



# Terms and Conditions of Business



Currencies  
Direct

Financial Markets

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# Foreign Exchange Options Terms and Conditions of Business

## CURRENCIES DIRECT FINANCIAL MARKETS LIMITED - CORPORATE CLIENTS

These terms and conditions of business set out the legal relationship between you and us including all of your legally binding obligations and responsibilities. It is therefore very important that you read it carefully. Please let us know as soon as possible if there is anything which you do not understand.

**Manifest Error** means a manifest or obvious misquote by CDFM including those based on a published price source on which CDFM has relied in connection with any Contract Estimate or Contract, having regard to the current market conditions at the time an Order is placed or a Contract is executed, as determined by CDFM.

**Market Disruption** means any circumstance in which CDFM reasonably believe the relevant market or exchange relating to a Contract, CDFM's matching contract with CDFM's Counterparty or any relevant foreign exchange related product is suspended, closed, materially impaired or cannot be relied upon.

**Pre-Delivery Contract Estimate** means a verbal or written estimate (which could be in electronic or paper format), which may be provided in accordance with clause 4.2 in response to a formal enquiry from the Client regarding the Pre-Delivery of the underlying foreign currency linked to an Option Contract. It sets out the non-binding terms of a proposed Pre-Delivery Contract together with the associated risks including an indication of the currencies, the notional exchange rate, the deposit, the settlement details and the related obligations under the relevant Option Contract.

**Pre-Delivery Order** means an order or instruction by the Client to CDFM to enter into a Pre-Delivery Contract.

## INTRODUCTION

These terms and conditions for foreign exchange dealing services and the Application Form duly completed by you (each as supplemented or amended from time to time and together the **Agreement**) govern any Option Contract, Forward Contract or Pre-Delivery Contract (as defined below) you enter into with or through Currencies Direct Financial Markets Limited.

For your own benefit and protection you should carefully read these terms and conditions, the Application Form and our Product Disclosure Statement (for the avoidance of doubt the Product Disclosure Statement does not form part of the Agreement), before completing, signing and returning the Application Form to us. Your signature on the duly completed Application Form confirms that you have read and accept everything in the Agreement. If you do not understand anything in the Agreement or the Product Disclosure Statement, please ask for more information or consult an independent adviser.

## 1. DEFINITIONS AND INTERPRETATIONS

**1.1** In the Agreement, the following terms shall have the following meanings:

**Applicable Law** means the FCA Rules, Market Rules, the Money Laundering Requirements and any other applicable law, governmental, regulatory, self-regulatory or market rule, regulation, interpretation or protocol and the generally accepted customs or practices of any such exchange, clearing house or market each as the same is in force for the time being and any amendment, extension, application or re-enactment thereof and includes any subordinate legislation for the time being in force made under the same as in force from time to time.

**Application Form** means CDFM's standard client account opening form for clients which (as set out in the Introduction), once duly completed by the Client and accepted by CDFM and updated or amended from time to time, forms part of the Agreement.

**Agreement** has the meaning given to it in the Introduction.

**Authorised Person** means the Client or any person accepted by CDFM as being authorised by the Client to give orders or

instructions to CDFM under the Agreement, or who purports or appears to CDFM in good faith to be so authorised.

**Business Client** means any body corporate, unincorporated association, partnership, government body or agency, or a sole trader.

**Business Day** means any day which is not a Saturday, Sunday or public holiday in England on which banks are generally open for business in London.

**CDD** has the meaning given in clause 16.1.

**CDFM, we, us** means Currencies Direct Financial Markets Limited and shall include any person to whom it has delegated obligations or responsibilities under the Agreement.

**Client** means the client that has entered into the Agreement with CDFM.

**Client Money Rules** means the client money rules set out in Chapter 7 of the FCA's Client Assets sourcebook of the FCA Handbook.

**Contract** means an Option Contract, a Forward Contract or a Pre-Delivery Contract (as appropriate).

**Contract Confirmation** has the meaning given in clause 4.4

**Contract Estimate** means an Option Contract Estimate or a Forward Contract Estimate or a Pre-Delivery Contract Estimate (as appropriate).

**Confidential Information** means any information that is designated as confidential or which by its nature the receiving party knows or should reasonably know is confidential.

**Counterparty** means the bank or financial institution with whom CDFM (acting as principal) enters into a matching contract back-to-back with the Contract entered into between CDFM and the Client.

**Deposit** means both a Forward Deposit and an Option Deposit.

**DF** means a "deliverable forward" between a buyer and a seller where the buyer agrees to purchase money in a specified currency at an agreed exchange rate for delivery on an agreed future date where there is physical delivery to the Client of the full amount of the purchased currency.

**DF Contract** means a binding DF contract between the Client and CDFM with a relevant base currency, purchase currency, exchange rate and Settlement Date which is subject to the terms of the Agreement.

**Effective Date** has the meaning given in clause 29.3.

**EMIR** means the European Market Infrastructure Regulation on OTC derivatives, central counterparties and trade repositories (648/2012/EU).

**Exercise Request** means a notice by the Client in such form as CDFM may specify or accept (actually) received by CDFM requesting the exercise of an Option Contract.

**Expenses** has the meaning given in clause 9.1.

**Expiry Date** means the date when an Option Contract matures.

**Expiry Time** has the meaning given in clause 5.1.

**Event of Default** means the events listed in clause 18.1.

**Force Majeure Event** means an event which is beyond the reasonable control of an affected party including without limit any Market Disruption, acts or restraints of government(s) or public authorities, war, revolution, strikes or other industrial action, fire, flood, natural disaster, explosion, terrorist action, the suspension or limitation of trading by any execution

venue, or any breakdown, failure, defective performance or malfunction of any telecommunications settlement or other equipment or systems.

**Forward Contract** means both a DF Contract and/or a NDF Contract.

**Forward Contract Estimate** means a verbal or written estimate (which could be in electronic or paper format), which may be provided in accordance with clause 4.2 in response to a formal enquiry from the Client regarding a Forward Contract. It sets out the non-binding terms of a proposed Forward Contract together with the associated risks including an indication of the currencies, the notional exchange rate, the settlement currency, the deposit and the settlement details.

**Forward Deposit** means the initial payment, payable to CDFM upon entry into a Forward Contract and/or a Pre-Delivery Contract.

**Forward Order** means an order or instruction given by the Client to CDFM to enter into a Forward Contract.

**FCA** means the Financial Conduct Authority or any relevant successor authorities established from time to time.

**FCA Rules** means the rules and guidance of the FCA (as amended from time to time).

**Group Company** means CDFM or any body corporate or person which owns or controls CDFM directly or indirectly; or is controlled directly or indirectly by CDFM; or is directly or indirectly controlled by a body corporate or person which directly or indirectly controls CDFM. For the purposes of the Agreement, Control means the power of a person to secure: (a) by means of the holding of shares or the possession of voting power to or in relation to that or any other body corporate; or (b) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the relevant body corporate are conducted in accordance with the wishes of that person.

**Insolvency Event** means in relation to a person:

- a the person commences a voluntary case or other procedure seeking or proposing liquidation, administration, reorganisation, moratorium, or other similar relief with respect to the person or the person's debts, or seeking the appointment of a receiver, liquidator, administrator or other similar official (each an Insolvency Official) of the person or any substantial part of the person's assets, or the person proposes a compromise or composition with its creditors, or the person takes any corporate action to authorise any of the foregoing;
- b an involuntary procedure is commenced seeking or proposing liquidation, administration, reorganisation or moratorium, or other similar relief with respect to the person or the person's debts law or seeking the appointment of an Insolvency Official of the person or any substantial part of the person's assets;
- c the person is (or is deemed to be) unable to pay its debts as they fall due or is (or is deemed to be) bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to the person; or any indebtedness of the person is not paid on the due date, or becomes capable at any time of being declared due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to this Agreement are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of the person's property, undertaking or assets (tangible and intangible); and/or
- d the person takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**Intellectual Property Rights** means in relation to any Services all intellectual property rights held by CDFM, any Group Company or any agent on CDFM's behalf including patents, supplementary protection certificates, petty patents, utility models, trade marks, database rights, rights in designs, copyrights (including rights in computer software) and topography rights (whether or not any of these rights are registered, and including applications and the right to apply for registration of any such rights) and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world, for the full term of such rights, and any renewals or extensions of them.

**Joint Account** has the meaning given in clause 23.

**Joint Account Client** has the meaning given in clause 23.

**Liquidation Amount** has the meaning given to it in clause 19.

**Liquidation Date** has the meaning given to it in clause 18.2.

**Loss** means any loss (including loss of profit), tax, cost, expense (including without limit legal expenses incurred in recovering any money due to CDFM), damage or liability that CDFM may incur on the Client's behalf with a third party in connection with an Order or a Contract or otherwise as a result of or in connection with the Client's default or the Client's failure to comply with the terms of the Agreement (including, without limit, the Client's failure to fulfil its obligations under a Contract) or any other agreement CDFM has with the Client provided that the same are not a direct result of CDFM's wilful default or fraud.

**Market Rules** means the rules, regulations, customs and practices from time to time of any exchange, clearing house or other organisation or market involved in the conclusion, execution or settlement of a Contract or any matching contract CDFM enter into with a Counterparty. This includes any exercise by any such exchange, clearing house or other organisation or market of any power or authority conferred on it.

**Money Laundering Requirements** means applicable laws, regulations and guidance for the prevention of money laundering and terrorist financing and similar activities including but not limited to the European Union's 5th Money Laundering Directive and the UK Money Laundering and Terrorist Financing (Amendment) Regulations 2019.

**NDF** means a "non-deliverable forward" between a buyer and a seller where the buyer agrees an exchange rate to purchase money in a specified currency for completion on an agreed future date but where there is no physical delivery of the purchased money in the specified currency as the contract is cash settled in the base currency of the contract (and only any resulting gain or loss in the base currency is received or paid by the buyer).

**NDF Contract** means a binding NDF contract between the Client and CDFM with a relevant base currency, purchase currency, exchange rate and Settlement Date determined by CDFM which is subject to the terms of the Agreement.

**Option** means the right (but not the obligation) to buy or to sell money in a specified currency at an agreed exchange rate on an agreed Expiry Date.

**Option Contract** means a binding contract between the Client and CDFM whereby CDFM sells the Client an Option which is subject to the terms of the Agreement.

**Option Contract Estimate** means a verbal or written estimate (which could be in electronic or paper format), which may be provided in accordance with clause 4.2 in response to a formal enquiry from the Client regarding any Option. It sets out the non-binding terms of a proposed Option Contract together with the associated risks including an indication of the currencies, the strike price, the premium or deposit, the expiry date and settlement details.

**Option Deposit** has the meaning given in clause 7.2.

**Option Order** means an order or instruction given by the Client to CDFM to enter into an Option Contract.



**Order** means an Option Order or a Forward Order, or a Pre-Delivery Order.

**Per Se Professional Client** means a Client that CDFM has been categorised as a professional client but not a Client that was originally categorised as a retail client but has been re-categorised as a professional client in accordance with clause 2.3.

**Personal Client** means any client who is not a Business Client.

**Pounds Sterling** means the lawful currency of the United Kingdom from time to time.

**Pre-Delivery** has the meaning given in clause 4.3.

**Pre-Delivery Contract** means a binding Pre-Delivery contract between the Client and CDFM relating to a relevant Option Contract which is subject to the terms of the Agreement.

- **Premium** has the meaning given in clause 7.1.
- **Relevant Professional Client** has the meaning given in clause 11.3.
- **Retail Client** means the Client, if the Client has been deemed a retail client by CDFM.
- **Segregated Account** means a current or deposit account at either a central bank or a credit institution that is incorporated in an EEA state or a bank that is authorised in a non-EEA state and, in each case, which is held in the name of CDFM but which does not hold CDFM's own funds and is identifiable as a general client bank account or a designated client bank account.
- **Services** has the meaning given in clause 3.1.
- **Settlement Date** means the date when any closing payment is due under a Forward Contract or a Pre-Delivery Contract.
- **Title Transfer Collateral** has the meaning given in clause 11.3.

**Transfer** means an electronic transfer of the Client's funds to a destination that the Client requests (such request to be in writing, unless CDFM agrees otherwise).

**Website** means the website of CDFM or any affiliate of CDFM which relates to CDFM.

- 1.2 References to a statute or statutory provision shall include any subordinate legislation made from time to time and any such references to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time.
- 1.3 Words in the singular shall, where appropriate, include the plural and vice versa.
- 1.4 References to one gender or the neuter are to any gender.
- 1.5 Any headings used in the Agreement are for ease of reference only and should not be used in the interpretation or construction of the Agreement.
- 1.6 Any references to "including" or "include" shall be construed as illustrative and shall not limit the sense of the preceding words, descriptions or phrases.
- 1.7 Where relevant, references in these terms and conditions to the "Client" or "you" shall include Authorised Persons.
- 1.8 References to "in writing" include email [fax and text messaging]

## 2. REGULATORY MATTERS

- 2.1 Currencies Direct Financial Markets Limited is a company incorporated in England and Wales (registered number 05289787) whose registered office is at One Canada Square, Canary Wharf, London E14 5AA. Currencies Direct Financial Markets Limited is: (a) authorised and regulated in the conduct of investment business in the UK by the FCA, with Firm Reference Number 495699; and (b) a PSD Agent of Currencies Direct Limited. Currencies Direct Limited is authorised by the Financial Conduct Authority ('FCA') as an electronic money institution under registration number 900669.
- 2.2 The FCA requires that CDFM categorise each client as an 'eligible counterparty', a 'professional client' or a 'retail client'. Retail

clients are afforded the maximum level of regulatory protection under the regulatory system. CDFM will confirm to the Client its categorisation for the purposes of the Agreement.

- 2.3 Under FCA Rules, CDFM must inform the Client that the Client has the right to request a different client categorisation; however, CDFM is not obliged to so re-categorise the Client. If CDFM agrees to re-categorise the Client, CDFM will inform the Client of any changes to the level of client protection that this would entail.
- 2.4 Nothing in the Agreement excludes or restricts the duties CDFM owes to the Client under the regulatory system (as defined in the FCA Rules). CDFM and Group Companies add any of their respective directors, officers, employees or agents, will not be liable for any action that CDFM or any Group Company takes or does not take for the purpose of compliance with Applicable Law.

## 3. CDFM SERVICES TO THE CLIENT

- 3.1 Once CDFM has been able to verify a Client's identity and has carried out an appropriateness/suitability assessment where relevant, CDFM will notify the Client if CDFM accepts the Client as a client for CDFM's dealing services for the purchase and sale of Contracts (**Services**).
- 3.2 For the avoidance of doubt, by entering into a Contract, the Client confirms the Client's full understanding of the Agreement and the risks associated with the Option or DF or NDF which is the subject of the Contract.
- 3.3 Except where CDFM has specifically agreed to do so in accordance with clause 3.4, CDFM will not provide the Client with advice on the merits of a particular Contract and will not provide the Client with personal recommendations (as defined in the FCA Rules) in relation to any Contract. Accordingly, the Client should make its own assessment of any Contract that the Client is considering and the Client should not rely on any opinion, research or analysis expressed or published by CDFM or any Group Company as being a recommendation or advice in relation to any Contract.
- 3.4 CDFM may agree in writing with the Client that CDFM will provide advice (including personal recommendations) on the merits of particular transactions (either generally or in relation to each particular proposed transaction). CDFM will not advise on the merits of a particular transaction if CDFM reasonably believes that, at the time of the Client's Order, the Client is not expecting to rely on such advice in which case, CDFM will notify the Client that dealing will be on an execution-only basis.
- 3.5 In relation to DF Contracts, CDFM will ordinarily not enter into DF Contracts which are for the purpose of facilitating the purchase of identifiable goods and/or services or for the purpose of direct investment. Ordinarily, the Client will only be able to enter into DF Contracts of this type with Currencies Direct Limited.
- 3.6 Each Contract will be executed by CDFM in accordance with CDFM's Order Execution Policy (as amended from time to time and details of which are available on request). The Client acknowledges that the Client's Contract will be executed outside a trading venue and by entering into Contracts consents to same.
- 3.7 The Client should read CDFM's Product Disclosure Statement very carefully before using the Services. CDFM's Product Disclosure Statement is provided to the Client for information purposes only, it does not form part of the Agreement and is not intended to create legally binding obligations or responsibilities on CDFM.

## 4. MAKING A CONTRACT

- 4.1 CDFM may accept and act upon any instructions it reasonably believes in good faith to be from the Client or, if applicable,

an Authorised Person without the need to make any further enquiry, whether or not those instructions are actually from the Client or an Authorised Person.

- 4.2 The Client may contact CDFM to request a Contract Estimate by telephone on +44 (0)207 847 9477 between 9.00 am and 5.00 pm on any Business Day or by email to CDFM@currenciesdirect.com. On receipt of the Client's request, CDFM may provide the Client with a Contract Estimate. The Client may then use such Contract Estimate to place an Order. CDFM may accept or reject the Client's Order in whole or in part. If CDFM accepts the Client's Order, the Client cannot cancel, rescind or amend it without CDFM's express written consent and (subject to Manifest Error, in respect of which see clause 4.5 below) a binding Contract will be created between CDFM and the Client. For the avoidance of doubt, a written Contract Estimate is an estimate only and may be amended by CDFM when the Client places an Order (or when an Order is accepted or executed by CDFM) and in particular the price and/or Estimated Expiry Date or Settlement Date may no longer be available when the Order is executed.
- 4.3 In relation to an Option Contract, CDFM may in its absolute discretion allow the Client to elect for early delivery of the underlying currency before the relevant Expiry Date (Pre-Delivery). For the avoidance of doubt, a Pre-Delivery Contract may amend the terms of a related Option Contract but will constitute a separate binding contract between the Client and CDFM.
- 4.4 In respect of Option Contracts, Forward Contracts or Pre-Delivery Contracts, CDFM will use reasonable endeavours (but will not be obliged) to send the Client a written summary of the agreed terms of the Option Contract (including the price, the Premium and the Expiry Date) or the Forward Contract or Pre-Delivery Contract (including the price, the Deposit and the Settlement Date) (together Contract Confirmation) (by such means as CDFM may determine), within one Business Day of the date of entering into the Contract. If the Client does not receive the Contract Confirmation, this does not invalidate the Contract and the Client should contact CDFM as soon as possible and in any event before the Expiry Date (of an Option Contract) or the Settlement Date (of a Forward Contract or Pre-Delivery Contract). The Client must keep the Contract Confirmation secure.
- 4.5 For the avoidance of doubt, in the event of Manifest Error, there will be no Contract. CDFM will, when making a determination as to whether a situation amounts to a Manifest Error, act fairly towards the Client but the fact that the Client may have entered into, or refrained from entering into a corresponding financial commitment in reliance on an Order placed with CDFM or a Contract (or that the Client has suffered or may suffer any loss) will not be taken into account by CDFM in determining whether there has been a Manifest Error.
- 4.6 Unless CDFM informs the Client otherwise in writing, CDFM will be the Client's counterparty and act as principal in relation to any Contract and CDFM will not act as the Client's agent. This usually means that in every Option Contract there is a bilateral contract between CDFM and the Client for the option to purchase the underlying currency so that CDFM acts as a principal counterparty to the Client and at the same time CDFM usually enters into an offsetting (back-to-back) trade with a Counterparty. Similarly, in a Forward Contract or Pre-Delivery Contract there will usually be a bilateral contract between CDFM and the Client so that CDFM acts as a principal counterparty to the Client and at the same time CDFM usually enters into an offsetting (back-to-back) trade with a Counterparty.

## 5. OPTION EXERCISE

- 5.1 The Client (or an Authorised Person on behalf of the Client) may exercise an Option Contract by delivering an Exercise Request on or before the **expiry time** on the Expiry Date (the

"Expiry Time") which will be specified in the Option Contract Confirmation, shown on the Website or otherwise communicated to the Client by CDFM.

- 5.2 If the Client does not deliver an Exercise Request on or before the Expiry Time, the relevant Option Contract will expire and be of no value to the Client even if it was "in the money" and the Client would have profited had the Client exercised it. An Exercise Request must be given by telephone on +44 (0)207 847 9477 between 9.00 am and 5.00 pm on any Business Day. If CDFM is unable to take the Client's call, the Client must leave a message and, having left a message, immediately email **CDFM@currenciesdirect.com** to confirm the Exercise Request. When the Client delivers an Exercise Request (whether speaking to a member of CDFM staff or leaving a message and sending CDFM an email), the Client must make it clear that it is an Exercise Request and provide the relevant Option Contract number (shown on the Option Contract Confirmation). Any such email must also include the term "Exercise Request" in the subject line of the email. If for any reason the above telephone number is unavailable or has changed CDFM will provide notice via the Website. CDFM may reject any Exercise Request which is incomplete or inaccurate and will not act on any Exercise Request communicated or received after the Expiry Time or delivered or communicated by a means otherwise than set out above or as otherwise specified by CDFM.
- 5.3 CDFM may in its absolute discretion automatically exercise an Option Contract, however CDFM shall have no obligation to do so and, in any event, CDFM shall not be responsible for exercising any Option Contract nor shall CDFM be responsible for any loss, cost, liability or expense that the Client may suffer or incur as a result of: the Client's failure to exercise any Option Contract; or the Client's failure to exercise any Option Contract by the Expiry Time; or the rejection of an incomplete or inaccurate Exercise Request; or the failure by the Client to deliver or communicate an Exercise Request in accordance with the means specified by CDFM.

## 6. CLIENT DEALING AS PRINCIPAL

Unless CDFM has specifically agreed otherwise in writing, the Client shall enter into any Contract as principal so if the Client does act on behalf of a third party, whether or not the Client identifies that third party to CDFM, CDFM shall not be obliged to accept that third party as a client.

## 7. COSTS AND CHARGES FOR OPTIONS CONTRACTS

- 7.1 The Client may be required to pay a **premium** (being a non-refundable payment) to enter into any Option Contract (Premium). An estimate of the likely Premium will be given in the Option Contract Estimate and the amount and the method of payment and the payment date will be agreed with the Client when the Option Contract is entered into. The Client agrees to pay any Premium on or before the payment date notified by CDFM.
- 7.2 Where an Option Contract does not provide for the immediate payment of a Premium, CDFM may require "margin" which is one or more payments for the purpose of securing or covering present or future, actual or contingent or prospective obligations of the Client to CDFM under an Option Contract (**Option Deposit**). When CDFM enter into an Option Contract, CDFM will determine the amount of the Option Deposit CDFM requires which will be in proportion to the risk CDFM bears. An initial Option Deposit estimate will be given in an Option Contract Estimate and CDFM will advise the Client of the initial Option Deposit requirements prior to entering into the Option Contract. Once an Option Contract is entered into, then should CDFM determine that the risk borne by CDFM increases for any reason, CDFM may at its reasonable discretion require the Client to provide CDFM with one or more additional amounts of Option Deposit to cover its increased risk. The Client agrees to

accept CDFM's determination of CDFM's increased risk and the Client will pay such additional amounts of Option Deposit in accordance with such terms as CDFM may reasonably specify.

## 8. COSTS AND CHARGES FOR FORWARD CONTRACTS AND PRE-DELIVERY CONTRACTS

**8.1** CDFM may require a Forward Deposit, upon entry into a Forward Contract or a Pre-Delivery Contract. When CDFM enters into a Forward Contract or a Pre-Delivery Contract, CDFM will determine the amount of the Forward Deposit CDFM requires which will be in proportion to the risk CDFM bears. An estimate of the Forward Deposit will be given in a Contract Estimate and CDFM will advise the Client of the Forward Deposit requirements prior to entering into the relevant Contract. Once a Contract is entered into, then should CDFM determine that the risk borne by CDFM increases for any reason, CDFM may at its reasonable discretion require the Client to provide CDFM with one or more additional amounts of Forward Deposit to cover its increased risk. The Client agrees to accept CDFM's determination of CDFM's increased risk and the Client will pay such additional amounts of Forward Deposit in accordance with such terms as CDFM may reasonably specify.

## 9. COSTS AND CHARGES FOR ALL CONTRACTS

**9.1** CDFM may charge the Client for any transfer fees, taxes or other reasonable out-of-pocket costs or expenses that CDFM may incur in connection with a Contract (**Expenses**). CDFM may deduct CDFM's Expenses from any Option Deposit or other money CDFM is transferring or holding for the Client.

**9.2** In addition to any Premium, Option Deposit, or Forward Deposit the Client shall pay on demand by CDFM:

**9.2.1** all applicable Value Added Tax (or the equivalent) and other taxes in any relevant jurisdiction, currently payable or imposed at any time in the future (except any tax that CDFM is obliged to pay on CDFM's income);

**9.2.2** any costs and charges in relation to any Contract which are imposed by any relevant third party; and

**9.2.3** any other expenses (including, without limitation, legal fees) CDFM incur as result of the non-performance by the Client of any of the Client's obligations under the Agreement (including under any Contract).

**9.3** CDFM may share CDFM's revenue with a Group Company or third party and, where appropriate, CDFM will provide the Client with relevant details of such arrangements upon request.

**9.4** CDFM works closely with a number of partner organisations which introduce business to it, and of which some have been appointed as its appointed representatives. These firms refer clients to CDFM, may help with the onboarding of clients, and may provide assistance to clients in explaining the dealing opportunities available to them in the context of their own requirements. Where clients come to CDFM via such firms this reduces CDFM's direct marketing costs and our administrative costs but the clients themselves are obliged to pay the fees charged by those firms. To prevent the Client being financially disadvantaged, CDFM agrees that, if the Client has been referred in this way by a firm that is its appointed representative or which has a relationship with CDFM providing for this arrangement (each a "**partner firm**"), CDFM will rebate part of its fees or profits arising from a Contract to the Client, in an amount equal to the fees (if any) charged by that partner firm that are related to that Contract. The amount of the fees charged by the partner firm and the amount of the rebate that CDFM will apply (which normally will be of the same amount) will be stated by the partner firm when it agrees its fees with the Client

and will be confirmed in the Contract Estimate and in the Contract. This rebate will be payable at the same time that the Client is due to pay the partner firm the amount due to it.

**9.5** Where CDFM has agreed to rebate fees to the Client in accordance with clause 9.4, the Client agrees and instructs us that we should pay such amounts on to the partner firm on behalf of the Client to discharge the Client's obligations to pay its fees in respect of the relevant Contract.

## 10. PAYMENT, TRANSFERS AND CLIENT MONEY

**10.1** All monies owed to CDFM under the Agreement (whether as a Premium or an Option Deposit or Forward Deposit or as settlement currency) should be paid in the currency agreed by CDFM (in the Contract Estimate, Contract Confirmation or otherwise). If the Client does not pay such amounts in the agreed currency CDFM may exchange such amounts into the agreed currency at the Client's expense and any resultant shortfall shall be payable by the Client to CDFM. Any such payments to CDFM shall be made by electronic transfer or such other method of payment as CDFM may agree. CDFM does not accept payment by cash or cheque.

**10.2** The Client agrees to send CDFM full payment of any amount outstanding on or before the settlement date notified by CDFM. It is the Client's responsibility to make such payment to CDFM and the Client should ensure that the Client is able to make payment before entering into a Contract. Although CDFM may provide the Client with information relating to cut-off times, please be aware that cut-off times vary depending upon the currency.

**10.3** After CDFM has received cleared funds from the Client for the settlement of a Contract (including any balance payable in respect of which the Client has paid an Option Deposit or Forward Deposit), the currency the Client has bought (where relevant) will be sent, via a payment services provider as may be notified to the Client from time to time (that may be a Group Company), by electronic transfer to the destination the Client may specify. It will be the Client's responsibility to ensure that CDFM is provided with accurate payment instructions in good time before the Expiry Date or settlement date (as relevant). CDFM will not be responsible where you provide it with incorrect payee account details.

**10.4** CDFM will only process a Transfer back to the Client's own bank account or to the Client's account with Currencies Direct Limited (a Group Company). CDFM does not process Transfers to any other third parties. If the Client wishes to make a Transfer to a third party then such a Transfer may be carried out by Currencies Direct Limited (subject to the terms and conditions of business of Currencies Direct Limited).

**10.5** Subject to clauses 11.1 and 11.3, if the Client sends money to CDFM prior to entering into a Contract with CDFM, CDFM will treat this money as "client money" and hold it on trust for the Client in accordance with the Client Money Rules. This money will be deposited into a Segregated Account until such time as: (a) the Client enters into a Contract; (b) CDFM uses all or part of the client money in accordance with clause 10.6 or 10.7; and/or (c) all of part of the client money is returned to the Client or a person or entity nominated by the Client; and/or (d) the client money is unclaimed and CDFM can demonstrate that it has taken reasonable steps to trace the Client and return the balance. CDFM will not place any client money into a qualifying money market fund (as defined in the Client Money Rules).

**10.6** CDFM is able to use the client money it holds on behalf of a Client upon it becoming due and payable to CDFM, including where CDFM incurs any loss or expense: (a) on behalf of the Client; or (b) relating to a Contract which the Client has entered into. CDFM is also able to use the client money it holds on behalf of a Client to satisfy any amount that the Client owes to CDFM on the Expiry Date (of an Option Contract) or the Settlement Date (of a Forward Contract or Pre-Delivery Contract) as such amount will become due and payable to CDFM on that date.

**10.7** Upon CDFM being able to use client money in accordance with Clause 10.6, it shall transfer the relevant amount of such monies from the Segregated Account to its own account whereupon such monies will no longer be treated as "client money".

**10.8** Subject to clauses 11.1 and 11.3, CDFM will transfer to the Segregated Account any amount that it is scheduled to pay to a Client on an Expiry Date (of an Option Contract) or a Settlement Date (of a Forward Contract or Pre-Delivery Contract) once such amount has become due and payable to the Client. [Such transfer will normally occur on the same business day that the relevant amount became due and payable to the Client, but will in any event occur within 24 hours of that amount becoming due and payable.] Once transferred, any amount so transferred to the Segregated Account will be treated by CDFM as "client money" in accordance with this Clause 10.

**10.9** Unless CDFM agrees to the contrary in writing, the Client shall not be entitled to receive interest on any client money held by CDFM on the Client's behalf. CDFM shall not account to the Client for any profits earned on any client money held on the Client's behalf.

**10.10** If on an Expiry Date (of an Option Contract) or a Settlement Date (of a Forward Contract or Pre-Delivery Contract) CDFM is scheduled to pay an amount to a Client under a Contract, and the Client is also scheduled to pay an amount to CDFM under that Contract, the amount scheduled to be paid by CDFM shall not become due and payable until CDFM has received cleared funds sufficient to fully discharge the Client's obligation to pay the relevant amount to CDFM.

**10.11** CDFM may hold client money held for the Client in a Segregated Account that is in a general client bank account (an "**Omnibus Segregated Account**"). In such circumstances, the client money held by CDFM for the Client will be co-mingled with the client money held by CDFM for its other clients (but will never be co-mingled with CDFM's own money).

**10.12** In the event that:

**10.12.1** the credit institution or bank that holds client money in an Omnibus Segregated Account fails (the "Failed Bank"); and

**10.12.2** there is insufficient client money held in that Omnibus Segregated Account to satisfy the claims of CDFM's clients in respect of that client money or such client money is not immediately available to satisfy such claims (in each case, a "Client Money Shortfall"), then CDFM will only have an unsecured claim against the Failed Bank on behalf of the Client and CDFM's other clients. The Client will therefore be exposed to the risk that the money received by CDFM from the Failed Bank is insufficient to satisfy the claims of the Client and all other clients in respect of the Omnibus Segregated Account held with the Failed Bank. The Client will share in the Client Money Shortfall with all of CDFM's other clients that have a claim in respect of the client money held, or that should have been held, in that Omnibus Segregated Account rateably in proportion to the size of their respective claims. Notwithstanding the above, compensation from the FSCS may be available to a Client that suffers a loss due to a Client Money Shortfall, as described in Clause 28.

## 11. TITLE TRANSFER AND SAFEGUARDING OF OPTION DEPOSITS

**11.1** Any Premium and/or Forward Deposit which the Client sends to CDFM is not treated by CDFM as "client money" for the purposes of the Client Money Rules. This is because the Premium is the Client's consideration for entering into an Option Contract and the Forward Deposit is part or all of the Client's consideration for entering into a Forward Contract or a Pre-Delivery Contract and consequently belongs to CDFM.

**11.2** Subject to clause 11.3, any Option Deposit the Client sends to

CDFM will be treated as "client money" and treated in accordance with clauses 10.5 and 10.6 and the Client Money Rules.

**11.3** Where a Client is a Per Se Professional Client or has been categorised as an eligible counterparty (in either case a "Relevant Professional Client"), CDFM may as a condition of entering into a Contract with that Client by notice to the Client require that instead of treating any Option Deposits as client money the Client shall transfer to CDFM absolute title to any Option Deposits ("Title Transfer Collateral"). Any Option Deposits so transferred shall be transferred free and clear of any lien, pledge, claim, charge, encumbrance or other security interest whatsoever. As a result:

**a** money received by CDFM from the Client or a third party in this way for the Client's account will be recorded by CDFM as a cash repayment obligation owed by the CDFM to the Client will be an unsecured amount owed by CDFM to the Client (even where CDFM is acting as the Client's agent).

**b** CDFM shall not be required to hold this money in accordance with clause 10.5 and clause 10.6 or the Client Money Rules.

**c** CDFM shall not owe any fiduciary duties to the relevant Relevant Professional Client in respect of such Option Deposits and if CDFM becomes insolvent, the Option Deposit will not have been "ring-fenced" and the Relevant Professional Client will be a creditor in the insolvency of CDFM. Upon transfer to CDFM, the Title Transfer Collateral shall become CDFM's absolute property and the Relevant Professional Client shall not retain any equity, right, title or interest in it.

Accordingly, the Client Money Rules will not apply and the Client will not have a proprietary claim over that money, that money will not be held for the Client by CDFM (whether in a Segregated Account or otherwise), and CDFM can deal with it as its own.

Furthermore, In the event of CDFM's insolvency, the Client will only have an unsecured claim against CDFM for repayment of that money, and that claim will be subject to the exercise by CDFM of any set-off rights the Firm may have under the Agreement or under general law.

**11.4** Subject to CDFM's rights under the Agreement and the Contracts, CDFM shall have an obligation to repay: (a) the Option Deposit to the Client, if this is held as client money; and (b) an amount equivalent to the Option Deposit if the Client is a Relevant Professional Client who has provided this by way of Title Transfer Collateral in accordance with clause 11.3, if (or to the extent that) the Option Deposit is no longer considered necessary by CDFM in its absolute discretion. CDFM's repayment obligations shall be reduced to the extent that: (i) CDFM is entitled to apply such money, or set-off its repayment obligation, against any of the relevant Client's obligations, whether under the Agreement or otherwise, and any Contract; and/or (ii) any market, intermediate broker, bank or other third party to whom CDFM has transferred money as margin in relation to Contracts, fails (whether as a result of insolvency or otherwise) to return an equivalent amount of money to CDFM.

**11.5** Unless CDFM agrees to the contrary in writing, the Client shall not be entitled to receive interest on any Title Transfer Collateral held by CDFM.

**11.6** The Relevant Professional Client may request a cancellation of the Title Transfer Collateral arrangements in which the case the provisions of clause 18.1.2 will apply and any money will be returned to the Relevant Professional Client.

## 12. RELATIONSHIP BETWEEN CDFM AND THE CLIENT

**12.1** Except where CDFM has specifically agreed otherwise in writing, nothing in the Agreement shall give rise to any fiduciary, trustee, agency, joint venture or partnership relationship between any Group Company and the Client.

**12.2** If the Client is a corporate client, the Client acknowledges that they may not be a consumer within the meaning of section 2(3)



of the Consumer Rights Act 2015, Article 2 of the E-Commerce Directive (2000/31/EC), Article 2 of the Electronic Commerce (EC Directive) Regulations 2002, Article 2 of the Distance Selling Directive (2011/83/EU) or any similar Applicable Law.

### 13. ABILITY FOR CDFM TO TAKE ACTION

Notwithstanding any other provision of the Agreement, in providing the Services, CDFM shall be entitled to take any action CDFM considers necessary in its reasonable discretion to ensure compliance with all Applicable Law including selling or closing or reversing any or all Contracts that the Client may have open.

### 14. RISK ACKNOWLEDGMENTS

14.1 The Client acknowledges, recognises and understands that:

- 14.1.1 trading in Contracts, even when used to cover a commercial position, may involve a high degree of risk and is appropriate only for persons who are able to withstand the risk of Loss;
- 14.1.2 Contracts are not undertaken on a recognised exchange or trading venue and therefore the Client may be exposed to greater risks;
- 14.1.3 when the Client instructs CDFM to enter into a Contract, any profit or loss – realised or unrealised – arising as a result of a fluctuation in the value of the Contract will be entirely attributable to the Client;
- 14.1.4 the Client accepts that guarantees of profit or immunity from Loss are impossible in trading and investing;
- 14.1.5 CDFM may report to the FCA or any other relevant regulatory authority any Contract undertaken by the Client or on its behalf in accordance with Applicable Law; and
- 14.1.6 the Client accepts that if CDFM were to default on CDFM's financial obligations or become insolvent, the Client's investment would be at risk.

14.2 CDFM may provide a delegated EMIR transaction reporting service to the Client subject to the terms of a separate delegated reporting agreement; however the Client acknowledges, recognises and understands that regardless of any such agreement the Client is responsible for any reporting requirements applicable to it under Applicable Law.

14.3 If the Client is in any doubt about anything contained in the Agreement the Client should seek independent advice.

### 15. INFORMATION

15.1 Except where CDFM has specifically agreed otherwise in writing, any information including any graphs, charts or market news CDFM supply to the Client, is believed, to the best of CDFM's knowledge and belief, at the time it is given, to be accurate and reliable. CDFM do not warrant the accuracy, completeness or timeliness of any information CDFM make available to the Client. CDFM will have no responsibility or liability whatsoever for any error or inaccuracy in such information. The information CDFM supply does not constitute an assurance or guarantee as to the expected outcome of any Contract Estimate or Contract. Market conditions and prices may change between CDFM supplying the Client with information and the time the Client decides to enter into any Contract.

15.2 No information provided by CDFM under or in connection with the Agreement should be construed as legal or tax advice and should not be relied on as the sole source upon which to base an investment decision.

15.3 Any Confidential Information CDFM provides to the Client is solely for the Client's use. Confidential Information remains the property of CDFM and (where applicable) must be returned or destroyed on request. It may not be reproduced or redistributed without CDFM's explicit written permission.

### 16. CDFM OBLIGATION TO KNOW ITS CLIENT AND CLIENT DECLARATIONS AND WARRANTIES

16.1 Applicable Law (including the Money Laundering Requirements) requires CDFM to implement certain due diligence procedures in relation to the identity of each client, the nature of each client's business and other details relating to the Services (referred to as 'Know Your Client' or 'Customer Due Diligence' (CDD)). The Client agrees to provide CDFM with all the information CDFM require as part of CDFM's CDD procedures.

16.2 When CDFM does business with the Client, CDFM will be relying on the following declarations, representations and warranties and CDFM shall deem that the Client will be repeating them every time the Client gives CDFM an Order or enters into a Contract:

- 16.2.1 unless CDFM has specifically agreed otherwise in writing, the Client is acting on the Client's own behalf;
- 16.2.2 the currency that the Client transfers to CDFM or intends to use for a Contract is legally and beneficially owned by the Client and has not been obtained by any illegal means;
- 16.2.3 all information that the Client has provided to CDFM is accurate and not misleading and the Client has not withheld any material information from CDFM;
- 16.2.4 the Client has provided CDFM with its correct and up-to-date contact details;
- 16.2.5 the Client has and will maintain in effect all necessary consents, authorisations and approvals to enter into a Contract;
- 16.2.6 if the Client is a corporate client, the person or the persons entering into each Contract on the Client's behalf has or have been duly authorised to do so;
- 16.2.7 by giving CDFM an Order or entering into a Contract the Client will not be in breach of any Applicable Law in any relevant jurisdiction;
- 16.2.8 the Client is ultimately making the Client's own decisions about entering into a Contract and may not rely on any communications (written or verbal) from CDFM as investment advice or as a recommendation to enter into a contract unless the advice or communication is given pursuant to clause 3.4.
- 16.2.9 (i) the Client has not received from CDFM any assurance or guarantee as to the expected results of the Contract; and (ii) the Client is capable of evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms, conditions and risks of a Contract.
- 16.2.10 the Client has reviewed the specific terms and provisions of the Contract in respect of prevailing industry practice and has concluded that such terms and provisions and the rights, duties and obligations imposed hereunder, are commercially reasonable as a general matter and specifically in light of such industry practice; and
- 16.2.11 the Client is not an undischarged bankrupt (or, where relevant, insolvent) and will not be rendered bankrupt (or, where relevant, insolvent) by entering into and making any payments in connection with a Contract.

### 17. RECORDING COMMUNICATIONS

17.1 CDFM will record or make a record of all conversations (including telephone conversations) and communications (including electronic communications) that result in or are with a view to resulting in the Client entering into a Contract. These records will be kept by CDFM for five years or, if required by the Financial Conduct Authority, up to seven years. Copies of these records will be provided to the Client upon request.

CDFM reserves the right to charge for these calls. If a charge is applied this will be communicated to the Client.

17.2 CDFM may, at its discretion, choose to record the conversations and communications with the Client which are not as described in clause 17.1. CDFM does not guarantee that CDFM will maintain such other recordings or records or be able to make them available to the Client.

17.3 CDFM may use its records as evidence of Contracts entered into and/or in order to resolve disputes and/or to enable the Financial Conduct Authority to fulfil its supervisory tasks and/or for CDFM's ongoing quality control and training programme and/or for any reason set out in CDFM's privacy policy. The Client will not object to the admission of CDFM's records as evidence in any legal proceedings on the grounds that those records are not originals, are not in writing or are documents produced by a computer. The Client will not rely on the CDFM to comply with the Client's record keeping obligations, although records where available may be made available to the Client on request.

### 18. TERMINATING CONTRACTS OR THE AGREEMENT

18.1 Each of the following shall constitute an event of default with respect to the Client (each, an **Event of Default**):

- 18.1.1 the Client fails to provide CDFM with material information when required or such information that the Client does provide is in CDFM's reasonable determination materially incorrect or misleading;
- 18.1.2 the Client requests a cancellation of the Title Transfer Collateral arrangements set out in clause 11;
- 18.1.3 the Client fails to make any payment when due;
- 18.1.4 the Client fails to provide a sufficient Option Deposit or Forward Deposit when due;
- 18.1.5 the Client is otherwise in breach of (or fails to comply with its obligations or responsibilities under) the Agreement and where such a breach is, at CDFM's absolute determination, capable of remedy the Client has failed to remedy such breach within a reasonable time when notified;
- 18.1.6 CDFM reasonably determines that the Client will be unable to fulfil its obligations under any Contract;
- 18.1.7 on the occurrence of a Force Majeure Event, for CDFM to continue any Contract would expose CDFM to a responsibility or liability against which CDFM is not protected;
- 18.1.8 CDFM suspects fraud on the Client's part or if relevant, the part of an Authorised Person;
- 18.1.9 CDFM is required to do so on the instruction of any law enforcement or regulatory agency or other body with appropriate authority (in which case CDFM may retain or otherwise deal with all or any of the Client's money as CDFM is required to do so by such agency or body); or
- 18.1.10 the occurrence of an Insolvency Event in relation to the Client.

18.2 At any time following the occurrence of an Event of Default that is continuing, CDFM may (in its sole discretion) elect to:

- 18.2.1 terminate this Agreement;
- 18.2.2 reverse any Contract; and/or
- 18.2.3 terminate one or more Contracts in accordance with clause 19.

18.3 Without limiting clause 18.1, either party may terminate the Agreement by giving the other not less than 20 (twenty) Business Days' written notice.

18.4 Any notice of termination given pursuant to clause 18.1 shall not affect the rights and obligations under any Contract which has not been settled, closed, reversed or terminated prior to the termination date specified in the written notice of termination.

### 19. TERMINATION FOLLOWING EVENT OF DEFAULT

19.1 In the event that CDFM elects to terminate one or more Contracts following the occurrence of an Event of Default that is continuing, CDFM shall, by giving written notice to the Client specify:

- 19.1.1 the Contracts that are to be terminated (which may be all Contracts) (the **Terminating Contracts**); and
- 19.1.2 a date (the **Liquidation Date**) for the termination and liquidation of the Terminating Contracts.

19.2 Upon the occurrence of a Liquidation Date, all Terminating Contracts will terminate and, following the termination, no further payments or deliveries in respect of the Terminating Contracts, of Title Transfer Collateral in respect of the Terminating Contracts or any interest, howsoever described, on those payment obligations will be required to be made, and an amount equal to the Liquidation Amount will instead be payable by the Client or CDFM (as the case may be) (whether by payment, set-off or otherwise) following the termination.

19.3 The Liquidation Amount means an amount determined by CDFM (in its sole discretion, acting in good faith and in a commercially reasonable manner) and denominated in [GBP] which is an aggregate of the following:

- 19.3.1 an amount (which may be positive, negative or zero) equal to the aggregate cost, loss or gain upon termination of all Terminating Contracts, which may take into consideration any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain, as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position regarding those Terminating Contracts; plus
- 19.3.2 any amount which became payable in respect of any Terminating Contract, or which would have become payable but for a condition precedent not being satisfied in respect of any such Terminating Contract, prior to the termination of the relevant Terminating Contract but which remains unpaid at the time of the termination, together with accrued, unpaid interest (at a rate reasonably selected by CDFM); less
- 19.3.3 if the Client is a Relevant Professional Client and all (but not less than all) Contracts are Terminating Contracts, the amount of Title Transfer Collateral held by CDFM; plus
- 19.3.4 any other amount attributable under this Agreement to the Terminating Contracts (other than an unperformed delivery of Title Transfer Collateral) which was payable but unpaid as of the Liquidation Date and is not otherwise included in paragraphs 19.1 – 19.1.3 above, together with accrued, unpaid interest (at a rate reasonably selected by CDFM).

19.4 The value of any amount relating to a Terminating Contract that is owed by the Client to CDFM shall be assigned a positive sign and shall be assigned a negative sign where it is owed by CDFM to the Client.

19.5 Any outstanding obligation of CDFM or the Client referred to in clause 19.1.4 shall be extinguished to the extent that its value has been taken into account in determining the Liquidation Amount.

19.6 For the purposes of calculating the Liquidation Amount, to the extent that any amount is denominated in a currency other than [GBP], CDFM shall convert amounts denominated in any other currency into [GBP] at a rate of exchange which CDFM determines to be reasonable.

19.7 CDFM shall determine any Liquidation Amount and shall do so as soon as reasonably practicable after a Liquidation Date.

19.8 Once it has made its determination, CDFM shall promptly notify the Client in writing of the Liquidation Amount and whether it is payable by CDFM or the Client. If the Liquidation Amount is positive, it will be due from the Client to CDFM, and if it is negative, the absolute value of the Liquidation Amount will be due from CDFM to the Client.

- 19.9** The Liquidation Amount shall be payable in [GBP] on the [first] Business Day after delivery of the notification of the amount payable.
- 19.10** For the avoidance of doubt, any Liquidation Amount that is owed by the Client to CDFM shall be regarded as an amount that is properly due and payable to CDFM for its own account for the purposes of the Client Money Rules. CDFM may apply any client money that it is holding for the Client in or towards satisfaction of any Liquidation Amount.
- 19.11** This Agreement, the particular terms applicable to each Contract, and all amendments to any of them shall together constitute a single agreement between the parties. Each party acknowledges that all Contracts entered into on or after the date this Agreement takes effect are entered into in reliance upon the fact that this Agreement and all such terms constitute a single agreement.

## 20. SET-OFF

CDFM may at any time or times, without notice to the Client set-off any liability CDFM has to the Client (including without limitation in respect of any obligation of CDFM to return Title Transfer Collateral to the Client) against any responsibility or liability (including without limitation in relation to any Loss or Liquidation Amount) the Client owes to CDFM or any Group Company, whether any such responsibility or liability is present or future, liquidated or unliquidated, under the Agreement or not and irrespective of the currency or its denomination. If the liabilities to be set-off are expressed in different currencies, CDFM may convert either liability at a rate of exchange which CDFM determines to be reasonable for the purpose of set off. Any exercise by CDFM of CDFM's rights under this clause shall be without prejudice to any other rights or remedies available to CDFM or any Group Company under the Agreement or otherwise.

## 21. CDFM'S RESPONSIBILITY AND LIABILITY TO THE CLIENT

- 21.1** CDFM will not be responsible or liable to the Client for the act or omission of any third party, provided that where CDFM has instructed such third party, CDFM has used reasonable skill and care in selecting such third party.
- 21.2** CDFM shall not be responsible or liable to the Client, or any person claiming through the Client in contract, tort, negligence, or otherwise for any liability, loss, damage, cost or expense of any nature whatsoever, incurred or suffered by the Client or any person claiming through the Client, which is of an unforeseeable, indirect or consequential nature nor for any economic loss or loss of turnover, profits, business or goodwill, loss of trade, loss of bargain, or loss of opportunity, in each case whether such damage was foreseen or advised to CDFM as likely to occur.
- 21.3** CDFM shall not be responsible or liable to the Client for any liability, loss, damage, cost or expense of any nature whatsoever incurred or suffered by the Client or any person claiming through the Client as a result of any Force Majeure Event.
- 21.4** Nothing in the Agreement excludes or restricts CDFM's liability in respect of: fraud or wilful misconduct; death or personal injury caused by CDFM's negligence; or any other liability which cannot lawfully be excluded (including, in relation to CDFM's duties referred to in clause 2.4).

## 22. CLIENT'S RESPONSIBILITY AND LIABILITY TO CDFM

- 22.1** The Client will be responsible and liable for all Losses incurred by CDFM (including, without limit, any Losses resulting from the termination of any Contract pursuant to clause 18) which the Client will repay to CDFM on demand by CDFM.
- 22.2** Amounts due under this clause may at CDFM's reasonable discretion be converted to Pounds Sterling or any other currency at a rate to be reasonably determined by CDFM.

## 23. JOINT ACCOUNTS

- 23.1** If the Client is an individual and applies jointly with one or more other persons to use CDFM's services (a **Joint Account**), each individual named on the Application Form (each a **Joint Account Client**) is jointly and severally responsible and liable to CDFM in respect of all or any of the obligations under the Agreement and CDFM could ask any one Joint Account Client to honour all or any of the obligations (including for the repayment of any Losses, fees, or interest payable) incurred by all or any Joint Account Client in connection with the Agreement. CDFM may take action against, or release or compromise the responsibility or liability of any Joint Account Client, or grant time or other indulgence to such Joint Account Client, without affecting the responsibility or liability of any other Joint Account Client. Each Joint Account Client has authority, on behalf of all the Joint Account Clients, to (without limit) give CDFM instructions of any kind including (without limit) to give CDFM an Order, enter into a Contract, receive any payments from CDFM, give or receive notices, receive account statements or demands, sign any documents or agreements and act on their own in any way related to the Agreement. Where the Agreement relates to a Joint Account, 'Client'; or 'you' shall mean all and any Joint Account Client.

## 24. CDFM COMMITMENT TO PROTECT PERSONAL INFORMATION

CDFM will observe the requirements of the General Data Protection Regulation in the performance of CDFM's obligations under the Agreement and will comply with any request made or direction given by any relevant Client or individual, which is directly due to the requirements of that act. CDFM will only use any personal data to allow CDFM to provide the Services or allow any other Group Company to provide services to the Client, to assess the risks in providing those services and to enable CDFM to enforce CDFM's rights under the Agreement if necessary. This may involve passing the personal data to third party service providers or CDFM's agents, on the understanding that they keep this personal data confidential. CDFM may send the personal data outside the European Economic Area; where CDFM do this, CDFM will take appropriate steps to protect such personal data. CDFM may conduct searches through an identity-referencing agency and other sources of information and use scoring methods to verify someone's identity. A record of this process will be kept and may be used to help any other Group Company to verify someone's identity. Information including personal data may also be passed to financial and other organisations to prevent fraud. If a Client has been referred to CDFM by a third party, CDFM may provide them with information relating to the Client in which they are interested by virtue of CDFM's agreements with them. CDFM may from time to time (by telephone, email or other electronic communication, fax or post) provide a Client with information relating to other services that CDFM, any Group Company or selected third parties connected with CDFM's business can offer. The Client agrees that CDFM may call upon them at a reasonable hour or otherwise communicate with them without an express invitation. The Client may also refer to CDFM's full client privacy commitment which is available on CDFM's Website or available on request to the usual CDFM point of contact or CDFM's data protection officer.

## 25. ASSIGNMENT AND DELEGATION

- 25.1** CDFM may, at any time, assign (absolutely or by way of security and in whole or in part), transfer, mortgage, charge or deal in any other manner with the benefit of any or all of the Client's obligations or any benefit arising under or out of the Agreement. The Client expressly agrees that CDFM may subcontract or delegate in any manner any or all of CDFM's obligations under the Agreement to any third party or agent.
- 25.2** The Agreement is personal to the Client and its rights and obligations may not be transferred or assigned by the Client to anyone else, although the rights and obligations will pass to the Client's successors and permitted assigns (where relevant).

## 26. NOTICES

- 26.1** Any notice or other communication required to be given in writing under the Agreement shall:
- 26.1.1** in the case of notices or other communications to be given by the Client to CDFM, be delivered personally, sent by prepaid first-class post, recorded delivery or by commercial courier, fax or email to the Client's usual point of contact or for the attention of 'Director, Currencies Direct Financial Markets Limited' using the contact details provided in the Agreement;
- 26.1.2** in the case of notices or other communications to be given by CDFM to the Client, be delivered personally, sent by pre-paid first-class post, recorded delivery or by commercial courier, fax or email to such address (including a fax number or an email address) as the Client may specify in the Application Form. The Client is responsible for notifying CDFM of any changes to such contact details and CDFM shall be entitled to serve notice on the Client (including the issue of legal proceedings) using the last known contact details that the Client has provided to CDFM for the purposes of the Agreement.
- 26.2** Any such notice or other communication shall be deemed to have been duly received:
- 26.2.1** if delivered personally, when left at the address and for the contact referred to in this clause; or
- 26.2.2** if sent in the United Kingdom by pre-paid first-class post or recorded delivery, at 9am (UK Time) on the second Business Day after posting; or
- 26.2.3** if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- 26.2.4** if delivered by fax or email, when a delivery confirmation or receipt is received by the delivering party.
- 26.3** For the service of any proceedings or other documents in any legal action, any statutory provisions in the relevant jurisdiction shall prevail.

## 27. CONFLICTS OF INTEREST

- 27.1** CDFM shall take all appropriate steps to identify and to prevent or manage conflicts of interest. This may include where the interests of CDFM, any Group Company and/or any directors, staff or their agents may conflict with the Client's interests. Equally, the Client's interests may occasionally conflict with those of other clients. This might include conflicts of interest caused by CDFM's remuneration and/or other incentive structures.
- 27.2** Where CDFM is aware that CDFM is faced with a situation of conflicting interests, CDFM will undertake all reasonable steps to protect the Client's interests and ensure fair treatment, in line with the duties CDFM owe the Client as CDFM's client. To this effect, CDFM has a framework in place to handle conflicts of interest, so that CDFM act with an appropriate degree of independence from CDFM's own interests when transacting with the Client or dealing on the Client's behalf. CDFM's Conflicts of Interest Policy (as amended from time to time) is available on request.

## 28. COMPENSATION

CDFM is covered by the Financial Services Compensation Scheme (the "FSCS") in relation to the provision of the Services. The Client may be entitled to compensation from the FSCS if CDFM cannot meet its obligations. This depends on the circumstances of the claim. The FSCS is only available to certain types of claimants and claims. Payments to eligible claimants under the FSCS will vary depending on the type of protected claim (for example, deposits or investments) the claimants hold with respect to the relevant institution. Most types

of investments are covered to a maximum compensation level of £85,000 for each client. Compensation under the FSCS in respect of deposits are currently subject to a maximum payment to any eligible depositor of GBP 85,000.

Further information about compensation arrangements is available from:

**Financial Services Compensation Scheme**  
**10th Floor**  
**Beaufort House**  
**15 St Botolph Street**  
**London EC3A 7QU**  
<https://www.fscs.org.uk/>

## 29. COMPLAINTS AND DISPUTES

If the Client wishes to make a complaint in connection with any of the Services, the Client should promptly provide full details of the complaint to:

**The Compliance Officer**  
**Currencies Direct Financial Markets Limited**  
**1 Canada Square,**  
**Canary Wharf,**  
**London, E14 5AA, UK**

CDFM will use all reasonable efforts to investigate and resolve the matter promptly and fully. CDFM operates a complaints procedure in accordance with FCA Rules, a copy of which is available upon request. If the Client is dissatisfied with the handling of any complaint, they may have the right to refer the matter directly to the Financial Ombudsman Service. Information on the Financial Ombudsman Service, including how to make a claim, eligibility criteria and the procedures involved, is available from:

**The Financial Ombudsman Service**  
**South Quay Plaza**  
**183 Marsh Wall**  
**London E14 9SR**

## 30. GENERAL

- 30.1** Any typographical, clerical or other error or omission in any documentation produced by CDFM under or in connection with the Agreement shall be subject to correction without any responsibility or liability on CDFM's part.
- 30.2** A person who is not a party to the Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, but this does not affect any right or remedy of a third party that exists or is available apart from that Act.
- 30.3** CDFM may amend the Agreement at any time, in which case CDFM will notify the Client (including by displaying the amendments on the Website) together with the date from when such amendments become effective (**the Effective Date**). The amendments will apply to all of CDFM's dealings with the Client and to all Contracts entered into by the Client after the Effective Date save that the amendments will apply to Contracts entered into prior to the Effective Date where it is required by Applicable Law. The Client should refer to the current version of these terms and conditions on the Website before giving CDFM an Order.
- 30.4** If any provision (or part of any provision) of the Agreement is found by any court or other authority of a competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 30.5** No failure or delay by CDFM to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or

remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- 30.6** Should any provisions of the Agreement be in conflict with any other documentation or information that CDFM has provided to the Client in connection with any particular Contract, then the Agreement shall have priority unless specifically agreed by CDFM in writing that such other documentation and information shall have priority in whole or in part.
- 30.7** Unless specifically agreed otherwise by CDFM in writing, the Agreement constitutes the whole agreement between CDFM and the Client and supersedes all previous agreements (whether written or verbal) between CDFM relating to its subject matter. The Client acknowledges that, in entering into the Agreement, the Client has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether written or verbal and made negligently or innocently) other than as expressly set out in the Agreement.
- 30.8** The Agreement and all communications between the Client and CDFM will be in English.
- 30.9** The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. Both parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle a dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).
- 30.10** Notwithstanding clause 30.9, CDFM may elect to issue proceedings against the Client in any jurisdiction in which the Client is resident when seeking to recover any amount due to CDFM under the Agreement.

## **31. DATA PROTECTION**

- 31.1** Information on how CDFM processes its personal data and the individual's rights and obligations are set out in CDFM's privacy policy, which can be found on the following weblink: <https://www.currenciesdirect.com/en/info/privacy-policy>
- 31.2** If the Client is not an individual or is an individual but acting as a business with staff, then the Client and CDFM agree:
- 31.2.1** they are each independent controllers; and

- 31.2.2** that the Client will be required to disclose personal data collected by it to CDFM for the purpose of CDFM complying with its regulatory obligations by fulfilling its obligations under these Terms and for the other purposes set out in CDFM's privacy policy;
- 31.2.3** that the Client and CDFM shall each ensure that they have all necessary notices and consents in place to enable lawful transfer of personal data to the other party and the other party's employees and any third parties engaged to perform obligations in connection with these Terms;
- 31.2.4** that the Client shall give full information to any data subject whose personal data may be processed under these Terms of the nature of such processing including a copy of the other party's privacy policy;
- 31.2.5** that the Client and CDFM shall ensure, where reasonably possible, that all persons who receive personal data belonging to the other party are subject to written contractual obligations concerning confidentiality and taking care of the shared personal data;
- 31.2.6** that the Client and CDFM shall ensure that they have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
- 31.2.7** that the Client and CDFM shall not transfer any personal data received from the other party outside the EEA unless the transfer ensures that the:
- I the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR;
  - II there are appropriate safeguards in place pursuant to Article 46 GDPR; or
  - III one of the derogations for specific situations in Article 49 GDPR applies to the transfer.
- 36.3** The personal data which CDFM collects is set out in CDFM's privacy policy and relates to the Client's employees, directors, partners, ultimate beneficial owners, representatives, consultants and Payees. CDFM will disclose to you, the name, email addresses and telephone numbers of some of its employees.

## **Let's talk currency**

### **UK Head Office**

+44 (0) 20 7847 9262  
CDFM@currenciesdirect.com  
[currenciesdirect.com/options](https://www.currenciesdirect.com/options)

One Canada Square Canary Wharf, London.  
E14 5AA. United Kingdom.