

TERMS OF BUSINESS

1. INTRODUCTION

- 1.1 The definitions and rules of interpretation set out in the schedule will apply to the Terms.
- 1.2 In these Terms (and any related communications in which Clear Treasury sets out the basis on which it agrees to provide services to the Client) references to “**Clear Treasury**”, “**we**”, “**us**” and “**our**” are to Clear Treasury (UK Trading) Limited a company incorporated in England and Wales with number 9549792 with head office and registered address at 60 Cheapside, London EC2V 6AX, England and references to “**you**” or the “**Client**” are to a Client who has completed the Client sign-on procedures set out in Clause 3.1.
- 1.3 Please read these Terms carefully to ensure that you are aware of your rights and obligations in entering into Contracts with Clear Treasury. If there are any terms that you do not understand or do not wish to agree to, you should discuss it with Clear Treasury and/or your legal adviser before completing the Client sign-on procedures and agreeing to these terms. You should only complete the Client sign-on procedures and agree to the Terms and enter into Contracts if you agree to be bound by these Terms.
- 1.4 The Payment Services Regulations 2009 (PSRs) regulate how payments must be transmitted and provide protection for the clients of authorised payment institutions and clients of PSD Agents of authorised payment institutions. The PSRs will apply when you send money to an account within the European Economic Area (EEA) and the payment is in Euros, Sterling or another EEA-State currency.
- 1.5 Please note that foreign exchange rates are subject to fluctuations outside the control of Clear Treasury. Historical prices are not a reliable indicator of future prices.
- 1.6 These Terms constitute a “framework contract” which sets out the terms of you and us entering into FX Contracts and Payment Contracts. These Terms shall come into force on the date you agree to same in accordance with Clause 3.1 and shall remain in force until terminated in accordance with these Terms.

2. INFORMATION ABOUT CLEAR TREASURY

- 2.1 Clear Treasury is authorised and regulated by the Financial Conduct Authority (the “**FCA**”) (a) under the Financial Services and Markets Act 2000 as an investment firm; and (b) under the PSRs for the provision of Payment Services; and (c) for the purposes of compliance with the Money Laundering Regulations 2007. Clear Treasury has firm reference number 708529.
- 2.2 Clear Treasury can be contacted by post at its registered office, by telephone on +44 (0)207 151 4876 or by email at info@cleartreasury.co.uk.
- 2.3 The postal address of the FCA is 25 The North Colonnade, Canary Wharf, London E14 5HS and they can be contacted on 0800 111 6768 and consumer.queries@fca.org.uk for consumers and 0300 500 0597 or firm.queries@fca.org.uk for firms.

3. BECOMING A CLIENT

- 3.1 In order to become a Client and before any services can be provided by Clear Treasury, the applicant must provide Clear Treasury with all information reasonably required by Clear Treasury to comply with its legal and regulatory obligations and its own internal risk management processes and tick the box on the Website stating that it agrees to be bound by these Terms. In addition, the Client must provide Clear Treasury with its standard settlement instructions and its preferences with regards to receipt of communications from Clear Treasury. The Client warrants that all information provided to Clear Treasury is true and correct to the best of its knowledge and belief.
- 3.2 The Client must provide Clear Treasury with the names and contact details of all individuals who are authorised to instruct Clear Treasury to issue Orders on the Client's behalf (each a "**Nominated Dealer**"). Clear Treasury will only accept Orders from a Nominated Dealer and shall be entitled to assume that a Nominated Dealer is authorised to make any Order unless notified otherwise in writing by an officer or director of the Client.
- 3.3 On provision of the above information to Clear Treasury's satisfaction, Clear Treasury shall provide the Client with an Account Number and the contact details of its dedicated sales trader. If the Client wishes to place Orders online using the Online Platform, then, upon request, Clear Treasury will provide the Client with a temporary password and personal identification number to allow it to do so.
- 3.4 At its absolute discretion Clear Treasury may refuse to open an Account for a Client and may do so without giving any reason.

4. CLEAR TREASURY'S SERVICES

- 4.1 Clear Treasury may in its absolute discretion provide, or continue to provide, the following services to you:
- (a) Foreign Exchange Services - we may enter into transactions for the sale and purchase of currency (known as "**FX Contracts**") with you in accordance with an order by you (such order being an "**FX Order**"). FX Contracts may include Spot FX Contracts and Forward FX Contracts; and
 - (b) Payment Services - following the execution of an FX Contract or to transfer money to a bank account without currency conversion and subject to these Terms, Clear Treasury may transfer the Bought Currency or other funds to the Client's bank account or the bank account of a third party (the "**Payee**") in accordance with an instruction by you (such instruction being a "**Payment Instruction**" and the onward transfer being a "**Payment**").
- 4.2 Clear Treasury may provide information about foreign exchange markets and related matters from time to time. However, Clear Treasury does not provide advice as to the merits of proposed Contracts and whilst Clear Treasury may provide information, the Client relies entirely on its own judgment when making an Order.
- 4.3 We only offer deliverable contracts for commercial and personal purposes. This means that you will always need to have a genuine commercial and/or personal reason for entering into an FX Contract such as (but not limited to) the purchase of a foreign property, goods and/or

services or the remittance of funds whilst working abroad. We will not trade with you if you are seeking to enter into a foreign exchange transaction as an investment or to profit by pure speculation on foreign exchange movements.

- 4.4 Clear Treasury's contracts with Clients are for settlement or delivery. That means at maturity the Client must take or give instructions for delivery of funds to a bank account. Under the permission Clear Treasury holds with the FCA, Clear Treasury cannot pay out any profit derived from an unsettled Spot FX Contract or Forward FX Contract. This means that if a Client has not paid the money it owes to Clear Treasury in relation to an FX Contract prior to the dates set out in the Confirmation, Clear Treasury cannot pay out any profit which you may have made on the relevant FX Contract.

5. CLIENT ORDERS

- 5.1 The Client warrants that it has the full capacity to place an Order and that each of its Nominated Dealers is properly and lawfully appointed and has the full capacity to place an Order on behalf of the Client.
- 5.2 The Client or a Nominated Dealer may place an Order:
- (a) verbally by telephone by calling +44 (0)207 155 1990 or by using the telephone number of the Client's designated account manager or otherwise by speaking to a Clear Treasury employee via telephone;
 - (b) by email to dealers@cleartreasury.co.uk or to your designated account manager's e-mail address or the email address of any other Clear Treasury dealer; or
 - (c) online via the Online Platform during agreed online trading hours.
- 5.3 An Order can be accepted by us verbally or in writing (which includes email) or when you receive a confirmation that your Order has been accepted on the Online Platform during agreed online trading hours (should your Order be placed online). Once accepted, such Order will form a Contract.
- 5.4 Clear Treasury is under no obligation to accept any Order and may refuse to do so without giving any reason. Clear Treasury will not be liable to the Client or any other party for any loss or damages resulting from Clear Treasury's refusal to accept an Order.
- 5.5 Clear Treasury reserves the right to:
- (a) refuse to accept any Order that establishes a new position;
 - (b) assign limits or limit Contracts or the size of any open position that might result from a Contract which the Client may carry with Clear Treasury at any time;
 - (c) require the Client to reduce open positions carried with Clear Treasury; and
 - (d) require written confirmation of any Order.
- 5.6 Clear Treasury is entitled (but not obliged) to act upon Orders which are or reasonably appear to be from the Client or any Nominated Dealer. In particular, an Order received from an authorised e-mail address or telephone number shall be sufficient to authenticate an

Order as being from a Client, and Clear Treasury shall be entitled to act upon Orders and instructions received from communication channels provided to Clear Treasury by the Client.

TERMS APPLYING TO FX ORDERS AND FX CONTRACTS

6. PLACING AN FX ORDER

- 6.1 The Client or a Nominated Dealer may from time to time provide an FX Order to Clear Treasury in accordance with Clause 5. Following receipt of an FX Order, Clear Treasury shall, if it is willing to accept the FX Order, agree with the Client the terms on which it is willing to enter into the FX Contract.
- 6.2 The Client will be solely responsible for ensuring that the details the Client or the Nominated Dealer supplies to Clear Treasury are true, complete and accurate, and neither the Client nor the Nominated Dealer will withhold or omit any information that may cause those details to be false or inaccurate.
- 6.3 If Clear Treasury accepts the FX Order, Clear Treasury shall subsequently provide to the Client a confirmation of the details of the FX Order (a “**Confirmation**”) by email. The Confirmation shall include the following:
- (a) the transaction number;
 - (b) details of the FX Order including the foreign exchange rate applying;
 - (c) the Value Date;
 - (d) any charges payable by the Client in respect of the FX Contract (including a breakdown of the amounts of those charges where applicable);
 - (e) any charges payable by the Client in respect of any associated Payment Contract (including a breakdown of the amounts of those charges where applicable);
 - (f) in the case of an FX Contract which is not a Spot FX Contract, instalment payments to be made by the Client as determined in Clear Treasury’s absolute discretion;
 - (g) in the case of an FX Contract where payment for currency is to be made in a currency other than sterling, the currency in which payments by the Client are to be made.
- 6.4 A Contract remains binding whether or not the Client receives the Confirmation and the Client will notify Clear Treasury if the Client has not received a Confirmation within 2 hours of making the FX Order.
- 6.5 The Client must inform Clear Treasury of any errors or omissions within one Working Day from when the Confirmation was issued by Clear Treasury to the Client, otherwise the Client is deemed to have accepted the contents of such document and shall not thereafter be entitled to dispute the contents of the Confirmation.
- 6.6 Clear Treasury will not be bound by any FX Contract where it is reasonably determined by Clear Treasury that there is a Manifest Error in the purchase or sale price quoted in the Confirmation. In these Terms, a “Manifest Error” refers to a manifest or obvious misquote of

the purchase or sale price quoted to the Client, including a misquote based on a published price source on which Clear Treasury has relied in connection with the FX Contract.

- 6.7 Once Clear Treasury has transmitted a Confirmation confirming an FX Order in writing, the Client may only amend or cancel the Confirmation if Clear Treasury expressly agrees (and any such amendment or cancellation shall be on the conditions specified by Clear Treasury) or otherwise in accordance with the provisions of Clause 6.5 and 6.6.
- 6.8 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any FX Contract. However, the Client may close-out an FX Contract entered into under these Terms prior to the Value Date of such FX Contract by giving notice in writing to Clear Treasury. In such an event, the Client will be liable for all of the costs, expenses and losses and interest at the rate referred to in Clause 15.1, on any such sums that Clear Treasury may incur, including any action it may take or have taken to cover or reduce its exposure, as a result of Clear Treasury 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).
- 6.9 Any excess amount held by Clear Treasury in respect of an FX Contract shall be returned to the Client after deducting all other sums due to Clear Treasury. However, further to Clause 4.4, if any gain is realised due to a fluctuation in the foreign exchange rate in your favour, due to the regulatory permissions that we have, we are not entitled to pay this back you.
- 6.10 We may agree to notify you when we are able to provide you with a specific foreign exchange rate. Upon such notification, you may, at your discretion, place an FX Order with us. However, this service is provided on a no-liability basis, i.e. we will not be held liable for any losses you incur if we fail to notify you that we were able to offer you the specific foreign exchange rate. Providing you with this information shall by no means be interpreted as providing advice to enter into an FX Contract.
- 6.11 You may instruct us that, upon us being willing and able to offer you a foreign exchange rate specified by you, we will automatically execute an FX Contract. The instruction is known as a '**Working Order**' and the resulting contract known as an "**Automatic FX Order Contract**".
- 6.12 You are able to specify in the Working Order that either:
- (a) it should be cancelled on a specific date; or
 - (b) it shall remain open until it is either accepted and executed by us at your chosen foreign exchange rate or it is cancelled or amended by you prior to it being accepted and executed by us (this is known as being "**Good Til Cancelled**");
- 6.13 Notwithstanding which option is chosen in Clause 6.12, the Working Order may be cancelled at any time prior to the Working Order being accepted and executed by us. If the Working Order (a) is not cancelled; or (b) does not expire in accordance with its terms, prior to us being willing and able to offer you the specific foreign exchange rate, then the Working Order may be accepted by us in accordance with Clause 5.3.
- 6.14 In order to instruct a Working Order with us, you need to provide us with the following details:
- the specific foreign exchange rate you wish to obtain;

- the currency of the Bought Currency and the currency you wish to use to purchase the Bought Currency;
 - the amount of the Bought Currency you wish to purchase and the amount of currency you wish to use to purchase the Bought Currency;
 - the date the Working Order is to expire, unless you would like the Working Order to be on a Good Til Cancelled basis.
- 6.15 You acknowledge that, after the Working Order has been accepted and executed by us, the foreign exchange rate you could obtain by entering into a new FX Contract may be more beneficial to you than the foreign exchange rate in the Automatic FX Order Contract, but you will still be bound by terms of the Automatic FX Order Contract.

7. MONEY PAID TO CLEAR TREASURY

- 7.1 As part of its authorisation with the FCA as an authorised payment institution, Clear Treasury provides our Clients with bank accounts for the receipt and safeguarding of monies received by or held on behalf of our clients.
- 7.2 Where Clear Treasury receives money from the Client the money belonging to the Client shall be held in the Transaction Account. Where Clear Treasury provides Payment Services to the Client, including upon money becoming due and payable under the FX Contract by Clear Treasury to the Payee identified in the relevant Payment Contract, such money held by Clear Treasury at the end of the Working Day following the day on which they were received will be transferred from the Transaction Account into a bank account nominated by Clear Treasury (the '**Safeguarded Account**') until transferred to the Payee in accordance with the Payment Contract. The Safeguarded Account shall be a designated segregated client account.
- 7.3 Clear Treasury may deduct from money held for the Client any amount the Client owes to Clear Treasury including any fees, costs, taxation liabilities, margin calls, or charges incurred by Clear Treasury in relation to such Client, however they arise, and apply such deduction in meeting such liabilities.
- 7.4 Where the Client pays money into the Transaction Account in advance of entering into an FX Contract, such money will be held by Clear Treasury until the FX Contract is entered into between Clear Treasury and the Client and the FX Contract is settled or a Payment is made. If, following a reasonable amount of time, no FX Contract is entered into, then the money may be returned to the Client.

8. MARGIN AND ADDITIONAL CONDITIONS FOR FORWARD FX CONTRACTS

In the event of a Forward FX Contract, the Client shall immediately (in the normal course of events within 24 hours after the Order is placed unless otherwise agreed) pay into the Transaction Account in cleared funds a Margin of 10% of the full amount of the sold currency, or such other percentage as we may specify at our sole discretion and will pay any outstanding balance of the sale currency into the Transaction Account not later than one Business Day before the Delivery Date of the particular Forward Trade. Any margin held by Clear Treasury will be lodged against the forward position of the client held in the name of

Clear Treasury. The client acknowledges that this money will not be covered by the client money rules. At our discretion we will call the client if the mark to market reaches 5%.

- 8.1 Clear Treasury will monitor the value of the Client's aggregate open Forward FX Contracts on a mark-to-market basis. In the event of any adverse foreign exchange rate movement which occurs after the Client has entered into a Forward FX Contract, Clear Treasury may request, and the Client shall immediately provide, such additional funds by way of additional Margin as Clear Treasury may reasonably require to off-set the increased risk to Clear Treasury.
- 8.2 Clear Treasury reserves the right to make multiple calls for Margin whilst the relevant foreign exchange rate is less advantageous than at the date and time that the Client entered into the Forward FX Contract.
- 8.3 Where Clear Treasury has requested that Margin be paid, the Margin is immediately due and payable and must be paid by no later than 3.30pm on the same day, or if this time has passed when the Margin is requested, by 3.30pm on the next Working Day. The Client agrees that it is the Client's responsibility to ensure that it is contactable and has provided sufficient contact details so that Clear Treasury can contact the Client in the event of a Margin Call. If Clear Treasury is unable to contact the Client by the end of the day in which a Margin Call occurs Clear Treasury will be entitled to close-out the FX Forward Contract in accordance with Clause 9.
- 8.4 The Client hereby grants to Clear Treasury a valid and continuing first priority and fixed security interest in all Margin at any time held or controlled by or through Clear Treasury and any Margin which is in transit to, or from, or allocated to, or is otherwise in the custody of Clear Treasury, as security for the payment and performance when due of all of the Client's obligations to Clear Treasury under these Terms.
- 8.5 Such Margin may be applied by Clear Treasury in satisfaction of all amounts owing by the Client to Clear Treasury from time to time and in particular in any of the following circumstances:
 - (a) Clear Treasury incurs any liability or loss in respect of any Contract including any other Contract the Client may have with Clear Treasury where the Client fails to fulfil its obligations under these Terms;
 - (b) the Client is in breach of any of these Terms including when the Client fails to pay the balance due as detailed in a Confirmation.
- 8.6 The Client will not be entitled to any interest on any Margin or any other sums held by Clear Treasury on behalf of the Client.
- 8.7 Where a Client has failed to provide Margin by 3.30pm, Clear Treasury may refuse to keep the relevant Forward FX Contract open and the Client will be liable to Clear Treasury for:
 - (a) any cost incurred by Clear Treasury in exiting the Forward FX Contract; and
 - (b) any interest incurred by Clear Treasury on the cost of borrowing funds in order to provide margin to any third party.
- 8.8 Upon exercise of any of its rights under Clause 9, Clear Treasury is under no obligation to disclose details of its decision.

- 8.9 The Client will be required to notify Clear Treasury not less than 2 Working Days before the Value Date of the details of the Payee(s), the payment means and the delivery instructions.
- 8.10 Early settlements, before the agreed settlement date of Forward FX Contracts can be facilitated upon request, at Clear Treasury's discretion. Settlements before the agreed value date will be subject to MTM valuations, with the client balance of the MTM valuation due/owed settled on the originally agreed value date of the forward contract. Margin (prepayments) associated with this can be held until the original value date of the Forward FX Contract at Clear Treasuries discretion.
- 8.11 Historic Rate Rollovers are not facilitated by Clear treasury. Should a Client wish to push settlement of a forward contract to a later agreed date, they first must MTM their original trade, and pay/receive revaluation costs, before the trade is rolled forward at a new agreed forward rate

9. DEFAULT, CLOSE OUT & REFUSAL TO PERFORM FX CONTRACTS

- 9.1 Clear Treasury 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) Clear Treasury has been unable to contact the Client by the end of the day in which a Margin Call occurs;
 - (c) for a Client who is an individual, the Client:
 - (i) dies or, in Clear Treasury's reasonable suspicion, becomes of unsound mind; or
 - (ii) suspends payment of its debts, makes or takes steps with a view to making any moratorium, assignment, composition or similar arrangement with creditors, has a receiver appointed in respect of some or all assets, takes or has any proceedings taken against them in bankruptcy, or has anything similar to any of the events described in this Clause 9.1(c) happen to the Client anywhere in the world;
 - (d) for a Client who is not an individual, the Client:
 - (i) suspends payment of its debts;
 - (ii) makes or takes steps with a view to making any moratorium, assignment, composition or similar arrangement with its creditors;
 - (iii) 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;
 - (iv) is the subject of a winding up, administration or dissolution;

- (v) 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 Clear Treasury) or gives notice to Clear Treasury of an intention to appoint an administrator;
 - (vi) 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 If any such resolution is passed;
 - (vii) 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
 - (viii) suffers anything similar to the events described in this Clause 9.1(d) anywhere in the world;
- (e) the Client fails in any respect to fully and promptly comply with any obligations to Clear Treasury under these Terms;
 - (f) if any of the representations made or information supplied by the Client are or become materially inaccurate or materially changed;
 - (g) if it becomes or may become unlawful for Clear Treasury to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on its business;
 - (h) if Clear Treasury or the Client is requested not to perform or to close out an FX Contract (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding; and
 - (i) Clear Treasury considers it necessary to do so for its own protection including (without limitation) in the following circumstances: (i) protection from fraud or money laundering; (ii) protection from Client default; (iii) protection from market failure; (iv) protection from adverse or volatile market conditions; and (v) protection from loss by Clear Treasury.

9.2 If the Client becomes aware of the occurrence or likely occurrence of any event referred to in Clauses 9.1(a) to 9.1(h) above, it shall notify Clear Treasury immediately.

9.3 If any event referred to in Clause 9.1 above takes place Clear Treasury 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 15.1 on any such sums) that Clear Treasury may incur (including any action it may take to cover or reduce its exposure) as a result of Clear Treasury cancelling 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 Clear Treasury in respect of the FX Contracts shall be returned to the Client after deducting all other sums due to Clear Treasury.

9.4 If for any reason an FX Contract is closed out or does not proceed to completion, Clear Treasury will send to the Client any sum due to the Client or a notice setting out the sum due from the Client (as appropriate). The Client shall bear all the losses/ expenses of Clear Treasury whatsoever that may arise on account of such close out or cancellation, and Clear Treasury 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 Clear Treasury. For such purpose, Clear Treasury 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 Clear Treasury incurs as a result of such conversion shall be paid for by the Client.

9.5 If the Client's method of payment, is dishonoured, returned, not met on first presentation or stopped for whatever reason, Clear Treasury shall levy an administrative charge. This administrative charge will become payable by the Client in addition to any other sums due under these Terms.

10. LIMITATION OF LIABILITY AND INDEMNITY FOR FOREIGN EXCHANGE SERVICES

10.1 In addition to any limitation on liability under Clause 13 or 17 below which may apply to the Foreign Exchange Services, Clear Treasury shall not be liable to the Client:

- (a) for any delay or failure to perform its obligations under these Terms relating to any FX Contract by reason of any cause beyond the reasonable control of Clear Treasury, but Clear Treasury shall try to perform those obligations as soon as it reasonably can in any event;
- (b) for any loss resulting from the determination of Manifest Error by Clear Treasury;
- (c) Clear Treasury acting on a written, oral, telephone, fax or electronic FX Order which reasonably appeared to Clear Treasury to be from the Client or a Nominated Dealer; or
- (d) for any consequential or indirect loss (such as loss of profits, loss of contract or opportunity) the Client may incur as a result of Clear Treasury failing to perform its duties under an FX Contract; or
- (e) for an amount greater than the maximum stated in Clauses 10.2 and 10.4.

10.2 Without prejudice to Clause 10.1 above, Clear Treasury shall not be responsible in any way for any delay in payment by it under these Terms relating to the Foreign Exchange Services which is caused by the Client or any other third party, including but not limited to bank delay, postal delay, payment network delay, the 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 FX Contract are made promptly and within the time limits specified by the particular FX Contract and these Terms.

10.3 The maximum liability of Clear Treasury under a particular FX Contract, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the value (expressed in sterling) of the currency sold by Clear Treasury under that FX Contract as at the due date of settlement of that FX Contract.

- 10.4 The maximum aggregate liability of Clear Treasury to a Client 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 Clear Treasury to the Client under FX Contracts issued in accordance with these Terms expressed in Sterling as at the due date of settlement of each FX Contract less any amounts previously settled.
- 10.5 The Client shall, on demand by Clear Treasury, compensate Clear Treasury from and against all liabilities, damages, losses and costs (including reasonable legal costs), duties, taxes, charges, commissions or other expenses incurred by Clear Treasury in the proper performance of Foreign Exchange Services or the enforcement of its rights under these Terms relating to Foreign Exchange Services and, in particular, but without limitation, against all amounts which Clear Treasury 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 Clear Treasury (including loss of profit and losses and expenses from any action Clear Treasury takes to seek to cover or reduce its exposure under any FX Contracts) as a result of:
- (a) the Client breaching any provision of these Terms relating to Foreign Exchange Services or any FX Contract;
 - (b) Clear Treasury acting on a written, oral, telephone, fax or electronic FX Order which reasonably appeared to Clear Treasury to be from the Client or an Nominated Dealer; or
 - (c) Clear Treasury or the Client exercising its rights under these Terms to close out all or any part of any FX Contract before its applicable Value Date.
- 10.6 Any certificate given by Clear Treasury under Clause 10.5 shall, unless it is manifestly inaccurate, be conclusive evidence of any amounts payable under that provision. The provision in this Clause 10 shall survive termination of any FX Contract or other agreement under these Terms relating to the Foreign Exchange Services.

TERMS APPLYING TO PAYMENT SERVICES

11. PAYMENT INSTRUCTIONS

- 11.1 The Client or its Nominated Dealer may from time to time provide a Payment Instruction to Clear Treasury in accordance with Clause 5. Such Payment Instruction will be deemed by Clear Treasury as 'consent' for the execution of the Payment Instruction by the Client. The Payment Instruction must confirm the details of the proposed Payee (the "**Unique Identifiers**") including the following:
- (a) full name and address of the Payee;
 - (b) the account details of the Payee and the Payee's payment service provider which shall be:
 - (i) the sort code and account number where the Payees payment service provide is located within the United Kingdom; or
 - (ii) the IBAN and SWIFTBIC where the Payees payment service provider is located outside the UK.

- (c) the amount you wish to transfer to the Payee.
- 11.2 If the Client thinks that it has provided incorrect Unique Identifiers, it must contact Clear Treasury immediately: -
 - (a) verbally by telephone by calling +44 (0)207 151 4875 or by using the telephone number of the Client's designated account manager or otherwise by speaking to a Clear Treasury employee via telephone;
 - (b) by email to backoffice@cleartreasury.co.uk or to your designated account manager's e-mail address or the email address of any other Clear Treasury dealer;
- 11.3 The Payment Instruction shall be deemed to be received at the time at which it is received except that:
 - (a) where the Payment Instruction would otherwise be deemed to be received on a day which is not a 'Working Day' or is received after 2.30 pm, London time (the '**Cut-Off Time**') on a Working Day, Clear Treasury has the right to treat the Client's Payment Instruction as having been received on the next Working Day; and
 - (b) if the 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 Value Date, the Working Day on which cleared funds are received in the Transaction Account from the Client for the full amount required and subject to the funds being received by 2.30pm that day, and the Working Day on which the converted currency from the executed Foreign Exchange Contract 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 Payment or, if that is not a Working Day, on the Working Day immediately following that date.
- 11.4 Following receipt of a Payment Instruction, Clear Treasury may:
 - (a) refuse that Payment Instruction and if it does so, Clear Treasury shall (unless it would be unlawful for Clear Treasury 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 Clear Treasury may charge the Client for such notification where the refusal is reasonably justified. A Payment Instruction which is refused by Clear Treasury shall be deemed not to have been received for the purposes of Clause 11.3; and/or
 - (b) request further confirmation or information from the Client or Nominated Dealer of any Payment Instruction, including if Clear Treasury considers that such confirmation or information is desirable or that a Payment Instruction is ambiguous.
- 11.5 The Client does not have any right under the Financial Services (Distance Marketing) Regulations 2004 to cancel any Payment Instruction once given.

- 11.6 The Client may not revoke a Payment Instruction after it has been received by Clear Treasury except if the Client has agreed with Clear Treasury that the Payment is to be made on a specific day or on the last day of a certain period and the revocation is received by Clear Treasury prior to the end of the Working Day preceding the specified day for the making of the Payment.
- 11.7 Any revocation of a Payment in accordance with Clause 11.6 must be received by Clear Treasury
- (a) verbally by telephone by calling +44 (0)207 151 4875 or by using the telephone number of the Client's designated account manager or otherwise by speaking to a Clear Treasury employee via telephone;
 - (b) by email to backoffice@cleartreasury.co.uk or to your designated account manager's e-mail address or the email address of any other Clear Treasury dealer; such email to include an image of the relevant Payment Instruction
- 11.8 Clear Treasury may charge the Client for any revocation by the Client of a Payment. In particular, but not by way of limitation:
- (a) the Client shall bear all costs, expenses and losses of Clear Treasury whatsoever that may arise on account of the revocation; and
 - (b) Clear Treasury may charge interest at the rate referred to in Clause 15.1 on any sums due to Clear Treasury pursuant to this Clause 11.8.
- 11.9 Following an FX Contract, Clear Treasury shall:
- (a) if the Client requests make available to the Client, prior to making the Payment, details of the maximum execution time for that 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 Payment is debited from its accounts, make available to the Client:
 - (i) a reference enabling the Client to identify the Payment made;
 - (ii) information on the Payee;
 - (iii) the amount of the payment, shown in the currency of the Payment; and
 - (iv) a breakdown of charges and/or interest payable by the Client.
- 11.10 Where the Payment is denominated in:
- (a) Euro or Sterling, Clear Treasury shall ensure that the amount of the Payment is credited to the Payee's payment service provider's account by the end of the Working 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'), Clear Treasury shall ensure that the amount of the Payment is credited to that account

by the end of the fourth Working 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, Clear Treasury shall endeavour to ensure that it actions the Payment as soon as is reasonably practicable.

12. SAFEGUARDS AND SECURITY

12.1 On becoming aware of the loss, theft, misappropriation or unauthorised use of any personalised security features (including its Account Number, all passwords and PIN) belonging to the Client or a Nominated Dealer with respect to the Services ("**Personalised Security Features**") The Client must notify Clear Treasury: -

- (a) verbally by telephone by calling +44 (0)207 155 1990 or by using the telephone number of the Client's designated account manager or otherwise by speaking to a Clear Treasury employee via telephone;
- (b) by email to dealers@cleartreasury.co.uk or to your designated account manager's e-mail address or the email address of any other Clear Treasury dealer;

12.2 The Client and each Nominated Dealer must take all reasonable steps to keep safe their Personalised Security Features. This includes:

- (a) each Nominated Dealer and the Client not writing down or telling anyone their Account Number, any passwords and/or PIN;
- (b) ensuring that access to the Online Platform is kept safe. This will include, but is not limited to:
 - (i) logging off the Online Platform every time the computer (or other device used to gain access to the Online Platform) is left by the Client or the relevant Nominated Dealer;
 - (ii) always ensuring that login details are not stored by the browser or cached or otherwise recorded by the computer (or other device used to gain access to the Online Platform);
 - (iii) having recognised anti-virus software out on the device you use to gain access to the Online Platform;
 - (iv) carrying out anti-virus checks on the device you use to gain access to the Online Platform on a regular basis, and at least every 30 days, and be able to provide proof of same upon request; and
 - (v) notifying Clear Treasury immediately if a virus is found on the device the Client or any Nominated Dealer uses to obtain access to the Online Platform;
- (c) taking reasonable care to ensure that the e-mail account(s), phone number, mobile phone number, computer, fax and other network the Client and each Nominated Dealer use to communicate with Clear Treasury is secure and only accessed by the relevant Client or Nominated Dealer.

- 12.3 The Client must take all reasonable precautions to prevent fraudulent use of Payment Services.
- 12.4 Clear Treasury may stop or suspend any Payment (in whole or in part) and/or the Client's use of the Payment Service and/or a communication channel between the Client and Clear Treasury if it has reasonable grounds for doing so relating to:
- (a) the security of the Payment Service or a Payment or any Personalised Security Feature or a communication channel between the Client and Clear Treasury;
 - (b) the suspected, unauthorised or fraudulent use of the Payment Service or a Payment or any Personalised Security Feature or a communication channel between the Client and Clear Treasury; and/or
 - (c) where the Payment is being made in connection with a credit line, if Clear Treasury believes that there is a significantly increased risk that the Client may be unable to fulfil its liability to pay.
- 12.5 Unless doing so would compromise reasonable security measures or be unlawful, before stopping or suspending any Payment (in whole or in part) or the Client's use of the Payment Service (as appropriate) or immediately after doing so, Clear Treasury must inform the Client and give its reasons for doing so. As soon as practicable after the reason for stopping or suspending any Payment (in whole or in part) or the Client's use of the Payment Service (as appropriate) has ceased to exist, Clear Treasury must allow the outstanding element of the Payment or the resumption of the Client's use of the Payment Service (as appropriate).
- 12.6 If the Client believes that a Payment Instruction has been given, or a Payment made, in error and/or was unauthorised by it, the Client must notify Clear Treasury as soon as possible: -
- (a) verbally by telephone by calling +44 (0)207 151 4875 or by using the telephone number of the Client's designated account manager or otherwise by speaking to a Clear Treasury employee via telephone;
 - (b) by email to backoffice@cleartreasury.co.uk or to your designated account manager's e-mail address or the email address of any other Clear Treasury dealer;

Failure to notify Clear Treasury immediately on becoming aware or within 13 months of the date of any Payment could result in the Client losing its entitlement to have the matter corrected.

13. LIABILITY FOR PAYMENT SERVICES

- 13.1 Where it is established that a Payment has been given in error and/or was unauthorised by the Client and that Client has notified Clear Treasury in a timely manner within 13 months of the monies being debited from its accounts, unless Clause 13.2 applies, Clear Treasury shall refund to the Client the full amount debited erroneously or without authorisation.
- 13.2 The Client will be liable for:
- (a) all losses incurred in respect of unauthorised Payments made by Clear Treasury if the Client has acted fraudulently, or has intentionally or with gross negligence not complied with its obligations under Clause 12.1 and 12.2; and

- (b) where Clause 13.2(a) does not apply, up to £50 of any losses incurred in respect of unauthorised Payments arising:
 - (i) from the use of a lost Account Number, password or PIN used for gaining access to the Online Platform;
 - (ii) where the Client has otherwise failed to keep the Personalised Security Features safe.
- 13.3 Except where the Client has acted fraudulently, the Client will not be liable for any losses incurred in respect of unauthorised Payments where the Client notified Clear Treasury in writing, without undue delay, on becoming aware of the loss, theft, misappropriation or unauthorised use of any Personalised Security Features regarding the Payments having been breached which resulted in the aforementioned loss.
- 13.4 Clear Treasury shall not be liable for non-execution or defective execution in relation to a Payment which it has made in accordance with a Unique Identifier given to it by the Client which proves to be incorrect. However, Clear Treasury 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.
- 13.5 Clear Treasury is liable to the Client for the correct execution of a Payment Instruction unless:
 - (a) Clause 13.3 applies; or
 - (b) Clear Treasury can prove to the Client (and where relevant, to the Payee's payment services provider) that the Payee's payment services provider received the Payment within the appropriate time period described in Clause 11.10. Clear Treasury shall, on request, make immediate efforts to trace the payment and notify the Client of the outcome.
- 13.6 Clear Treasury 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 Clear Treasury 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 Clear Treasury failing to perform its duties under a Contract; or
 - (c) contravention of a requirement imposed on Clear Treasury by the PSRs where that contravention is due to Clear Treasury complying with its obligations under the laws of any EEA state or other jurisdiction.
- 13.7 Under Regulation 63 of the PSRs, the Client may be entitled to a refund in certain circumstances where a Payment is initiated by the Payee. It is not anticipated that any

Payment will be initiated by a Payee under any Payment Services provided by Clear Treasury.

- 13.8 The provisions in this Clause 13 shall survive termination of these Terms or any Contract.

TERMS APPLYING GENERALLY

14. PAYMENT TO CLEAR TREASURY

- 14.1 For Spot FX Contracts, the Client must deliver cleared funds (but not cash or cheques) into the Transaction Account for the full amount specified in the Confirmation (the sale currency and any applicable charges) on or before the Value Date.
- 14.2 For Forward FX Contracts, the Client must deliver cleared funds (but not cash or cheques) to the Transaction Account covering the Margin within one Working Day of the Contract having been entered into and the remaining full amount specified in the Confirmation on or before the Value Date of the Order.
- 14.3 Clear Treasury does not accept cash, cheques or credit or debit card payments as Margin or payment. Any references in these Terms to cleared funds shall not include cash, cheques, credit or debit card payments. Any funds paid into the Transaction Account(s) in cash will incur a processing fee of 3%. These funds may be returned back to the Client (less the processing fee) if the source of funds is not proven to Clear Treasury's satisfaction.
- 14.4 All payments due from the Client to Clear Treasury under these Terms shall be made in full without set-off, counter-claim, deduction or withholding whatsoever unless the Client has a valid court order against Clear Treasury in the amount withheld.
- 14.5 Clear Treasury will endeavour to pay to the Client the amount due in the manner and at the date detailed in the Confirmation provided that cleared funds as detailed in the Confirmation have been received in full into the Transaction Account by the time set out in the Confirmation.
- 14.6 Clear Treasury may deduct from the Payment such amounts as Clear Treasury may be required by law to deduct in respect of taxation liabilities, together with any Clear Treasury administration fees chargeable in accordance with these Terms and bank charges.
- 14.7 Clear Treasury's charges in relation to Foreign Exchange Services will be as set out in the Confirmation. The Client understands that, because Clear Treasury deals as principal, the foreign exchange rate it offers the Client will not be the same as the rate Clear Treasury obtains itself.

15. INTEREST AND CHARGES

- 15.1 If the Client fails to make any payment required under these Terms when it is due, interest will be charged on the outstanding sum at 5% per annum above the base rate, from time to time in force, of the Bank of England from the date payment is due until the date payment is made and shall be compounded monthly and Clear Treasury shall be entitled to claim from the Client its reasonable costs in recovering any sums overdue. Amounts due under this

Clause may at our reasonable discretion be converted to Pounds Sterling or any other currency at a rate to be reasonably determined by us.

- 15.2 If the Client's payment, is dishonoured, returned, not met on first presentation or stopped for whatever reason, Clear Treasury shall levy an administrative charge of £25 (or equivalent currency) in respect of each such payment. Cash payments will be subject to a processing fee, whether or not the payment is returned to the Client.
- 15.3 Clear Treasury will charge the Client bank charges and Clear Treasury administration fees, and any other costs incurred or suffered by Clear Treasury or by instruction of the Client, to reverse, recall or modify any Contract(s) including Payment(s) except as the result of any error on the part of Clear Treasury.
- 15.4 If the Client requests information or materials which are not provided as part of the Services, Clear Treasury may accept, or decline the request and may charge an Administration Fee to fulfil such request.
- 15.5 Any outbound payment regardless of currency, amount or destination is liable to a £15.00 or currency equivalent (USD\$30.00 and €25.00) payment charge. This is levied by Clear Treasury to offset the cost it incurs for making payments for which it is charged by its banking provider. These charges may, at Clear Treasury's discretion, be waived in part or discounted completely.
- 15.6 Any transfer of funds (whether resulting from a Contract or otherwise) may be liable to taxation in the UK or in any other applicable jurisdiction. It is the responsibility of the Client to ascertain the applicability and extent of any taxation and to declare and pay any tax on any such sums. In the event that Clear Treasury is required to withhold any sums in respect of taxation by any court, regulation to taxing entity in any applicable jurisdiction, Clear Treasury shall be permitted to do so. Clear Treasury shall have no obligation to account to the Client in respect of sums so withheld.

16. EXCHANGE RATES

- 16.1 The Client acknowledges that foreign exchange business may from time to time be restricted, closed or otherwise impeded or that action may be taken by a counterparty in an emergency or otherwise to close out a Forward FX Contract or exercise set-off rights (an "**Impediment**"). Any such action may result in Clear Treasury being unable to enter into or otherwise execute an FX Contract. The Client shall remain fully liable for all existing open positions, new positions or eliminated positions resulting in whole or in part from an Impediment.
- 16.2 Notwithstanding Clause 16.1, the Client acknowledges and agrees that foreign exchange rates may change prior to the time of execution of a Spot Transaction or Forward Transaction. There may be circumstances in which the foreign exchange rate captured for a Spot Transaction or Forward Transaction differs from the rate which was notified to the Client at the time when the Order was placed. Without limitation to the provisions of Clause 17, Clear Treasury shall not be liable in respect of any loss or diminution of value or profit derived from the change in any foreign exchange rate.

17. GENERAL LIMITATION OF LIABILITY OF CLEAR TREASURY

- 17.1 Where Clear Treasury and another person (such as another payment services provider) are liable to the Client in respect of the same matter or item, the Client agrees that the liability of Clear Treasury to the Client will not be increased by any limitation of liability the Client has agreed with that other person or because of the Client's inability to recover from that other person beyond what the liability of Clear Treasury would have been had no such limitation been agreed and/or if that other person had paid his or its share.
- 17.2 Where any loss, liability, cost or expense (a "Loss") is suffered by the Client for which Clear Treasury would otherwise be jointly and severally or jointly liable with any third party or third parties, the extent to which such Loss shall be recoverable by the Client from Clear Treasury (as opposed to any third parties) shall be limited so as to be in proportion to the aggregate Clear Treasury's contribution to the overall fault for such Loss, as agreed between all of the relevant parties or, in the absence of agreement, as determined by a court of competent jurisdiction. For the purposes of assessing the contribution to the Loss in question of any third party for the purposes of this Clause, no account shall be taken of any limit imposed or agreed on the amount of liability of such third party by any agreement (including any settlement agreement) made before or after such Loss occurred or was otherwise incurred.
- 17.3 Clear Treasury shall not be liable for any Loss arising as a result of any default or negligence of any other payment service provider.
- 17.4 The Services are provided to the Client solely and exclusively by Clear Treasury. None of Clear Treasury's employees assumes any personal responsibility to the Client or any other person, owes the Client or any other person any personal duty of care nor is liable to the Client or any other person for any Loss arising, directly or indirectly, as a consequence of their own acts or omissions. Accordingly, the Client agrees not to bring a claim against any of Clear Treasury employees personally. This Clause does not exclude or limit the liability of Clear Treasury for (i) the acts or omissions of any of its employees in the course of its business or (ii) the acts or omissions of its employees performed within the scope of the employee's contract of employment.
- 17.5 Clear Treasury accepts no responsibility for any delay in fulfilling a Contract attributed to the late arrival of funds or instruction of payment relative to the cut off times of the designated bank or for delays or faults due to the clearing banks or banking systems.
- 17.6 Clear Treasury shall not be liable for any bank charges that the Client may incur in sending or receiving funds to or from Clear Treasury.
- 17.7 Clear Treasury shall not be liable to the Client for the non-performance of Clear Treasury's obligations or the failure to execute any Order if the execution of the Order would be illegal.
- 17.8 Nothing in these Terms limits or excludes the liability of Clear Treasury for death or personal injury caused by its negligence or for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by Clear Treasury or to the extent that the liability may not be excluded or limited by any applicable law.

18. COMPLAINTS

- 18.1 If you feel that we have not met your expectations in the delivery of our services or if you think we have made a mistake, please let us know. You may let us know by telephone, fax, email, in writing or in person using the contact details provided in these Terms. We have internal procedures for handling complaints fairly and promptly in accordance with the FCA's requirements. A copy of our complaints procedure is available upon request.
- 18.2 If you are an eligible complainant and the complaint relates to the provision of Payment Services:
- (a) we will investigate your complaint in accordance with the FCA Rules and our (or Clear Treasury's) internal complaints procedures.
 - (b) you can take your complaint to the Financial Ombudsman Service should you not be satisfied with our final response. Eligibility criteria and information on the procedures involved are available from <http://www.financial-ombudsman.org.uk>.
- 18.3 If a dispute arises between Clear Treasury and the Client relating to the existence or terms of any FX Contract (a "**Disputed FX Contract**"), Clear Treasury may take any other action it considers reasonably appropriate in relation to the Disputed FX Contract (which may include closing out or suspending the performance of the Disputed FX Contract) pending settlement of the dispute without previously notifying and/or without having received instruction from the Client. Clear Treasury will try and notify the Client (orally or in writing) of the 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.

19. FORCE MAJEURE

- 19.1 Clear Treasury shall not be in breach of these Terms or the terms of any Contract nor liable for delay in performing or failure to perform, any of its obligations under these Terms or the terms of any Contract, where failure to fulfil any obligation under these Terms or the terms of any Contract is due to:
- (a) abnormal and unforeseeable circumstances beyond the control of Clear Treasury, the consequences of which would have been unavoidable despite all efforts to the contrary; or
 - (b) the obligations of a payment service provider under other provisions of EU or national law.
- 19.2 If, in the circumstances described above Clear Treasury is delayed or prevented from fulfilling its obligations under these Terms or the terms of any Contract, Clear Treasury will take all reasonable steps to notify the Client and shall be entitled to extend the time for performance of the relevant Contract or fulfilment of the obligation for so long as such cause of prevention or delay shall continue. If the event continues to cause prevention or delay for a period of more than 30 days, both the Client and Clear Treasury shall have the right, upon notifying the other, to terminate these Terms and any outstanding Contract.

20. CHANGES TO THESE TERMS

- 20.1 We may amend these Terms, insofar as they relate to FX Contracts, by notice in writing to the Client at any time and any such amendment shall take effect from the date specified by Clear Treasury. These amendments may not affect any rights or obligations that have already arisen and will not be retrospective.
- 20.2 We may amend these Terms, insofar as they relate to Payment Services, by giving you no less than two months' notice in writing. If you object to the proposed amendments, you have the right to terminate these Terms without charge before the date proposed by Clear Treasury for the entry into force of the changes. You will be deemed to have accepted the proposed amendments unless you notify us and terminate these Terms before the date proposed by Clear Treasury for the entry into force of the changes. If we receive no objection from you, such amendments shall take effect from the date specified by us but may not affect any rights or obligations that have already arisen and will not be retrospective.
- 20.3 For the avoidance of doubt, the termination of these Terms by any means by the Client, shall not affect any Contract nor any rights or obligations that have already arisen at the date of the termination.

21. ASSIGNMENT

- 21.1 We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of our rights and obligations under these Terms and any Contract, provided that we give prior written notice of such dealing to you.
- 21.2 You shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of your rights and obligations under these Terms or any Contract.

22. NOTICES AND COMMUNICATIONS

- 22.1 Where Clear Treasury communicates with the Client, it will at all times ensure that the communication is fair, clear and not misleading.
- 22.2 All communications with the Client shall be in English only.
- 22.3 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:
- (a) be delivered by hand or by pre-paid first-class post or other next working day delivery services at its registered office (if a company) or its principal place of business or residential address (in any other case); or
 - (b) sent by email to the usual email address used by the parties during the course of this agreement.
- 22.4 Any notice shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;

- (b) if sent by pre-paid first-class post or other next working day delivery services, at 9.00 am on the second Working Day after posting;
 - (c) if sent by email, at 9.00 am on the next Working Date after transmission.
- 22.5 Clear Treasury may correspond, convey documentation and generally communicate with the Client (unless the Client expressly request otherwise on specific Contracts) and receive such communications from the Client, electronically.
- 22.6 The Client acknowledges that the electronic transmission of information by e-mail on the internet or otherwise has inherent risks and such communications may become lost, delayed, intercepted, corrupted or be otherwise altered, rendered incomplete or fail to be delivered. Clear Treasury uses filtering software to reduce the amount of spam arriving in users' inboxes and there is a risk that this and our anti-virus software may filter out legitimate Client correspondence.
- 22.7 Clear Treasury shall use its reasonable endeavours to ensure that electronic communications that it sends are free from viruses and other material which may cause harm to any other computer system. The Client undertakes to do likewise with any electronic communications it sends to Clear Treasury.

23. ANTI-MONEY LAUNDERING

- 23.1 The law requires us to obtain evidence of the identity of our clients, Payees and Third Party Depositors and each of their directors and beneficial owners (where such clients are incorporated entities) on a risk-based and proportionate basis.
- 23.2 The Client will be required to provide any documentation Clear Treasury requests to comply with relevant legislation, including the Money Laundering Regulations 2007, Proceeds of Crime Act 2002 and EU Wire Transfer Regulations 1781/2006.
- 23.3 Clear Treasury may be unable to act for any person or continue acting for the Client if such person or the Client fails to provide Clear Treasury with any documents specified by Clear Treasury or fails to provide Clear Treasury with information which enables Clear Treasury to understand its ultimate beneficial ownership or control.
- 23.4 To assist with meeting its obligations, Clear Treasury may carry out an electronic verification check and credit reference check via third party providers in order to verify the Client's, or any shareholders or officers of the Client's, identity and credit standing. If such searches are carried out, Clear Treasury may keep records of the contents and results of such searches in accordance with all current and applicable laws. You acknowledge that us carrying out an electronic verification check or credit reference agency check will leave a soft footprint on the individual or entity's credit history. You warrant that you have obtained the consent of each individual officer and shareholder to such checks being carried out.
- 23.5 If, while Clear Treasury are acting for the Client, it becomes necessary to make a money laundering disclosure, Clear Treasury may not be able to inform the Client that a disclosure has been made or of the reasons for it.

24. CONFIDENTIALITY

- 24.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 24.2 and 24.3.
- 24.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 24.3 Clear Treasury may disclose confidential information to the person or organisation which introduced or referred the Client to Clear Treasury, solely as necessary and limited to the purpose of paying such person or organisation an introductory/referral or affiliate fee.
- 24.4 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

25. DATA PROTECTION

- 25.1 The Client authorises Clear Treasury to collect, use, store or otherwise process any personal information provided by the Client or from the searches referred to at Clause 23.4 above (**'Personal Information'**) to enable Clear Treasury and/or the person or organisation which introduced or referred the Client to Clear Treasury 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, Clear Treasury will take steps to ensure that it is appropriately protected.
- 25.2 Clear Treasury may also use the Personal Information to provide the Client with news and other information on Clear Treasury'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 Clear Treasury in writing.
- 25.3 Other than as stated in these Terms Clear Treasury will not disclose the Client's Personal Information unless required by law.
- 25.4 If the Client wishes to obtain a copy of its Personal Information, it should contact Clear Treasury in writing.

26. TERMINATION OF THE TERMS

- 26.1 Without affecting any other right or remedy available to it, Clear Treasury may terminate this agreement on giving not less than 2 months written notice to the Client. The Client may terminate these Terms at any time by giving a notice to Clear Treasury: -
- (a) verbally by telephone by calling +44 (0)207 155 1990 or by using the telephone number of the Client's designated account manager or otherwise by speaking to a Clear Treasury employee via telephone;
 - (b) by email to dealers@cleartreasury.co.uk or to your designated account manager's e-mail address or the email address of any other Clear Treasury dealer; or

27. GENERAL

- 27.1 Nothing in these Terms or in any Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any Clear Treasury and the Client, constitute the Client the agent of Clear Treasury or vice versa, or authorise any party to make or enter into any commitments for or on behalf of any other party. The Client confirms it is acting on its own behalf and not for the benefit of any other person.
- 27.2 Except in so far as the context otherwise requires, each provision in these Terms shall be construed as independent of every other provision, and if any provision or part of any provision hereof is or becomes partially or fully invalid, illegal or unenforceable then the validity, legality and enforceability of the remaining provisions shall not be affected. In such circumstances, the invalid, illegal or unenforceable provision shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of these Terms. If one party gives notice to the other of the possibility that any provision or part-provision of these Terms is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 27.3 A failure by either party to exercise or enforce any right or remedy conferred upon it by these Terms or by law shall not be deemed to be a waiver of such right or remedy or operate so as to bar the exercise or enforcement thereof at any subsequent time or times. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. The rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.
- 27.4 A person who is not a party to these Terms shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms or any Contract. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 27.5 The parties agree and consent to the recording of telephone conversations between the parties with or without an automatic tone warning device; and the use of such recording as evidence by either party in any dispute or anticipated dispute between the parties or relating to dealings between the parties.

- 27.6 If Clear Treasury makes any recordings or transcript it may also destroy them in accordance with its normal procedures.
- 27.7 While Clear Treasury will use reasonable endeavours to make the Online Platform available, Clear Treasury does not guarantee that it will operate continuously or without interruptions.
- 27.8 These Terms (and all documents referred to herein and annexed hereto) constitute the entire agreement between the Client and Clear Treasury and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter.
- 27.9 Each of the Client and Clear Treasury agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms.
- 27.10 Subject to Clause 27.11 but notwithstanding any other provision of these Terms:
- (a) to the fullest extent that is permitted by law, the provisions of the PSRs shall not apply to these Terms and any Contract; and
 - (b) the provisions which shall not apply as set out in Clause 27.10(a) above shall include the whole of Part 5 of the PSRs and Regulations 54(1), 55(2), 60, 62, 63, 64, 67, 75, 76 and 77 (as amended restated or re-enacted from time to time).
- 27.11 The provisions of Clause 27.10 above shall not apply if (or at any time when) the Client is a consumer, a micro enterprise (as defined in Commission Recommendation 2003/361/EC, as amended from time to time) or a charity.
- 27.12 Where the Client comprises two or more people, each person will be jointly and severally liable to Clear Treasury in respect of all obligations contained in these Terms.
- 27.13 The Client may request and Clear Treasury shall provide a copy of these Terms and any information set out in Schedule 4 of the PSRs at any time prior to termination of these Terms.
- 27.14 These Terms and any Contract to which these Terms apply and any dispute or claim arising out of or in connection with these Terms or any such Contract or its or their subject matter or formation (including non-contractual disputes or claims) are governed by and shall be construed in accordance with the laws of England.
- 27.15 The Client and Clear Treasury agree that the courts of England and Wales shall have exclusive jurisdiction over any claim, dispute or matter arising out of or in connection with these Terms or their subject matter or formation (including non-contractual disputes or claims) and any Contract to which these Terms apply or its subject matter or formation (including non-contractual disputes or claims) or any of the documents to be entered into pursuant to these Terms.

Schedule 1 - Definitions

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this agreement:

“Account Number” is a unique reference Clear Treasury assigns to the Client for identification purposes.

“Administration Fee” is a reasonable fee charged to the Client for providing information or materials requested by the Client which are not part of the standard information which Clear Treasury sends to clients at the standard times.

“Automatic FX Order Contract” has the meaning given to such term in Clause 6.11.

“Bought Currency” means the currency which you agree to purchase under an FX Contract.

“Confirmation” has the meaning given to such term in Clause 6.3.

“Contract” means an FX Contract and a Payment Contract.

“IBAN” means the International Bank Account Number.

“Forward FX Contract” means a FX Contract where the Value Date does not fall within the Spot Period.

“FX Contract” means a contract between Clear Treasury and the Client where the Client agrees to purchase Bought Currency from Clear Treasury.

“FX Order” has the meaning given to such term in Clause 4.1(a).

“Good Til Cancelled” has the meaning given to such term in Clause 6.12.

“Historic Rate Rollover” (“HRR”) is the rolling forward of a contract from its agreed settlement date, at the historical agreed rate less swap adjustments. Clear Treasury will not provide this facility
“Major Currencies” means US dollar, Euro, Japanese yen, Pound sterling, Australian dollar, Swiss franc, Canadian dollar, Hong Kong dollar, Swedish krona, New Zealand dollar, Singapore dollar, Norwegian krone, Mexican peso, Croatia kuna, Bulgarian lev, Czech koruna, Danish krone, Hungarian forint, Polish zloty and Romanian leu.

“Margin” means the security amount or advance payment required for a Forward FX Contract by Clear Treasury from the Client and as specified in the Confirmation.

“MTM” – Mark to Market is the revaluation of your forward contracts based on current market spot values.

“Online Platform” means the secure area to the Website where the Client is able to place Orders and view previous transactions.

“Order” means an FX Order and/or a Payment Instruction.

“Out of the Money (OTM) facility” – means the credit limit agreed between us.

“Payee” has the meaning given to such term in Clause 4.1(b).

“Payment Contract” means a contract between Clear Treasury and the Client whereby Clear Treasury agrees to send a sum of money belonging to the Client to a bank account specified by the Client.

“Payment Instruction” has the meaning given to such term in Clause 4.1(b).

“Payment Services” means those services set out in Schedule 1 Part 1 to the PSRs.

“PSD Agent” has the meaning given to such term in the PSRs;

“PSRs” means the Payment Services Regulations 2009 (as amended by the Payment Services Regulations 2012) as same is further amended, replaced or updated from time to time.

“Safeguarded Account” has the meaning given to such term in Clause 7.2.

“Services” means the services provided by Clear Treasury pursuant to these Terms.

“Spot FX Contract” means a FX Contract where the Value Date is within the Spot Period.

“Spot Period” means longer of the following periods:

- (a) two Trading Days after the Trade Date in respect of any pair of Major Currencies;
- (b) for any pair of currencies where at least one currency is not a Major Currency, the longer of two Trading Days or the period generally accepted in the market for that currency paid as the standard delivery period.

“SWIFTBIC” means the SWIFT Bank Identifier Code.

“Terms” means these terms and conditions including the schedule (as same may be updated from time to time in accordance with Clause 20).

“Third Party Depositor” means a person who is not you who sends us money to us or Clear Treasury in relation to a Contract.

“Trade Date” means the date when the currency is bought and sold.

“Trading Day” means any day of normal trading in the jurisdiction of both currencies that are exchanged pursuant to the relevant Contract and in the jurisdiction of a third currency where any of the following conditions are met:

- (a) the exchange of those currencies involves converting them through that third currency for the purposes of liquidity;
- (b) the standard delivery period for the exchange of those currencies references the jurisdiction of that third currency.

“**Transaction Account**” is a bank account held in the name of Clear Treasury into which the Client is to send funds.

“**Unique Identifiers**” has the meaning given to such term in Clause 11.1;

“**Value Date**” is the date for delivery of or payment of the currency.

“**Website**” means <http://www.cleartreasury.co.uk/>.

“**Working Day**” is a day other than a Saturday, a Sunday or public holiday in England when clearing banks in London are open for business.

“**Working Order**” has the meaning given to such term in Clause 6.11;

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Terms.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to the Terms or this agreement includes the Schedules.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 A reference to **writing** or **written** includes fax and email.
- 1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

- 1.13 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.
- 1.14 A reference to these Terms or to any other agreement or document referred to in these Terms is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
- 1.15 References to Clauses and Schedules are to the Clauses and Schedules of these Terms and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.16 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.