

EXCEL CURRENCIES - TERMS & CONDITIONS OF BUSINESS

1 PARTIES

1.1 Excel Currencies Limited referred to hereinafter as ("ECL") 22 Copperfield Centre, Spital Street, Dartford, Kent DA1 2DE; and:

1.2. Please enter full name/s: **The name shown on the attached application will be referred to hereinafter as the client.**

2 DEFINITIONS

2.1 "Trading Account" means a bank account trading under the name of ECL in which ECL will hold Clients' monies on trust for the Client until such time as such monies are transferred out by ECL pursuant to the FOREX Contract. Any changes made to the said account will be communicated to Clients from time to time.

"Client" means the party defined at 1.2 above, including any agents, employees, servants or associates of the Client, whether an individual, sole trader, partnership or company and where the Client is an incorporated company, shall without limitation include the Client's subsidiaries and holding company (as per section 736 of the Companies Act 1985) and persons connected with the Client within the meaning of Section 839 of the Income and Corporation Taxes Act 1988

"Currency" means foreign exchange currency purchased in accordance with the terms of the FOREX Contract;

"Currency Value" means the total funds required by ECL from the Client to effect the payment transaction required under a FOREX Contract

"Delivery Date" means the date on which the Currency is cleared for transfer to the Client or another nominated party under the FOREX Contract and/or as set out in the Deal Confirmation Document hereinafter referred to as ("DCD");

"FOREX Contract" means a contract between ECL and the Client subject to the Terms and Conditions herein pursuant to which ECL agrees to buy and/or sell Currency and transfer the same to the Client and the Client agrees to buy and/or sell Currency and take delivery of Currency on the Delivery Date including, without limitation, Stop Orders, Limit Orders, Forward Contracts, Forward Time Option Contracts or any variation or combination thereof;

"Terms and Conditions" means the terms and conditions of this Agreement herein.

3 TERMS

3.1 ECL agrees to buy and/or sell Currency to/from the Client on these Terms and Conditions.

3.2 No change to these Terms and Conditions shall be binding unless expressly agreed by ECL in writing, save where permitted under clause 3.3 or where required under clause 5.7 herein.

3.3 The Terms and Conditions may be varied by ECL from time to time by giving written notice of such change to the Client or by written agreement by ECL and the Client, but not otherwise.

3.4 These Terms and Conditions shall supersede any other terms previously communicated by ECL to the Client.

3.5 Prior to opening an account on behalf of a client, ECL must have received the following documentation:

3.5.1 a signed copy of these Terms and Conditions;

3.5.2 two forms of identification (e.g. a valid passport, driving licence or utility bill).

3.6 On receipt of the documentation detailed at 3.5 above, ECL will issue a client reference number to the Client, which must be quoted in all orders placed by the Client.

4 PAYMENT OBLIGATIONS

4.1 The Client shall pay into the Trading Account the Currency Value by the date agreed under the FOREX Contract.

4.2 The Client will, on request by ECL, pay into the Trading Account any margin on account of the Currency Value that ECL require to carry out its obligations under the FOREX Contract. Any margin paid under a FOREX Contract may be forfeited by the Client if the FOREX Contract is terminated due to any omission or fault by the Client.

4.3 ECL shall not be obliged to complete any transaction under the FOREX Contract until it has received cleared funds into the Trading Account in the sum of the Currency Value.

4.4 All payments due from the Client to ECL under an FOREX Contract shall be made in full without any set-off, counterclaim; deduction or withholding of funds whatsoever.

4.5 Time is of the essence in relation to any payments due to ECL by the Client under a FOREX Contract

4.6 ECL may deduct from any payment to be made to the Client under the FOREX Contract such amounts it is required to deduct by law, including taxation or any other sums such as bank charges that may be incurred by ECL in fulfilling its obligations under the FOREX Contract.

4.7 If the Client fails to make full any payment of the Currency Value as and when such payment becomes due and payable under an FOREX Contract, ECL shall be entitled to charge interest daily on the amount outstanding from the Delivery Date at a rate of 4% per annum above the base rate of the Bank of England as adjusted from time to time.

4.8 ECL can accept no responsibility whatsoever for any delay in payment under an FOREX Contract by the Client or any other third party, including delays caused by Banks or postal services or by any other unforeseen circumstances. The Client accepts that it is solely responsible for ensuring that all payments required under an FOREX Contract are made promptly and within the time limits specified in the FOREX Contract.

4.9 In the event that a Client's cheque or other form of payment is dishonoured, stopped or otherwise fails for any reason, ECL shall levy an administration charge in respect of each such cheque or other payment made. The administration charge will be added to the total amount of the Currency Value due under the FOREX Contract.

5 FOREX CONTRACT

5.1 The Client's oral or written order to ECL for Currency shall constitute an offer to enter into an FOREX Contract with ECL.

5.2 On acceptance of the Client's offer by ECL, the Client will be deemed to have entered into a binding FOREX Contract incorporating these Terms and Conditions.

5.3 The Client undertakes to accept transfer or delivery, or procure that a nominated third party will accept transfer or delivery, of the Currency.

5.4 ECL may at its discretion set out details of the Currency to be bought or sold in writing in a DCD ("DCD") issued to the Client by ECL. Any failure by ECL to issue a DCD to the Client will not prejudice the rights and obligations of either party under the FOREX Contract.

5.5 Any error or omission identified by the Client in any DCD issued must be communicated to ECL within 48 hours of receipt of the DCD by the Client. Thereafter the Client will not be entitled to dispute the terms of the FOREX Contract as set out in the DCD.

5.6 ECL shall effect all FOREX Contract transactions solely for the purpose of the sale and/or purchase and delivery of Currency to the Client. ECL makes no representations or warranties as to the commercial or other merits of the FOREX Contract. The Client shall enter into an FOREX Contract solely in reliance on its own judgement and shall place no reliance on any representation, opinion, advice or any other statement expressed by ECL relating to any aspect of the FOREX Contract including any investment or financial advice.

5.7 If there is a conflict between these Terms and the terms and conditions of a FOREX Contract, the terms and conditions of the FOREX Contract prevail unless otherwise agreed.

6 CLIENT'S OBLIGATIONS AND REPRESENTATIONS

6.1 The Client hereby acknowledges that both at the date hereof and at any time it acquires Currency from ECL:

6.1.1 the Client is acting in principal on its own account and has full power and authority and is lawfully entitled to enter into and comply with the terms and conditions of an FOREX Contract;

6.1.2 all sums held in the Trading Account of ECL for the Client (until those monies become due to ECL) shall be held in trust for the Client and the Client shall not create any charge or other encumbrance over or in respect of such monies;

6.1.3 all information supplied to ECL is true and accurate in all material respects and the Client will not omit or withhold any information which would render it false or inaccurate in any material respect;

6.1.4 the Client will provide to ECL upon request such information regarding its financial and business affairs and identity in relation to any obligations governing regulated investment business under the United Kingdom Money Laundering Regulations Act 1993.

7 DISPUTES

7.1 If a dispute shall arise at any time between ECL and the Client relating to the terms and conditions of an FOREX Contract or the Terms and Conditions herein (a "Disputed FOREX Contract"), ECL may at any time, in its absolute discretion and without prior notification to the Client close-out the Disputed FOREX Contract or take whatever other action ECL deems appropriate in relation to its obligations thereunder. ECL will notify the Client as soon as possible thereafter of any action it has taken but any failure by ECL to give such notice will not prejudice the validity of such action.

- 7.2 Each party's liability in respect of any loss or damage occasioned as a result of a Disputed FOREX Contract shall not exceed the actual amounts due under the Disputed FOREX Contract together with interest accrued at the rate of 4% above the Bank of England base rate as adjusted from time to time.
- 7.3 ECL reserves the right to record or transcribe any telephone conversation between ECL and the Client, and ECL shall be entitled to rely on such recordings or transcriptions in resolving any dispute that may arise between ECL and the Client.
- 8 TERMINATION**
- 8.1 ECL shall have the right to terminate an FOREX Contract and take whatever action it deems necessary (including but not limited to closing-out all or any part of an FOREX Contract), on or after the happening of any of the following events, actions or omissions by the Client without giving prior notice to the Client:
- 8.1.1 a failure by the Client to comply with its material obligations under an FOREX Contract (including but not limited to a breach of the representations and warranties made by the Client under clause 6 above);
- 8.1.2 where the Client is an individual:
- 8.1.2.1 the death of the Client;
- 8.1.2.2 the Client becomes of unsound mind or suffers from a mental disorder and is admitted to hospital in pursuance of an application for treatment under the Mental Health Act 1983 or has an order made by any court having jurisdiction in matters of mental disorder for his/her detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his/her property or affairs;
- 8.1.2.3 whether in the United Kingdom or elsewhere, the Client is unable to pay its debts, make any composition with its creditors, is subject to the appointment of a Receiver or some or all of its assets to be appointed, receives notification of bankruptcy proceedings or takes or suffers any steps to be taken for its winding up other than for the purposes of amalgamation or reconstruction.
- 8.2 If the Client becomes aware of the occurrence of any of the events of default referred to in clause 8.1 above, it shall give notice to ECL of such event forthwith.
- 8.3 ECL may terminate an FOREX Contract forthwith if the operation of that contract or giving effect to the terms therein become unlawful or if ECL or the Client is requested to close-out and terminate an FOREX Contract (or any part thereof) by any regulatory authority whether or not that request is legally binding.
- 9 LIMITATION & INDEMNITY**
- 9.1 ECL shall not be liable to the Client for the non-performance of ECL's obligations under an FOREX Contract or any failure to execute any FOREX Contract in accordance with the instructions of the Client for any reason beyond the reasonable control of ECL.
- 9.2 The Client hereby indemnifies ECL and shall keep it indemnified from and against all liabilities, damages, losses and costs (including legal costs) duties, taxes, charges or commissions incurred or suffered by ECL in the proper performance of its services or the enforcement of its rights hereunder and, in particular, without prejudice to the generality of the foregoing, against all amounts which ECL may deem to be necessary to compensate it for all costs, expenses, liabilities and losses sustained or incurred by ECL (including but not limited to ECL's loss of profit and any loss or expenses which ECL may suffer or incur in taking such action as ECL in its sole discretion may consider necessary or appropriate in the circumstances to cover, reduce or eliminate its exposure in respect of any Contracts where the Client fails to honour its obligations hereunder) as a result of:
- 9.2.1 default by the Client in making any payment under the FOREX Contract or any other material breach by the Client of its obligations thereunder;
- 9.2.2 ECL effecting and taking any and all action and steps whatsoever to carry out the terms of any telephone instruction from or purporting to be from a person duly designated or authorised by the Client; or
- 9.2.3 ECL exercising its rights under an FOREX Contract to close-out all or any part of any FOREX Contract before the contractual Delivery Date.
- 9.3 The indemnity provided under clause 9 shall continue notwithstanding termination of a FOREX Contract.
- 10 NO WAIVER**
- 10.1 No failure on the part of any party in promptly exercising any right or remedy under an FOREX Contract shall operate as a waiver thereof. The rights and remedies provided in an FOREX Contract and the indemnities contained under clause 9 are cumulative and not exclusive of any rights or remedies provided by law.
- 11 GOVERNING LAW**
- 11.1 This Agreement shall be governed by English Law and are subject to the exclusive jurisdiction of the courts of England and Wales.