

## Volopa – Terms of Business

These Terms of Business (together with any Schedules, supplements or notices issued by us in connection with them, the “**Terms**”) constitute a legally binding contract between you (“**Client**” or “**you**”) and Volopa Financial Services (Scotland) Limited (“**Volopa**”, or “**we**” or “**us**” or “**our**”). In these Terms, Client and Volopa are each referred to as a “**Party**” and collectively referred to as “**Parties**”.

These Terms govern (i) all transactions involving the purchase and sale of foreign currency between you and Volopa and (ii) the payment services provided by Volopa to you. By entering into a FX Contract or by providing us with a Payment Instruction (each term as defined below) with us, you agree to be bound by these Terms. Volopa does not offer or provide any advice of any nature in respect of these Terms.

## 1. Definitions

In these Terms, the following terms shall have the following meanings:

1.1 **Authorised Person(s)** is a person or persons designated as being authorised to enter into FX Contracts or Payment Contracts on your behalf.

1.2 **Base Rate** means, in relation to any currency, the relevant central bank rate, as selected by us, in respect of that currency as published from time to time.

1.3 **Business Day** means any day when our UK Foreign Exchange Desk is open and conducting its normal business and when the foreign currency being exchanged by you is available to us from the entity from which we will buy or sell such foreign currency.

1.4 **[Business Introducer]** means the person with which we have entered into a [Business Introducer Agreement]. This person markets and promotes the [services provided under these Terms], and unless you have agreed otherwise will act as an Authorised Person;]

1.5 **Client Currency** is, in relation to any FX Contract or Payment Contract, the currency to be delivered by you to us under such contract.

1.6 **Client Currency Amount** is, in relation to any FX Contract or Payment Contract (as the case may be), the amount of Client Currency required to be delivered by you to us under that FX Contract.

1.7 **Collections** (sometimes known as 3rd Party Collections) is a service that allows our international payment clients to receive funds from 3rd parties, for example your clients or other firms.

1.8 **Event of Default** means:

- (a) you fail to settle a FX Contract by the agreed Settlement Date;
- (b) if we have reason to believe that you are using any FX Contract for an investment or speculative purpose;
- (c) you fail to pay Margin or additional Margin by the time specified by us;
- (d) an Insolvency Event occurs in respect of you;
- (e) you fail in any respect to fully and promptly comply with any obligation owed to us under these Terms (including a FX Contract or a Payment Contract) or otherwise;
- (f) any information supplied by you or any representations made by you are or become inaccurate or untrue in any respect;
- (g) you or we are requested not to perform a FX Contract or to close out a FX Contract (or any part thereof) by the FCA and any governmental or regulatory authority whether or not that request is legally binding; or
- (h) we consider it necessary not to perform or to close out a FX Contract (or any part thereof) for our own protection including (without limitation) in the following circumstances: (i) protection from fraud; (ii) protection from your default; (iii) protection from broad-based market failure or (iv) any Sanctions.

1.9 **FCA Rules** are the rules made from time to time by the FCA.

1.10 **FCA** means the Financial Conduct Authority or any successor organization.

1.11 **Forward Contract** means a FX Contract that settles via physical delivery of the Client Currency Amount by you against delivery of an amount of another currency by us for a specified future payment need at a future date which is longer than the standard settlement time for a Spot Contract, and as agreed between the Parties.

1.12 **FX Confirmation** is a written confirmation of a FX Contract delivered by us to you, with details of the terms of such FX Contract.

1.13 **FX Contract** is your commitment to purchase from or sell to us an amount of foreign currency at a set price on or by a given date specified by us to you, which may be agreed either verbally (including over the telephone) or electronically (by email or through other electronic channels) in accordance with clause 3.1.

1.14 **FX Contract Date** is the date of your acceptance of a price provided by us to you in respect of a FX Contract.

1.15 **Insolvency Event** means you (1) are dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) become insolvent or unable to pay your debts or fail or admit in writing your inability generally to pay your debts as they become due; (3) make a general assignment, arrangement or composition with or for the benefit of your creditors; (4)(A) institute or have instituted against you, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over you in the jurisdiction of your incorporation or organisation or the jurisdiction of your head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for your winding-up or liquidation by you or such regulator, supervisor or similar official, or (B) have instituted against you a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for your winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (A) above and either (I) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for your winding-up or liquidation or (II) is not dismissed, discharged, stayed or restrained in each case within five (5) days of the institution or presentation thereof; (5) have a resolution passed for your winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seek or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for you or for all or substantially all your assets; (7) have a secured party take possession of all or substantially all your assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all your assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within fifteen (15) days thereafter; (8) cause or are subject to any event with respect to you which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) above (inclusive); or (9) take any action in furtherance of, or indicating your consent to, approval of, or acquiescence in, any of the foregoing acts.

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

1.17 **Margin Call** means any notice of demand issued by us to you notifying that Margin is due and payable by you.

1.18 **Payment** means us transferring your money to another account in your name or to a third party on your behalf.

1.19 **Payment Contract** means the contract between you and us under which we execute a Payment on your behalf.

1.20 **Payment Instruction** is your offer to enter into a Payment Contract with us.

1.21 **Regulations** means the Payment Contract Services Regulations 2017 (as amended and replaced from time to time).

1.22 **Relevant Obligations** are the obligations under any applicable law or regulation.

1.23 **Sanctions Laws** means sanctions laws administered by HM Treasury or similar laws in other jurisdictions or embargos imposed by the international community, including the UK, EU, UN and the USA.

1.24 **Settlement Date**, in respect of any FX Contract, is the value date specified and as set out in the FX Confirmation in respect of such FX Contract.

1.25 **Spot Contract** means a FX Contract that settles via physical delivery of the Client Currency Amount by you against delivery of an amount of another currency by us (i) on or within two (2) Business Days of the FX Contract Date or (ii) by the end of the period generally accepted in the market for that currency as the standard delivery period for such contracts.

## 2. Regulatory Information

2.1 **FX Contracts.** The FX Contracts constitute unregulated business and are therefore outside the scope of the FCA Rules. As a result, none of the protections offered to clients under the FCA Rules will apply to the FX Contracts that you enter into with us under these Terms.

2.2 **Payment Contracts.** Any Payment Contracts constitute regulated business under the Regulations. As a result, the regulatory protections available under the Regulations and any applicable FCA Rules will apply to those transactions.

2.3 **Relevant Obligations.** If there is any conflict between these Terms or any FX Contract and any Relevant Obligations applicable to either Party, the Relevant Obligations will prevail. Nothing in these Terms excludes or restricts any Regulatory Obligation of either Party. We may take or omit to take any action we consider necessary to ensure compliance with our Relevant Obligations and that action will be binding on you.

### 2.4 Regulatory Terms.

(a) The terms of the service set out in these Terms shall be provided:

(i) in the case of any FX Contract, in accordance with the regulatory terms set out in Schedule 1 (Regulatory Information) of these Terms; and

(ii) in the case of any Payment Contract, in accordance with the regulatory terms set out in Schedule 2 (Regulatory Information for Payment Contracts) of these Terms.

2.5 **Agreement.** The Terms shall apply to any, and all, FX Contracts (including each such FX Confirmation) and any Payment Contract. The specific transactional details of each FX Contract will be agreed upon and will be as set out in a FX Confirmation (which, for the avoidance of doubt, incorporates by reference the Terms).

2.6 **No Commitment.** We may decline to enter into or settle any particular transaction in respect of a FX Contract or a Payment Instruction for any reason including, without limitation, that: (a) certain foreign currencies are not available to us; (b) certain foreign currency market conditions prevent us from purchasing or selling certain foreign currencies; or (c) where there is doubt as to the validity of the instruction.

## 3. FX Contract Procedures

3.1 **Execution of FX Contract; FX Contract Date.** You may request to enter into a FX Contract by telephoning, emailing, or using other Volopa approved electronic communication systems. If so requested, we may provide a price in respect of a FX Contract. Prices may vary depending on the communication systems over which the FX Contract is requested (e.g. whether by telephone or email or through our electronic channels). For both Spot and Forward Contracts, you acknowledge that any price provided is **indicative only** and is subject to change prior to your

acceptance of such price. Your acceptance of any price offered by us to you in relation to the sale or purchase of foreign currency constitutes your irrevocable execution of a FX Contract, subject to the terms of these Terms which shall apply to any executed FX Contract.

### 3.2 Delivery of FX Confirmations

(a) In respect of both Spot and Forward Contracts, upon execution of a FX Contract in accordance with clause 3.1 above, we shall promptly send you a FX Confirmation in accordance with this clause 3.2. A FX Confirmation shall be sent by email or such other electronic communication system as we specify from time to time. Any failure to deliver a FX Confirmation shall not be construed as a cancellation, voiding or vitiation of the FX Contract or constitute evidence that the FX Contract was not executed. In such circumstances, the records of Volopa with respect to that FX Contract will constitute conclusive evidence of the terms of the FX Contract. Please email us support@volopa.com if you have not received a FX Confirmation within one (1) Business Day of the relevant FX Contract Date.

3.3 **Acceptance of FX Confirmations.** In respect of both Spot and Forward Contracts:

(a) unless you object to the terms contained in a FX Confirmation immediately after your receipt of the confirmation and by no later than one (1) Business Day of receipt, the terms contained in that FX Confirmation shall be deemed correct and accepted by you;

(b) you shall notify us of any objections to or errors in any FX Confirmation by calling our recorded telephone number 0333 400 1287 or emailing us at support@volopa.com, immediately after your receipt of the FX Confirmation and, in any event, by no later than one (1) Business Day of receipt.

3.4 **Disputes.** If a dispute arises between you and us relating to the existence or terms of any FX Contract (a “**Disputed FX Contract**”), we may at our sole discretion close out the Disputed FX 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.

3.5 **Defaults.** If you become aware of the occurrence of an Event of Default or any circumstances that means that an Event of Default is likely to occur, you must notify us immediately. If an Event of Default takes place, we shall, at our discretion, be entitled to close out any outstanding FX 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 FX Contracts shall be returned to you after deducting all other sums due to us (including any fees or losses resulting from closing out such FX Contracts).

## 4. Settlement; Payments; Trading; Losses

### 4.1 Delivery of funds under a FX Contract or Payment Contract

(a) In relation to the performance of any FX Contract or **Payment Contract**:

(i) you shall promptly deliver the Client Currency Amount to our specified account; and

(ii) by no later than the Settlement Date specified for that FX Contract or Payment Contract.

(b) Our delivery of any currency to you under this clause 4.1 in respect of any FX Contract remains subject at all times to clause 2.6 (*No Commitment*) above.

### 4.2 Settlement of funds under a FX Contract

We will notify you from time to time (which may be by way of the relevant FX Confirmation) with details of the Volopa account into which you shall credit funds (including any Customer Currency Amount) necessary to settle FX trades under any FX Contract on the relevant Settlement Date, in accordance with the terms of such FX Contract.

### 4.3 Right of Set-off and Netting

Notwithstanding anything to the contrary in this clause 4. :

(a) subject to Volopa’s consent, any obligation of one Party to deliver

currency (or otherwise make a payment in a given amount in connection with the settlement of one or more FX Contracts with the same Settlement Date) may be fully or partially satisfied and discharged by setting off such amount from an obligation of the other Party to deliver the same currency (or otherwise make payments in such currency in connection with the settlement of one or more separate FX Contracts between the Parties);

(b) where any amount is payable by Volopa to you in respect of any FX Contract or Payment Contact:

(i) Volopa may reduce such amount by set-off against any other amounts (including any amounts held as Margin) (“**Other Amounts**”) payable by you to Volopa, whether or not arising under that FX Contract or any other FX Contract or that Payment Contract or any other Payment Contract, any obligation, matured or contingent and irrespective of the currency, place of payment or place of booking of the obligation or whether or not an Event of Default has occurred or is continuing. Volopa will give you notice of any set-off effected under this clause 4.3; and

(ii) for this purpose, the Other Amounts (or the relevant portion of such Other Amounts) may be converted by Volopa into the currency in which the other is denominated at the rate of exchange at which Volopa would be able, in good faith and using commercially reasonable procedures, to purchase the relevant amount of such currency. If an obligation is unascertained, Volopa may in good faith estimate that obligation and set off in respect of the estimate, subject to Volopa accounting to you should the obligation be ascertained.

**4.4 Settlement Failures and Breach.** Your failure to transfer, for any reason, the agreed Client Currency Amount or any other amount payable by you to us, on or prior to the date or time required in this clause 4. shall constitute a breach of these Terms. If you breach these Terms, we are not obliged to deliver the currency, which you have contracted to receive, and we may cover our exposure for the FX Contract by purchasing or selling currency in any relevant market, as we deem appropriate. You shall be liable for all losses, damages, costs, and expenses, including those arising under clause 3.5 (collectively, “**Losses**”) incurred by us from your failure to satisfy your obligations under these Terms. We shall not be liable to you for any gain in value of a FX Contract we may obtain in covering our exposure caused by your breach.

**4.5 Reimbursement of Losses; Interest.** You shall be liable for all Losses incurred by us and shall pay us, on demand, the amount of the Losses. If we cannot reach you by telephone, we may, but are not required to, notify you by mail or email. From the date we incur any Losses, you are liable for interest on the amount of the Losses at a rate per annum equal to the aggregate of the applicable Base Rate plus five percent per annum, computed on a 365-day year (or, in any case where the practice in the relevant market differs, computed in accordance with that market practice) for the actual number of days elapsed, plus any processing fees. If you do not immediately reimburse us for the Losses, we may apply any Margin, collateral or reserve as security for Losses and accrued interest, if any, in any order, combination, or manner as we deem appropriate. Nothing in these Terms shall limit our rights to collect or recover the Losses from you, including the exercise of our rights under law, right to set off or resort to any other collateral granted to us for any of your other indebtedness.

constitute your legal, valid and binding obligations, enforceable against you in accordance with the provisions of these Terms, subject only to applicable bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting creditors’ rights generally;

(d) all necessary corporate, constitutional or other consents and authorities to enable you to conduct all FX Contracts, transactions (including Payment Contracts) and contract to receive all services under these Terms have been obtained and will be maintained by you;

(e) you understand, accept and acknowledge that any FX Contracts entered into under these Terms are outside the scope of the FCA Rules. As a result, you will not benefit from any of the protections available under the FCA Rules in respect of any FX Contracts;

(f) no Event of Default with respect to you has occurred and is continuing, and no such event or circumstance will occur as a result of entering into or performing obligations under these Terms;

(g) any information given to us by you or on your behalf is complete, accurate and not misleading in any respect;

(h) any third party appointed by you to give and receive instructions, notices or other communications on your behalf under these Terms has all requisite power and authority to give and receive such instructions, notices or other communications;

(i) upon request from us, you will provide us with such information as is necessary for us to perform our obligations under applicable law;

(j) no FX Contract shall be for speculating in the value of any foreign currency;

(k) all Forward Contracts shall be entered into for one of the following purposes: (i) to facilitate payment for identifiable goods or services that you have already purchased or intend to purchase or (ii) to make a direct investment or (iii) to achieve certainty about the level of payments that you are going to receive for specific goods or services that you are selling (together “**Commercial Purposes**”). You shall provide such further information as we may request to evidence that this is the case;

(l) you have procedures in place to ensure that any Forward Contract is to be entered into only for Commercial Purposes. Where any proposed Forward Contract is not for such Commercial Purposes, you will not ask us to enter into that Forward Contract;

(m) you are entering into these Terms (including any transaction under them) as principal and not as agent of any person or entity;

(n) you understand, accept and acknowledge that the provisions of Parts 6 and 7 of the Regulations shall not apply in respect of any payment services we offer to you (including any Payment Contract);

(o) there are no legal or regulatory constraints preventing you from performing your obligations under these Terms;

(p) you, and any third party beneficiary to which a Payment is to be made, are not subject to or located in an area that is subject to Sanctions Laws; and

(q) you will not allow access to the services under these Terms to any person who (i) is a national of or member of a group, or is located in a country, that is subject to the Sanctions Laws, or (ii) is subject to the Sanctions Laws.

(r) funds received into a Collections account may be used to complete a trade or fund the Wallet. If funds are not moved or instructed to be moved from a Collections account within a reasonable timeframe, we reserve the right to transfer those funds to the nominated refund account that you have setup on the platform. Our prevailing exchange rate and associated charges will be used at the time of the transfer.

## 5. Client Representations and Acknowledgement

**5.1 Representations and Warranties.** On a continuing basis, you represent and warrant to us that:

(a) you are duly organised and existing and in good standing under the laws of your jurisdiction of establishment or formation;

(b) you have full power, authority and capacity to enter into and perform your obligations under these Terms and any transaction under them;

(c) these Terms and any FX Contract, service or transaction contemplated or conducted or executed by you or for you

**5.2 Disclosure; Limitation of Liability.**

(a) You understand and acknowledge that:

(i) foreign exchange transactions can be highly risky;

(ii) losses may occur in short periods of time if there is an adverse movement of exchange rates; and

(iii) exchange rates can be highly volatile and are impacted by numerous economic, political, and social factors, as well as supply and demand and governmental intervention, control and adjustments.

(b) We provide an “execution only” service for foreign exchange transactions. You agree that:

(i) in making your decision to enter or not enter into any foreign exchange transactions, you shall not seek any advice or personal recommendations from us;

(ii) you are responsible for all decisions made about your foreign exchange transactions, and our employees are not authorised to suggest any specific trades to you;

(iii) any opinions expressed by any of our employees are personal opinions only and may not be relied on by you in making any trading decisions; and

(iv) we have no liability for any punitive, exemplary, special, or consequential damages arising from any transaction entered or not entered into.

## 6. Margin in connection with FX Contracts

**6.1 Margin Requirement.** We may, in our sole discretion, make a Margin Call requiring you to provide Margin in relation to any FX Contract on demand and, in any event, within one (1) Business Day of such Margin Call. We reserve the right to increase the Margin required from you at any time to allow for changes in (i) foreign exchange rates or currency volatility or (ii) due to an adverse change in your financial standing or credit worthiness, in each case, which we believe (in our sole discretion) may increase our risk under any FX Contract. We may make additional Margin Calls at any time requiring you to increase the Margin held by us. Any Margin Call will be for such sum as we consider necessary and appropriate. Any amount of Margin held by us may be applied against all and any FX Contracts in or towards satisfaction of all or any of your total obligations owed to us. We reserve the right to close out all and any FX Contracts where a payment of Margin or Margin Call is not met by the time specified.

**6.2 Ownership and Title.** 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 as our own funds. 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. Any Margin you provide will not be “Relevant Funds” under the Regulations and so will not need to be segregated from any other funds we hold. Margin will not benefit from any protections under the FCA Rules. You shall not be entitled at any time to the return of any Margin without our prior written consent.

## 7. Payment Contracts

**7.1 Sending Payments.** 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 Payment 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.

**7.2** All Payment Instructions must be made in a form of communication acceptable to Volopa, including the Volopa online platform, email or telephone.

**7.3** It is your responsibility to ensure that accurate, complete and correct payment details for the beneficiary of a Payment (including payments to yourself) are provided to us. 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.

**7.4** It is your responsibility to ensure that the Client Currency Amounts you pay to us are sufficient to make each and every Payment which you authorise us to make. We will not make any Payment Contract unless you have paid to us sufficient Client Currency Amounts first by the due date and time that we specify.

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

**7.6** You consent to us 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 Contract details to be sent to the beneficiary’s bank or payment service provider to comply with anti-money laundering regulations.

**7.7** You, or an Authorised Person, may revoke or cancel a Payment Instruction for a future outgoing Payment no later than the Business Day prior to the execution of the Payment by providing us with clear instructions in writing. Where your instructions relating to the revocation or cancellation are unclear, we will not treat your Payment Instruction as being withdrawn and will proceed with the Payment.

**7.8** You, or an Authorised Person, are responsible for confirming 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 an Authorised Person.

**7.9** If we receive a Payment Instruction by the respective cutoff time as found on our website, your Payment Instruction will be deemed to have been received by us on that Business Day. If your Payment Instruction is received after the respective cutoff 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.

**7.10** 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 Payment, otherwise we may not be liable to you and in order to claim a refund for an unauthorised or incorrectly executed Payment. You must notify us without delay after becoming aware of the unauthorised or incorrect Payment and in any event no later than thirteen (13) months after the debit date of the Payment.

**7.11** We may deduct from any Payment such amounts as may be required by law or as may be charged by us in respect of transfer or other charges owed to us.

**7.12** 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.

**7.13** Subject to the Regulations, we may refuse your Payment Instruction because for example you are in material breach of these Terms 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 Payment Contract where we reasonably believe that such a notification would be unlawful.

**7.14 Prohibited Payment Contracts.** We reserve the right, in our reasonable discretion to impose ‘acceptable use’ terms in relation to the provision of any payment service including the prohibition of certain categories of Payment Contracts, for example, Payment Contracts in relation to gaming or virtual currencies sectors, by specifying these on our website.

**7.15** If you conduct or attempt to make any Payment Contract in violation of the prohibitions contained in this section, we reserve the right to reverse the Payment Contract or report the Payment Contract to the relevant law enforcement agency

or claim damages from you.

7.16 **Safeguarding.** Funds received in connection with Payment Contracts will be subject to the safeguarding requirements as set out in the Regulations and are referred to as “**Relevant Funds**”.

7.17 For the purposes of this section, “**Relevant Funds**” means any sums received from you or for your benefit. Relevant Funds are held in segregated bank accounts which are independent of our business bank accounts. Relevant Funds may also be covered by an insurance policy with an authorised insurer. The purpose for so holding or insuring 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 or covered by this insurance policy. This is because no other person or institution may have any rights or interest over the funds held in these accounts or covered by this insurance policy such as a lien over funds in these accounts. Relevant Funds are not covered under the Financial Services Compensation Scheme.

7.18 For the avoidance of doubt, 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 in accordance with clause 6.2. Such funds 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.

7.19 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.

7.20 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.

7.21 **Unauthorised or Incorrectly Executed Payment.** Under the Regulations you may be entitled to redress for any unauthorised or incorrectly executed Payment. In the case of a Payment 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, we will refund to you the amount of the non-executed or defective Payment 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 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. Beyond this, we have no further liability to you for any unauthorised or incorrectly executed Payment.

7.22 **Incorrect Information or Payee/Beneficiary Bank Failure.** We will not be liable to you for the non-execution of a Payment Contract or for the defective execution of a Payment Contract 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 Contract. You, or your Business Introducer, if applicable, will be responsible for the costs incurred by us for any such recovery.

7.23 **Our Negligence.** If a loss in relation to any Payment Contract is incurred due to our negligence or breach of contract, we will promptly attempt to correct the error. 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 up to an amount equal to the amount of fees paid or payable to us under these Terms. In no circumstances will we be liable for any indirect, unforeseeable or incidental losses incurred, such as loss of opportunity.

7.24 **Defaults.** If you become aware of the occurrence of an Event of Default or any circumstances that means that an Event of Default is likely to occur, you must notify us immediately. If an Event of Default takes place, we shall, at our discretion, be entitled to close out any outstanding Payment Contracts and charge you all of the costs, expenses and losses that we may incur. Any sums held by us in respect of Payment Contracts shall be returned to you after deducting all other sums due to us.

7.25 **Regulations:** None of the provisions of Part 6 or Part 7 of the Regulations will apply to these Terms.

## 8. Confidentiality

8.1 As used herein, “**Confidential Information**” means all information that is not generally known to the public and is the subject of reasonable efforts to maintain its confidentiality by the disclosing Party and includes, without limitation, information in respect of a FX Contract and FX Confirmation under these Terms. Confidential Information includes confidential information of any third party used by us and confidential information of our licensors. Excepted from Confidential Information is information that (1) is made publicly available without restriction through no fault of the receiving party; (2) is lawfully received without restriction from a third party; or (3) was in the possession of the receiving party before the entry into of these Terms.

8.2 The Parties agree to hold each other’s Confidential Information in strict confidence, to safeguard it and not to use or disclose the Confidential Information. Each Party agrees to take all reasonable steps to prevent any unauthorised access to, disclosure or other dissemination of Confidential Information.

8.3 Notwithstanding anything to the contrary in these Terms or in any non-disclosure, confidentiality or other agreement between the Parties, each Party hereby consents to the disclosure of Confidential Information:

(a) to the other Party’s officers, directors, agents, employees, consultants, accountants, auditors and professional advisors, in each case, to the extent such recipient has a bona fide need to know the relevant information and they are informed that the Confidential Information is confidential (unless already bound by professional duties of confidentiality).

(b) to any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation.

8.4 Each Party acknowledges that disclosures made pursuant hereto may be made to recipients in a jurisdiction other than that of the disclosing Party or a jurisdiction that may not necessarily provide an equivalent or adequate level of protection for personal data as the counterparty’s home jurisdiction. For the avoidance of doubt (i) to the extent that applicable non-disclosure, confidentiality, data privacy, or other law impose non-disclosure requirements on transaction and similar information required or permitted to be disclosed as contemplated herein but permits a Party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by each Party for purposes of such law; (ii) any agreement between the Parties to maintain confidentiality of information contained in these Terms or in any non-disclosure, confidentiality, or other agreement shall continue to apply to the extent that such agreement is not inconsistent with the disclosure of information in connection with the Reporting Requirements as set out herein; and (iii) nothing in these Terms is intended to limit the scope of any other consent to disclosure separately given by each Party to the other Party.

8.5 Where disclosing information to us in respect of which you owe a duty of confidentiality to a third party, you represent and warrant that such third party has consented to the relevant disclosure.

## 9. Miscellaneous

**9.1 Telephone Communications; Recording.** You acknowledge that a substantial portion of the communications between us and you about the purchase or sale of currencies, the Payment Contracts and about the demands and settlements provided for in these Terms shall be by telephone. **YOU ACKNOWLEDGE THAT TELEPHONE CONVERSATIONS AND ELECTRONIC COMMUNICATIONS WILL BE RECORDED BY US.** Such recordings may commence without the provision of a warning, such as a warning message or tone and you agree to take all reasonable steps to inform your employees and representatives that such recording takes place.

**9.2 Authorised Persons.** Each of the individuals designated as an Authorised Person through the Volopa Web App is specifically authorised to have telephone and email communication with us under these Terms, and, where enabled, to enter into and execute FX Contracts with us as provided in these Terms, to give us instructions (including Payment Instructions), and to take any and all actions related to any FX Contract or Payment Contract. You authorise us to rely on telephone and written communications with any Authorised Person, and you assume all risks in connection with any communication purported to be made by an Authorised Person.

You release us from any liability or claim which may arise from any mistaken identity or lack of authority of any individual with whom we have such telephone or written contact.

**9.3 Password.** It is your responsibility to keep safe any password or other security features you or any Authorised Person may use enabling you to access our services or enter into any transactions with us. You will notify us immediately on becoming aware of the loss, theft, misappropriation or unauthorised use of any such password or other security feature, including the details of any payment card, assigned to you or held by you.

**9.4 No Liability in Certain Circumstances.** We shall not be liable for any loss or adverse consequences resulting from or caused by circumstances beyond our reasonable control, including acts of God, epidemics and pandemics, riots, civil commotion, insurrection, wars, strikes, lockouts, irregularities in or break down of public communication, or circumstances arising out of laws and regulations imposed by domestic or foreign authorities or governments. We are not liable for the selection of or any delays, errors, omissions, claims or damages occasioned by the fault or negligence of any third party through which any message or instruction related to a FX Contract or Payment Contract passes once we have delivered it to such third party. We shall not be liable for any inaccuracy, interruption, delay, or default in the transmission of a FX Contract or Payment Contract caused by circumstances beyond our reasonable control.

**9.5 Indemnity.** You hereby agree to indemnify and hold us, our affiliates and their respective directors, officers, agents, and employees (collectively, "Indemnified Persons") harmless against any and all losses, claims, causes of action, liabilities, lawsuits, demands, and damages (each a "Claim") arising from these Terms, including without limitation, all court costs and reasonable legal fees, in any way related to or arising out of or in connection with these Terms, or any action taken or not taken pursuant hereto, including, but not limited to any Claims arising as a result of our adherence to instructions from you; provided that no Indemnified Person shall be entitled to be indemnified to the extent that such Claims such result from an Indemnified Person's gross negligence or wilful misconduct. This provision shall survive the termination of these Terms.

**9.6 Sanctions.** We or any of our affiliates may be subject to Sanctions Laws. We may not accept instructions, may refuse to make any payment under, terminate or take any other action pursuant to any FX Contract or any Payment Contract, if we reasonably consider you have placed us in a position where we might break a Sanctions Law, any law, regulation, code, court order or other duty, requirement or obligation or we or any of our affiliates, may be exposed to action or censure from any government, regulator or law enforcement agency; and you hereby acknowledge and agree that we will not be liable for any loss, damage, cost or expense if any arises. You agree we may disclose to any relevant authority any

information in relation to a FX Contract or Payment Contract as may be required, or as such authority may request.

**9.7 Relationship of the Parties.** Nothing in these Terms shall create any fiduciary or advisory relationship between you and us.

**9.8 Waiver.** Notwithstanding anything to the contrary contained in these Terms or anywhere else, you waive, and agree that you shall not seek from us under any theory of liability, any special, indirect, exemplary, consequential or punitive damages arising in connection with these Terms.

**9.9 Use of Your Information.**

(a) You shall ensure that all your Authorised Persons at any time have authorised the use of their information by us for the purposes set out in this clause 9.9 (as amended from time to time).

(b) We will not disclose you or your Authorised Persons' information without your consent unless:

(i) we are legally required do to so by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction;

(ii) our legitimate business purposes require disclosure; or

(iii) it is disclosed as described in this clause 9.9 or as described in clause 8. above.

(c) We may collect and use information about you and your Authorised Persons (including your use of our services and products and your relationships with any of our affiliates) in the following ways:

(i) to supply you with and to process any applications you make in respect of products and services;

(ii) for customer service, product analysis, insurance, audit, and administrative purposes;

(iii) to notify you about changes to our services or products;

(iv) to carry out our obligations arising from any agreements entered into between you and us and to recover any payments due to us;

(v) to monitor calls and other communications with you and your Authorised Persons to comply with any applicable law or registration, ensure to service quality, compliance with procedures and to combat fraud;

(vi) to share relevant information about you, your Authorised Persons, your transactions and your relationships with any of our affiliates and for credit assessment and detecting and preventing fraud and to facilitate the provision of services and products to you; and

(vii) for the purpose of complying with applicable laws or as required by a competent authority.

(d) You or your Authorised Persons' personal information may be accessed from, transferred to, or stored at, a destination outside of the UK in which data protection laws may be of a lower standard than in the UK. Regardless of location, we will impose the same data protection safeguards that we deploy inside the UK.

(e) We may share information about you or your Authorised Persons with credit reference agencies to verify you or your Authorised Persons' identity and to assess your suitability for an account. We may use information from the electoral register and other public sources for this purpose. If you apply for any account or credit we may use you or your Authorised Persons' credit history to assess your ability to meet financial commitments and the credit reference agencies will record the application which may form part of you or your Authorised Persons' credit history. We may share with credit reference agencies details of how you manage your accounts and of any default by you on your repayment obligations. This may affect you or your Authorised Persons' ability to obtain credit.

(f) Where appropriate, we may share information about you or your Authorised Persons with our affiliates, with credit reference agencies, debt recovery agencies, regulatory authorities or other organizations to prevent crime (including money laundering), verify you and your Authorised Persons' identity or to recover debt.

(g) In the event we transfer, or may transfer, any of our rights and obligations under these Terms to a third party or in connection with the sale to a third party or restructure of any of our affiliates we may share information about you and your Authorised Persons with the restructured entity or third party provided they use such information for the same purposes for which it was supplied to us or used by us.

(h) We may permit our affiliates and selected third parties to use you and your Authorised Persons' information in accordance with our instructions for the purposes set out in this clause 9.9 who will be subject to obligations to process such information in compliance with the same safeguards that we deploy.

(i) We may also use you and your Authorised Persons' information for marketing our own and selected third parties' services and products to you and your Authorised Persons by post, email, SMS, phone, to the extent permitted by law or regulation. We will ask for your consent at the time we collect your data to conduct any of these types of marketing. We will provide an option to unsubscribe or opt-out of further communication on any electronic marketing communication sent to you. If you or any of your Authorised Persons do not wish to be contacted for marketing purposes, please let us know by contacting us on support@volopa.com.

(j) Under United Kingdom data protection legislation, individuals have the right to access certain personal information held about them. For further information regarding our use of your or your Authorised Persons' personal information, please see our privacy policy at www.volopa.com.

**9.10 Language.** All communications between the Parties under these Terms shall be in the English language.

**9.11 Governing Law and Jurisdiction.** The Parties agree that these Terms and any non-contractual disputes arising out of them shall be governed exclusively under and in accordance with the laws of England and Wales. The Parties submit to the exclusive jurisdiction of the courts of England.

**9.12 Service of Process.** Where you are incorporated or formed in a jurisdiction other than England and Wales, you agree, without prejudice to any other mode of service allowed under any relevant law:

(a) within five (5) days of a request by us, to irrevocably appoint a process agent in England and Wales to act as your agent for service of process in relation to any proceedings before the English courts in connection with these Terms (the "Process Agent") and, within the same five (5) day period, to notify us of the name and address of the Process Agent;

(b) that failure by the Process Agent to notify you of the process will not invalidate the proceedings concerned;

(c) that if any Process Agent is unable for any reason to act as an agent for service of process or if you do not comply with a request from us to appoint a Process Agent pursuant to clause 9.12(a) above, we may refuse to enter into any FX Contract with you or make any Payment Contract for you until you appoint a Process Agent.

**9.13 Legal Fees, Costs, and Expenses.** In any action or proceeding between us and any other party to these Terms, the prevailing party shall be entitled to recover its reasonable legal fees and other reasonable costs and expenses incurred in addition to any other relief to which it may be entitled.

**9.14 Termination; Survival.** These Terms remain effective until written notice of termination has been received by the other Party, but any termination does not release you from any liability which you may have incurred under these Terms (including in connection with any FX Contract or Payment Contract). Volopa must give notification of at least two (2) months.

(a) We may terminate an FX Contract or a Payment Contract immediately (without notice):

(i) where you fail to provide us with any amount due to us in connection with any FX Contract or Payment by the due date;

(ii) on demand with proof that you have instructed your bank to pay us any Margin;

(iii) where we are unable to contact you using the contact details you have provided;

(iv) where you do not provide us with instructions in writing (including all of the details we require);

(v) where it becomes unlawful for us to continue to provide services to you or we are required to do so by any court, governmental or regulatory body with jurisdiction over us; or

(vi) where an Event of Default has occurred or may be reasonably expected to occur.

#### 9.15 Variation.

(a) We may vary these Terms at any time by giving you written notification of the changes at least two (2) months before the change comes into effect (unless required sooner to comply with our Relevant Obligations or there is a significant change to market conditions), which may be sent to you by post or by email (or in any other way which we reasonably think is likely to come to your attention and which satisfies our Relevant Obligations).

(b) If you object to any of these changes, you must tell us before the change comes into effect. If we do not hear from you before the change comes into effect, then you will be deemed to have accepted the change.

(c) If you give us notice that you object, then the changes will not be binding on you and we will treat such notice as a request to terminate these Terms (but any termination does not release you from any liability which you may have incurred under these Terms or any FX Contract).

**9.16 Third Party Rights.** A person who is not a party to these Terms shall have no rights under the Contracts (Rights of Third Parties) Act 1999.

#### 9.17 Notices.

(a) Except as otherwise expressly provided in these Terms, all confirmations, notices, statements, and any other documents or correspondence shall be sent by email or first class pre-paid post, and, in the case of communications to the Client, to the last address notified in writing to Volopa or, in the case of communications to Volopa, to:

**Address:** 15 Belgrave Square, London, SW1X 8PS

**Attention:** Managing Director

**Email:** legal@volopa.com

(b) Any communications sent in accordance with clause 9.17(a) above shall (except where these Terms expressly or impliedly require actual receipt by Volopa):

(i) in the case of email or other electronic messaging system, be deemed to take effect at the time the email or electronic message is received; and

(ii) in the case of first class pre-paid post be deemed to have been given 48 hours after dispatch, in each case unless proved otherwise.

**9.18 Transfer and assignment.** You shall not assign or transfer any of your rights and obligations under these Terms to any third party without our prior written consent. If Volopa provides its written consent to any assignment of the Terms, the Terms shall be binding upon the assignee.

9.19 **Entire Agreement.** These Terms, the terms of any FX Contract, any FX Confirmation and the terms of any Payment Contract constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements, representations, understandings, negotiations, and discussions between the Parties, whether oral or written.



## Schedule 1 – Regulatory Information for FX Contracts

**Unregulated business.** Although we are regulated by the FCA as an Authorised Payment Contract Institution, any FX Contracts entered into under these Terms are outside the scope of the FCA Rules. As such, none of the requirements of the FCA Rules will apply and you will not benefit from any of the protections prescribed under those rules.

**Financial Services Compensation Scheme.** As the FX Contracts represent unregulated business, the Financial Services Compensation Scheme does not apply and you will not be covered for any losses you suffer as a result of our insolvency.

**Complaints.** If you have any complaints regarding Volopa, please contact our Client Advisory Services Team on [complaints@volopa.com](mailto:complaints@volopa.com). As the FX Contracts represent unregulated business and are not subject to the FCA Rules, you will not be entitled to refer your complaint to the Financial Ombudsman Service (“FOS”).

**Nature of services.** We provide information about the nature of our FX services and our business practices at [www.volopa.com](http://www.volopa.com). The contents of our website may be updated from time to time.

**Risk.** Foreign exchange transactions can be highly risky, and losses may occur in short periods of time if there is an adverse movement of exchange rates. Exchange rates can be highly volatile and are impacted by numerous economic, political, and social factors, as well as supply and demand and governmental intervention, control and adjustments. Investments in foreign exchange transactions carry significant risk. Before entering any foreign exchange transaction, you should obtain advice from your own tax, financial, legal and other advisors, and only make decisions on the basis of your own objectives, experience and resources.

## Schedule 2 – Regulatory Information for Payment Contracts

**Financial Services Compensation Scheme.** The Financial Services Compensation Scheme does not apply in respect of Relevant Funds and you will not be covered for any losses you suffer as a result of our insolvency.

**Complaints.** If you feel that we have not met your expectations in the delivery of our payment 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 our 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.

**Nature of services.** We provide information about the nature of our payment services and our business practices at [www.volopa.com](http://www.volopa.com). The contents of our website may be updated from time to time.