

FOREIGN EXCHANGE CURRENCY DEALING SERVICES – STANDARD TERMS (v 1.1)

These terms and conditions were last updated December 2018.

1. THE SERVICE

- 1.1 Subject to paragraph 1.2, you may use the Service to place Orders in accordance with this Agreement until it is terminated in accordance with paragraph 12.
- 1.2 You will not be able to use the Service until we have received, in form and substance satisfactory to us, the documents and evidence specified as conditions precedent to the availability of the Service in the Key Terms.
- 1.3 We buy and sell currency for Non-speculative Purposes only. This means that we will not enter into a Contract with you if you are entering into it as an investment or to profit by pure speculation on foreign exchange movements without having a genuine non-speculative reason for entering into it (such as (without limit) purchase of property, goods or services abroad) (a **Non-speculative Purpose**).
- 1.4 We may at any time and from time to time impose financial limits in relation to the value of your Orders, individually or in aggregate (**Order Limit**) or the aggregate amounts due from you to us for Settlement (**Settlement Limit**). These Limits will initially be as set out in the Key Terms and we will notify you promptly if we impose or vary an Order Limit or Settlement Limit. Where appropriate, Limits will be stated on the System. If any Order is likely in our opinion to cause an Order Limit or Settlement Limit to be exceeded, we may (without prejudice to our general discretion to reject Orders) reject it.

2. ADVICE AND INFORMATION

- 2.1 We do not provide advice. No information provided by us under or in connection with this Agreement or any Contract, whether via the System, the Website or by any other means, should be construed as legal, financial or tax advice and should not be relied on as the sole source upon which to base a decision to buy or sell currency.
- 2.2 You agree and acknowledge that any decision you make to enter into a Contract is made on your judgement alone. It is your responsibility to familiarise yourself with the foreign exchange products or services you are buying and we will assume that you have done so.
- 2.3 Except where we have specifically agreed otherwise in Writing, nothing in this Agreement or any Contract shall give rise to any fiduciary, trustee, agency, joint venture or partnership relationship between us on the one hand and you on the other.
- 2.4 Except where we have specifically agreed otherwise in Writing, any information including any graphs, charts or market news we supply to you or any published information on the Website or any information obtained via the System (**Information**), is provided in good faith but we do not take any steps to verify independently Information obtained from external sources and we:
 - 2.4.1 give no warranty as to the accuracy, completeness or timeliness of any Information, and
 - 2.4.2 shall have no liability whatsoever to you or any third party for any error, omission or inaccuracy in or from any Information.

2.5 Any information we provide to you is confidential and solely for your use for a Non-Speculative Purpose. Information remains our property or the property of any third party which provides information to us and must be returned on request. It may not be reproduced or redistributed without our permission in Writing.

3 REPRESENTATIONS

On the date of this Agreement and on each date on which you place an Order or enter into a Contract you give the representations and warranties set out below and confirm and agree that we have entered into this Agreement and any Contract in reliance upon them:

- 3.1 you are acting for a Non-speculative Purpose;
- 3.2 you are entering into each Contract solely on your own account and not as agent or in any other capacity on behalf of any other person;
- 3.3 you are (or would be to the extent that entering into and performing any Contract pursuant to this Agreement constitutes MIFID Business) a professional client or an eligible counterparty for all Contracts on the basis of the criteria set out in the Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (MiFID);
- 3.4 you are duly incorporated and validly existing under the law of your jurisdiction of incorporation;
- 3.5 your execution of this Agreement and entry into each Contract has been validly authorised;
- 3.6 neither the execution and delivery of this Agreement, nor the entry into and performance or observance of any of your obligations under this Agreement or any Contract will conflict with, or result in any breach of your constitutional documents;
- 3.7 the obligations expressed as being assumed by you under this Agreement and each Contract constitute your valid, legal and binding obligations which are enforceable against you in accordance with their terms;
- 3.8 neither the execution and delivery of this Agreement, nor the entry into and performance or observance of any of your obligations under this Agreement or any Contract will conflict with, or result in any breach of any law, or regulation applicable to you or any agreement or other instrument binding on you;
- 3.9 the Sale Currency is legally and beneficially owned by you and has not been obtained by any illegal means;
- 3.10 any person or the persons entering into each Contract on your behalf has or have been and remain duly authorised to do so;
- 3.11 you are making your own decision about entering into each Contract without relying on any Information (written or verbal) directly or as financial or other advice or as a recommendation to enter into a Contract;
- 3.12 you have not received from us any assurance or guarantee as to the expected results of the Contract, and we are not acting as a fiduciary or an adviser for you in respect of the Contract;
- 3.13 you are capable of evaluating and understanding and understand and accept, the terms, conditions and risks of a Contract and have reached your own conclusions about the Contract and any legal, regulatory, tax, accounting or economic consequences arising from the Contract, and have concluded that the Contract is suitable in light of your own objectives, financial capabilities and expertise;

- 3.14 in relation to the information provided by you or on your behalf to us in this Agreement or otherwise from time to time in connection with the Service, as at the date it was provided or as at the date (if any) at which it is or was stated:
- 3.14.1 any factual information was true and accurate in all material respects ;
 - 3.14.2 any financial projections have been prepared on the basis of recent historical information and on the basis of reasonable assumptions; and
 - 3.14.3 nothing has occurred or been omitted from the information and no information has been given or withheld that results in the information provided being untrue or misleading in any material respect;
- 3.15 in collecting, processing and providing to us Relevant Data, as defined in paragraph 16 below, pertaining to each of the Authorised Persons you have complied with all applicable laws and regulations including, without limitation, Data Protection Law;
- 3.16 you are not required to make any deduction whatsoever (whether on account of taxation or any other liability in any jurisdiction) from any payment you may make under any Contract; and
- 3.17 you are able to pay all of your debts as and when they become due and payable and there are no grounds for believing that you will not continue to be able to do so after or as a consequence of entering into this Agreement or any Contract.

4 MAKING A CONTRACT

- 4.1 We may enter into Contracts with you through the System or by any other means we may agree with you from time to time.
- 4.2 We may accept and act upon instructions we reasonably believe in good faith to be from you or, if applicable, an Authorised Person without the need to make any further enquiry, whether or not those instructions are actually from you. Where we believe we need to make any inquiry in respect of an instruction, or the authorisation of a person giving an instruction, we will not be responsible for any delay in performance of any obligation under this Agreement or any Contract as a result of making or attempting to make that inquiry.
- 4.3 An Authorised Person may (depending on the rights granted to the relevant Authorised Person to use the System) obtain non-binding quotations for Contracts from the System. Using such quotation(s) an Authorised Person may, during the hours stipulated on the System, submit an Order for a Contract (a **System Order**). We may (in our absolute discretion) accept or reject the Order in whole or part. If we accept the Order, it will be marked as 'confirmed' on the confirmation screen and a confirmation will be sent to you by email. The confirmation will constitute prima facie evidence of the Contract. After the Order has been confirmed, you cannot cancel, rescind or amend it without our consent in writing and a binding contract will be created between you and us to buy or sell the relevant currency for value on the relevant date, in the relevant amount, at the quoted foreign exchange rate for on that date on and subject to this Agreement (a **Contract**).
- 4.4 We will act as principal in relation to any Contracts and not as your agent or otherwise on your behalf in relation to any Contracts.

5 MARGIN

- 5.1 You must deposit any Security Margin amount (**Security Margin**) specified in the Key Terms before you may place any Orders. We may, from time to time at our absolute

discretion, vary the amount of the Security Margin upwards or downwards. We are likely to do this if:

- 5.1.1 we vary the Settlement Limit;
 - 5.1.2 we agree that you may place Orders for additional Currencies;
 - 5.1.3 an Event of Default occurs;
 - 5.1.4 in our absolute opinion our risk in relation to Contracts with you has increased for any reason, including without limitation as a result of a change in your financial position, business or prospects.
- 5.2 We may at our absolute discretion, require you to deposit an additional margin amount (**Contract Margin**) in respect of a specific Contract for a foreign exchange transaction at any time before we agree to enter into that Contract.
- 5.3 If at any time we require you to deposit an amount in respect of Margin in excess of £50,000 in accordance with paragraphs 5.1 or 5.2, you must do so in immediately available funds by 17.00 UK time on the Business Day on which we give notification of the amount required, provided that notification is given before 12.00 noon UK time on such Business Day. If we tell you of a Margin requirement after 12:00 noon UK time, you must provide the funds by 12:00 noon UK time on the next Business Day. For Margin requirements of up to and including £50,000, in accordance with paragraphs 5.1 or 5.2, you must make payment in immediately available funds by 17.00 UK time on the Business Day following the day on which we notify you of the additional Margin requirement, provided that notification is given before 12.00 noon UK time. If we tell you of a Margin requirement after 12:00 noon UK time, you must make payment by 12.00 noon UK time on the second Business Day after we tell you of the Margin requirement.
- 5.4 All amounts deposited by you as Margin shall be held by us on the following terms:
- 5.4.1 you charge in favour of us by way of first fixed charge as a continuing security for the payment and discharge of any Loss, all your rights, title and any interest in and to the Margin and all interest from time to time accrued on the Margin;
 - 5.4.2 We shall be under no obligation to repay the Security Margin (except to the extent required by Paragraph 5.1 above) until the date on which (i) the Agreement is Terminated and (ii) all the Contracts have been unconditionally and irrevocably paid and discharged in full;
 - 5.4.3 Subject to Paragraph 5.4.4, we will hold all Margin in a separate account until such time as we incur any Losses in connection with or arising out of any of the outstanding Contracts, in which case:
 - (a) to the extent that the Margin constitutes Financial Collateral and your obligations under the Agreement constitute a Security Financial Collateral Arrangement, we shall have the right to appropriate all or any of that part of the Margin in or towards the payment and/or discharge of our Losses in such order as we in our absolute discretion may from time to time determine. The value of the Margin appropriated in accordance with this paragraph shall be, in the case of cash, the amount of cash appropriated. You agree that the method of valuation provided for in this paragraph is commercially reasonable for the purposes of the Financial Collateral Regulations, and
 - (b) in all other cases, that money, or a relevant proportion of it equal to our Losses, will automatically belong to us;

- 5.4.4 Any amount deposited by way of Contract Margin shall be applied by us on the due date for Settlement of that Contract in or towards payment of your liabilities to us in respect of that Contract;
 - 5.4.5 We will not be obliged to pay interest on Margin; and
 - 5.4.6 You must not, without our prior written consent, assign, mortgage, charge or otherwise dispose of, create a security interest in respect of or deal with your right, title or interest in the Margin.
- 5.5 Where you ask us to 'roll' a Contract (meaning provide you with a Value Date later than that originally agreed) or draw down all or part of a Contract before the Value Date, we may at our absolute discretion agree to such a request subject to such conditions as we may at our absolute discretion impose (including, without limit, you providing an additional Margin or a Contract Margin).

6 SETTLEMENT

- 6.1 In respect of each Contract:
- 6.1.1 If you have elected "Manual Settlement" in the Key Terms you must send us full payment in the Sale Currency, net of any Contract Margin that we hold in respect of that Contract, for value at or before the agreed Cut-off time on the Value Date as advised by us in writing from time to time. Cut-off times vary depending upon the Purchase Currency (including Pounds Sterling); therefore, you should contact us to enquire about cut-off times.
 - 6.1.2 If you have elected "Auto Settlement" in the Key Terms you must ensure that on the Value Date there are sufficient cleared funds in the Sale Currency in the Sale Account, taking account of any Contract Margin held for that Contract to settle the Contract.
- 6.2 Provided we are satisfied that, as at the relevant cut off time on the Value Date, there are sufficient funds in the Sale Currency in the Sale Account to settle a Contract, and/or we have received cleared funds for the settlement of the Contract (in either case, taking account of any Contract Margin held for that Contract), we will credit the Purchase Currency to the relevant Purchase Account on the Value Date.
- 6.3 Except where we have agreed otherwise in writing, you will pay all monies owed to us in the Sale Currency as specified in this Agreement. Under no circumstances will cash or other payments be accepted.
- 6.4 If you are unable or unwilling to settle your liability on a Contract, without prejudice to any other right we may have in respect of any breach or non-performance of the Contract, we may, at our option, agree to extend the Value Date for the Contract, subject to paragraph 5.5 above, or undertake a reverse of the Contract to close down your liability. In either event you shall indemnify us on demand in respect of any Loss relating to the Contract or the reverse.
- 6.5 By signing this Agreement, you irrevocably authorise us to debit to any applicable Account any amounts due to us under this Agreement or any Contract.
- 6.6 In the event that there are insufficient funds in the relevant Sale Account for the settlement of a Contract, you authorise us to debit any shortfall to any other account held by you with us and for that purpose to convert any amount in a currency other than the Sale Currency to the Sale Currency at our then prevailing spot rate of exchange, or any other rate of exchange we consider to be reasonable.
- 6.7 You authorise us to credit the Account from time to time in the event that credit adjustments become necessary.

6.8 Each Account shall be operated subject to, and all payments to and from the Account shall be made in accordance with, the applicable Standard Terms and Conditions as in effect from time to time and as stated on the Website.

7 USING THE SYSTEM

7.1 Depending on the rights to use the System granted to you, you may use the System to obtain quotations, place Orders and to enter into Contracts at the rates offered on the System subject to any restrictions or limitations imposed by us from time to time. Rights and restrictions relating to the use of the System are set out on the System itself. You should ensure that you are aware of these and, although we will use reasonable endeavours to notify you of any changes, check regularly for updates.

7.2 You are responsible for complying with all applicable laws and regulations in relation to your use and operation of the Service and the System. You should ensure that you are aware of these.

7.3 We grant the Licence to you in consideration of you agreeing to be bound by this Agreement.

7.4 Without prejudice to our rights under paragraph 12, we may suspend or terminate the Licence at any time by giving you 7 days prior written notice. Termination of the Licence will not affect any accrued rights or liabilities of you or us nor will it affect the making of Contracts or the coming into force or the continuance in force of any other provisions of this Agreement which are expressly or by implication intended to come into force or continue in force on or after that termination.

7.5 All intellectual property rights in the System and the Website will remain vested in us either as owner or licensee. This includes but is not limited to copyright in the Website and all content, graphics, logos and other material published on the Website. You may not reproduce any parts of the Website, create any derivative works or incorporate the Website into any other websites, electronic retrieval systems, publications or otherwise. However, as part of the Licence and subject to paragraph 7.6, you may download or print single copies of web pages for your own internal record-keeping purposes, and not for publication to any third parties provided you attribute the copyright in the material to us or any applicable third parties and comply with all instructions given by us whether on the System, the Website or otherwise.

7.6 You must not recreate or copy, modify, reproduce, publish or distribute the System or create derivative works from it or permit its reverse engineering, disassembly, de-compilation or otherwise attempt to ascertain the source code or internal workings of the System.

7.7 The System is made available to you available on an 'as is' basis. We do not warrant the availability performance or security of the System at any time or the correctness, accuracy or completeness of any information that you receive via the System and we reserve the right to restrict or terminate your access to it or change the configuration or functionality of the System at any time.

7.8 We may make the System unavailable due to planned or emergency maintenance. The System may also not be available due to factors beyond our control (including as a result of any action by the provider of the System). We accept no liability for any losses caused by the System's unavailability.

7.9 We may prevent any person accessing the System if we have reason to believe that such access is unauthorised.

7.10 You are required to provide, maintain and operate at your own expense, all terminals, Computers, modems telephone and internet access and communication software for

accessing the System and you will take all reasonable steps to ensure that all such equipment and software is free of viruses or malware that might adversely affect the operation of the System.

7.11 You must not use or attempt to use the System except for its intended purpose in accordance with our instructions.

7.12 Access Codes

7.12.1 We will issue the User-ID by email to the email address(es) provided by you.

7.12.2 You must keep the User-ID confidential and secure and must not disclose the User-ID to anyone except Authorised Persons and you must procure that the Authorised Persons do not disclose the User-ID to anyone. You should not and should procure that the Authorised Persons do not write down their User-ID and should employ appropriate security software to protect them once entered into your computer. You should ensure that all Authorised Persons log out and close your internet browser after using the System. You are responsible for all activity, Contracts and Orders that occur under User-ID issued to you.

7.13 You agree that the usage of the User-ID constitutes a security procedure that is a commercially reasonable method of protecting against the unauthorised use of the System.

7.14 You shall be bound by any instruction(s) issued by any person using a valid User-ID (whether or not that person is an Authorised Person), in your name via the System and acted upon by us and you shall indemnify and hold us harmless from and against any and all liabilities and expenses incurred by us acting on instruction(s) in each case reasonably believed by us to have been issued by an Authorised Person.

7.15 You shall immediately notify us in writing of any Authorised User who is no longer authorised to access or use the System on your behalf whereupon we will, as soon as practicable, procure the termination of their access to the System.

7.16 In the event that you elect not to use or fail to adhere to the security procedures described above, you shall remain liable for any instruction(s) issued in your name, whether authorised or not, and acted upon by us.

7.17 If you become aware of or suspect that an unauthorised person or third party has knowledge of or access to your User- ID, you must inform us immediately.

7.18 You must ensure that all the data, messages and code that you provide to us by any electronic means do not contain any computer viruses, destructive programs or other devices likely to cause harm to the System.

7.19 We warrant that (i) the System does not infringe the intellectual property rights of any third party; and (ii) without prejudice to the operation of paragraph 2, we will perform the Services with reasonable skill and care and in accordance with all applicable laws, rules and regulations issued by relevant authorities or industry bodies.

8 TAXES

8.1 You must pay and discharge any taxes that may arise as a result of or in connection with a Contract, whether under current or changed law or practice. We shall have no responsibility for any of your tax liabilities, or for providing information or advice in respect of such liabilities and shall not be responsible for notifying the Customer of a change in tax law or practice.

8.2 All amounts payable by you under this Agreement or any Contract shall be paid without any set off, counter claim, withholding or deduction whatsoever unless required by law, in which event you will simultaneously with making the relevant payment pay to us such additional

amount as will result in the receipt and retention by us of the full amount which would otherwise have been receivable. You will supply us promptly with evidence satisfactory to us that you have accounted to the relevant authority for any sum withheld or deducted.

- 8.3 All amounts payable by you under this Agreement or any Contract shall be deemed to be exclusive of any VAT, and, accordingly, if VAT is chargeable, you shall pay (in addition to and at the same time as paying the relevant amount) an amount equal to the amount of the VAT.

9 COMMISSION, COSTS AND EXPENSES

- 9.1 A Set-up fee of Euro 250 is payable on the date of this Agreement, and in any event must be paid in full before you may use the System. You authorise us to debit the Set-up Fee, or the Sterling Value thereof to the Account;
- 9.2 On the 28th (or if that date is not a Business Day, the next succeeding Business Day, or if that day falls into the next Calendar Month, the last Business Day) of the Calendar Month following any Calendar Month in which the aggregate value of all Contracts entered into with a Value Date falling in that Month is less than EUR 500,000, or its Sterling or Dollar Equivalent, a Dealing Fee of EUR 250 will be payable to us. You authorise us to debit the Dealing Fee, or the Sterling Value thereof to the Account;
- 9.3 We do not charge any commission for executing Orders. We will charge a mark-up or mark-down (the difference between the price which we agree with a Counterparty and the execution price quoted to you).
- 9.4 You shall pay, on demand and on a full indemnity basis, all costs and expenses including without limitation transfer fees, taxes or other out-of-pocket costs or expenses that we may incur in connection with this Agreement or any Contract or other Contract (together, "**Expenses**").
- 9.5 We may deduct fees and Expenses from any Margin or from any amount we are holding for you on any account whatsoever. If we do not hold any Margin or other amounts from which we can deduct the fees or Expenses, you must pay all fees, Expenses, taxes and any other amounts owing to us in accordance with this Agreement within thirty (30) days of receipt of an invoice or request in writing for payment.
- 9.6 If fees or Expenses are expressed in different currencies to the Margin or money we are holding, we may convert the Margin or other money to the currency in which the fees or Expenses are payable at a rate of exchange which we determine to be reasonable for the purpose of making the deduction.
- 9.7 We may share fees or commissions charged pursuant to this Agreement with third parties and we will provide you with relevant details of such arrangements upon request.
- 9.8 Charges applicable to the use and operation of the Account will be applied in accordance with the applicable Metro Bank Standard Terms and Conditions as in effect from time to time.

10 KNOW YOUR CUSTOMER

- 10.1 The Money Laundering Requirements require us to implement certain due diligence procedures in relation to your identity, the nature of your business and other details relating to Orders or Contracts (referred to as 'Customer Due Diligence' or 'Know Your Customer' ('CDD')). You agree promptly to provide us with all the information we reasonably require as part of its CDD procedures now or at any time in the future if this becomes necessary as a result of:

- 10.1.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement; or
 - 10.1.2 any change in your status or the composition of your shareholders after the date of this Agreement.
- 10.2 You agree that we may withhold any monies due to you, or, without prejudice to our general right to do so, decline to effect a Contract until we have received and verified all requested CDD documentation.

11 RECORDING TELEPHONE CONVERSATIONS

We may record telephone conversations and use these recordings as evidence of Orders made, Contracts entered into, and/or or in relation to disputes, as well as for our ongoing quality control and training programme. We may also maintain a record of all emails sent by or to us. All those recordings and records will be maintained at our absolute discretion and are our property and can be used by us in the case of a dispute. We do not guarantee that we will be able to make such recordings available to you.

12 TERMINATION

- 12.1 Either Party may terminate this Agreement at any time by giving the other Party no fewer than thirty (30) days' written notice.
- 12.2 In the event that our rights to use, or licence the System are terminated or materially restricted (otherwise than by us) we may terminate this Agreement with effect from the date of termination or restriction.
- 12.3 We may terminate this Agreement and/or any or all outstanding Contract(s) with immediate effect by giving notice to you if:
 - 12.3.1 you fail to provide us with material information when required or any information that you provide is in our opinion materially incorrect or misleading; or
 - 12.3.2 You fail to make any payment to us when due; or
 - 12.3.3 you fail to provide in full any Margin when required under the terms of this Agreement; or
 - 12.3.4 any representation made or deemed to be made by you or on your behalf pursuant to this Agreement or in any statement delivered or made by you or on your behalf in connection with any Order or Contract is incorrect when made or deemed to be repeated; or
 - 12.3.5 you otherwise commit a breach of this Agreement or any Contract (in respect of termination of that Contract) and (if such breach is remediable) fails to remedy that breach within a reasonable period of time after being notified in Writing to do so; or
 - 12.3.6 we suspect fraud by you or any of your officers, employees or Authorised Persons; or
 - 12.3.7 we are required to do so on the instruction of any law enforcement or regulatory agency or other body with appropriate authority (in which case we may retain or otherwise deal with all or any of your money as we are required to do so by such agency or body); or
 - 12.3.8 you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit your inability to pay your debts or are deemed

unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986;

- 12.3.9 any person takes any steps for or with a view to the making of an administration order or the appointment of an administrator or any steps are taken for or with a view to your winding-up, dissolution, liquidation, reconstruction or reorganisation; or
 - 12.3.10 you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or you make a proposal for or enter into any compromise or arrangement with your creditors other than for the sole purpose of a scheme for your solvent reconstruction; or
 - 12.3.11 you enter into a voluntary arrangement or other dealing with any of your creditors with a view to avoiding, or in expectation of, insolvency or stopping or threatening to stop payments to creditors generally; or
 - 12.3.12 you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business;
 - 12.3.13 an encumbrancer takes possession or a trustee in bankruptcy (in the case of an individual) or a receiver or manager is appointed of the whole or any material part of your assets;
 - 12.3.14 any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in paragraphs 12.3.8 to 12.3.13 (inclusive); or
 - 12.3.15 the withdrawal of any government, state or federal authority approval, or the imposition of any law or regulation, means that this Agreement or any Contract is substantially unable to be performed in the manner contemplated; or
 - 12.3.16 We believe at our discretion that there has been a material adverse change in your financial condition, business prospects or trading performance.
- 12.4 Termination of this Agreement or any Contract, for whatever cause, shall be without prejudice to the rights of either Party accrued prior thereto, including without limitation any right to payment of any sum and any right to sue in respect of any antecedent breach of this Agreement or any Contract, and termination shall not affect any provision of this Agreement or Contract which, in order to give full effect to its meaning, needs to survive such termination (and all such provisions shall survive such termination to the extent necessary to give full effect to their meanings).
- 12.5 Upon, and with effect from the date upon which this Agreement is terminated (the "**Termination Date**"):
- 12.5.1 In the event of a termination in accordance with paragraph 12.3:
 - (a) we may, but will not be obliged to, process any Orders issued or Contracts entered into prior to the Termination Date, and may, at our absolute discretion terminate or close out any such Orders or Contracts with effect from the Termination Date;
 - (b) we will not be liable to you in respect of any consequential or indirect losses in relation to the termination or close out of any instructions or requests in relation to any Order or Contract (except as required by law) which are incurred as a result of the termination of the Agreement or any Contract;

- 12.5.2 you will remain liable to pay us any amounts you owe under this Agreement, and/or which may become due (whether before or after the Termination Date) in connection with any Contract, which amounts shall be payable in full on the Termination Date, or, at our option, on the Value Date for any particular Contract;
- 12.5.3 all security devices, software, manuals, user documentation, confidential information and other documentation and materials that we have provided to enable use of the Service must be returned to us immediately; and
- 12.5.4 Without prejudice to our rights under paragraph 7.4, we may terminate the Licence with immediate effect.

13 SET OFF

We may at any time or times, without notice to you, set off any liability we owe you (including, without limitation, any amount standing to the credit of any account which you hold with us) against any liability (including without limit any Loss) you owe to us, whether any such liability is present or future, liquidated or unliquidated, under this Agreement or not and irrespective of the currency or its denomination. If the liabilities to be set off are expressed in different currencies, we may convert either liability at a rate of exchange which we determine to be reasonable for the purpose of set off. Any exercise by us of our rights under this paragraph shall be without prejudice to any other rights or remedies available to us under this Agreement or in respect of any Contract or otherwise.

14 LIMITATION OF LIABILITY

- 14.1 Without prejudice to the other provisions of this paragraph 14, our total liability to you whether in contract, tort (including negligence and breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of this Agreement or any Contract and in respect of any representation, statement or tortious act or omission arising under or in connection with the this Agreement or any Contract and for all and any losses, costs (including legal costs), claims, damages, expenses, taxes, charges and any other liability whatsoever relating to this Agreement or any Contract (together "**Liability**") is, subject to paragraph 14.7, limited to the lower of:
- (a) the total amount paid by you to us under the applicable Contract; and
 - (b) the liability amount specified in the Key Terms.
- 14.2 We will not be liable to you for the act or omission of any third party (including, without limitation, the provider of the System) undertaken in connection with the Services, provided that where we have instructed the third party, we have has used reasonable skill and care in selecting the third party.
- 14.3 We will not be liable to you for any liability, loss, damage, cost or expense of any nature whatsoever suffered or incurred by you as a result of any technical defects in the System or any software applications operated by the System unless and to the extent that such defects occur as a result of malicious intent or gross negligence on our part or, to the extent that we have a corresponding claim against the provider of the System in respect of which a recovery is made (and then only to the extent of the recovery. Nothing in this paragraph shall oblige us to bring or pursue any claim against the provider of the System, or any third party.
- 14.4 We will not be responsible for or liable to you, or any person claiming through you (each, a **Claimant**), on any ground whatsoever for any consequential or indirect loss, damage, cost or expense of any nature whatsoever, nor for any economic loss or loss of turnover, profits, business, anticipated savings or goodwill, any damage to reputation, loss of trade, loss of bargain, or loss of opportunity (whether direct or indirect), incurred or suffered by any

Claimant, in each case whether or not such damage was foreseen or advised to us as likely to occur.

- 14.5 We will not be liable to any Claimant on any ground whatsoever for any loss or damage in connection with the performance or failure to perform any provisions of a Contract where and to the extent that such loss or damage arises directly or indirectly from your act or omission or that of your employees, agents or contractors.
- 14.6 We will not be responsible for, or liable to any Claimant for, any liability, loss, damage, cost or expense of any nature whatsoever incurred or suffered by a Claimant as a result of any Force Majeure Event.
- 14.7 Nothing in this Agreement or any Contract excludes or restricts our liability in respect of: fraud or wilful misconduct; death or personal injury caused by our negligence; or any other liability which cannot lawfully be excluded.
- 14.8 You and we agree that the exclusions and limitations of liability and the resulting allocation of risk and liability contained in this Agreement and each Contract are reasonable in all the circumstances and having regard to all the relevant facts, including the nature of any Contract and your responsibility in selecting foreign exchange rates.

15 YOUR LIABILITY TO US

- 15.1 You will on demand indemnify and hold us harmless from and against all Losses (including, without limitation, any Losses resulting from the termination of any Contract pursuant to this Agreement).
- 15.2 We may charge interest at 4 per cent per annum above the base rate, from time to time in force, of the central bank of the country in whose currency the amount due is owed or such other statutory or court rate as may apply from the date payment is due until the date payment is made both before as well as after judgment. Amounts due under this paragraph may at our discretion be converted to Pounds Sterling or any other foreign currency at such rate as we may determine.

16 PERSONAL DATA

- 16.1 The Lender shall comply with the provisions of the Data Protection Legislation. A reference to "Data Protection Legislation" means the General Data Protection Regulation as enacted into English law ("**GDPR**") as revised and superseded from time to time; (iii) Directive 2002/58/EC as updated by Directive 2009/136/EC; and (iv) any other laws and regulations relating to the processing of personal data and privacy which apply to a party and, if applicable, the guidance and codes of practice issued by the relevant data protection or supervisory authority. A reference to the expressions "processing", "Personal Data" and "Data Controller" shall bear their respective meanings referred to in the Data Protection Legislation. All personal data received in connection with the provision of the Services to you, shall be "**Relevant Data**" for the purposes of this Agreement. The Lender will only process your Personal Data for the purposes set out in this Loan Agreement and as set out in the Metro bank Privacy and Security Policy as set out on the Website www.metrobankonline.co.uk/about-us/privacy-and-security/.
- 16.2 You agree to comply with Data Protection Legislation at all times in relation to the collection, processing and disclosure of Relevant Data particularly but not limited to obligations in relation to data security.
- 16.3 You shall ensure that you have provided all necessary information to your employees under Data Protection Legislation in relation to information to be provided about them by you in order to enable the issue of a User-ID.

- 16.4 We agree that we will only use Relevant Data on for the purpose of generating User-IDs and monitoring and controlling access to the System and for no other purposes unless agreed with you.
- 16.5 You acknowledge, and shall make your employees aware, that information may be transferred and processed outside of the EEA.
- 16.6 The Parties shall each comply with their respective obligations under Data Protection Legislation in relation to the information provided by you or your employees
- 16.7 Having regard to the state of technological development and the cost of implementing any measures, you shall: (a) take appropriate technical and organisational measures against the unauthorised or unlawful processing of Relevant Data and against the accidental loss or destruction of, or damage to, it to ensure a level of security appropriate to: (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and (ii) the nature of the data to be protected and (b) take reasonable steps to ensure compliance with those measures.
- 16.8 We will provide reasonable assistance and co-operation with you in order for you to respond to any requests from an employee to exercise any rights available to that employee under relevant Data Protection Legislation.
- 16.9 We will retain the Relevant Data for the duration of the Agreement and shall delete it upon termination of the Agreement or otherwise upon request save where we require to keep it for regulatory or legal purposes.

17 ASSIGNMENT

- 17.1 We may, at any time, assign (absolutely or by way of security and in whole or in part), transfer, mortgage, charge or deal in any other manner with the benefit of any or all of its rights and/or obligations arising under or out of this Agreement or any Contract. We may subcontract or delegate in any manner any or all of its obligations under this Agreement or any Contract to any third party or agent.
- 17.2 You may not assign any of your rights or transfer any of your obligations under this Agreement or any Contract.

18 NOTICES

- 18.1 Any notice or other communication, other than any Order, will be required to be given in writing under this Agreement or any Contract and shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by pre-paid recorded delivery or registered post or Email to your address set out in the Application or such other address as you may designate by notice given in accordance with the provisions of this paragraph 18. Notices to us shall be sent to the address and attention specified in the Key Terms.
- 18.2 You are responsible for notifying us of any changes to your contact details and we will be entitled to serve notices on you (including the issue of legal proceedings) using the last known contact details that you have provided to us for the purposes of this Agreement.
- 18.3 Any notice or other communication shall be deemed to have been duly received:
- 18.3.1 if delivered personally, when left at the address and for the contact referred to in this paragraph; or
 - 18.3.2 if sent in the United Kingdom by pre-paid first-class post or recorded delivery, at 9am (UK Time) on the second Business Day after posting; or

18.3.3 if delivered by email, when a delivery confirmation or receipt is received by the delivering Party on a Business Day, or where an email is sent on a day that is not a Business Day, it shall be deemed to have been received on the next Business Day.

19 GENERAL

- 19.1 Any typographical, clerical or other error or omission in any documentation produced by us under or in connection with this Agreement or any Contract shall be subject to correction without any liability on our part.
- 19.2 A person who is not a party to this Agreement or a Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement or Contract.
- 19.3 We may amend these Standard Terms from time to time and if the change is to your disadvantage, we will give you 2 months written notice before we make the change. We will provide you with details of the amendments together with the date from when such amendments become effective (**Effective Date**). If a change is not to your disadvantage we may make a change immediately and tell you about it in writing within 30 days.
- 19.4 The amendments will apply to all Orders placed and Contracts entered into by you after the Effective Date, save that the amendments will apply to Contracts entered into prior to the Effective Date where it is required by law or any relevant Money Laundering Requirements.
- 19.5 We may amend any of our terms and conditions, typically (but not exclusively) to:
- 19.5.1 change our cut-off times;
 - 19.5.2 comply with legal, or regulatory changes or to meet regulatory requirements; and/or
 - 19.5.3 rectify errors, omissions, inaccuracies or ambiguities;
- 19.6 If you do not like a change or do not want to accept it, at any time up to the date the changes come into effect you may, by notice in writing, terminate the Agreement without having to pay any extra charges for doing so, in which case paragraph 12.5 shall apply.
- 19.7 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Agreement or any Contract under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions.
- 19.8 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 19.9 Time shall be of the essence in respect of your obligations under or in respect of any Contract but no failure by us to exercise, or delay by us in exercising, any right or remedy under or in respect of this Agreement or any Contract or any of them shall operate as a waiver of it, nor shall any single partial or defective exercise by us of any such right or remedy preclude any other or further exercise of that or any other right or remedy.
- 19.10 Should any provisions of this Agreement be in conflict with any other documentation or information that we have provided to you in connection with any particular Contract, then this Agreement shall have priority unless specifically agreed by us in writing

19.11 This Agreement (or when incorporated with an Order, the Contract) constitutes the whole agreement between us and you and supersedes all previous agreements (whether Written or verbal) relating to its subject matter. You acknowledge that, in entering into this Agreement, you have not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether Written or verbal and made negligently or innocently) other than as expressly set out in this Agreement or Contract. Nothing in this paragraph shall limit or exclude any liability for fraud.

19.12 Any Orders and all communications between you and us will be in English.

20 COMPLAINTS

20.1 If you have a complaint, we aim to resolve it as quickly as possible and to your satisfaction. You may complain in person in any of our stores or by telephoning us on 0345 08 08 500 (or +44 20 3402 8312 from overseas) and asking to speak to a member of the **Customer Care Team**. Alternatively, if you would prefer to write to us, please address your letter to:

Customer Care Team,
Metro Bank PLC
One Southampton Row
London, WC1B 5HA.

20.2 We will attempt to resolve your complaint immediately. If this is not possible, your complaint will be acknowledged within 5 Business Days of receipt. We will aim to resolve your complaint at the earliest possible opportunity. If we are unable to resolve your complaint within one week, we will write and inform you that the investigation is not complete and the reason(s) for the delay. We will do the same if the investigation has not completed within two weeks of receipt of your complaint. When the final decision has been reached, a final response letter will be issued to you. Upon receipt of this, or after eight weeks from the date of complaint in the unlikely event that it is still unresolved, you may be entitled to refer your complaint to the Financial Ombudsman Service, who will then liaise with us on your behalf. Please note, however, that the Financial Ombudsman Service will only consider your complaint if you qualify as an 'eligible complainant' under the rules which apply to the Service (as you normally will if you are a small business customer) and if you have already tried to resolve your complaint with us first. You can contact the Financial Ombudsman Service by writing to them at:

Financial Ombudsman
South Quay Plaza
183 Marsh Wall
London, E14 9SR;

or by calling them on 0845 08 01 800.

20.3 You can also contact us if you would like to discuss whether you are eligible to have your complaint dealt with under the Financial Ombudsman Service.

20.4 If you do refer your complaint to the Financial Ombudsman Service, this will not affect your right to take legal action.

20.5 A full copy of our complaints procedure leaflet is available from your local store upon request.

21 GOVERNING LAW AND JURISDICTION

This Agreement, each Contract and any non-contractual obligations arising out of or in connection with any of them are governed by English law.

- 21.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement or any Contract (including a dispute relating to the existence, validity or termination of this Agreement or any Contract or any non-contractual obligation arising out of or in connection with any of them) (a "**Dispute**").
- 21.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 21.3 This paragraph is for the benefit of Metro Bank PLC only. As a result, we shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, we may take concurrent proceedings in any number of jurisdictions.

22 CONFIDENTIALITY

22.1 Each of the Parties will at all times during and after the term of this Agreement and any Contract keep confidential any information that is disclosed to it by the other pursuant to, or in connection with, the Services or the System, this Agreement or any Contract (whether orally or in writing and whether or not such information is expressly stated to be confidential or marked as such) and will not disclose the same except with the written consent of the other Party or unless :

22.1.1 such information has been acquired by that party otherwise than as confidential information from third parties; or

22.1.2 such information is generally in the public domain; or

22.1.3 required to disclose the same by law or order of a court; or

22.1.4 pursuant to paragraph 22.2 below.

22.2 We may disclose to:

22.2.1 any transferee/assignee or potential transferee/assignee;

22.2.2 any of our officers, directors, employees, professional advisers, auditors, partners and representatives; and

22.2.3 any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body pursuant to any applicable law or regulation,

such confidential information relating to you, or this Agreement or any Contract as we may consider appropriate if (except in the case of information disclosed to persons referred to in paragraph 22.2.3 above) any person to whom the confidential information is to be given is informed in writing of its confidential nature.

23 DEFINITIONS AND INTERPRETATION

23.1 References in this Agreement:

23.1.1 to this Agreement, any Contract or other documents are to this Agreement, those Contracts or other documents as varied, amended, supplemented or novated from time to time;

23.1.2 to any person are to be construed to include references to that person's successors permitted transferees and assigns whether direct or indirect;

- 23.1.3 to any statutory provision are to be construed as references to that statutory provision as amended supplemented re-enacted or replaced from time to time and include any orders regulations instruments or other subordinated legislation made under or deriving validity from that statutory provision
 - 23.1.4 to 'writing' or 'written' includes, unless the contrary is expressed, by email; and
 - 23.1.5 to words in the singular shall where appropriate include the plural and vice versa.
- 23.2 Any headings used in this Agreement are for ease of reference only and should not be used in the interpretation or construction of this Agreement.