

## General Terms and Conditions of SAB Corporate Finance Limited

### YOUR ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 18 - LIABILITY, DECLARATIONS AND OTHER INFORMATION

The Parties to this Agreement are: SAB Corporate Finance Limited ("SABCF") of 30 St Mary Axe, Level 28/29, London, United Kingdom, EC3A 8BF (registered in England and Wales with company registration number 10574930) and the Client named in the Business Account Opening Form.

SABCF's contact details are:

Address: 30 St Mary Axe, Level 28/29, London, United Kingdom, EC3A 8BF

Telephone number: +44 (0) 207 469 4114

E Mail address: [info@sabcf.co.uk](mailto:info@sabcf.co.uk)

#### 1. INTRODUCTION

1.1. SABCF is authorised and regulated by the Financial Conduct Authority ("FCA") as an, authorised payment institution under registration number 775404.

1.2. The Client wishes to enter into a Contract or Contracts with SABCF for the purchase, sale and delivery of currency and for money remittance. The Client agrees with SABCF that all Transactions shall be carried out on the Terms set out below. This Agreement for the provision of the payment services for the Client by SABCF in accordance with these Terms shall come into force as soon as the Applicant completes the Business Account Opening Form, accepts these Terms on SABCF's website or signs and returns to SABCF at 30 St Mary Axe, Level 28/29, London, United Kingdom, EC3A 8BF a hard copy of the Business Account Opening Form (incorporating these Terms), and is accepted by SABCF as a Client as provided under Clause 3 below, and the Agreement shall continue until terminated in accordance with the Terms.

1.3. The contract between SABCF and the Client includes these Terms and **the Business Account Opening Form**.

1.4. You may request a copy of these Terms from SABCF at any time during the term of the Agreement.

1.5. Detailed definitions of the terms of the contractual relationship established by the Agreement, the rights and responsibilities of the parties and the manner used to agree individual Transactions between the Contracting Parties are set out in this Agreement; Terms not explicitly defined in the Business Account Opening Form carry the same meaning as in these Terms. Reference in the Business Account Opening Form and in these Terms to the Agreement, means this Agreement, including these Terms.

1.6. SABCF undertakes to execute Transactions for the Client involving the non-cash transfer of foreign currency funds and Payment Transactions (Payment and Collection - both particularly with Currency Conversion) according to the Client's instructions in accordance with and subject to the Terms.

1.7. These Terms apply solely to the Services and do not apply to any other services SABCF may supply to the Client.

**1.8. Please note that foreign currency exchange rates are subject to fluctuations outside the control of SABCF. Historical prices are not a reliable indicator of future prices.**

1.9. SABCF will not (unless it otherwise expressly agrees to the contrary) accept as a Client and is unable to provide Services to the following persons or entities:

- (a) An individual who requires Services in a personal rather than a business context;
- (b) A US Person or person carrying on business in the United States.

#### 2. DEFINITIONS

**Applicant** – a prospective Client who has initiated a formal application to enter into an Agreement with SABCF to conduct Spot FX Transactions and Payment Transactions.

**Agreement** – the agreement concluded between SABCF and the Client comprising the Business Account Opening Form and these Terms which form its inseparable parts (as amended from time to time in accordance with the terms of this Agreement).

**Authorised Person(s)** – The person(s) authorised to act on behalf of the Client in connection with the performance of Spot FX Transactions and Payment Transactions as more particularly set out in Clause 19.2.

**Authorised Person PIN Number** – a unique number provided to each Authorised Person by SABCF used for identification when the Authorised Person initiates an Order with SABCF.

**Business Account Opening Form** – the electronic application form or process completed by the Applicant (or the hard copy of the application form, where appropriate) applying for an account with SABCF which provides SABCF with information about the Applicant reasonably required by SABCF to comply with SABCF's legal and regulatory obligations in order for SABCF to open an account for the Client (**Business Account**).

**Business Day** - means any day other than a Saturday, Sunday or public holiday where the banks in London, England are closed for business.

**Client, you or your** – an Applicant which is a legal entity that has been approved by SABCF as provided in the Terms and has entered into an Agreement with SABCF to the satisfaction of SABCF.

**Collection** - non-cash transfer of funds from the bank account of a third party (the “**Payer**”) in accordance with an instruction by the Client (such instruction being a “**Collection Order**”).

**Collection Order Instruction Form** - instruction issued by the Authorised Person to make a Collection.

**Confirmation** – a Confirmation of a FX Transaction or a Payment Order Confirmation.

**Confirmation of FX Transaction** - the document produced by SABCF which outlines the details of the FX Order agreed between SABCF and the Client.

**Contract** – the agreement between the Client and SABCF resulting from instructions provided by the Client and accepted by SABCF for SABCF to effect a Spot FX Transaction, a Payment or Collection in accordance with and subject to these Terms.

**Contract Number** – the unique number assigned to the Client after entering into an Agreement with SABCF.

**Data Protection Legislation** - all applicable data protection and privacy legislation in force from time to time in the United Kingdom including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to the party.

**FX Order** – the instruction issued by the Authorised Person to initiate a Spot FX Transaction.

**Manifest Error** - refers to a manifest or obvious misquote of the purchase or sale price quoted to the Client in connection with a Transaction, including a misquote based on a published price source on which SABCF has relied in connection with a Spot FX Transaction.

**Market Order** – an automatic order to enter into a Spot FX transaction at a specified rate using a Market Order Form.

**Market Order Form** – an instruction issued by the Authorised Person to initiate a Market Order.

**Monthly Transaction Report** - a document containing confirmation of all Transactions agreed between the Client and SABCF in the given month.

**Order** – an FX Order, a Payment Order or a Collection Order.

**Parties** – SABCF and the Client.

**Payee** – The intended recipient of funds that are the subject of a Transaction.

**Payment Order Instruction Form** – a form provided to the Client by SABCF that the Client may use to provide the proposed Payee details to fulfil a Payment Order.

**Payer** – The sender of funds that are the subject of a Transaction.

**Payment** – a non-cash transfer of the Purchase Currency resulting from a Spot FX Transaction, or other funds from the bank account of the Client, to a third party (the “**Payee**”) in accordance with an instruction by the Client (such instruction being a “**Payment Order**”).

**Payment Order Confirmation** - The document produced by SABCF which outlines the Payment SABCF have agreed to make for the Client as set out in the Payment Order.

**Payment Reference Number** - the reference number of a Spot FX Transaction which is shown on all Confirmations.

**Payment Transaction** – a Payment or Collection.

**Personal Data** - as defined in the Data Protection Legislation.

**PSRs** – The Payment Services Regulations 2017 (as amended, supplemented or replaced from time to time).

**Purchase Currency** - the amount of funds in the currency the Client buys from SABCF in accordance with a Spot FX Transaction.

**SABCF Client Account** – a segregated bank account receiving Client funds for the purpose of a Payment Transaction or Spot FX Transaction, which is independent of SABCF's business operational bank accounts, in accordance with the PSRs.

**Sale Currency** – the amount of funds in the currency the Client sells to SABCF in accordance with a Spot FX Transaction.

**Services** – Foreign Exchange Services (as set out in Clause 4.1(a)) and/or Payment Transactions.

**Spot FX Transaction** – the purchase or sale of funds in one currency for funds in another currency, in non-cash form, where the Value Date is usually 2 (two) Business Days after the Trade Date.

**Terms** – these terms and conditions and any additional terms and conditions issued by SABCF in respect of the Services (as amended from time to time in accordance with the terms of this Agreement).

**Trade Date** – the date on which a Spot FX Transaction is agreed.

**Transaction** – a Spot FX Transaction or a Payment.

**Unique Identifier** - the beneficiary account details as required by the PSRs – BIC & IBAN for Non-Euro payments and IBAN only for Euro payments in the European Economic Areas (**EEA**).

**US Person** – means 'US person' as defined in Regulation S under the US Securities Act of 1933, as amended (the US Securities Act), including US resident corporations or other entities organised under the laws of the United States or any state thereof or non-U.S. branches or agencies of such corporations or entities.

**United States** - means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

**Value Date** – the date on which a Transaction is settled.

### 3. BECOMING A CLIENT

- 3.1. In order to become a Client and before any Services can be provided by SABCF to the Client, the Applicant must provide SABCF with all information reasonably required by SABCF to comply with its legal and regulatory obligations and its own internal risk management processes and apply for a Business Account and complete and sign (if completed in hard copy) the Business Account Opening Form and accept these Terms (or sign the Business Account Opening Form if completed in hard copy agreeing to be bound by these Terms).
- 3.2. SABCF may request additional information in order to proceed with the Client on-boarding process and the Client/Applicant shall provide such information.
- 3.3. Once approved, the Client must promptly provide SABCF with its bank account details from which it will send and receive funds. Until SABCF receive such information to its satisfaction it will not be able to provide the Client with any Services.
- 3.4. On provision of the above information to SABCF's satisfaction, SABCF shall provide the Client with a Contract Number and the contact details of its dedicated broker which will comprise acceptance by SABCF of the Applicant as a Client.
- 3.5. The Applicant is responsible for ensuring all details in the Business Account Opening Form and in relation to its bank account are correct and up-to-date and the Client undertakes, represents and warrants to SABCF that all information provided to SABCF in connection with this Agreement is true and correct and not misleading to the best of its knowledge and belief.
- 3.6. SABCF are obliged under money laundering legislation to verify the Client's identity (and beneficial owners and one or more directors in respect of corporate accounts) and to keep the Client's information up-to-date. SABCF usually verify the identity of their clients electronically, but SABCF may need to request paper identification (for example passports and two utility bills). By completing the Business Account Opening Form, the Applicant agrees to SABCF verifying their name, address and other personal information against appropriate third party databases. In performing these checks, personal information provided by the Client may be disclosed to a registered Credit Reference Agency which may keep a record of that information. The Applicant's credit rating will be unaffected. All information provided by the Applicant will be treated securely and strictly in accordance with the Data Protection Legislation and Clause 22. SABCF's suppliers (for example, their payment platform provider, banks and other payment service providers) may also need to verify the Applicant's identity and the identity of any recipient of Payment Transactions in the same or similar way that SABCF do. These suppliers are authorised to use such information only as necessary to execute transactions and/or provide the Services and to assess their risk in doing so. Please contact SABCF if you have any queries.
- 3.7. In its absolute discretion SABCF may refuse to open an account for an Applicant or accept the Applicant's application and may do so without giving any reason. If SABCF do not accept the Applicant's application, SABCF will inform the Applicant of this, but unfortunately such refusal will mean SABCF shall not be able to provide any Services to the Applicant.

### 4. SABCF SERVICES

- 4.1. SABCF may in its absolute discretion provide, or continue to provide, some or all of the following Services to the Client:
- (a) **Foreign Exchange Services:** SABCF may enter into transactions for the sale, purchase and delivery of currency (known as a **"Spot FX Transaction"**) in accordance with an FX Order.
  - (b) **Payment Transactions:** following the execution of a Spot FX Transaction or to transfer money to a bank account without currency conversion and subject to these Terms:
    - (i) **Payment** - SABCF may transfer the Purchase Currency or other funds to the bank account of a third party in accordance with a Payment Order.
    - (ii) **Collection** - SABCF may accept the transfer of the Sale Currency or other funds from the bank account of a third party in accordance with a Collection Order.
- 4.2. SABCF may provide information about foreign exchange markets and related matters from time to time. However, SABCF does not provide investment or any other advice or recommendation and the Client relies entirely on its own judgment when making an Order.
- 4.3. Each Contract for Services shall be governed by these Terms.

### 5. COMMUNICATIONS BETWEEN THE PARTIES

- 5.1. The Client may communicate with and, subject to Clause 6, provide instructions to SABCF, and vice versa:
- (a) by telephone
  - (b) by email
  - (c) by post

### 6. INSTRUCTIONS

- 6.1. The Client (acting through its Authorised Persons) may provide Orders to SABCF:
- (a) using the telephone number of the Client's designated broker;
  - (b) by email to the Client's designated broker's e-mail address or to [dealing@sabcf.co.uk](mailto:dealing@sabcf.co.uk);
- 6.2. Any instructions to SABCF by the Client (including acting through its Authorised Persons) shall constitute an offer to SABCF to purchase SABCF's Services.
- 6.3. An Order must be received from the email address or telephone number registered with SABCF and with a correctly provided Authorised Person Pin Number.

6.4. An Order can be accepted by SABCF by telephone or by email. Once accepted, such Order will form a Contract.

## **7. INITIATING A SPOT FX TRANSACTION**

7.1. The Client (acting through its Authorised Person) may from time to time provide a FX Order to SABCF in accordance with Clauses 5 and 6. Following receipt of a FX Order, SABCF shall, if it is willing to accept the FX Order (which is at its sole discretion and it may refuse it for any reason), agree with the Client, subject to Clause 7.5 and 7.7, the detail of the FX Order as set out in Clause 7.2 on which it is willing to enter into the Spot FX Transaction.

7.2. If SABCF accepts the FX Order, SABCF shall then effect the Spot FX Transaction and provide the Client a Confirmation of FX Transaction by email which will include the following:

- (a) The Trade Date
- (b) The amount of the Sale Currency;
- (c) The amount of the Purchase Currency;
- (d) The agreed exchange rate;
- (e) Any applicable fees;
- (f) The Value Date;
- (g) The SABCF Client Account the Sale Currency should be sent to;
- (h) The Payment Reference Number.

7.3. A Contract remains binding whether or not the Client receives the Confirmation of FX Transaction and the Client must immediately notify SABCF if the Client has not received a Confirmation of FX Transaction within 2 hours of making the FX Order and following receipt of such notice SABCF shall use its reasonable endeavours to send the Client a copy of the Confirmation of FX Transaction.

7.4. The Client must inform SABCF of any errors or omissions within one Business Day of the Confirmation of FX Transaction being issued by SABCF to the Client, otherwise the Client is deemed to have accepted the contents of such document and shall not thereafter be entitled to dispute the contents of the Confirmation of the FX Transaction.

7.5. SABCF will not be bound by any Spot FX Transaction where it is reasonably determined by SABCF that there is a Manifest Error in the Confirmation of the FX Transaction and the Contract will be void, and if the Client has paid SABCF any funds in connection with such FX Transaction SABCF shall as soon as reasonably practicable return such funds to the Client in such manner as the parties agree.

7.6. In relation to Spot FX Transactions, as soon as SABCF receive your instructions (and SABCF accept them as provided above) SABCF become legally bound to purchase or sell the relevant foreign currency so the Client cannot withdraw its consent to SABCF processing the Spot FX Transaction. This is one reason why SABCF may record telephone calls. SABCF may agree in writing that the Client can cancel such Spot FX Transaction (at SABCF's complete discretion), but the Client will incur and pay for all of the costs and charges that SABCF have incurred, and the Client may only receive the base currency back which may be less than the Client originally instructed SABCF to process.

7.7. If neither SABCF nor the Client are able to obtain any information on the relevant financial market concerning the market price of the funds relevant for a given Spot FX Transaction or if trading is suspended or restricted on the market in question, the terms of the Spot FX Transaction will not be agreed until after the situation has been resolved. If it is clear that the situation described above will not be resolved or will be resolved at a time when the Parties no longer have interest in completing the Spot FX Transaction, the Parties undertake to discuss the circumstances of the Spot FX Transaction and agree to modify its terms in a manner ensuring that the economic substance of the Spot FX Transaction remains the same as that defined in the terms before the above situation arose.

7.8. Unless the Client instructs SABCF otherwise or all or any of the Purchase Currency is being used to satisfy a Payment Order, SABCF shall transfer the Purchase Currency (or any balance where part is used to satisfy a Payment Order) less any fees or charges owed to SABCF to the Client's registered bank account in accordance with the Value Date set out in the Confirmation of FX Transaction.

## **8. PAYMENT ORDERS**

8.1. If SABCF has carried out a Spot FX Transaction for the Client, and the Client wishes to use the Payment Currency to pay a third party, the Client (acting through its Authorised Person) may provide a Payment Order to SABCF utilising the instruction procedure set out in Clause 6.1.

8.2. In order for SABCF to execute a Payment Order to a Payee approved by SABCF the Client must provide the following information in the Payment Order:

- (a) The proposed Payee (including the account name and Unique Identifiers);
- (b) The currency to be sent to the Payee;
- (c) The amount of currency to be sent to the Payee;
- (d) The purpose of the transaction.

8.3. In order for SABCF to execute a Payment Order to a new Payee the Client must provide any new Payee details to SABCF for approval by:

- (a) sending a completed Payment Order Instruction Form by email to the Client's designated broker or to [dealing@sabcf.co.uk](mailto:dealing@sabcf.co.uk); or
- (b) sending payment invoices or other documentation providing they contain the required information of the proposed Payee, by email to the Client's designated broker or to [dealing@sabcf.co.uk](mailto:dealing@sabcf.co.uk).

- 8.4. A Payment Order provided utilising the instruction procedure set out in Clause 6.1 will be deemed by SABCF to be 'consent' by the Client for the execution of the Payment using the Purchase Currency held by SABCF for the Client in the SABCF Client Account and therefore authorised in accordance with Regulation 67 of the PSRs. It is the Client's responsibility to provide the correct information in the Payment Order and SABCF may rely on such information.
- 8.5. Subject to Clause 8.10, SABCF shall subsequently provide a Payment Order Confirmation to the Client by email, which shall include the following:
- (a) The full name and address of the Payee;
  - (b) The Unique Identifier of the Payee;
  - (c) The currency to be sent to the Payee;
  - (d) The amount of currency to be sent to the Payee;
  - (e) The purpose of transaction.
- 8.6. The Client must inform SABCF if they do not receive a Payment Order Confirmation within one hour of the Payment Order.
- 8.7. The Client must review the Payment Order Confirmation and inform SABCF of any errors or omissions within one hour of receipt by the Client, otherwise the Client will be deemed to have accepted the contents of such document.
- 8.8. If the Client has provided incorrect details of the proposed Payee, it must contact SABCF immediately by contacting their designated broker.
- 8.9. The Payment Order shall be deemed to be received at the time at which it is received except:
- (a) where the Payment Order would otherwise be deemed to be received on a day which is not a 'Business Day' or is received after 1.00 pm, London time on a Business Day, SABCF has the right to treat the Client's Payment Order as having been received on the next Business Day; and
  - (b) if the Payment is to be made on:
    - (i) a specified day; and/or
    - (ii) the last day of a specified period; and/or
    - (iii) the day on which cleared funds are received in the SABCF Client Account from the Client for the full amount required and subject to such funds being received by 1.00pm that day, the Payment Order shall be deemed to be received on the last of the days or, if that is not a Business Day, on the Business Day immediately following that date.
- 8.10. Following receipt of a Payment Order, SABCF may:
- (a) refuse that Payment Order and if it does so, SABCF shall (unless it would be unlawful for SABCF to do so) notify the Client of that refusal, the reasons for that refusal (if possible), and if applicable, the procedure for rectifying any factual errors that lead to that refusal. Such notification shall be given to the Client as soon as practicable following the refusal and SABCF may charge the Client for such notification where the refusal is reasonably justified. A Payment Order which is refused by SABCF shall be deemed not to have been received for the purposes of Clause 8.9; and/or
  - (b) request further confirmation or information from the Client/Authorised Person of any Payment Order, including if SABCF considers that such confirmation or information is desirable or that a Payment Order is ambiguous.
- 8.11. The Client may not revoke a Payment Order after it has been received by SABCF except if:
- (a) SABCF agrees with the Client to cancel the Payment
  - (b) the Client has agreed with SABCF that the Payment is to be made on a specific day or on the last day of a specified period and the revocation is received by SABCF prior to the end of the Business Day preceding the specified day for the making of the Payment.
- 8.12. SABCF may charge the Client for any revocation by the Client of a Payment Order. In particular, but not by way of limitation:
- (a) the Client shall bear all costs, expenses and losses of SABCF whatsoever that may arise on account of the revocation and the Client shall fully indemnify SABCF and pay SABCF on demand for all costs, expenses and losses it may suffer; and
  - (b) SABCF may charge interest at the rate referred to in Clause 16.2. on any sums due to SABCF pursuant to this Clause 8.12.

## **9. SETTLEMENT DEADLINES FOR PAYMENT ORDERS**

- 9.1. Subject to and conditional on SABCF having sufficient funds held for the Client to make the Payment, the terms of Clause 8 and Clause 12, and the Client having complied with Clause 8 to SABCF's satisfaction, where the Payment is denominated in:
- (a) Euro or Sterling, SABCF shall ensure that the amount of the Payment is credited to the Payee's payment service provider's account by the end of the Business Day following that on which the Client's Payment Order was deemed to be received;
  - (b) a currency other than Euro or Sterling but the account of the Payee's payment service provider is located within the European Economic Area ('EEA'), SABCF shall ensure that the amount of the Payment is credited to that account by the end of the fourth Business Day following that on which the Client's Payment Order was deemed to be received; and



- (c) a currency other than Euro or Sterling and the account of the Payee's payment service provider is located outside the EEA, SABCF shall endeavour to ensure that it actions the Payment as soon as is reasonably practicable.

## **10. COLLECTION ORDERS**

10.1. The Client (acting through its Authorised Person) may from time to time provide a Collection Order to SABCF utilising the instruction procedure set out in Clause 6.1, and the proceeds of receipt of such Collection Order shall be the subject of a corresponding Spot FX Transaction for the Client in the manner provided in Clause 7.

10.2. In order for SABCF to execute a Collection Order from a Payer approved by SABCF the Client must provide the following in the Collection Order:

- (a) the proposed Payer (including the account name and Unique Identifiers);
- (b) The currency to be received from the Payer by SABCF;
- (c) The amount of currency to be received from the Payer by SABCF;
- (d) The expected date of receipt of the currency;
- (e) The purpose of transaction;
- (f) The Client bank account where the cleared funds or the Purchase Currency from a corresponding Spot FX Transaction should be delivered to.

10.3. In order for SABCF to execute a Collection Order from a new Payer the Client must provide any new Payer details to SABCF for approval by sending a completed Collection Order Instruction Form by email to the Client's designated broker or to [dealing@sabcf.co.uk](mailto:dealing@sabcf.co.uk)

10.4. The Collection Order Instruction Form should confirm the details of the proposed Payer including the following:

- (a) The currency to be received from the Payer by SABCF;
- (b) The amount of currency to be received by SABCF;
- (c) The Payer's Account Name;
- (d) The Payer's Unique Identifier;
- (e) The Purpose of the Transaction;
- (f) The Client bank account where the cleared funds or the Purchase Currency from a corresponding Spot FX Transaction should be delivered to.

10.5. If the Client has provided incorrect details of the proposed Payer, it must contact SABCF immediately by contacting their designated broker.

10.6. Following receipt of a Collection Order, SABCF may:

- (a) refuse that Collection Order and if it does so, SABCF shall (unless it would be unlawful for SABCF to do so) notify the Client of that refusal, the reasons for that refusal (if possible), and the procedure for rectifying any factual errors that lead to that refusal. Such notification shall be given to the Client as soon as practicable following the refusal and SABCF may charge the Client for such notification where the refusal is reasonably justified; and/or
- (b) request further confirmation or information from the Client/Authorised Person of any Collection Order, including if SABCF considers that such confirmation or information is desirable or that a Collection Order is ambiguous.

## **11. MARKET ORDERS**

11.1. The Client (acting through its Authorised Person) may from time to time provide a Market Order to SABCF by email in accordance with the instruction procedure set out in Clause 6.1. If SABCF is able to fulfil the terms of the Market Order, SABCF will automatically execute a Spot FX Transaction for the Client (in full or in part) and Clause 7 shall apply if it does so, save that the Client will be deemed to have agreed to SABCF automatically executing such Spot FX Transaction for the Client.

11.2. A Market Order should specify the following:

- (a) The Purchase Currency;
- (b) The amount of the Purchase Currency;
- (c) The Sale Currency;
- (d) The required foreign exchange rate;
- (e) The expiry date of the Market Order or whether it shall remain open until it is either cancelled or amended by the Client.

11.3. Notwithstanding which option is chosen in Clause 11.2(e), the Market Order may be cancelled by the Client by written notice to SABCF at any time prior to its execution by SABCF but if SABCF has executed all or any part of the Market Order at the time of cancellation, the Client may only cancel such part as has not been executed at such time.

## **12. PAYMENTS TO SABCF**

12.1. For Spot FX Transactions, the Client must deliver cleared funds (but not cash or cheques) into the SABCF Client Account for the full amount and in the currency specified in the Confirmation of FX Transaction (being the Sale Currency and any applicable charges) on or before the Value Date.

12.2. The cleared funds must be delivered from the Client's registered bank account provided to SABCF, unless a Collection Order has been agreed in accordance with Clause 10.

- 12.3. SABCF does not accept cash, cheques or credit or debit card payments as payment. Any references in these Terms to cleared funds shall not include cash, cheques, credit or debit card payments.
- 12.4. SABCF may at any time set off any liability of the Client's which SABCF incur relating to this Agreement or any Contract (whether present or future, liquidated or unliquidated). If the liabilities to be set off are expressed in different currencies, SABCF may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by SABCF of its rights under this Clause shall not limit or affect any other rights or remedies available to SABCF under this Agreement, a Contract or otherwise.
- 12.5. If SABCF are required by any law to make any tax, withholding tax or other similar payments or deductions in respect of the Services, SABCF shall be entitled to deduct such amount from any monies payable to the Client or charge such amount to the Client and the Client shall immediately pay it on SABCF's demand.
- 12.6. The Client shall be responsible for and shall pay all bank and other charges related to any Transaction, or if SABCF has to pay any such charges, it shall immediately on SABCF's demand reimburse SABCF for any such charges paid on the Client's behalf.
- 12.7. All sums payable under the Agreement:
- (a) are exclusive of value added tax or other applicable sales tax, which shall be added to the sum in question where applicable;
  - (b) shall be paid in full without any deductions (including deductions in respect of items such as income, corporation, or other taxes, charges and/or duties) except where the payer is required by law to deduct withholding tax from sums payable to the payee. If the payer is required by law to deduct withholding tax, then the payer and the payee shall co-operate in all respects and take all reasonable steps necessary to:
    - (i) lawfully avoid making any such deductions; or
    - (ii) enable the payee to obtain a tax credit in respect of the amount withheld.

### **13. MONTHLY TRANSACTION REPORTS**

- 13.1. SABCF will email the Client a Monthly Transactions Report on the third Business Day of the month in question, containing confirmation of all Transactions agreed by the Client and SABCF in the given month.

### **14. EXCHANGE RATES**

- 14.1. The exchange rate that SABCF offers you under a Spot FX Transaction will not be the same as the exchange rate which SABCF agrees with third parties. The rates SABCF agree with third parties are strictly confidential between SABCF and such third parties and SABCF are not obliged to disclose to the Client the rates SABCF agree with such third parties.

### **15. RECORDED TELEPHONE CONVERSATIONS**

- 15.1. The Client acknowledges that SABCF is entitled to automatically record telephone calls between representatives of SABCF and the Client (including its Authorised Persons) using SABCF's equipment for compliance and training purposes and SABCF shall subsequently archive such recordings for the duration stipulated by law and/or for 5 years after the completion of the Transaction; whichever is longer. The Client also explicitly agrees that in the event of a dispute such recordings may be used as evidence and SABCF also undertakes to refrain from using such recordings for any other purpose, unless required to do so by law or an authorised body by which SABCF is regulated. SABCF is not obliged to provide the Client with audio recordings of telephone calls with the Client, unless required to do so by law (including the Data Protection Legislation) or where this is necessary to enforce its rights or prove compliance with its obligations.

### **16. INTEREST AND CHARGES**

- 16.1. SABCF may impose fees or charges for its Services and reserve the right to impose a fee (on a per Transaction basis) at SABCF's discretion. SABCF will always inform the Client in advance of any fee or charge which shall be imposed.
- 16.2. If the Client fails to make any payment required under this Agreement when it is due, and without prejudice to any other right or remedy available to SABCF (whether under the Agreement or at law), interest will be charged on the outstanding sum at 2% per annum above the base rate of the Bank of England (but always at a rate no less than 2% per annum). Interest will be charged from the date payment is due until the date payment is made in full, whether before or after judgment, and shall be compounded monthly on the first day of the month. SABCF also shall be entitled to claim from the Client its reasonable costs in recovering any sums overdue.
- 16.3. Amounts due under Clause 16.2 may at SABCF's discretion be converted to Pounds Sterling or any other currency at a rate to be reasonably determined by SABCF.
- 16.4. Any SABCF charges in relation to a Spot FX Transaction will be as set out in the Confirmation of FX Transaction.
- 16.5. If the Client requests information or materials which are not provided as part of the Services, SABCF may accept, or decline the request and may charge an administration fee to fulfil such request.
- 16.6. SABCF shall not be liable for any bank charges that the Client or any third party may incur in sending or receiving funds to or from SABCF and the Client or the third party shall be responsible for paying such bank charges.
- 16.7. Any money SABCF (and our payment platform provider) hold in a payment account for the Client will only be used in relation to the Services.
- 16.8. The Client acknowledges and agrees that no interest shall be paid on any sums SABCF hold for the Client.

## **17. CLAIMS**

17.1. Complaints are settled by SABCF in accordance with its Claims Policy, details of which are published on the SABCF Website ([www.sabcf.co.uk](http://www.sabcf.co.uk)).

17.2. If the Client is unhappy with the service that they receive from SABCF and if SABCF have been unable to resolve the complaint to the Client's satisfaction, the Client may be entitled to refer the matter to the Financial Ombudsman Service (which provides consumers with a free, independent service for resolving disputes with finance firms) via the website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk), telephone: 0300 123 9 123 or 0800 023 4567, email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk) or in writing: The Financial Ombudsman Service, Exchange Tower, London E14 9SR.

## **18. LIABILITY, DECLARATIONS AND OTHER INFORMATION - YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

18.1. Subject to Clause 18.3, SABCF is not liable for any damage incurred by the Client or any other person as a result of the Client's breach of the obligations stipulated in this Agreement and/or the law or for any other reason, through the fault of another person not connected with SABCF, due to impediments arising in the Client's staffing, or due to circumstances beyond the reasonable control of SABCF.

18.2. Subject to Clause 18.3, SABCF is not liable for damage incurred by the Client or any other persons due to:

- (a) incorrect, incomplete or inaccurate information in any Order,
- (b) incorrect information or instructions communicated by the Client (or an Authorised Person) to SABCF,
- (c) an Authorised Person acting in violation of the instructions (interests) of the Client, the Agreement, and/or the law or other regulations,
- (d) fluctuations in exchange or interest rates,
- (e) withdrawal from a Transaction under Clause 18.8.

18.3. Nothing in the Agreement limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence; and
- (b) fraud or fraudulent misrepresentation.

18.4. Subject to Clause 18.3, SABCF's total aggregate liability to the Client for each Transaction shall be limited to the greater of £5,000 and 105% of the total sum the Client sends (or SABCF receives on a Collection for the Client) to SABCF for the affected Spot FX Transaction. SABCF's total aggregate liability includes without limitation liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Agreement (including without limitation in relation to any Contract).

18.5. Subject to Clause 18.3, the following types of loss are wholly excluded under the Agreement:

- (a) Loss of profits.
- (b) Loss of income or revenue.
- (c) Waste of management or office time.
- (d) Loss of sales or business.
- (e) Loss of agreements or contracts.
- (f) Loss of anticipated savings.
- (g) Loss of use or corruption of software, data or information.
- (h) Loss of or damage to goodwill.
- (i) Indirect or consequential loss.
- (j) Any other economic loss arising from the Contract which an English court would not consider to be direct financial loss or damage.

18.6. Subject to Clause 18.3, SABCF is not liable for any damage or other detriment incurred or potentially incurred by the Client or third parties for any of the following reasons:

- (a) defects or shortcomings in the software (SW), hardware (HW) or systems of the Client or third parties used by the Client to communicate with SABCF,
- (b) the failure, interruption or unavailability of any channel of communication between the Client and SABCF,
- (c) unauthorised access, misuse, loss or manipulation of data during data transfers or other communication on the part of the Client,
- (d) malfunctions caused by viruses on the Client's computers,
- (e) unauthorised third-party tampering with the SW or HW of the Client's systems, or with the transfer of data or other communication between the Client and SABCF,
- (f) erroneously entered or provided access passwords (personalised security elements) or their misuse by third parties,
- (g) the non-acceptance or non-execution of an Order or other instruction of the Client/Authorised Person for reasons specified in these Terms,
- (h) the payee/beneficiary bank, or any bank involved in the Payment Transaction fails to process the payment correctly,
- (i) the inability to execute an Order or other instruction of the Client/Authorised Person for reasons beyond the control of SABCF.

18.7. SABCF is not liable to the Client for any loss or damage incurred as a consequence of the risks involved in foreign currency transactions, or as a consequence of circumstances over which SABCF has no control or influence.



- 18.8. If there is a significant deviation on the foreign exchange market of 4 % or more in the currency pair set by market counterparties for the given day, SABCF is entitled to withdraw from any Spot FX Transaction in writing due to extreme volatility on the foreign exchange market and will inform the Client/Authorised Person by sending notification of its withdrawal from the Spot FX Transaction to the registered e-mail address of the Client/Authorised Person.
- 18.9. Communication between SABCF and the Client in connection with the Agreement will be via the channels specified in these Terms including without limitation under Clauses 5,6 and 26.8. During all communication the Client is obliged to use the identification details agreed for the given form of communication. The Client is obliged to immediately inform SABCF in writing (or in another agreed manner) of any changes in the information relating to the Client provided to SABCF by the Client in connection with the Agreement; this duty also applies to changes in Authorised Person's information. Unless agreed otherwise, changes in information become effective for SABCF on the following Business Day after delivery of the notification described in the previous sentence.
- 18.10. The Client is aware that electronic communication, particularly via telephone, fax, electronic mail or the internet, may result in the loss, destruction, incomplete or late delivery, unauthorised acquisition, use or misuse of the data transmitted. SABCF and the Client are therefore obliged to act in each case in a manner that minimises these risks as much as reasonably possible.
- 18.11. The Client acknowledges and agrees that the Services can only be carried out during the times in which banks accept and process Spot FX Transactions, Payments or Collections. Please be aware that banks have strict cut-off times and SABCF accept no liability for any delay in or failure of any Spot FX Transactions, Payments or Collections that result from late funds or late receipt of instructions. Please see SABCF's website for the relevant cut-off times.
- 18.12. The Client acknowledges and agrees that SABCF are not responsible or liable for the acts and/or omissions of the banks and/or payees, provided such acts or omissions are not caused by SABCF's breach of the Contract, SABCF's negligence or SABCF's wilful default.
- 18.13. The Client shall indemnify and hold harmless SABCF from all loss, liability, tax, duty, commission, cost or expense (**Losses**) suffered by SABCF and pay SABCF on demand all Losses arising out of or in connection with:
- (a) the Client (or any of its Authorised Persons) breaching any provision of this Agreement, or any Contract;
  - (b) an unauthorised Spot FX Transaction where the Client has acted fraudulently or has with intent or negligence failed to comply with any confirmations required under this Agreement or any Contract; or
  - (c) SABCF acting on a written, oral, telephone, fax, email (or other electronic means) order which reasonably appeared to SABCF to be from the Client or an Authorised Person.
- 18.14. The Client acknowledges and agrees that SABCF's employees and officers do not owe the Client a duty of care directly. The Client shall not bring any claim against any employee or officer personally with respect to the matters covered by the Agreement, except to the extent that the claim relates to fraud perpetrated by the employee.

## 19. RIGHTS AND OBLIGATIONS

- 19.1. The Client undertakes, represents and warrants that it has the full capacity to place an Order and that each of its Authorised Persons is properly and lawfully appointed and has the full capacity to place an Order on behalf of the Client and SABCF may rely on any information provided by such Authorised Person.
- 19.2. The Client must provide SABCF with the names and contact details of all individuals who are authorised to instruct SABCF to issue FX Orders and Payment Orders on the Client's behalf (**each an "Authorised Person"**). SABCF will only accept Orders from an Authorised Person and shall be entitled to assume that an Authorised Person is authorised to make any Order unless notified otherwise in writing by an officer or director of the Client.
- 19.3. SABCF is under no obligation to accept any Order and may refuse to do so without giving any reason. SABCF will not be liable to the Client or any other party for any loss or damages resulting from SABCF's refusal to accept an Order.
- 19.4. The Client will be solely responsible for ensuring that the details the Client/Authorised Person supplies to SABCF are true, complete and accurate, and neither the Client nor the Authorised Person will withhold or omit any information that may cause those details to be false or inaccurate or misleading.
- 19.5. Once SABCF has transmitted a Confirmation of FX Transaction, the Client/Authorised Person may only amend or cancel the Confirmation of FX Transaction if SABCF expressly agrees to such amendment in writing (and any such amendment or cancellation shall be on the conditions specified by SABCF).
- 19.6. SABCF shall not be obliged to send any of the Purchase Currency to the Client or to any third party until it has received cleared funds and related fees from the Client in relation to such Spot FX Transaction in its SABCF Client Account.

## 20. CLIENT'S REPRESENTATIONS AND UNDERTAKINGS

- 20.1. The Client represents, warrants, undertakes and confirms to SABCF that:
- (a) it will co-operate with SABCF's reasonable requests for information and provide such information within two (2) Business Days of SABCF's request;
  - (b) the Client is legally capable of entering into binding contracts and this Agreement and each Contract will be binding upon the Client and enforceable against it (so far as lawfully possible);
  - (c) the Client is not subject to any law or regulation which prevents its performance of this Agreement or any Contract;
  - (d) where the Client is an individual, sole trader or partner in a partnership, the Client is legally capable of entering into binding contracts and is at least 18 years old;

- (e) where the Client is an individual, sole trader or partner in a partnership, the Client is not under any legal disability with respect to and is not subject to any law or regulation which prevents your performance of the Contract;
- (f) the Client has obtained all necessary consents and has the authority to enter into each Contract and this Agreement;
- (g) the Client will use SABCF's Services for lawful purposes and will comply with all laws and regulations to which the Client is subject, including but not limited to, local financial regulations and local tax laws;
- (h) the Client is entering into this Agreement and each Contract as principal and not as another party's agent for any third party whose identity has not been disclosed to SABCF;
- (i) if applicable, each of the Client's Authorised Persons is properly and lawfully appointed and has the full capacity and authority to place instructions for our Services on behalf of the Client;
- (j) all information that the Client supplies to SABCF (directly or indirectly) is complete, true, accurate, up-to-date and not misleading in any material respect (this includes without limitation information relating to your Business Account Application Form and any and all of your instructions provided in connection with the Services);
- (k) the Client will not act in any way, other than in the normal course of business, which seeks to manipulate the relevant financial market;
- (l) the Client shall not interfere with, disrupt, or cause damage to users of the Services;
- (m) the Client will not use the Services for any speculative or investment purposes (as defined by the Financial Services and Market Acts 2000) or any other trade where the Client is trying to profit from exchange rate fluctuations;
- (n) the Client will rely on its own judgement in respect of the Spot FX Transactions and not rely on any information or opinion provided by SABCF;
- (o) the Client will be responsible for its payment methods (including any terms of use of the payment method) and the Client's account details with SABCF and ensure such details are safe;
- (p) the Client will take all reasonable precautions to prevent fraudulent or unauthorised use of the Services and will inform SABCF immediately if the Client's payment method or password is stolen, lost or otherwise no longer safe; and
- (q) the Client will inform SABCF immediately on becoming aware of any unauthorised or incorrectly executed Spot FX Transaction.

20.2. The representations, warranties, undertakings and confirmations set out in clause 20.1 are made by the Client on the date of acceptance of these Terms by the Client, at the time of each Order is made, at the time each relevant Contract is entered in to and carried out and at the time each Payment or Collection is made, and are deemed to be repeated on each day the relevant Contract and/or this Agreement is in full force and effect, in each case in relation to the circumstances subsisting at the date such confirmation, undertaking, warranty and representation is provided or deemed repeated.

20.3. The Client must immediately inform SABCF, in writing, of any material changes to the information the Client provides to SABCF in their Business Account Application Form, such as changes to the Client's contact details or any adverse matters or changes relating to the Client's financial status.

20.4. The Client undertakes that it shall promptly perform its obligations under this Agreement, each Contract and each Payment Instruction.

## **21. FORCE MAJEURE**

21.1. SABCF shall not be in breach of these Terms or the terms of any Contract nor liable for delay in performing or failure to perform, any of its obligations under these Terms or the terms of any Contract, where failure to fulfil any obligation under these Terms or the terms of any Contract is due to:

- (a) abnormal and unforeseeable circumstances (including without limitation any act, event, non-happening, omission or accident) beyond the reasonable control of SABCF and includes in particular (without limitation) the following: strikes, lock-outs or other industrial action; civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war; fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport; failure of public or private telecommunications networks (including the internet); and the acts, decrees, legislation, regulations or restrictions of any applicable government; nationalisation, expropriation or other governmental actions; regulation of the banking or securities industry, including changes in market rules, currency restrictions, devaluations or fluctuations; market conditions affecting the execution or settlement of transactions or the value of assets; or
- (b) the obligations of a payment service provider under other provisions of United Kingdom or European Union law;

**(a "Force Majeure Event").**

21.2. If, in the circumstances described above SABCF is delayed or prevented from fulfilling its obligations under these Terms or the terms of any Contract, SABCF will take all reasonable steps to notify the Client and shall be entitled to extend the time for performance of the relevant Contract or fulfilment of the obligation for so long as such cause of prevention or

delay shall continue. If the event continues to cause prevention or delay for a period of more than 30 days, both the Client and SABCF shall have the right, upon notifying the other, to terminate the Agreement and any outstanding Contract affected by a Force Majeure Event.

## **22. DATA PROTECTION, PRIVACY POLICY AND CONFIDENTIALITY**

22.1. Both Parties will comply with all applicable requirements of the Data Protection Legislation. This Clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

22.2. The parties acknowledge that for the purposes of the Data Protection Legislation, SABCF is a Data Controller (where Data Controller has the meaning as defined in the Data Protection Legislation). The scope, nature and purpose of processing or use by SABCF, the duration of the processing or use and the types of Personal Data and categories of Data Subject are set out in SABCF's privacy policy (as amended from time to time) (a copy of which can be accessed at: <https://www.sabcf.co.uk/>)

22.3. Without prejudice to the generality of 22.1 of these Terms, the Client will ensure that it has all necessary appropriate consents and notices or other lawful grounds in place to enable lawful transfer or use of the Personal Data it provides to SABCF (and such third parties as referred to in the Agreement) for the duration and purposes of the Agreement.

22.4. By completing on-line or signing a hard copy of the Business Account Opening Form, the Client and Authorised Persons agree and accept that SABCF may use or process their Personal Data to for the purposes of the Agreement and via other media in relation to the conclusion of Transactions under the Agreement. It may be necessary to provide the Personal Data of the Client and Authorised Persons to mediaport solutions s.r.o., Czech ID No. 29192790, who is a member of SABCF's Group and who assists with the performance of Agreements especially as a ICT (Information and communication technology) provider and who is based in the Czech Republic as a third-party processor of Personal Data on behalf of SABCF. SABCF will remain liable to the Client for any breach by mediaport solutions s.r.o., Czech ID No. 29192790, of the Data Protection Legislation in relation to the Client's Personal Data provided under the Agreement. The Client and other Authorised Persons are aware that SABCF is entitled and also obliged to pass on the Client's Personal Data to third parties in connection with the fulfilment of its statutory obligations (particularly, although not exclusively, relating to measures aimed at combating the legalisation of proceeds from crime).

22.5. SABCF shall be entitled to use and disclose aggregated anonymous information collated from Client Data for its own business purposes (including reporting on the performance and levels of usage of the Services), provided that such re-use does not identify the Client or any living person, or the details of any instructions generated by the Client and / or Authorised Users to be identified. This Clause shall survive the expiry or termination of the Agreement, howsoever arising, for so long as SABCF operates the Services or any service that may replace, substitute or supplement the Services.

22.6. To prevent crime, verify the Client's identity, recover debt and to meet SABCF's legal obligations, SABCF may exchange information (both within the UK and, where appropriate, overseas) with fraud prevention, law enforcement, debt recovery agencies and other organisations including lenders. If the Client or the Authorised Person give SABCF false or inaccurate information and fraud is identified, details will be passed to fraud prevention agencies to prevent fraud and money laundering.

22.7. The Client undertakes to provide proof of identity (e.g. identity card, passport) of the person representing the Client – a legal entity and Authorised Person.

22.8. The Client is aware of the fact that the activities of SABCF are subject to oversight by the Financial Conduct Authority, and therefore the Agreement, as well as other documents, information and Personal Data relating to the Client and to the performance of the Agreement to which SABCF has access may be made available to institutions with surveillance or oversight over SABCF, to which the Client agrees and accepts this by completing on-line or signing in hard copy the Business Account Opening Form. Such documents, information and Personal Data may only be made available to the extent necessary for the given situation and in accordance with the applicable legislation.

22.9. Clause 22.11 to 22.15 shall apply if SABCF processes any Personal Data as a data processor on the Client's behalf when performing its obligations under the Agreement.

22.10. Each party (for example, to administer the services provided pursuant to the Agreement) acknowledges that SABCF may process certain Personal Data (including employee details) for the purpose of providing the Payment Services. The processing shall continue, subject to Clause 22.12 and 22.13, for the duration of the Agreement.

22.11. To the extent that SABCF is a Data Processor (where Data Processor has the meaning as defined in the Data Protection Legislation) under this Agreement, SABCF shall:

- (a) process the Personal Data only to the extent necessary for the purposes of performing its obligations under the Agreement and otherwise in accordance the Client's reasonable and lawful documented instructions and applicable laws;
- (b) ensure that all persons authorised by it to process the Personal Data are subject to appropriate duties of confidentiality;
- (c) have at all times during the term of the Agreement appropriate technical and organisational measures in place to protect any Personal Data against unauthorised or unlawful processing and against accidental loss, alteration, destruction or damage (taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons);
- (d) cease processing the Personal Data immediately upon the termination or expiry of the Agreement or, if sooner, on cessation of the contractual activity to which it relates and, at the Client's election, delete or return all Personal Data to the Client, and delete all existing copies unless applicable law requires their retention. The

Client acknowledges that if SABCF is required to delete or return any Personal Data in this way, SABCF shall be unable to provide the Services;

- (e) make available to the Client all information reasonably necessary to demonstrate compliance with the obligations set out in this Clause, and allow for and contribute to audits, including inspections, conducted by the Client or its representative, provided such audits and inspections are limited to one (1) instance per year over a maximum of one (1) Business Day and provided advance notice of at least ten (10) Business Days has been given;
- (f) without undue delay from becoming aware, notify the Client of any unauthorised or unlawful processing of any of the Personal Data to which this Clause applies and of any loss or destruction or other damage and shall take reasonable steps to mitigate the detrimental effects of any such incident on the Data Subjects and co-operate with the Client in dealing with such incident and its consequences;
- (g) co-operate as reasonably requested by the Client to enable the Client to comply with any exercise of rights by a Data Subject under the Data Protection Legislation in respect of Personal Data processed by SABCF under the Agreement and / or comply with any assessment, enquiry, notice or investigation by the relevant supervisory authority which shall include the timely provision of all Personal Data requested by the Client; and
- (h) assist the Client in ensuring its compliance with Data Protection Legislation with the obligations in respect of security of Personal Data, notifications of breaches of Data Protection Legislation to supervisory authorities, communications of breaches of Data Protection Legislation to Data Subjects, the carrying out of data protection impact assessments and any consultations with supervisory authorities.

22.12. SABCF may engage mediaport solutions s.r.o., Czech ID No. 29192790 as a sub-processor of the Personal Data and such other sub-processors as notified to the Client as provided in this Clause. Where SABCF adds or replaces sub-processors, SABCF shall provide prior written notice to the Client and the opportunity to object by written notice to SABCF within 30 days of such notice. If the Client objects to any such sub-processor, the Agreement shall terminate and SABCF shall cease providing the services to the Client.

22.13. SABCF may appoint sub-processors who process Personal Data outside the European Economic Area ("**EEA**"). If SABCF intends to appoint such sub-processors it shall notify the Client of such sub-processors and the jurisdiction in which the Personal Data shall be processed, and Clause 22.12 shall apply in respect of any objection by the Client.

22.14. SABCF acknowledges that the Client is under certain record keeping obligations under the Data Protection Legislation and agrees to provide the Client with all reasonable assistance and information required by the Client to satisfy such record keeping obligations.

22.15. Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 22.16.

22.16. Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with Clause 22.15 and 22.17.; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

22.17. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.

## **23. SUSPENSION**

23.1. SABCF, or its suppliers, may have to suspend or refuse to perform the Services if:

- (a) there is an unauthorised, fraudulent, illegal or disruptive use or security of any of the Services;
- (b) the technology that SABCF uses fails to work (in whole or in part) or is subject to scheduled or unscheduled maintenance;
- (c) SABCF's agreement with its supplier(s) terminates and/or is suspended (in whole or in part);
- (d) the Client materially breaches its obligations under these Terms, including without limitation if the Client fails to make a payment when due; or
- (e) in order to comply with applicable law or regulation or rules.

23.2. SABCF will notify the Client of any such suspension or restriction and its reasons for doing this (if practically possible, in advance) unless notifying the Client would be unlawful. Such suspension or restriction shall continue for such time as SABCF shall reasonably determine to be necessary.

## **24. CHANGES TO THE AGREEMENT**

24.1. SABCF is entitled to make reasonable changes to the Agreement by giving at least 2 (two) months' notice in writing to the Client. SABCF will send information about the changes to the Client's email address. The term 'change' does not include corrections of errors or changes of an administrative or mechanical nature or changes in the Agreement due to new laws or regulations which SABCF may make as it sees fit and provide the Client with reasonable notice on when such changes will become effective. The Client undertakes to read the new wording of the Agreement.



24.2. If the Client does not confirm its consent to the proposed changes to the Agreement in writing, no later than by the day the changes are to become effective, the changes are considered binding on the Client from the date on which they become effective.

24.3. If the Client rejects SABCF's proposal to change the Agreement, it has the right to terminate the Agreement on written notice to SABCF with immediate effect before the date on which the change to the Agreement becomes effective but the Client will not be able to enter in to any new Contracts with SABCF if it does not accept (or is not deemed to have accepted) such changes.

24.4. Notwithstanding the provisions of Clauses 24.1 to 24.3, the Client acknowledges and agrees that SABCF have the right, at any time, to amend their operating procedures (being the way SABCF deliver the Services to the Client) and/or SABCF's suppliers effective immediately, where appropriate in SABCF's determination.

## **25. DURATION AND TERMINATION OF THIS AGREEMENT**

25.1. This Agreement will remain in force until terminated by the Client or SABCF as provided below.

25.2. The Client may terminate this Agreement at any time by giving SABCF one calendar months notice in writing.

25.3. SABCF may terminate this Agreement at any time by giving the Client two calendar months' notice in writing.

25.4. SABCF may terminate this Agreement immediately, if SABCF reasonably believe:

- (a) the Client has materially or repeatedly breached the terms of this Agreement;
- (b) the Client not paying any sums due under this Agreement or under a Contract by their due date;
- (c) the Client has given SABCF false or misleading information;
- (d) the Client is no longer eligible for a Service;
- (e) a Service the Client has requested is connected to fraud (or SABCF suspect it is connected with fraud), money laundering, terrorist financing, tax evasion, or other criminal activity;
- (f) it would mean SABCF may otherwise break the law, regulation, code, or other duty that applies to SABCF or may expose SABCF to claims by third parties by continuing to perform the Agreement;
- (g) the Client using (or allowing someone else to use) the Services for speculation or investment purposes;
- (h) the Client inappropriately authorising a person to give instructions to SABCF in respect of the Services;
- (i) the Client inappropriately authorising a person to send SABCF funds to execute a Spot FX Transaction;
- (j) the Client threatens or is abusive to SABCF staff;
- (k) the Client has not used a Service for a consecutive 24 month period.

25.5. Where the Client is an individual, sole trader or partner in a partnership, SABCF may terminate the Services immediately on notice if the Client has an account and the Client dies or becomes of unsound mind or is declared bankrupt.

25.6. SABCF may terminate the Services immediately on notice if SABCF has its registration as an authorised payment institution cancelled by the Financial Conduct Authority.

25.7. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party is in material breach of any of its obligations contained in this Agreement and fails to remedy such breach (if capable of remedy) within thirty (30) days of having received written notice specifying the breach and requiring its remedy; and
- (b) the other party ceases or threatens to cease to carry on business or any resolution is passed or petition is presented for the winding-up of the other party or the making of an administration order in respect of the other party or an administrator, receiver, administrative receiver or manager is appointed in respect of the other party or any of their assets (other than for the purposes of a bona fide reconstruction or amalgamation).

25.8. On termination or expiry of this Agreement:

- (a) the Client shall immediately pay to SABCF all of SABCF's outstanding unpaid monies, fees or charges due to be reimbursed (if any) and interest; and
- (b) all rights and licences granted by each party under this Agreement shall terminate immediately.

25.9. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

25.10. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties (including under any Contract or Transaction that has not been completed which will continue in full force and effect) that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.



25.11. The individual Transactions concluded under the Agreement constitute individual contractual relationships. Failure to comply with any obligation relating to any Transaction negotiated and concluded under this Agreement constitutes a breach of contract in accordance with the Agreement as a whole.

## 26. GENERAL

26.1. These Terms and the Business Account Opening Form and the other documents expressly referred to herein set out the entire Agreement and understanding of the parties on their subject matter and supersede all previous oral and written communications on the same subject matter. This does not affect any rights or obligations that the Client or SABCF may have under any previous terms of business relating to such services. In the event of any inconsistency, discrepancy or ambiguity between the provisions of these Terms, any Contract and the Business Account Opening Form, then these Terms shall prevail.

26.2. If at any time any provision of these Terms or any Contract is, or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, neither the legality, validity or enforceability of such provision under the laws of any other jurisdiction nor the legality validity or enforceability of any other provision of these Terms or any Contract shall in any way be affected as a result.

26.3. If any invalid, unenforceable or illegal provision of this Agreement or any Contract would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

26.4. If a party fails to exercise or delays in exercising any right under these Terms, by doing so it does not waive such right. The rights provided in these Terms do not exclude other rights provided by law.

26.5. Unless it expressly states otherwise, these Terms, any Contract or to any Spot FX Transaction do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms, any Contract or to any Spot FX Transaction.

26.6. The Client must make all payments under these Terms in full without any deduction, set-off, counterclaim or withholding of any kind.

26.7. The Client is not entitled to transfer, assign, charge, encumber, pledge or otherwise burden any of its rights (or any interest therein) and/or obligations arising from this Agreement or any Contract to a third party without the prior written consent of SABCF. SABCF is entitled to assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement or any Contract provided that it informs the Client of such in writing beforehand. SABCF may delegate any of its functions under this Agreement or any Contract to any person or persons and may provide information about the Client and its portfolio to any such person or persons but SABCF's liability to the Client for all matters so delegated shall not be affected by this.

26.8.

Subject to Clauses 5 and 6:

- (a) any notice given to a party under or in connection with this Agreement or any Contract shall be in writing and shall be:
  - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (ii) sent by fax to its main fax number or sent by email to the address specified in this Agreement or the Business Account Opening Form (as appropriate).
- (b) Any notice shall be deemed to have been received:
  - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
  - (iii) if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause (iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26.9. A reference to **writing** or **written** includes fax and email.

26.10. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all the counterparts shall together constitute one agreement.

26.11. English will be the language for communication between the Client and SABCF for the duration of this Agreement and each Contract.

26.12. The Agreement, and each Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

26.13. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement, each Contract and/or its subject matter or formation.