

# Terms of Use

## Sedber (Ireland) Limited ("Sedber")

These Terms of Use, including the Schedules, govern your use of the services provided by Sedber and constitute the legal relationship between you and us.

Capitalised terms in these Terms of Use are defined in the Schedule entitled "Definitions - Terms of Use" which is located at the end of these Terms of Use.

You are also advised to print or download and keep a copy of the Terms of Use (including the Definitions - Terms of Use and other terms and conditions referred to herein) for future reference.

**BY USING ANY OF OUR SERVICES DESCRIBED IN THESE TERMS OF USE, YOU ARE AGREEING TO BE BOUND BY THESE TERMS OF USE. PLEASE DO NOT USE ANY OF OUR SERVICES IF YOU DO NOT ACCEPT THESE TERMS OF USE. THESE TERMS OF USE ARE A LEGALLY BINDING AGREEMENT BETWEEN YOU AND US AND IT IS IMPORTANT THAT YOU TAKE THE TIME TO READ THEM CAREFULLY.**

### 1. OVERVIEW

**1.1 The Services.** We operate a proprietary Payment Platform that automates the payment lifecycle from receipt of funds through currency conversion and payment. The Services include Payment Services – Global Account, Foreign Exchange Service, EUR Collection Service, and Platform Services. Currencycloud is authorised by the Financial Conduct Authority (the "FCA") under the Regulations for the issuing of electronic money and the provision of payment services with Firm Reference Number 900199. These Terms of Use govern your use of the Services including without limitation your access to the Payment Platform. Your use of the Services, including without limitation your access to the Payment Platform, is subject to and governed by these Terms of Use, our operating procedures, and our acceptable use policy. If you are entering into a Commercial Agreement directly with us, then in the event of any conflict or inconsistency between these Terms of Use and the Commercial Agreement, these Terms of Use shall prevail except in relation to any fees or charges payable under the Commercial Agreement.

**1.2 Business Introducer.** If you have been introduced to us by a Business Introducer, then the Business Introducer may provide the first level of customer service and perform other functions necessary and appropriate to support the provision of the Services, pursuant to a separate agreement between the Business Introducer and Sedber. You are not a third-party beneficiary of that separate agreement between the Business Introducer and Sedber.

### 2. USE OF THE PAYMENT PLATFORM AND THE SERVICES

**2.1 Ownership and Use.** The Currency Cloud Group owns all rights, title and interest in the Payment Platform and the proprietary technology, including

our software (in source and object forms), algorithms, user interface designs, architecture, and documentation (both printed and electronic), network designs, know-how, and trade secrets, and including any modifications, improvements, and derivative work thereof (the "Currencycloud Technology"). Sedber has the right, at any time, to amend the operating procedures and acceptable use policy, effective immediately, where appropriate in our determination, subject to such changes not materially adversely affecting the services we provide to you. These Terms of Use do not transfer from us to you any license or ownership rights in the Payment Platform or the Currencycloud Technology. You may only use the Payment Platform for the receipt of the Services and in a manner consistent with these Terms of Use, our operating procedures, and our acceptable use policy. You shall not interfere with, disrupt, or cause damage to users of the Services, the Payment Platform, or any of our equipment.

**2.2 Security.** It is your responsibility to ensure that the Payment Platform and the Global Account is only accessed by you or your Authorised Persons and that you, including your Authorised Persons, employees and agents, keep your login details, passwords, or other security features associated with your access safe and secure. If you have any knowledge or any suspicion that any of these security features have been stolen, misappropriated, improperly disclosed to a third party or used without authorisation or otherwise compromised you must contact Client Support immediately. We agree that we shall use industry standard practices to ensure that the Global Account is kept secure and will inform you promptly of any attempted hack or unauthorised access to the Global Account.

**2.3 Suspension of Access.** We are entitled to suspend your Global Account and/or your or Authorised Persons' access to the Payment Platform and/or otherwise restrict functionality if you are in breach of these terms. In all such cases we will, to

the extent permitted under applicable laws, provide you with reasonable notice in advance of taking these steps. However, we may suspend your Global Account and/or your or Authorised Persons' access to the Payment Platform and/or otherwise restrict functionality without notice if you are using your Global Account or the Services in a manner that could cause us legal liability or disrupt other users' ability to access and use the Services or if any of the events set out in Section 10.3 occur. Any suspension or restriction shall continue for such a period as we shall reasonably determine to be necessary.

**2.4 Equipment.** You must provide and/or obtain any equipment or telecommunications lines and links that may be necessary for you to use the Payment Platform, and you acknowledge that certain software and equipment used by you may not be capable of supporting certain features of the Payment Platform. For the avoidance of doubt, we are not responsible for providing you with any equipment or telecommunications lines and links that may be necessary for you to use the Payment Platform.

**2.5 Principal Only.** You hereby (i) confirm, represent and warrant to us at all times that you are acting either on your own Global Account or, where applicable, for the benefit of your End Customer, and not on behalf of any other person, and (ii) acknowledge that we shall not be a principal to any transaction or be responsible for or otherwise guarantee the performance of any transaction entered into by you with an End Customer.

**2.6 End Customer Responsibilities.** We shall not treat End Customers as our client for the purposes of providing the Services. You are solely responsible and liable for all acts and omissions of End Customers including without limitation (i) all dealing services provided to End Customers and the correct inputting of trade details including trades executed via another liquidity partner, (ii) End Customer limits default, spreads and permissions and the setting of trading limits, products, default spreads and user permissions for End Customers, (iii) all Know Your Customer ("KYC") and/or customer due diligence ("CDD") requirements relating to End Customers and the on-boarding of End Customers, (iv) all operational matters relating to End Customers including inputting any manual End Customer's payment details, chasing End Customers for payment details, any late arrival of funds, settlement with End Customers, and monitoring the open positions of End Customers, (v) all sales, marketing and account management in relation to End Customers, including the promotion and marketing of foreign exchange deliverable services and/or international payments services to End Customers, End Customer account management and execution of trades over the phone to End Customers, and

training End Customers on the use of the Platform Services.

### 3. DATA PROTECTION LEGISLATION

**3.1 Personal Data.** By asking us to provide you with the Services, you will be providing us with information which includes Personal Data. In relation to such Personal Data, we shall act as: (i) a Data Controller in respect of our use of such Personal Data to (a) conduct KYC, CDD and other checks as part of our process of accepting you as a Client (as detailed in Section 7.1), (b) comply with any legal and/or regulatory requirements to which we are subject from time to time, including but not limited to FCA requirements, (c) determine how best to provide the Services and our risks in doing so, and (d) prevent fraud or financial crime; and (ii) a Data Processor in respect of our use of Personal Data relating to You and where applicable End Customers in order to provide the Services, and where we so act the terms contained in our [Data Processing Policy](#) apply to such processing. By accepting these Terms of Use, you also agree to the terms of our Data Processing Policy. You should print and keep a copy of the Data Processing Policy together with these Terms of Use.

**3.2 Privacy Policy.** Details on how we collect, use, and share Personal Data, and the steps we take to protect Personal Data are set out in our "[Privacy Policy](#)". You should print and keep a copy of the Privacy Policy together with these Terms of Use.

**3.3 Cookies Policy.** Details on how we use cookies to store and retrieve information on and from your browser/device are set out in our [Cookies Policy](#).

**3.4 Identity.** We may conduct searches through an identity-referencing agency and through other sources of information and use scoring methods both to allow us to provide you with the Services and to assess our risks in doing so, including credit standing and compliance with all KYC/CDD requirements. A record of this process will be kept and may be used to allow our Group Companies to similarly provide you with services and to assess our risks in doing so. Information may also be passed to other organisations or persons to prevent fraud. Additionally, information may be passed to governmental, regulatory or judicial organisations to prevent fraud or financial crime where we consider it appropriate. The foregoing use of Personal Data may render us a Data Controller.

**3.5 Data Lawfully Obtained.** You confirm to us that (i) all Personal Data which you or any of your officers, employees, agents or sub-contractors supply to us at any time has been lawfully obtained and will be lawfully supplied to us in accordance with Data Protection Legislation, and (ii) all notices have been provided and relevant consents have been obtained (or an alternative legal ground for processing Personal Data has been relied on) as may be required under the Data Protection Legislation for us to process the Personal Data as contemplated by these Terms of Use and/or the Commercial Agreement.

**3.6 Responsibility for Data.** You are solely responsible for the content, quality, accuracy and completeness of any Personal Data, any End Customer data, and any other data provided or transmitted by you or on your behalf via or in connection with the use of the Payment Platform and the Services.

**3.7 Record Keeping.** Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Legislation and shall make such information available to any DP Regulator on request.

**3.8 Complaints, Notices or Communications.** If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data or to either party's compliance with the Data Protection Legislation, it shall as soon as reasonably practicable notify the other party and provide the other party with commercially reasonable co-operation and assistance in relation to any such complaint, notice or communication.

#### **4. FEES AND AMOUNTS TO BE PAID**

**4.1 Fees.** All fees for the Services shall be as set out in the Commercial Agreement and may be increased by us in accordance with the terms of the Commercial Agreement. In the event that you have been introduced to us by a Business Introducer, the Business Introducer, when acting as your Authorised Person, shall be liable to us for all fees and charges for the Services; provided, however, that (i) you are responsible for the payment of Margin and deposit amounts as described in Schedule 2, and (ii) any other fees for the Services shall be as set out in your agreement with the Business Introducer.

**4.2 Taxes.** All Fees are stated exclusive of all taxes and similar fiscal charges now in force or enacted in the future, all of which you will be responsible for and must pay in full.

**4.3 Default Interest, Suspension, and Reconnection.** If you, or your Business Introducer if applicable, do not promptly pay any amount properly due to us under these Terms of Use, we may after the expiry of 7 days following notice informing you, and/or your Business Introducer if applicable, of the amount outstanding and requesting payment charge interest on the overdue amount at the rate of 2% per annum above the base rate of Barclays Bank Plc from time to time which interest will accrue daily. If the amount due remains unpaid for thirty (30) calendar days or more following the serving of the notice described above, suspend, interrupt, or terminate your access to the Payment Platform and/or your use of the Services. In the event of suspension, you, or your Business Introducer if applicable, may be required to pay us a reconnection fee in an amount determined by us prior to reactivation of access to the Payment Platform in addition to full payment of all amounts due under these Terms of Use (including interest).

**4.4 Set Off.** You agree that we may set off any amount you owe us against any sums owed by us to you, provided we have given you 10 (ten) days prior written notice of such intention and document the amount to be deducted and the reasons for the same. You also agree that we may set off any amount you owe to us against any Margin or deposit you have provided to us.

#### **5. CLIENT HELP CENTRE AND SERVICE LEVELS**

**5.1 Client Help Centre.** Currencies available for conversion, settlement schedule, payment cut-off times, and failed payment procedures are described in the Client Help Centre, and the Services will be provided subject to and in accordance with the terms set out in the Client Help Centre. We will also in accordance with the Regulations communicate to you the maximum execution time for a payment, the charges payable by you in respect of a payment, the cut-off time for the payment system we use to transmit your payment, and (where applicable) a breakdown of the amounts of any charges. In all cases, the maximum execution time to process payment instructions (as opposed to currency conversions) shall be five (5) Business Days. However, in many cases and where required by the Regulations, Sedber may process a payment much faster. Please refer to the execution times set out in the Client Help Centre for more information.

**5.2 Telephone Conversations.** Any telephone conversations we have with you or Authorised Persons may be monitored and recorded by us and we may also maintain records of emails sent by or to you and your Authorised Persons. You agree that we may use these telephone recordings and any

transcripts or email records for training and quality control purposes or to resolve any disputes, and also in the prevention and detection of crime. However, we may not make or maintain such recordings or records for you or be able to make them available to you.

**5.3 Service Levels.** We shall use all reasonable endeavours to ensure that the Payment Platform is available 99.5% of the time during each calendar month ("**Availability**"). Availability excludes unavailability due to scheduled maintenance or a force majeure event (described below in section 11.10). In any case, we will promptly inform you if the Services or the Payment Platform becomes unavailable.

**5.4 Help Desk.** You may report incidents requiring our help by contacting Client Support by telephone or by sending an email which will be acknowledged by email or telephone during UK office hours within one (1) hour of the incident report. Reported incidents will be assigned to a Client Support representative, who shall coordinate support efforts with you through resolution of the reported problem. We will use all reasonable endeavours to resolve any incidents or problems relating to the Services as soon as is reasonably possible.

**5.5 Limits on Support Services.** We will have no obligation under these Terms of Use to provide support services in respect of any fault or error caused by (a) the improper use of the Payment Platform, or (b) use of the Payment Platform otherwise than in accordance with these Terms of Use.

**5.6 Scheduled Maintenance.** We suspend access to the Payment Platform each evening at 10 p.m. (UK time) for fifteen (15) minutes to carry out scheduled maintenance. In addition, we may suspend access to the Payment Platform outside of UK Business Hours for no more than fifteen minutes to upgrade the Payment Platform. We will, to the extent practicable, provide you with advance notice of any other scheduled maintenance, including details of the expected Payment Platform downtime. Payment Platform downtime during scheduled maintenance carried out by us in accordance with this section shall not be counted as downtime for the purposes of Availability.

## 6. CONFIDENTIAL INFORMATION

Each party agrees that it (i) will neither use in any way, for its own account or the account of any third party, except as expressly permitted by, or required to enable it to perform its obligations under, these Terms of Use, nor disclose to any third party (except as required by law or to that party's advisors as

reasonably necessary), any of the other party's Confidential Information, and (ii) will take reasonable precautions to protect the confidentiality of such information, which precautions shall be at least as stringent as those it takes to protect its own Confidential Information. In addition, each party may reveal the other party's Confidential Information to its agents, representatives and employees who have a "need to know" such information in connection with these Terms of Use, who are informed of the confidential nature of such Confidential Information, and who shall agree to act in accordance with the terms and conditions of this section. Each party agrees that the obligations under this section will survive any expiration or termination of these Terms of Use.

## 7. OUR AGREEMENT WITH YOU

**7.1 Our Acceptance of You as a Client.** Our obligations under these Terms of Use are conditional upon our acceptance of you as a client which is at our sole discretion. We reserve the right to decline to provide the Services or open a Global Account for you without specifying a reason. You acknowledge that all regulatory requirements need to be met before any Services are provided by us. Before we agree to provide Services to you and at all times during the term of the Agreement, you agree to co-operate with us and provide any information and documents and do all such acts we require (i) by law, regulation or according to our internal policies, (ii) to comply with requests of local and foreign regulatory, governmental, and law enforcement authorities, (iii) to check your identity or the identity of an End-Customer, and its activities and objectives, and (iv) to explain the reasons for the (intended) use of a Service, the origin of funds used for a service or transaction, and the economic nature of (the use of) a service or transaction. You hereby agree to promptly notify us, and/or your Business Introducer if applicable, in writing of any change in Client or End-Customer information and to provide us with any further information which is required from time to time for the purposes of our general policies or the provision of the Services. Any information or documents that you provide to us may be provided to us directly by you, or via your Business Introducer if applicable.

For the avoidance of doubt, no Services shall commence until (i) we have completed our compliance checks, (ii) you, or your Business Introducer, if applicable, have agreed to be bound by the terms of a commercial agreement with us, and (iii) you have agreed to be bound by these Terms of Use.

**7.2 Your Representations and Warranties.** You hereby represent, warrant, and covenant to us at all

times that (i) you will comply with these Terms of Use and all applicable laws, rules and regulations regarding your use of the Payment Platform and End Customer data and the Services, and you shall procure that all Authorised Persons, agents and employees comply with these Terms of Use and all applicable laws, rules and regulations regarding your use of the Payment Platform and End Customer data and the Services, (ii) you are compliant at all times with all applicable laws, rules and regulations in all jurisdictions in which you operate, (iii) you will and shall procure that all Authorised Persons, agents and employees use the Payment Platform and the Services only for lawful purposes, (iv) you have full power and authority to enter into and comply with these Terms of Use, (v) title to all money and assets transferred to us under these Terms of Use is not be subject to any charge or other rights of third parties, (vi) you hold all required licences, registrations and permissions to carry out your business, (vii) you are not buying currency for the purposes of investment or speculation (viii) all information supplied to us by you is complete, accurate, up to date, and truthful in all material respects (ix) you will enter into Forward Contracts only to facilitate payment for identifiable goods, services, and direct investment, and (x) you shall not use the Services other than in accordance with such operating processes and procedures as we may prescribe from time to time, whether through Currencycloud Direct or otherwise.

**7.3 Payment Services Regulations 2017.** Unless you have been introduced to us by a Business Introducer and you are a Consumer, none of the provisions of Part 6 and 7 of the Payment Services Regulations 2017 (as amended and replaced from time to time) ("PSRs") will apply to these Terms of Use. If you are a Consumer, you will inform us of such fact prior to commencing use of the Services.

**7.4 Our Representations and Warranties.** We hereby represent and warrant to you at all times that (i) we will comply with these Terms of Use and all applicable laws, rules and regulations regarding your use of the Payment Platform and End Customer data and the Services; (ii) the Payment Platform and the Services when used in accordance with these Terms of Use shall not infringe the intellectual property rights of any third party; (iii) we have full power and authority to enter into and comply with these Terms of Use; (iv) we are compliant with all applicable laws in all jurisdictions in which we operate; (v) the Services shall be provided by us using reasonable skill and care in accordance with good industry practice; and (v) we shall comply with your and your Authorised Persons' prior written instructions (including e-mail and instructions via our website) in relation to payments from your Global Account.

## 8. RELIANCE ON INSTRUCTIONS

**8.1 Authorised Persons.** Sedber is authorised and entitled to rely upon, and act in accordance with, any instruction which may from time to time be, or purport to be, given by Authorised Persons. For these purposes, an instruction includes a payment instruction or an instruction relating to a transaction for the purchase or sale and delivery of currency. Sedber is entitled to treat any instruction as fully authorised by, and binding upon, you and is entitled (but not bound) to take any steps in connection with, or in reliance upon, that instruction which Sedber in its absolute discretion may consider appropriate, and notwithstanding any error or misunderstanding or lack of clarity in the terms of that instruction. If Sedber receives what it considers to be conflicting or ambiguous instructions from any Authorised Person, Sedber may, in its absolute discretion and without any liability on its part, decline to act whilst seeking clarification of that instruction, as Sedber in its discretion deems appropriate. For the avoidance of doubt, a payment instruction shall be regarded as having been authorised by you for the purposes of the Payment Services Regulations 2009 if an Authorised Person has given his/its consent.

**8.2 Business Introducer.** If you have been introduced to us by a Business Introducer, then your Business Introducer shall be an Authorised Person and shall act as your agent for the purposes of your using the Services unless you have informed us in writing that you have agreed otherwise with the Business Introducer. In the event that a Business Introducer does not act as an Authorised Person or ceases to act as an Authorised Person, you are required to inform us of this immediately

## 9. LIABILITY

**9.1 Your Liability for Losses.** You shall be liable to us, and on our demand you shall promptly pay us, for all Losses (including losses and expenses from any action we take to seek to cover or reduce our exposure under any Contracts) arising from or in connection with:

(a) our acting on your or your Authorised Persons' instructions or apparent instructions and Orders (including, where applicable and without limitation, by e-mail, fax, telephone, or via the Payment Platform);

(b) anything relating to such instructions made by or on behalf of you or an Authorised Person (including where applicable and without limitation, instructions in writing by e-mail, fax or via our website) to us or concluding Orders with us (whether orally or in writing); and

(c) our exercising our rights to Close Out all or any part of any Contract;

except to the extent that, in each case, the Losses arise due to our negligence, wilful default, or fraud.

**9.2 Unauthorised or Incorrectly Executed Payments.** Under the Regulations you may be entitled to redress for any unauthorised or incorrectly executed payments. In the case of an executed payment or withdrawal from your Global Account not authorised by you or an Authorised Person, we will refund the amount of the unauthorised payment to you, and where applicable, restore the debited payment account to the state it would have been in had the unauthorised payment not taken place. If we fail to execute, or incorrectly execute, a payment, unless we can establish that the beneficiary's payment service provider received the amount of the payment transaction, we will refund to you the amount of the non-executed or defective payment transaction promptly after becoming aware of the error, and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. We will also refund to you any direct charges for which you are responsible and any interest which you must pay as a consequence of the non-execution or defective execution of the payment transaction. Beyond this, we have no further liability to you for any unauthorised or incorrectly executed payments.

**9.3 Incorrect Information or Payee/Beneficiary Bank Failure.** We will not be liable to you for the non-execution of a payment or for the defective execution of a payment if the information you provide is incorrect. We will not be liable for errors, mistakes, or non-performance arising from the payee/beneficiary bank if the payee/beneficiary bank fails to process the payment correctly. In either case, we will make reasonable efforts to recover the funds involved in the payment. You, or your Business Introducer if applicable, will be responsible for the costs incurred by us for any such recovery.

**9.4 Our Negligence.** If a Loss is incurred due to our negligence or breach of contract, we will promptly attempt to correct the error. Subject to Section 9.6, we will be liable for any direct losses such as bank fees and interest incurred as a result of our negligence or breach of contract. In no circumstances will we be liable for any indirect, unforeseeable or incidental losses incurred, such as loss of opportunity.

**9.5 Non-Exclusion.** Nothing in these Terms of Use excludes either party's liability for any Loss to the extent it is caused by fraud, dishonesty or deceit, death or personal injury caused by a party's negligence or the negligence of its employees or agents or any other liability that cannot be excluded by law.

**9.6 Aggregate Liability.** Except for liabilities arising in connection with: a breach of Section 3 (Data Protection Legislation); a breach of Section 6 (Confidential Information); Section 9.1 (Your Liability for Losses); Section 9.2 (Unauthorised or Incorrectly Executed Payments) (but only up to the amount of the refund due); Section 9.5 (Non-Exclusion); Section 9.7 (Your Indemnities); and Section 9.8 (Our Indemnities), each party's aggregate liability to the other party (either directly or as a third party defendant in any action or proceeding) with respect to these Terms of Use and all Commercial Agreements shall not exceed the amount of fees paid or payable by you to us under or in relation to these Terms of Use within one year preceding the date that the cause of action arises.

Notwithstanding the foregoing, but always subject to Section 9.5 (Non-Exclusion), if the claim relates to a specific Contract, our maximum liability to you, whether arising in contract, tort or otherwise, shall in no circumstances exceed an amount equal to the currency sold by us under the relevant Contract.

Subject to Section 9.5. (Non-Exclusion), in no event shall either party be liable to the other for any loss of data, loss of profits, or any special, incidental, indirect or consequential Loss, howsoever arising.

**9.7 Your Indemnities.** You agree to fully defend us on demand from and against any third-party claim (i) alleging that your actions in connection with your use of the Payment Platform or the Services violates any third party's rights of privacy or violates any privacy laws; and (ii) arising from or relating to End Customer data. You will, in either case, indemnify us (and our directors, employees and agents) against all damages awarded against us or agreed to in a written settlement agreement signed by you arising out of such claim. We shall: (a) promptly notify you in writing of any such claim; (b) authorize you to control the defence and all related settlement negotiations; (c) provide you with the assistance and information reasonably necessary to defend and/or settle the any such claim; (d) in no event jeopardise, settle or admit liability with respect to any such claim without your prior written consent, and (e) use reasonable endeavours to mitigate any such claim.

**9.8 Our Indemnities.** We agree to fully defend you on demand against any third-party claim alleging that the use of our Services in accordance with these Terms of Use infringe the intellectual property rights of a third party. We will indemnify you in full and on demand against all damages awarded against you or agreed to in a written settlement agreement signed by us arising out of such claim. You shall (a) promptly notify us in writing of any such claim; (b) authorize us to control of the defence and all related settlement negotiations; (c) provide us with the

assistance and information reasonably necessary to defend and/or settle any such claim; (d) in no event jeopardise, settle or admit liability with respect to any such claim without our prior written consent, and (e) use reasonable endeavours to mitigate any such claim.

## **10. TERMINATION**

**10.1 Term.** These Terms of Use shall remain in effect so long as our Commercial Agreement with you, or our Commercial Agreement with your Business Introducer, if applicable, is in force, or for so long as we are providing any Services to you.

**10.2 Termination for Convenience.** If you have been introduced to us by a Business Introducer and you are a Consumer, then you may terminate these Terms of Use on providing one (1) month's prior written notice to us, and we may terminate these Terms of Use by giving two (2) month's prior written notice to you.

**10.3 Termination for Cause.** Either of us may terminate these Terms of Use if: (i) the other party commits any material breach of these Terms of Use and fails to cure such breach within thirty (30) days after receipt of written notice of the same, (ii) the other party becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

**10.4 Additional Grounds for Termination.** You or we may suspend Services and/ or terminate these Terms of Use at any time without prior notice if: (i) a financial regulator, regulatory or government agency, or law enforcement agency posts a warning with regard to you or us; (ii) any governmental, regulatory, or judicial authority directs or requests us or you to suspend or terminate these Terms of Use or any Commercial Agreement; or (iii) a banking partner of ours or yours requests that we or you terminate these Terms of Use or any Commercial Agreement. We may suspend Services and/or terminate these Terms of Use at any time without prior notice where we have reason to believe that you or an End-Customer is engaged in fraud, money laundering, or terrorist financing or where we have reason to believe that you or an End-Customer may cause us to breach our internal risk policy.

**10.5 Effect of Termination.** Termination of these Terms of Use shall automatically terminate the Commercial Agreement and termination of the Commercial Agreement shall automatically terminate these Terms of Use. Upon the effective date of termination: (i) you will immediately cease all use of

the Payment Platform and return any and all copies of any documentation, notes and other materials comprising or regarding the Payment Platform; (ii) all of your payment obligations under these Terms of Use, or under our Commercial Agreement with you, or under our Commercial Agreement with your Business Introducer, if applicable, will immediately become due and payable; (iii) we will promptly return any funds of yours which we hold to you; and (iv) within thirty (30) days of such termination of these Terms of Use, each party will return all Confidential Information of the other party in its possession and will not make or retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirement. For the avoidance of doubt, termination by either party shall not affect any Contract previously entered into and shall not relieve either party of any outstanding obligations arising out of these Terms of Use, nor shall it relieve you of any obligations arising out of any Contract entered into prior to such termination.

**10.6 Survival.** The following provisions will survive any expiration or termination of these Terms of Use and the Commercial Agreement: sections 3, 6, 9, and 10, and any other provision that by their nature are intended to survive termination of the Commercial Agreement. Any sums owed by you to us under these Terms of Use shall become immediately due and payable on the expiration or termination of our Commercial Agreement with you or of our Commercial Agreement with your Business Introducer, if applicable.

## **11. MISCELLANEOUS**

**11.1 Relationship between the Parties.** No provision of these Terms of Use creates a partnership between the parties or makes a party the agent of the other party for any purpose. A party has no authority to bind, to contract in the name of or to create a liability for the other party in any way or for any purpose and neither party shall hold itself out as having authority to do the same.

**11.2 Changes to the Payment Platform.** We reserve the right to modify and make changes to the Payment Platform at any time as we deem necessary to comply with applicable laws and regulations or business needs, provided that such modification shall not in our reasonable opinion degrade the functionality of the Payment Platform. Where possible, we shall notify you of such modification as soon as is reasonably practicable following our determining to make the modification.

**11.3 Assignment.** You consent to our assigning our rights under these Terms of Use at any time to (i) any one or more of our Group Companies and/or (ii) any

person pursuant to a merger, consolidation or sale of any substantial portion of our business to which these Terms of Use relate. You may not assign your rights or obligations under these Terms of Use without our prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

**11.4 Governing Law and Forum.** These Terms of Use (and any non-contractual obligations arising out of or in connection with the same) shall be governed by and interpreted in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to settle any dispute or claims which may arise in connection with these Terms of Use and/or the Services provided hereunder (including in relation to any non-contractual obligations). However, if you have been introduced to us by a Business Introducer and are a Consumer, then (a) if you live in Scotland you can bring legal proceedings in respect of the Services in either the Scottish or the English courts, and (b) if you live in Northern Ireland you can bring legal proceedings in respect of the Services in either the Northern Irish or the English courts. In addition, please note that if you are a Consumer, disputes may be submitted for online resolution to the [European Commission Online Dispute Resolution platform](#).

**11.5 Advertising.** Subject to the following, we may include your name, logo and contact information in directories of our service subscribers and other general promotional materials for the purpose of promoting the use of the Payment Platform generally. However, we shall immediately cease using your name, logo and contact information if you request us to do so. Neither party shall issue a press release relating to their business relationship without the written consent of the other party. Neither party may use the trademark or trade name of the other party without the written consent of such party.

**11.6 Entire Agreement and Waiver.** These Terms of Use, together with each of the documents referred to herein, constitute the entire agreement between you and us with respect to the subject matter hereof. All prior agreements, representations, and statements with respect to such subject matter are superseded. Any failure of either party to exercise or enforce its rights under these Terms of Use shall not act as a waiver of subsequent breaches.

**11.7 Severability.** The provisions of these Terms of Use are severable and the invalidity or unenforceability of any provision herein shall not affect the validity or enforceability of any other part of these Terms of Use.

**11.8 Non-Solicitation.** During the term of these Terms of Use and the term of the Commercial Agreement and for a period of six (6) months thereafter, neither party shall solicit or hire the services of any employee or contractor or subcontractor of the other party who has performed services in relation to these Terms of Use or a Commercial Agreement, without our prior written consent of the other party. Nothing herein shall prevent a party from recruiting or engaging any employee or subcontractor who has applied in an unsolicited manner for a role which has been advertised.

**11.9 Amendments.** We reserve the right to amend these Terms of Use by giving you no less than two (2) month's prior written notice and sending you revised terms and conditions by post or email or other electronic means. Such amendments will become effective on the date specified in the written notice, and unless otherwise mutually agreed by us in writing, an amendment will not affect any legal rights or obligations which may have already arisen prior to the date specified in the notice. Notwithstanding the foregoing, any amendment to these Terms of Use that materially and adversely impacts you must first be agreed upon in writing signed by us and you, and in the event that the parties are unable to reach agreement and we in any event implement such amendment to these Terms of Use, you shall have the right in your sole discretion without any liability to terminate these Terms of Use forthwith.

**11.10 Force Majeure.** In the event that either party hereto shall be delayed or hindered or prevented from the performance of any act required by reason of strikes, lock-outs, labour troubles, failure of power, riots, acts of terrorism, insurrection, war, mud-slide, fire, earthquake, tsunami, or where such act or omission is due to our obligations under provisions of European Union or national law, or other similar reasons of a like nature not the fault of the party delayed in performing work or doing acts required under these Terms of Use, such party shall as soon as reasonably practicable provide notice to the other party of such delay, and performance of such act shall excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. We will not have any liability to you where we are unable to perform our obligations because of factors beyond our control. If an event of force majeure affecting a party continues for a period of more than 30 days, the other party may terminate these Terms of Use and all affected Commercial Agreements.

**11.11 Third Party Rights.** Nothing in these Terms of Use confers or is intended to confer a benefit enforceable by a person who is not a party to it and no term of this Agreement is enforceable under the



Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to these Terms of Use. Without prejudice to the generality of the foregoing you (and not any End Customer) will be the counterparty to a Contract and the recipient of the Services.

**11.12 Notices and Communications.** Any notice required to be given under these Terms of Use shall be treated as having been served on delivery if by hand, 48 hours after posting (disregarding days which are not Business Days) and on completion of transmission if sent by or e mail or other electronic means. All communications in relation to these Terms of Use and the services contemplated hereunder, whether verbally or in writing, must be in the English language. All communications may be made by any reasonable means, including but not limited to, telephone, letter, electronic mail or other electronic means. We reserve the right to request that you confirm in writing any verbal communications that you may give us.

**11.13 Complaints.** If you feel that we have not met your expectations in the delivery of our services or if you think we have made a mistake, please let us know. We have internal procedures for handling complaints fairly and promptly in accordance with the FCA requirements. A copy of our complaints procedure is available upon request and on the Website. If you are not satisfied with the decision in our final response, you may be able to refer your complaint to the Financial Ombudsman Service should you not be satisfied with our final response. Eligibility criteria and the procedures involved, are available from the Financial Ombudsman Service, Exchange Tower London E14 9SR.

**11.14 Information** You may request, at any time during our relationship, a copy of these Terms of Use and of any of your signed Commercial Agreements with us.

**11.15 English Text Prevails.** In the event these Terms of Use are translated into a foreign language, in case of any conflict or discrepancy between the English language version and the foreign language version, the English language version shall prevail.

## SCHEDULE 1 - PAYMENT SERVICES – GLOBAL ACCOUNT

### The following provisions will apply to Payment Services – Global Account

**1. Rights and obligation.** These Terms of Use set out important rights and obligations including our liability to you under the Regulations when you open a Global Account and ask us to provide Payment Services – Global Account.

**2. Scope of the Regulations.** The Regulations apply to all Payment Services – Global Account including any balances held for you by Sedber and all payments made on your or an Authorised Persons' instructions by Sedber.

**3. Account Status.** Your Global Account is an electronic money account which enables you to send and receive electronic payments. The electronic money on your Global Account is issued in accordance with the Regulations and other applicable law. Where you close your Global Account as described below the electronic money held on your Global Account does not expire but it will not earn any interest.

You can fund your Global Account and make payments from your Global Account. For these purposes, making payments from your Global Account includes making payments to third party beneficiaries or instructing funds in your Global Account to be transferred to another account in your name with a third party.

You acknowledge that electronic money accounts are not bank accounts and accordingly the UK's Financial Services Compensation Scheme (FSCS) does not apply to your Global Account. We strictly adhere to the legal requirements under the Regulations which are designed to ensure the safety and liquidity of funds deposited in electronic money accounts; however, in the unlikely event that we CC become insolvent; you may lose the electronic money held in your Global Account. For further information on how we safeguard client funds, please refer to section 10 of this Schedule or contact Client Support.

We shall treat the electronic money on a Global Account registered in your name as belonging to you and no person other than the holder of the Global Account has any rights in relation to the funds held in a Global Account and you may not assign or transfer your Global Account to a third party or otherwise grant any third party a legal or equitable interest over it unless a court or competent regulatory body requires you to in which case we shall use all commercially reasonable endeavours to assist you in executing such assignment, transfer or grant.

Your Global Account may be subject to funding, payment or conversion limits due to security and legal requirements as determined by us from time to time at our reasonable discretion. You may be asked to answer security questions or to complete other processes that we may reasonably require in relation to any funding or payment transaction. If we are lawfully able to, we shall notify you in writing as soon as is reasonably practicable following any determination that funding or payment limits are to be imposed.

We reserve the right in our reasonable discretion to carry out all and any necessary money laundering, terrorism financing, fraud or other illegal activity checks before processing any payment transaction.

Certain transactions may be subject to fees.

**4. Opening an Account.** In order to use the Payment Services – Global Account, you must first open a Global Account with us. By opening a Global Account with us, you are also confirming that you (i) have regular access to the internet and email and (ii) are able to store information sent to you by email and other electronic means in a Durable Medium by printing out or otherwise retaining for future reference all electronic communications sent and information made available to you by us. It is for you to ensure that your contact details are up to date and that you are able to access any such communications and information at all times.

**5. Maintaining an Account.** You must ensure that the information recorded on your Global Account is always complete, accurate and up to date and we shall not be liable for any loss arising out of your failure to do so. We may ask you at any time to confirm and/or provide documents or other evidence as to the accuracy of this information.

We may contact you with information or notices regarding your Global Account and Payment Services – Global Account. It is your responsibility to regularly check the proper functionality of your email account or other methods of communication that you have registered with your Global Account and to retrieve and read messages relating to your Global Account and Payment Services – Global Account promptly. We shall not be liable for any loss arising out of your failure to do so.

Funding, payments or conversions are displayed in your Global Account and you should check your Global Account balance and transaction history regularly. You should report any irregularities or clarify any questions you have as soon as possible by contacting Client Support.

**6. Closing an Account.** You may close your Global Account at any time by contacting Client Support and withdrawing any surplus balance held at that time.

**7. Funding your Account & Receiving Payment.** Funds paid by you or a third party will be credited to your Global Account on the Business Day they are received. If we receive funds after 4.30pm on a Business Day or on a day that is not a Business Day, funds will be deemed to have been received on the next Business Day. We shall not be responsible for the funds until they are received by us.

In the event that the funds are subject to a reversal, we will deduct such reversed transaction from the balance of your Global Account. If your Global Account balance is insufficient to cover the reversal, we reserve the right to require repayment from you.

You should regularly reconcile incoming payments with your own records. You should be aware that the crediting of funds to your Global Account does not mean that these transactions cannot be reversed. We reserve the right to reverse a payment where the payer or the payer's bank or payment service provider has reversed (or is reasonably likely to reverse) a payment to your Global Account.

All payments to us must be ascribed to a clear and complete reference so that we may credit the funds into your Global Account. Further details as to what references must be used are set out in the Client Help Centre.

It is your responsibility to ensure that accurate, complete and correct references are ascribed for each incoming payment so that we may credit the funds into your Global Account. If no reference or an incorrect reference is provided, then we will not be able to credit your Global Account. In such cases, we will not be liable for any loss you incur, although we will use reasonable efforts to investigate and credit or return incorrect and inaccurately referenced payments into or from your Global Account.

**8. Sending Payment.** We will send payments in accordance with your or your Authorised Persons' instructions to third party beneficiaries or another account held in your name that you specify to us in accordance with your instructions. When making payments to yourself and not to a third-party beneficiary, we will only make a payment to a bank

account where you are the named holder of such bank account.

All payment instructions must be made through the Payment Platform.

It is your responsibility to ensure that accurate, complete and correct payment instructions for the beneficiary of a payment (including payments to yourself) are provided to us through the Payment Platform. This includes but is not limited to providing us with correct details for the beneficiary to which you would like the payment sent. If you provide incorrect beneficiary details we will not be liable for any loss you incur, although we will use reasonable efforts to assist you in the recovery of your payment. We reserve the right to charge you a fee to cover our reasonable costs for doing this.

You are required to provide us with any additional information that we request with regard to a payment within two (2) Business Days of our request.

You consent to our including your full name, address and account number (and any other details as are required to enable us to comply with our anti money laundering procedures) on the payment details to be sent to the beneficiary's bank or payment service provider to comply with anti-money laundering regulations. If you instruct us to make payment to a new or an existing beneficiary, and your beneficiary account details are provided via an oral Instruction (such as by telephone, video conferencing or other similar means) or otherwise by a communication that is not in writing then we will send you an email containing the beneficiary account details you have provided.

You or an Authorised Person may revoke or cancel a payment instruction for a future outgoing payment transaction at any time prior to payment execution through the Payment Platform.

You or an Authorised Person are responsible for confirming via the Payment Platform that a payment instruction has been received and processed by us. We are not liable for any loss in circumstances where erroneous duplicate payment instructions are sent to us by you or and Authorised Person.

If we receive a payment instruction (through the Payment Platform) by 4.30pm on a Business Day, your payment instruction will be deemed to have been received by us on that Business Day. If your payment instruction is received after 4.30pm or on a day that is not a Business Day, your payment instruction will be deemed to have been received on the next Business Day. Your payment instruction will be acted on the earliest possible payment date unless you have requested a specific future date. The

payment cycles are shown here:  
<https://www.sedber.com/payment-and-fx-timelines>

You must notify us by telephone or in writing as soon as is reasonably practicable after you become aware of any unauthorised or incorrectly executed payments, otherwise we may not be liable to you and in order to claim a refund for an unauthorised or incorrectly executed payment transaction on your Global Account you must notify us without undue delay after becoming aware of the unauthorised or incorrect transaction and in any event no later than thirteen (13) months after the debit date of the transaction.

International money transfers often require funds to be transmitted between multiple intermediaries beyond our own direct payment service providers. These intermediaries or the beneficiary bank may deduct a charge. You acknowledge that these charges cannot always be calculated in advance and that you agree to be responsible for such charges. We will not be liable for losses that result from such charges being applied to your payment.

Subject to the Regulations we may refuse your payment Instruction because for example you are in material breach of these Terms of Use or we reasonably believe the payment to be unlawful. In these circumstances, we shall promptly notify you using your supplied contact details, stating wherever possible the reasons for our refusal, and the procedure for rectifying any payment detail errors that led to the refusal but we reserve the right to charge you a fee to cover our reasonable costs for doing this. We are not obliged to notify you of our refusal to execute the proposed transaction where we reasonably believe that such a notification would be unlawful.

**9. Prohibited Payments.** We reserve the right, in our reasonable discretion to impose 'acceptable use' terms in relation to the operation of your Global Account and the provision of any payment service including the prohibition of certain categories of payment transactions for example payments in relation to the gaming, bitcoins and virtual currencies sectors by specifying these on the Website.

You must not use your Global Account for any illegal purposes including without limitation fraud and money laundering. We will report any suspicious activity to the relevant law enforcement agency.

If you conduct or attempt to conduct any transaction in violation of the prohibitions contained in this section we reserve the right to reverse the transaction, and/or close or suspend your Global Account and/or report the transaction to the relevant

law enforcement agency and/or claim damages from you.

**10. Safeguarding.** Funds received in accordance with a payment instruction will be subject to the segregation requirements as set out in the Regulations and are referred to as "Relevant Funds".

For the purposes of this section, "Relevant Funds" means any sums received from you or for your benefit from a payment service provider such as a bank for the execution of Payment Services on your behalf. Relevant Funds are held in segregated bank accounts which are independent of our business bank accounts. The purpose for so holding funds is to ensure that in the event of our insolvency, or if a financial claim is made against us, no creditor or claimant should be able to claim funds held in these accounts. This is because no other person or institution may have any rights or interest over the funds held in these accounts such as a lien over funds in these accounts. Relevant Funds are not covered under the Financial Services Compensation Scheme.

In the event that you have subscribed to the Enhanced Safeguarding Service, Relevant Funds will be held by us on behalf of your End Customer as instructed by you in subscribing to the service. Relevant Funds are held in segregated bank accounts which are independent of our business bank accounts. The purpose for so holding funds is to ensure that in the event of CC or your insolvency, or if a financial claim is made against us, CC or you, no creditor or claimant should be able to claim funds held in these accounts. This is because no other person or institution may have any rights or interest over the funds held in these accounts such as a lien over funds in these accounts. For the avoidance of doubt, this means that if you subscribe to the Enhanced Safeguarding Service you will have no rights over the Relevant Funds since these funds will be held on behalf of, and where necessary returned to, your End Customer and not to you. Relevant Funds are not covered under the Financial Services Compensation Scheme.

When you transfer funds to us to pay a deposit in respect of a Forward Contract, full ownership and title to these funds transfer to us, and such funds are considered our funds, subject to these funds being applied against your payment obligations upon the settlement or closing out of the Forward Contract(s). They will not be Relevant Funds and so they will be placed into our business bank account and will not be afforded protection under the segregation rules of the Regulations.

When you transfer funds to us to pay Margin or Margin call(s) full ownership and title to these funds

transfer to us absolutely and such funds are considered as our funds. They will not be Relevant Funds and so they will be placed into our business bank account and will not be afforded protection under the segregation rules of the Regulations.

Pursuant to the Regulations, we will not pay interest on funds paid to us including balances held in segregated or client bank accounts and we may retain, for our own benefit, any interest which accrues from funds held in any accounts

## SCHEDULE 2 - FOREIGN EXCHANGE SERVICE

### The following provisions will apply to the Foreign Exchange Service

**1. Individual Contracts.** Each Contract shall be an individual contract and we may at any time and at our sole discretion refuse to offer terms for any Contract.

**2. Execution Only.** We shall not provide you with any advice in connection with the Services (such as, whether to proceed or not to proceed with a Contract and in respect of timing). We may provide market information but this shall not constitute investment advice. We cannot accept responsibility for your decision to enter into a Contract. Any decision to transact is your decision and we will not be liable for any loss or opportunity loss if exchange rates move before or after you transact.

You agree that you will use Contracts in connection with your lawful future payment needs and not for any speculative or investment purpose. We may decline to deal with you if we have reason to believe that you are using any Contract or the Services for investment or speculative purposes and we may Close Out a Contract in accordance with section 7 of this Schedule.

**3. Forward Contracts.** You hereby agree to enter into Forward Contracts only for the purpose of facilitating payment for identifiable goods, services or direct investment. You agree that we reserve the right to decline to accept an instruction in respect of a Forward Contract if we reasonably believe that you intend to enter into the Forward Contract for purposes other than those listed above.

**4. Instructions and Orders.** Upon request, we may provide you or an Authorised Person with an exchange rate quote. This quote is given on an indicative basis only and we are not legally bound to perform a proposed Contract in accordance with this quote.

You or and Authorised Person can give us electronic or verbal instructions relating to a transaction for the purchase or sale and delivery of currency. We will at our sole discretion offer the commercial terms of a proposed Contract. These terms will include amongst other things the exchange rate we are offering which may be different from a quote you have previously been given by us.

Once you or and Authorised Person accepts the commercial terms of the Contract (by electronic or verbal or by any other means), you will become legally bound to perform the Contract in accordance with the terms of the Order. Following receipt of an Order, we shall subsequently transmit electronically

to you a trade confirmation, which will confirm the details of the Order.

Once we have agreed an Order, you or an Authorised Person may not amend or cancel the Contract unless we expressly agree (and any such amendment or cancellation shall be on the conditions specified by us). If you or an Authorised Person elects to cancel or amend a Contract, you, or your Business Introducer if applicable, must pay a fee which will be set out in our Commercial Agreement with you or in our Commercial Agreement with your Business Introducer, if applicable. We may require further confirmation or information from you or an Authorised Person of any Order.

**5. Settling Contract.** You must pay all funds specified by us in connection with a Contract (including any applicable transfer charges by electronic transmission) in full and in cleared funds into a client account specified by us. Payment must be received by us on or before the Settlement Date and Time or such earlier date as we may specify and for the full value of the currency to be sold by you under the Contract. Please see the daily cut-off times available [here](#) for settlement times.

If funds do not arrive on or before the Settlement Date and Time, we may at our sole discretion roll the trade to the next settlement day and apply a charge in accordance with the provisions of our Commercial Agreement with you, or of our Commercial Agreement with your Business Introducer, if applicable, or Close Out the Contract. Where practicable, we will give notice to you before rolling the trade to the next settlement day. We will deliver bought currency funds into your Global Account on a specified Contract Delivery Date.

**6. Disputes.** If a dispute arises between you and us relating to the existence or terms of any Contract (a "**Disputed Contract**"), we may at our sole discretion Close Out the Disputed Contract pending settlement of the dispute. We will notify you (orally or in writing) of such action as soon as practical but if we do not the validity of any action by us shall not be affected.

**7. Default & Refusal to Perform.** Notwithstanding Sections 2, 5 and 6, we may at our sole discretion refuse to perform or Close Out a Contract, including but not limited to upon or at any time after any of the following events:

(a) you fail to settle a Contract by the agreed Settlement Date and Time;



(b) if we have reason to believe that you are using any Contract or the Services for investment or speculative purpose;

(c) either you or we cancel a Contract;

(d) you fail to pay Margin or additional Margin by the due date as requested by us;

(e) you fail to pay the deposit or additional deposit by the due date requested by us;

(f) An Insolvency Event occurs or you take steps to or suspend payment of your debts;

(g) you fail in any respect to fully and promptly comply with any obligations owed to us, or if any information supplied by you or any representations made by you are or become materially inaccurate;

(h) it becomes or may become unlawful for us to maintain or to provide any of the Services or if you or we are requested not to perform or to close out a Contract (or any part thereof) by the FCA and any governmental or regulatory authority whether or not that request is legally binding; or

(i) we consider it necessary to do so for our own protection including (without limitation) in the following circumstances: (i) protection from fraud; (ii) protection from your default; and (iii) protection from broad-based market failure.

Where practicable, we will provide you with notice prior to making the decision to refuse to perform or Close Out a Contract, save in the circumstances described in clauses (h) or (i) above where it may not be possible for us to give prior notice.

If you become aware of the occurrence of any such event or any circumstances that mean that any such event is likely to occur, you must notify us immediately.

If any event referred to above takes place, we shall, at our discretion, be entitled to cancel any outstanding Contracts and charge you all of the costs, expenses and losses that we may incur (including any action we may take to cover or reduce our exposure). Any Margin held by us in respect of Contracts shall be returned to you after deducting all other sums due to us (including any fees or losses resulting from closing out the Contract). We shall not be responsible in any way for any delay in payment by us under this Schedule 2 caused by you or any other third party.

**8. Close Out.** We reserve the right in our sole discretion to Close Out a Contract at any time including without limitation where you decide to cancel a Contract and in the circumstances described in Section 7 of this Schedule.

You will be liable on demand for all costs, expenses and losses that we may incur as a result of any Close Out of a Contract pursuant to these Terms of Use and we will have no liability for any losses that may

be sustained by you as a result of a Close Out nor shall we be liable to account to you any gains.

We reserve the right to select which Contracts are subject to Close Out irrespective of any End Customer including without limitation in circumstances where an End Customer has made a payment of Margin direct to us. However, we will make reasonable efforts to contact you before Close Out of any Contract.

**9. Margin.** We shall require Margin on demand as collateral to protect Sedber from financial losses which it may incur as a result of Contracts being Closed Out (either on your request or at our discretion). Margin may be paid to us via your Business Introducer if applicable.

We reserve the right to increase the Margin required at any stage up to the Settlement Date and Time to allow for changes in the foreign exchange rate or volatility which we believe may increase our risk under the contract. We may make a Margin call to increase Margin held at any point. The Margin call will be for such sum as we consider necessary.

Full ownership and title to all funds sent to us as Margin shall transfer to us absolutely and you shall have no interest in such funds which we will be entitled to deal with in our own right. For the avoidance of doubt, this means that we have the right to pledge or grant a security interest over it, or transfer or deposit it to or with an exchange or clearing house, a broker, a bank or any other financial institution or payment service provider.

All and any part of Margin may be applied across all and any Contracts.

You shall not be entitled at any time to the return of any Margin without our prior written consent.

Our Margin Policy is available on request.

**10. Payment of Margin.** Margin must be paid to us in cleared funds whether from funds available in your Global Account or otherwise funded by you. In all cases, Margin or additional Margin must be paid into an account specified by us to you in an amount specified by us.

All requests for Margin or additional Margin must be paid to us within one Business Day of our request.

If our Margin requirements have not been met in full, Services cannot commence or continue, and the trade will not be executed. We reserve the right to Close Out any Contract if any payment of Margin or Margin call is not made by the due date.

**11. Deposit.** In our sole discretion, we will require you to pay us an initial deposit in respect of a Forward Contract. As agreed between you and your Business Introducer if applicable, the deposit may be paid to us via your Business Introducer. We reserve the right to increase the deposit required at any stage up to the Settlement Date and Time. This may be required to allow for changes in the foreign exchange rate. The deposit or additional deposit required will be for such sum as we consider necessary. Full ownership and title to all funds sent to us as deposits shall transfer to us, subject to these funds being applied against your payment obligations upon the settlement or closing out of the Forward Contract(s). For the avoidance of doubt, this means that we have the right to pledge or grant a security interest over a deposit or transfer a deposit to an exchange or clearing house, a broker, a bank or any other financial institution or payment service provider.

**12. Date change.** In our sole discretion, you may alter the Settlement Date and Delivery Date of a contract. This will incur a fee as set out in our Commercial Agreement with you, or in our Commercial Agreement with your Business Introducer, if applicable.

**13. End Customers.** We deal with you as Principal only and assume no obligations to End Customers.



## SCHEDULE 3 – EUR COLLECTION SERVICE

### The following provisions will apply to the EUR Collection Service

**1. Description of Service.** The EUR Collection Service enables users to fund their Global Accounts by receiving EUR. This funds transfer service enables a user to receive payments in the EEA in EUR. Sedber will issue to a user Virtual IBANs solely for the purpose of the collection of EUR. The user may then provide instructions to its Payers to use the Payers' own banks or similar financial institutions to send funds on the user's behalf via the Payment Platform where upon receipt of these funds, the funds will be settled to the user's Global Account.

### **2. Payers.**

**2.1** In the event that Sedber accepts payments on your behalf, you agree and understand that you must provide express instructions to your Payers to use their own bank or similar financial institution to send funds to Currencycloud. You shall provide Payers with information sufficient for them to understand that their payments are being processed by Sedber on your behalf, and you shall provide Payers with a receipt confirming receipt of payment when such payment is received by Currencycloud. Accordingly, in connection with such transactions, you authorise us to act as your agent for the limited purposes of receiving, holding and disbursing to your Global Account such funds received from Payers on your behalf. You agree and understand that the receipt of funds by us from a Payer, pursuant to instructions you have provided the Payer, satisfies the Payer's obligation to you.

### **3. Funding.**

**3.1** For transactions where we are acting as your limited payments agent to receive funds on your behalf from a Payer, you will need to provide instructions to each Payer on how to transmit his or her funds to us. Information regarding such instructions will be provided to you in connection with onboarding for the EUR Collection Service, as applicable, and such instructions may be updated by us from time to time. The Payer will need to fund the payment by transferring funds from his or her bank account, using an SEPA Credit Transfer (a SEPA Credit Transfer the Payer initiates), or by any other method we specify. You are responsible for providing instructions to the Payer so that Payer funds will be received by us. You are solely responsible for any errors or omissions with such instructions. You agree and understand that you will include with such instructions to each Payer an explanation that Payer's funds owed to you are being received by Currencycloud on your behalf, and

that the receipt of the funds via the Payment Platform shall be deemed the receipt of funds by you.

**3.2** We reserve the right in our sole discretion to refuse the funding of any transaction. We may return the funds to the Payer's bank account. The funding of a transaction may be delayed, cancelled, or otherwise modified in accordance with our obligations to prevent this Service from being used for fraud, money laundering, and the financing of terrorism. We, or the Business Introducer if applicable, will attempt to notify you of any such delay or cancellation using the contact information provided by you to us as part of your registration, stating (where possible) **the reasons for the refusal and whether the problem can be corrected. You are solely responsible for communicating with the Payer, as appropriate, in the event of any such issue. We will not notify** you if to do so would be in violation of applicable law.

## Schedule: Definitions - Terms of Use

"Affiliates" means, in relation to an entity, any person or entity Controlling, Controlled by or under common Control with such entity. An entity is deemed included within the meaning of "Affiliate" even if it qualifies as such after these Terms have been agreed to by a Client;

"Authorised Person" means any person authorised by you to give us instructions in relation to the Global Account and/or Payment Services – Global Account and/or to conclude Orders on your behalf. A Business Introducer shall be an Authorised Person unless you have agreed otherwise;

"Business Day" means any day other than a Saturday or a Sunday or a public or bank holiday in England;

"Business Introducer" means the person with which we have entered into a Business Introducer Agreement. This person markets and promotes the Services, and unless you have agreed otherwise will act as an Authorised Person;

"Client" means the person who is contracting with us for the provision of the Services;

"Client Help Centre" means the information which is available online at [sedber.com](https://sedber.com). If applicable, the Client Help Centre may be available to you online through a website provided by your Business Introducer.

"Client Support" means our client support service which is available by calling our help desk at +44 (0) 20 3920 7268 during UK office hours to speak with a support representative or by sending an email to [support@sedber.com](mailto:support@sedber.com);

"Close Out" means any action we may take to close out, cover or reduce our exposure in relation to the relevant Contract including any action we reasonably consider appropriate in the circumstances;

"Commercial Agreement" means the agreement between you (or your Business Introducer, if applicable) and us setting out the commercial terms for the provision of one or more of the Services. In the event that you have been introduced to us by a Business Introducer, then the Commercial Agreement shall be the commercial agreement between us and the Business Introducer;

"Confidential Information" means confidential information of the other party concerning the other party's business, plans, customers, clients, technology, services and products and other information held in confidence by the other party including all information in tangible or intangible form

that is marked or designated as confidential or that, under the circumstances of its disclosure, should be considered confidential. Our Confidential Information will include, but not be limited to, the Currencycloud Technology, and your Confidential Information will include, but not be limited to End Customer data and Personal Data. Information will not be deemed Confidential Information if such information: (i) is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of these Terms of Use by the receiving party; or (iv) is independently developed by the receiving party. The receiving party may disclose Confidential Information pursuant to the requirements of a governmental agency or by operation of law, provided that it gives the disclosing party reasonable prior written notice sufficient to permit the disclosing party to contest such disclosure and it is not itself unlawful to give such notice;

"Consumer" means (a) an individual who, in contracts for payment services to which the PSRs 2017 apply, is acting for purposes other than a trade, business or profession; (b) an enterprise which, at the time at which the contract for payment services is entered into, is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Recommendation 2003/361/EC of 6th May 2003 concerning the definition of micro, small and medium-sized enterprise; and (c) a body whose annual income is less than £1 million and is (i) in England and Wales, a charity as defined by section 1(1) of the Charities Act 2011; (ii) in Scotland, a charity as defined by section 106 of the Charities and Trustee Investment (Scotland) Act 2005; or (iii) in Northern Ireland, a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008;

"Contracts" means any one or more of the agreements between you and us for the sale, purchase, and delivery of currency;

"Control" of an entity means the power, direct or indirect, to direct or cause the direction of the management and policies of such entity, whether by contract or otherwise, and in any event and without limitation of the foregoing, any entity owning more than 20% of the voting securities of a second entity shall be deemed to control that second entity. Derivative forms of the term "Control" (e.g. Controlling and Controlled by) have corresponding meanings;

"Currency Cloud Group" means The Currency Cloud Group Limited and its Affiliates from time to time.

"Currencycloud" means The Currency Cloud Limited, a company incorporated under the laws of England and Wales with a registered office at 12 Steward St, London E1 6FQ with registration number 06323311 and authorised and regulated by the Financial Conduct Authority (FRN: 900199);

"Sedber Direct" means the user interface on the Website where you can access the Services;

"Data Controller" has the meaning set out in the Data Protection Legislation (or, in respect of the GDPR, means the same as "controller" in Article 4 of GDPR).

"Data Processor" has the meaning set out in the Data Protection Legislation (or, in respect of the GDPR, means the same as "processor" in Article 4 of GDPR);

"Data Protection Legislation" means (in each case as such are updated, amended or replaced from time to time): (a) the UK Data Protection Act 1998 (as amended or replaced from time to time), (b) from its effective date (25 May 2018), the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation) (the "GDPR"), and any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR (including the UK Data Protection Act 2018), in each case, to the extent in force; and (c) any other relevant data protection legislation in any jurisdiction which is applicable to the Services, including but not limited to the Privacy and Electronic Communications (EC Directive) Regulations 2003.

"Data Subject" means an individual who is the subject of Personal Data;

"Delivery Date" means the date on which we will deliver currency that has been purchased by you, provided you have fully paid for the purchased funds and complied with these Terms of Use. The Delivery Date must be a Business Day;

"DP Regulator" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Legislation;

"Durable Medium" means a medium which allows you to store information in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

"End Customer" means any person other than us who contracts with you, including without limitation any client you engage in connection with the Platform Services;

"Fees" shall mean the charges payable by you to us for the Services as set out in these Terms of Use and our Commercial Agreement with you, or payable by the Business Introducer to us pursuant to our Commercial Agreement with the Business Introducer, if applicable;

"FCA" means the Financial Conduct Authority of the United Kingdom whose address is 25 The North Colonnade, Canary Wharf, London E14 5HS, United Kingdom; further information on the FCA can be obtained on the FCA's website at [www.fca.org.uk](http://www.fca.org.uk);

"Foreign Exchange Services" means the foreign exchange services provided by Sedber including quoting and execution of foreign exchange contracts to sell and buy currency for any date up to 12 months;

"Forward Contract" means any one or more Contracts under which currency is bought and sold for delivery at a fixed future time which is at least 7 days (or longer) after the contract is entered into;

"Global Account" means the electronic money account you open and maintain with Sedber through the Website;

"Group Companies" means in relation to a company those companies which are subsidiaries, holding companies or subsidiaries of any holding company of such company, where the terms "subsidiary" and "holding company" bear the meaning given to them in section 1159 of the Companies Act 2006;

"Insolvency Event" means in relation to either party: If such party becomes insolvent or a bankruptcy petition is presented against any such person or any steps are taken to appoint an administrator, judicial factor or similar officer to any such party or to commence the winding up or dissolution of any such party or to otherwise apply to the court for a moratorium or make a proposal to creditors for a voluntary arrangement or any such party grants a trust deed for creditors or takes any action with a view to the readjustment, rescheduling forgiveness or deferral of any part of any such party's indebtedness or any such person enters into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them (except for the purposes of a solvent reconstruction or amalgamation), or a receiver, receiver and manager, or other controller, administrator or similar officer to be appointed with respect to, or takes

control of, the assets or undertakings of any such party;

"Losses" means all losses, liabilities, fines, charges, damages, actions, costs and expenses, professional fees (including legal fees actually incurred) and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

"Margin" means collateral paid by you to us, including additional margin and increased margin;

"Micro-enterprise" means an enterprise which is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Recommendation 2003/361/EC;

"Order" means the accepted commercial terms of a Contract (which will incorporate these Terms of Use);

"Payer" means a third party that sends funds to us on your behalf.

"Payment Platform" means the Currencycloud online Payment Platform that provides the functionality and connectivity via the API or Sedber Direct;

"Payment Services – Global Account" means the e-money and payment services provided by Currencycloud to you including the receipt and holding of funds in the Global Account and execution of payment services or transactions on your behalf;

"Personal Data" has the meaning given to it by the Data Protection Legislation;

"Platform Services" means the access to information and market data via the Payment Platform provided by us to amongst other things, facilitate the booking and management of payments, track trades and report on balances and transactions on your Global Account;

"Regulations" means the Electronic Money Regulations 2011 and the Payment Services Regulations 2017 as (as amended and replaced from time to time);

"Services" means the Payment Services – Global Account, Foreign Exchange Service, EUR Collection Service, and Platform Services provided by Sedber to you as described in these Terms of Use and on the Client Help Centre;

"Settlement Date and Time" means the date and time specified within the Contract, by which funds must be received by or available to Sedber;

"UK Business Hours" means Monday through Friday 9:00 am to 5:00 pm;

"Website" means the website available at [www.sedber.com](http://www.sedber.com);

"Terms of Use" means these terms and conditions including the schedules and any other terms and conditions referred to herein, the Privacy Policy, the Cookies Policy, and the Client Help Centre all as amended from time to time;

"We", "us", or "our" means Sedber (Ireland) Limited; and

"You" or "your" means you, the person who is contracting with us for the provision of the Service.

