

## Relationship Agreement – Private Customers (Version 4, 01/2018)

### PART A: BACKGROUND

#### 1. OUR RELATIONSHIP WITH YOU

1.1 The Ebury Relationship Agreement (the “**Agreement**”) comprises terms and conditions governing the relationship between the individual (acting outside the course of a business or profession) named in the Application Form (the “**Customer**”, “**you**”, “**your**”) and Ebury Partners UK Limited (“**Ebury**” “**us**”, “**we**”, “**our**”), that apply to certain of our products and services. Our products and services allow you to:

- 1.1.1 load funds onto an e-money account;
- 1.1.2 make payments to one or more Beneficiaries nominated by you; and
- 1.1.3 enter into foreign exchange transactions (including spots and commercial forwards), collectively, the “**Services**”.

1.2 The following documents are incorporated into and form part of the Agreement:

- 1.2.1 the terms and conditions set out in this document (the “**Terms**”); and
- 1.2.2 any terms and conditions set out in the Application Form.

We will provide you with separate terms and conditions for any services that fall outside the scope of the Agreement.

1.3 We recommend that you retain a copy of all of the documents that make up the Agreement. If you would like a copy of any of the documents, you can contact us (using the details at Clause 11.1). You can also find a copy of the latest version of these terms and conditions on our website.

1.4 In the event of any conflict, any terms and conditions in the Application Form shall prevail over the provisions of the Schedule and the terms and conditions of this Agreement.

1.5 While this Agreement is in force, we will provide a copy of this Agreement to you on request.

1.6 These Terms are divided into four separate parts:

- 1.6.1 Part A sets out the terms and conditions governing our relationship with you;
- 1.6.2 Part B sets out the specific terms governing your E-Money Account with us (and any Orders you may place using that E-Money Account);
- 1.6.3 Part C sets out the specific terms governing the FX Services which we provide, including Spots and Forwards; and
- 1.6.4 Part D sets out some general information and other importance terms governing the Agreement.

#### 2. DEFINITIONS AND INTERPRETATION

2.1 Where the words set out below are used with capital letters in these Terms, they mean as follows:

- 2.1.1 “**Applicable Laws**” means any applicable law, statute, regulation or legally binding requirement or order as interpreted taking appropriate account of regulatory policy, guidance or industry code, relating to either of the parties or subject matter in question, including (as amended from time to time) (i) the EMRs; (ii) the PSRs; (iii) the UK Money Laundering Regulations 2017; (iv) the Proceeds of Crime Act 2002; the UK Terrorism Act 2000 (as amended); and (v) UK and international financial sanctions regimes.
- 2.1.2 “**Application Form**” means Part 1 of the Application Form, any supplemental terms and any other information submitted by you therein.
- 2.1.3 “**Authorised Party**” means any natural person listed as an "Authorised Party" in Part 1 of the Application Form.
- 2.1.4 “**Beneficiary**” means you or any third party payee which you include in your Order.
- 2.1.5 “**Beneficiary Account**” means the bank account to which you are sending funds.
- 2.1.6 “**Business Day**” means a day on which banks are open for general banking business in the City of London.
- 2.1.7 “**Close Out**” means reversing a Trade in the circumstances set out in Clause 21 or otherwise pursuant to this Agreement.
- 2.1.8 “**Delivery Date**” means the Business Day on which we will send funds to the Beneficiary Account.
- 2.1.9 “**E-Money Account**” means the electronic money account which we shall provide to you and which is to be operated and used in accordance with these Terms.
- 2.1.10 “**Ebury Representative**” means any of our representatives who you may contact with respect to the Services.
- 2.1.11 “**EEA**” means the European Economic Area.
- 2.1.12 “**Effective Date**” means as set out at Clause 4.1.
- 2.1.13 “**EMRs**” means the Electronic Money Regulations 2011 (as amended from time to time).
- 2.1.14 “**Force Majeure Event**” means an event which is due to abnormal and unforeseeable circumstances beyond a party's control, the consequences of which would have been unavoidable despite all efforts to the contrary, which may include an act or omission of government, any regulatory body or other competent authority, an interruption, failure or defect, or non-operation of our internet and telephone connections or other communication services..
- 2.1.15 “**Forward Contract**” means a foreign exchange contract under which we agree that on a specific date or specified range of dates in the future, to exchange money at an agreed exchange rate and at an agreed time, which shall be to facilitate payment for identifiable goods, services or direct investment.
- 2.1.16 “**Insolvent**” means you or any other person takes (or threatens to take) any step in connection with:

- (a) your bankruptcy (including, for the avoidance of doubt, if a bankruptcy petition is presented against you, or you petition for your own bankruptcy);
  - (b) the making of any composition, compromise, assignment or arrangement with any of your creditors;
  - (c) the appointment of an interim receiver of your property under section 286 of the Insolvency Act 1986;
  - (d) the appointment of a receiver in respect of you under the Mental Health Act 1983;
  - (e) the appointment of any other, receiver or manager of any of your assets;
  - (f) any analogous procedure in any jurisdiction; or
  - (g) you are unable or admit inability to pay your debts as they fall due or you are deemed to or declared to be unable to pay your debts under applicable law.
- 2.1.17 “**Limit Order**” means an order to exchange money at a specified exchange rate and within a specified time period.
- 2.1.18 “**Margin**” means funds (in any currency which we may specify) that we may require you to provide to us as security for us entering into a Forward Contract with you.
- 2.1.19 “**Margin Call**” means a request by us for such sum as we consider will be necessary to maintain the amount of Margin relative to the value of the Purchase Currency.
- 2.1.20 “**Nominated Account**” means the Ebury bank account which we specify in the Payment Confirmation.
- 2.1.21 “**Online System**” means the electronic platform and interface (hosted by us) through which you can access most (but not all) of the Services.
- 2.1.22 “**Order**” means such information as you may supply to us in respect of (a) a Transfer; or (b) a Trade.
- 2.1.23 “**Payment**” means cleared funds received by us from you in respect of a Trade in accordance with Clause 18.
- 2.1.24 “**Payment Amount**” means the full amount which you are required to pay us to fulfil your Trade as specified in your Payment Instruction Confirmation.
- 2.1.25 “**Payment Instruction Confirmation**” means the email we shall send you for the purpose of confirming the Payment Amount and the Beneficiary Account.
- 2.1.26 “**Purchase Currency**” means the currency which you shall buy from us.
- 2.1.27 “**PSRs**” means the Payment Services Regulations 2017.
- 2.1.28 “**Sell Currency**” means the currency which we shall sell to you.
- 2.1.29 “**Services**” means those currency exchange and related services as set out at Clause 1.1.

- 2.1.30 “**Spot Contract**” means a foreign exchange contract under which we agree to exchange money at an agreed rate within 48 hours of the contract being entered into.
  - 2.1.31 “**Trade**” means a Spot Contract, Forward Contract entered into in accordance with Clause 4.
  - 2.1.32 “**Transfer**” means a transfer of funds to a Beneficiary nominated by you.
  - 2.1.33 “**Transaction Receipt**” means a confirmation sent by us (by email) setting out details of a Trade.
- 2.2 We have split the Terms into sections and inserted a number of headings in order to make them easier to read. The headings are not intended to affect the way that the Terms are interpreted.

### **3. HOW TO ACCESS OUR SERVICES**

- 3.1 To use our Services, you must register to create an E-Money Account by either:
- 3.1.1 using our Online System, clicking on “Open Account” and following the instructions; or
  - 3.1.2 completing a paper Application Form (which we shall provide to you) and signing and returning your Agreement to us.
- 3.2 When using the Online System:
- 3.2.1 you must take all reasonable steps to keep your E-Money Account log-in details safe at all times and never disclose them to anyone (Note. It is advisable to change your password regularly (at least every three (3) to six (6) months) in order to reduce the risk of a security breach in relation to your E-Money Account);
  - 3.2.2 if you have any indication or suspicion of your log-in details, password or other security features relating to your E-Money Account being lost, stolen, misappropriated, used without authorisation or otherwise compromised, you must contact us without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use and change the password; and
  - 3.2.3 if you think someone else knows your password, you must change it as soon as you can.
- 3.3 We may request additional documentation from you to comply with our obligations to our regulators or otherwise under Applicable Laws.

### **4. YOUR RELATIONSHIP WITH US**

- 4.1 This Agreement shall take effect immediately upon:
- 4.1.1 when you register via our website and click to accept the Terms; or
  - 4.1.2 if we communicate by phone or by email, receipt of a signed scanned copy of this Agreement (if we communicate by phone or by email),
- each the “**Effective Date**”.

4.2 This Agreement shall commence on the Effective Date and continue in full force and effect indefinitely unless and until terminated by you or us under Clause 9.

4.3 You must tell us as soon as possible if any of the information you have given us changes, including:

4.3.1 a change of name, address or Authorised Parties; or

4.3.2 a material change to your financial position.

## 5. YOUR WARRANTIES

5.1 You represent and warrant to us that as at the time of entering into this Agreement (and on an ongoing basis):

5.1.1 you will at all times comply with all Applicable Laws and you will not use the Services for the purposes of money laundering, tax evasion or terrorist financing;

5.1.2 you will not use our Services for any speculative trading; and

5.1.3 all of the information provided to us (including in the Application Form) from time to time, is true, accurate and complete.

## 6. LIABILITY

6.1 As these Terms are provided to you as an individual, we will not be liable for any business losses or costs you suffer (such as loss of business profits or opportunities).

6.2 We shall not be liable to you for any losses you incur:

6.2.1 if we are prevented by Applicable Law from fulfilling any of our obligations under this Agreement;

6.2.2 arising out of or in connection with a Force Majeure Event; or

6.2.3 arising out of or in connection with any Transfer or Trade where we have acted on your direct instructions.

6.3 Nothing in this Agreement shall operate to exclude or restrict either party's liability for:

6.3.1 death or personal injury resulting from negligence;

6.3.2 fraud, fraudulent misrepresentation or deceit; or

6.3.3 anything else which cannot be restricted or excluded under Applicable Laws.

## 7. SET-OFF RIGHTS

7.1 We may at any time set-off any amounts which you owe to us against:

7.1.1 any liability we have towards you (whether under this Agreement or otherwise) if the liabilities to be set-off are expressed in different currencies, we may convert either liability at the market rate for the purpose of the set-off; and/or

7.1.2 any amount then attributed to you held in the E-Money Account.

- 7.2 All amounts due to us under this Clause 7 shall be paid to us in full and you shall only be able to deduct or withhold any amounts subject to tax as required by Applicable Laws.
- 7.3 If a payment is overdue for more than seven (7) days, you shall pay interest on the overdue amount at the rate of 2% p.a. above Barclays Bank PLC base rate (or any successor rate) from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount.
- 7.4 If any amount remains unpaid, we may take debt collection measures including appointing a debt collecting agency or other third parties to assist with the recovery of any amounts due and payable by you to us.

## **8. CHANGES TO THIS AGREEMENT**

- 8.1 We will from time to time need to change the terms of this Agreement. We can anticipate some of the reasons why it'd be fair for us to do this, and have listed them below, but may in the future also want to make changes for other reasons.
- 8.2 We can make a change to this Agreement for any reason (including the following), with any change being a reasonable and proportionate response to a change that is affecting us or that we reasonably think will affect us:
- 8.2.1 because of a change in Applicable Laws, for example we may have to change our requirements for keeping your E-Money Account safe to meet new, higher standards set by law;
  - 8.2.2 if the change benefits you, for example when introducing new products or services or improving existing ones;
  - 8.2.3 to reflect a change in our costs of running your E-Money Account or providing you with related services, for example by introducing a new fee;
  - 8.2.4 in response to possible risks to the security of your E-Money Account, for example by changing the security steps you need to follow to access your Account or submit an Order; or
  - 8.2.5 to respond to any other change that affects us, if it's fair to pass on the effects of the change to you, for example to reflect developments in digital payments.
- 8.3 We may make changes for any other reason we cannot foresee, for example to respond to changes among our competitors that affect how we wish to deliver our services to you.
- 8.4 We shall notify you of any change to this Agreement in writing (either by post or email). The proposed variation shall come into effect automatically on the date stated in our notice, such date to be at least two (2) months after the date of receipt of the notice.
- 8.5 You can then tell us at [help@ebury.com](mailto:help@ebury.com) that you wish to end this Agreement (and close your E-Money Account) before the change takes effect; otherwise, you'll be treated as having accepted the change.

## **9. TERMINATION**

- 9.1 You may terminate this Agreement at any time without reason by giving at least one (1) month's prior notice to us.

- 9.2 We may terminate this Agreement at any time without reason by giving at least two (2) months' prior notice to you.
- 9.3 We may terminate this Agreement immediately without notice (in whole or in part) if:
- 9.3.1 you are using our Services fraudulently or illegally;
  - 9.3.2 if we are required to do so by law or a regulator;
  - 9.3.3 in our view (acting reasonably), we must do so to fulfil our legal or regulatory obligations; or
  - 9.3.4 you breach this Agreement.

We will tell you that we're doing this as soon as we can if the law allows us to.

- 9.4 Otherwise, we may suspend or terminate this Agreement or the Services (in whole or in part) at any time with immediate effect by giving notice if:
- 9.4.1 you breach any material representation or warranty or are otherwise in material breach of this Agreement;
  - 9.4.2 you breach or otherwise fails to comply with any Applicable Laws;
  - 9.4.3 we have any material concerns over the adequacy of the information you have provided to us;
  - 9.4.4 you are Insolvent;
  - 9.4.5 an applicable regulatory or law enforcement authority initiates a regulatory or enforcement action, or investigation against you;
  - 9.4.6 there is any other change in your circumstances (including a deterioration in or change to your financial position) which we consider materially adverse to the continuance of the Services;
  - 9.4.7 a Force Majeure Event continues for more than three (3) successive calendar months; or
  - 9.4.8 in our reasonable opinion, you are no longer suitable to receive the Services.

## **10. CONSEQUENCES OF TERMINATION**

- 10.1 On the expiry or termination of this Agreement for any reason you shall:
- 10.1.1 immediately make payment in full for all pending Trades (for the avoidance of doubt, we shall remain entitled to set-off or deduct sums in accordance with Clause 7); and
  - 10.1.2 except as otherwise expressly provided in this Agreement and subject to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Agreement.
- 10.2 Following termination of this Agreement, we will:
- 10.2.1 Close Out any pending Trades; and

10.2.2 deduct from the E-Money Account all fees and other amounts owing under this Agreement and transfer any remaining funds to your nominated bank account (without prejudice to the other provisions of this Agreement).

10.3 The termination of this Agreement shall not affect any provisions of this Agreement that are expressly or by necessary implication intended to survive such termination.

## **11. CONTACTING US / COMPLAINTS**

11.1 If you wish to contact us regarding your E-Money Account or any of the Services, you can do so (unless we say otherwise) through an Ebury Representative or otherwise by contacting [help@ebury.com](mailto:help@ebury.com).

11.2 If you are unhappy with any of our Services, you can contact us in writing by using any of the following details:

Post: Compliance Department  
Ebury Partners UK Limited  
100 Victoria Street  
London  
SW1E 5JL  
Email: [eburycompliance@ebury.com](mailto:eburycompliance@ebury.com)

11.3 If you want to speak to an Ebury Representative directly, please use the contact telephone numbers at the following link: <https://www.ebury.com/contact-us/>.

11.4 For further information on our Complaints Policy, please see [www.ebury.com/complaints-policy/](http://www.ebury.com/complaints-policy/).

11.5 If your complaint remains unresolved, you may be entitled to refer it to the Financial Ombudsman Service ("FOS"). Further information, contact details and the eligibility requirements can be located on [www.financialombudsman.org.uk](http://www.financialombudsman.org.uk). In certain circumstances you may also be able to submit your complaint to the FCA who will use your complaint to inform their regulatory activities. For further details please contact the FCA on 0800 111 6768 (freephone).

11.6 You may also be entitled to use the European Commission's Online Dispute Resolution platform to resolve your complaint. The platform can be found at [ec.europa.eu/adr](http://ec.europa.eu/adr).

11.7 Our Services are not covered by the UK Financial Services Compensation Scheme.

## **Part B: Your E-Money Account**

### **12. THE E-MONEY ACCOUNT**

12.1 Your E-Money Account is an electronic money account which enables you to send and receive electronic payments in accordance with the terms of this Clause 12.

12.2 Your E-Money Account is not a personal bank or deposit account and you will not earn any interest on the funds held in the E-Money Account.

12.3 As the provider of your E-Money Account, we are authorised by the Financial Conduct Authority under the EMRs (FRN: 900797) as an electronic money institution, which allow us to issue e-money and provide payment services.

12.4 As an electronic money institution, we are required to ensure that customer funds are appropriately “safeguarded”. This means that funds received by us corresponding to electronic money will be held in one or more segregated bank accounts separately from our own funds, in accordance with the EMRs. In the event of our insolvency, these funds will form an asset pool which is separate from our insolvent estate and an administrator will be entitled to reimburse you from this pool (in priority to other creditors).

12.5 Your E-Money Account(s) are denominated in the currency as selected by you.

### 13. USING THE E-MONEY ACCOUNT

13.1 We will credit any funds received from you to your E-Money Account.

13.2 Your E-Money Account can be used to:

13.2.1 store funds in a currency nominated by you in your Application Form;

13.2.2 make Transfers (alone or in combination with a Trade);

13.2.3 make Payment in connection with one or more Trades; and

13.2.4 make any payment of Margin in accordance with Clause 19.

13.3 We will not allow you to make any Transfer or Payment Out of your E-Money Account where this would put your E-Money Account into a negative balance. You should therefore ensure that you have sufficient funds, including in respect of Margin Calls which may be made from time-to-time, in your Account before placing an Order.

13.4 We may apply spending limits on your E-Money Account (for example, the maximum amount of Transfers or Trades that you can make in one day or the maximum exposure you can have to a single currency), and we'll tell you if we do so.

13.5 We do not impose fees or charges for our Services save for same-currency Transfers or Trades, where we may impose a reasonable charge which we will negotiate with you. We will let you know of our fees in advance of accepting any Trades or Transfers.

13.6 However, others might impose fees, charges or taxes. For example, a correspondent bank who is involved in processing your Transfer charge you a fee to transmit funds to the Beneficiary Account.

13.7 The exchange rates we use are variable exchange rates which are changing constantly throughout the day (for example, to reflect movements in foreign exchange markets). The exchange rate applied to your payments will appear on your statement. Unless otherwise agreed with you, the exchange rate we will apply to Transfers (including any future dated payments) and Trades which are in a different currency to the denomination of your E-Money Account will be the rate applicable at the time that your payment is processed. You can contact us to find out the rate which will apply by contacting your Ebury Representative.

13.8 You can place an Order from your E-Money Account online, by telephone or by email:

13.8.1 **Online:** You must log on to the Online System (using your password and log-in details) and follow the instructions to submit your Order.

13.8.2 **Telephone:** You must call an Ebury Representative and specify your Order, together with such other information as we may reasonably request.

- 13.8.3 **Email:** You must email us and specify your Order.
- 13.9 If you confirm an Order (and make Payment in accordance with Clause 18) on a non-Business Day (or after our cut off times (which we shall make available on our website)), we'll process your Transfer on the next Business Day.
- 13.10 We will send the funds to the Beneficiary Account nominated by you.
- 13.11 If the Beneficiary Account is held in the EEA and is in pounds sterling (£), euro (€) or another EEA currency, the account provider (e.g. bank) will receive the money by the end of the next Business Day after you ask us to send it. Otherwise, if the Beneficiary Account is held in the EEA (and the transaction is in a non-EEA currency), the account provider will receive the money within four Business Days after you ask us to send it.
- 13.12 If the account provider is in the EEA and the Beneficiary Account is in an EEA currency, the account provider is required by law to put the money into the Beneficiary Account as soon as it receives it. Banking practices may vary if you send money to a non-EEA currency account or to an account outside the EEA - for more information on when a payment will be credited to such an account, you can ask us the Beneficiary Account provider.
- 13.13 If a Transfer you asked us to make within the EEA does not arrive when it should have, you can ask us to contact the Beneficiary Account provider and ask them to treat it as if it was made on any time.
- 13.14 The Beneficiary's account provider may apply its own charges to the Transfer.
- 13.15 Where you make Payment using your E-Money Account, the amount of the Payment will be deducted by us from your E-Money Account balance. You must ensure that you have sufficient funds in your E-Money Account to cover the amount of any Trade or Transfer you want to make using the Account. If you do not have sufficient funds in your E-Money Account, we reserve the right to postpone the execution date of the Trade or Transfer and we may impose a charge to cover the costs of us doing so.
- 13.16 We will make available to you through the Online System key information relating to all transactions on your E-Money Account and a transaction history at any time and such information may also be downloaded as a report which can be stored and reproduced in an unchanged manner.
- 13.17 Each transaction made using the E-Money Account will be given a unique transaction ID which will be set out in the transaction history. You must quote this transaction ID when communicating with an Ebury Representative about a particular transaction.
- 13.18 Unless we agree otherwise, we'll provide you with statements every month and free of charge, provided that there have been payment transactions on the account during the month.
- 13.19 Any redemption from the E-Money Account will be to the bank account which you notified to us when you first registered to use our Services and you can request a redemption through the Online System, unless we agree otherwise.

## **14. LIABILITY**

### **14.1 Improper execution**

- 14.1.1 If there is a defective or non-executed transaction to or from the E-Money Account, we will without undue delay refund the amount of a payment and any charges you have paid as a result, subject to the other provisions of this Clause 14.

- 14.1.2 We will not be liable if the error was caused by the sender's payment service provider (for a payment to the E-Money Account) or the Beneficiary's payment service provider (for a payment from the E-Money Account), unless we are also that payment service provider.
- 14.1.3 If a payment goes to the wrong person, or is delayed, because you gave us the wrong details, we will not be liable but will use reasonable efforts to try to recover the payment. We may charge reasonable costs for doing so.

## 14.2 Unauthorised payments

- 14.2.1 If there is a payment from the E-Money Account that you did not authorise, we will immediately refund the payment and any charges you have paid as a result subject to the other provisions of this Clause 14.
- 14.2.2 If we can show that you acted fraudulently, you will be liable for all payments from the E-Money Account that we could not stop.
- 14.2.3 If we can show you have been grossly negligent in keeping safe your Profile log-in name and password or any device used by you to access our Services, you will be liable for payments from the E-Money Account but only if the payments are not in connection with a distance contract (as defined in regulation 77(5) PSRs) and only until you have informed us that any device or log-in details have been lost, stolen or could be misused.
- 14.2.4 You should without undue delay notify us (using the details at Clause 11.1) if you becomes aware of the loss, theft or misuse of your Profile log-in details or any device which you use to access your Profile.
- 14.2.5 We will not provide a refund under Clauses 14.2.2 or 14.2.3 if you fail to bring an unauthorised or incorrectly executed transaction to our attention without undue delay and in any case within thirteen (13) months of the date of the Trade or Transfer. However, we will try to trace the transaction for you (if you ask us to) and impose a reasonable charge to cover the costs of doing this.

## 15. LIMITING USE OF YOUR ACCOUNT

- 15.1 We may suspend the E-Money Account or otherwise restrict its functionality on reasonable grounds relating to the security of the E-Money Account or any of its security features or if we reasonably suspect that an unauthorised or fraudulent use of the E-Money Account has occurred or that any of its security features have been compromised.
- 15.2 We will notify you of any suspension or restriction and of the reasons for such suspension or restriction in advance or, where we are unable to do so, immediately after the suspension or restriction has been imposed, unless that would be unlawful or compromise our reasonable security interests.
- 15.3 We will lift the suspension and/or the restriction as soon as practicable after the reasons for the suspension and/or restriction have ceased to exist.
- 15.4 If we suspect or become aware that your E-Money Account may be subject to fraud or security threats we'll contact you using the contact details we hold for you.

## 16. CLOSING THE E-MONEY ACCOUNT

- 16.1 Following termination of this Agreement, you or we may close your E-Money Account once we have paid any remaining balance on the E-Money Account to your nominated bank Account.
- 16.2 After the E-Money Account is closed, we shall pay any other amounts which we owe to you to your nominated bank account (unless we agree otherwise).

## PART C: FX SERVICES

**Note.** The FX Services described in this Part C do not constitute the issuance of electronic money nor payment services activity and are therefore not subject to regulation by the FCA under the PSRs/EMRs.

## 17. PLACING TRADES

### 17.1 How to Place and Confirm a Trade

- 17.1.1 You can place an Order by using one of the methods at Clause 13.8 online, by telephone or by email.
- 17.1.2 Once we have received your Order, we will confirm:
- (a) the amount of the Sale Currency and the Purchase Currency;
  - (b) the foreign exchange rate which we intend to apply;
  - (c) any Payment to be made in accordance with Clause 18;
  - (d) any Margin payable by you in accordance with Clause 19; and
  - (e) any additional terms which we intend to apply to the Trade.
- 17.1.3 Upon receipt of an Order, we will provide you with a Transaction Receipt and a Payment Instruction Confirmation, which we may provide in a single communication.
- 17.1.4 You must carefully review the Transaction Receipt and the Payment Instruction Confirmation and tell us before Payment if you think any of the details are incorrect. If you are placing an order by telephone or by email, you must tell us within one (1) hour of receipt of your Transaction Receipt and Payment Instruction Confirmation. We'll provide you with a revised Transaction Receipt and/or Payment Instruction Confirmation as soon as possible.
- 17.1.5 Except in the case of Limit Orders (see Clause 20 below), we will execute the Trade upon receipt of Payment.
- 17.1.6 You may not cancel a Trade which you have placed with us. However, if we haven't yet processed the Trade:
- (a) you can correct any incorrect Beneficiary Account details (though we may charge a fee for this); or
  - (b) we may at our discretion permit you to cancel the Trade.
- 17.1.7 If we permit you to cancel an Order:

- (a) if we've already received the Payment Amount, we'll return it to the account from where it came. However, if the Sale and Purchase Currencies are different, we'll convert the Purchase Currency back to the Sale Currency using an agreed exchange rate at the time of cancellation, which means the amount we return to you may be more or less than the original Payment Amount;
- (b) we won't refund any fees you've paid us; and
- (c) we may require you to pay an additional fee that we agree with you at the time of permitting cancellation.

## 17.2 Trade Suspension or Cancellation

17.2.1 We may reject, suspend, disregard or cancel a Trade, or refuse to issue a Transaction Receipt in our sole discretion for any of the following reasons:

- (a) if (in our reasonable opinion) the Order is unclear;
- (b) if (in our reasonable opinion) the Order was not authorised by an Authorised Party;
- (c) you are Insolvent;
- (d) you breach any material representation or warranty or are otherwise in breach of this Agreement;
- (e) we may otherwise breach Applicable Law or face action from a regulator or other authority;
- (f) the Trade may be linked to activity that breaches Applicable Law;
- (g) you have failed to pay make Payment when due or are otherwise in breach of this Agreement or any other agreement you have with us;
- (h) you fail to provide us with sufficient information to allow us to fulfil the Trade; and
- (i) the Trade is outside our financial crime risk appetite.

17.2.2 We'll notify you of the reason for declining, cancelling or delaying a Trade (if the law allows us to) and also, if possible, our reasons for doing so and how you can put right any factual errors that led to our action.

17.2.3 If we cancel a Trade after receiving the Payment, we'll return the relevant amount and any related fees we've received (less our reasonable costs) to the account from which it was sent.

## 18. PAYMENT

18.1 You must pay the full Payment Amount to us from your E-Money Account on or before the Delivery Date. If we have not received the Payment Amount by the Delivery Date (or any agreed change to the Delivery Date agreed pursuant to Clause 19.7), we may:

- 18.1.1 refuse to fulfil the Trade; and/or

18.1.2 Close Out the Trade in accordance with Clause 21.

Failure to make Payment in accordance with this Clause 18 will be a material breach of this Agreement.

18.2 Without prejudice to any other rights and remedies available to us under Applicable Laws, we may charge interest on any sum due to us under this Agreement after they become due and payable, of 4% per annum above the base rate of the Bank of England. This interest will accrue daily from the due date until we receive payment of the overdue amount in full in cleared funds.

## **19. FORWARD CONTRACTS**

19.1 Where you wish to enter into a Forward Contract, we may require you to make an initial Margin payment within twenty-four (24) hours of you receiving the Transaction Receipt.

19.2 From time to time during the term of the Forward Contract, we may require you to pay to us additional Margin (by making a Margin Call) to maintain the relative value of the Purchase Currency.

19.3 In the event of a Margin Call, you must pay such additional Margin to our Nominated Account within twenty-four (24) hours of our demand from your E-Money Account and/or by some other means.

19.4 If you do not satisfy the Margin Call, we may cancel the Forward Contract with immediate effect or Close Out.

19.5 Any Margin paid by you or on your behalf will be paid to us for the purpose of securing or covering all your present or future, actual or contingent, or prospective, obligations to us under this Agreement or otherwise. We will acquire full ownership of such Margin and we will shall not hold any Margin on your behalf (whether on trust or otherwise) and we can deal with it as our own. In the event of our insolvency, you will rank as a general creditor of ours in relation to such Margin paid to us.

19.6 We will owe you a debt equal to the amount of Margin received by us, subject to any set-off rights under, or other terms of, this Agreement, or under general law. We shall pay to you all or part of any amount of Margin owed to us by you (e.g. upon fulfilment of a Trade) under this clause to the extent that we consider, in our discretion, that the amount of Margin you have transferred to us exceeds the amount required by us to secure or cover all your present or future, actual or contingent, or prospective obligations to us under this Agreement or otherwise.

19.7 You may ask us to bring forward (pre-deliver) the Delivery Date or to extend (roll over) the Delivery Date in relation to the whole or only part of your Forward Contract. We may agree to such a request entirely at our discretion. If we agree, you acknowledge that we may adjust the Payment Amount to reflect new Delivery Date.

## **20. LIMIT ORDERS**

20.1 We will execute a Limit Order when we achieve the rate nominated by you within the agreed time period.

20.2 If the last day of the agreed time period falls on a non-Business Day, your Limit Order will expire on the following Business Day.

20.3 You may cancel a Limit Order at any time (by telephone or by email), up until the agreed exchange rate is achieved by us.

20.4 Upon successful execution of a Limit Order, we will provide you with a Transaction Receipt setting out the details of the Trade.

20.5 Whilst we will try to achieve the agreed exchange rate within the agreed period, we cannot guarantee that the agreed exchange rate will be met.

## **21. CLOSE OUT**

21.1 We may Close Out a particular Trade or all current Trades that you have with us, without notice to you:

21.1.1 if you fail to make any Payment when it is due, including payment of Margin;

21.1.2 if you fail to provide any information we have requested or any warranty/representation you have given us is or becomes, in our opinion, materially inaccurate, incorrect or misleading;

21.1.3 in the event of your death or loss of mental capacity;

21.1.4 in the event that you are Insolvent;

21.1.5 if you take some action (or refrain from doing something) which places us in breach of our legal or regulatory obligations;

21.1.6 if the performance of our obligations under this Agreement become illegal;

21.1.7 if you breach this Agreement;

21.1.8 if you terminate this Agreement in accordance with Clause 9; or

21.1.9 the Trade is outside our financial crime risk appetite.

21.2 You may ask us to Close Out a particular Trade or current Trades by giving us notice in writing. If we permit you to Close Out:

21.2.1 we will buy back the currency that we have bought for you when you entered into the Trades at prevailing market rates. If the value of the Purchase Currency has strengthened, this means that a loss will be incurred on the Trade and you will be liable to us for the amount of that loss (as well as any costs incurred by us);

21.2.2 we will not pay you any profit arising the Close Out;

21.2.3 you acknowledge that the amount of any loss realised on the Closing Out of a Trade is a debt payable by you and agree that we may immediately deduct the total amount of any loss (together with any costs) from your E-Money Account;

21.2.4 if the amount we are seeking to recover exceeds the amount of any Margin or funds available in your E-Money Account, you must pay the balance within seven (7) days of being notified by us of the total amount due;

21.2.5 we may charge you interest on any sum that remains payable to us after we Close Out at a rate of 4% per annum over the Bank of England base rate. Interest will accrue and will be calculated daily and be compounded monthly from the date payment was due until the date full payment is made by you; and

- 21.2.6 we will send you a written statement explaining the amount of any sums that may be payable to us and the amount of any sums being withheld by us.

**Part D: GENERAL**

**22. OTHER IMPORTANT TERMS**

- 22.1 Ebury Partners UK Limited is a company incorporated in England & Wales (Company No. 07088713), whose registered office is at 100 Victoria Street, London, SW1E 5JL, which is authorised as an electronic money institution by the Financial Conduct Authority under the Electronic Money Regulations 2011 (FRN: 900797).
- 22.2 No express term of this Agreement (nor any term implied under it) is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise by any person who is not a party to it.
- 22.3 We may agree to communicate with you in one or more languages depending on the location of the Ebury Representative which provides Services to you. The primary business language used by Ebury is English, and so if we have not expressly agreed otherwise, communications from you to us (in particular legal notices, correspondence and documentation) should be in the English language.
- 22.4 We may listen in to or record phone calls with you (or any of your Authorised Parties) to:
- 22.4.1 check we are carrying out your instructions correctly and that we are meeting our regulatory obligations;
- 22.4.2 help detect or prevent fraud or other crimes; and
- 22.4.3 improve our Services.
- 22.5 If any part of this Agreement is disallowed or found to be ineffective by a court or regulator, the rest of it shall continue to apply.
- 22.6 We may choose not to enforce our rights against you and make this contractually binding against us by giving you a notice which expressly states that we have chosen to do so under this term of the Agreement. In all other cases, if we choose not to exercise rights against you, we can still do so later.
- 22.7 We may:
- 22.7.1 assign any or all of our rights under this Agreement to any third parties; and
- 22.7.2 transfer (by novation or otherwise) all or any of our obligations under this Agreement to any person (a **Transferee**) provided that no transfer or our obligations will be effective until the Transferee has confirmed to you in writing that it is bound by the terms of this Agreement.
- 22.8 In the event of our insolvency, a third party back-up servicer shall be appointed such and – to the extent permissible under Applicable Laws – shall be entitled to administer any pending Transfers, Trades (including by effecting Close Outs) and handle any Payments paid or payable.
- 22.9 You may not transfer any of your rights or obligations under this Agreement.

- 22.10 The laws of the country which you are resident in will decide any legal questions about these Terms, and about our dealings with you with a view to entering into this Agreement, e.g. if you live in England, the laws of England will apply.
- 22.11 The courts of the country in which you are resident can deal with any legal questions connected with this Agreement.