

## Relationship Agreement – Corporate Customers

### PART A: BACKGROUND

#### 1. OUR RELATIONSHIP WITH YOU

- 1.1 The Ebury Relationship Agreement (the “**Agreement**”) constitutes a "Client Agreement" for the purposes of the FSRA Rules and comprises terms and conditions governing the relationship between the person (acting in the course of business or a profession which it carries on) 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. Such products and services allow you to:

- 1.1.1 load funds onto an 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**”; and
- 1.1.4 we may provide assistance and make arrangements for you to borrow money (“**Arranging 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, you can contact us (using the details at Clause 12.1). 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 These Terms are divided into four separate parts:

- 1.5.1 **Part A** sets out the terms and conditions governing our relationship with you;
- 1.5.2 **Part B** sets out the specific terms governing your Account with us (and any Orders you may place using that Account);
- 1.5.3 **Part C** sets out the specific terms governing the FX Services which we provide, including Spot Contracts and Forward Contracts; and
- 1.5.4 **Part D** sets out some general information and other important 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 **"ADGM"** means the Abu Dhabi Global Market, the financial free zone located in the UAE Emirate of Abu Dhabi.
- 2.1.2 **"Affiliate"** means, in relation to a Party, every company that is (a) at the relevant time Controlled by, Controls or is under common Control with such Party; and (b) listed in the Application Form.
- 2.1.3 **"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 FSMR; (ii) the FSRA Rules; (iii) UAE Federal Decree-Law No. (20) of 2018 on Combating the Crimes of Money Laundering, Terrorist Financing and the Financing of Illegal Organisations; (iv) UAE Cabinet Resolution No. (10) of 2019 on Combating the Crimes of Money Laundering, Terrorist Financing and the Financing of Illegal Organisations; (v) the laws of the ADGM; and (vi) the UAE laws which apply in the ADGM including but not limited to the UAE criminal laws.
- 2.1.4 **"Application Form"** means Part 1 of the Application Form, any supplemental terms and any other information submitted by you therein.
- 2.1.5 **"Arranging Services"** means carrying out the regulated activity of "Arranging Credit", as defined under the FSRA Rules, for you or on your behalf, as set out at sub-Clause 1.1.4.
- 2.1.6 **"Authorised Party"** means any natural person listed by a director, partner or other principal as an "Authorised Party" in Part 1 of the Application Form.
- 2.1.7 **"Beneficiary"** means you or any third party payee which you include in your Order.
- 2.1.8 **"Beneficiary Account"** means the bank account to which you are sending funds.
- 2.1.9 **"Business Day"** means Monday - Friday inclusive, excluding any public holidays or days when private institutions remain closed in accordance with an order of the government of the Emirate of Dubai, of the federal government of the UAE, or of the relevant ADGM authority.
- 2.1.10 **"Close Out"** means reversing a Trade in the circumstances set out in Clause 22 or otherwise pursuant to this Agreement.
- 2.1.11 **"Confidential Information"** means all business information disclosed by you in connection with this Agreement unless it is, or later becomes, publicly available through no fault of ours, or it was or later is rightfully developed or obtained from independent sources free from any duty of confidentiality.
- 2.1.12 **"Control"** means the possession, direct or indirect, of the power to vote fifty (50%) or more of the securities that have ordinary voting power for the election of directors

of any entity or the power to direct the management and policies of a Party, directly or indirectly, whether through the ownership of securities, by contract or otherwise.

- 2.1.13 **“Credit Bureau”** means the relevant body, in the UAE or elsewhere, including but not limited to Al Etihad Credit Bureau PJSC, which aggregates and analyses a person's credit information to calculate credit scores and produce credit reports, or any other similar institution.
- 2.1.14 **“Delivery Date”** means the Business Day on which we will send funds to the Beneficiary Account.
- 2.1.15 **“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.
- 2.1.16 **“Ebury Representative”** means any of our representatives who you may contact with respect to the Services.
- 2.1.17 **“Effective Date”** means as set out at Clause 4.1.
- 2.1.18 **“Force Majeure Event”** means an event which is beyond the reasonable control of a party which may include an act or omission of government, any regulatory body or other competent authority, terrorist activities, or any interruption, failure or defect, or non-operation of our internet and telephone connections or other communication services.
- 2.1.19 **“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 make the exchanged money available at an agreed time for commercial and business purposes, which shall be to facilitate payment for identifiable goods, services or direct investment.
- 2.1.20 **“FSMR”** means the ADGM Financial Services and Markets Regulations 2015.
- 2.1.21 **“FSPN”** means Financial Services Permission Number.
- 2.1.22 **“FSRA”** means the Financial Services Regulatory Authority, the financial services regulator in the ADGM.
- 2.1.23 **“FSRA Rules”** means the rules made by the FSRA for carrying out the purposes of the FSMR.
- 2.1.24 **“Insolvent”** means if you are a company, partnership, limited partnership or limited liability partnership, you (or any other person) takes (or threatens to take) any step in connection with:
- (a) any suspension or re-scheduling of payments by you, a moratorium of any of your indebtedness or your dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
  - (b) the making of any composition, compromise, assignment or arrangement with any of your creditors;

- (c) the appointment of an administrator in respect of you (including, for the avoidance of doubt, the filing of a notice of intention to appoint an administrator, or an application being made to court for the appointment of an administrator in respect of you);
  - (d) the appointment of a liquidator in respect of you (including the presentation of a winding up petition, the convening of a meeting of members or creditors for this purpose, or any resolution being passed to appoint a liquidator in respect of you);
  - (e) the appointment of a receiver or any similar officer in respect of you or any of your assets;
  - (f) any analogous procedure in any jurisdiction;
  - (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) or the value of your assets is less than your liabilities (taking into account contingent and prospective liabilities); or
  - (h) you cease or threaten to cease to carry on business.
- 2.1.25 **"Limit Order"** means an order to exchange money at a specified exchange rate and within a specified time period.
- 2.1.26 **"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.
- 2.1.27 **"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.
- 2.1.28 **"Nominated Account"** means the Ebury bank account which we specify in the Payment Confirmation.
- 2.1.29 **"Online System"** means the electronic platform and interface (hosted by us) through which you can access most (but not all) of the Services.
- 2.1.30 **"Order"** means such information as you may supply to us in respect of (a) a Transfer; or (b) a Trade.
- 2.1.31 **"Payment"** means cleared funds received by us from you in respect of a Trade in accordance with Clause 19.
- 2.1.32 **"Payment Amount"** means the full amount which you are required to pay us to fulfil your Trade as specified in your Payment Instruction Confirmation.
- 2.1.33 **"Payment Instruction Confirmation"** means the email we shall send you for the purpose of confirming the Payment Amount and the Beneficiary Account.
- 2.1.34 **"Professional Client"** means a person which satisfies the criteria to be classified as a "Professional Client" as defined under the FSRA Rules.

- 2.1.35 **“Purchase Currency”** means the currency which you shall buy from us.
- 2.1.36 **“Sell Currency”** means the currency which we shall sell to you.
- 2.1.37 **“Services”** means those currency exchange and related services as set out at Clause 1.1.
- 2.1.38 **“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.
- 2.1.39 **“Trade”** means a Spot Contract, Forward Contract entered into in accordance with Clause 4.
- 2.1.40 **“Transfer”** means a transfer of funds to a Beneficiary nominated by you.
- 2.1.41 **“Transaction Receipt”** means a confirmation sent by us (by email) setting out details of a Trade.
- 2.1.42 **“UAE”** means the United Arab Emirates.
- 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.
- 2.3 In these Terms:
  - 2.3.1 when we refer to a person, this could mean any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity;
  - 2.3.2 when we refer to a statute or statutory provision, this includes any subordinate legislation made under it and any modifications, amendments, extensions, consolidations, re-enactments and/or replacements of that statute, statutory provision and/or subordinate legislation which are in force from time to time;
  - 2.3.3 any references that we make to the singular include the plural and vice versa;
  - 2.3.4 any references that we make to any gender include every gender;
  - 2.3.5 any references to a time of day are to UAE time;
  - 2.3.6 any words following the words include, includes, including, in particular or any similar words or expressions are for illustration or emphasis only and are not intended to limit the meaning of the words preceding them; and
  - 2.3.7 any references to a “party” or to the “parties” means you and/or us as the context requires.
- 3. **HOW TO ACCESS OUR SERVICES**
  - 3.1 To use our Services, you must register to create an 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 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 Account);
  - 3.2.2 if you have any indication or suspicion of your log-in details, password or other security features relating to your 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 10.
  - 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, registered address, directors, Authorised Parties, shareholders or beneficial owners;
    - 4.3.2 a change of your status as a Professional Client;
    - 4.3.3 a material change to your business activities or operations; or
    - 4.3.4 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 (and your Authorised Parties) have and will maintain all required rights, powers, authority, permits, licences, consents, permissions and authorisations to enter into this Agreement and to perform your obligations hereunder;
  - 5.1.3 you will not use our Services for any speculative trading; and
  - 5.1.4 all of the information provided to us (including in the Application Form) from time to time, is true, accurate and complete.
- 5.2 When entering into this Agreement on behalf of any Affiliate, you represent and warrant to us that you have the right, power and authority, as required under Applicable Laws, to enter into, and to perform, all the obligations under this Agreement for and on behalf of each Affiliate.

## **6. LIABILITY**

- 6.1 Without prejudice to our obligations under this Agreement, we do not warrant that the Services and the Arranging Services will meet any particular requirements or that their operation will be entirely error-free or that all defects are capable of correction or improvement. In the absence of fraud, no oral or written information or advice given by us shall create a warranty or give rise to any other liability other than as expressly set out in this Agreement.
- 6.2 Neither party nor its affiliates, agents or subcontractors shall be liable to the other party or any third party for the following loss or damage, whether arising in tort (including negligence), contract, breach of statutory duty or otherwise, and even if foreseeable by the other party: any indirect, special, consequential or incidental loss of profits, business, contracts, goodwill, reputation, opportunity, revenue production, or anticipated savings howsoever caused, arising out of, or in connection with, any supply, failure to supply or delay in supplying any of the Services or otherwise in connection with this Agreement (including fundamental breach or breach of a fundamental term) or any other theory of law.
- 6.3 We shall not be liable to you for any losses you incur:
- 6.3.1 if we are prevented by Applicable Law from fulfilling any of our obligations under this Agreement;
  - 6.3.2 arising out of or in connection with a Force Majeure Event;
  - 6.3.3 arising out of or in connection with any Transfer or Trade where we have acted on your direct instructions; or
  - 6.3.4 arising out of the Arranging Services we provide you.
- 6.4 Our entire liability to you:

- 6.4.1 arising from any failure by us to process a Transfer or Trade in accordance with this Agreement, is limited to the cost of reprocessing such Transfer or Trade less the applicable fees payable to us; and
  - 6.4.2 whether for negligence, breach of contract, misrepresentation or otherwise arising out of or in connection with this Agreement, in aggregate for any consecutive 12 (twelve) month period shall be USD 15,000.
- 6.5 Except as expressly set out in this Agreement, all conditions, warranties and representations, expressed or implied by (i) statute; (ii) common law; or (iii) otherwise, in relation to the Services and the Arranging Services, including without limitation, any warranty of fitness for a particular purpose, merchantability and non-infringement, are hereby expressly disclaimed except to the extent that they cannot be disclaimed under Applicable Laws.
- 6.6 Nothing in this Agreement shall operate to exclude or restrict either party's liability for:
  - 6.6.1 death or personal injury resulting from negligence;
  - 6.6.2 fraud, fraudulent misrepresentation or deceit; or
  - 6.6.3 such other matters for which (and to the extent to which) liability cannot be restricted or excluded under Applicable Laws.
- 6.7 If you are a partnership, each partner shall be jointly and severally liable under this Agreement.
- 7. INDEMNITIES**
- 7.1 You shall indemnify and keep us and our Affiliates (and the directors, officers, employees, agents and subcontractors of any and/or all of them) (together the "**Indemnified Parties**") fully indemnified, on demand and at all times, from and against any and all Losses for which it is permitted under Applicable Laws for the Indemnified Parties to be indemnified and which are attributable to any act, omission, default, delay, negligence or breach of statutory duty by you or on your part, and which the Indemnified Parties suffer or incur arising out of or in connection with:
  - 7.1.1 any material breach by you of this Agreement;
  - 7.1.2 any breach of, or non-compliance by you with Applicable Laws; or
  - 7.1.3 any claim made against any of the Indemnified Parties by a third party (including but not limited to a Beneficiary) arising out of or in connection with us acting on your direct instructions.
- 7.2 The provisions of Clause 7.1 shall be for the benefit of the Indemnified Parties and, without prejudice to Clause 23.2, shall also be enforceable by us on behalf of ourselves and on behalf of the Indemnified Parties. You waive any right you may have of first requiring us (or any other Indemnified Party) to proceed against or enforce any other rights or security or claim payment from any person before claiming from you under this Clause 7. This waiver applies irrespective of any Applicable Laws or any provision of this Agreement to the contrary. Further, you expressly confirm that you intend that this indemnity shall extend from time to time to any (however fundamental) variation, increase, extension or addition to this Agreement.



7.3 For the avoidance of doubt, if a claim is brought against the Indemnified Parties by a Beneficiary or any other third party, we shall be entitled to settle or otherwise deal with it at our sole discretion. Further, if any discharge, release or arrangement (whether in respect of your obligations or any security for those obligations or otherwise) is made by us in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then your liability under this Clause 7 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

7.4 Unless expressly stated otherwise, no indemnity obligation under this Agreement shall be subject to the limitations of liability contained in Clause 6.4. Further, this indemnity is in addition to and is not in any way prejudiced by any other indemnity, guarantee or other security now or subsequently held by us.

## **8. SET-OFF RIGHTS**

8.1 We may at any time without notice, set-off any claims, costs, charges, penalties, expenses or other liabilities which you owe to us against any liability we have towards you, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set-off are expressed in different currencies, we may convert either liability at a market rate of exchange it can reasonably obtain for the purpose of the set-off.

8.2 We may also, at any time, without notice, set-off any liability you owe to us (whether such liability is present or future, liquidated or unliquidated, and whether or not such liability arises under this Agreement) against any amount then attributed to you and held in the Account.

8.3 All amounts due under this Agreement shall be paid by you to us in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by Applicable Laws).

8.4 Any exercise by us of our rights under this Clause 8 shall be without prejudice to, and shall not limit or affect, any other rights or remedies available us under this Agreement or otherwise.

8.5 In respect of overdue payments that are more than seven (7) days overdue, you shall pay interest on the overdue amount at the rate of 4% per annum 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, whether before or after judgment. You shall pay the interest together with the overdue amount. We may at any time require immediate payment of all or part of such shortfall, together with such interest as is then due.

8.6 We reserve the right, at any time, to take debt collection measures including mandating a debt collecting agency or other third parties to assist with the recovery of any amounts due and payable by you to us under this Agreement, and to recover from you any costs and expenses reasonably incurred in connection with any debt collection or enforcement action.

## **9. CHANGES TO THIS AGREEMENT**

9.1 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.

- 9.2 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:
- 9.2.1 because of a change in legal or regulatory requirements, for example we may have to change our requirements for keeping your Account safe to meet new, higher standards set by law;
  - 9.2.2 if the change benefits you, for example when introducing new products or services or improving existing ones;
  - 9.2.3 to reflect a change in our costs of running your Account or providing you with related services, for example by introducing a new fee;
  - 9.2.4 in response to possible risks to the security of your Account, for example by changing the security steps you need to follow to access your Account or submit an Order; or
  - 9.2.5 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 cross-border payments.
- 9.3 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.
- 9.4 We shall notify you of any change to this Agreement in writing (either by post or email). The proposed change shall come into effect automatically on the date stated in our notice, such date to be at least two (2) weeks after the date of receipt of our notice.
- 9.5 You can then tell us at [help@ebury.com](mailto:help@ebury.com) that you wish to end this Agreement (and close your Account) before the change takes effect; otherwise, you'll be treated as having accepted the change.

## **10. TERMINATION**

- 10.1 Either party may terminate this Agreement at any time without reason by giving at least five (5) Business Days' prior notice to the other.
- 10.2 We may terminate this Agreement immediately without notice (in whole or in part) if:
- 10.2.1 you are using our Services fraudulently or illegally;
  - 10.2.2 if we are required to do so by law or a regulator;
  - 10.2.3 in our view (acting reasonably), we must do so to fulfil our legal or regulatory obligations; or
  - 10.2.4 you breach this Agreement.

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

- 10.3 Otherwise, we may suspend or terminate this Agreement or the Services or the Arranging Services (in whole or in part) at any time with immediate effect by giving notice if:

- 10.3.1 you breach any material representation or warranty or are otherwise in material breach of this Agreement;
- 10.3.2 you breach or otherwise fails to comply with any Applicable Laws;
- 10.3.3 we have any material concerns over the adequacy of the information you have provided to us;
- 10.3.4 you are Insolvent (other than pursuant to a consolidation, amalgamation or merger, but provided that the company resulting therefrom agrees to be bound by or assume the obligations imposed on you under this Agreement);
- 10.3.5 an applicable regulatory or law enforcement authority initiates a regulatory or enforcement action, or investigation against you;
- 10.3.6 you cease, or threaten to cease, to carry on business;
- 10.3.7 we reasonably consider your conduct to be disreputable or capable of damaging our reputation by association;
- 10.3.8 there is any other change in your circumstances (including a deterioration in or change to your financial position) or in the nature of your business which we consider materially adverse to the continuance of the Services or the Arranging Services, or in your classification as a Professional Client;
- 10.3.9 a Force Majeure Event continues for more than three (3) successive calendar months; or
- 10.3.10 in our reasonable opinion, you are no longer suitable to receive the Services or the Arranging Services.

## **11. CONSEQUENCES OF TERMINATION**

- 11.1 On the expiry or termination of this Agreement for any reason you shall:
  - 11.1.1 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 8); and
  - 11.1.2 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.
- 11.2 Following termination of this Agreement, we will:
  - 11.2.1 Close Out any pending Trades; and
  - 11.2.2 deduct from the 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).
- 11.3 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.

## **12. CONTACTING US / COMPLAINTS**

- 12.1 If you wish to contact us regarding your Account or any of the Services and Arranging Services, you can do so (unless we say otherwise) through an Ebury Representative or otherwise by contacting [help@ebury.com](mailto:help@ebury.com).
- 12.2 If you are unhappy with any of our Services or Arranging Services, you can contact an Ebury Representative by using any of the following details:
- Email: [eburycompliance@ebury.com](mailto:eburycompliance@ebury.com)  
Telephone: +971 2 412 0666  
Post: Compliance Department  
Office 614, Al Khatem Tower  
Abu Dhabi Global Market Square  
Al Maryah Island,  
Abu Dhabi, UAE  
PO Box 764629
- 12.3 For further information on our Complaints Policy, please see [www.ebury.com/complaints-policy/](http://www.ebury.com/complaints-policy/).
- 12.4 If your complaint remains unresolved you may be able to submit your complaint to the FSRA

## **Part B: Your Account**

### **13. THE ACCOUNT**

- 13.1 Your Account is an electronic money account which enables you to send and receive electronic payments in accordance with the terms of this Clause 13.
- 13.2 Your Account is not a personal bank or deposit account and you will not earn any interest on the funds held in the Account.
- 13.3 As the provider of your Account, we are authorised by the FSRA (FSPN 190010) to "Provide Money Services".
- 13.4 The funds received by us from you are subject to the protection conferred by the FSRA's "Client Money Rules" as provided for under the FSRA Rules, and therefore will be held in one or more segregated bank accounts separately from our own funds, and in accordance with our Client Money Policy and Procedures, a copy of which is available to you upon your request. You acknowledge and understand that when and if we hold your funds in a jurisdiction outside the ADGM: a) the market practices, insolvency and legal regime applicable in that jurisdiction may differ from the regime applicable in the ADGM; and b) we may hold your funds in an account with an Affiliate. In the event of our insolvency, winding up or any "Pooling Event" as defined under the FSRA Rules and stipulated by the FSRA, these funds will be subject to the FSRA's "Client Money Distribution Rules" as provided for under the FSRA Rules.
- 13.5 Your Account(s) are denominated in the currencies as selected by you,

13.5.1

## **14. USING THE ACCOUNT**

- 14.1 We will credit any funds received from you to your Account.
- 14.2 Your Account can receive funds in one or more currencies nominated by you so that these funds can be used to:
- 14.2.1 make Transfers (alone or in combination with a Trade);
  - 14.2.2 make Payment in connection with one or more Trades; and
  - 14.2.3 pay Margin.
- 14.3 We will not allow you to make any Transfer or Payment Out of your Account where this would put your 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.
- 14.4 We may impose fees or charges for our Arranging Services and Services, and reserve the right to impose a fee (on a per transaction basis) at our discretion. We will always inform you in advance of any fee or charge which shall be imposed.
- 14.5 You can place an Order from your Account online, by telephone or by email:
- 14.5.1 **Online:** You must log on to the Online System (using your password and log-in details) and follow the instructions to submit your Order.
  - 14.5.2 **Telephone:** You must call an Ebury Representative and specify your Order, together with such other information as we may reasonably request.
  - 14.5.3 **Email:** You must email us and specify your Order.
- 14.6 Where you make a payment using your Account, the amount of the payment will be deducted by us from your Account balance. You must ensure that you have sufficient funds in your 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 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.
- 14.7 You can check the balance held in your Account by logging into the Online System. Key information relating to payments made using the Account, including all fees and any other charges applied to the Account and transaction history will be made available at any time, and in accordance with Applicable Laws, by logging into the Online System and may also be downloaded by you as a report which can be stored and reproduced in an unchanged manner.
- 14.8 Each transaction made using the 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.

- 14.9 Any redemption from the 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.

## **15. LIABILITY**

- 15.1 In the case of a Transfer that is improperly executed due to our mistake, we shall at your request immediately refund the Transfer amount to the Account. However, where you identify an error in a Transfer from the Account (or a payment received to the Account), you have up to seven (7) days from the date of becoming aware of the error to notify us of it, after which time we will have no obligation to investigate or act upon your notification or provide a refund.
- 15.2 In the case of an unauthorised payment from the Account, we shall at your request immediately refund the payment amount to the Account. We will not however be required to refund such a payment:
- 15.2.1 where the unauthorised payment arises from your failure to keep your Account log-in, password or other security details safe;
- 15.2.2 if you fail to notify us without undue delay of any loss or misuse of a log-in or password or another event that could reasonably be expected to have compromised the security of your Account after you have gained knowledge of such event in which case you shall remain liable for losses incurred after gaining such knowledge; or
- 15.2.3 if you fail to dispute and bring the unauthorised transaction to our attention within seven (7) days from the date of the transaction.

## **16. SUSPENSION**

- 16.1 We may suspend the Account or otherwise restrict its functionality on reasonable grounds relating to the security of the Account or any of its security features or if we reasonably suspect that an unauthorised or fraudulent use of the Account has occurred or that any of its security features have been compromised.
- 16.2 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.
- 16.3 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.

## **17. CLOSING THE ACCOUNT**

- 17.1 Following termination of this Agreement, you or we may close your Account once we have paid any remaining balance on the Account to your nominated bank Account.
- 17.2 After the 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**

## **18. PLACING TRADES**

### **18.1 How to Place and Confirm a Trade**

- 18.1.1 You can place an Order by using one of the methods at Clause 14.5 online, by telephone or by email.
- 18.1.2 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 19;
  - (d) any Margin payable by you in accordance with Clause 20; and
  - (e) any additional terms which we intend to apply to the Trade.
- 18.1.3 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.
- 18.1.4 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.
- 18.1.5 Except in the case of Limit Orders (see Clause 21 below), we will execute the Trade upon receipt of Payment.
- 18.1.6 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.
- 18.1.7 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.

## 18.2 Trade Suspension or Cancellation

18.2.1 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 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.

18.2.2 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.

18.2.3 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.

## 19. PAYMENT

19.1 You must pay the full Payment Amount to us from your 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 20.7), we may:

19.1.1 refuse to fulfil the Trade; and/or

19.1.2 Close Out the Transaction in accordance with Clause 22.

Failure to make Payment in accordance with this Clause 19 will be a material breach of this Agreement.



- 19.2 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.

## **20. FORWARD CONTRACTS**

- 20.1 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.
- 20.2 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.
- 20.3 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 Account and/or by some other means.
- 20.4 If you do not satisfy the Margin Call, we may cancel the Forward Contract with immediate effect or Close Out.
- 20.5 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.
- 20.6 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.
- 20.7 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.

## **21. LIMIT ORDERS**

- 21.1 We will execute a Limit Order when we achieve the rate nominated by you within the agreed time period.
- 21.2 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.
- 21.3 You may cancel a Limit Order at any time (by telephone or by email), up until the agreed exchange rate is achieved by us.
- 21.4 Upon successful execution of a Limit Order, we will provide you with a Transaction Receipt setting out the details of the Trade.

- 21.5 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.

## **22. CLOSE OUT**

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

- 22.1.1 if you fail to make any Payment when it is due, including payment of Margin;
- 22.1.2 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;
- 22.1.3 in the event that bankruptcy proceedings are commenced against you;
- 22.1.4 if you take some action (or refrain from doing something) which places us in breach of our legal or regulatory obligations;
- 22.1.5 if the performance of our obligations under this Agreement become illegal;
- 22.1.6 if you breach this Agreement;
- 22.1.7 if you terminate this Agreement in accordance with Clause 10; or
- 22.1.8 the Trade is outside our financial crime risk appetite.

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

- 22.2.1 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);
- 22.2.2 we will not pay you any profit arising from the Close Out;
- 22.2.3 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 Account;
- 22.2.4 if the amount we are seeking to recover exceeds the amount of any Margin or funds available in your Account, you must pay the balance within seven (7) days of being notified by us of the total amount due;
- 22.2.5 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
- 22.2.6 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

### 23. OTHER IMPORTANT TERMS

- 23.1 Ebury Partners UK Limited is a branch of a foreign company registered in the ADGM (Commercial License Registered Number 000002365), whose registered office is at Office 614, Al Khatem Tower, Al Maryah Island, Abu Dhabi Global Market, UAE, which is authorised under its FSRA license to "Provide Money Services" and "Arrange Credit" (FSPN: 190010).
- 23.2 No express term of this Agreement (nor any term implied under it) is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 as it applies in the ADGM under the ADGM Application of English Law Regulations 2015, or otherwise by any person who is not a party to it.
- 23.3 We may agree to communicate with you in one or more languages depending on the location of the Ebury Representative which provides Services or Arranging 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.
- 23.4 We may listen in to or record phone calls with you (or any of your Authorised Parties) to:
- 23.4.1 check we are carrying out your instructions correctly and that we are meeting our regulatory obligations;
  - 23.4.2 help detect or prevent fraud or other crimes; and
  - 23.4.3 improve our Services and Arranging Services.
- 23.5 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.
- 23.6 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.
- 23.7 We may:
- 23.7.1 assign any or all of our rights under this Agreement to any third parties; and
  - 23.7.2 transfer (by novation or otherwise) all or any of our obligations under this Agreement to any person (a **Transferee**) provided that no transfer of our obligations will be effective until the Transferee has confirmed to you in writing that it is bound by the terms of this Agreement.
- 23.8 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.
- 23.9 You may not transfer any of your rights or obligations under this Agreement.

- 23.10 The laws of the ADGM will decide any legal questions about this Agreement, and our dealings with you leading up to when you entered into this Agreement, and the courts of the ADGM will also be able to deal with any legal questions connected with this Agreement.

## **24. CLIENT CLASSIFICATION**

- 24.1 The FSRA Rules require us to classify our clients as a Retail Client, Professional Client or a Market Counterparty, as each of these terms are defined under the FSRA Rules, and to notify clients of their categorisation. This ensures that when carrying out relevant business with such clients, we can provide the level of information, services and protection that is appropriate to and consistent with that client's classification.
- 24.2 Accordingly, the purpose of this Agreement is also to inform you of your client classification.
- 24.3 We have classified you as a Professional Client in relation to all of the Services or Arranging Services that we may provide you.
- 24.4 You agree that you are responsible for keeping us informed about any change that could affect your categorisation as a Professional Client
- 24.5 As a Professional Client, you acknowledge and agree that, when dealing with us, you will not be afforded the retail customer protections and compensation rights that may generally be available to a Retail Client in the ADGM or other jurisdictions.
- 24.6 You have a right under FSRA Rules to elect to be classified as a Retail Client. If you wish to exercise your right to elect to be classified as a Retail Client, you must notify us in writing before this Agreement comes into force under Clause 4. However, note that we do not carry out business with or for Retail Clients in the sense specified in the FSRA Rules. If you request classification as a Retail Client, or if you no longer meet the relevant requirements for categorisation as a Professional Client, we will not, or no longer be able to provide you with, the Services or the Arranging Services. Accordingly, upon receipt by us of any such request, or if you no longer meet the relevant requirements for categorisation as a Professional Client, this Agreement will be terminated under Clause 10.

## **25. CONFIDENTIALITY**

- 25.1 We will hold in strict confidence your Confidential Information (whether obtained in the course of providing the Services or the Arranging Services or otherwise), and we will take all steps reasonably necessary to preserve its confidentiality. Confidential Information shall not be used or disclosed for any purpose except:
- 25.1.1 with your consent;
- 25.1.2 to our insurers where disclosure is necessary either to comply with the relevant insurance policy or to preserve rights thereunder;
- 25.1.3 to any of our Affiliates, and each of their respective officers, directors, employees, agents and any professional advisers with whom we may consult at any time in connection with this Agreement and other third parties (so appointed by you or retained by us) to the extent relevant and necessary for the provision of the Services and the Arranging Services; or

- 25.1.4 where we are permitted or required to do so under Applicable Laws or where we are required by a regulatory or judicial body to do so. Where disclosure is permitted or required in accordance with this Sub-Clause 25.1.4, we will endeavour to give you not less than two (2) Business Days' notice of the same (provided such notice is permitted).

## 26. DATA PROTECTION

- 26.1 We are required to comply with the provisions of the ADGM Data Protection Regulations 2015 (the "**Data Protection Regulations**") when "processing" any "Personal Data" and "Sensitive Personal Data" about you (each of which has the meaning given to it in the Data Protection Regulations). In order to carry out the Services and Arranging Services, and for related purposes such as our compliance with the Applicable Laws, the marketing of products (managed and offered by us, and/or by our Affiliates) and other related tasks, you consent to us being permitted to collect (either from you or from other sources), process, use, store, transfer and disclose Personal Data and Sensitive Personal Data (including medical or financial data) (collectively referred to as "**Protected Data**") about you, your beneficial owners, employees, directors and any other relevant data subjects that would be within the remit of this Clause (the "**Data Subjects**").
- 26.2 You agree that, where necessary, you have obtained the consent of all relevant Data Subjects for the collection, processing, use, storage, transfer and disclosure of any information relating to them, including Protected Data, in the manner described in Clause 25.1 and you further agree that we are not responsible or accountable for the consequences of any occasion where such consent has not been obtained.
- 26.3 We may from time to time use the contact details you and any of your representatives have provided to us to send invitations, marketing materials or other publications ("**Marketing Communications**") to you that we feel may be of interest to you. Should you not wish to receive Marketing Communications, please notify us.
- 26.4 In connection with any of the purposes described above, and any other legitimate processing of Protected Data, we may process Protected Data for the purposes of our relationship with you, any outsourcing agreement we may have, adherence to both our internal policy and external legal and regulatory obligations, compliance with our anti-money laundering requirements, compliance with applicable legal or regulatory requirements including with present or future contractual or other commitments with local or foreign regulatory or law enforcement authorities, whether that information concerns you and the relevant Data Subjects collectively, and whether obtained from you or from third parties, including credit reference and fraud prevention agencies.
- 26.5 You agree and expressly consent to the following:
- 26.5.1 that Protected Data may be shared with us and any of our Affiliates, and our professional advisors inside and outside the ADGM;
- 26.5.2 that we may:
- (a) request and obtain your credit information, such as but not limited to your credit score or credit report, from the relevant Credit Bureau, keep copies of this information, and transfer this information to our Affiliates for the purposes of providing the Services or the Arranging Services to you; and

- (b) disclose the Protected Data of any Data Subjects to the relevant Credit Bureau for the purposes of making the request in sub-Clause 26.5.2 (a) above;

26.5.3 that we may also transfer Protected Data to third parties located anywhere in the world, for example and without limitation, for outsourcing purposes, to facilitate the execution of your requests, to provide any services to you, for anti-money laundering and know your customer requirements, to manage your relationship with us or otherwise in accordance with our privacy and data protection policies and procedures (which are available on request). This is provided that we are satisfied that the Data Protection Regulations expressly permit the transfer, or that:

- (a) an adequate level of protection for the Protected Data is ensured by laws and regulations in the recipient jurisdiction; or
- (b) adequate safeguards have been put in place by us to ensure the security of the Protected Data.

26.6 In agreeing to the foregoing, you acknowledge that data protection laws may be weaker outside the ADGM than inside it. We will transmit Protected Data as described in this notice by means of mail, facsimile, phone, electronic means or otherwise. Electronic means includes email and the use of our own and third party networks.