

/ Universal Partners FX Ltd: Account Terms & Conditions

Last updated: 01/07/2022

1. INTRODUCTION

- 1.1 These terms and conditions set out the basis on which Universal Partners FX Ltd (UP) provides foreign currency exchange services and payment services to the Client (the "Terms").
- 1.2 The Client should read the Application Form (as defined below) and these Terms carefully before signing and submitting the Application Form. The Client's signature and submission of the Application Form confirms that the Client has accurately completed the Application Form and that the Client has read and accepted everything in these Terms which the Client understands are legally binding.
- 1.3 If the Client is unsure about anything in the Application Form or these Terms (together the "**Agreement**") then please contact UP or if appropriate seek independent legal advice.

2. INTERPRETATION

2.1 Definitions

2.1.1 In these Terms:

"**Application Form**" means the UP account opening documentation which must have been completed by the Client either (i) online via the Web Portal; or (ii) using the paper version where UP has provided a hard copy of the required documentation to the Client.

"**Authorised Person**" means a person authorised by a director of the Client (or a person of equivalent seniority within the Client's organisation) to access the Online Platform and place Orders by any permitted means on behalf of the Client.

"**Balance**" means the remainder of monies which the Client is required to pay UP after the Initial Margin (and where relevant any Variation Margin) has been paid in respect of any Forward Trade.

"**Balance Due Date**" means the date on which payment of the Balance must be received by UP. The Balance Due Date must be a Business Day.

"**Business Day**" means a day, other than a Saturday, Sunday or a public or bank holiday in England.

"**Business Hours**" means the hours from 9 am to 5 pm in the United Kingdom on any Business Day.

"**Margin Facility**" means a foreign currency exposure limit or margin facility that the UP Treasury Department has agreed with the Client in writing or by telephone which UP has recorded in writing.

"**Client**" means the party entering into the Agreement with UP.

"**Relevant Funds**" means, under the PSRs 2017, sums received from, or for the benefit of, a payment service user for the execution of a payment transaction.

"**Force Majeure Event**" means any circumstances not within a party's control including epidemic or pandemic, any law or any action taken by a government or public authority, terrorist attack, cybercrime, war, riot, any strikes or other labour dispute, fire, flood or other natural disaster, collapse of buildings, explosion or any interruption or failure of utility service or malfunction of any telecommunications or other IT equipment or systems.

"**Forward Trade**" means a trade for the sale or purchase of a specific quantity of a foreign exchange where the Value Date is more than two (2) Business Days in the future and that have the following characteristics:

- It is a mean of payment
- It will be settled physically
- UP is not a financial counterparty for this purpose
- It is entered into to facilitate payment for identifiable goods and services or direct investment
- It is not traded on a trading venue

"**Initial Margin**" means an amount of money required either in the form of funds held by UP for the Client, or in the form of a payment by the Client, to be applied as partial payment in respect of a Forward Trade.

"**Losses**" means all losses, liabilities, damages, fines, interest, costs and expenses.

"**Manifest Error**" means an obvious mistake or error and includes where the proposed exchange rate of a Trade is not at a commercially reasonable rate.

"**Margin Call**" means a written notice issued by UP to the Client stating that either an Initial Margin or a Variation Margin is due and payable.

"**Market Order Trade**" has the meaning given in clause 7.1.

"**Online Platform**" means the money transfer platform accessible via the Web Portal which enables the Client to place Orders online.

"**Order**" means any order or instruction for UP to execute or amend a Trade, make a Payment or take any action in relation to a Trade or Payment whether such order or instruction is submitted via telephone, email or the Online Platform.

"**Password**" has the meaning given in clause 9.1.

"**parties**" or "**party**" means collectively or individually, UP and/or the Client.

"**Payment**" means any execution of payment transaction carried out by UP for the Client as further defined in the PSRs 2017.

"**Payment Date**" means the date on which UP has agreed to make a Payment (if the Client has requested for a Payment to be made as soon as possible, this shall be the earliest date that UP can make the Payment using reasonable endeavours).

"**Pre-Trade Information**" means the information provided to the Client prior to entering into a Trade and/or making a Payment as set out in clause 12.1.

"**Privacy Notice**" means the UP privacy notice available at <https://www.universalpartners.com/privacy>.

"**PSR 2017**" means the Payment Services Regulations 2017 (SI 2017/752).

"**Recipient**" means the person which the Client has designated as the payee.

"**Recipient Account**" means the bank account or other account of the Recipient where the monies will be sent pursuant to a Payment.

"**Recipient Account Details**" means (a) the name of Recipient; and (b) if the Recipient Account is not an account operated by UP, the IBAN and SWIFT code or the account number and sort code or any other information that UP requests from the Client.

"**Second Trade**" has the meaning given in clause 13.11.2.

"**Specified Exchange Rate**" has the meaning given in clause 7.1.

"**Spot Trade**" means a trade for the sale or purchase of a specific quantity of a foreign currency where the Value Date is within two (2) Business Days.

"**Trade**" means a binding contract between UP and the Client relating to a Forward Trade, Market Order Trade, Spot Trade and any other trade as such other trade may be agreed between the parties in writing from time to time.

"**Trade Confirmation**" means a written notice which confirms the details of a Trade.

"**Trading Limit**" means a trading limit that UP may specify to the Client in writing and apply to the transaction with respect to Orders for Spot Trades.

"**UK GDPR**" has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

"**UP**" means Universal Partners Ltd a private limited company registered in England and Wales with company number 10674030 whose registered office address is at The South Quay Building 77 Marsh Wall, Canary Wharf, London, United Kingdom, E14 9SH. UP is a payment institution authorised and regulated by the Financial Conduct Authority with firm reference number 820037.

"**UP IP**" has the meaning given in clause 27.1.

"**Value Date**" means the date on which foreign currency is deliverable in accordance with the terms of a Trade.

"**Variation Margin**" means an additional sum of money that UP may require to be paid by the Client at any stage in a particular Trade at UP's

sole discretion.

"Web Portal" means the webpage available at www.universalpartners.com which enables the Client to directly access the Application Form and the Online Platform.

- 2.12. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.13. Any words following the terms "including", "include", "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 2.14. A reference to legislation, a legislative provision or regulation is a reference to it as amended, extended or replaced from time to time.

3. REGULATIONS

- 3.1. UP is an authorised payment institution registered with the Financial Conduct Authority (FCA) under registration number 820037 and is subject to the Payment Services Regulations 2017 (PSRs 2017) which regulates how Payments must be transmitted.
- 3.2. UP may be liable to the Client under the PSRs 2017 where UP fails to perform or incorrectly performs any Payment that the Client authorises UP to perform. In that instance the Client shall notify UP within the applicable time period set out in clause 14.2.1.
- 3.3. UP shall provide the Client with the information which the Client is entitled to receive under the PSRs 2017. If the Client is a corporate customer (not a consumer, a micro-enterprise (enterprise whose annual turnover and/or balance sheet total does not exceed EUR 2 million (or sterling equivalent) and employs fewer than 10 people) or a charity with an annual income of less than £1 million) then to the fullest extent permitted by law:
 - 3.3.1.1. the whole of Part 6 of the PSRs 2017 shall not apply to this Agreement;
 - 3.3.1.2. regulations 66(1), 67(3) and 67(4), 75, 77, 79, 80, 83, 91, 92 and 94 of the PSRs 2017 shall not apply to this Agreement; and
 - 3.3.1.3. a different time period applies for the purpose of regulation 74(1) of the PSRs 2017, as set out in clause 14.2.1.
 - 3.3.1.4. Please note our Foreign Exchange Services are non-regulated activities and therefore, they are outside the scope of the PSRs 2017 and our API license with the FCA.

4. COMMENCEMENT AND DURATION

- 4.1. This Agreement shall come into force on the date on which UP sends the Client an account activation email following acceptance of the Client's completed and signed Application Form. A Margin Facility or Trading Limit may be introduced by UP at any time during the term of this Agreement.
- 4.2. UP shall notify the Client by email if its Application Form is rejected and UP shall not be required to provide any explanation for such rejection.
- 4.3. If as part of the registration process, UP requires any supplementary information from the Client in addition to the Application Form then the Client shall promptly provide such details or material to UP.
- 4.4. This Agreement shall remain in force until terminated in accordance with these Terms.

5. NO ADVICE

- 5.1. UP deals on an execution only basis and does not advise the Client on the merits of or make any recommendation in relation to any particular Trade. The Client must assess whether it is appropriate for it to enter into a Trade based on its own judgment and taking account of advice from such advisers as the Client considers necessary.
- 5.2. The Client confirms that although UP may provide information in relation to foreign exchange markets as a personal recommendation, this does not amount to investment advice as UP does not provide regulated investment services. Information is provided solely to enable the Client to make its own foreign exchange decisions.
- 5.3. Foreign currency exchange rates are subject to fluctuations outside the control of UP. Past trends in the movement of foreign currency exchange rates should not be taken as an indicator of future movements in such exchange rates.

6. FORWARD TRADES CAN ONLY BE USED FOR SPECIFIC PURPOSES

- 6.1. UP is only permitted to enter into a Forward Trade with the Client:
 - 6.1.1. where the full amount of foreign currency is delivered to the Client; and
 - 6.1.2. which is for the purpose of:
 - 6.1.2.1. facilitating payment for identifiable goods and/or services; or
 - 6.1.2.2. direct investment.
- 6.2. UP cannot enter into a Forward Trade with the Client where the purpose of the Trade is profit seeking through speculation on foreign exchange movements.
- 6.3. UP shall have absolute discretion to decide whether the purpose of a Forward Trade is for facilitating payment for identifiable goods and/or services or direct investment.
- 6.4. The Client shall promptly make available any information that UP requests to verify the financial standing of the Client for the purpose of satisfying applicable legal and regulatory requirements as well as to make decisions as to whether or not to accept or progress an Order including:
 - 6.4.1. in respect of a Forward Trade relating to identifiable goods and/or services, copies of supply agreements, purchase orders, sale invoices, accounts and other information relevant to the Client's requirements to purchase goods and services; and
 - 6.4.2. in respect of a Forward Trade relating to a direct investment, details of the beneficiary of the investment including such person's interest in the investment and their level of management control and business objectives.

7. MARKET ORDER TRADES

- 7.1. If requested by the Client, UP may enter into a Trade and/or a Payment to be executed in the future when an exchange rate specified by the Client ("**Specified Exchange Rate**") becomes available (a "**Market Order Trade**").
- 7.2. UP will use reasonable endeavours to achieve the Specified Exchange Rate. The Client acknowledges that UP may not be able to enter into the Market Order Trade at the Specified Exchange Rate because:
 - 7.2.1. the Specified Exchange Rate is not available in the market that UP operates in; or
 - 7.2.2. UP is unwilling to enter into the Market Order Trade due to volatile market conditions even if the interest charged on short term loans made between financial institutions has achieved a rate that UP would otherwise require to match the Specified Exchange Rate.
- 7.3. Subject to clause 7.2, UP will place the Order for the Market Order Trade as soon as possible once the Specified Exchange Rate becomes available.

8. PLACING ORDERS

- 8.1. The Client may place Orders for Trades and/or Payments on the basis of the indicative prices that UP quotes it being understood however that UP may not always be able to deal at the prices indicated.
- 8.2. UP gives no warranties or representations in relation to the indicative prices or exchange rates it provides for any Order and is under no obligation to provide the best or most competitive prices or exchange rates available.
- 8.3. The Client can place an Order with UP via:
 - 8.3.1. email by writing to its account manager, details of which UP will provide from time to time;

- 8.3.2 telephone by calling a telephone number which is provided by a member of staff from UP or verified to be a telephone number owned by UP; or
- 8.3.3 the Online Platform, if available to the Client.
- 8.4 UP does not accept Orders submitted by post.
- 8.5 If the Client posts a letter to UP with the details of any Order that it wishes to place then a telephone number on which the Client is instantly contactable must be provided (if different to the telephone number entered in the Application Form). UP may then telephone the Client and arrange for the Order to be placed in accordance with any of methods set out in clause 8.3.

9 ONLINE PLATFORM ACCESS AND SECURITY

- 9.1 Once UP has received the completed Application Form from the Client, UP may send the Client an activation email for the online platform set-up, following which the Client (or where applicable, each Authorised Person) will be required to create a username and secure password in order to access the Online Platform ("**Password**") and provide a mobile phone number and two items of memorable information for each Authorised Person as well as any other information that UP may request in respect of such persons for security purposes.
- 9.2 The Client shall (and shall procure that each Authorised Person shall) take all reasonable precautions to prevent unauthorised access to the Online Platform including through:
 - 9.2.1 keeping the Password confidential (UP will never ask the Client or an Authorised Person for the Password whether via email, telephone or otherwise);
 - 9.2.2 informing UP via telephone or email immediately if the Client suspects the Password has been lost, stolen or compromised in any way;
 - 9.2.3 using reputable anti-virus software on any devices used to log in to the Online Platform;
 - 9.2.4 logging out of any device used to access the Online Platform;
 - 9.2.5 not recording the Password or other security information on any software which automatically retains it; and
 - 9.2.6 ensuring that its Authorised Persons list is kept up to date and ensuring that rights to access the Online Platform are immediately cancelled for all Authorised Persons that are no longer employed or engaged by the Client.
- 9.3 The Client shall ensure that:
 - 9.3.1 no Authorised Person transfers its username and/or Password to another person without the prior written consent of UP in each instance
 - 9.3.2 any Authorised Person shall change its username and/or Password immediately following a request from UP for any reason.

10 ORDERS

10.1 Non-acceptance of Orders

- 10.1.1 UP may, in its absolute discretion, refuse an Order and there is no guarantee that an Order will be placed. For example, UP may refuse an Order if:
 - a) it suspects that the Order was not authorised by the Client;
 - b) the Client is insolvent or has failed to pay any sums owed to UP;
 - c) it determines that the Order would breach applicable law;
 - d) the Client has failed to provide all due diligence information requested by UP;
 - e) it considers that the Order would require UP to exceed a Margin Facility or a Trading Limit; or
 - f) it views the instructions for the Order as being unclear, inaccurate or incomplete.
- 10.1.2 UP reserves the right to require further written confirmation of any Order, for example where an instruction for a Payment appears to be unclear, inaccurate or incomplete.

10.2 Orders placed by telephone

- 10.2.1 When an Order is placed by telephone, UP will provide the Client with the Pre-Trade Information on the telephone. Orders placed on the telephone will usually be accepted over the telephone.
- 10.2.2 UP reserves the right to require written confirmation of an Order placed by telephone to be provided by the Client before such Order is accepted however the Client giving written confirmation of an Order placed by telephone is not a prerequisite for UP to accept a such Order where UP has not requested written confirmation.
- 10.2.3 Once UP has accepted an Order a binding contract is entered into between the parties and the Client will be obliged to settle such Trade in relation to the Trade created by such Order.
- 10.2.4 The Client shall be liable for any Losses suffered or incurred by UP arising out of or in connection with the Client's failure to settle a Trade.

10.3 Reliance on instructions

- 10.3.1 The Client authorises UP to accept and act on any Order that UP believes to have been made by the Client (or an Authorised Person in respect of a corporate client).
- 10.3.2 An Order received from an email address or telephone number, set out by the Client in the Application Form or otherwise used by the Client to communicate with UP shall be sufficient to authenticate an Order as being from the Client and shall be deemed to have been authorised by the Client pursuant to these Terms as well as the PSR 2017.
- 10.3.3 The Client shall maintain an up-to-date list of all Authorised Persons and shall provide a copy of such list to UP promptly on request. UP will not be liable to the Client for any Orders placed by a person that is no longer an Authorised Person where the Client has not informed UP in writing about the relevant change.
- 10.3.4 If the Client fails to provide complete, accurate and clear instructions in a timely manner, UP shall hold the funds within a reasonable amount of time, pending receipt from the Client of the information necessary for UP to allocate the funds to an Order.
- 10.3.5 The Client will be solely responsible for ensuring that the details it supplies to UP to enable UP to execute an Order are true and accurate and the Client will not withhold or omit any information that would render those details false or inaccurate. The Client agrees to notify UP immediately if it becomes aware of any error or change in the details it has supplied to UP.
- 10.3.6 UP shall not be liable for any Losses suffered or incurred by the Client in connection with any delay in an Order being placed for the reasons set out in clause 10.1.1 or 10.3.5.

10.4 Audio recordings

- 10.4.1 UP may record or monitor any telephone conversations with the Client without prior warning.
- 10.4.2 All recordings (including audio and written notes) are the property of UP and the Client agrees that UP may rely on such recordings to resolve any disputes as well as use the same for the purposes of quality assurance, staff training, fraud prevention and compliance with applicable legal or regulatory obligations.
- 10.4.3 UP does not guarantee that such recordings will be maintained or made available to the Client.

10.5 Orders placed via the Online Platform

- 10.5.1 When an Order is placed via the Online Platform, the Client will have an opportunity to review the instructions that it has entered.
- 10.5.2 The Client is solely responsible for ensuring that all information is entered correctly when placing an Order using the Online Platform.
- 10.5.3 Unless there has been a Manifest Error, once the Order has been submitted to and received by UP, a binding contract will have been entered into between the parties.

10.6 Consent for a Payment Order

10.6.1 The placement of an Order for a Payment is deemed under these Terms to be the Client's consent for UP to execute the Payment in accordance with regulation 67 of the PSRs 2017.

10.7 Deemed receipt of an Order for Payment

10.7.1 An Order for a Payment shall be deemed to be received at the time at which it is received except that:

- a) where the Order for the Payment would otherwise be deemed to be received on a day which is not a Business Day or is received after 12 noon (UK time) on a Business Day, UP has the right to treat the Order for the Payment as having been received on the next Business Day; and
- b) if the Payment is to be made on:
 - i. a specified day; and/or
 - ii. the last day of a specified period; or
 - iii. the day on which the Client holds enough funds with UP in the required currency and subject to such funds being held by 2.30 pm (UK time) on that day;

then the Order for Payment shall be deemed to be received on the last of such days or, if that is not a Business Day, on the Business Day immediately following that date.

11 TRADE CONFIRMATIONS

- 11.1 Upon UP's acceptance of an Order, UP will endeavour to send a Trade Confirmation to the Client by email as soon as possible. A failure to send a Trade Confirmation, or the non-receipt by the Client of same for any reason, in respect of a particular Trade does not in any way invalidate any Trade entered into between the parties and will not prejudice the rights and obligations of either party under that Trade.
- 11.2 The Client shall inform UP within one (1) hour of becoming aware of an error in the Trade Confirmation or any discrepancy between the Pre-Trade Information and the Trade Confirmation. Failure to notify UP of any errors will not entitle the Client to treat the Trade as void and UP will presume that the Client agrees with the terms of the Trade.
- 11.3 The Client shall notify UP as soon as possible if a Trade Confirmation has not been received within one (1) hour of an Order being placed and accepted by UP.

12 PRE-TRADE INFORMATION AND CONTENTS OF TRADE CONFIRMATIONS

- 12.1 Unless deemed unnecessary by UP based on its relationship with the Client (for example where the Client is a longstanding customer or frequently places Orders), the Pre-Trade Information and the Trade Confirmation will convey and confirm the following information:
 - 12.1.1 the amount and currency of funds that must be transferred by the Client to receive the amount of foreign currency requested;
 - 12.1.2 the amount of foreign currency that the Client will receive upon completion of a Trade;
 - 12.1.3 the material terms of the Trade;
 - 12.1.4 the exchange rate applicable to the Trade;
 - 12.1.5 details of the Initial Margin and Balance;
 - 12.1.6 a breakdown of any applicable charges relating to the Trade; and
 - 12.1.7 the due date and time by which sufficient funds must be held for the transaction to be executed.

13 TRADE MARGINS

13.1 Initial Margins

- 13.1.1 UP may, in its absolute discretion, require the Client to pay an Initial Margin in relation to any Forward Trade. The Client shall pay the required Initial Margin:
 - a) within twenty-four (24) hours of the Client's instructions to enter into a Forward Trade; and/or
 - b) where a Margin Call is issued more than twenty-four (24) hours after the Client's instructions to enter into a Forward Trade, by close of business on the Business Day on which the Margin Call is issued to the Client which may be at any time during the course of a Forward Trade prior to the Balance Due Date.
- 13.1.2 UP may require an Initial Margin from the Client to maintain the relative value of the foreign currency to be purchased from or sold to UP pursuant to a Forward Trade or to address either a detrimental change in the Client's financial position (as determined by UP in its absolute discretion) or an adverse change in market conditions. The Client agrees that the amount of Initial Margin will be determined by UP (in its absolute discretion), provided that the total of any such payments shall not exceed the total payment obligation owed to UP under the relevant Forward Trade, and that UP may require the Initial Margin to be paid even if UP has expressly granted a margin facility to the Client.
- 13.1.3 The Client acknowledges that any Initial Margin may be (at UP's sole discretion) retained by UP rather than being refunded to the Client so that it may be applied to satisfy the Client's total payment obligation to UP in relation to the relevant Forward Trade on the Value Date or on the date of any final drawdown or applied as otherwise permitted in this Agreement including as set out in clause 13.6.1.

13.2 Variation Margins

- 13.2.1 The Client shall be required to pay a Variation Margin as stated in a Margin Call in order to protect UP against financial risk if UP determines, in its absolute discretion, that:
 - a) The market value of the Client's open Trades has decreased and that the marked to market value exceeds a Margin Facility the Client shall be required to pay a Variation Margin as stated in a Margin Call in order to protect UP against financial risk;
 - b) the Client will be unable to pay the Balance; or
 - c) there are other circumstances that necessitate a Variation Margin to be paid.
- 13.2.2 Each time the market value of all the Client's open Trades decreases and the unrealised loss when marked to market value further increases, UP may issue Margin Calls which require the Client to provide funds in the amount stated in the relevant Margin Call. The Client shall pay the amount stated in such Margin Call no later than close of business on the Business Day on which UP issues the Margin Call to the Client.

13.3 Valuation of Trades

13.3.1 Forward Trades are marked to market value using market rates supplied by a prominent financial data provider. UP may change the financial data provider at any time without notice to the Client.

13.4 Client acknowledgments

- 13.4.1 The Client agrees that any Initial Margin or Variation Margin:
 - a) may be used by UP in the ordinary course of its business;
 - b) will not be treated by UP as safeguarded funds as described in clause 15.2.3;
 - c) shall not be subject to a trust in the Client's favour, and that the Client's right to have the amount of the Initial Margin and Variation Margin, credited in Client's favour on the maturity date of the relevant Forward Trade would be an unsecured claim against UP and would not be a claim, by way of trust or otherwise, to the Initial Margin or Variation Margin amounts or to any assets which belong to or are controlled by UP; and
 - d) may be used by UP in relation to a separate Order for the Client where UP considers that the market value of one of the Client's open Trades has decreased.

13.5 Return of Variation Margin

13.5.1 If the unrealised loss of all open Forward Trades falls below the Variation Margin required by UP, UP may in its sole discretion notify the Client, and the Client may then request that UP returns the difference between the unrealised loss of all open Forward Trades

and the Variation Margin held by UP on that Business Day. Such request must be made in writing before 12 noon (UK time) on the same Business Day, UP will process the request on the Business Day on which it was made and the excess Variation Margin will be returned to the Client without undue delay. Requests made after 12 noon (UK time), will be processed by UP the following Business Day and the Variation Margin will be returned to the Client without undue delay.

13.6 Retention of trade margins

13.6.1 Any Initial Margins or Variation Margins shall belong to UP and the Client accepts that UP may use such monies towards (a) the recovery of any Losses suffered or incurred by UP arising out of or in connection with any action or omission of the Client; and/or (b) as set out in clauses 15.2.3 (non-safeguarded funds), 20.3.1(c) (cancellation or amendment of a Trade) and 23.1.2 (debts owed to UP).

13.7 Interest

13.7.1 The Client will not be entitled to any interest on any Initial Margin or Variation Margin or any funds held by UP on behalf of the Client.

13.8 Currency of trade margins

13.8.1 Unless otherwise agreed in writing, the Initial Margin and the Variation Margin must be paid to UP in the currency set out in the relevant Trade Confirmation.

13.9 Funds received from third parties

13.9.1 The Client may arrange for third parties to transfer funds to fund the transaction so that UP can process a Payment.

13.9.2 Any funds transferred by a third party on behalf of the Client will not be treated as having been received by UP until all due diligence required for UP to comply with its statutory, regulatory or legal obligations has been carried out on such third party. The due diligence will include identifying such third party as well as verifying the reason why they are transferring funds on behalf of the Client.

13.9.3 UP shall not be liable to the Client for any Losses suffered or incurred by the Client as a result of a delay in crediting any third-party funds for the transaction in the event that the Client or the relevant third party fails to satisfy UP's due diligence requirements.

13.10 Payments for Trades received from the Client or a third party on the Client's behalf

13.10.1 All funds transferred by the Client or a third party for a transaction, shall be made in same day cleared funds, in such currency as is required for the settlement of a Trade as follows:

- a) in relation to Spot Trades and Market Order Trades, unless otherwise stated in the Trade Confirmation, the Client shall pay the amount due by no later than 12 noon (UK time) on the Value Date (or the following day if the Value Date is not a Business Day); and
- b) in relation to a Forward Trade, unless stipulated otherwise in the Trade Confirmation, the Client shall pay the amount due by no later than one (1) Business Day prior to the Value Date.

13.10.2 UP may, in its absolute discretion, refuse to:

- a) receive payments from a third-party bank account; and
- b) make payments other than in accordance with standard payment instructions given by a person authorised by the Client to a bank account in the Client's name.

13.10.3 UP does not accept payment by cash or cheque. Any cash or cheques sent to UP will be returned to the remitting bank account after the source of funds has been verified. If the Client sends cash to UP, the payments will be deemed not to be received and the relevant Trade will be cancelled or extended unless payment is made in an acceptable manner by the required date.

13.10.4 UP shall not be liable to the Client in respect of a payment being rejected or any Losses suffered or incurred as a result of funds being transferred for a transaction in the wrong amount or currency. The Client acknowledges that any funds that UP receives via an intermediary are net of any charges or exchange rates that they apply.

13.11 What happens if there are insufficient funds received for a transaction at the time of a Trade?

13.11.1 UP may book a Trade for the Client even if there are no funds received for a transaction. If the Client has insufficient funds in the relevant currency to pay for any Initial Margin, Variation Margin or any Balance by 10 am (UK time) on the relevant due date set out in the Pre-Trade Information or Trade Confirmation then it may not be possible for the Trade to happen on such date. In that instance UP may, in its sole discretion, decide to either:

- a) extend the time for the Client or third party to pay UP (or have its due diligence completed) by a day or more; or
- b) cancel the Trade.

13.11.2 If UP extends the time for the Client or a third party to make a payment (or have its due diligence completed) or cancels the Trade, UP may need to enter into a second currency trade ("**Second Trade**") to close out its position in the market. In that event, UP will charge the Client for the reasonable costs incurred for the Second Trade and for any Losses incurred as a result of closing out the initial Trade or otherwise. UP shall inform the Client in writing of any Losses arising under this clause 13.11.2. In the event that the Trade is being extended, UP has the right to pass on any charges applicable to the Client and UP may also issue a Margin Call for a Variation Margin to be paid.

13.11.3 In the event that UP extends the time for the Client or a third party to make a payment, the Pre-Trade Information and the Trade Confirmation shall be taken to have been amended to reflect the additional charges, the date the funds are to be deposited in full into the relevant account and the due date.

14 PAYMENTS

14.1 Orders for Payments

14.1.1 The Client (and in the context of a corporate Client, an Authorised Person) may instruct UP to place an Order for a Payment at any time.

14.1.2 Before a Payment is made the Client must ensure that:

- a) ensure that you have transferred the correct amount to UP to fund the transaction and
- b) accurate and complete Recipient Account Details are provided to UP before 4 pm (UK time) on the day before the intended Payment Date.

14.1.3 If the criteria set out in clause 14.1.2 above are fulfilled, then UP shall make the Payment on the Payment Date specified in the relevant Order it being understood that if UP is unwilling or unable to make the Payment on the Payment Date then UP will notify the Client as soon as possible and provide an explanation for this unless it would be unlawful to do so.

14.1.4 The Client shall not place an Order for UP to make a Payment for any illegal purpose or relating to online gambling, pornography, firearms or such other prohibited purposes that are notified to the Client by UP from time to time.

14.2 Notice of incorrect or unauthorised Payments

14.2.1 The Client shall inform UP without undue delay (either verbally or in writing) if it becomes aware of UP making an incorrect or unauthorised Payment and in any event where the Client is a consumer, a micro-enterprise or a charity (as defined in the PSRs 2017), the Client must inform UP at the latest, within thirteen (13) months of the Payment Date and in all other cases, the Client must inform UP within seven (7) days of the Payment Date.

14.2.2 The Client accepts that failure to comply with the time limits set out in clause 14.2.1 will constitute a waiver of any right to make a legal claim against UP in respect of any Payments that have been made incorrectly or without authorisation.

14.3 Refunds for incorrect or unauthorised Payments

14.3.1 Save as otherwise set out in clause 14, where it is proven to UP's reasonable satisfaction (including via the provision of such documentation as UP may reasonably require) that UP has made an incorrect or unauthorised Payment then UP shall:

- a) for an incorrect Payment, promptly refund to the Client the full amount that has been debited incorrectly (including applicable charges such as transaction fees) as long as the requisite notice of the error has been received in accordance with clause 14.2.1; or

- b) for an unauthorised Payment, refund to the Client the full amount debited (including applicable charges such as transaction fees) without authorisation as soon as possible, unless UP has reasonable grounds to suspect fraud and notifies the relevant authorities.
- 14.3.2 The Client will be liable for all unauthorised Payments made via the Online Platform:
 - a) if the Client has acted fraudulently, or has willfully or negligently failed to comply with its access security obligations under clause 9; or
 - b) before the Client notified UP in accordance with clause 9.2.2.
- 14.4 **Incorrect Payments**
- 14.4.1 UP shall not be liable for any Losses suffered or incurred by the Client arising out of or in connection with an erroneous Payment where the Client has provided incorrect Recipient Account Details.
- 14.5 **Payment Date**
- 14.5.1 If the agreed Payment Date is not a Business Day, then the Payment will take place on the Business Day following the Payment Date.
- 14.6 **Payment withdrawals**
- 14.6.1 The Client cannot withdraw an Order for a Payment after it has been received except:
 - a) if the withdrawal request is received before 5 pm (UK time) on the Business Day before the Payment Date; or
 - b) if the Client believes that an Order for a Payment has been placed or a Payment made incorrectly or without authorisation.
- 14.6.2 If the Payment has already been credited to the Recipient Account then a withdrawal may only be possible with the consent of the Recipient. UP will use all reasonable endeavours to effect the withdrawal of a Payment. However, the Client acknowledges that it shall be responsible for recovering the funds in the event that UP is unable to achieve the requested withdrawal of the Payment for any reason.
- 14.6.3 Where the Payment is successfully withdrawn the funds will be held by UP in the currency received. UP shall not be liable for any Losses incurred due to the cancellation or withdrawal of a Payment. The Client shall be responsible for any Losses suffered or incurred by UP in withdrawing a Payment and UP shall inform the Client of such Losses in writing.
- 14.7 **Timeframes for Payments**
- 14.7.1 Payments will be credited to a Recipient Account operated by UP as soon as the Payment is made.
- 14.7.2 UP may use such intermediary banks or payment service providers that UP considers appropriate for processing an Order. The Client agrees to be bound by applicable laws, regulations and any clearing house rules or procedures for any funds transfer system that is used. UP will use reasonable endeavours to ensure the timely fulfilment of each Order but shall not be responsible for the timing of payment processing by intermediary banks or fund transfer systems beyond its control. UP shall not be liable for any actions, omissions or errors, or any charges that may be deducted, by any intermediary bank or by the Recipient's bank in connection with any Order, including in respect of any cancellation or rejection.
- 14.7.3 Where the Recipient Account is operated by a third party, and the Payment is denominated in:
 - a) Euro or Pounds Sterling and the Recipient Account is located within the European Economic Area (EEA), the amount of the Payment will be credited to the Recipient Account by the end of the Business Day following that on which the Order for the Payment was deemed to be received by UP;
 - b) a currency other than Euro or Pounds Sterling but the Recipient Account is located within the EEA, the Payment will be credited to the Recipient Account by the end of the fourth Business Day following the date upon which the Order for the Payment was deemed to be received by UP; and
 - c) a currency other than Euro or Pounds Sterling and the Recipient Account is located outside the EEA, the Payment will be credited to the Recipient Account as soon as is reasonably practicable.
- 14.8 **Responsibility for Payment**
- 14.8.1 UP shall be liable to the Client for making the correct execution of a Payment unless UP can prove to the Client that the Recipient's payment service provider received the Payment within the appropriate time frame set out in clause 14.7.
- 14.8.2 UP shall, on request, make immediate efforts to trace any non-executed or defective Payments and notify the Client of the outcome.
- 14.9 **Charges for Payments**
- 14.9.1 The Client accepts that some intermediary or correspondent banks, particularly in relation to international payments, may impose a receiving or routing charge on any payment made to the Client or to a third party beneficiary on behalf of the Client. UP may require the Client to pay such charges and the Client acknowledges that UP accepts no liability for any Losses that may arise as a result of such charges being imposed.

15 HOLDING FUNDS AND SAFEGUARDING

- 15.1 **Terms for holding funds in the UP account**
- 15.1.1 In the event that UP receives funds without a payment instructions or before a spot FX trade order is made, UP will use reasonable endeavours to contact the Client to return the funds. In the event that UP is unable to contact the Client, UP will return such funds to the last known account held on record for the Client at the Client's base currency
- 15.1.2 The Client (or an Authorised Person on behalf of the Client) can check the amount of funds sent to UP to process a transaction:
 - a) at any time by using the Online Platform, provided there is no maintenance being carried out; and/or
 - b) via telephone during Business Hours. The Client may request that the funds for a transaction are sent to the Client's separate bank account at any time by requesting a Payment and selecting the Client's own bank account as the Recipient Account.
- 15.2 **Safeguarding funds**
- 15.2.1 As a payment institution, UP is required to ensure that relevant funds are appropriately safeguarded under the PSRs 2017.
- 15.2.2 Where UP receives relevant funds for the Client to complete, a payment transaction, these funds will be held by UP in one or more segregated bank accounts, separate from UP's own funds, in accordance with the PSRs 2017.
- 15.2.3 In the unlikely event that UP gets into financial difficulties, the funds that are safeguarded will be protected against creditor claims and efforts will be made to reimburse relevant funds to the Client. Although payment services funds are safeguarded, it could take longer for monies to be refunded and some costs could be deducted by the administrator or liquidator of the Firm during the insolvency process so you might not get all your money back
- 15.2.4 The Client's relevant funds will not be safeguarded to the extent that UP needs to deduct monies (as determined by UP in its sole discretion) in order to:
 - a) pay sums owed by the Client under a Trade (including the Initial Margin, Variation Margin and the Balance in the case of a Forward Trade and the full amount of the required sums in the case of a Spot Trade);
 - b) pay fees which are due and owing; or
 - c) execute a Payment.
- 15.2.5 When a Trade is being completed there may be a period, of usually no more than twelve (12) Business Hours, between the Balance or full amount of the funds for that Trade being sent to UP and they being credited. UP will not safeguard funds relating to the Trade during this period of time as the safeguarding requirement will start at the point of reception of those funds by UP in accordance to the PSRs 2017. In the unlikely event that UP gets into financial difficulties during this period of time and the Trade is not completed, the Client can make a claim as one of a creditors of UP (rather than claim from the funds in the safeguarded account) in which case the Client understands it is less likely that it will be compensated in full.

- 15.26 UP maintains relevant funds related to our payment services activities in a separate account held by an Authorised Credit Institution. Client funds are kept in a way that they do not commingle with the Firm's own money. Client funds are also insulated against the claims of any other of UP's creditors. By doing this, UP provides assurance that it will not use Client funds to pay its own debts and obligations, and in the event of the Firm's insolvency, they will be used to repay the client's and other customers after applicable costs are deducted by the administrator or liquidator of the Firm during the insolvency process.
- a) Client funds are also protected from any interest in, recourse against, or right of set-off from the financial institution where UP holds Client funds. UP regularly carries internal and external audits to demonstrate that UP is safeguarding Client funds in compliance with applicable laws in the UK.
 - b) These safeguard measures only apply to funds related to the Firm's regulated payment services and do not extend to the Firm's unregulated offering of foreign exchange services.
 - c) It is important to notice that UP is not a banking institution and does not provide banking services. The services that UP offer are not covered by the Financial Services Compensation Scheme (FSCS). They are protected instead by the safeguarding methods described in section 15.2.5.
 - d) If UP were to go out of business, although payment services funds are safeguarded, it could take longer for monies to be refunded and some costs could be deducted by the administrator or liquidator of the Firm during the insolvency process so Client's might not get monies back.
 - e) Clients can contact Universal Partners or check the FCA [website](#) to find guidance in deciding whether the level of protection UP offer are appropriate in the circumstances.

16 CLIENT IDENTIFICATION AND VERIFICATION

- 16.1 Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, UP is required verify the identity of each client and the nature of each client's business.
- 16.2 The Client agrees to promptly provide UP with all the information requested as part of its client due diligence procedures including up to date information with respect to the Client, third party payers or payees, authorised representatives, beneficial owners, employees and directors, in order to satisfy UP's on-going legal and regulatory obligations.
- 16.3 The Client agrees that UP may withhold any monies due to the Client until all requested client due diligence documents have been received.
- 16.4 The Client hereby authorises UP or any person acting on behalf of UP to verify the Client's identity (and if appropriate carry out a credit check) as well as the identity of the persons listed in clause 16.2 above and to contact such banks, financial institutions and credit agencies as UP or its representatives shall deem appropriate for the purposes of anti-money laundering requirements or other applicable law.

17 REPRESENTATIONS AND WARRANTIES

- 17.1 The Client hereby represents and warrants:
 - 17.1.1 that the details entered in the Application Form are true, accurate and complete and that the Client will inform UP without undue delay after such details change;
 - 17.1.2 that it has the power and authority to place the Orders;
 - 17.1.3 that it shall place all Orders in accordance with the terms of this Agreement;
 - 17.1.4 that in placing an Order the Client will not breach any applicable laws;
 - 17.1.5 if the Client is entering into a Forward Trade, it is for the purpose of facilitating a means of payment for identifiable goods and/or services or direct investment;
 - 17.1.6 that the Client consents to UP including the Client's full name, address and any other details required by law on the payment details to be sent to the Recipient's payment service provider;
 - 17.1.7 that funds sent by a Client for a transaction are not and shall not become subject to any charge or other security or encumbrance (other than in favour of UP); and
 - 17.1.8 that the Client contracts as principal and not as agent, unless the Client is acting through a power of attorney.
- 17.2 If the Client is unable to make the representations and warranties set out in clause 17.1 the Client will inform UP prior to making an Order.
- 17.3 Each representation and warranty under clause 17.1 shall be considered as repeated each time the Client places an Order.
- 17.4 The Client agrees to reimburse UP on demand in full for any Losses that UP has suffered or incurred arising from a breach of the Client's representations and warranties set out in these Terms.

18 CLIENT AVAILABILITY

- 18.1 UP may telephone the Client at any reasonable time on a Business Day to confirm the details of any Order which UP believes the Client has placed or entered into.
- 18.2 The Client shall ensure that it is capable of being contacted at any reasonable time on a Business Day on the telephone numbers set out in the Application Form or otherwise notified to UP from time to time. The Client accepts that if UP is unable to contact the Client on these telephone numbers for any reason, UP will not be able to process the relevant Order and will not be liable for any Losses which the Client incurs as a result.

19 ADDITIONAL SECURITY

- 19.1 UP may stop any Payment and/or suspend the Client's access to the Online Platform if UP has concerns over:
 - 19.1.1 the security of the Online Platform or a Payment;
 - 19.1.2 the suspected unauthorised or fraudulent use of the Password; or
 - 19.1.3 where the Payment is being made in connection with a margin facility, if UP believes that there is a significantly increased risk that the Client may be unable to fulfil its liability to UP. In that instance, unless it is unlawful to do so, UP shall inform the Client by telephone or email of the suspension of the relevant service and the reason for the suspension as soon as possible.
- 19.2 In the event that UP suspends the Client's access to the Online Platform, unless it is unlawful to do so, after the event that resulted in the suspension is over, UP may provide the Client with a new Password and access to the Online Platform.
- 19.3 In the event of suspected or actual fraud or security threats, UP will normally inform the Client (or the Authorised Person) and verify their identity by asking certain security questions, such contact will be made (a) via email or telephone using the contact details entered into the Application Form or otherwise notified to UP from time to time; and/or (b) via the Online Platform.

20 CANCELLATION AND ALTERATION OF TRADES

- 20.1 **Rights for UP to cancel a Trade on the occurrence of certain events**
 - 20.1.1 A Trade may be cancelled by UP at its sole discretion at any time without giving prior notice to or obtaining further instructions from the Client if any of the following events occur:
 - a) the Client fails to make any payment when due under a Trade;
 - b) UP discovers that the Client has given false or misleading information;
 - c) UP discovers that the Client is in breach of applicable laws concerned with money laundering or terrorist financing or that the Client has otherwise failed to satisfy any information requests required by law;
 - d) the Client becomes subject to a formal investigation by a law enforcement and/or regulatory agency;
 - e) the Client is, or threatens to be, in material breach of any of these Terms or of any of its obligations under a Trade;

- f) the Client dies or no longer has mental capacity;
- g) the Client's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to these Terms is in jeopardy;
- h) it becomes or it appears that it may become unlawful for UP to maintain or give effect to all or any of the obligations under these Terms or any Trade or otherwise to carry on business with the Client;
- i) if UP or the Client is instructed or requested to close out a Trade by any regulatory or law enforcement authority. In such an event, UP may be required to retain any sum which would otherwise be due to the Client and/or to pay such monies to the relevant authority;
- j) UP, in its absolute discretion, considers it necessary to protect itself and the Client including in respect of:
 - i. fraud;
 - ii. the Client's default;
 - iii. market failures;
 - iv. volatile market conditions;
 - v. Losses; and
 - vi. where, at any time, UP reasonably believes that the Client has insufficient funds to fulfil a Trade;
- k) on the occurrence of a Force Majeure Event where continuation of the Trade would create liability for UP that it has no protection against. The Client agrees to give notice of any such events upon becoming aware of the same.

20.2 Cancellation or amendment of a Trade by the Client

- 20.2.1 The Client acknowledges that UP purchases foreign currency from a live market, so when a Trade is entered into UP takes on financial risk and incurs liability. On this basis, UP does not give the Client the right to cancel, alter or amend any Trade.
- 20.2.2 Notwithstanding clause 20.2.1, a Trade may be cancelled with UP's prior consent. If a Trade is so cancelled with UP's consent, the Client agrees to be liable for any Losses that the Client or UP may incur.
- 20.2.3 The Client shall reimburse UP on demand in full for any Losses (including for the avoidance of doubt loss of profits) suffered or incurred by UP arising out of the cancellation of such Trade pursuant to clause 20.2.2.

20.3 What happens when a Trade is cancelled or amended?

- 20.3.1 If a Trade is cancelled for any reason UP will or if a Trade is amended for any reason UP may:
 - a) close out any incomplete Trade and use any proceeds towards the payment of any amounts due to UP. The Client acknowledges that, in the event that UP is required to close a Trade in these circumstances, UP may need to enter into a Second Trade to close out its position in the market. In that instance, UP will charge the Client for the reasonable costs of the Second Trade and for any related Losses incurred. UP is not entitled to pay any gains to the Client due to the limitations of its regulatory permissions;
 - b) inform the Client in writing of any Losses that UP incurs due to the close out and the cancellation;
 - c) use any sum which the Client has paid UP, including any Initial Margin or Variation Margin, to settle any liability or compensate UP for the Losses incurred in connection with the close out and cancellation; and
 - d) return the balance of any sum remaining to the Client after the payment of Losses. Once a Trade has been closed out for any reason, UP will promptly send the Client an account statement which sets out the impact on the Client for closing out the Trade.

21 TERMINATION OF THIS AGREEMENT

- 21.1 This Agreement can be terminated by either party for convenience by giving not less than sixty (60) days' notice in writing to the other party.
- 21.2 The termination of this Agreement shall not affect any Trades entered into before the date on which the Agreement terminates.
- 21.3 Any outstanding liabilities and obligations in relation to any Trade entered into before the date on which the Agreement terminates shall continue to be enforceable on the terms of this Agreement.

22 LIMITATION OF LIABILITY

- 22.1 Nothing in these Terms limits any liability which cannot legally be limited.
- 22.2 UP shall not be liable to the Client for any loss or delay in or failure of any Payment arising from a late arrival of funds or from a late instruction.
- 22.3 UP will not be liable to the Client or a third party for any loss of profits, loss of business, loss of goodwill or any indirect or consequential losses however arising.
- 22.4 UP shall not be liable for any Losses suffered or incurred by the Client arising out of or in connection with the use of (or any unavailability or inability to use) the Online Platform including the inability to place Orders or access the Online Platform.
- 22.5 UP shall not be liable to the Client for any Losses arising from any delay or failure to place an Order caused by:
 - 22.5.1 a Force Majeure Event;
 - 22.5.2 the acts or omissions of any third party; or
 - 22.5.3 UP or any intermediary bank making necessary enquiries as required by present or future applicable laws or regulations.
- 22.6 UP's total liability in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise arising out of or in connection with the performance of a Trade, shall be limited to the sums paid or payable by the Client for that particular Trade or the sum of £25,000.00 whichever is the lesser sum.
- 22.7 The Client shall reimburse UP on demand in full for any Losses suffered or incurred by UP in relation to any Trade or as a result of the Client's misrepresentation or breach of its obligations under this Agreement (including any Trade) or arising as a result of UP enforcing its rights under this Agreement.

23 DEBTS OWED TO UP

- 23.1 In the event that the Client owes a debt to UP for any reason including on termination of this Agreement or any Trades, UP can pay such debts using:
 - 23.1.1 any funds received for a transaction; or
 - 23.1.2 any Initial Margins, Variation Margins, Balance (if any) and any other funds that the Client has provided to UP (in which case the Client will owe further sums to UP to complete that Trade).
- 23.2 Alternatively UP may issue the Client with a demand for payment, in which case the Client shall pay UP within two (2) Business Days of the date of demand.

24 RIGHT OF SET-OFF

- 24.1 UP may, at any time, without notice to the Client, set off any amount owed by UP to the Client against any amount owed by the Client to UP, whether such amount is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the amounts to be set off are expressed in different currencies, UP may convert either amount at a rate of exchange which UP determines to be reasonable for the purpose of set off.
- 24.2 Any exercise by UP of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.

25 DATA PROTECTION

- 25.1 UP is a data controller. Details of how UP collects, processes and safeguards personal data and information about the privacy rights of individuals are set out in the Privacy Notice.
- 25.2 Except where the Client uploads personal data (as defined in the UK GDPR) directly onto the Online Platform, UP does not accept any liability for any Losses suffered by the Client as a result of the transfer of any personal data to UP via the internet including by way of email. Any such transfer is executed entirely at the Client's own risk.

26 CONFIDENTIALITY

- 26.1 Each party undertakes that it shall, during this Agreement and for a period of five years after termination, keep confidential and not at any time disclose to any person, any confidential information concerning the affairs of the other party disclosed to it by, or obtained in relation to, the other party, except as permitted under clause 26.2 and the Privacy Notice.
- 26.2 Each party may disclose the other party's confidential information:
- 26.2.1 to the extent required for the purposes of carrying out the party's obligations under this Agreement, provided that the disclosing party takes all reasonable steps to ensure that the persons they are disclosing confidential information to comply with the confidentiality obligations contained in this clause. The disclosing party shall be responsible for the confidentiality obligations of the persons it discloses confidential information to; and
- 26.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 26.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

27 INTELLECTUAL PROPERTY RIGHTS

- 27.1 All rights in patents, copyrights, design rights, trade marks and any other intellectual property rights (whether registered or unregistered) relating to the Online Platform ("**UP IP**") remain vested in UP or where applicable its licensors. The Client shall not copy, modify, reverse engineer or otherwise attempt to extract the source code of the Online Platform except in so far as such acts are expressly permitted by law.
- 27.2 The Client shall have no right or interest in or to any UP IP except the right to access and use the Online Platform in connection with this Agreement.

28 COMPLAINTS

- 28.1 All complaints should, in the first instance, be addressed to Head of Compliance at The South Quay Building, 77 Marsh Wall, Canary Wharf, London E14 9SH or sent by email to complaints@universalpartners.com. Complaints will be dealt with in accordance with the FCA rules. For the purposes of the PSR 2017, the Client agrees that UP may respond by email to any complaint raised.
- 28.2 UP will send the Client a complaint acknowledgement by post or by email within three (3) Business Days of receiving the complaint in accordance with the UP complaints policy. A copy of the UP complaints policy is available on request.
- 28.3 A Client that is a consumer, microenterprise or small charity (as defined in the PSR 2017) is entitled to raise a complaint with the Financial Ombudsman Service (FOS). Information about the FOS, including how to make a claim, eligibility criteria and the procedures involved, is available from: The Financial Ombudsman Service Exchange Tower Harbour Exchange Square London E14 9SR or www.financial-ombudsman.org.uk.

29 POWER OF ATTORNEY

- 29.1 The Client may grant a power of attorney authorising a third party to represent them in any business with UP (including placing Orders). If the Client appoints a third party as its attorney UP will take instructions from such person until notified of the termination of the power of attorney by the Client in writing. References to the "Client" in these Terms shall be deemed to include the attorney. If an attorney is appointed, UP may require satisfactory evidence of such appointment and evidence of identification of the attorney.

30 VARIATIONS

- 30.1 UP may amend these Terms by giving notice in writing to the Client at any time. Any such amendment shall take effect from the date specified by UP (which shall be at least two months after notification in the case of variations where the Client is a consumer, microenterprise or small charity (as defined in the PSR 2017), notwithstanding the foregoing if the Client is a corporate customer then the variation shall be effective from the date of the change unless otherwise stated by UP). The Client's continued use of the services will be deemed as acceptance of the variation.
- 30.2 The Client may terminate this Agreement immediately, prior to the amendments coming into force if it does not agree with the variations. Such termination and any variations shall not affect any Trades entered into prior to the termination or variation of the Agreement.

31 NO WAIVER

- 31.1 A waiver of any right or remedy under these Terms or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 31.2 A failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under these Terms or by law shall prevent or restrict the further exercise of that or any other right or remedy.

32 SEVERANCE

- 32.1 If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

33 ENTIRE AGREEMENT

- 33.1 The Agreement together with any Trade constitutes the entire agreement and understanding of the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 33.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

34 THIRD PARTY RIGHTS

- 34.1 These Terms do not intend to confer any benefit on any third party and no third party shall have the right to enforce these Terms or any Trade under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

35 NOTICES

- 35.1 Unless otherwise agreed all notices to be given by UP under this Agreement shall be sent to the Client at the postal or email address provided in the Application Form or such other postal or email address as the Client may provide to UP from time to time which UP in turn responds to acknowledge.
- 35.2 Any notice or communication given by either party shall be deemed to be received in the case of first class prepaid post, one (1) Business Day after posting, in the case of hand delivery to the business address, at the time it was left at that address and in the case of an email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 35.2, business hours means 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 35.3 It is the Client's responsibility to immediately inform UP of any change to its postal address, email address or contact details.

36 DISPUTE RESOLUTION

- 36.1 If a dispute arises between UP and the Client at any time with respect to an Order, UP may close out such Order or take such other reasonable action that UP deems necessary and appropriate in the circumstances.
- 36.2 The Client accepts that evidence collated by UP during the course of this Agreement may be used by UP in resolving any dispute between them including for example, electronic correspondence, audio recordings and transcripts of those recordings and other material reflecting any conversations between the Client and UP.

37 GOVERNING LAW AND JURISDICTION

- 37.1 This Agreement (including any Trade or Payment) and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 37.2 The Client irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement (including any Trade or Payment), its subject matter or formation (including non-contractual disputes or claims).
- 37.3 Each party irrevocably agrees to waive any objection which it may have at any time to the venue of any proceedings being the courts in England and agrees not to claim that such proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over such proceedings.