



## FIRST GLOBAL BANK LIMITED INTERNET BANKING SERVICES AGREEMENT

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This **AGREEMENT** contains the terms and conditions governing your (“**the Customer**”) use of the Online Banking services offered by First Global Bank Limited (“**FGB**” “**us**” or “**we**”) from time to time (“**the Services**” as defined in the Second Schedule).

You understand that by using the said Services you confirm that:

- (i) you have carefully read and understood the terms and conditions set out below;
- (ii) you understand, among other things, that all the risks associated with using the Services are entirely and solely yours;
- (iii) you are entering into a contract with FGB as detailed in these terms and conditions; and
- (iv) you agree to be bound by the said terms and conditions of this entire Agreement as same may be amended at any time and from time to time by FGB in its sole discretion.

### **Part I – APPLICATION FOR AND BASIC PROVISIONS GOVERNING THE SERVICES**

#### **1. Recitals - Request for and Agreement to Provide the Services**

- 1.1 FGB has developed certain Online Banking services more particularly described in the First Schedule hereto as “the Services”;
- 1.2 you have requested that the Services be made available to you by FGB and FGB has considered the request and agreed to make such Services available to you upon the terms and conditions herein; and
- 1.3 the Services will be available with effect from the date of your acceptance of these terms and conditions which occurs upon your activation and/or use of the Services (“the Effective Date”).

#### **2. Definitions and Interpretation**

In this Agreement the terms and expressions used shall have meanings detailed in the Second Schedule hereto and the relevant principles of interpretation shall be as detailed in the said Second Schedule.

#### **3. The Agreement to Provide the Services**

- 3.1 FGB shall make available to you from the Effective Date for valuable consideration, including, inter alia, the payment of the fees (if applicable) and upon the terms and conditions hereinafter contained, such of the Services as it deems appropriate in its sole discretion from time to time.
- 3.2 You may initiate and FGB may permit you to initiate Instructions to facilitate Transactions to and/or from your Account(s) or accounts of third parties maintained at FGB and/or other financial institutions, local and/or overseas, by means employed by FGB from time to time in its sole discretion including, inter alia, those detailed herein.
- 3.3 Save as is expressly otherwise provided herein you hereby authorise FGB to accept, and you agree to be responsible for, any Instructions given through the Services to the same extent as if you had given signed, written instructions to FGB.

#### **4. Requirements for access to the online services**

- 4.1 You must maintain with FGB (either alone or jointly) at least one Account designated primarily for personal, family, household or business purposes (or otherwise as determined acceptable by the Bank) in order to be eligible for access to the Services. However FGB reserves the right to refuse access to the Services in respect of any Customer or in respect of any particular account at any time and from time to time in its sole discretion without being obliged to advise the Customer of the reason for such refusal.
- 4.2 The Customer acknowledges that all the services listed in the First Schedule may not be available for all types of accounts, for example in the case of term deposits the Services will only allow electronic access for the purpose of verifying the account balance and enquiries relating thereto unless otherwise decided by the Bank. FGB will advise from time to time which types of Services are offered for each type of Account.
- 4.3 You must own or have access to a personal computer with internet access via modem (56K) or internet access via LAN and have available Internet Explorer 5.5 software or higher which supports 128 bit encryption and an e-mail address or such other hardware and software as needed from time to time to access the Services.
- 4.4 You must also have a valid Customer User ID and Token assigned to you by the Bank to be able to conduct Transactions unless otherwise decided by the Bank from time to time.

#### **5 Secure your Access Code(s) and Account Information**

- 5.1 You agree that the requirement of Access Code(s) is reasonable and acknowledge that this is designed to authenticate Transactions as yours.

- 5.2 You shall not disclose and will take all necessary steps to prevent the disclosure of your Access Code(s).
- 5.3 You also agree to keep your Access Code(s) secure and to ensure that it is not accessible by anyone else save and except a User.
- 5.4 You shall immediately notify FGB by calling FGB at **1 888 CALL FGB** or such other telephone number(s) as FGB may specify from time to time if you believe or suspect that your Access Code(s), or any one of them, has become known to, or is in the possession of any person, whom you do not intend to have such information or access or if the confidentiality of such information has been or is believed by you to have been compromised and you may, in such cases, be required by FGB to establish one or more new Access Codes as the circumstances may require. The cost of replacing a Token will be borne by you.
- 5.5 Without limiting the foregoing you must and hereby agree to observe the following guidelines:
  - 5.5.1 you will not leave account information, including Access Code(s), in an open area accessible by other persons, including a computer screen;
  - 5.5.2 you will not send the Access Code or privileged account information over an e-mail system;
  - 5.5.3 you will not share your account information, whether by electronic means or otherwise, with anyone other than a User;
  - 5.5.4 you will not leave any computer unattended while it is connected to the Services;
  - 5.5.5 you will take all security measures necessary to secure the Access Code(s) from unauthorised usage; and
  - 5.5.6 you will log out of the Services and close the browser after each online banking session and clear the browser's cache and history.
- 5.6 You agree that you shall use the Access Code(s) exclusively in accordance with this Agreement and/or FGB's instructions and directions as made known to you at any time and from time to time.
- 5.7 You are not allowed to copy, publish, sell, rent, lease, sub-lease, sub-use, distribute, lend, modify, merge, translate, decompile or reverse compile the Access Code(s).
- 5.8 On the first occasion you access the Services online you must change your password in the manner specified by FGB if so required by FGB. You may also be required to, and if so required, must enter the number from the Token.

- 5.9 You may also be required by FGB to change your password at any time and from time to time and hereby agree to comply with such valid requests.
- 5.10 You may also be advised on how the Token should be used in conjunction with any other Access Codes and agree to comply with such requests.
- 5.11 Save as is otherwise expressly provided herein you shall be held liable for all Transactions, losses, costs and or otherwise resulting from the unauthorised use of the Access Code(s) ("**Unauthorised Transactions**").
- 5.12 Every Instruction has the same status and legal value as a written instruction signed by you. Accordingly, you agree not to challenge the legal effect, validity or enforceability of an Instruction authenticated by Access Code.
- 5.13 In addition to using the Access Code(s) you may be required by FGB to provide information to verify that you are the account holder or otherwise identify yourself and to provide an e-mail address and you agree to comply with any such request.
- 5.14 If you have given someone your Access Codes and want to terminate that person's authority, you must notify FGB in writing that Transactions by such a person are no longer authorised. FGB may have to change your Access Codes or take additional steps to prevent further access by such person and you must comply with same.
- 5.15 If you give someone your Access Code(s) or allow someone to have access to such information, you will be deemed to have authorised such person to carry out Transactions in relation to your Account(s) and to use the Services on your behalf. In such cases, all Transactions performed by such person, even Transactions which you did not intend or want to be carried out, will be deemed to have been authorised by you and you will be responsible and liable therefor. For the purposes of this Agreement you are further deemed to have authorised all Unauthorised Transactions save and except Unauthorised Transactions described in clause 15.6.2.

## **6. Account Ownership and Your Warranties**

- 6.1 When you enroll for the Services all Accounts selected at the time of sign up for the Services by you, as well as those added from time to time, will be automatically placed in the list of accounts available for the Services.
- 6.2 If you wish to authorise use of your Accounts by an agent(s), employee(s) and/ or non-owner(s) of your accounts ("User") FGB shall be provided with the names and other details, as requested by the Bank, of the persons authorised and designated to conduct Transactions for and on behalf of you on the Accounts selected for Online Banking services. It is FGB's sole discretion whether to allow access to your account by a User(s). FGB may (in its sole discretion) remove or restrict access to your Account by User(s) at any time without prior notice to you. Determination of ownership of an

Account at any specific time shall be based on the information reflected in the current records maintained by FGB.

- 6.3 You shall be liable for any Transactions conducted by any such User as well as any and all losses, costs or otherwise resulting from the use of the Service by the User. You must and hereby agree to ensure that the User is aware of and complies with the terms and conditions detailed herein.
- 6.4 You warrant that you are duly authorised to enter into this Agreement and have taken and will take all the steps necessary, from time to time, to comply with the other warranties, requirements, terms and conditions set out in this Agreement.
- 6.5 FGB shall be entitled to rely on any Instructions and or written notice believed by it in good faith to be signed as per the mandate provided by you herein.
- 6.6 You hereby represent and warrant that each time you and/or the User use the Access Code(s), you and/or the User have all necessary powers, authority and approvals to do so and to perform in accordance with your obligations under this Agreement.
- 6.7 You hereby agree that you will, among other things,
  - 6.7.1 conform all Transactions to the format, content and specifications prescribed by FGB from time to time;
  - 6.7.2 comply with the law and security procedures prescribed by FGB from time to time;
  - 6.7.3 retain data on file adequate to permit remaking of Entries for twenty (20) Business Days following the date of their transmittal to FGB as provided herein and shall provide such data to FGB upon its request;
  - 6.7.4 retain the original or a microfilm or microfilm-equivalent copy of each authorisation of a Receiver for seven (7) years from the termination or revocation of the authorisation; and
  - 6.7.5 upon receipt of a request by FGB, provide the original or certified copy of the authorisation to FGB for its use or for the use of an RDFI or Receiver requesting the information pursuant to the Rules.
- 6.8 You warrant and agree that the total dollar amount of Transactions conducted by you via the Services on any one day shall not exceed the limit agreed between you and FGB on the opening of the Account and from time to time. FGB reserves the right to decrease the prescribed limit in the event of an emergency provided that FGB will advise you of any such decrease as soon as possible.
- 6.9 Without prejudice to any other provisions regarding indemnity in the Agreement you

shall indemnify FGB against any loss, claim, demand, liability, expense or costs (including Attorneys' fees and expenses) resulting from or arising out of any breach of any of the foregoing warranties or agreements.

## **PART II – THE ONLINE BANKING SERVICES**

This part details specific terms and conditions regarding some of the various Transactions that may be conducted using the Services.

### **7 Transfers**

#### **7.1 Internal Transfers**

7.1.1 An Internal Transfer is a transfer of funds from an Account held at FGB to another account held at FGB including yours (“Account Transfers”).

7.1.2 An Internal Transfer will be posted to any account held at FGB within twenty four (24) hours of the Instructions being given using the Services.

#### **7.2 Domestic Transfers and Entries**

##### *Effecting Domestic Transfers*

7.2.1 A Domestic Transfer is a transfer of funds from/to your (as the Originator) Account held at FGB to/from an account held at another Bank, within Jamaica, whether in your name or that of another person (the Receiver). A Domestic Transfer is a type of Entry and may be executed via the ACH, RTGS or any other system used by the Bank from time to time and at any time for such purposes. The Bank reserves the right and is hereby authorised by you to use any appropriate payment system in existence at any time and from time to time to execute the Services.

7.2.2 FGB may, in its sole discretion, permit you to conduct Domestic Transfers (or any type and/or all types of same) and/or other types of Entries.

7.2.3 Entries are not final at the time FGB receives and/or executes your Instructions for same, but FGB will begin to process Instructions promptly.

7.2.4 You should allow at least one (1) Business Day for us to process your Instructions.

7.2.5 FGB does not guarantee the completion of a Domestic Transfer as this is dependent upon same being completed by the financial (or other) institution receiving the instructions originated by FGB (that is the RDFI) on your behalf. Such institution’s actions are not within the control of FGB and FGB is therefore unable to guarantee the time within which these types of

Transactions will be completed. Without prejudice to the foregoing FGB states that ***it is likely that*** (i) Domestic Transfers initiated by you before 2:00pm on any day should be completed before the close of business on the following Business Day; and (ii) Domestic Transfers initiated after 2:00pm on any day should be completed before the close of business on the second Business Day following the initiation under normal circumstances. These cut off times, together with all other such times referred to in this Agreement, are subject to being changed by the Bank at any time and from time to time.

- 7.2.6 FGB shall not be liable for any losses suffered by you or any third party as a result of a Domestic Transfer not being completed by an RDFI or any failure by any third party to execute instructions initiated by FGB.
- 7.2.7 You hereby authorise FGB to transmit all Instructions received by FGB from you in accordance with the terms of this Agreement and to credit or debit such Entries to the specified accounts.

*The ACH Rules and Your Representations and Warranties*

- 7.2.8 The ACH is governed by the Jamaica Clearing Bankers Associations ACH Rules with which you, as an Originator, are required to comply. The Rules are available on the Website ([http://www.firstglobal-bank.com/online\\_banking/banking\\_agreement.aspx](http://www.firstglobal-bank.com/online_banking/banking_agreement.aspx)) and you hereby acknowledge that you have reviewed and agreed to same.
- 7.2.9 You hereby warrant to FGB all warranties FGB is deemed by the Rules to make with respect to Entries originated by you.
- 7.2.10 You hereby warrant to FGB all warranties that you are deemed by the Rules to make.
- 7.2.11 You further acknowledge and agree not to initiate Transactions which would be in violation of the Rules or generally of the laws of Jamaica or which would result in FGB being in breach of any of its obligations under the said Rules or the laws of Jamaica.
- 7.2.12 You agree to ensure that you are aware of changes which may be made to the Rules from time to time and to obtain and keep in your possession an updated copy of the Rules.
- 7.2.13 FGB may, but is not obliged to, inform you of revisions to the Rules, of which FGB has knowledge, in the manner provided herein or otherwise in a manner chosen by FGB.
- 7.2.14 Without limiting the warranties detailed in clauses 7.2.9, 7.2.10 and 7.2.11 you hereby warrant and agree that

- 7.2.14.1 each Entry is accurate and timely and has been authorised by the party whose account will be credited or debited, and otherwise complies with the Rules;
- 7.2.14.2 each debit entry is for a sum which, on the Settlement Date with respect to it will be owing to you from the party whose account will be debited, is for a sum specified by such party to be paid to you,
- 7.2.14.3 you have complied with all prerequisites to origination and pre-notification requirements of the Rules; and
- 7.2.14.4 you will comply with the terms of and shall otherwise perform all obligations under this Agreement in accordance with the Rules and any and all other applicable laws and regulations.

7.2.15 *Inconsistency of Name and Number*

You hereby acknowledge that, if an Entry describes the Receiver inconsistently by name and account number, completion of the Entry, at the election of FGB or the Receiver, may be made on the basis of the account number even if it identifies a person different from the named Receiver.

**8. Wire Transfer**

8.1 A Wire Transfer is a transfer of funds from your Account held at FGB to an account held at another Bank, outside of Jamaica, whether in your name or that of another person which FGB may execute via the use of SWIFT or any other payment system utilised by FGB from time to time and at any time.

8.2 Your Instructions for Wire Transfers:

8.2.1 to the United States of America and Canada must be submitted by 1:00pm; and those

8.2.2 to Europe must be submitted before 10:00am

Jamaica time to be dispatched on the Business Day on which the Instructions are given. Notwithstanding this you should allow at least one (1) Business Day for us to process your Instructions for Wire Transfers.

8.3 You understand that FGB can only agree to initiate the Wire Transfer which must be completed by third parties who are outside the control of FGB. FGB cannot therefore guarantee that the Wire Transfer will be completed or completed within a certain period of time.

8.4 You understand and agree that clauses 7.2.2, 7.2.3, 7.2.5, 7.2.6, 7.2.7, 7.2.11 and 7.2.15 herein also apply to Wire Transfers.

**9A. Bill Payments**

9A.1 The Bill Payment services may be carried out by FGB by using third parties and FGB is not responsible for losses which may occur as a result of the actions or lack thereof of the said third parties.

9A.2 You should allow at least one (1) Business Day for us to process your Instructions for Bill Payment.

9A.3 Notwithstanding and without prejudice to the provisions in clause 9A.2 FGB states that *it is likely that* (i) bill payment Transactions initiated by you before 6:00pm on any Business Day should be completed before the end of that day; and (ii) Bill Payment Transactions initiated after 6:00pm on any Business Day should be completed before the close of business on the Business day following the initiation under normal circumstances.

9A.4 You understand and agree that clauses 7.2.2, 7.2.3, 7.2.5, 7.2.6, 7.2.7, 7.2.11 and 7.2.15 herein also apply to Wire Transfers.

**9B. Stop Payments**

9B.1 You may use the Services to issue instructions to stop payment of a cheque you have drawn up to two (2) Business Days before the cheque is presented for payment (“Stop Payment Request”). FGB may also require that you put your request in writing and get it to FGB within the time stated by FGB.

9B.2 The provisions detailed in clauses 10.2, 10.7 and 10.10 apply to Stop Payment Requests.

**PART III – SPECIFIC PROVISIONS CONCERNING TRANSACTIONS**

**10. Cancellation, Reversal, Amendment, Rejection of and Returned Transactions**

10.1 You may cancel or amend 1-time future-dated and recurring Transactions provided that Instructions for such cancellation or amendment must be given at least one (1) Business Day prior to the date processing for the Transaction is scheduled to be initiated. Any such cancellation or amendment must be done by you via use of the Services.

10.2 If you desire to:

10.2.1 cancel or amend Transactions other than those described in clause 10.1; or

10.2.2 reverse a Transaction

then FGB may **in its sole discretion** accept your request and attempt to execute same. You acknowledge that if FGB attempts to cancel, reverse and/or or amend a Transaction, then the cancellation, reversal or amendment request must be agreed to by each financial institution which has accepted a payment order related to the Transfer at issue before it will be acted upon and you further agree that FGB shall have no liability if an attempt to cancel, amend or reverse a Transaction is not successful or if FGB refuses to so attempt. .

10.3 FGB may reject any Instruction/Transaction including, among others, those which do not comply with the requirements of this Agreement and those given following any breach of the terms and conditions herein by you.

10.4 FGB may (but is not obliged to) notify you, by the means it elects to utilise from time to time, of the receipt of a returned Transaction as prescribed by FGB from time to time.

10.5 FGB shall have no obligation to re-transmit a returned Transaction if FGB complied with the terms of this Agreement with respect to your original Instructions or it is returned because of the actions or lack thereof of a third party.

10.6 You are responsible for checking your Account at regular intervals to ensure that your Transactions have been carried out.

10.7 You will be liable to pay any charges applicable for cancelled, amended, reversed, returned and rejected Transactions and further will meet any and all costs, losses or otherwise incurred by FGB or any third party in relation thereto.

10.9 Without limiting other provisions herein you hereby authorise FGB to debit your Account for all chargeback Entries and with any other charges due and owing pursuant to this Agreement.

10.10. You agree that you shall indemnify and hold FGB and officers, directors, employees, and representatives harmless from and against any and all claims, demands, losses, liabilities, and expenses, including attorney's fees and costs, resulting directly or indirectly from compliance with your cancellation or amendment request.

## **11. Transactions Involving Insufficient Funds**

11.1 You must have enough available money or credit in any Account from which you instruct FGB to carry out a Transaction.

11.2 If you issue Instructions and you do not have sufficient funds in your Account to fund

the Transaction (including Bank charges payable) FGB may refuse to complete the Transaction. FGB may do this even if there are sufficient funds in other accounts that the Customer may have at FGB.

- 11.3 If FGB completes a Transaction that you have made or authorised and FGB subsequently learns that you have insufficient funds for the Transaction in the Account from which the Transaction was to be funded, you agree that FGB may in its sole discretion reverse the Transaction or offset the shortage with funds from any other account you may have with FGB or otherwise. In any case, you are fully obligated to FGB to provide sufficient funds for any Transaction you make or authorise.
- 11.4 If FGB does not execute or reverses a Transaction, because of insufficient funds, FGB is not required to make any further attempt to process the Transaction or to notify you that Transaction has not been completed. You are also liable for any non-sufficient funds fee charged by FGB.
- 11.5 Information you obtain about your Accounts using the Services may not reflect payments that have not yet been posted to your Accounts. You should keep that in mind when you perform or attempt to perform any Transactions on the basis of such information.
- 11.6 FGB will NOT be liable if you do not have enough available money in the Account from which a Transaction is to be made, or if the Account has been closed or is not in good standing.

## **12 Credit**

- 12.1 Notwithstanding clause 11 of this Agreement FGB may, in its sole discretion, extend credit to your benefit and for the purpose of completing the Transactions permitted herein.
- 12.2 You hereby request and authorise the extension of such credit and agree, immediately upon notice by FGB, to repay any sum so extended together with any interest thereon to FGB.
- 12.3 You further agree to pay to FGB any other sum demanded by FGB which represents losses incurred by FGB as a result of the extension of credit pursuant to 12.1 herein.

## **13. Applicable Fees and Charges**

You hereby agree:

- 13.1 to pay to FGB such fees for the Services (and any actions connected thereto) as may be charged by FGB or any relevant third party (including other financial institutions) from time to time as implemented varied and/or published by FGB (or any relevant third party including other financial institutions) from time to time and in the manner

prescribed by FGB;

13.2 that FGB may charge (and you agree to pay) interest and any other related charges FGB deems fit on Fees due and owing by the Customer to FGB from time to time at a rate in the sole discretion of FGB which rate may be varied at any time and from time to time by FGB;

13.3 that FGB may change its fees and charges at any time and from time to time and with immediate effect upon issuing notice to you in such manner as FGB deems fit; and

13.4 that FGB may debit your Account (or any account held at FGB) for the fees and charges due for the use of the Services and FGB's fees and charges shall constitute a first charge on your accounts. You may indicate to FGB from which of your accounts such fees and charges may be debited, FGB however reserves the right to debit any account in your name (whether joint or otherwise) in its discretion.

#### **14. Foreign Currency Transactions**

14.1 The rate of exchange utilized for Transactions shall be those published by FGB from time to time as may be quoted on the Online Banking System.

14.2 You must consider carefully the relevant rate of exchange in conducting Transactions to ensure e.g. that there are sufficient funds in the Account to carry out the Transactions.

14.3 FGB shall not be liable for any losses resulting from a conversion of currency and without limiting any other provisions in the terms and conditions herein you agree to indemnify FGB for any costs, expenses, losses and liability incurred as a result of conversion losses.

14.4 Transactions involving foreign currency (and the rates applied to them) may or may not be treated as next-Business Day Transactions by FGB. Such treatment is governed by the cut-off times implemented by the Bank from time to time.

14.5 Without limiting any other provisions herein FGB does not guarantee that Transactions involving foreign currency will be completed. In particular FGB reserves the right to reject Transactions involving foreign currency which are in excess of the limits set in relation thereto by FGB from time to time.

#### **15. Limit on the FGB's Liability**

15.1 FGB does not accept any responsibility or liability in respect of its providing or failing to provide the Services save as expressly accepted in this clause 15.

15.2 FGB shall be responsible only for performing the Services expressly provided for in the Agreement, and shall not be liable for any loss or damage which may arise therefrom

except in the case of gross negligence or willful misconduct in performing those Services.

- 15.3 The parties agree that FGB will not be liable to you or any third party for:
  - 15.3.1 any errors, failures, delays, inaccuracies, damage, loss or injury, directly or indirectly arising from the operation of your computer or software however caused, nor for any problems or losses caused by viruses, electricity supply problems, hackers or otherwise; or
  - 15.3.2 for the unavailability, incompleteness and inaccuracy of any relevant information from you or the delayed provision of such information by you or if you have failed to give FGB complete, correct account numbers or other identifying information so that FGB can properly complete a Transaction or if you fail to give Instructions as and within the time period required herein and by FGB from time to time.
- 15.4 In no event shall FGB have any liability for any consequential, special, punitive or indirect loss or damage which you or a third party may incur or suffer in connection with this Agreement.
- 15.5 Without limiting any other provisions of this Agreement:
  - 15.5.1 FGB shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communications facilities, equipment failure, war, emergency conditions, or other conditions beyond FGB's control;
  - 15.5.2 FGB shall be excused from failing to transmit or delay in transmitting an Transaction if such transmittal would result (i) in FGB's exceeding any limitation upon its intra-day net funds positions established pursuant to present or future Bank of Jamaica guidelines or (ii) in FGB's otherwise violating any provision of any present or future risk control programme of the Bank of Jamaica or any rule or regulation of any other governmental regulatory authority;
  - 15.5.3 FGB shall not be liable for failing to complete a Transaction because of the provisions of law or legal process; and
  - 15.5.3 FGB shall not be liable for any wrongful and or negligent act and/or omission of the ACH or any other third party in the transmission of Transactions.
- 15.6 Subject to the foregoing limitations, and in any event, FGB's liability for loss shall be limited as follows:
  - 15.6.1 If FGB fails or delays in making a payment or Transfer pursuant to your

Instructions, or if FGB makes a payment or Transfer in an erroneous amount that is less than the amount per your Instructions, unless otherwise required by law, FGB's liability shall be limited to interest on the amount that FGB failed to timely pay or transfer, calculated from the date on which the payment or Transfer was to be made until the date it was actually made or you cancelled the Instructions. FGB may pay such interest either to you or the intended recipient of the payment or Transfer, but in no event will FGB be liable to both parties, and our payment to either party will fully discharge any obligation to the other;

15.6.2 If FGB makes a payment or Transfer in an erroneous amount that exceeds the amount per your Instructions, or if FGB permits an Unauthorised Transaction after FGB has had a reasonable time to act on a notice from you of possible unauthorised use as described above, unless otherwise required by law, FGB's liability will be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the payment or Transfer to the date of the refund, but in no event to exceed sixty (60) days' interest. If FGB becomes liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average Government of Jamaica Treasury Bill rate for each day interest is due, computed on the basis of a 360-day year;

15.6.3 We shall not be liable for your attorney's fees, except as required by law; and

15.6.4 Unless otherwise required by law, FGB shall not be liable for any error or delay on the part of any third party or for any other act or omission of any third party, including without limitation third parties used by FGB in executing any payment order or relating to any or performing a related act, and no such third party shall be deemed to be our agent.

15.7 FGB shall be entitled to rely absolutely on the information, representations, and warranties provided by you pursuant to this Agreement, and shall not be responsible for the accuracy or completeness thereof.

## 16. Risk

16.1 You are responsible for the installation, maintenance and operation of your personal computer and the browser software and shall bear the risk of error, failure or non-performance due to faulty operation, malfunction, lack of maintenance or any other reason.

16.2 You hereby acknowledge and accept that the use of the Services carried certain inherent risks.

- 16.3 By using the Services you assume full responsibility for the risks which risks include, among others, the following possibilities;
- 16.3.1 your account being accessed by a third party e.g. where you have permitted your Access Codes to be disclosed;
  - 16.3.2 delays in the transmission of your Instructions; or
  - 16.3.3 viruses.
- 16.4 You acknowledge that Electronic-mail transmissions may not be secure and that FGB urges its customers not to request sensitive information relating to their accounts or financial transactions via any e-mail system.
- 16.5 By signing this Agreement, you agree to accept the electronic communications and acknowledge that you are able to electronically access and retain electronic communications relating to the Services.
- 16.6 FGB does not guarantee the completion of a Transaction involving other financial institutions as this is dependent upon same being completed by the financial (or other) institution receiving the instructions originated by FGB on your behalf. Such institution's actions are not within the control of FGB and FGB is therefore unable to guarantee the time within which these types of Transactions will be completed.
- 16.7 *Inconsistency of Name and Number*
- You hereby acknowledge that, if a Transaction describes the other party inconsistently by name and account number, completion of the Transaction, at the election of FGB (or any third party involved in the completion of the Transaction), may be made on the basis of the account number even if it identifies a person different from the named Receiver.

**17. No Warranties or Representations**

FGB gives no warranty nor makes any representation regarding the recommended software nor gives any warranty of merchantability or fitness of the Services for any particular purpose.

**18. Periodic Statement**

- 18.1 The periodic statement issued by FGB for your Account will reflect Transactions carried out by you from time to time.
- 18.2 You agree to notify FGB within a reasonable time not to exceed thirty (30) days after

the date of the statement of any discrepancy between your records and the information in the Statement.

- 18.3 If you fail to notify FGB of discrepancies as detailed in clause 18.2 you shall be conclusively deemed to have acknowledged and accepted the information detailed in the Statement and shall be irrevocably bound thereby.

## **19. Indemnity**

- 19.1 You shall indemnify and keep indemnified FGB from and against any and all loss damage or liability (whether criminal or civil) suffered (along with legal fees and costs incurred) by FGB resulting from its agreeing to provide the Services on the terms and conditions herein including, among others and without limitation, those resulting from any act neglect or default (including breach of this Agreement) of yours or any of your Users under this Agreement.

19.2 Without prejudice to the generality of the foregoing and other provisions of this Agreement if a fine is assessed against FGB it will be your responsibility to pay the fine unless the parties (and in the event of disagreement between the parties, a third entity agreed on by the parties) determine the fine was caused by an improper and grossly negligent action by FGB.

## **20. Proof**

- 20.1 All Instructions, details of Transfers and other details of Services provided herein and the terms and conditions pursuant to which they are provided ("the Documentation") may be recorded or registered by FGB electronically or otherwise as determined by FGB in its sole discretion.
- 20.2 The Documentation, and/or any extract thereof, shall stand as conclusive and undisputable evidence of that to which it relates.

## **21. Disclosure of Account Information**

- 21.1 FGB will not disclose to third parties any information about your account or any Transactions unless –
- 21.1.1 you have in writing authorised or requested FGB to disclose any particular information or any particular type or types of information to a specified person or specified persons in such manner and at such times as is contained in such written authority; or
  - 21.1.3 such disclosure is necessary for completing a Transaction or to investigate or resolve a dispute or problem relating to a Transaction, the Services and/or you; or

21.1.4 such disclosure is made in accordance with the Account Agreement or any account operating agreement between us; or

21.1.5 it is otherwise required or allowed by law or legal process to do so.

21.2 Notwithstanding the other provisions of this clause 21 FGB may disclose information regarding you to any of its affiliates, agents and subcontractors for operational or any other legitimate business purpose. You hereby agree that FGB may provide such information to its affiliates, agents and subcontractors who conduct their business from various countries in order to be able to provide the Services to you provided that FGB agrees that any such affiliate, agent and/or subcontractor will be required to adhere to the confidentiality obligations in writing.

## **22. Availability of Services**

22.1 FGB will endeavour to make the Services available for twenty-four (24) hours per day, seven (7) days per week except on such days or at such times during which FGB or other networks will be carrying out maintenance work on its computer system and other systems and equipment necessary for the provision of the Services. FGB does not however guarantee that the Services will always be available.

22.2 However, FGB only processes Instructions and updates information on Business Days during business hours (Monday to Thursday 08:15 – 15:00 and Fridays 08:15 – 16:00 or such other times as prescribed by FGB, in its sole discretion, from time to time and at any time. Please also note that each payment external to FGB has its respective cut-off times. Each Instruction you make on a non-Business Day, or after our Transfer Cut-Off Time on any Business Day, will be considered given on the following Business Day.

22.3 FGB's telephone service, including at the numbers given in this Agreement (and from time to time) will only be available during the hours of 08:00am and 17:00pm (or such hours as prescribed by FGB from time to time or at any time) and FGB shall not be liable for any losses suffered by you as a result of the unavailability of telephone contact during other hours.

22.4 The Services may not be available from time to time for scheduled or unscheduled maintenance but FGB will endeavor to ensure that such interruptions in service are reduced to the minimum.

## **23 Unauthorised Use**

Save as expressly detailed in clause 15.6.2, FGB shall not be liable for any damage, loss or injury incurred by you as a result of any Unauthorised Transaction. You agree to indemnify and hold FGB harmless from and against all claims, losses, damage, injury, suits, actions and/or proceedings (including all costs relating to legal services) made or brought by any person

against FGB in relation to any unauthorised Transaction(s) other than those described in clause 15.6.2.

## **24. E-mail Address and other personal information**

You should notify FGB promptly in the case of any change in your –

- 24.1 e-mail address;
- 24.2 telephone number;
- 24.3 mailing address; or
- 24.4 any other pertinent account information

and in the event of failure to supply such information FGB shall be entitled and obliged to send all notices, statements, information and correspondence to you to the address maintained in FGB's records for such purpose.

## **25. Intellectual Property**

You will not acquire any title, ownership interest or intellectual property right in the Services, the Token or any device or manual relative thereto. You are hereby granted a non-exclusive and non-transferable license to use the Token.

## **26. Termination**

- 26.1 FGB has the right to terminate this Agreement (and/or the availability of the Services) at any time without it being necessary to state any reason or explanation for such termination. FGB will ordinarily send you notice of any termination, but FGB is not required to do so unless applicable law requires such notice. Once FGB terminates this Agreement, no further or pending Transactions will be made, including but not limited to any Transactions scheduled in advance or any preauthorised recurring Transactions.
- 26.2 FGB may routinely terminate the Services (or any of them) (and/or the Agreement) in the event of your failure to utilize same within the first seven (7) days after activation or if the service has been inactive for a year.
- 26.3 This Agreement may be terminated by you by giving not less than seven (7) days' notice in writing to FGB without it being necessary to state any reason or explanation for such termination. However any Instructions from you will continue in effect until FGB has received your written notice of termination and has had a reasonable opportunity to act upon it. Once FGB has acted upon your notice, no further or pending Transactions will be executed, including but not limited to any payments scheduled in advance or any preauthorised recurring transfers.

- 26.4 In the event of your failure to pay any fee on the due date FGB shall be entitled at its discretion to suspend the provision of the Services to you until such fee is paid without prejudice to FGB's right to terminate this Agreement pursuant to clause 26.1 hereof.
- 26.5 You will remain liable to FGB for any and all Transactions requested while your Account is active and any and all claims arising from such Transactions and from the Agreement in general.
- 26.6 Upon termination of the Agreement the Customer must return to FGB any Token provided to it by FGB.

## **27. CREDIT REPORTS AND RE-EVALUATION OF RELATIONSHIP**

The Customer authorises FGB to request and obtain business and personal credit reports (from any bureau established or otherwise) in your name at any time. You agree to submit current financial information in your name to FGB at any time upon request. Without limiting any other provisions of this Agreement, FGB may at any time close or lower any Transaction or other relevant limits or otherwise act in relation to the Account as it deems necessary. FGB may report its credit experience with the Customer and the Customer's account(s) to third parties and may disclose information on the Agreement and the Account to associated companies (as defined by FGB from time to time).

## **28. Corporate Customers Only**

- 28.1 Corporate Customers shall advise FGB in writing signed by those persons who are authorised to conduct banking business on its behalf of any terms or conditions of that conduct and shall, using the same method to notify FGB of any changes of such persons.
- 28.2 FGB will discuss with the Corporate Customer the different levels of administration and authorisation required to access the Services. The Corporate Customer will at its option determine the method by which it administers the authorised users whether by using one corporate administrator who will thereafter grant rights of access to the Services, or whether it will provide FGB with its lists of authorised users, transaction limits and transaction rights.

## **29. Variations in Terms**

- 29.1 FGB reserves the right, solely and in its discretion, to amend the terms and conditions applicable to the Services as set out in this Agreement and the fees payable hereunder at any time provided that it will endeavour, but shall not be obliged, to give to the you at least seven (7) days prior notice of the effective date of each such variation unless this is not reasonably practicable under the then given circumstances. In the event of the variation resulting in increased fees or charges, you shall be entitled to discontinue further use of the Services by giving notice of termination pursuant to clause 26 hereof.

29.2 In addition amendments to this Agreement may be effected by FGB posting amended versions of this Agreement on the Online Banking System and upon your utilizing the Services or any part thereof after such posting you shall be deemed to accept and agree to this Agreement with such amendments as may be included in such amended versions.

29.3 You may not amend the terms of this Agreement without the written consent of FGB.

### **30. Severance**

If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable then such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect. The parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

### **31. Waiver**

The failure by FGB to enforce at any time or for any period any one or more of the terms and conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of the Agreement.

### **32. Notices**

32.1 Save as is otherwise expressly provided in this Agreement, any notice required to be given under this Agreement must be in writing and served by registered post or by hand delivery to the party concerned at:

32.1.1 its address as given in this Agreement or at any other address the party has notified in writing to the other party for the purpose; or

32.1.2 its registered office.

32.2 Any notice sent via registered post shall be deemed received by the addressee within seventy two (72) hours of posting and any notice hand delivered shall be deemed to be received by the addressee at the actual time of delivery.

### **33 Entire Agreement**

33.1 This Agreement (including the Schedules hereto), is, save as provided in clause 33.2, the complete and exclusive statement of the agreement between us with respect to the subject matter hereof and supersedes any prior agreement(s) between us with respect to such subject matter.

33.2 Notwithstanding clause 33.1 herein the parties acknowledge and agree that the operation of the Account will be governed by the Account Agreement, which you hereby agree to adhere to, and that in the event of any inconsistency and/or conflict between the terms of this Agreement and the Account Agreement, the terms of this Agreement shall govern regarding matters relating to the Services.

33.3 In the event performance of the Services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or policy then this Agreement shall, save and except where otherwise prescribed by FGB be deemed amended to the extent necessary to comply with any such statute, regulation or policy, and FGB, shall incur no liability to you as a result of such violation or amendment.

33.4 Nothing in this Agreement (or any of the arrangements contemplated hereby) shall be deemed to create a partnership between the parties.

**34. Assignment**

34.1 FGB may assign this Agreement at any time without the consent of the Customer.

34.2 You may not assign the Agreement or any rights or duties hereunder to any person without the prior written consent of FGB.

**35. Binding Agreement**

This Agreement shall be binding upon and enure to the benefit of the parties and their respective legal representatives, successors and assigns.

**36. Governing Law**

This Agreement is governed by and shall be construed in accordance with the laws of Jamaica. Each party irrevocably agrees to submit to the exclusive jurisdiction of the Courts of Jamaica over any claim or matter arising under or in connection with this Agreement or the legal relationships established by this Agreement.

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**FIRST SCHEDULE**

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The Online Banking Service is an electronic system which permits you by the use of your personal computer to do the following, namely –

- (I) Access current, savings, deposit, loans and credit card accounts maintained at FGB by the you (either individually or jointly with other persons) in order to view account balances and transaction histories, and to obtain current interest rates, maturity dates and other account

details;

- (II) Download account information from the Online Banking Service to a Personal Financial Management (PFM) Programme which supports the Statement Download process;
- (III) Transfer funds between eligible accounts according to the rules applicable to those accounts and this Agreement;
- (IV) Order cheque books online;
- (V) Pay bills to any Payee designated by you and whom FGB may approve in its absolute discretion by requesting Payment to be made by FGB pursuant to this Agreement;
- (VI) ACH Transactions;
- (VII) International Wire Transfers;
- (VIII) Issue Stop Payment Orders;
- (IX) Request International drafts
- (X) Request Managers cheques
- (XI) Set-up Standing Orders;
- (XII) Reporting lost and stolen cards;
- (XIII) Communicating and giving Instructions to FGB via SMS regarding matters detailed herein<sup>1</sup>; and
- (XIV) such other additional services as FGB may make available from time to time.

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## SECOND SCHEDULE

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### DEFINITIONS AND INTERPRETATION

#### 1. Definitions

In this Agreement the following terms and expressions shall have the following meanings –

TERM	DEFINITION
<b>Access Code(s)</b>	refers to the identification information needed to access the Services from

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<sup>1</sup> This only applies to Customers other than Corporate Customers

	time to time and includes (i) your User ID assigned by FGB, (ii) the Password (or personal identification number) selected by you and (iii) the Token supplied to you by FGB or any one of them.
<b>ACH or Automated Clearing House</b>	means the funds transfer system governed by the Rules of the Jamaica Clearing Bankers Association (“Rules”) which provides for inter-bank clearing of electronic entries for financial institutions that (1) are authorised by law to accept deposits (2) have been assigned routings by the Jamaica Clearing Bankers Association, (3) have agreed to be bound by the Rules in effect from time to time and (4) are authorised to transmit Entries to and receive Entries from the ACH Operator.
<b>ACH Operator</b>	also known as the “Automated Clearing House Operator” means the person so appointed pursuant to the Rules to (1) provide clearing, delivery and settlement services for Entries between Participating DFIs and (2) process and edit Files based on the requirements of the Rules.
<b>ACH Transaction</b>	means a domestic transaction processed through the ACH.
<b>Account</b>	means any of your existing account(s) at FGB which may be used to facilitate the Services and includes, without limitation, current, savings, deposit or money market type deposit account owned by the Customer and Certificates of Deposit.
<b>Account Agreement</b>	means the documentation detailing the terms and conditions under which the Account operates.
<b>FGB or us or we</b>	means First Global Bank Limited.
<b>FGB’s Website or the Website</b>	means www.firstglobal-bank.com or such other address as may exist for FGB’s website from time to time.
<b>Bill Pay Service</b>	means the service by which FGB will make (or arrange for) payment to Payees in accordance with the terms of this Agreement from the funds in the your Account in accordance with the instructions received from the you.
<b>Business Day</b>	means a day (other than a Saturday or Sunday or a public holiday) on which commercial banks are open for banking business in Jamaica.
<b>Corporate Customer</b>	An entity incorporated under the laws of the relevant jurisdiction.
<b>the Customer or you</b>	means the person that has an Account at FGB and who has requested access to these online banking services and includes as applicable throughout the Agreement a User. Where more than one person is the owner of an account it shall apply to all of them jointly or severally as the case may require.
<b>E-mail</b>	means electronic mail transmissions over the Internet.
<b>Entry</b>	means an order or request complying with the requirements of the Rules (1) for the deposit of money to the deposit account of a Receiver (a “credit Entry”) (2) for the payment of money from the deposit account of a Receiver (a “debit Entry”) (3) a zero dollar entry or (4) all other relevant types of entries permitted by the Rules and agreed to by FGB from time to time.
<b>File</b>	means a group of Entries complying with the requirements of the Rules.
<b>Instruction(s)</b>	means all message(s) including requests for inquiry and Transactions, sent by use of your Access Codes to FGB using the Services.
<b>LAN</b>	means Local Area Network.

<b>ODFI</b>	otherwise known as the “Originating Depository Financial Institution” means a participating financial institution that (1) transmits Entries directly or indirectly to the ACH Operator for transmittal to an RDFI and (2) is designated an ODFI in accordance with the Rules.
<b>Online</b>	means through the Internet by use of a personal computer or other screen-based electronic device.
<b>Online Banking</b>	Means the ability of customers to conduct the Services using the Online Banking System.
<b>Online Banking System</b>	means the electronic system which permits the Services.
<b>On-us Entry</b>	means an Entry for which the account of the Receiver is domiciled at FGB.
<b>Originator</b>	means a person or a corporate entity that has authorised an ODFI to transmit a credit or debit Entry to the account of a Receiver in this Agreement this means you.
<b>Originator Agreement</b>	means the agreement signed by Corporate Customers who are permitted by FGB to carry out certain transactions using the ACH.
<b>Payee</b>	means the individual, merchant or institution to be paid by you via the use of the Services (you may also be a Payee).
<b>PFM Software</b>	means a Personal Financial Management Software (for example “Quicken ®” or “Microsoft ® Money”).
<b>Programme</b>	means a programme which supports the statement download process.
<b>RDFI</b>	otherwise known as the “Receiving Depository Financial Institution” means a participating financial institution that (1) receives Entries from the ACH Operator, on the instructions of an Originator and/or the ODFI”, for debit or credit to the accounts of Receivers and (2) is designated an RDFI in accordance with the Rules.
<b>Receiver</b>	means a person that has authorised an Originator to initiate a credit or debit entry to the Receiver’s deposit account with a RDFI, or, if the Receiver is also the RDFI, to such Receiver.
<b>RTGS</b>	means Real Time Gross Settlement System and is a funds transfer system which provides for inter-institution clearing of electronic entries for financial institutions in real time.
<b>the Services</b>	means the online banking services offered by FGB from time to time and as described in the First Schedule.
<b>Settlement Date</b>	means the date an exchange of funds with respect to an Entry is reflected on the books of the Bank of Jamaica.
<b>SMS</b>	The Secured Messaging Services provided by FGB’s Online Banking System.
<b>SWIFT</b>	Society for Worldwide Interbank Financial Telecommunication and is an international wire transfer system.
<b>Token</b>	is a physical device that an authorised user of the Services is given by FGB to aid in authentication.
<b>Transaction</b>	means a Bill Payment, an Internal Transfer, an Domestic Transfer, an Entry, Wire Transfer, and/or any other transaction which be conducted by you from time to time using the Services.
<b>Transfer</b>	means a transfer of funds intra-bank or Domestic Transfers executed via

	ACH or RTGS (or any payment system utilized by FGB from time to time and at any time) between eligible accounts initiated through use of the Services by FGB's Customers.
<b>Transfer Cutoff Time</b>	means the deadline established by FGB from time to time by which a Transfer can be scheduled or changes (including cancellation) can be made to a scheduled Transfer on the date the Transfer is to be initiated.
<b>User(s)</b>	means person(s) authorised by you as users of the Service.
<b>Wire Transfers</b>	Means payment of funds to an account of another party outside of Jamaica which may be executed via SWIFT or any other payment system utilized by FGB at any time and from time to time.

2. Interpretation

- 2.1 The preamble and preliminary recitals set forth above are by this reference incorporated in and made a part of this Agreement.
- 2.2 Where applicable the terms used in this Agreement shall have the same meaning as that provided in the Rules.
- 2.3 Words importing one gender shall be construed as importing any other gender.
- 2.4 Words importing the singular shall be construed as importing the plural and vice versa.
- 2.5 Words importing persons may, as applicable, be construed as importing a corporate body and/or a partnership and vice versa.
- 2.6 Where any party comprises of more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.

I/We, the undersigned, hereby confirm that we accept and agree to be bound by the terms and conditions set forth herein.

DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

EXECUTED UNDER THE COMMON SEAL )  
of )  
LIMITED in accordance with its Articles or Bye-Laws )  
and pursuant to a resolution of its Board of Directors )  
by Director and ) \_\_\_\_\_  
Director/Secretary )  
in the presence of: ) \_\_\_\_\_

