

Special Terms and Conditions Multi-Banking (EBICS)

1. Subject matter of these special terms and conditions

Hamburg Commercial Bank AG (hereinafter “HCOB”) enables its Customer who is not a consumer and with whom it has entered into an agreement on participation in electronic account management via EBICS, to communicate via its browser-based platform solution on the HCOB homepage (“HCOB Homepage”) and, upon conclusion of a supplementary agreement to this effect, via the HCOB Banking App (HCOB Homepage and HCOB Banking App hereinafter jointly referred to as “HCOB Accesses”) with other account-holding institutions (hereinafter referred to as “Third-Party Institutions”) in the EBICS standard (“EBICS Communication”). Further details shall be governed by these terms and conditions.

2. Range of services

The Customer as well as participants within the meaning of the Agreement on Participation in Electronic Account Management (“Participants”) may communicate with Third-Party Institutions via HCOB Accesses in the EBICS standard, i.e. send EBICS orders and receive information made available for retrieval in accordance with the authorisations stored in the EBICS system of the respective third-party provider. The scope of functions in this context depends on the authorisations stored in the EBICS system of the Third-Party Institution and, in the case of access via the HCOB Banking App, additionally on the scope of functions of the HCOB Banking App. Participants who wish to communicate via HCOB Accesses in the EBICS standard with regard to an account held at a Third-Party Institution must also be participants in the EBICS system of the third-party provider.

3. Accounts eligible for participation

Communication via the HCOB Accesses shall only be permitted with regard to accounts of the Customer at Third-Party Institutions in the EBICS standard for which the Customer is the sole account holder or co-holder. If the Customer is a co-holder, the consent of all other account holders shall be required. HCOB shall be entitled to demand suitable proof from the Customer for this. The Customer shall inform all other co-holders of the accounts of the data protection information of HCOB in accordance with Articles 13, 14, 21 GDPR. These are posted on the HCOB website under “<https://www.hcob-bank.de/en/footer/datenschutzerklaerung/datenschutzerklaerung/>”.

Communication via the HCOB Accesses may only take place with regard to the Customer’s accounts which predominantly serve the Customer’s commercial or self-employed professional activity. With regard to other accounts (e.g. private accounts of Customers or Participants or accounts of non-customers over which Participants are authorised to dispose), no communication may be made via HCOB Accesses.

4. Transactions

Customer and Participant may communicate via HCOB Accesses in the EBICS standard with regard to accounts held at Third-Party Institutions. The transactions supported by the Third-Party Institutions can be carried out, provided the Customer or Participant is authorised to do so in the EBICS system of the Third-Party Institution. This shall include all transactions that are permitted according to the EBICS specification, provided that these are supported by the Third-Party Institution and, in the case of access via the HCOB Banking App, also by the latter.

In order to properly initiate a transaction within the framework of payment transaction orders, the entry of information is required. For domestic transfers, these are, for example, the name of the payee, IBAN of the payee, currency and amount. The aforementioned information may also be provided by uploading a file. Only the release, but not the entry of payments is possible via the HCOB Banking App.

Other orders can be placed via upload and download within the framework of the EBICS standard. When initiating payment transaction orders and other orders, security measures are required via the authentication procedures provided by HCOB. By carrying out the authentication procedure and sending the respective order, the order is authorised by the Customer.

After authorisation by the Customer, neither payment transaction orders nor other orders can be changed. Changes can only be asserted via the revocation options agreed with the Third-Party Institution, if applicable.

HCOB will transmit the data of payment transaction orders and other orders to the relevant Third-Party Institution immediately after authorisation by the Customer. A notification of the transfer is made by providing the Third-Party Institution’s customer log. After initiating a transaction, the Customer undertakes to collect the corresponding customer log and to check it for correctness. The conditions of the Third-Party Institution shall apply to the implementation. The execution of payment transaction orders and other orders shall be the sole responsibility of the Third-Party Institution, which sets processing times for payment transaction orders and regularly checks any agreed disposal limits.

5. Third-party fees

Unless otherwise agreed, fees for maintaining HCOB Access shall be based on HCOB’s list of prices and services. If no price is listed there, no separate fee shall be charged. Fees at the respective Third-Party Institutions shall be borne by the Customer.

6. Information on the processing of personal data of the Customer/Participant

HCOB continuously and regularly processes personal data of the Participants (master data, turnover and account data) for the provision of its services from the multi-banking function (Art. 6(1) sent. 1 point b) GDPR). Personal data of the Participants shall only be transmitted by HCOB to third parties if there is a legal obligation to do so or if HCOB has been given consent to do so. The provisions in this Clause shall only apply to natural persons.

7. Liability

In the event of payment transactions not authorised by the Customer, not executed or executed incorrectly, the Customer may request a refund exclusively from his/her/its account-holding institution (the institution that maintains the account concerned). In the event of late execution of a payment order, the Customer shall only be entitled vis-à-vis his/her/its account-holding institution to be placed in the same position as if the payment transaction had been executed properly. Where liability on the part of HCOB for non-execution, incorrect execution or delayed execution of a payment transaction may also be considered, such liability shall be limited to 12,500 euros. This shall not apply to intent and gross negligence, the loss of interest and to risks that HCOB has specifically assumed.

HCOB shall not be liable for the accessibility of Third-Party Institutions.

Other than that, HCOB shall be liable in each case for reimbursement of expenses and damages in accordance with applicable statutory provisions in the following cases: In the event of liability under the Product Liability Act; in cases of intent or fraudulent misrepresentation; in cases of gross negligence; for injury to life, limb or health; in the event of the assumption of a guarantee by HCOB; and in all other cases of mandatory liability under the law.

HCOB shall also be liable for damages in the event of a culpable breach of so-called cardinal obligations in accordance with statutory provisions. For this purpose, cardinal obligations shall mean all obligations the breach of which jeopardises the achievement of the purpose of the agreement as well as all obligations the fulfilment of which makes the proper performance of the EBICS communication possible in the first place and compliance with which may be regularly relied upon. However, where the breach of a cardinal obligation was only slightly negligent and did not result in injury to life, limb or health, the claims for damages shall be limited in amount to the typical foreseeable damage.

Otherwise, claims for damages against HCOB shall be excluded.

Any statutory liability privileges in connection with gratuitous contracts shall remain unaffected.

8. Indemnification

The Customer undertakes to indemnify HCOB in respect of claims by Third-Party Institutions which arise in connection with the fact that these Third-Party Institutions execute modified or forged orders which are issued within the framework of EBICS communication. This shall apply to the extent these orders give the appearance of having been issued by an authorised Participant, provided that HCOB did not act intentionally or with gross negligence in the course of its examination.

9. Existing agreements of the Customer with HCOB and Third-Party Institutions

Existing agreements of the Customer with HCOB and Third-Party Institutions shall not be changed by these special terms and conditions. This shall also apply to the Agreement on "Participation in Electronic Account Management via EBICS" concluded between the Customer and HCOB. In the event of a conflict with other provisions agreed between the Customer and HCOB and these special terms and conditions, these special terms and conditions shall take precedence.

10. Term, termination

This agreement shall terminate automatically if no account maintained with HCOB is assigned to the customer ID of the Customer any longer or if the "Participation in Electronic Account Management" is terminated.

The Customer may have data relating to accounts at Third-Party Institutions, in respect of which communication has taken place via HCOB Access, deleted from the HCOB area only after consultation with HCOB. As a result, the stored data of the respective accounts shall be automatically deleted, to the extent this does not conflict with any mandatory statutory provisions or to the extent such data is required for the fulfilment of further performance obligations of HCOB towards the Customer.

The Customer may terminate the agreement on the use of EBICS communication with HCOB at any time by giving one month's notice. HCOB shall be entitled to terminate the agreement on the use of EBICS communication ordinarily with two months' notice if there is an appropriate reason.

By way of supplement, nos. 18 and 19 of the General Terms and Conditions shall apply.

The present translation is furnished for the customer's convenience only. The original German text of the Special Terms and Conditions Multi-Banking (EBICS) is binding in all respects. In the event of any divergence between the English and the German texts, constructions, meanings, or interpretations, the German text, construction, meaning or interpretation shall govern exclusively.