materials shall vest in the Bank or the Bank's licensors and, except to the extent set out in clause 14.2, You shall obtain no right, title or interest in any Bacstel-IP Materials or in any Intellectual Property Rights therein.

14.2 The Bank hereby grants You a licence to use and copy (but not to sub-licence) the Bacstel-IP

	<p>Materials (other than any documents, information and other materials relating to the Bacs Approved Software Service), but only to the extent necessary to enable You to participate in Bacstel-IP and for use only in connection with the Bacs System. The Bank gives no warranty that the Bacstel-IP Materials licensed to You shall not infringe the Intellectual Property Rights of any third party.</p>	<p>15. 15.1</p>	<p><b>Your Obligations</b> You shall:</p>		<p>(d) the PKI Service; or (e) ASM.</p>
<p>14.3</p>	<p>The licence set out in this clause 14 shall terminate automatically on the earlier of:</p> <p>14.3.1 any termination or suspension under clauses 12 or 24;</p> <p>14.3.2 the Bank ceasing to participate in Bacstel-IP. In this event, the Bank will notify You as soon as practicable that it will no longer be participating in Bacstel-IP;</p> <p>14.3.3 You ceasing to maintain a Settlement Account with the Bank or any of its Group Companies; or</p> <p>14.3.4 You ceasing to be permitted by the Bank to use PKI Service and/or ASM and/or the Bacs System.</p>	<p>15.1.1 15.1.2 15.1.3</p>	<p>comply at all times with each Applicable Requirement;</p> <p>obtain and maintain at all times all licences, consents, permissions and authorisations necessary to participate in Bacstel-IP (including, without limitation, those relating to the import or export of any equipment, software or technology); and</p> <p>use all reasonable care (including, without limitation, the use of up to date Virus checking software) to prevent the introduction of any Virus into, or any Virus contamination (including cross-contamination) of</p> <p>(a) any Bacstel-IP Transmission;</p> <p>(b) any public key infrastructure service used by any other participant in Bacstel-IP or ASM;</p> <p>(c) any Bacstel-IP related hardware or software;</p>	<p>15.2</p>	<p>If You are sponsored by the Bank to act as a Service User authorised to use ASM, You shall contractually require that each Contact acting on Your behalf (whether or not employed by You):</p> <p>15.2.1 complies with all the relevant procedures for obtaining and safekeeping his Contact ID and Access Code;</p> <p>15.2.2 complies with the Customer Service User Guide;</p> <p>15.2.3 changes his Access Code as required from time to time by the Bacs System;</p> <p>15.2.4 changes his Access Code if such Contact suspects that the security of the Access Code has been compromised, including (without limitation) where the Bank suspects that the Access Code has been used by a Person (including an individual) who is not a Contact;</p> <p>15.2.5 notifies You as soon as such Contact suspects that the security of the Access Code has been compromised as referred to in clause 15.2.4; and</p>
<p>14.4</p>	<p>On such termination, You shall return to the Bank or destroy (at the Bank's option) all copies of the Bacstel-IP Materials provided to You or which are otherwise in Your possession, custody or power.</p>				

15.2.6 notifies You as soon as the Contact knows or suspects that any of Your Settlement Account details or other items allowing access to Your Settlement Account (including but not limited to any Access Code, Digital Signature, Private Key Contact Id and/or Private Key) has been lost, stolen or misappropriated, or the security has been otherwise compromised or that there has been an unauthorised transaction on Your Settlement Account.

15.3 Subject to any constraints imposed by law or regulations, You shall notify the Bank immediately upon any of the circumstances specified in clause 12.1.2 and on Your receipt of a notification pursuant to clause 15.2.5 or 15.2.6.

15.4 Any notification required to be made by You under clause 4.9 or clause 15.3 shall be advised to the Bank immediately by telephone or fax and confirmed in writing to:

Danske Bank  
c/o Northern Bank, Bacs Customer Service Group  
PO Box 183  
Mezzanine Floor  
Donegall Square West  
Belfast  
BT1 6JS

Telephone number: 0845 6034615

Fax number: 028 9004 9712

and signed by any Authorised User on Your behalf.

15.5 You shall not do (or permit to be done by or on Your behalf) anything in connection with the Bacs System via Bacstel-IP outside the United Kingdom, the Channel Islands or the Isle of Man which You are or ought reasonably to be aware would result in Bacs or the Bank being in breach of any applicable laws or regulations outside the United Kingdom, the Channel Islands or the Isle of Man.

15.6 You will at any time and from time to time on reasonable notice from the Bank (except in an emergency) demonstrate to the Bank's satisfaction full compliance with Your obligations under these Bacstel-IP Services Customer Terms and Conditions and, in default, shall allow access for the Bank or its agents to Your premises, Personnel, records and systems to enable the Bank or its agents to check such compliance and will pay the Bank's reasonable costs of so doing.

### Bank Obligations

16.1 The Bank shall use reasonable care and skill in the provision by it of the Bacstel-IP Services to You under these Bacstel-IP Services Customer Terms and Conditions and in its authorising Your use of ASM in connection with Bacstel-IP.

16.2 The Bank, in the process of and as a result of authorising the use of ASM in connection with Bacstel-IP, shall use its reasonable endeavours to:

16.2.1 perform such obligations as are required to enable a Contact to become authorised to use ASM; and

16.2.2 initiate the process to reset the Access Code of a Contact when a change of the Access Code of that Contact is requested.

### 17. Legal Effectiveness and Admissibility of Electronic Signatures and Certificates

17.1 All Bacstel-IP Transmissions Signed by or on behalf of You using a Private Key and Digital Certificate issued by the PKI Service to You shall have the same legal effect, validity and enforceability as if such Bacstel-IP Transmissions had been in writing signed by or on behalf of You, provided that:

17.1.1 the Digital Certificate is within its validity period; and

17.1.2 the recipient of the Bacstel-IP Transmissions requests a validation of such Digital Certificate and the

response received to such validation request is a Good Response.

17.2 You shall not challenge the legal effect, validity or enforceability of a Bacstel-IP Transmission (including, in relation to this clause 17.2, any transmission that purports to be a Bacstel-IP Transmission) on the basis that:

17.2.1 such Bacstel-IP Transmission is in electronic rather than written form;

17.2.2 You or the holder of the Digital Certificate did not see, check or review the contents of the Bacstel-IP Transmission before or when Signing it;

17.2.3 the Bacstel-IP Transmission was Signed automatically or without direct human instigation or intervention (whether by a hardware security module or otherwise); or

17.2.4 the Bacstel-IP Transmission, or the Signing, transmission and processing of the Bacstel-IP Transmission, constitutes a breach by You of these Bacstel-IP Services Customer Terms and Conditions or of the provisions or terms of use of any relevant third party provider or third party trust scheme.

17.3 The Bank shall be entitled to rely on, and You shall accept full liability for, any Bacstel-IP Transmission Signed using a Private Key and Certificate issued by the PKI Service to You or any Authorised User on Your behalf, provided that:

17.3.1 the period of notice relating to a notice to suspend or revoke the Bacstel-IP Services requested by You in accordance with clause 12.7 has not expired;

17.3.2 the Digital Certificate used to Sign such Bacstel-IP Transmission is valid, has not expired, has not been revoked or suspended and You have not requested (in accordance with clause 12.7) that it be revoked or suspended following the procedure set out in clause 8.5 of the PKI Terms and Conditions; and

17.3.3 the Bacstel-IP Transmission does not contravene the levels of authorisation and permission set out in the Reference Database in relation to the holder of the Digital Certificate used to Sign such Bacstel-IP Transmission.

**18. Liability**

18.1 Subject to clauses 18.2 and 18.3, the Bank shall not be liable to You either in contract, tort (including negligence) or otherwise for:

18.1.1 any loss or damage that You suffer as a result of Your use of the Bacstel-IP Services except to the extent that such loss or damage is caused directly by the Bank's negligence, wilful default or fraud or by a breach of these Bacstel-IP Services Customer Terms and Conditions by the Bank;

18.1.2 any direct or indirect loss of profit, goodwill, business or anticipated savings nor for any indirect, special or consequential loss or damage resulting from Your use of the Bacstel-IP Services whether or not the possibility of such loss occurring was foreseeable, foreseen or known by the Bank or if the Bank had been advised of the possibility of such loss in advance;

18.1.3 any losses resulting from third party services outside the Bank's reasonable control (including, but not limited to, clearing services provided by Bacs and settlement services provided by the Bank of England);

<p>18.1.4 any loss caused by delay by the Bank in performing, or failure to perform, the Bank's obligations under these Bacstel-IP Services Customer Terms and Conditions if the delay or failure results from events or circumstances outside the Bank's reasonable control. Such delay or failure will not constitute a breach of these Bacstel-IP Services Customer Terms and Conditions; or</p> <p>18.1.5 any act or omission to act by the Bank to the extent that such act or omission to act is in accordance with a request from You.</p>	<p>18.4 The Bank expressly disclaims any liability:</p> <p>18.4.1 for any acts or omissions of Bacs, any other Member (including, but not limited to, for its settlement obligations) and the Bank of England;</p> <p>18.4.2 to any Contact directly;</p> <p>18.4.3 in relation to or in respect of any software approved under the Bacs Approved Software Service (including any approvals granted by Bacs thereunder);</p> <p>18.4.4 for the accuracy of any data, information or other material provided to You by the Bank provided that such data, information or material is passed on as received by the Bank from Bacs; or</p> <p>18.4.5 for the suitability and fitness for purpose of the Bacstel-IP Materials and any technical information or specifications made available (or confirmed) by Bacs.</p>	<p>18.6 If the Bank recovers from a third party any sum that is referable to any loss or damage that You suffer as a result of Your use of the Bacstel-IP Services, the Bank will pay that sum (or an appropriate part) to You.</p> <p>18.7 Upon request and at Your cost, the Bank will provide reasonable assistance to You if You wish to extract or recall a Bacs Payment Instruction which You have submitted to Bacs under these Bacstel-IP Services Customer Terms and Conditions. If You submit a Bacs Payment Instruction on a Business Day which is a Monday the Cut-off time is 10.30 pm on Monday. The Bank cannot accept a request to extract a Bacs Payment Instruction (being the entire file submitted) after the Cut-off time. If You want the Bank to recall a Bacs Payment Instruction (being an individual payment within a file that You have submitted) then the Bank can accept any such request up to 1.00pm on the next Business Day after the day that the Cut-off time falls on and will, on a reasonable endeavours basis, try to comply with Your request. You acknowledge that:</p> <p>18.7.1 a Bacs Payment Instruction shall become irrevocable at the Cut-off time set out in the Payment Table; and</p>
<p>18.2 Nothing in these Bacstel-IP Services Customer Terms and Conditions shall limit the Bank's liability for unauthorised payments out of Your Settlement Account or for mistakes made by the Bank save to the extent set out in the General Terms.</p>		
<p>18.3 Nothing in these Bacstel-IP Services Customer Terms and Conditions shall limit either party's liability to the other under these Bacstel-IP Services Customer Terms and Conditions for:</p> <p>18.3.1 fraud, fraudulent misrepresentations or dishonesty; and</p> <p>18.3.2 death or personal injury, caused by its negligence, including that of its Personnel's negligence.</p>	<p>18.5 Subject to clauses 18.2 and 18.3, the Bank's maximum liability to You howsoever arising (whether for breach of contract, negligence, misrepresentation or otherwise) shall be limited to and in no event exceed, in the case of any claim made directly arising from any particular Bacs Payment Instruction, the amount payable as set</p>	

- 18.7.2 once the Bacs Payment Instruction has become irrevocable:
- (a) the Bank shall not be liable to You for any loss or damage that You suffer as a result of the Bacs Payment Instruction becoming irrevocable; and
  - (b) You shall not act, or omit to act, in any way that may affect the ability of the Bank to comply with the Bank's obligations under clause 4.7.

18.8 You agree that each act or omission of each of Your Authorised Users and Contacts shall for all purposes of these Bacstel-IP Services Customer Terms and Conditions be deemed to be an act or omission of You.

**19. Indemnity**

19.1 Save to any extent caused by negligence, wilful default, fraud or breach of these Bacstel-IP Services Customer Terms and Conditions by the Bank or its Personnel, You agree to indemnify the Bank, its Group Companies and their Personnel, against all or any liability, loss, damage, claims, proceedings, charges, costs and expenses incurred by the Bank, its Group Companies or

their Personnel directly or indirectly (including as a result of the Bank acting as Your agent in relation to the Bacstel-IP Services) in connection with or arising out of:

- 19.1.1 any payment made or received (or not made or received) by the Bank pursuant to these Bacstel-IP Services Customer Terms and Conditions for You;
- 19.1.2 any error in or malfunction, suspension or termination of the Bacstel-IP Services resulting from any negligence, wilful default or fraud on Your part or any of Your Personnel (whether or not authorised by You) or Authorised Users;
- 19.1.3 any error or malfunction in any software approved by Bacs provided to You for use in connection with the Bacstel-IP Services;
- 19.1.4 any breach of these Bacstel-IP Services Customer Terms and Conditions, any negligence, wilful default or fraud on Your part or any of Your Personnel (whether or not authorised by You) or Authorised Users;
- 19.1.5 Your use of the Bacstel-IP Services in breach of any Applicable Requirement.

**20. Recourse**

- 20.1 You agree that Your only recourse in connection with the Bacstel-IP Services, including with respect to claims arising out of the negligence of any person, is to the Bank, and only to the extent provided for in these Bacstel-IP Services Customer Terms and Conditions and the General Terms.
- 20.2 In particular, if the Bank elects to provide any aspect of the Bacstel-IP Services through a third party as referred to in clause 2.2, You agree that no such third party will have any liability to You and that You will not be entitled to make any claim against them.
- 20.3 You recognise and agree that You have no recourse in this regard to IdenTrust, any IdenTrust Participant, the Bank's Certification Authority or any other person, in connection with the Bacstel-IP Services, but may have recourse or liability to other Customers, or customers of other IdenTrust Participants, that are the counter-parties to Bacstel-IP Transmissions sent or received by You.
- 20.4 Nothing in this clause 20 shall be construed to exclude liability for gross negligence or wilful misconduct, or for any other liability that cannot be excluded by law.

**21. Force Majeure**

21.1 The Bank shall not be liable for or in respect of:

- 21.1.1 any loss, injury or damage or any failure to comply, or delay in complying, with its obligations hereunder;
- 21.1.2 any other obligations in respect of or in connection with the Bacstel-IP Services; or
- 21.1.3 any failure to make, receive, credit or debit or delay or error in making, receiving, crediting or debiting any payment,

which is caused directly or indirectly by:

- 21.1.4 any suspension, unavailability for use, breakdown, failure or damage (however caused) of or to the Bacs System;
- 21.1.5 any computer, communications or other service system owned or controlled by whomsoever;
- 21.1.6 any interruption, cessation, failure or shortage of power, services or communications, equipment

malfunction, complete or partial system closure or suspension;

- 21.1.7 any error or failure in any facility or service provided by Bacs, or error in relation to information supplied by other information providers; or
- 21.1.8 subject to clause 18.2, any intervention, act or omission of any third party, fraud of any Person (including an individual other than an employee of the Bank), force majeure, act of God, war, hostilities, act of terrorism, political unrest, governmental action, strike, boycott, embargo, industrial dispute or disturbance, suspension of payments or insolvency, receivership, administration, bankruptcy or liquidation of any Person (including an individual) (including, without limitation, You or any other such Person having access via Bacstel-IP to the Bacs System), fire, flood, explosion, adverse weather or atmospheric conditions, abnormal operating conditions, shortage of personnel at Bacs, accident, or any cause, event, or circumstance whatsoever beyond the Bank's reasonable control.

21.2 In the event of the Bank becoming aware of any major difficulty, failure or delay affecting the Bacstel-IP Services, the Bank will use reasonable

endeavours to notify You as soon as practicable, advising You of such difficulty, failure or delay but shall not be liable for failure so to do.

**22. Charges**

The Bank is hereby irrevocably authorised from time to time to debit the Settlement Account, or such other account as You may nominate, with the charges notified from time to time. In the event that there are insufficient funds in such nominated account, or such nominated account has been closed, the Bank is hereby irrevocably authorised to debit such charges from any other account that You hold with the Bank.

**23. Warranties**

23.1 You warrant to and undertake with the Bank that:

- 23.1.1 You are duly incorporated and validly existing under the laws of the jurisdiction in which You have been registered, and have full power and authority to enter into and perform Your Agreement and Your obligations under these Bacstel-IP Services Customer Terms and Conditions;
- 23.1.2 all acts, conditions and things required to be done, fulfilled or to have

happened prior to the Signing of Your Agreement (including the obtaining of all necessary consents, whether governmental, regulatory or otherwise) in order to enable You lawfully to enter into and perform all Your obligations under Your Agreement and these Bacstel-IP Services Customer Terms and Conditions and to constitute all such obligations as valid, binding and enforceable in accordance with their respective terms and make these Bacstel-IP Services Customer Terms and Conditions admissible in evidence have been done, performed and have happened and a copy of every necessary consent has been delivered to the Bank;

23.1.3

all Your obligations under Your Agreement and these Bacstel-IP Services Customer Terms and Conditions are valid, binding and enforceable in accordance with their respective terms;

23.1.4

Your entry into Your Agreement and Your performance of Your obligations under these Bacstel-IP Services Customer Terms and Conditions do not and will not violate any Applicable Requirement nor any of the documents constituting You nor any agreement to which You are a party or

which is binding on You or any of Your assets; and

23.1.5

all information given to the Bank by You or on Your behalf prior to the signing of Your Agreement is, and all information provided thereafter was or will be, true, complete and accurate in all material respects.

23.2

Each of the warranties in clause 23.1 will be correct and complied with in all respects at all times as long as Your Agreement remains in force as if repeated then by reference to the circumstances existing at that time.

## 24. Termination and Survival

24.1 Termination

24.1.1

Your Agreement will continue until terminated by either party (or until the General Terms are terminated in accordance with their terms).

24.1.2

You may terminate Your Agreement by giving the Bank one month's written notice.

24.1.3

The Bank may terminate Your Agreement by giving You one month's written notice.

24.1.4

The Bank may treat Your Agreement as unenforceable or void in the event of any breach of any of these Bacstel-IP Services Customer Terms and Conditions.

24.2

Upon termination of Your Agreement by any party, You shall promptly return to the Bank all data, materials and other properties of the Bank held by You or any of Your Personnel and Authorised Users and You shall no longer be entitled to use the Bacstel-IP Services.

24.3

Survival

Termination of Your Agreement or suspension under clauses 12.2, 12.3 or 24.1 shall be without prejudice to:

24.3.1

all rights and obligations accrued up to the date of such termination or suspension; and

24.3.2

clauses 11 (Confidentiality), 18 (Liability), 19 (Indemnity), 20 (Recourse), 21.1 (Force Majeure), 22 (Charges), 24.1.1 (Termination and Survival), 25 (Dispute Resolution Procedures) and 27 (Waiver) in these Bacstel-IP Services Customer Terms and Conditions and clauses 13 (Fees), 15 (Intellectual Property Rights Indemnity), 17 (Liability), 18 (Financial Responsibility), 22 (Recourse) and 25 (Confidentiality) in the PKI Terms and

Conditions which shall continue in full force and effect after and notwithstanding such termination or suspension.

**25. Dispute Resolution Procedures**

25.1 The dispute resolution procedures set out in clause 26 of the PKI Terms and Conditions shall apply to the Bacstel-IP Services (as well as the PKI Service) as if set out in full in these Bacstel-IP Services Customer Terms and Conditions.

25.2 If you are not happy with any part of our service, please ask us for details of our procedures for handling complaints. We aim to deal with complaints in a way our customers are satisfied with.

25.3 You can also refer complaints about alleged breaches of the Payment Services Regulations 2009 in writing to the Financial Services Authority (the 'FSA'). The FSA will use this information to inform their regulatory activities.

**26. Variation**

26.1 The Bank or its agent may vary these Bacstel-IP Services Customer Terms and Conditions (including the Bank's charges), in accordance with

the variation provisions set out in the General Terms.

26.2 The Bank will incorporate any such variation into a new version of these Bacstel-IP Services Customer Terms and Conditions. The date and time at which the new version becomes effective will be indicated on the first page of such version. The most recent effective copy of these Bacstel-IP Services Customer Terms and Conditions will supersede all previous versions and be binding upon You in respect of Your use of the Bacstel-IP Services.

26.3 The Bank reserves the right to alter any of these Bacstel-IP Services Customer Terms and Conditions without altering any terms and conditions entered into by the Bank with any other customer of the Bank.

**27. Waiver**

The rights of the Bank under these Bacstel-IP Services Customer Terms and Conditions shall not be prejudiced or restricted by any time, indulgence or forbearance extended to You and no waiver by the Bank in respect of any breach shall operate as a waiver in respect of any subsequent or other breach.

**28. Your Agreement and Other Documents**

28.1 Your contractual rights and obligations in connection with Your use of the Bacstel-IP Services, and any duty of care owed to or by You, shall be exclusively regulated by these Bacstel-IP Services Customer Terms and Conditions and the agreement between the parties in relation to the fees and charges of the Bank. Save as otherwise indicated in these Bacstel-IP Services Customer Terms and Conditions, no other warranty, condition, term or representation on the part of the Bank, express or implied, is given or shall have legal effect, whether contained in any material or documentation or information produced or given by the Bank or its agent or contractor to You or otherwise howsoever.

28.2 In the event of any inconsistency between the provisions of any of the following documents that comprise Your Agreement, then to the extent necessary to resolve that inconsistency, the following order of precedence shall apply:

28.2.1 the Bacstel-IP Services Customer Terms and Conditions – Direct Submitter; over

28.2.2 the PKI Terms and Conditions; over

28.2.3 the Bacstel-IP Direct Submitter Customer Application Form,

except for the following clauses in the PKI Terms and Conditions which, in the event of an inconsistency, will have precedence over any equivalent clauses in any other document referred to in this clause: clause 14 (Intellectual Property Rights), clause 15 (Intellectual Property Rights Indemnity), clause 16 (Data Protection), clause 17 (Liability), clause 23 (Legal Effectiveness of Certificates), clause 24 (Termination), clause 25 (Confidentiality) and clause 28 (Notices).

**29. Communications and Electronic Records**

29.1 Bacs and the Bank may record communications with You or with Your Personnel (including, but not limited to, Bacstel-IP Transmissions) for any purpose connected with Bacstel-IP which Bacs or the Bank (as the case may be) consider appropriate.

29.2 Records and audit logs held by the Bank or Bacs in relation to the PKI Service, any Bacstel-IP Transmission or Bacstel-IP shall be deemed to be accurate until the contrary is proven, and the burden of proof that they are inaccurate shall lie with the person claiming that they are inaccurate.

**30. Assignment and Third Party Rights**

30.1 You may not transfer or assign any of Your rights, interests, benefits or obligations under Your Agreement without the prior written consent of the Bank.

30.2 The Bank may assign any of its rights, interests, benefits and obligations under Your Agreement, without Your consent.

30.3 The Bank shall not, save as required by law, recognise the interest of any person other than You under Your Agreement.

30.4 No Person other than You, the Bank or (pursuant to clause 29) Bacs shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term (express or implied) of Your Agreement or these Bacstel-IP Services Customer Terms and Conditions, but this is without prejudice to any right or remedy of a third party which may exist or be available apart from that Act.

**31. Severability**

If any provision of these Bacstel-IP Services Customer Terms and Conditions or any part of any such provision shall be held to be invalid, unlawful or unenforceable, such provision or part thereof (as the case may be) shall be ineffective only to the

extent of such invalidity, unlawfulness or unenforceability, without rendering invalid, unlawful or unenforceable or otherwise prejudicing or affecting the remainder of such provision or any other provision of these Bacstel-IP Services Customer Terms and Conditions.

**32. Notices**

32.1 Any notice, request, approval or other communication to be given by You to the Bank under or in connection with these Bacstel-IP Services Customer Terms and Conditions shall (unless required otherwise in these Bacstel-IP Services Customer Terms and Conditions) be in writing and delivered or sent by facsimile, or prepaid first class letter addressed in accordance with clause 15.4.

32.2 Any notice, request, approval or other communication to be given by the Bank to You under or in connection with these Bacstel-IP Services Customer Terms and Conditions shall be in writing and delivered or sent by email, facsimile, or prepaid first class letter addressed in accordance with the latest email, postal address, or facsimile number shown on the Reference Database, as amended from time to time. You shall notify the Bank promptly of any change to any such contact details held on the Reference Database.

32.3 The Bank is hereby authorised to accept, and act upon on Your behalf, any such communication received by the Bank in accordance with these Bacstel-IP Services Customer Terms and Conditions which purports to have been given by or despatched from You, acting by an Authorised User or a Person who appears to be an Authorised User, irrespective of whether the communication was given or despatched by an Authorised User.

This publication is also available upon request in Braille, in large print, on tape and on disk. Speak to a member of staff for details.

32.4 A communication by You is deemed to be received on the date of actual receipt by the Bank and is deemed to take effect from 5pm on the Business Day after the date of actual receipt.

32.5 A communication to You is deemed to be received by You when sent by the Bank or, if posted, on the next Business Day after posting and is deemed to take effect from that date or the effective date appearing on the communication even if none of Your Personnel is aware of its receipt.

### 33. **Governing Law and Jurisdiction**

33.1 Your Agreement and the transactions contemplated by these Bacstel-IP Services Customer Terms and Conditions are governed by and construed in accordance with the laws of England and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of England.