

# Terms & Conditions

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# Terms & Conditions

## Personal

The parties to this agreement are: Currencies Direct Limited ('CD') of 51 Moorgate, London EC2R 6BH (registered in England and Wales with company registration number 03041197) and the client named in the account opening form attached to these terms and conditions (the 'Client') (the 'Account Opening Form').

### 1. INTRODUCTION

- 1.1 From 1 November 2009 CD is regulated by the Financial Services Authority ('FSA') as a payment institution under the registration number [504360].
- 1.2 CD provides facilities for the purchase or sale of currencies for both commercial and personal purposes. CD's contracts with Clients are for settlement or delivery. That means, at maturity the Client must (except where the currency is to be delivered as cash) take delivery of funds to a bank account. CD provides its services to clients for the fulfilment of international payments and/or hedging of assets. CD discourages using a foreign currency for speculative purposes and CD's staff do not provide advisory services.
- 1.3 The Client wishes to enter into a contract or contracts for the purchase, sale and delivery of currency with CD and the Client agrees with CD that all transactions shall be carried out on the terms and conditions (the 'Terms') set out below. The Client confirms that:
- it has or will have a personal or commercial need for the currency which is the subject of each transaction and no transaction will be for the purpose of speculation or investment; and
  - it is acting on its own account and not on behalf of any other person.
- 1.4 Please note that foreign currency exchange rates are subject to fluctuations outside the control of CD. Historical performance is no indicator for future performance.
- 1.5 These Terms shall come into force as soon as the Client signs the Account Opening Form and shall continue until terminated in accordance with their terms
- 1.6 It is important that the Client reads and understands these Terms, which will apply to all dealings between the Client and CD. If there are any terms that the Client does not understand or does not wish to agree to, it should discuss it with CD before signing the Account Opening Form. The Client should only sign the Account Opening Form if it agrees to be bound by these Terms.

### 2. CD'S SERVICES

- 2.1 The services that CD provides comprise two separate elements:
- the foreign currency exchange described in Clause 2.2 ('Foreign Exchange'); and
  - the payment service described in Clause 2.3 ('Payment Service').
- Clauses 3 to 9 (inclusive) shall apply only to Foreign Exchange and Clauses 10 to 14 (inclusive) shall apply only to Payment Services.
- 2.2 CD will, when it decides to do so, enter into individual contracts for the sale, purchase and delivery of currency ('FX Contracts') with the Client. FX Contracts may, without limitation, include:
- spot contracts under which currency is bought and sold for delivery immediately against receipt of payment;
  - fixed forward contracts under which currency is bought and sold for delivery at a fixed future time;
  - open forward contracts time options under which currency is bought and sold for delivery at a time subsequently instructed by the Client within an agreed period or, failing such instructions, at the end of the agreed period; and
  - limit orders under which currency is bought and sold for delivery if and when an agreed exchange rate is available.
- 2.3 Following the execution of a Foreign Exchange transaction and subject to these Terms, CD shall transfer the converted currency in accordance with an instruction by the Customer requesting the onward transfer of the converted currency to the Customer or a third party (the 'Payee') (such instruction being a 'Payment Instruction' and the onward transfer being an 'Onward Payment').
- 2.4 CD will always contract as principal with the Client and deal with the Client on an execution only basis.
- 2.5 CD will not provide advice to the Client upon the merits of a proposed Foreign Exchange transaction or Payment

Service or provide taxation or other advice to the Client (although it may provide information to the Client from time to time). In entering a FX Contract and/or issuing a Payment Instruction the Client must not treat any information or comments by CD as advice and must rely only on its own judgement (or the judgement of any third party adviser).

- 2.6 The Client must take physical delivery of and pay for the currency in question on the date specified in the Contract Note (as defined in Clause 3.2) (the 'Maturity Date'), and, if advance or instalment payments are called for by CD in the Contract Note or under Clause 4.1, the Client must make such payments at such time or times as CD may require to fulfil the FX Contract.
- 2.7 CD does not accept payments in cash from any Client.

### TERMS APPLYING TO FOREIGN EXCHANGE SERVICES

#### 3. INITIATING A FOREIGN EXCHANGE

- 3.1 The Client may give CD oral or written instructions relating to a transaction for the purchase or sale of currency (the 'FX Order'). The Client may issue written instructions to CD authorising any other named person (an 'Authorised Person') to give FX Orders on its behalf. CD is entitled to act upon instructions which are or appear to be from the Client or any Authorised Person.
- 3.2 Following receipt of a FX Order, CD shall, if it is willing to accept the FX Order, agree orally with the Client the terms on which it is willing to enter into a FX Contract and shall subsequently fax, or transmit electronically or (where the Client has not advised CD of its fax or email details) posted to the Client a contract note which will confirm the details of the FX Order (the 'Contract Note'). That Contract Note shall include details of CD's charges in relation to the FX Contract, the exchange rate applying, CD's charges in relation to the Payment Service and, in the case of any FX Contract which is not a spot contract, such instalments as CD may specify in its absolute discretion.
- 3.3 The Client accepts that:
- prior to undertaking a Foreign Exchange transaction, CD will deduct those costs and charges which CD is entitled to make pursuant to these Terms; and
  - the Client is solely responsible for ensuring that, following the deductions referred to in Clause 3.3(a) and the application of the exchange rate agreed in the Contract Note, the amount of any Onward Payment will be sufficient to fulfil any obligations that Client has to the relevant Payee.
- 3.4 Within ten minutes (or such longer period as CD may allow, for example, where the Contract Note is posted to the Client) of transmission of the Contract Note, the Client should check, complete, sign and return the Contract Note to CD by such means as may be agreed by CD and the Client or, in the absence of such agreement, either as a PDF attached to the email address set out in Clause 19.1(b) or, where applicable in accordance with Clause 22. Whether or not the Client does this, the FX Contract will be binding (and CD's and the Client's rights under these Terms shall apply with full effect).
- 3.5 Once CD has transmitted a Contract Note confirming a FX Order in writing, the Client may only amend or cancel the Contract Note if CD expressly agrees (and any such amendment or cancellation shall be on the conditions specified by CD) or otherwise in accordance with the provisions of Clause 3.8.
- 3.6 CD may at its absolute discretion refuse any FX Order or instructions given by the Client without giving any reason or being liable for any loss the Client suffers as a result of such refusal.
- 3.7 CD may (but shall not be obliged to) require further confirmation or information from the Client or Authorised Person of any FX Order or instruction if:
- CD considers that such confirmation or information is desirable or that a FX Order or instruction is ambiguous; or
  - the instruction is to close the Client's account or to remit the Client's funds to a third party.
- 3.8 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any FX Contract, however it may terminate a FX Contract entered into under these Terms prior to the Maturity Date of such FX Contract by giving written notice to CD by fax or email SUBJECT TO the following conditions:

- each party will remain liable to perform accrued but unperformed obligations which have fallen due before termination, but all other rights will cease upon such termination;
- the Client will be liable for all of the costs, expenses and losses (and interest at the rate referred to in Clause 15 on any such sums) that CD may incur (including any action it may take to cover or reduce its exposure) as a result of CD entering into such FX Contract with the Client (including the actual or hypothetical costs of unwinding any hedging arrangements which are referable to such FX Contract). Any excess amount held by CD in respect of FX Contract shall be returned to the Client after deducting all other sums due to CD.

#### 4. OPERATION OF THE TRANSACTION ACCOUNT

- 4.1 The Client shall pay by electronic transmission (or by such other means as agreed with CD in any particular case) in cleared funds into a bank account nominated by CD (the 'Transaction Account') the full amount stated in the Contract Note and, in the case of any FX Contract which is not a spot contract, such further instalments thereof as CD may subsequently notify the Client from time to time. Failure by the Client to pay the full amount specified in the Contract Note and all such further instalments shall relieve CD of any obligation to make any corresponding payment it may be required to make under the relevant FX Contract.
- 4.2 This Clause 4.2 shall apply to the Transaction Account:
- Where the Transaction Account is held in a UK bank, CD shall hold and operate the account as a segregated client account. This means CD shall hold the money in this account for its clients for the purposes set out in Clauses 4.2(b) and 4.2(c) and shall only make payments out of the Transaction Account or apply sums held in it in accordance with the Client's instructions, or as otherwise specified in Clauses 4.2(b) and 4.2(c).
  - The purposes for which money paid into the Transaction Account by or on behalf of the Client is held and may be applied, withdrawn or transferred are:
    - settlement of transactions between CD and the Client;
    - payment of other sums due and payable to CD by the Client under these Terms or under any FX Contract including without limitation advance or instalment payments, transfer charges and interest;
    - making an Onward Payment; and
    - withdrawal or retention of interest by CD in accordance with Clause 15.2.
  - Following termination of all outstanding transactions between CD and the Client under these Terms or any FX Contract and as soon as practicable after the date when the Transaction Account need no longer be maintained for dealings between CD and the Client, any excess amount held in the Transaction Account by CD in respect of the Client's FX Contracts shall be returned to the Client after first being applied by payment to CD in satisfaction of all claims of CD against the Client arising under these Terms or any FX Contract. The Client shall not be entitled to the return of any monies held in the Transaction Account at any time when there are any amounts which may be or become owing to CD under these Terms or any FX Contract and the Client's entitlement in respect thereof shall be limited to such monies after deduction of the amounts so owing.
  - The Transaction Account is one in which money received from all CD's clients is pooled and applied for all of CD's clients and into which CD may also temporarily pay sums owned by it. It is not an individually segregated account of the Client. Accordingly, monies which have not been paid into the Transaction Account by or on behalf of the Client may be held, applied, moved, withdrawn or transferred for purposes other than those set out in Clauses 4.2(b) and 4.2(c).
- 4.3 The Client must make sure cleared funds are received in the Transaction Account on or before the Maturity Date for the full amount required pursuant to Clause 4.1.
- 4.4 CD may, but shall not be required to, make any payment under any FX Contract without first having received confirmation satisfactory to it that cleared funds for all

- sums due and payable by the Client to CD have in fact been received.
- 4.5 CD may deduct from the Transaction Account any amount the Client owes to CD including any fees, costs, taxation liabilities, or charges incurred by CD in relation to such Client, however they arise.
- 5. FOREIGN EXCHANGE CHARGES**
- CD's charges in relation to Foreign Exchange services will be as set out in the Contract Note. The Client understands that because CD deals as principal the exchange rate it offers the Client will not be the same as the rate CD obtains itself.
- 6. ADDITIONAL CONDITIONS FOR FORWARD FX CONTRACTS**
- 6.1 The Client will be required to notify CD not less than 2 days before the Maturity Date of any forward FX Contract or any draw down with the details of the beneficiary, the payment means and delivery instructions.
- 6.2 Subject to any facility, CD will require an agreed security payment from the Client for each order for a forward FX Contract and CD will be entitled to request from the Client additional security payments in amounts notified by CD to the Client in the event of exchange rate fluctuations at any time prior to the Maturity Date.
- 6.3 With CD's agreement the Client may draw down against a forward FX Contract at any time up until its Maturity Date.
- 6.4 CD may agree with the Client at any time prior to the Maturity Date to roll forward all or part of a forward FX Contract until a later date upon agreement as to the terms and amounts payable by the Client to CD.
- 7. FOREIGN CURRENCY CHEQUE OR DRAFT PURCHASE**
- 7.1 CD may agree in writing to purchase and exchange into Sterling, or another currency, non-Sterling cheques and drafts which the Client has received in the name of the Client and this Clause 7 applies to all such purchases and exchanges.
- 7.2 The Client must forward a request for each foreign currency cheque or draft purchase together with the relevant cheques and/or drafts to CD.
- 7.3 All cheques and drafts presented to CD by the Client will be examined by CD for validity and any item deemed invalid will be returned to the Client as soon as reasonably practicable at the Client's risk.
- 7.4 All cheques and drafts must be endorsed by the Client "payable to Currencies Direct Limited" and be signed by the Client or an Authorised Person.
- 7.5 CD agrees to pay the Client in Sterling or other agreed currency the value of the cheques and drafts in accordance with CD's value dating policy and charges notified to the Client by CD from time to time.
- 7.6 Any item returned to CD as not able to be negotiated or cleared following presentation by CD will be returned to the Client, at which time the Client agrees to immediately reimburse CD any monies paid to the Client together with any charges imposed by the returning institution.
- 7.7 Any item lost, stolen, or destroyed in transit during the clearing process will be reported to the Client within 24 hours of advice being received by CD. CD will supply the Client with a letter confirming that CD have not received value for the item from any bank involved in the clearing and/or paying of the item.
- 8. DEFAULT, CLOSE OUT & REFUSAL TO PERFORM FX CONTRACTS**
- 8.1 CD may refuse to perform or may close out all or any part of any FX Contract, without incurring any liability to the Client for losses that may be sustained as a result and without giving notice to the Client or receiving any instructions from it, upon or at any time after the happening of any of the following events:
- the Client fails to make any payment when due under these Terms or any FX Contract;
  - the Client dies or, in CD's opinion, becomes of unsound mind;
  - the Client suspends payment of its debts, makes or takes steps with a view to making any composition or similar arrangement with its creditors, has a receiver appointed of some or all of its assets, takes or has any proceedings taken against it in bankruptcy or anything similar to any of these events happens to the Client anywhere in the world;
  - the Client fails in any respect fully and promptly to comply with any obligations to CD under these Terms or otherwise or if any of the representations of or information supplied by the Client are or become materially inaccurate;
  - it becomes or may become unlawful for CD to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business or if CD or the Client is requested not to perform or to close out a FX Contract (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding; or
- (f) CD considers it necessary to do so for its own protection including (without limitation) in the following circumstances: (i) protection from fraud; (ii) protection from Client default; (iii) protection from market failure; (iv) protection from adverse or volatile market conditions; and (v) protection from loss by CD.
- 8.2 If the Client becomes aware of the occurrence of any event referred to in Clauses 8.1(a), 8.1(c), 8.1(d) and 8.1(e), it shall notify CD immediately.
- 8.3 If any event referred to in Clauses 8.1(a) to 8.1(f) takes place CD shall at its discretion be entitled to cancel any FX Contract then outstanding and charge the Client with all of the costs, expenses and losses (and interest at the rate referred to in Clause 15 on any such sums) that CD may incur (including any action it may take to cover or reduce its exposure) as a result of CD entering into FX Contracts with the Client (including the actual or hypothetical costs of unwinding any hedging arrangements which are referable to the FX Contracts). Any excess amount held by CD in respect of FX Contracts shall be returned to the Client after deducting all other sums due to CD.
- 8.4 If for any reason a FX Contract is closed out or does not proceed to completion, CD will send to the Client any sum due to the Client or a notice setting out the sum due from the Client. The Client shall bear all the losses/expenses of CD whatsoever that may arise on account of such close out or cancellation, and CD shall have the right to use any monies of the Client held by it to offset such amounts as are owed by the Client to CD. For such purpose, CD shall be entitled to convert any currency held by it and such conversion shall be at the rate of exchange available to it. Any fee or charge which CD incurs as a result of such conversion shall be paid for by the Client.
- 8.5 If the Client's cheque, or any other method of payment, is dishonoured, returned, not met on first presentation or stopped for whatever reason, CD shall levy an administrative charge of £25.00 in respect of each such payment. This administrative charge will become payable by the Client in addition to any other sums due under these Terms.
- 8.6 CD shall not be responsible in any way for any delay in payment by it under these Terms relating to Foreign Exchange services which is caused by the Client or any other third party, including but not limited to bank delay, postal delay, failure or delay of any fax or electronic transmission or delay caused by accident, emergency or act of god. For the avoidance of doubt the Client accepts that the Client is solely responsible for ensuring that all payments which the Client is required to make under any Foreign Exchange transaction are made promptly and within the time limits specified by the particular FX Contract and these Terms.
- 9. LIMITATION OF LIABILITY AND INDEMNITY FOR FOREIGN EXCHANGE**
- 9.1 CD shall not be liable to the Client:
- for any delay or failure to perform its obligations under these Terms relating to Foreign Exchange or any FX Contract by reason of any cause beyond the reasonable control of CD, but CD shall try to perform those obligations as soon as it reasonably can in any event;
  - for any consequential or indirect loss (such as loss of profits or opportunity) the Client may incur as a result of CD failing to perform its duties under a FX Contract; or
  - for an amount greater than the maxima stated in Clauses 9.2 and 9.3.
- 9.2 The maximum liability of CD under a particular FX Contract, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the currency sold by CD under that FX Contract.
- 9.3 The maximum aggregate liability of CD in respect of Foreign Exchange services provided under these Terms, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the aggregate value of currency sold by CD under FX Contracts issued in accordance with these Terms.
- 9.4 The Client shall, on demand by CD, compensate CD from and against all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by CD in the proper performance of Foreign Exchange services or the enforcement of its rights under these Terms relating to Foreign Exchange and, in particular, but without limitation, against all amounts which CD may certify to be necessary to compensate it for all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by CD
- (including loss of profit and losses and expenses from any action CD takes to seek to cover or reduce its exposure under any FX Contracts) as a result of:
- the Client breaching any terms of these Terms relating to Foreign Exchange or any FX Contract;
  - CD acting on a written, oral, telephone, fax or electronic FX Order which reasonably appeared to CD to be from the Client or an Authorised Person; or
  - CD or the Client exercising its rights under these Terms to close out all or any part of any FX Contract before its applicable Maturity Date.
- 9.5 The provisions in this Clause 9 shall survive termination of any FX Contract or other agreement under these Terms relating to Foreign Exchange and CD's certificate under Clause 9.4 shall, unless it is manifestly inaccurate, be conclusive.
- TERMS APPLYING TO PAYMENT SERVICES**
- 10. PAYMENT INSTRUCTIONS**
- 10.1 The Client or its Authorised Person may from time to time orally or in writing issue a Payment Instruction to CD. Such Payment Instruction shall be given in accordance with Clause 19.1(b) or, where applicable, Clause 22 and must confirm details of the proposed Payee including its full name, account details for payment and any unique identifier confirmed to the Client by the Payee.
- 10.2 The Payment Instruction shall be deemed to be received at the time at which it is received except that:
- where the Payment Instruction would otherwise be deemed to be received on a day which is not a 'Business Day' (being a day, other than a Saturday or Sunday, on which banks are open for business in London and any other geographic locations required to complete the transaction) or is received after 2.30 pm, London time (the "Cut-Off Time") on a Business Day, CD has the right to treat the Client's Payment Instruction as having been received on the next Business Day; and
  - if the Onward Payment is to be made on a specified day or on the last day of a specified period (and such specified day or last day of a specified period shall be on or after whichever is the later in time of the Maturity Date, the Business Day on which cleared funds are received in the Transaction Account from the Client for the full amount required pursuant to Clause 4.1, and the Business Day on which the converted currency from the executed Foreign Exchange is received as cleared funds in the Transaction Account), the Client's Payment Instruction shall be deemed to be received on the day stated for the making of that Onward Payment or, if that is not a Business Day, on the Business Day immediately following that date.
- 10.3 Following receipt of a Payment Instruction, CD may:
- refuse that Payment Instruction and if it does so, CD shall (unless it would be unlawful for CD to do so) notify the Client of that refusal, the reasons for that refusal (if possible), and the procedure for rectifying any factual errors that lead to that refusal. Such notification shall be given to the Client as soon as practicable following the refusal and CD may charge the Client for such notification where the refusal is reasonably justified. A Payment Instruction which is refused by CD shall be deemed not to have been received for the purposes of Clause 10.2; and/or
  - request further confirmation or information from the Client or Authorised Person of any Payment Instruction, including if CD considers that such confirmation or information is desirable or that a Payment Instruction is ambiguous; and/or
  - stop the use of any foreign currency or Sterling bank draft ('Draft'), personal security features and information or other payment procedure or instrument in accordance with Clause 11.2.
- 10.4 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any Payment Instruction once given.
- 10.5 The Client may not revoke a Payment Instruction after it has been received by CD except:
- if Clause 11.3 applies and the Transaction Account has not been debited before the Client notifies CD; or
  - if the Client has agreed with CD that the Onward Payment is to be made on a specific day or on the last day of a certain period and the revocation is received by CD prior to the Cut-Off Time on the Business Day preceding the specified day for the making of the Onward Payment; or
  - if agreed with CD and, in the case of any payment transaction which has been initiated by the Payee, the relevant Payee.
- Any revocation of a Payment Instruction in accordance with this Clause 10.5 must be given in writing to CD by email (including email attaching a PDF).

10.6 CD may charge the Client for any revocation by the Client of a Payment Instruction. In particular, but not by way of limitation:

- (a) the Client shall bear all costs, expenses and losses of CD whatsoever that may arise on account of the revocation; and
- (b) CD may charge interest at the rate referred to in Clause 15.1 on any sums due to CD pursuant to this Clause 10.6.

10.7 Following a Foreign Exchange transaction, CD shall:

- (a) if the Client requests, make available to the Client prior to making the Onward Payment details of the maximum execution time for that Onward Payment and details of any charges payable by the Client (including a breakdown of those charges where applicable); and
- (b) as soon as reasonably practicable after the amount of the Onward Payment is debited from the Transaction Account, make available to the Client:
  - (i) a reference enabling the Client to identify the Onward Payment made;
  - (ii) information on the Payee;
  - (iii) the amount of the payment, shown in the currency of the Onward Payment;
  - (iv) a breakdown of charges and/or interest payable by the Client; and
  - (v) the date on which the Payment Instruction was deemed to be received by CD.

10.8 Where the Onward Payment is denominated in:

- (a) Euro or Sterling, CD shall ensure that the amount of the Onward Payment is credited to the Payee's payment service provider's account by the end of the Business Day following that on which the Client's Payment Instruction was deemed to be received;
- (b) a currency other than Euro or Sterling but the account of the Payee's payment service provider is located within the European Economic Area ('EEA'), CD shall ensure that the amount of the Onward Payment is credited to that account by the end of the fourth Business Day following that on which the Client's Payment Instruction was deemed to be received; and
- (c) a currency other than Euro or Sterling and the account of the Payee's payment service provider is located outside the EEA, CD shall endeavour to ensure that it actions the Onward Payment as soon as is reasonably practicable.

## 11. SAFEGUARDS AND SECURITY

11.1 The Client must take all reasonable precautions to prevent fraudulent use of Payment Services. In particular, it is essential that the Client, among other security measures:

- (a) takes all reasonable steps to keep safe its personalised security features (including all passwords and PINs required to access the Payment Services) and any currency, Drafts and other documentary payment methods it receives;
- (b) uses the Payment Services provided by CD in accordance with the terms and conditions for their use; and
- (c) notifies CD by the means listed in Clause 19.1(b) without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of any Onward Payment or unauthorised use of the Payment Service.

11.2 CD may stop or suspend any Onward Payment (in whole or in part) and/ or the Client's use of the Payment Service if it has reasonable grounds for doing so relating to:

- (a) the security of the Payment Service or an Onward Payment;
- (b) the suspected unauthorised or fraudulent use of the Payment Service or an Onward Payment; and/or
- (c) where the Onward Payment is being made in connection with a credit line, if CD believes that there is a significantly increased risk that the Client may be unable to fulfil its liability to pay.

Unless doing so would compromise reasonable security measures or be unlawful, before stopping or suspending any Onward Payment (in whole or in part) or the Client's use of the Payment Service (as appropriate) or immediately after doing so, CD must inform the Client and give its reasons for doing so. As soon as practicable after the reason for stopping or suspending any Onward Payment (in whole or in part) or the Client's use of the Payment Service (as appropriate) has ceased to exist, CD must allow the outstanding element of the Onward Payment or the resumption of the Client's use of the Payment Service (as appropriate).

11.3 If the Client believes that a Payment Instruction has been given, or an Onward Payment made, in error and/or was unauthorised by it, the Client must notify CD as soon as possible via the helpline or e-mail address listed in Clause 19.1(b). Failure to notify CD within 13

months of the date of monies being debited from the Transaction Account could result in the Client losing its entitlement to have the matter corrected.

## 12. LIABILITY AND INDEMNITY FOR PAYMENT SERVICES

12.1 Where it is established that a Payment Instruction has been given, or an Onward Payment made, in error and/or was unauthorised by the Client and that Client has notified CD within 13 months of the monies being debited from the Transaction Account, unless Clause 12.2 applies, CD shall refund to the Client the full amount debited erroneously or without authorisation.

12.2 The Client will be liable for:

- (a) all payments debited from the Transaction Account pursuant to a particular Payment Instruction and/or Onward Payment if the Client has acted fraudulently, or has intentionally or with gross negligence not complied with its obligations under Clause 11.1(a); and
- (b) where 12.2(a) does not apply, up to £50 of any monies debited to the Transaction Account pursuant to a particular Payment Instruction and/or Onward Payment before it told CD that an Onward Payment had been lost, stolen, or misappropriated or the Client's security regarding the Payment Service had been breached. After the Client has notified CD, the Client will not have any further liability to CD for any subsequent unauthorised payments out of the Transaction Account unless the Client has acted fraudulently.

12.3 CD shall not be liable for non-execution or defective execution in relation to an Onward Payment which it has made in accordance with a unique identifier given to it by the Client which proves to be incorrect. However, CD shall make reasonable efforts to recover funds involved in that transaction and may charge the Client for doing so, including passing on to the Client charges made by intermediary banks and/or the payee's bank for their assistance which assist in the tracing process.

12.4 CD is liable to the Client for the correct execution of a Payment Instruction unless:

- (a) Clause 12.3 applies; or
- (b) CD can prove to the Client (and where relevant, to the Payee's payment services provider) that the Payee's payment services provider received the Onward Payment within the appropriate time period described in Clause 10.8.

CD shall, on request, make immediate efforts to trace the payment and notify the Client of the outcome. Where CD is liable to the Client under this Clause 12.4 it must without undue delay refund to the Client the amount of:

- (i) the non-executed or defective payment and, where applicable, restore the Transaction Account to the state in which it would have been in had the defective payment not taken place; and
- (ii) any charges and interest which the Client has paid as a consequence of the non-execution or defective execution of that Onward Payment.

12.5 CD shall not be liable to the Client for any:

- (a) delay or failure to perform its obligations under these Terms or any Contract (including any delay in payment) by reason of any cause beyond the reasonable control of CD including but not limited to any action or inaction of the Client or any third party, bank delay, postal delay, failure or delay of any fax or electronic transmission, any accident, emergency, act of god or any abnormal or unforeseeable circumstances; or
- (b) consequential or indirect loss (such as loss of profits or opportunity) the Client may incur as a result of CD failing to perform its duties under a Contract; or
- (c) contravention of a requirement imposed on CD by the Payment Services Regulations 2009 (the 'PS Regulations') where that contravention is due to CD complying with its obligations under any provision of Community or national law.

12.6 Under Regulation 63 of the PS Regulations, the Client may be entitled to a refund in certain circumstances where an Onward Payment is initiated by the Payee. It is not anticipated that any Onward Payment will be initiated by a Payee under any Payment Services provided by CD and the Client represents and undertakes to that effect in Clause 18.1(f). However, details of the circumstances in which a refund may apply are available on CD's website.

12.7 The provisions in this Clause 12 shall survive termination of these Terms or any agreement under these Terms.

## 13. LOST DRAFTS

13.1 The provisions of this Clause 13 shall supplement the provisions of Clauses 11 and 12 as regards lost Drafts.

13.2 CD shall be under no obligation to issue a replacement Draft or a refund where it is established by CD that the original Draft has been encashed.

13.3 CD agrees to issue the Client with a replacement Draft or issue a refund at an appropriate rate where the Client has placed a stop on the original Draft provided that in the event that the original Draft comes into possession of either the Client or the payee, the Client undertakes to take all reasonable steps to ensure that no attempt is made to encash the original Draft and that it is returned to CD at the earliest opportunity and, pending its receipt by CD, is held in trust for CD.

13.4 Where a replacement Draft or refund is issued and the original Draft is subsequently encashed by the beneficiary of the Draft and CD are unable to obtain reimbursement from the paying bank CD shall be entitled to stop any replacement issued or seek immediate reimbursement from the Client.

## 14. OTHER TERMS RELATING TO PAYMENT SERVICES

14.1 CD's charges in relation to Payment Services are available on its website. CD shall deduct such charges from sums paid into the Transaction Account by the Client prior to undertaking a Foreign Exchange.

14.2 The Client may terminate these Terms in relation to Payment Services only at any time by giving notice to CD in accordance with Clause 19.1(b) or, where applicable, Clause 22. Any such termination shall be subject to Clause 16.4.

## TERMS APPLYING GENERALLY

### 15. INTEREST

15.1 If the Client fails to make any payment required under these Terms (including under any FX Contract or Payment Instruction) when it falls due, interest will be charged on the outstanding sum at a rate of three per cent per annum over the base rate of the Bank of England (or of such monetary authority as may replace it). Such interest shall accrue and be calculated daily from the date payment was due until the date the Client pays in full and shall be compounded monthly.

15.2 CD may receive and retain or apply for its own benefit any interest which arises in respect of any sum paid into the Transaction Account.

### 16. CHANGES TO THESE TERMS

16.1 CD may amend these Terms insofar as they relate to Foreign Exchange by notice in writing to the Client at any time and such amendments shall take effect from the date specified by CD but may not affect any rights or obligations that have already arisen and will not be retrospective.

16.2 Subject to Clause 16.3, CD may amend these Terms insofar as they relate to Payment Services by giving at least 2 months' notice in writing to the Client. If the Client objects to the proposed amendments, it has the right, subject to Clause 16.4, to terminate these Terms as regards Payment Services without charge before the date proposed by CD for the entry into force of the changes. The Client will be deemed to accept the proposed amendments unless it notifies CD and terminates these Terms insofar as they relate to Payment Services before the date proposed by CD for the entry into force of the changes. If no objection is received from the Client, such amendments shall take effect from the date specified by CD but may not affect any rights or obligations that have already arisen and will not be retrospective.

16.3 CD does not need to provide any notice to the Client of:

- (a) any change to these Terms insofar as they relate to Payment Services which is more favourable to the Client; or
- (b) a change to the standard interest rate applying pursuant to Clause 15.1, which in each case may be applied immediately.

16.4 For the avoidance of doubt, the termination of these Terms by the Client pursuant to Clause 14.2 or Clause 16.2 shall not affect any FX Contract nor any rights or obligations that have already arisen at the date of the termination. Following any such termination, any onward transfer of converted currency to a Payee shall be subject to such terms as CD and the Client shall agree.

### 17. DISPUTES AND COMPLAINTS

17.1 Any complaint regarding these Terms or any FX Contract or any Payment Instruction should in the first place be directed to CD's helpline or email address.

17.2 If CD is not able to resolve any complaint relating to Payment Services, the Client may be entitled to refer it to the Financial Ombudsman Service ('FOS'). The FOS provides an out-of-court redress mechanism. Please see their website ([www.financial-ombudsman.org.uk/consumer/complaints.htm](http://www.financial-ombudsman.org.uk/consumer/complaints.htm)) for information about how to contact the FOS and how to bring a complaint.

17.3 If a dispute arises between CD and the Client relating to the existence or terms of any FX Contract (a 'Disputed FX Contract'), CD may close out or take any other action it reasonably considers appropriate in relation to the Disputed FX Contract (which may include suspension of performance of the Disputed FX Contract) pending

settlement of the dispute without previously notifying and/or without having received instruction from the Client. CD will try to notify the Client (orally or in writing) what action it has taken, as soon afterwards as it practically can, but if it does not, the validity of its action shall not be affected.

## 18. CLIENT'S REPRESENTATIONS AND UNDERTAKINGS

- 18.1 The Client represents to CD that, at the date of acceptance by the Client of these Terms, at the time each FX Order and each Payment Instruction is made, at the time each FX Contract is entered into and carried out and at the time each Onward Payment is made:
- the Client is acting as principal for its own account and has full power and authority and has taken all necessary steps to enable it lawfully to enter into and perform these Terms and every FX Contract and Payment Instruction under these Terms;
  - all sums paid to CD by the Client under these Terms belong to the Client and are not subject to any charge or other rights of third parties;
  - all information supplied to CD by the Client is, or at the time it is supplied will be, accurate in all material respects and the Client has not omitted or withheld any information which would make such information inaccurate in any material respect;
  - the Client has a valid commercial or personal reason for requiring the currency it buys under each FX Contract, has not entered into any FX Contract for investment or speculative purposes;
  - the Client will take physical delivery of the currency bought; and
  - no Onward Payment has been or will be initiated by the Payee (save where the Client is the Payee).
- 18.2 The Client will promptly provide to CD:
- on request such information regarding its financial and business affairs and/or identity, as CD may reasonably require (including without limitation any information required for CD to be able to comply with its anti-money laundering obligations); and
  - written confirmation of any changes to the Client's telephone and facsimile number(s) and email and postal address(es).
- 18.3 The Client will notify CD immediately if it becomes aware of the occurrence, or likely occurrence, of any of the following events:
- the Client failing or being unable to make any payment when due under these Terms or any FX Order;
  - the Client suspending payment of its debts, making or taking steps with a view to making any composition or similar arrangement with its creditors, having a receiver appointed of some or all of its assets, taking or having any proceedings taken against it in bankruptcy, or anything similar to any of these events happening to the Client anywhere in the world;
  - the Client failing in any respect fully and promptly to comply with any obligations to CD under these Terms or otherwise;
  - any of the representations of or information supplied by the Client becoming materially inaccurate;
  - it becoming unlawful for CD to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business;
  - CD or the Client being requested not to perform or to close out a FX Contract (or any part thereof) or make an Onward Payment (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding.
- 18.4 The Client undertakes to CD that it shall promptly perform in timely fashion its obligations under these Terms, each FX Contract and each Payment Instruction.

## 19. COMMUNICATIONS

- 19.1 All communications between CD and the Client (including information and notifications that CD is required to provide to the Client in accordance with the PS Regulations) shall be in English and:
- CD may contact the Client via the telephone, or facsimile number(s) or the email or postal address(es) advised by the Client in the Account Opening Form or, where applicable, via CD's online system. It shall be the Client's responsibility to inform CD of any changes to the Client's contact details; and
  - the Client can contact CD via the helpline at 0845 389 3000 or +44 (0)20 7847 9400 or at the email address of london@currentsdirect.com.
- 19.2 CD shall make available to the Client the information which the Client is entitled to receive under the PS Regulations. That information shall be provided to the Client by email or made available via CD's website or (where applicable) via CD's online system. In addition, the Client may at any time request from CD a copy of:

- the then-current Terms applying between the Client and CD in relation to Payment Services; and/or
- any information to which the Client is entitled under the PS Regulations.

## 20. GENERAL

- 20.1 These Terms, the Account Opening and the Online User Guide (defined in Clause 22) set out the entire agreement and understanding of the parties on their subject matter and supersede all previous oral and written communications on the same subject matter. In the event of any inconsistency, discrepancy or ambiguity between these Terms, the Account Opening Form and the Online User Guide, the provisions of these Terms (subject to Clause 22), then the Online User Guide shall prevail.
- 20.2 If at any time any provision of these Terms or any Contract is or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, neither the legality, validity or enforceability of such provision under the laws of any other jurisdiction nor the legality validity or enforceability of any other provision of these Terms or any Contract shall in any way be affected as a result.
- 20.3 The Client must make all payments under these Terms in full without any deduction, set-off, counterclaim or withholding of any kind.
- 20.4 If a party fails to exercise or delays in exercising any right under these Terms, by doing so it does not waive such right. The rights provided in these Terms do not exclude other rights provided by law.
- 20.5 The parties agree to:
- the electronic recording by either party of telephone conversations between the parties with or without an automatic tone warning device; and
  - the use of such recordings as evidence by either party in any dispute or anticipated dispute between the parties or relating to dealings between the parties.
- 20.6 If CD makes any recordings or transcripts it may also destroy them in accordance with its normal procedures.
- 20.7 The Client acknowledges and agrees that CD is permitted to carry out an electronic database search and search credit reference agencies in order to verify the Client's, or any shareholder of the Client's, identity and credit standing. If such searches are carried out, CD may keep records of the contents and results of such searches in accordance with all current and applicable laws.
- 20.8 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms or to any Contract.

## 21. DATA PROTECTION

- 21.1 The Client authorises CD to collect, use, store or otherwise process any personal information provided by the Client or from the searches referred to at Clause 20.7 above. ('Personal Information') to enable CD and/or members of its group and/or the organisation which introduced or referred the Client to CD to provide and/or improve its services. This may mean passing Personal Information to individuals or organisations which may be located in countries outside the EEA. Where the Client's Personal Information is transferred outside the EEA, CD will take steps to ensure that it is appropriately protected.
- 21.2 CD may also use the Personal Information to provide the Client with news and other information on CD's services and activities which may be useful to the Client, subject to the Client's consent. If the Client would prefer its Personal Information not to be used for such purposes, it should contact CD at the above address. The Client has indicated below where it consents to receiving information on such services and activities.
- 21.3 CD may pass on Personal Information to any organisations which CD considers may be of assistance to the Client (which may be located outside the EEA) so that they may contact the Client with details of products and services which may interest the Client, subject to the Client's consent. The Client has indicated below where it consents to receiving information from such organisations (including by e-mail or other electronic means) and where it consents to receiving information from organisations outside the EEA.
- 21.4 Other than as stated in these Terms or in CD's Privacy Policy (which is available on CD's website), CD will not disclose the Client's Personal Information.
- 21.5 If the Client wishes to obtain a copy of its Personal Information, it should contact CD on its helpline 0845 389 3000 or +44 (0)20 7847 9400.

## 22. USE OF THE ONLINE SYSTEM (WHERE APPLICABLE)

- 22.1 The Client will be required to complete a user set up form providing details of any Authorised Person whom may use any online system which CD may make available to the Client (an "Online System"), and any system restrictions and limits prior to the Client being granted access to access to the Online System. Such access will be on the terms and conditions as to the use of the online system as may be available by CD to

the Client (the "Online User Guide"), which shall form part of these Terms. This Clause 22 applies subject to the provisions of the Online User Guide in relation to the Online System, and if there are any inconsistencies between this Clause 22 and the Online User Guide, the provisions of the Online User Guide will prevail. Terms which are not defined in this Clause 22 will have the meaning (if any) given to them in the Online User Guide.

- 22.2 The Client agrees to use the Online System only in accordance with the Online User Guide and maintain any minimum operating and browser specifications as advised by CD from time to time.
- 22.3 The Client agrees to be solely responsible for the protection of all passwords and the Client should notify CD immediately of any actual or suspected compromise of any password.
- 22.4 If there are any interruptions in the Online System which result in the Client being unable to use the Online System the Client should fax or telephone FX Orders and Payment Instructions to CD.

## 23. APPLICABLE LAW

These Terms and any relationship between CD and the Client shall be governed by English law and subject to the exclusive jurisdiction of the English courts.

## 24. THE DIRECT DEBIT SCHEME GUARANTEE

- 24.1 This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits. The efficiency and security of the Scheme is monitored and protected by the Client's own bank or building society.
- 24.2 If there are any changes to the amounts, dates or frequency of the Client's Direct Debit, CD will notify the Client 10 Business Days in advance of the Client's account being debited or as otherwise agreed.
- 24.3 If an error is made by CD or the Client's bank or building society in the payment of the Direct Debit, the Client is entitled to a full and immediate refund from its bank or building society of the amount paid.
- 24.4 If you receive a refund you are not entitled to, you must pay it back when CD asks.
- 24.5 The Client can cancel a Direct Debit simply by contacting its bank or building society. Written confirmation may be required by that bank or building society. Please also send a copy of any such letter to CD.

# Terms & Conditions

## Business

The parties to this agreement are: Currencies Direct Limited ('CD') of 51 Moorgate, London EC2R 6BH (registered in England and Wales with company registration number 03041197) and the client named in the account opening form attached to these terms and conditions (the 'Client') (the 'Account Opening Form').

### 1. INTRODUCTION

- 1.1 From 1 November 2009 CD is regulated by the Financial Services Authority ('FSA') as a payment institution under the registration number [504360].
- 1.2 CD provides facilities for the purchase or sale of currencies for both commercial and personal purposes. CD's contracts with Clients are for settlement or delivery. That means, at maturity the Client must (except where the currency is to be delivered as cash) take delivery of funds to a bank account. CD provides its services to clients for the fulfilment of international payments and/or hedging of assets. CD discourages using a foreign currency for speculative purposes and CD's staff do not provide advisory services.
- 1.3 The Client wishes to enter into a contract or contracts for the purchase, sale and delivery of currency with CD and the Client agrees with CD that all transactions shall be carried out on the terms and conditions (the 'Terms') set out below. The Client confirms that:
- it has or will have a commercial need for the currency which is the subject of each transaction and no transaction will be for the purpose of speculation or investment; and
  - it is acting on its own account and not on behalf of any other person.
- 1.4 Please note that foreign currency exchange rates are subject to fluctuations outside the control of CD. Historical performance is no indicator for future performance.
- 1.5 These Terms shall come into force as soon as the Client signs the Account Opening Form and shall continue until terminated in accordance with their terms
- 1.6 It is important that the Client reads and understands these Terms, which will apply to all dealings between the Client and CD. If there are any terms that the Client does not understand or does not wish to agree to, it should discuss it with CD before signing the Account Opening Form. The Client should only sign the Account Opening Form if it agrees to be bound by these Terms.

### 2. CD'S SERVICES

- 2.1 The services that CD provides comprise two separate elements:
- the foreign currency exchange described in Clause 2.2 ('Foreign Exchange'); and
  - the payment service described in Clause 2.3 ('Payment Service').
- Clauses 3 to 9 (inclusive) shall apply only to Foreign Exchange and Clauses 10 to 14 (inclusive) shall apply only to Payment Services.
- 2.2 CD will, when it decides to do so, enter into individual contracts for the sale, purchase and delivery of currency ('FX Contracts') with the Client. FX Contracts may, without limitation, include:
- spot contracts under which currency is bought and sold for delivery immediately against receipt of payment;
  - fixed forward contracts under which currency is bought and sold for delivery at a fixed future time;
  - open forward contracts time options under which currency is bought and sold for delivery at a time subsequently instructed by the Client within an agreed period or, failing such instructions, at the end of the agreed period; and
  - limit orders under which currency is bought and sold for delivery if and when an agreed exchange rate is available.
- 2.3 Following the execution of a Foreign Exchange transaction and subject to these Terms, CD shall transfer the converted currency in accordance with an instruction by the Customer requesting the onward transfer of the converted currency to the Customer or a third party (the 'Payee') (such instruction being a 'Payment Instruction' and the onward transfer being an 'Onward Payment').
- 2.4 CD will always contract as principal with the Client and deal with the Client on an execution only basis.
- 2.5 CD will not provide advice to the Client upon the merits of a proposed Foreign Exchange transaction or Payment

Service or provide taxation or other advice to the Client (although it may provide information to the Client from time to time). In entering a FX Contract and/or issuing a Payment Instruction the Client must not treat any information or comments by CD as advice and must rely only on its own judgement (or the judgement of any third party adviser).

- 2.6 The Client must take physical delivery of and pay for the currency in question on the date specified in the Contract Note (as defined in Clause 3.2) (the 'Maturity Date'), and, if advance or instalment payments are called for by CD in the Contract Note or under Clause 4.1, the Client must make such payments at such time or times as CD may require to fulfil the FX Contract.
- 2.7 CD does not accept payments in cash from any Client.

### TERMS APPLYING TO FOREIGN EXCHANGE SERVICES

#### 3. INITIATING A FOREIGN EXCHANGE

- 3.1 The Client may give CD oral or written instructions relating to a transaction for the purchase or sale of currency (the 'FX Order'). The Client may issue written instructions to CD authorising any other named person (an 'Authorised Person') to give FX Orders on its behalf. CD is entitled to act upon instructions which are or appear to be from the Client or any Authorised Person.
- 3.2 Following receipt of a FX Order, CD shall, if it is willing to accept the FX Order, agree orally with the Client the terms on which it is willing to enter into a FX Contract and shall subsequently fax, or transmit electronically or (where the Client has not advised CD of its fax or email details) posted to the Client a contract note which will confirm the details of the FX Order (the 'Contract Note'). That Contract Note shall include details of CD's charges in relation to the FX Contract, the exchange rate applying, CD's charges in relation to the Payment Service and, in the case of any FX Contract which is not a spot contract, such instalments as CD may specify in its absolute discretion.
- 3.3 The Client accepts that:
- prior to undertaking a Foreign Exchange transaction, CD will deduct those costs and charges which CD is entitled to make pursuant to these Terms; and
  - the Client is solely responsible for ensuring that, following the deductions referred to in Clause 3.3(a) and the application of the exchange rate agreed in the Contract Note, the amount of any Onward Payment will be sufficient to fulfil any obligations that Client has to the relevant Payee.
- 3.4 Within ten minutes (or such longer period as CD may allow, for example, where the Contract Note is posted to the Client) of transmission of the Contract Note, the Client should check, complete, sign and return the Contract Note to CD by such means as may be agreed by CD and the Client or, in the absence of such agreement, either as a PDF attached to the email address set out in Clause 19.1(b) or, where applicable in accordance with Clause 22. Whether or not the Client does this, the FX Contract will be binding (and CD's and the Client's rights under these Terms shall apply with full effect).
- 3.5 Once CD has transmitted a Contract Note confirming a FX Order in writing, the Client may only amend or cancel the Contract Note if CD expressly agrees (and any such amendment or cancellation shall be on the conditions specified by CD) or otherwise in accordance with the provisions of Clause 3.8.
- 3.6 CD may at its absolute discretion refuse any FX Order or instructions given by the Client without giving any reason or being liable for any loss the Client suffers as a result of such refusal.
- 3.7 CD may (but shall not be obliged to) require further confirmation or information from the Client or Authorised Person of any FX Order or instruction if:
- CD considers that such confirmation or information is desirable or that a FX Order or instruction is ambiguous; or
  - the instruction is to close the Client's account or to remit the Client's funds to a third party.
- 3.8 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any FX Contract, however it may terminate a FX Contract entered into under these Terms prior to the Maturity Date of such FX Contract by giving written notice to CD by fax or email SUBJECT TO the following conditions:

- each party will remain liable to perform accrued but unperformed obligations which have fallen due before termination, but all other rights will cease upon such termination;
- the Client will be liable for all of the costs, expenses and losses (and interest at the rate referred to in Clause 15 on any such sums) that CD may incur (including any action it may take to cover or reduce its exposure) as a result of CD entering into such FX Contract with the Client (including the actual or hypothetical costs of unwinding any hedging arrangements which are referable to such FX Contract). Any excess amount held by CD in respect of FX Contract shall be returned to the Client after deducting all other sums due to CD.

#### 4. OPERATION OF THE TRANSACTION ACCOUNT

- 4.1 The Client shall pay by electronic transmission (or by such other means as agreed with CD in any particular case) in cleared funds into a bank account nominated by CD (the 'Transaction Account') the full amount stated in the Contract Note and, in the case of any FX Contract which is not a spot contract, such further instalments thereof as CD may subsequently notify the Client from time to time. Failure by the Client to pay the full amount specified in the Contract Note and all such further instalments shall relieve CD of any obligation to make any corresponding payment it may be required to make under the relevant FX Contract.
- 4.2 This Clause 4.2 shall apply to the Transaction Account:
- Where the Transaction Account is held in a UK bank, CD shall hold and operate the account as a segregated client account. This means CD shall hold the money in this account for its clients for the purposes set out in Clauses 4.2(b) and 4.2(c) and shall only make payments out of the Transaction Account or apply sums held in it in accordance with the Client's instructions, or as otherwise specified in Clauses 4.2(b) and 4.2(c).
  - The purposes for which money paid into the Transaction Account by or on behalf of the Client is held and may be applied, withdrawn or transferred are:
    - settlement of transactions between CD and the Client;
    - payment of other sums due and payable to CD by the Client under these Terms or under any FX Contract including without limitation advance or instalment payments, transfer charges and interest;
    - making an Onward Payment; and
    - withdrawal or retention of interest by CD in accordance with Clause 15.2.
  - The Transaction Account is one in which money received from all CD's clients is pooled and applied for all of CD's clients and into which CD may also temporarily pay sums owned by it. It is not an individually segregated account of the Client. Accordingly, monies which have not been paid into the Transaction Account by or on behalf of the Client may be held, applied, moved, withdrawn or transferred for purposes other than those set out in Clause 4.2(b).
- 4.3 The Client must make sure cleared funds are received in the Transaction Account on or before the Maturity Date for the full amount required pursuant to Clause 4.1.
- 4.4 CD may, but shall not be required to, make any payment under any FX Contract without first having received confirmation satisfactory to it that cleared funds for all sums due and payable by the Client to CD have in fact been received.
- 4.5 CD may deduct from the Transaction Account any amount the Client owes to CD including any fees, costs, taxation liabilities, or charges incurred by CD in relation to such Client, however they arise.

#### 5. FOREIGN EXCHANGE CHARGES

CD's charges in relation to Foreign Exchange services will be as set out in the Contract Note. The Client understands that because CD deals as principal the exchange rate it offers the Client will not be the same as the rate CD obtains itself.

#### 6. ADDITIONAL CONDITIONS FOR FORWARD FX CONTRACTS

- 6.1 The Client will be required to notify CD not less than 2 days before the Maturity Date of any forward FX Contract or any draw down with the details of the beneficiary, the payment means and delivery instructions.

- 6.2 Subject to any facility, CD will require an agreed security payment from the Client for each order for a forward FX Contract and CD will be entitled to request from the Client additional security payments in amounts notified by CD to the Client in the event of exchange rate fluctuations at any time prior to the Maturity Date.
- 6.3 With CD's agreement the Client may draw down against a forward FX Contract at any time up until its Maturity Date.
- 6.4 CD may agree with the Client at any time prior to the Maturity Date to roll forward all or part of a forward FX Contract until a later date upon agreement as to the terms and amounts payable by the Client to CD.
- 7. FOREIGN CURRENCY CHEQUE OR DRAFT PURCHASE**
- 7.1 CD may agree in writing to purchase and exchange into Sterling, or another currency, non-Sterling cheques and drafts which the Client has received in the name of the Client and this Clause 7 applies to all such purchases and exchanges.
- 7.2 The Client must forward a request for each foreign currency cheque or draft purchase together with the relevant cheques and/or drafts to CD.
- 7.3 All cheques and drafts presented to CD by the Client will be examined by CD for validity and any item deemed invalid will be returned to the Client as soon as reasonably practicable at the Client's risk.
- 7.4 All cheques and drafts must be endorsed by the Client "payable to Currencies Direct Limited" and be signed by the Client or an Authorised Person.
- 7.5 CD agrees to pay the Client in Sterling or other agreed currency the value of the cheques and drafts in accordance with CD's value dating policy and charges notified to the Client by CD from time to time.
- 7.6 Any item returned to CD as not able to be negotiated or cleared following presentation by CD will be returned to the Client, at which time the Client agrees to immediately reimburse CD any monies paid to the Client together with any charges imposed by the returning institution.
- 7.7 Any item lost, stolen, or destroyed in transit during the clearing process will be reported to the Client within 24 hours of advice being received by CD. CD will supply the Client with a letter confirming that CD have not received value for the item from any bank involved in the clearing and/or paying of the item.
- 8. DEFAULT, CLOSE OUT & REFUSAL TO PERFORM FX CONTRACTS**
- 8.1 CD may refuse to perform or may close out all or any part of any FX Contract, without incurring any liability to the Client for losses that may be sustained as a result and without giving notice to the Client or receiving any instructions from it, upon or at any time after the happening of any of the following events:
- the Client fails to make any payment when due under these Terms or any FX Contract;
  - the Client:
    - suspends payment of its debts,
    - makes or takes steps with a view to making any moratorium, assignment, composition or similar arrangement with its creditors,
    - has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed in respect of some or all of its assets,
    - is the subject of a winding up, administration or dissolution,
    - or any person takes any steps, or the Client allows any steps to be taken, for its winding up, administration or dissolution (except for a solvent amalgamation or reconstruction approved in advance in writing by CD) or gives notice to CD of an intention to appoint an administrator,
    - is the subject of a meeting of its shareholders, directors or other officers, which meeting was convened for the purpose of considering any resolution for, to petition for or to make application to or to file documents with a court or any registrar for, its winding up, administration or dissolution or any such resolution is passed,
    - is subject to a request from its shareholders, directors or other officers for the appointment of, or giving notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer, or
    - suffers anything similar to any of these events anywhere in the world;
  - the Client fails in any respect fully and promptly to comply with any obligations to CD under these Terms or otherwise or if any of the representations
- of or information supplied by the Client are or become materially inaccurate;
- it becomes or may become unlawful for CD to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business or if CD or the Client is requested not to perform or to close out a FX Contract (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding; or
  - CD considers it necessary to do so for its own protection including (without limitation) in the following circumstances: (i) protection from fraud; (ii) protection from Client default; (iii) protection from market failure; (iv) protection from adverse or volatile market conditions; and (v) protection from loss by CD.
- 8.2 If the Client becomes aware of the occurrence of any event referred to in Clauses 8.1(a), 8.1(b), 8.1(c) and 8.1(d), it shall notify CD immediately.
- 8.3 If any event referred to in Clauses 8.1(a) to 8.1(e) takes place CD shall at its discretion be entitled to cancel any FX Contract then outstanding and charge the Client with all of the costs, expenses and losses (and interest at the rate referred to in Clause 15 on any such sums) that CD may incur (including any action it may take to cover or reduce its exposure) as a result of CD entering into FX Contracts with the Client (including the actual or hypothetical costs of unwinding any hedging arrangements which are referable to the FX Contracts). Any excess amount held by CD in respect of FX Contracts shall be returned to the Client after deducting all other sums due to CD.
- 8.4 If for any reason a FX Contract is closed out or does not proceed to completion, CD will send to the Client any sum due to the Client or a notice setting out the sum due from the Client. The Client shall bear all the losses/expenses of CD whatsoever that may arise on account of such close out or cancellation, and CD shall have the right to use any monies of the Client held by it to offset such amounts as are owed by the Client to CD. For such purpose, CD shall be entitled to convert any currency held by it and such conversion shall be at the rate of exchange available to it. Any fee or charge which CD incurs as a result of such conversion shall be paid for by the Client.
- 8.5 If the Client's cheque, or any other method of payment, is dishonoured, returned, not met on first presentation or stopped for whatever reason, CD shall levy an administrative charge of £25.00 in respect of each such payment. This administrative charge will become payable by the Client in addition to any other sums due under these Terms.
- 8.6 CD shall not be responsible in any way for any delay in payment by it under these Terms relating to Foreign Exchange services which is caused by the Client or any other third party, including but not limited to bank delay, postal delay, failure or delay of any fax or electronic transmission or delay caused by accident, emergency or act of god. For the avoidance of doubt the Client accepts that the Client is solely responsible for ensuring that all payments which the Client is required to make under any Foreign Exchange transaction are made promptly and within the time limits specified by the particular FX Contract and these Terms.
- 9. LIMITATION OF LIABILITY AND INDEMNITY FOR FOREIGN EXCHANGE**
- 9.1 CD shall not be liable to the Client:
- for any delay or failure to perform its obligations under these Terms relating to Foreign Exchange or any FX Contract by reason of any cause beyond the reasonable control of CD, but CD shall try to perform those obligations as soon as it reasonably can in any event;
  - for any consequential or indirect loss (such as loss of profits or opportunity) the Client may incur as a result of CD failing to perform its duties under a FX Contract; or
  - for an amount greater than the maxima stated in Clauses 9.2 and 9.3.
- 9.2 The maximum liability of CD under a particular FX Contract, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the currency sold by CD under that FX Contract.
- 9.3 The maximum aggregate liability of CD in respect of Foreign Exchange services provided under these Terms, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the aggregate value of currency sold by CD under FX Contracts issued in accordance with these Terms.
- 9.4 The Client shall, on demand by CD, compensate CD from and against all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by CD in the proper performance of Foreign Exchange services or the enforcement of its rights under these
- Terms relating to Foreign Exchange and, in particular, but without limitation, against all amounts which CD may certify to be necessary to compensate it for all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by CD (including loss of profit and losses and expenses from any action CD takes to seek to cover or reduce its exposure under any FX Contracts) as a result of:
- the Client breaching any terms of these Terms relating to Foreign Exchange or any FX Contract;
  - CD acting on a written, oral, telephone, fax or electronic FX Order which reasonably appeared to CD to be from the Client or an Authorised Person; or
  - CD or the Client exercising its rights under these Terms to close out all or any part of any FX Contract before its applicable Maturity Date.
- 9.5 The provisions in this Clause 9 shall survive termination of any FX Contract or other agreement under these Terms relating to Foreign Exchange and CD's certificate under Clause 9.4 shall, unless it is manifestly inaccurate, be conclusive.
- TERMS APPLYING TO PAYMENT SERVICES**
- 10. PAYMENT INSTRUCTIONS**
- 10.1 The Client or its Authorised Person may from time to time orally or in writing issue a Payment Instruction to CD. Such Payment Instruction shall be given in accordance with Clause 19.1(b) or, where applicable, Clause 22 and must confirm details of the proposed Payee including its full name, account details for payment and any unique identifier confirmed to the Client by the Payee.
- 10.2 The Payment Instruction shall be deemed to be received at the time at which it is received except that:
- where the Payment Instruction would otherwise be deemed to be received on a day which is not a "Business Day" (being a day, other than a Saturday or Sunday, on which banks are open for business in London and any other geographic locations required to complete the transaction) or is received after 2.30 pm, London time (the "Cut-Off Time") on a Business Day, CD has the right to treat the Client's Payment Instruction as having been received on the next Business Day; and
  - if the Onward Payment is to be made on a specified day or on the last day of a specified period (and such specified day or last day of a specified period shall be on or after whichever is the later in time of the Maturity Date, the Business Day on which cleared funds are received in the Transaction Account from the Client for the full amount required pursuant to Clause 4.1, and the Business Day on which the converted currency from the executed Foreign Exchange is received as cleared funds in the Transaction Account), the Client's Payment Instruction shall be deemed to be received on the day stated for the making of that Onward Payment or, if that is not a Business Day, on the Business Day immediately following that date.
- 10.3 Following receipt of a Payment Instruction, CD may:
- refuse that Payment Instruction and if it does so, CD shall (unless it would be unlawful for CD to do so) notify the Client of that refusal, the reasons for that refusal (if possible), and the procedure for rectifying any factual errors that lead to that refusal. Such notification shall be given to the Client as soon as practicable following the refusal and CD may charge the Client for such notification where the refusal is reasonably justified. A Payment Instruction which is refused by CD shall be deemed not to have been received for the purposes of Clause 10.2; and/or
  - request further confirmation or information from the Client or Authorised Person of any Payment Instruction, including if CD considers that such confirmation or information is desirable or that a Payment Instruction is ambiguous; and/or
  - stop the use of any foreign currency or Sterling bank draft ("Draft"), personal security features and information or other payment procedure or instrument in accordance with Clause 11.2.
- 10.4 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any Payment Instruction once given.
- 10.5 The Client may not revoke a Payment Instruction after it has been received by CD except:
- if Clause 11.3 applies and the Transaction Account has not been debited before the Client notifies CD; or
  - if the Client has agreed with CD that the Onward Payment is to be made on a specific day or on the last day of a certain period and the revocation is received by CD prior to the Cut-Off Time on the Business Day preceding the specified day for the making of the Onward Payment; or
  - if agreed with CD and, in the case of any payment transaction which has been initiated by the Payee, the relevant Payee.

Any revocation of a Payment Instruction in accordance with this Clause 10.5 must be given in writing to CD by email (including email attaching a PDF).

10.6 CD may charge the Client for any revocation by the Client of a Payment Instruction. In particular, but not by way of limitation:

- (a) the Client shall bear all costs, expenses and losses of CD whatsoever that may arise on account of the revocation; and
- (b) CD may charge interest at the rate referred to in Clause 15.1 on any sums due to CD pursuant to this Clause 10.6.

10.7 Following a Foreign Exchange transaction, CD shall:

- (a) if the Client requests, make available to the Client prior to making the Onward Payment details of the maximum execution time for that Onward Payment and details of any charges payable by the Client (including a breakdown of those charges where applicable); and
- (b) as soon as reasonably practicable after the amount of the Onward Payment is debited from the Transaction Account, make available to the Client:
  - (i) a reference enabling the Client to identify the Onward Payment made;
  - (ii) information on the Payee;
  - (iii) the amount of the payment, shown in the currency of the Onward Payment;
  - (iv) a breakdown of charges and/or interest payable by the Client; and
  - (v) the date on which the Payment Instruction was deemed to be received by CD.

10.8 Where the Onward Payment is denominated in:

- (a) Euro or Sterling, CD shall ensure that the amount of the Onward Payment is credited to the Payee's payment service provider's account by the end of the Business Day following that on which the Client's Payment Instruction was deemed to be received;
- (b) a currency other than Euro or Sterling but the account of the Payee's payment service provider is located within the European Economic Area ('EEA'), CD shall ensure that the amount of the Onward Payment is credited to that account by the end of the fourth Business Day following that on which the Client's Payment Instruction was deemed to be received; and
- (c) a currency other than Euro or Sterling and the account of the Payee's payment service provider is located outside the EEA, CD shall endeavour to ensure that it actions the Onward Payment as soon as is reasonably practicable.

## 11. SAFEGUARDS AND SECURITY

11.1 The Client must take all reasonable precautions to prevent fraudulent use of Payment Services. In particular, it is essential that the Client, among other security measures:

- (a) takes all reasonable steps to keep safe its personalised security features (including all passwords and PINs required to access the Payment Services) and any currency, Drafts and other documentary payment methods it receives;
- (b) uses the Payment Services provided by CD in accordance with the terms and conditions for their use; and
- (c) notifies CD by the means listed in Clause 19.1(b) without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of any Onward Payment or unauthorised use of the Payment Service.

11.2 CD may stop or suspend any Onward Payment (in whole or in part) and/or the Client's use of the Payment Service if it has reasonable grounds for doing so relating to:

- (a) the security of the Payment Service or an Onward Payment;
- (b) the suspected unauthorised or fraudulent use of the Payment Service or an Onward Payment; and/or
- (c) where the Onward Payment is being made in connection with a credit line, if CD believes that there is a significantly increased risk that the Client may be unable to fulfil its liability to pay.

Unless doing so would compromise reasonable security measures or be unlawful, before stopping or suspending any Onward Payment (in whole or in part) or the Client's use of the Payment Service (as appropriate) or immediately after doing so, CD must inform the Client and give its reasons for doing so. As soon as practicable after the reason for stopping or suspending any Onward Payment (in whole or in part) or the Client's use of the Payment Service (as appropriate) has ceased to exist, CD must allow the outstanding element of the Onward Payment or the resumption of the Client's use of the Payment Service (as appropriate).

11.3 If the Client believes that a Payment Instruction has been given, or an Onward Payment made, in error and/or was unauthorised by it, the Client must notify CD as soon as possible via the helpline or e-mail address listed in Clause 19.1(b). Failure to notify CD within 13 months of the date of monies being debited from the Transaction Account could result in the Client losing its entitlement to have the matter corrected.

## 12. LIABILITY AND INDEMNITY FOR PAYMENT SERVICES

12.1 Where it is established that a Payment Instruction has been given, or an Onward Payment made, in error and/or was unauthorised by the Client and that Client has notified CD within 13 months of the monies being debited from the Transaction Account, unless Clause 12.2 applies, CD shall refund to the Client the full amount debited erroneously or without authorisation.

12.2 The Client will be liable for:

- (a) all payments debited from the Transaction Account pursuant to a particular Payment Instruction and/or Onward Payment if the Client has acted fraudulently, or has intentionally or with gross negligence not complied with its obligations under Clause 11.1(a); and
- (b) where 12.2(a) does not apply, up to £50 of any monies debited to the Transaction Account pursuant to a particular Payment Instruction and/or Onward Payment before it told CD that an Onward Payment had been lost, stolen, or misappropriated or the Client's security regarding the Payment Service had been breached. After the Client has notified CD, the Client will not have any further liability to CD for any subsequent unauthorised payments out of the Transaction Account unless the Client has acted fraudulently.

12.3 CD shall not be liable for non-execution or defective execution in relation to an Onward Payment which it has made in accordance with a unique identifier given to it by the Client which proves to be incorrect. However, CD shall make reasonable efforts to recover funds involved in that transaction and may charge the Client for doing so, including passing on to the Client charges made by intermediary banks and/or the payee's bank for their assistance which assist in the tracing process.

12.4 CD is liable to the Client for the correct execution of a Payment Instruction unless:

- (a) Clause 12.3 applies; or
- (b) CD can prove to the Client (and where relevant, to the Payee's payment services provider) that the Payee's payment services provider received the Onward Payment within the appropriate time period described in Clause 10.8. CD shall, on request, make immediate efforts to trace the payment and notify the Client of the outcome. Where CD is liable to the Client under this Clause 12.4 it must without undue delay refund to the Client the amount of:
  - (i) the non-executed or defective payment and, where applicable, restore the Transaction Account to the state in which it would have been in had the defective payment not taken place; and
  - (ii) any charges and interest which the Client has paid as a consequence of the non-execution or defective execution of that Onward Payment.

12.5 CD shall not be liable to the Client for any:

- (a) delay or failure to perform its obligations under these Terms or any Contract (including any delay in payment) by reason of any cause beyond the reasonable control of CD including but not limited to any action or inaction of the Client or any third party, bank delay, postal delay, failure or delay of any fax or electronic transmission, any accident, emergency, act of god or any abnormal or unforeseeable circumstances; or
- (b) consequential or indirect loss (such as loss of profits or opportunity) the Client may incur as a result of CD failing to perform its duties under a Contract; or
- (c) contravention of a requirement imposed on CD by the Payment Services Regulations 2009 (the 'PS Regulations') where that contravention is due to CD complying with its obligations under any provision of Community or national law.

12.6 Under Regulation 63 of the PS Regulations, the Client may be entitled to a refund in certain circumstances where an Onward Payment is initiated by the Payee. It is not anticipated that any Onward Payment will be initiated by a Payee under any Payment Services provided by CD and the Client represents and undertakes to that effect in Clause 18.1(f). However, details of the circumstances in which a refund may apply are available on CD's website.

12.7 The provisions in this Clause 12 shall survive termination of these Terms or any agreement under these Terms.

## 13. LOST DRAFTS

13.1 The provisions of this Clause 13 shall supplement the provisions of Clauses 11 and 12 as regards lost Drafts.

13.2 CD shall be under no obligation to issue a replacement Draft or a refund where it is established by CD that the original Draft has been encashed.

13.3 CD agrees to issue the Client with a replacement Draft or issue a refund at an appropriate rate where the Client has placed a stop on the original Draft provided that in the event that the original Draft comes into possession of either the Client or the payee, the Client undertakes to take all reasonable steps to ensure that no attempt is made to encash the original Draft and that it is returned to CD at the earliest opportunity and, pending its receipt by CD, is held in trust for CD.

13.4 Where a replacement Draft or refund is issued and the original Draft is subsequently encashed by the beneficiary of the Draft and CD are unable to obtain reimbursement from the paying bank CD shall be entitled to stop any replacement issued or seek immediate reimbursement from the Client.

## 14. OTHER TERMS RELATING TO PAYMENT SERVICES

14.1 CD's charges in relation to Payment Services are available on its website. CD shall deduct such charges from sums paid into the Transaction Account by the Client prior to undertaking a Foreign Exchange.

14.2 The Client may terminate these Terms in relation to Payment Services only at any time by giving notice to CD in accordance with Clause 19.1(b) or, where applicable, Clause 22. Any such termination shall be subject to Clause 16.4.

## TERMS APPLYING GENERALLY

### 15. INTEREST

15.1 If the Client fails to make any payment required under these Terms (including under any FX Contract or Payment Instruction) when it falls due, interest will be charged on the outstanding sum at a rate of three per cent per annum over the base rate of the Bank of England (or of such monetary authority as may replace it). Such interest shall accrue and be calculated daily from the date payment was due until the date the Client pays in full and shall be compounded monthly.

15.2 CD may receive and retain or apply for its own benefit any interest which arises in respect of any sum paid into the Transaction Account.

### 16. CHANGES TO THESE TERMS

16.1 CD may amend these Terms insofar as they relate to Foreign Exchange by notice in writing to the Client at any time and such amendments shall take effect from the date specified by CD but may not affect any rights or obligations that have already arisen and will not be retrospective.

16.2 Subject to Clause 16.3, CD may amend these Terms insofar as they relate to Payment Services by giving at least 2 months' notice in writing to the Client. If the Client objects to the proposed amendments, it has the right, subject to Clause 16.4, to terminate these Terms as regards Payment Services without charge before the date proposed by CD for the entry into force of the changes. The Client will be deemed to accept the proposed amendments unless it notifies CD and terminates these Terms insofar as they relate to Payment Services before the date proposed by CD for the entry into force of the changes. If no objection is received from the Client, such amendments shall take effect from the date specified by CD but may not affect any rights or obligations that have already arisen and will not be retrospective.

16.3 CD does not need to provide any notice to the Client of:

- (a) any change to these Terms insofar as they relate to Payment Services which is more favourable to the Client; or
- (b) a change to the standard interest rate applying pursuant to Clause 15.1,

which in each case may be applied immediately.

16.4 For the avoidance of doubt, the termination of these Terms by the Client pursuant to Clause 14.2 or Clause 16.2 shall not affect any FX Contract nor any rights or obligations that have already arisen at the date of the termination. Following any such termination, any onward transfer of converted currency to a Payee shall be subject to such terms as CD and the Client shall agree.

### 17. DISPUTES AND COMPLAINTS

17.1 Any complaint regarding these Terms or any FX Contract or any Payment Instruction should in the first place be directed to CD's helpline or email address.

17.2 If CD is not able to resolve any complaint relating to Payment Services, the Client may be entitled to refer it to the Financial Ombudsman Service ('FOS'). The FOS provides an out-of-court redress mechanism. Please see their website ([www.financial-ombudsman.org.uk/consumer/complaints.htm](http://www.financial-ombudsman.org.uk/consumer/complaints.htm)) for information about how to contact the FOS and how to bring a complaint.

- 17.3 If a dispute arises between CD and the Client relating to the existence or terms of any FX Contract (a "Disputed FX Contract"), CD may close out or take any other action it reasonably considers appropriate in relation to the Disputed FX Contract (which may include suspension of performance of the Disputed FX Contract) pending settlement of the dispute without previously notifying and/or without having received instruction from the Client. CD will try to notify the Client (orally or in writing) what action it has taken, as soon afterwards as it practically can, but if it does not, the validity of its action shall not be affected.
- 18. CLIENT'S REPRESENTATIONS AND UNDERTAKINGS**
- 18.1 The Client represents to CD that, at the date of acceptance by the Client of these Terms, at the time each FX Order and each Payment Instruction is made, at the time each FX Contract is entered into and carried out and at the time each Onward Payment is made:
- the Client is acting as principal for its own account and has full power and authority and has taken all necessary steps to enable it lawfully to enter into and perform these Terms and every FX Contract and Payment Instruction under these Terms;
  - all sums paid to CD by the Client under these Terms belong to the Client and are not subject to any charge or other rights of third parties;
  - all information supplied to CD by the Client is, or at the time it is supplied will be, accurate in all material respects and the Client has not omitted or withheld any information which would make such information inaccurate in any material respect;
  - the Client has a valid commercial reason for requiring the currency it buys under each FX Contract and has not entered into any FX Contract for investment or speculative purposes;
  - the Client will take physical delivery of the currency bought; and
  - no Onward Payment has been or will be initiated by the Payee (save where the Client is the Payee).
- 18.2 The Client will promptly provide to CD:
- on request such information regarding its financial and business affairs and/or identity, as CD may reasonably require (including without limitation any information required for CD to be able to comply with its anti-money laundering obligations); and
  - written confirmation of any changes to the Client's telephone and facsimile number(s) and email and postal address(es).
- 18.3 The Client will notify CD immediately if it becomes aware of the occurrence, or likely occurrence, of any of the following events:
- the Client failing or being unable to make any payment when due under these Terms or any FX Order;
  - the Client:
    - suspending payment of its debts;
    - making or taking steps with a view to making any moratorium, assignment, composition or similar arrangement with its creditors;
    - having a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed in respect of some or all of its assets;
    - being the subject of a winding up, administration or dissolution;
    - or any person taking any steps, or the Client allowing any steps to be taken, for its winding up, administration or dissolution (except for a solvent amalgamation or reconstruction approved in advance in writing by CD) or giving notice to CD of an intention to appoint an administrator;
    - being the subject of a meeting of its shareholders, directors or other officers, which meeting was convened for the purpose of considering any resolution for, to petition for or to make application to or to file documents with a court or any registrar for, its winding up, administration or dissolution or any such resolution is passed;
    - being subject to a request from its shareholders, directors or other officers for the appointment of, or giving notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer;
    - suffering anything similar to any of these events anywhere in the world;
  - the Client failing in any respect fully and promptly to comply with any obligations to CD under these Terms or otherwise;
  - any of the representations of or information supplied by the Client becoming materially inaccurate;
- it becoming unlawful for CD to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business;
  - CD or the Client being requested not to perform or to close out a FX Contract (or any part thereof) or make an Onward Payment (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding.
- 18.4 The Client undertakes to CD that it shall promptly perform in timely fashion its obligations under these Terms, each FX Contract and each Payment Instruction.
- 19. COMMUNICATIONS**
- 19.1 All communications between CD and the Client (including information and notifications that CD is required to provide to the Client in accordance with the PS Regulations) shall be in English and:
- CD may contact the Client via the telephone, or facsimile number(s) or the email or postal address(es) advised by the Client in the Account Opening Form or, where applicable, via CD's online system. It shall be the Client's responsibility to inform CD of any changes to the Client's contact details; and
  - the Client can contact CD via the helpline at 0845 389 3000 or +44 (0)20 7847 9400 or at the email address of london@currenciesdirect.com.
- 19.2 CD shall make available to the Client the information which the Client is entitled to receive under the PS Regulations. That information shall be provided to the Client by email or made available via CD's website or (where applicable) via CD's online system. In addition, the Client may at any time request from CD a copy of:
- the then-current Terms applying between the Client and CD in relation to Payment Services; and/or
  - any information to which the Client is entitled under the PS Regulations.
- 20. GENERAL**
- 20.1 These Terms, the Account Opening and the Online User Guide (defined in Clause 22) set out the entire agreement and understanding of the parties on their subject matter and supersede all previous oral and written communications on the same subject matter. In the event of any inconsistency, discrepancy or ambiguity between these Terms, the Account Opening Form and the Online User Guide, the provisions of these Terms (subject to Clause 22), then the Online User Guide shall prevail.
- 20.2 If at any time any provision of these Terms or any Contract is or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, neither the legality, validity or enforceability of such provision under the laws of any other jurisdiction nor the legality validity or enforceability of any other provision of these Terms or any Contract shall in any way be affected as a result.
- 20.3 The Client must make all payments under these Terms in full without any deduction, set-off, counterclaim or withholding of any kind.
- 20.4 If a party fails to exercise or delays in exercising any right under these Terms, by doing so it does not waive such right. The rights provided in these Terms do not exclude other rights provided by law.
- 20.5 The parties agree to:
- the electronic recording by either party of telephone conversations between the parties with or without an automatic tone warning device; and
  - the use of such recordings as evidence by either party in any dispute or anticipated dispute between the parties or relating to dealings between the parties.
- 20.6 If CD makes any recordings or transcripts it may also destroy them in accordance with its normal procedures.
- 20.7 The Client acknowledges and agrees that CD is permitted to carry out an electronic database search and search credit reference agencies in order to verify the Client's, or any shareholder of the Client's, identity and credit standing. If such searches are carried out, CD may keep records of the contents and results of such searches in accordance with all current and applicable laws.
- 20.8 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms or to any Contract.
- 21. DATA PROTECTION**
- 21.1 The Client authorises CD to collect, use, store or otherwise process any personal information provided by the Client or from the searches referred to at Clause 20.7 above. ("Personal Information") to enable CD and/or members of its group and/or the organisation which introduced or referred the Client to CD to provide and/or improve its services. This may mean passing Personal Information to individuals or organisations which may be located in countries outside the EEA. Where the Client's Personal Information is transferred outside the EEA, CD will take steps to ensure that it is appropriately protected.
- 21.2 CD may also use the Personal Information to provide the Client with news and other information on CD's services and activities which may be useful to the Client, subject to the Client's consent. If the Client would prefer its Personal Information not to be used for such purposes, it should contact CD at the above address. The Client has indicated below where it consents to receiving information on such services and activities.
- 21.3 CD may pass on Personal Information to any organisations which CD considers may be of assistance to the Client (which may be located outside the EEA) so that they may contact the Client with details of products and services which may interest the Client, subject to the Client's consent. The Client has indicated below where it consents to receiving information from such organisations (including by e-mail or other electronic means) and where it consents to receiving information from organisations outside the EEA.
- 21.4 Other than as stated in these Terms or in CD's Privacy Policy (which is available on CD's website), CD will not disclose the Client's Personal Information.
- 21.5 If the Client wishes to obtain a copy of its Personal Information, it should contact CD on its helpline 0845 389 3000 or +44 (0)20 7847 9400.
- 22. USE OF THE ONLINE SYSTEM (WHERE APPLICABLE)**
- 22.1 The Client will be required to complete a user set up form providing details of any Authorised Person whom may use any online system which CD may make available to the Client (an "Online System"), and any system restrictions and limits prior to the Client being granted access to access to the Online System. Such access will be on the terms and conditions as to the use of the online system as may be available by CD to the Client (the "Online User Guide"), which shall form part of these Terms. This Clause 22 applies subject to the provisions of the Online User Guide in relation to the Online System, and if there are any inconsistencies between this Clause 22 and the Online User Guide, the provisions of the Online User Guide will prevail. Terms which are not defined in this Clause 22 will have the meaning (if any) given to them in the Online User Guide.
- 22.2 The Client agrees to use the Online System only in accordance with the Online User Guide and maintain any minimum operating and browser specifications as advised by CD from time to time.
- 22.3 The Client agrees to be solely responsible for the protection of all passwords and the Client should notify CD immediately of any actual or suspected compromise of any password.
- 22.4 If there are any interruptions in the Online System which result in the Client being unable to use the Online System the Client should fax or telephone FX Orders and Payment Instructions to CD.
- 23. APPLICABLE LAW**
- These Terms and any relationship between CD and the Client shall be governed by English law and subject to the exclusive jurisdiction of the English courts.
- 24. THE DIRECT DEBIT SCHEME GUARANTEE**
- 24.1 This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits. The efficiency and security of the Scheme is monitored and protected by the Client's own bank or building society.
- 24.2 If there are any changes to the amounts, dates or frequency of the Client's Direct Debit, CD will notify the Client 10 Business Days in advance of the Client's account being debited or as otherwise agreed.
- 24.3 If an error is made by CD or the Client's bank or building society in the payment of the Direct Debit, the Client is entitled to a full and immediate refund from its bank or building society of the amount paid.
- 24.4 If you receive a refund you are not entitled to, you must pay it back when CD asks.
- 24.5 The Client can cancel a Direct Debit simply by contacting its bank or building society. Written confirmation may be required by that bank or building society. Please also send a copy of any such letter to CD.

# Terms & Conditions

## Overseas Regular Transfers

The parties to this agreement are: Currencies Direct Limited ('CD') of 51 Moorgate, London EC2R 6BH (registered in England and Wales with company registration number 03041197) and the client named in the account opening form attached to these terms and conditions (the 'Client') (the 'Account Opening Form').

### 1. INTRODUCTION

- 1.1 CD is regulated by the Financial Services Authority ('FSA') as a payment institution under the registration number 504360.
- 1.2 CD provides facilities for the purchase or sale of currencies for both commercial and personal purposes. CD's contracts with Clients are for settlement or delivery. That means, at maturity the Client must (except where the currency is to be delivered as cash) take delivery of funds to a bank account. CD provides its services to clients for the fulfilment of international payments and/or hedging of assets. CD discourages using a foreign currency for speculative purposes and CD's staff do not provide advisory services.
- 1.3 The Client wishes to enter into a contract or contracts for the purchase, sale and delivery of currency with CD and the Client agrees with CD that all transactions shall be carried out on the terms and conditions (the 'Terms') set out below. The Client confirms that:
- (a) it has or will have a personal or commercial need for the currency which is the subject of each transaction and no transaction will be for the purpose of speculation or investment; and
- (b) it is acting on its own account and not on behalf of any other person.
- 1.4 Please note that foreign currency exchange rates are subject to fluctuations outside the control of CD. Historical performance is no indicator for future performance.
- 1.5 These Terms shall come into force as soon as the Client has signed both the Account Opening Form and the application for overseas regular transfer plan (the 'Application Form') and shall continue until terminated in accordance with their terms.
- 1.6 It is important that the Client reads and understands these Terms, which will apply to all dealings between the Client and CD relating to Overseas Regular Transfers (as defined below). If there are any terms that the Client does not understand or does not wish to agree to, it should discuss it with CD before signing the Account Opening Form and the Application Form. The Client should only sign the Account Opening Form and the Application Form if it agrees to be bound by these Terms.

### 2. CD'S OVERSEAS REGULAR TRANSFER SERVICES

- 2.1 The overseas regular transfer service that CD provides ('Overseas Regular Transfers') comprise two separate elements:
- (a) the foreign currency exchange described in Clause 2.2 ('Foreign Exchange'); and
- (b) the regular onward transfer payments ('Onward Payments') described in Clause 2.3.
- Clauses 3 to 6 (inclusive) shall apply only to Foreign Exchange and Clauses 7 to 10 (inclusive) shall apply only to Onward Payments.
- 2.2 To effect each Foreign Exchange, CD will, at the appropriate intervals agreed between CD and the Client, but in each case when it decides to do so, enter into individual spot contracts with the Client under which currency is bought and sold for delivery immediately against receipt of payment ('FX Contracts').
- 2.3 Following the execution of each Foreign Exchange transaction and subject to these Terms, CD shall transfer the converted currency in accordance with an instruction by the Customer requesting the onward transfer of the converted currency to the Customer or a third party (the 'Payee') (such instruction being a 'Payment Instruction').
- 2.4 CD will always contract as principal with the Client and deal with the Client on an execution only basis.
- 2.5 CD will not provide advice to the Client upon the merits of the Overseas Regular Transfer service or of a proposed Foreign Exchange transaction or Onward Payment or provide taxation or other advice to the Client (although it may provide information to the Client from time to time). In entering a FX Contract and/or issuing a Payment Instruction the Client must not treat any information or comments by CD as advice and

must rely only on its own judgement (or the judgement of any third party adviser).

- 2.6 CD does not accept payments in cash from any Client.

### TERMS APPLYING TO FOREIGN EXCHANGE SERVICES

#### 3. INITIATING A FOREIGN EXCHANGE

- 3.1 The Application Form signed by the Client contains written instructions to CD for the regular purchase or sale of currency (the 'FX Order') and may also authorise any other named person (an 'Authorised Person') to give instructions on the Client's behalf. Once CD has accepted the Client's FX Order, CD shall be entitled to act upon instructions which are or appear to be from the Client or any Authorised Person.
- 3.2 The Client accepts that:
- (a) prior to undertaking a Foreign Exchange transaction, CD will deduct those costs and charges which CD is entitled to make pursuant to these Terms; and
- (b) the Client is solely responsible for ensuring that, following the deductions referred to in Clause 3.2(a) and the application of the exchange rate appropriate to that FX Contract, the amount of any Onward Payment will be sufficient to fulfil any obligations that Client has to the relevant Payee.
- 3.3 The FX Contract will be binding on the day which is at least 5 Business Days (being a day, other than a Saturday or Sunday, on which banks are open for business in London and any other geographic locations required to complete the transaction) before the day on which the direct debit payment is due to be deducted from the Client's account in accordance with Clause 4.1. Once the FX Contract is binding the Client will be liable for all of the costs, expenses and losses, and interest at the rate referred to in Clause 11 on any such sums, that CD may incur (including any action it may take to cover or reduce its exposure) as a result of CD entering into such FX Contract with the Client, including the actual or hypothetical costs of unwinding any hedging arrangements which are referable to such FX Contract.
- 3.4 CD may at its absolute discretion refuse any FX Order or instructions given by the Client without giving any reason or being liable for any loss the Client suffers as a result of such refusal.
- 3.5 CD may (but shall not be obliged to) require further confirmation or information from the Client or Authorised Person of any FX Order or instruction if:
- (a) CD considers that such confirmation or information is desirable or that a FX Order or instruction is ambiguous; or
- (b) the instruction is to close the Client's account or to remit the Client's funds to a third party other than the Payee named in the Application Form (as varied from time to time in accordance with these Terms).
- 3.6 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any FX Contract. However it may terminate its FX Order by giving written notice to CD by fax or email SUBJECT TO the following conditions:
- (a) such termination must be received by CD at least 5 Business Days prior to the day on which the direct debit payment is due to be deducted from the Client's account in accordance with Clause 4.1; and
- (b) each party will remain liable to perform accrued but unperformed obligations which have fallen due before termination, but all other rights will cease upon such termination.

#### 4. OPERATION OF THE TRANSACTION ACCOUNT

- 4.1 The Client shall pay all costs and charges to which CD is entitled pursuant to these Terms by direct debit (or by such other means as agreed with CD in any particular case) in cleared funds into a bank account nominated by CD (the 'Transaction Account').
- 4.2 This Clause 4.2 shall apply to the Transaction Account:
- (a) Where the Transaction Account is held in a UK bank, CD shall hold and operate the account as a segregated client account. This means CD shall hold the money in this account for its clients for the purposes set out in Clauses 4.2(b) and 4.2(c) and shall only make payments out of the Transaction Account or apply sums held in it in accordance with

the Client's instructions, or as otherwise specified in Clauses 4.2(b) and 4.2(c).

- (b) The purposes for which money paid into the Transaction Account by or on behalf of the Client is held and may be applied, withdrawn or transferred are:
- (i) settlement of transactions between CD and the Client;
- (ii) payment of other sums due and payable to CD by the Client under these Terms or under any FX Contract including without limitation advance or instalment payments, transfer charges and interest;
- (iii) making an Onward Payment; and
- (iv) withdrawal or retention of interest by CD in accordance with Clause 11.2.
- (c) The Transaction Account is one in which money received from all CD's clients is pooled and applied for all of CD's clients and into which CD may also temporarily pay sums owned by it. It is not an individually segregated account of the Client. Accordingly, monies which have not been paid into the Transaction Account by or on behalf of the Client may be held, applied, moved, withdrawn or transferred for purposes other than those set out in Clause 4.2(b).
- 4.3 The Client must make sure cleared funds are received in the Transaction Account on or before the date on which the FX Contract becomes binding in accordance with Clause 3.3 for the full amount required pursuant to Clause 4.1. Failure by the Client to pay the full amount specified in the Contract Note by that due date shall relieve CD of any obligation to make any corresponding payment it may be required to make under the FX Order and/or the relevant FX Contract and Clause 5 shall apply.
- 4.4 CD may, but shall not be required to, make any payment under any FX Contract without first having received confirmation satisfactory to it that cleared funds for all sums due and payable by the Client to CD have in fact been received.
- 4.5 CD may deduct from the Transaction Account any amount the Client owes to CD including any fees, costs, taxation liabilities, or charges incurred by CD in relation to such Client, however they arise.
- 4.6 The Client understands that because CD deals as principal the exchange rate it offers the Client will not be the same as the rate CD obtains itself.

### 5. DEFAULT, CLOSE OUT & REFUSAL TO PERFORM FX CONTRACTS

- 5.1 CD may refuse to perform or may close out all or any part of any FX Contract, without incurring any liability to the Client for losses that may be sustained as a result and without giving notice to the Client or receiving any instructions from it, upon or at any time after the happening of any of the following events:
- (a) the Client fails to make any payment when due under these Terms or any FX Contract;
- (b) the Client, being an individual, dies or, in CD's opinion, becomes of unsound mind;
- (c) the Client:
- (i) being an individual, suspends payment of its debts, makes or takes steps with a view to making any composition or similar arrangement with its creditors, has a receiver appointed of some or all of its assets, takes or has any proceedings taken against it in bankruptcy;
- (ii) being a company or partnership, suspends payment of its debts, makes or takes steps with a view to making any moratorium, assignment, composition or similar arrangement with its creditors, has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed in respect of some or all of its assets, is the subject of a winding up, administration or dissolution, or any person takes any steps, or the Client allows any steps to be taken, for its winding up, administration or dissolution (except for a solvent

- amalgamation or reconstruction approved in advance in writing by CD) or gives notice to CD of an intention to appoint an administrator, is the subject of a meeting of its shareholders, directors or other officers, which meeting was convened for the purpose of considering any resolution for, to petition for or to make application to or to file documents with a court or any registrar for, its winding up, administration or dissolution or any such resolution is passed, is subject to a request from its shareholders, directors or other officers for the appointment of, or giving notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer,
- or anything similar to any of these events happens to the Client anywhere in the world;
- (d) the Client fails in any respect fully and promptly to comply with any obligations to CD under these Terms or otherwise or if any of the representations of or information supplied by the Client are or become materially inaccurate;
- (e) it becomes or may become unlawful for CD to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business or if CD or the Client is requested not to perform or to close out a FX Contract (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding; or
- (f) CD considers it necessary to do so for its own protection including (without limitation) in the following circumstances: (i) protection from fraud; (ii) protection from Client default; (iii) protection from market failure; (iv) protection from adverse or volatile market conditions; and (v) protection from loss by CD.
- 5.2 If the Client becomes aware of the occurrence of any event referred to in Clauses 5.1(a), 5.1(c), 5.1(d) and 6.1(e), it shall notify CD immediately.
- 5.3 If any event referred to in Clauses 5.1(a) to 5.1(f) takes place CD shall at its discretion be entitled to cancel any FX Contract then outstanding and charge the Client with all of the costs, expenses and losses (and interest at the rate referred to in Clause 11 on any such sums) that CD may incur (including any action it may take to cover or reduce its exposure) as a result of CD entering into FX Contracts with the Client (including the actual or hypothetical costs of unwinding any hedging arrangements which are referable to the FX Contracts). Any excess amount held by CD in respect of FX Contracts shall be returned to the Client after deducting all other sums due to CD.
- 5.4 If for any reason a FX Contract is closed out or does not proceed to completion, CD will send to the Client any sum due to the Client or a notice setting out the sum due from the Client. The Client shall bear all the losses/expenses of CD whatsoever that may arise on account of such close out or cancellation, and CD shall have the right to use any monies of the Client held by it to offset such amounts as are owed by the Client to CD. For such purpose, CD shall be entitled to convert any currency held by it and such conversion shall be at the rate of exchange available to it. Any fee or charge which CD incurs as a result of such conversion shall be paid for by the Client.
- 5.5 If the Client's direct debit, or any other method of payment, is dishonoured, returned, not met on first presentation or stopped for whatever reason:
- (a) CD may levy an administrative charge of £25.00 in respect of each such payment. This administrative charge will, if levied, become payable by the Client in addition to any other sums due under these Terms; and/or
- (b) CD shall attempt to notify the Client of that occurrence and shall be entitled, but not obliged, in its absolute discretion to:
- (i) treat that occurrence as a termination of the FX Order and of all Payment Instructions relating to the Overseas Regular Transfer service; and/or
- (ii) re-present that direct debit or other method of payment; and/or
- (iii) arrange a one-off, priority Foreign Exchange and Onward Payment on behalf of that Client, for which the Client will be charged at CD's normal rates applying from time to time for priority Foreign Exchange transactions and Onward Payments.
- 5.6 CD shall not be responsible in any way for any delay in payment by it under these Terms relating to Foreign Exchange services which is caused by the Client or any other third party, including but not limited to bank delay, postal delay, failure or delay of any fax or electronic transmission or delay caused by accident, emergency or act of god. For the avoidance of doubt the Client accepts that the Client is solely responsible for ensuring that all payments which the Client is required to make under any Foreign Exchange transaction are made promptly and within the time limits specified by the particular FX Contract and these Terms.
- 6. LIMITATION OF LIABILITY AND INDEMNITY FOR FOREIGN EXCHANGE**
- 6.1 CD shall not be liable to the Client:
- (a) for any delay or failure to perform its obligations under these Terms relating to Foreign Exchange or any FX Contract by reason of any cause beyond the reasonable control of CD, but CD shall try to perform those obligations as soon as it reasonably can in any event;
- (b) for any consequential or indirect loss (such as loss of profits or opportunity) the Client may incur as a result of CD failing to perform its duties under a FX Contract; or
- (c) for an amount greater than the maxima stated in Clauses 6.2 and 6.3.
- 6.2 The maximum liability of CD under a particular FX Contract, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the currency sold by CD under that FX Contract.
- 6.3 The maximum aggregate liability of CD in respect of Foreign Exchange services provided under these Terms, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the aggregate value of currency sold by CD under FX Contracts issued in accordance with these Terms.
- 6.4 The Client shall, on demand by CD, compensate CD from and against all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by CD in the proper performance of Foreign Exchange services or the enforcement of its rights under these Terms relating to Foreign Exchange and, in particular, but without limitation, against all amounts which CD may certify to be necessary to compensate it for all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by CD (including loss of profit and losses and expenses from any action CD takes to seek to cover or reduce its exposure under any FX Contracts) as a result of:
- (a) the Client breaching any terms of these Terms relating to Foreign Exchange or any FX Contract;
- (b) CD acting on a written, oral, telephone, fax or electronic FX Order which reasonably appeared to CD to be from the Client or an Authorised Person; or
- (c) CD or the Client exercising its rights under these Terms to close out all or any part of any FX Contract before the date on which the FX Contract becomes binding in accordance with Clause 3.3.
- 6.5 The provisions in this Clause 6 shall survive termination of any FX Contract or other agreement under these Terms relating to Foreign Exchange and CD's certificate under Clause 6.4 shall, unless it is manifestly inaccurate, be conclusive.
- TERMS APPLYING TO THE ONWARD PAYMENTS**
- 7. PAYMENT INSTRUCTIONS**
- 7.1 The Application Form completed by the Client or its Authorised Person includes a general Payment Instruction to CD confirming details of the proposed Payee for the Onward Payments including its full name, account details for payment and any unique identifier confirmed to the Client by the Payee. The Client or its Authorised Person may from time to time vary these details by emailing CD in accordance with Clause 15.1(b) or, where applicable, by giving written notice to CD in accordance with Clause 18. CD shall use reasonable endeavours to process that variation as soon as practicable after receipt of the written notice but shall not be liable for any failure to do so if that written notice is not received by CD prior to 2.30 pm London time (the 'Cut-Off Time') at least 5 Business Days before the day on which the direct debit payment is due to be deducted from the Client's account in accordance with Clause 4.1.
- 7.2 The Payment Instruction for a particular Onward Payment under the Overseas Regular Transfer service shall be deemed to be received on the day stated for the making of that Onward Payment (being on or after whichever is the later in time of the day on which cleared funds are received in the Transaction Account from the Client for the full amount required pursuant to Clause 4.1, and the day on which the converted currency from the executed Foreign Exchange is received as cleared funds in the Transaction Account)
- or, if that is not a Business Day, on the Business Day immediately following that day.
- 7.3 Following receipt of a Payment Instruction for a particular Onward Transfer, CD may:
- (a) refuse that Payment Instruction and if it does so, CD shall (unless it would be unlawful for CD to do so) notify the Client of that refusal, the reasons for that refusal (if possible), and the procedure for rectifying any factual errors that lead to that refusal. Such notification shall be given to the Client as soon as practicable following the refusal and CD may charge the Client for such notification where the refusal is reasonably justified. A Payment Instruction which is refused by CD shall be deemed not to have been received for the purposes of Clause 7.2; and/or
- (b) request further confirmation or information from the Client or Authorised Person of any Payment Instruction, including if CD considers that such confirmation or information is desirable or that a Payment Instruction is ambiguous; and/or
- (c) stop the use of any personal security features and information or other payment procedure or instrument in accordance with Clause 8.2.
- 7.4 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any Payment Instruction once given.
- 7.5 The Client may not revoke a Payment Instruction for a particular Onward Transfer after it has been received by CD except:
- (a) if Clause 8.3 applies and the Transaction Account has not been debited before the Client notifies CD; or
- (b) if the revocation is received by CD prior to the Cut-Off Time on the Business Day preceding the specified day for the making of the relevant Onward Payment; or
- (c) if agreed with CD and, in the case of any payment transaction which has been initiated by the Payee, the relevant Payee.
- Any revocation of a Payment Instruction in accordance with this Clause 7.5 must be given in writing to CD by email (including email attaching a PDF).
- 7.6 CD may charge the Client for any revocation by the Client of a Payment Instruction. In particular, but not by way of limitation:
- (a) the Client shall bear all costs, expenses and losses of CD whatsoever that may arise on account of the revocation; and
- (b) CD may charge interest at the rate referred to in Clause 11.1 on any sums due to CD pursuant to this Clause 7.6.
- 7.7 If the Client requests, CD shall make available to the Client prior to making the Onward Payment details of the maximum execution time for that Onward Payment and details of any charges payable by the Client (including a breakdown of those charges where applicable).
- 7.8 As soon as reasonably practicable after the amount of the Onward Payment is debited from the Transaction Account, CD shall make available to the Client:
- (a) a reference enabling the Client to identify the Onward Payment made;
- (b) information on the Payee;
- (c) the amount of the payment, shown in the currency of the Onward Payment;
- (d) a breakdown of charges and/or interest payable by the Client; and
- (e) the date on which the Payment Instruction was deemed to be received by CD.
- 7.9 Where the Onward Payment is denominated in:
- (a) Euro or Sterling, CD shall ensure that the amount of the Onward Payment is credited to the Payee's payment service provider's account by the end of the third Business Day following that on which the Client's Payment instruction was deemed to be received;
- (b) a currency other than Euro or Sterling but the account of the Payee's payment service provider is located within the European Economic Area ('EEA'), CD shall ensure that the amount of the Onward Payment is credited to that account by the end of the fourth Business Day following that on which the Client's Payment instruction was deemed to be received; and
- (c) a currency other than Euro or Sterling and the account of the Payee's payment service provider is located outside the EEA, CD shall endeavour to ensure that it actions the Onward Payment as soon as is reasonably practicable.

**8. SAFEGUARDS AND SECURITY**

8.1 The Client must take all reasonable precautions to prevent fraudulent use of the Overseas Regular Transfer service. In particular, it is essential that the Client, among other security measures:

- (a) takes all reasonable steps to keep safe its personalised security features (including all passwords and PINs required to access the Overseas Regular Transfer service);
- (b) uses the Overseas Regular Transfer service provided by CD in accordance with the terms and conditions for its use; and
- (c) notifies CD by the means listed in Clause 15.1(b) without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of any Onward Payment or unauthorised use of the Overseas Regular Transfer service.

8.2 CD may stop or suspend any Onward Payment (in whole or in part) and/or the Client's use of the Overseas Regular Transfer service if it has reasonable grounds for doing so relating to:

- (a) the security of the Overseas Regular Transfer service or an Onward Payment;
- (b) the suspected unauthorised or fraudulent use of the Overseas Regular Transfer service or an Onward Payment; and/or
- (c) where the Onward Payment is being made in connection with a credit line, if CD believes that there is a significantly increased risk that the Client may be unable to fulfil its liability to pay.

Unless doing so would compromise reasonable security measures or be unlawful, before stopping or suspending any Onward Payment (in whole or in part) or the Client's use of the Overseas Regular Transfer service (as appropriate) or immediately after doing so, CD must inform the Client and give its reasons for doing so. As soon as practicable after the reason for stopping or suspending any Onward Payment (in whole or in part) or the Client's use of the Overseas Regular Transfer service (as appropriate) has ceased to exist, CD must allow the outstanding element of the Onward Payment or the resumption of the Client's use of the Overseas Regular Transfer service (as appropriate).

8.3 If the Client believes that a Payment Instruction has been given, or an Onward Payment made, in error and/or was unauthorised by it, the Client must notify CD as soon as possible via the helpline or e-mail address listed in Clause 15.1(b). Failure to notify CD within 13 months of the date of monies being debited from the Transaction Account could result in the Client losing its entitlement to have the matter corrected.

**9. LIABILITY AND INDEMNITY FOR PAYMENT SERVICES**

9.1 Where it is established that a Payment Instruction has been given, or an Onward Payment made, in error and/or was unauthorised by the Client and that Client has notified CD within 13 months of the monies being debited from the Transaction Account, unless Clause 9.2 applies, CD shall refund to the Client the full amount debited erroneously or without authorisation.

9.2 The Client will be liable for:

- (a) all payments debited from the Transaction Account pursuant to a particular Payment Instruction and/or Onward Payment if the Client has acted fraudulently, or has intentionally or with gross negligence not complied with its obligations under Clause 8.1(a); and
- (b) where Clause 9.2(a) does not apply, up to £50 of any monies debited to the Transaction Account pursuant to a particular Payment Instruction and/or Onward Payment before it told CD that an Onward Payment had been lost, stolen, or misappropriated or the Client's security regarding the Overseas Regular Transfer service had been breached. After the Client has notified CD, the Client will not have any further liability to CD for any subsequent unauthorised payments out of the Transaction Account unless the Client has acted fraudulently.

9.3 CD shall not be liable for non-execution or defective execution in relation to an Onward Payment which it has made in accordance with a unique identifier given to it by the Client which proves to be incorrect. However, CD shall make reasonable efforts to recover funds involved in that transaction and may charge the Client for doing so, including passing on to the Client charges made by intermediary banks and/or the payee's bank for their assistance in the tracing process.

9.4 CD is liable to the Client for the correct execution of a Payment Instruction unless:

- (a) Clause 9.3 applies; or
- (b) CD can prove to the Client (and where relevant, to the Payee's payment services provider) that the

Payee's payment services provider received the Onward Payment within the appropriate time period described in Clause 7.8.

CD shall, on request, make immediate efforts to trace the payment and notify the Client of the outcome. Where CD is liable to the Client under this Clause 9.4 it must without undue delay refund to the Client the amount of:

- (i) the non-executed or defective payment and, where applicable, restore the Transaction Account to the state in which it would have been in had the defective payment not taken place; and
- (ii) any charges and interest which the Client has paid as a consequence of the non-execution or defective execution of that Onward Payment.

9.5 CD shall not be liable to the Client for any:

- (a) delay or failure to perform its obligations under these Terms or any Contract (including any delay in payment) by reason of any cause beyond the reasonable control of CD including but not limited to any action or inaction of the Client or any third party, bank delay, postal delay, failure or delay of any fax or electronic transmission, any accident, emergency, act of god or any abnormal or unforeseeable circumstances; or
- (b) consequential or indirect loss (such as loss of profits or opportunity) the Client may incur as a result of CD failing to perform its duties under a Contract; or
- (c) contravention of a requirement imposed on CD by the Payment Services Regulations 2009 (the 'PS Regulations') where that contravention is due to CD complying with its obligations under any provision of Community or national law.

9.6 Under Regulation 63 of the PS Regulations, the Client may be entitled to a refund in certain circumstances where an Onward Payment is initiated by the Payee. It is not anticipated that any Onward Payment will be initiated by a Payee under any Overseas Regular Transfer service provided by CD and the Client represents and undertakes to that effect in Clause 14.1(f). However, details of the circumstances in which a refund may apply are available on CD's website.

9.7 The provisions in this Clause 9 shall survive termination of these Terms or any agreement under these Terms.

**10. OTHER TERMS RELATING TO OVERSEAS REGULAR TRANSFERS**

The Client may terminate these Terms in relation to the Onward Payment element of the Overseas Regular Transfer service at any time by giving notice to CD in accordance with Clause 15.1(b) or, where applicable, Clause 18. Any such termination shall be subject to Clause 12.4.

**TERMS APPLYING GENERALLY**

**11. INTEREST**

11.1 If the Client fails to make any payment required under these Terms (including under any FX Contract or Payment Instruction) when it falls due, interest will be charged on the outstanding sum at a rate of three per cent per annum over the base rate of the Bank of England (or of such monetary authority as may replace it). Such interest shall accrue and be calculated daily from the date payment was due until the date the Client pays in full and shall be compounded monthly.

11.2 CD may receive and retain or apply for its own benefit any interest which arises in respect of any sum paid into the Transaction Account.

**12. CHANGES TO THESE TERMS**

12.1 CD may amend these Terms insofar as they relate to Foreign Exchange by notice in writing to the Client at any time and such amendments shall take effect from the date specified by CD but may not affect any rights or obligations that have already arisen and will not be retrospective.

12.2 Subject to Clause 12.3, CD may amend these Terms insofar as they relate to Onward Payments by giving at least 2 months' notice in writing to the Client. If the Client objects to the proposed amendments, it has the right, subject to Clause 12.4, to terminate these Terms as regards Onward Payments without charge before the date proposed by CD for the entry into force of the changes. The Client will be deemed to accept the proposed amendments unless it notifies CD and terminates these Terms insofar as they relate to Onward Payments before the date proposed by CD for the entry into force of the changes. If no objection is received from the Client, such amendments shall take effect from the date specified by CD but may not affect any rights or obligations that have already arisen and will not be retrospective.

12.3 CD does not need to provide any notice to the Client of:

(a) any change to these Terms insofar as they relate to Onward Payments which is more favourable to the Client; or

(b) a change to the standard interest rate applying pursuant to Clause 11.1 which is more favourable to the Client,

which in each case may be applied immediately.

12.4 For the avoidance of doubt, the termination of these Terms by the Client pursuant to Clause 10 or Clause 12.2 shall not affect any FX Contract nor any rights or obligations that have already arisen at the date of the termination. Following any such termination, any onward transfer of converted currency to a Payee shall be subject to such terms as CD and the Client shall agree.

**13. DISPUTES AND COMPLAINTS**

13.1 Any complaint regarding these Terms or any FX Contract or any Payment Instruction should in the first place be directed to CD's helpline or email address.

13.2 If CD is not able to resolve any complaint relating to an Onward Payment, the Client may be entitled to refer it to the Financial Ombudsman Service ('FOS'). The FOS provides an out-of-court redress mechanism. Please see their website ([www.financial-ombudsman.org.uk/consumer/complaints.htm](http://www.financial-ombudsman.org.uk/consumer/complaints.htm)) for information about how to contact the FOS and how to bring a complaint.

13.3 If a dispute arises between CD and the Client relating to the existence or terms of any FX Contract (a 'Disputed FX Contract'), CD may close out or take any other action it reasonably considers appropriate in relation to the Disputed FX Contract (which may include suspension of performance of the Disputed FX Contract) pending settlement of the dispute without previously notifying and/or without having received instruction from the Client. CD will try to notify the Client (orally or in writing) what action it has taken, as soon afterwards as it practically can, but if it does not, the validity of its action shall not be affected.

**14. CLIENT'S REPRESENTATIONS AND UNDERTAKINGS**

14.1 The Client represents to CD that, at the date of acceptance by the Client of these Terms, at the time each FX Order and each Payment Instruction is made, at the time each FX Contract is entered into and carried out and at the time each Onward Payment is made:

(a) the Client is acting as principal for its own account and has full power and authority and has taken all necessary steps to enable it lawfully to enter into and perform these Terms and every FX Contract and Payment Instruction under these Terms;

(b) all sums paid to CD by the Client under these Terms belong to the Client and are not subject to any charge or other rights of third parties;

(c) all information supplied to CD by the Client is, or at the time it is supplied will be, accurate in all material respects and the Client has not omitted or withheld any information which would make such information inaccurate in any material respect;

(d) the Client has a valid commercial or, for a Client who is an individual, a valid personal reason for requiring the currency it buys under each FX Contract and has not entered into any FX Contract for investment or speculative purposes;

(e) the Client will take physical delivery of the currency bought; and

(f) no Onward Payment has been or will be initiated by the Payee (save where the Client is the Payee).

14.2 The Client will promptly provide to CD:

(a) on request such information regarding its financial and business affairs and/or identity, as CD may reasonably require (including without limitation any information required for CD to be able to comply with its anti-money laundering obligations); and

(b) written confirmation of any changes to the Client's telephone and facsimile number(s) and email and postal address(es).

14.3 The Client will notify CD immediately if it becomes aware of the occurrence, or likely occurrence, of any of the following events:

(a) the Client failing or being unable to make any payment when due under these Terms or any FX Order;

(b) The Client:

- (i) being an individual, suspending payment of its debts, making or taking steps with a view to making any composition or similar arrangement with its creditors, having a receiver appointed of some or all of its assets, taking or having any proceedings taken against it in bankruptcy;

- (ii) being a company or a partnership, suspends payment of its debts, makes or takes steps with a view to making any moratorium, assignment, composition or similar arrangement with its creditors, has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed in respect of some or all of its assets, is the subject of a winding up, administration or dissolution, or any person takes any steps, or the Client allows any steps to be taken, for its winding up, administration or dissolution (except for a solvent amalgamation or reconstruction approved in advance in writing by CD) or gives notice to CD of an intention to appoint an administrator, is the subject of a meeting of its shareholders, directors or other officers, which meeting was convened for the purpose of considering any resolution for, to petition for or to make application to or to file documents with a court or any registrar for, its winding up, administration or dissolution or any such resolution is passed, is subject to a request from its shareholders, directors or other officers for the appointment of, or giving notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer, or anything similar to any of these events happening to the Client anywhere in the world;
- (c) the Client failing in any respect fully and promptly to comply with any obligations to CD under these Terms or otherwise;
- (d) any of the representations of or information supplied by the Client becoming materially inaccurate;
- (e) it becoming unlawful for CD to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business;
- (f) CD or the Client being requested not to perform or to close out a FX Contract (or any part thereof) or make an Onward Payment (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding.
- 14.4 The Client undertakes to CD that it shall promptly perform in timely fashion its obligations under these Terms, each FX Contract and each Payment Instruction.

#### 15. COMMUNICATIONS

- 15.1 All communications between CD and the Client (including information and notifications that CD is required to provide to the Client in accordance with the PS Regulations) shall be in English and:
- (a) CD may contact the Client via the telephone, or facsimile number(s) or the email or postal address(es) advised by the Client in the Account Opening Form or, where applicable, via CD's online system. It shall be the Client's responsibility to inform CD of any changes to the Client's contact details; and
- (b) the Client can contact CD via the helpline at 0845 389 3000 or +44 (0)20 7847 9400 or at the email address of [regulartransfers@currenciesdirect.com](mailto:regulartransfers@currenciesdirect.com).
- 15.2 CD shall make available to the Client the information which the Client is entitled to receive under the PS Regulations. That information shall be provided to the Client by email or made available via CD's website or (where applicable) via CD's online system. In addition, the Client may at any time request from CD a copy of:
- (a) the then-current Terms applying between the Client and CD in relation to Overseas Regular Transfers; and/or
- (b) any information to which the Client is entitled under the PS Regulations.

#### 16. GENERAL

- 16.1 These Terms, the Account Opening Form, the Application Form and the Online User Guide (defined in Clause 18) set out the entire agreement and understanding of the parties on their subject matter and supersede all previous oral and written communications on the same subject matter. In the event of any inconsistency, discrepancy or ambiguity between these Terms, the Account Opening Form, the Application Form and the Online User Guide, the provisions of these Terms (subject to Clause 18), then the Online User Guide shall prevail.
- 16.2 If at any time any provision of these Terms or any Contract is or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, neither the legality, validity or enforceability of such provision under the laws of any other jurisdiction nor the legality validity or enforceability of any other provision of these Terms or any Contract shall in any way be affected as a result.

- 16.3 The Client must make all payments under these Terms in full without any deduction, set-off, counterclaim or withholding of any kind.
- 16.4 If a party fails to exercise or delays in exercising any right under these Terms, by doing so it does not waive such right. The rights provided in these Terms do not exclude other rights provided by law.
- 16.5 The parties agree to:
- (a) the electronic recording by either party of telephone conversations between the parties with or without an automatic tone warning device; and
- (b) the use of such recordings as evidence by either party in any dispute or anticipated dispute between the parties or relating to dealings between the parties.
- 16.6 If CD makes any recordings or transcripts it may also destroy them in accordance with its normal procedures.
- 16.7 The Client acknowledges and agrees that CD is permitted to carry out an electronic database search and search credit reference agencies in order to verify the Client's, or any shareholder of the Client's, identity and credit standing. If such searches are carried out, CD may keep records of the contents and results of such searches in accordance with all current and applicable laws.
- 16.8 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms or to any Contract.

#### 17. DATA PROTECTION

- 17.1 The Client authorises CD to collect, use, store or otherwise process any personal information provided by the Client or from the searches referred to at Clause 16.7 above. ("Personal Information") to enable CD and/or members of its group and/or the organisation which introduced or referred the Client to CD to provide and/or improve its services. This may mean passing Personal Information to individuals or organisations which may be located in countries outside the EEA. Where the Client's Personal Information is transferred outside the EEA, CD will take steps to ensure that it is appropriately protected.
- 17.2 CD may also use the Personal Information to provide the Client with news and other information on CD's services and activities which may be useful to the Client, subject to the Client's consent. If the Client would prefer its Personal Information not to be used for such purposes, it should contact CD at the above address. The Client has indicated below where it consents to receiving information on such services and activities.
- 17.3 CD may pass on Personal Information to any organisations which CD considers may be of assistance to the Client (which may be located outside the EEA) so that they may contact the Client with details of products and services which may interest the Client, subject to the Client's consent. The Client has indicated below where it consents to receiving information from such organisations (including by e-mail or other electronic means) and where it consents to receiving information from organisations outside the EEA.
- 17.4 Other than as stated in these Terms or in CD's Privacy Policy (which is available on CD's website), CD will not disclose the Client's Personal Information.
- 17.5 If the Client wishes to obtain a copy of its Personal Information, it should contact CD on its helpline 0845 389 3000 or +44 (0)20 7847 9400.

#### 18. USE OF THE ONLINE SYSTEM (WHERE APPLICABLE)

- 18.1 The Client will be required to complete a user set up form providing details of any Authorised Person whom may use any online system which CD may make available to the Client (an "Online System"), and any system restrictions and limits prior to the Client being granted access to access to the Online System. Such access will be on the terms and conditions as to the use of the online system as may be available by CD to the Client (the "Online User Guide"), which shall form part of these Terms. This Clause 18 applies subject to the provisions of the Online User Guide in relation to the Online System, and if there are any inconsistencies between this Clause 18 and the Online User Guide, the provisions of the Online User Guide will prevail. Terms which are not defined in this Clause 18 will have the meaning (if any) given to them in the Online User Guide.
- 18.2 The Client agrees to use the Online System only in accordance with the Online User Guide and maintain any minimum operating and browser specifications as advised by CD from time to time.
- 18.3 The Client agrees to be solely responsible for the protection of all passwords and the Client should notify CD immediately of any actual or suspected compromise of any password.
- 18.4 If there are any interruptions in the Online System which result in the Client being unable to use the Online System the Client should fax or telephone FX Orders and Payment Instructions to CD.

#### 19. APPLICABLE LAW

These Terms and any relationship between CD and the Client shall be governed by English law and subject to the exclusive jurisdiction of the English courts.

#### 20. THE DIRECT DEBIT SCHEME GUARANTEE

- 20.1 This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits. The efficiency and security of the Scheme is monitored and protected by the Client's own bank or building society.
- 20.2 If there are any changes to the amounts, dates or frequency of the Client's Direct Debit, CD will notify the Client 10 Business Days in advance of the Client's account being debited or as otherwise agreed.
- 20.3 If an error is made by CD or the Client's bank or building society in the payment of the Direct Debit, the Client is entitled to a full and immediate refund from its bank or building society of the amount paid.
- 20.4 If you receive a refund you are not entitled to, you must pay it back when CD asks.
- 20.5 The Client can cancel a Direct Debit simply by contacting its bank or building society. Written confirmation may be required by that bank or building society. Please also send a copy of any such letter to CD.

# Terms & Conditions

## Prepaid Card

These terms and conditions apply to your Prepaid Card. You must read them carefully.

In these terms and conditions "Prepaid Card" means the Currencies Direct Prepaid MasterCard® which has been issued to you or to your Organisation for your use, and any additional, secondary or companion cards issued to you or your Organisation.

"Denominated Currency" means pounds sterling, Euros, or US Dollars, depending on the denomination of the Prepaid Card.

"Organisation" means your organisation or employer as applicable where they have applied for a Prepaid Card for use by you.

"Lost or Stolen Card Contact Number" means our standard telephone numbers below, or for our text service 60777 from your registered mobile or +44 7786 200 690 from outside the UK.

"You" means the named Prepaid Card holder and the authorised user of the Prepaid Card and any additional, secondary or companion Prepaid Cardholders.

"We", "us" or "our" means Newcastle Building Society, Currencies Direct or CorporatePay acting on its behalf in its capacity as Co Brand Partner.

"Website" means our website at [www.currenciesdirectcard.com](http://www.currenciesdirectcard.com)

You can download a copy of these Terms and Conditions at any time from our Website.

"Contact Details": if there is anything you do not understand or agree with please contact us using our Contact Details:

- Telephone: 0845 351 0116 or +44 845 351 0116 from outside the UK;
- Mailing address: Currencies Direct, 51 Moorgate, London EC2R 6BH, United Kingdom;
- Email: [support@currenciesdirectcard.com](mailto:support@currenciesdirectcard.com)

### 1. YOUR PREPAID MASTERCARD® CARD

You can use the Prepaid Card at any location that displays the MasterCard® Acceptance Mark, including shops, restaurants, online, or on the telephone. You can also use your Prepaid Card overseas and if you do, you should notify us in advance of your travel. Before using the Prepaid Card you need to make sure there are enough funds loaded on it. You will not be able to use your Prepaid Card after its expiry date. However we will issue you with a new Prepaid Card prior to expiry provided that you have used your Prepaid Card within the six months before expiry.

Your Prepaid Card is not a credit card and is not in any way connected to your bank account. You will not earn any interest on any funds loaded on your Prepaid Card.

### 2. APPLYING FOR AND ACTIVATING YOUR PREPAID CARD

To apply for your Prepaid Card you must be at least 18 years old and a UK resident and be a Currencies Direct customer. We may ask to see the evidence you or your Organisation hold to evidence who you are and your address. We may ask for documentary evidence to prove this and/or we may carry out checks on you electronically. Such evidence may be provided on your behalf by your Organisation.

In performing these checks personal information provided by you may be disclosed to a registered Credit Reference Agency who may keep a record of that information. You can rest assured that this is done only to confirm your identity, that a credit check is not performed and that your credit rating will be unaffected.

You must sign the signature strip on the back of the Prepaid Card as soon as it is received. Please refer to our Website [www.currenciesdirectcard.com](http://www.currenciesdirectcard.com) for all Prepaid Card loading options, or refer to the "Loading your Prepaid Card" section below.

By using the Prepaid Card you are agreeing to these terms and conditions.

### 3. LOADING YOUR PREPAID CARD

Funds can be loaded to your Prepaid Card by you or your Organisation as applicable.

Limits apply to the number of times your Prepaid Card may be loaded in a day and certain minimum and maximum load limits apply, such limits are detailed in Section 12. We reserve the right to refuse to accept any particular loading transaction.

Once we have received the funds from you or your Organisation, funds will normally be available for use on the Prepaid Card no later than 2 working days after receipt of the request. Funds loaded via standard bank transfers may take up to 3 working days to clear.

Your funds will be available for use when we receive them. BACS loads will take up to a maximum of 3 working days to be received by us.

Your Organisation may also load funds onto your Prepaid Card real time if we have given them the necessary authority levels to do this.

A Load/Reload fee may apply for each load/reload that you make. Please see Section 12 below for details of when a Load/Reload fee will apply and how much it will be.

### 4. USING YOUR PREPAID CARD

You can use Prepaid Card worldwide anywhere the MasterCard Acceptance Mark is displayed, as well as over the telephone and online, as long as you have sufficient funds on your Prepaid Card. Cash can be accessed 24/7 at ATMs wherever the MasterCard Acceptance Mark is displayed.

Limits apply to daily cash withdrawal (ATM) transactions, and other limits may be applied to the amount of spend and the number of transactions you can perform for your protection. These limits can be found in Section 12 and on our Website.

Detailed instructions on how to use your Prepaid Card are found on the Website. You will need to follow these instructions when using your Prepaid Card.

All payments made using your Prepaid Card shall be in its Denominated Currency. If you are paying for goods and services in another currency, the amount payable shall be converted at the MasterCard conversion rate at the time they process your transaction, and a Foreign Currency Fee will apply, see Section 12. When loading your Prepaid Card and paying in another currency, the applicable exchange rate will be shown at the time of the transaction.

We will deduct the value of your transactions from the balance on your Prepaid Card as soon as they are made. We will also deduct any applicable fees as soon as they become payable by you, see our Fees section below for details of our fees.

The Prepaid Card belongs to us. We may ask you to stop using your Prepaid Card and return it to us or destroy it. We may at anytime suspend, restrict or cancel your Prepaid Card or refuse to issue or replace a Prepaid Card for reasons relating to the following:

- we are concerned about security of your account or Prepaid Cards we have issued to you;
- we suspect your account is being used in an unauthorised or fraudulent manner;
- or we need to do so to comply with the law.

If we do this, we will tell you as soon as we can or are permitted to do so after we have taken these steps. We will issue you with a replacement Prepaid Card if after further investigations we believe that such circumstances no longer apply.

Like other payment cards, we cannot guarantee a retailer will accept your Prepaid Card. We may also refuse to pay a transaction:

- if we are concerned about security of your Prepaid Card or we suspect your Prepaid Card is being used in an unauthorised or fraudulent manner;
- if sufficient funds are not loaded on your Prepaid Card at the time of a transaction to cover the amount of the transaction and any applicable fees;
- if there is an outstanding Shortfall on the Prepaid Card in accordance with condition 12;
- if we have reasonable grounds to believe that you are acting in breach of this agreement;
- if we believe that a transaction is potentially suspicious or illegal (for example, if we believe that a transaction is being made fraudulently); or
- because of errors, failures (whether mechanical or otherwise) or refusals by merchants, payment processors or payment schemes processing transactions.

If we refuse to authorise a transaction, we will, if practicable, tell you why immediately unless it would be unlawful for us to do so. You may correct any information we hold and which may have caused us to refuse a transaction by contacting us on 0845 351 0116 or +44 845 351 0116 from outside the UK.

### 5. AUTHORISING TRANSACTIONS

Subject to the features of the particular Prepaid Card, the authorisation of a transaction can include authorising any single transaction, a series or recurring transactions (including transactions for an indefinite period) or pre-authorising future transactions of a certain or uncertain amount.

A Prepaid Card transaction will be regarded as authorised by you where you authorise the transaction at the point of us by following the instructions provided by the merchant or retailer to authorise the transaction, which includes:

- entering your PIN or providing any other security code;
- signing a sales voucher;
- providing the Prepaid Card details and/or providing any other details as requested;
- waving or swiping the Prepaid Card over a card reader;
- insert a Prepaid Card and enter your PIN to request a cash withdrawal at an ATM;
- make a request for a cash advance at any bank counter.

Authorisation for a transaction may not be withdrawn (or revoked) by you after the time we have received it. However, the following transaction may be withdrawn if you give notice to the supplier (providing a copy of the notice to us):

- any transaction which is agreed to take place on a date later than the date it was authorised as long as notice was provided no later than the close of business on the business day before it was due to take place.

We may charge you a fee if a transaction is revoked by you under this condition.

We will pay the funds required by the retailer or merchant to cover the transactions authorised by you within 3 days of us receiving their request. A transaction (the payment order) will be received as follows:

- for purchases and ATM transactions, at the time we receive the transaction settlement instruction from the merchant acquirer or ATM operator;
- for other transactions which are communicated directly to us, at the time you ask us to complete the transaction.

If, in relation to;

- purchases and ATM transactions, we receive the transaction instruction from the merchant acquirer or ATM operator; or
- other transactions communicated directly to us, you ask us to complete the transaction after 14:00h GMT, the transaction instruction or request will be deemed to have been received by us on the following business day.

### 6. CANCELLATION AND EXPIRY OF YOUR PREPAID CARD

You have a legal right to cancel your Prepaid Card up to 14 days after you receive the Prepaid Card without being charged the Refund Fee - this 14 day period is known as the "Cooling-Off Period". Under these terms and conditions, you also have the right to cancel your Prepaid Card at any time after the 14 day Cooling-Off Period without notice and any funds remaining on your Prepaid Card will be returned to you or your Organisation within 5 working days subject to satisfactory checks being completed.

We may also cancel your agreement for any reason by giving you at least 2 month's notice:

- if you break an important part of this agreement, or repeatedly break the agreement and fail to resolve the matter in a timely manner;
- if you act in a manner that is threatening or abusive to our staff, or any of our representatives;
- if you fail to pay fees or charges that you have incurred or fail to put right any shortfall;
- in the event of your death.

We may also cancel this agreement or suspend your Prepaid Card or account immediately if we believe your Prepaid Card is deliberately being used by you to commit fraud or for other illegal purposes. If we do this we will tell you as soon as we are permitted to do so.

If we cancel your Prepaid Card you must tell us what you want us to do with any unused funds within 3 months of the date we tell you your Prepaid Card is cancelled. We can return the funds to the loading source, to the bank account in the same name as the Prepaid card account. Please note we will need to verify your identity in order to satisfy Anti-Money Laundering requirements.

If your Prepaid Card is linked to your Organisation, it will be cancelled if you leave your current employment and you must ensure that the Prepaid Card is returned to your Organisation or destroyed. You must not use the Prepaid Card after you leave your organisation and you will be liable for any funds spent on the Prepaid Card after this time and you agree to pay us for any amount outstanding.

If your Prepaid Card is cancelled, we will immediately block your Prepaid Card so it cannot be used.

You will not be entitled to a refund of money you have already spent on transactions authorised, or pending or any fees for use of the Prepaid Card before the Prepaid Card is cancelled or expires. You can cancel your Prepaid Card by sending an email to us using the "contact us" function on the Website, and confirming that you have destroyed your Prepaid Card.

If you cancel your Prepaid Card, once all transactions and fees have been deducted, we will arrange for any unused funds to be refunded to you, see "Your Right to a Refund" section below for further information. A Refund Fee may be charged (see Fees section below) unless you cancel your Prepaid Card within 14 days of receiving it.

Your Prepaid Card will be valid for the period ending on the expiry date set out on your Prepaid Card. When it expires, unless we are told otherwise, we will issue you with a replacement Prepaid Card provided that you have used your Prepaid Card in the six months before expiry. If we do not issue you with a replacement Prepaid Card, this agreement will terminate when your last Prepaid Card issued under this agreement expires.

## 7. KEEPING YOUR PREPAID CARD SECURE

You should treat your Prepaid Card like cash. If it is lost or stolen, you may lose some or all of your money on your Prepaid Card, in the same way as if you lost cash in your wallet or purse. As a result, you must keep your Prepaid Card safe and not let anyone else use it.

If you are issued with your PIN, you must immediately memorise it and then destroy the notification. You must keep your PIN secret at all times. Do not write it down or reveal it to anyone. If you find your PIN hard to remember, you can change it at most ATMs, by simply selecting the "PIN services" option.

We recommend that you check the balance on your Prepaid Card regularly online at the Website. We will provide you with your Prepaid Card balance and a statement of recent transactions either by electronic means or on our secure webpage at any time. Your statement will show:

- information relating to each Prepaid Card transaction which will enable it to be identified;
- the amount of the Prepaid Card transaction shown in the currency in which the transaction was paid or debited to the account;
- the amount of charges for the transaction;
- the date the transaction is authorised or posted on to the account.

Your Passcode/Access code is needed to activate your Prepaid Card or access your Prepaid Card details on the Website.

When you are issued with your Passcode/Access code you must immediately memorise it and delete the text or email notification. Do not write it down or share it with anyone.

## 8. LOST AND STOLEN PREPAID CARD AND UNAUTHORISED OR INCORRECTLY EXECUTED PAYMENTS

If you know or suspect that your Prepaid Card is lost or stolen, or that the PIN or password is known to an unauthorised person, or if you think a transaction has been incorrectly executed you must tell us without undue delay by calling us on 0845 351 0116 or +44 845 351 0116 from outside the UK.

You can also report your Prepaid Card lost or stolen via our Website or via text message 24 hours a day, simply text CARD STOP STOLEN or CARD STOP LOST to our Lost or Stolen Card Contact Number. In addition, you can ask your Organisation to block your Prepaid Card.

Your maximum liability for any unauthorised transactions on your Prepaid Card is £50, unless the investigations show that any disputed transaction was authorised by you, or you have acted fraudulently or with gross negligence (for example by failing to keep your Prepaid Card or PIN secure or by failing to notify us and without delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the payment instrument), in which case you may be liable for any loss we suffer because of the use of the Prepaid Card.

Provided you have not acted fraudulently we will refund the amount of any transactions which our investigations show are not authorised by you arising after you notify us of the loss, theft, misappropriation or unauthorised use of your Prepaid Card.

However, if the investigations show that any disputed transaction was authorised by you, or you have acted fraudulently or with gross negligence (for example by failing to keep your Prepaid Card or PIN secure), you may be liable for any loss we suffer because of the use of the Prepaid Card.

## 9. OUR LIABILITY

We will not be liable for any loss arising from:

- any cause which results from abnormal or unforeseen circumstances beyond our control, consequences which would have been unavoidable despite all our efforts to the contrary; or
- a retailer refusing to accept your Prepaid Card; or
- our compliance with legal and regulatory requirements;
- us suspending, restricting or cancelling your Prepaid Card or

refusing to issue or replace it in accordance with Clause 4 above;

- loss or corruption of data unless caused by our wilful default.

From time to time, your ability to use your Prepaid Card may be interrupted, e.g. when we carry out maintenance. If this happens, you or your Organisation may be unable to load your Prepaid Card, you may be unable (a) to use your Prepaid Card to pay for purchases or obtain cash from ATMs and/or (b) to obtain information about the funds available in your Prepaid Card and/or about your recent Prepaid Card transactions. We will not be liable for any loss arising from such interruptions.

We are also not liable for:

- business interruption, loss of revenue, goodwill, opportunity or anticipated savings;
- any indirect or consequential loss arising from your total or partial use or inability to use your Prepaid Card, or the use of your Prepaid Card by any third party.

We reserve the right to charge you for any reasonable costs that we incur in taking action to stop you using this Prepaid Card and to recover any monies owed as a result of your activities.

## 10. YOUR RIGHT TO A REFUND

### The Funds on your Prepaid Card

You or Your Organisation may request a refund of the funds on your Prepaid Card provided there is more than €10 or the equivalent in another currency loaded on your Prepaid Card. To do so, you or your Organisation must send us an e-mail using the "contact us" facility on the Website requesting a refund and confirming that your Prepaid Card has been destroyed by cutting it up. When we process the refund, we will charge a Refund Fee (see Fees section below).

All refunds will be returned to your Organisation or you on the payment instrument that you used to fund the Prepaid Card. We reserve the right to see proof of your ownership of the payment instrument before transferring the funds to it. To enable us to comply with our legal obligations, we may ask you to provide us with certain information before we can process your refund request. Where the currency of the refund amount is different to the currency of the payment instrument that you used to fund the Prepaid Card we will convert this before we refund you. Please note that exchange rates vary and also contain a buy/sell spread and therefore the exchange rate on any refund you receive will differ from the rate when you loaded onto your Prepaid Card. We will apply our standard rate on the day and will inform you of the exchange rate at the time of the refund.

### Refunding Transactions

You may be entitled to claim a refund in relation to transactions where:

- the transactions was not authorised under this agreement;
- we are responsible for a transaction which was incorrectly executed notified to us in accordance with section 8 above;
- a pre-authorised transaction did not specify the exact amount at the time of its authorisation and the amount charged by a supplier is more than you could reasonably have expected taking into account normal spending patterns on the Prepaid Card or the circumstances of the transaction. A claim for a refund in the circumstances set out above will not be accepted if the amount of the transaction was made available to you at least 4 weeks before the transaction date or if the claim is made more than 8 weeks after being debited to your account;
- we were notified of the unauthorised/incorrectly executed transaction within 13 months of the debit date.

## 11. CHANGES TO THESE TERMS

We may change these terms by notifying you by email or other agreed means at least 60 days before the change is due to take effect. The notices and up-to-date version of the Prepaid Card terms and conditions will always be available on the Website. You should check the Website regularly for such notices and changes. You will be taken to have accepted the notified change unless you tell us that you do not agree to the change prior to the change being effective. In that event, we will treat that notice as notification that you wish immediately to terminate. In such circumstances we will refund any balance on the Prepaid Card in accordance with section 10 above and you will not be charged a Refund Fee. We may make immediate changes to the exchange rate used to convert foreign transactions between two currencies as applicable. For all transactions made in a foreign currency you can find out what the applicable exchange rate was at the time of the transaction via the MasterCard website [www.mastercard.com/us/personal/en/cardholderservices/currencyconversion/index.html](http://www.mastercard.com/us/personal/en/cardholderservices/currencyconversion/index.html).

## 12. THE FEES AND LIMITS

We do not charge any fees for checking your on-line balance and transactions. However, fees do apply, see table on the following page for fees applicable.

When you use your Prepaid Card at an ATM, you may also be subject to applicable fees, surcharge rules and regulations of the relevant ATM, or other financial institution or association.

If we decide to increase or impose any new fees, we will tell you by email, text, or post, at least two months before any changes take effect. Authorisation will be requested for all

transactions at the time of each transaction. In the unlikely event, for any reason whatsoever, a transaction is completed when there are insufficient funds on the Prepaid Card for that transaction (a "Shortfall"), the Shortfall shall be reimbursed by you unless it is due to an error on the part of the retailer where the Prepaid Card was presented, in this circumstance we may seek the Shortfall from the retailer.

You agree that once we make this Shortfall known to you, we may charge you for the Shortfall amount. We may charge the amount of the Shortfall from any other Prepaid Cards that you hold with us, to any other payment method which you may designate at that time, or any payment methods you may have used in the past or have registered with us, or against any funds which you may subsequently load onto your Prepaid Card or on any additional Prepaid Card ordered by you. Until we are reimbursed the Shortfall amount, we may suspend your Prepaid Card and any additional Prepaid Cards connected to you. In addition, we reserve the right to charge you an Administration Fee for each transaction that you make using your Prepaid Card that results in a Shortfall or increases the Shortfall amount on your Prepaid Card. Alternatively, we may seek to recover any Shortfall directly from your Organisation who requested the Prepaid Card on your behalf.

## 13. YOUR DETAILS

You must let us know as soon as possible if you change name, address, phone number or email address. If we contact you in relation to your Prepaid Card, for example, to notify you that we have cancelled your Prepaid Card or to send you a refund by cheque, we will use the most recent contact details you have provided to us. Any email to you will be treated as being received as soon as it is sent by us. We will not be liable to you if your contact details have changed and you have not told us.

## 14. DATA PROTECTION

In purchasing the Prepaid Card and using it, you agree that we can use your personal information in accordance with our Privacy Policy. Our Privacy Policy is set out on our Website, it includes details of the personal information that we collect, how it will be used, and who we pass it to. You can tell us if you don't want to receive any marketing materials from us.

## 15. DISPUTES WITH RETAILERS

If you have any disputes about purchases made using your Prepaid Card, you should settle these with the person you bought the goods or services from. We are not responsible for the quality, safety, legality or any other aspect of any goods or services purchased with your Prepaid Card. Remember that once you have used your Prepaid Card to make a purchase we cannot stop that transaction.

## 16. COMMUNICATION

If you have an enquiry relating to your Prepaid Card, or if your Card has been Lost or Stolen, you can call our customer services telephone line on 0845 351 0116 or +44 845 351 0116 from outside the UK. Standard BT rates will apply to calls to the 0845 number from a fixed UK BT landline. Call costs from other networks may vary.

## 17. COMPLAINTS

The Prepaid Card programme is managed by Currencies Direct as Co-Brand Partner. If you are unhappy in any way with your Prepaid Card or the way it is managed, tell us by contacting us on 0845 351 0116 or +44 845 351 0116 from outside the UK, so we can investigate the circumstances for you. Details of our complaints procedure can also be obtained on our Website. Any complaints you have will be dealt with quickly and fairly. You may be able to take unresolved complaints to the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR. Telephone: 0845 080 1800 and email: [enquiries@financial-ombudsman.org.uk](mailto:enquiries@financial-ombudsman.org.uk).

## 18. COMPENSATION

The Prepaid Card is an electronic money product and although it is a product regulated by the Financial Services Authority, it is not covered by the Financial Services Compensation Scheme. No other compensation scheme exists to cover losses claimed in connection with the Prepaid Card. This means that in the unlikely event that Newcastle Building Society becomes insolvent your funds may become valueless and unusable and as a result you may lose your money.

## 19. ASSIGNMENT

We may assign the benefit and burden of these terms and conditions to another company at any time, on giving you 2 month's prior notice of this. If we do this, your rights will not be affected.

## 20. TRANSFER TO A NEW PREPAID CARD

We may transfer your unused balance to a new Prepaid Card provided by a Prepaid Card issuer other than Newcastle Building Society at any time. Before we do this, we will give you 2 month's notice of the new Prepaid Card arrangements and the new Prepaid Card terms and conditions. Unless you advise us within the 2 month period that you do not want a new Prepaid Card from the new Prepaid Card issuer, you agree that we can automatically transfer the unused balance on your Prepaid Card to a new Prepaid Card provided by the new Prepaid Card issuer.

**21. GOVERNING LAW**

This Agreement is concluded in English. All communications with you will be in English. These terms and conditions will be governed by English law and English courts will deal with any legal proceedings between us.

**22. FUND PROTECTION**

As a responsible e-money issuer, Newcastle Building Society ensures that once it has received your funds they are

deposited in a secure account, specifically for the purpose of redeeming transactions made by your Prepaid Card. In the event that Newcastle Building Society becomes insolvent funds that you have loaded which have arrived with and been deposited by Newcastle Building Society are protected against the claims made by creditors.

**23. PREPAID CARD ISSUER**

Your Prepaid Card is issued by Newcastle Building Society (NBS) whose principal office is Portland House, New Bridge

Street, Newcastle Upon Tyne, Tyne and Wear, NE1 8AL, which is authorised and regulated by the Financial Services Authority (registered number 156058) as a building society and an issuer of e-money. NBS is authorised and regulated by the Financial Services Authority as an issuer of e-money (registration no. 156058). Your Prepaid Card is the property of Newcastle Building Society and is not transferable to anyone else. Currencies Direct is registered with HM Revenue & Customs (Registration number 12132225) and with the Financial Services Authority (FRN 504360) for the provision of payment services.

## Currencies Direct Euro Currency Card Fees

The information contained in this table summarises key product features and is not intended to replace any terms and conditions	
<b>On Application</b>	
Card issue fee	Free
Additional card fee	€ 6 per card, maximum 1 additional card available
Other Initial Fee	None
Limits	- Minimum amount of initial load £10 or euro equivalent - Maximum initial load € 3,000 - Maximum card balance € 6,000
Usage restrictions	For full details please refer to the Terms & Conditions
<b>Ongoing Features</b>	
Replacement card fees	€ 6 per card to replace lost or stolen card
Transaction Fees	Free for POS transactions
Cash withdrawal Fees	- € 1.25 per ATM withdrawal in EUR - 2.50% of the transaction value for ATM withdrawals in other currencies
Service Fees	None
Balance Enquiry	- Free for online balance and transaction inquiry - € 0.15 for SMS balance and transaction inquiry or card status change
Top-up fees and limits	- Free by bank transfers - Free by debit card - 2.50% of loads by credit card - Maximum single load € 3,000; Maximum daily load € 6,000
Other fees	- € 14 Administration fee; for exceptional requests - € 1 for replacement PIN
<b>Closure</b>	
Cancellation or Redemption	- € 6 cash-out fee (cancellation of card & return of funds) - You must have more than £10 remaining on the card to redeem the balance
Expiry	Card valid for 3 years

# Forward Contracts

## Explained

We would like to remind you of some of the most important terms and conditions that apply to Forward Contracts and, in particular, to any Security Payments which Currencies Direct may require from you.

### 1. FAILURE TO COMPLY

When you enter into a Forward Contract with Currencies Direct, Currencies Direct is committing to deliver a certain amount of currency at a certain price on a specific date or window of dates in the future. During this time Currencies Direct is exposed to the risk of you not fulfilling the Forward Contract on the agreed terms. This is what we call a "Failure to Comply". This risk is measured by the potential loss Currencies Direct would incur if the Forward Contract had to be sold or bought back into the market due to the Failure to Comply (a "Forward Contract Cancellation"). As market prices constantly move, Currencies Direct re-values the Forward Contract every day to understand the value of that risk.

### 2. SECURITY PAYMENT

To off set the risk mentioned above, Currencies Direct requires customers to pay a deposit or security payment equal to a percentage of the total value of the Forward Contract at the time of booking (a "Security Payment"). This Security Payment provides Currencies Direct with a means to mitigate the potential loss incurred in case of any "Failure to Comply". The Security Payment must be made available to Currencies Direct on a cleared funds basis within 24 hours from the moment the contract is booked over the phone. If funds are not received within 24 hours, Currencies Direct will have the right to close out the Forward Contract and claim any losses incurred in accordance with the terms and conditions (the "Terms").

### 3. AMOUNT OF THE SECURITY PAYMENT

Initially we require a Security Payment of 10% of the amount of the Forward Contract. Currencies Direct requires the value of the Security Payment to be 10% of the total value of the Forward Contract at any given point in time up until the date of maturity. This means that as markets move, and the Forward Contract is re-valued, Currencies Direct may require additional Security Payments to maintain this security cover. However, because markets move every second and to ensure the process is more convenient for you, Currencies Direct will only require you to make additional Security Payment(s) so that the 10% security cover need only be restored if the value of the Forward Contract moves by more than 5% against you. In this case:

- (a) Currencies Direct will require the additional monies to be made available on a cleared funds basis within 24 hours of the additional Security Payment request being made; and
- (b) Currencies Direct will reserve the right to close the Forward Contract at any given point in time to avoid any potential losses once the Security Payment request has been initiated.

### 4. SECURITY PAYMENT AND MATURITY DATE

When the Forward Contract matures, the Security Payment(s) will be used as part-payment of the Forward Contract. In the event of a Failure to Comply, any losses and charges incurred due to a Forward Contract Cancellation will be offset against the Security Payment(s) and any surplus funds refunded to you.

- 5. This communication states the current policy of Currencies Direct in relation to Security Payments, but Currencies Direct reserves the right to change this from time to time.

Please note that the terms referred to in this document apply to Fixed and Open Forwards as well as Time Options.

# Don't be shy.

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