



# TERMS AND CONDITIONS

## UK Consumer

### Consumer Foreign Exchange Services and Payment Services V7.0 10/2020

Our Services are provided in the UK by HiFX Europe Limited, (trading as “Xe” or “Xe.com”), authorised by the Financial Conduct Authority under the Payment Services Regulations 2017, reference number 462444, for the provision of payment services and forms part of the Xe Group.

These terms and conditions of business (“**Our Terms**”) explain your responsibilities to us and our responsibilities to you, how and when the contract between us and you can be terminated and the extent to which we may be liable to you.

Your attention is drawn to **clause 8.4** which covers the risk and liability we incur on your behalf immediately upon your confirmation of the foreign exchange trade and **clause 8.6** which sets out the consequences which will apply following termination of a foreign exchange trade prior to the originally agreed date or prior to settlement of such trade.

Our Terms apply to Our Services which are as follows:

- (a) Foreign Exchange Services, whereby you send us money in one currency (the **Sale Currency**) in exchange for us sending money to your account in another currency (the **Purchase Currency**), unless the money we are due to send you is subject to our separate Payment Services in which case they will be sent to a third party; and
- (b) Payment Services, whereby we will send your money (in most cases being the money you purchase from us pursuant to our Foreign Exchange Services) to the account of a third party.

We take our responsibilities seriously. We expect the same from you. We therefore ask you to read Our Terms carefully, as they will be incorporated into contracts which are formed between us and you.

## 1. DEFINITIONS

1.1 In Our Terms the following words have the following meanings:

**“Acceptance”**

means our acceptance of a Request communicated to you, if you are instructing us online, when a transaction summary is sent to you by email and/or made available to you on Our Website (or in the case of an Online Market Order, automatically when the order is fulfilled at the pre-determined exchange rate) or, if you are instructing us by phone, verbally by one of our team and/or in writing (any such verbal confirmation will be followed by an email with a deal confirmation);

**“Additional Security Payment”**

means any additional sum of money on top of the Security Payment which we may require from you in the event of a Variation on a Trade;

**“AML and CTF Laws”**

means applicable laws, rules and regulations which relate to aspects of anti-money laundering and/or counter terrorist financing;



<b>“Authorised Person”</b>	means a living individual who is authorised by you and accepted by us to provide us with instructions on your behalf;
<b>“Beneficiary Account”</b>	means the account, which you provide us with the details of, belonging to a third party which is to be the recipient of money subject to a Payment;
<b>“Business Day”</b>	means 9am to 4.30pm Monday to Friday excluding Bank Holidays and Public Holidays in England (please note that this is different to our office hours, details of which are published on Our Website);
<b>“Close Out”</b>	means a termination of a Trade prior to the originally agreed date or prior to settlement of a Trade;
<b>“Close Out Contract Note”</b>	means a Contract Note produced by us upon Close Out to record the terms on which we have Closed Out a Trade which was terminated prior to the date it was due to be settled;
<b>“Close Out Cost”</b>	means the difference between the amount of the Purchase Currency in the Contract Note and the amount of the Purchase Currency needed to purchase the amount of the Sale Currency in the Contract Note at the Market Rate upon Close Out, where the latter exceeds the former;
<b>“Contract Note”</b>	means the document produced by us which outlines the Trade we have agreed to perform for you and any specific requirements concerning that Trade, which will be sent to you following our Acceptance, save for a Close Out Contract Note;
<b>“Data Protection Laws”</b>	means the Data Protection Act 2018, the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (“GDPR”), and all other applicable laws relating to data protection;
<b>“Foreign Exchange Services”</b>	means us entering into Trade with you, which includes for the avoidance of doubt, us sending the Purchase Currency to an account held by you;
<b>“Forward Trade”</b>	means a foreign exchange transaction forming part of Our Services where you ask us to secure an exchange rate now but to make the transaction on a pre-determined future date more than 2 (two) Business Days after Acceptance, and includes Online Forward Trades;
<b>“Further Loss”</b>	means such loss that we make or liability that we incur as a result of termination of the Trade, other than that resulting from Close Out;
<b>“FX Contract”</b>	means the contract between you and us for the performance of a Trade;
<b>“Limit Order”</b>	means a Market Order involving a foreign exchange transaction forming part of Our Services on the basis of a prior instruction we receive from you to transact at a predetermined target exchange rate (which is better than the exchange rate that is available to you when you place the order) and at which you wish to transact;
<b>“Market Order”</b>	means a foreign exchange transaction forming part of Our Services where we receive a Limit Order or Stop Loss Market



	Order instruction from you to buy or sell a currency at (or, in the case of a Stop Loss Market Order, at or around) a predetermined target exchange rate which includes an Online Market Order;
<b>“Market Rate”</b>	means the rate obtained by us from a live market feed at the time of Close Out;
<b>“Online Forward Trade”</b>	as defined in clause 7.6;
<b>“Online Market Order”</b>	as defined in clause 7.7.1 and further detailed in clauses 7.7.2 and 7.7.3;
<b>“Our Nominated Account”</b>	means the bank account that we nominate into which you must pay us any sums due to us relating to any Trade or Payment;
<b>“Our Services”</b>	means our Foreign Exchange Services and our separate Payment Services;
<b>“Our Terms”</b>	means these terms and conditions of business for Foreign Exchange Services and Payment Services;
<b>“Our Website”</b>	means the website located at Xe.com;
<b>“Payment”</b>	means us transferring your money, for example your Purchase Currency, to a third party Beneficiary Account on your behalf;
<b>“Payment Contract”</b>	means a contract entered into between you and us whereby we execute a Payment for you on your behalf;
<b>“Payment Services”</b>	means us executing Payments at your instruction;
<b>“Purchase Currency”</b>	means the money you are entitled to following settlement of a Trade;
<b>“RPA Trade”</b>	means an arrangement where you ask us to carry out a series of separate Forward Trades for you, for example where you wish to set up regular monthly payments;
<b>“Regulations”</b>	means the Payment Services Regulations 2017 (SI 2017/752) (as amended from time to time);
<b>“Request”</b>	means your request for a Trade and/or a Payment communicated to us when, if you are instructing us online, you confirm your order online or, if you are instructing us by phone, you confirm your order verbally to one of our team;
<b>“Reversal Transaction”</b>	is the currency transaction we may enter into in the market upon Close Out in terms which are the reverse of any Trade not yet completed and which may be at a different exchange rate from that relating to the Trade;
<b>“Sale Currency”</b>	means money in the currency you have contracted to sell as set out in the Contract Note relevant to the Trade;
<b>“Security Payment”</b>	means the amount which we may ask you to provide us with in advance to secure a Trade;
<b>“Spot Trade”</b>	means a foreign exchange transaction forming part of Our Services where the Value Date is within two (2) Business Days of the date of Acceptance;
<b>“Spread”</b>	means the profit we make on the Trade;



<b>“Stop Loss Market Order”</b>	means a Market Order involving a foreign exchange transaction forming part of Our Services on the basis of an instruction we receive from you which specifies a minimum predetermined target exchange rate at or around which you are willing and wish to transact;
<b>“Target Rate”</b>	means the rate at which a Market Order is executed, being at (or, in the case of a Stop Loss Market Order, at or around) the exchange rate specified by the Client for the Market Order including the profit we make on the Trade;
<b>“Trade”</b>	means any foreign exchange transaction which you authorise us to make involving you selling us Sale Currency in return for you buying Purchase Currency forming part of Our Services, namely any Spot Trade, Forward Trade, Market Order or RPA Trade but, for the avoidance of doubt, excluding any Payment;
<b>“US Sanction Laws”</b>	means any applicable laws and regulations in the United States, including (without limitation), those administered by the Office of Foreign Assets Control of the United States Department of Treasury;
<b>“Value Date”</b>	the date on which the Trade will mature;
<b>“Variation”</b>	means the difference between the original value of a Trade and the value if the Trade was immediately Closed Out (for example, as a result of exchange rate movements on a Forward Trade), up to a maximum of the full value of the Trade;
<b>“Xe Group”</b>	refers to HiFX Europe Limited, Xe Europe B.V., HiFX Australia Pty Ltd, HiFX Limited, Xe Corporation Inc., HiFX Canada Inc. and Continental Exchange Solutions Inc. dba “Xe” or “Xe.com”, each being a wholly owned subsidiary of Euronet Worldwide, Inc. (“ <b>EWI</b> ”);
<b>“we”, “our” or “us”</b>	refers to HiFX Europe Limited (trading as “Xe” or “Xe.com”), which is a company incorporated in England with company number 3517451 and registered office at Maxis 1, Western Road, Bracknell, Berkshire, RG12 1RT and provides Our Services;
<b>“you” or “your”</b>	refers to you, our customer; and
<b>“Your Nominated Account”</b>	means the bank account notified by you to us into which we are to transfer any Purchase Currency to you if you are not entering into a Payment Contract in relation to the Purchase Currency.

1.2 All references in Our Terms (unless otherwise stated):

- (a) to a person or persons shall include any natural person, company, firm, partnership, trust, public body or other organisation;
- (b) to “clauses” are to clauses of Our Terms;
- (c) to any legislation (including statutes, statutory instruments, statutory provisions or regulations) shall include them as amended or re-enacted from time to time; and
- (d) made in the singular shall include the plural and vice versa.

1.3 All headings used in Our Terms are for ease of reference only and shall not affect the interpretation of Our Terms.



## 2. CHANGES TO OUR TERMS

- 2.1 We may amend Our Terms from time to time, for example in order to comply with changes in the law or regulatory requirements or due to changes in market conditions.
- 2.2 If we make any change to Our Terms, we will do so by email and/or by post and/ or by placing a notice on Our Website. We will also make available the revised version of Our Terms on Our Website. We will also inform you of the date from which any change is to take effect (the “**Effective Date**”).
- 2.3 If you wish to receive a written copy of Our Terms by post, we will send to the postal address we hold for you upon request. Changes that we make to Our Terms will normally only apply to Trades and Payments entered into after the Effective Date but will also apply to FX Contracts and Payment Contracts entered into before the Effective Date where we are required to make them do so by law or regulatory requirements. By entering into an FX Contract or Payment Contract you will be deemed to have accepted all changes made to Our Terms since you last entered into a FX Contract or Payment Contract.

## 3. LANGUAGE AND APPLICABLE LAW

- 3.1 Our Terms are written in the English language which shall also be the language of each FX Contract and Payment Contract. All communications between us shall be made in the English language.
- 3.2 Our Terms are governed by and shall be interpreted in accordance with English law. Any disputes between us relating to Our Terms, any FX Contract or any Payment Contract will be dealt with in the courts in England, Wales, Scotland or Northern Ireland.
- 3.3 Our Terms do not affect your statutory rights as a consumer, further details of which can be found by accessing the website of the Financial Conduct Authority at [www.fca.org.uk/consumers](http://www.fca.org.uk/consumers).

## 4. FINANCIAL MARKETS

### 4.1 No advice

Although we may provide you with market information should you ask us to do so, we do not provide personal advice (whether to proceed with, or not proceed with or in respect of the timing of any Trade) and you should not treat any information we provide to you as personal advice. That is, we do not take into account your personal situation, experience, financial objectives or circumstances. It is entirely for you to decide whether or not to make a Request and entirely for you to decide whether or not a Request, a particular Trade, and your instructions to us, are suitable for you and your circumstances.

### 4.2 Timing

You should be aware that banks have fixed cut off times for the receipt and dispatch of electronic payments. We are not responsible for and have no liability for any delay in or failure of any Trade which results from a late arrival of funds or from late receipt of instructions.

### 4.3 Bank delays and errors

Subject to the Regulations (further details concerning which are set out in clause 14), we accept no responsibility for, and will have no liability in respect of, any delay or withholding of payment by a bank or intermediary bank(s) or payment services provider(s). Delays in onward payment may be attributable to factors outside of our control, including (without limitation) bank(s) errors, omissions or delays or their failure to conduct the payment.

A bank or payment services provider may also be required to (among other things) delay or withhold payment if it is not satisfied with information about you, as our client, the purpose and nature of the payment or recipient for the purposes of complying with AML and CTF Laws and / or other laws.

## 5. FORMATION OF CONTRACT

Each Request is an offer by you to enter into an FX Contract and/or a Payment Contract.



We may, in our sole discretion, refuse to enter into an FX Contract (including any Forward Trade forming part of a RPA Trade) or (subject to the requirements of the Regulations) a Payment Contract at any time. Examples of when we may refuse to enter into an FX Contract or a Payment Contract include where we are required to do so under AML and CTF Laws or as described in clause 7.5 below..

FX Contracts and Payment Contracts will be formed on Acceptance and cannot be cancelled by you. Details of Trades and Payments will be communicated to you on Acceptance and confirmed to you in writing (which includes electronically) in a Contract Note. The failure to provide you with a Contract Note will not prejudice the rights or obligations of either party under any FX Contract or Payment Contract.

Each Trade (including any Forward Trade forming part of a RPA Trade) and each Payment is subject to a separate FX Contract or Payment Contract (as the case may be). Each FX Contract and Payment Contract incorporates Our Terms.

For the avoidance of doubt, other entities forming part of the Xe Group are our affiliates and not a party to Our Terms, any FX Contract or any Payment Contract.

## **6. YOUR RESPONSIBILITY TO US**

### **6.1 Registration**

Before we can perform any of Our Services for you, you must register with us. In order to complete your registration, you must provide us with all the details we require from you, including details relating to your identity, proof of address and any other information we may require from you to enable us to complete our anti-money laundering and onboarding process. We reserve the right to refuse your registration request and are not required to explain the reasons for any such refusal.

If you do not use Our Services for eighteen (18) months, you may need to re-register with us.

### **6.2 Legal requirements on us, including AML and CTF Laws**

You will promptly supply us with all information and documentation which we may ask you for at any time to enable us or our banking counterparties to comply with any legal requirements on us relating to Our Services, including as required by the AML and CTF Laws.

To the extent any information or documentation (which may include your “personal data” within the meaning of that term as defined in the Data Protection Laws) requested pursuant to this clause 6 is currently in the possession of the Xe Group, you agree that such information or documentation may be shared with us and used by us to enable or facilitate our compliance with legal obligations and/or our legitimate internal compliance processes. You acknowledge that the transfer of information and documentation to us pursuant to this clause 6.2 may involve a transfer to us from outside the EEA.

You agree that we are not required to take any action or perform any obligation under or in connection with Our Terms and that we may delay, block or refuse to make any payment or to provide any of Our Services if we are not satisfied as to your identity or the information provided by you, or if we are not satisfied that providing any of Our Services or making a payment would be in compliance with AML and CTF Laws.

### **6.3 Payment Purposes**

You must not use any of Our Services for any investment purpose but only for currency conversion in connection with making payments for relevant goods or services or other purposes. You will not use any of Our Services to try to speculate or profit from exchange rate fluctuations. You warrant and undertake to us prior to making any Request, that the Beneficiary of such Payment is not a person, group or entity, or associated with a country, sanctioned under US Sanction Laws.

### **6.4 Password**

It is your responsibility to keep safe any password or other security features you may use enabling you to access any part of Our Website or to use any of Our Services. You will notify us without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of any such





password or other security feature, including the details of payment card, assigned to you or held by you.

#### 6.5 **Information**

You are responsible for the completeness and accuracy of all information you provide to us at any time, including information set out in your Request and details of Your Nominated Account or Beneficiary Account (if you are entering into a Payment Contract).

You must always provide us with instructions, and make sure any Authorised Person provides us with instructions, in the English language.

If, at any time, you ask us to communicate with any other person about a Trade or Payment, we will not be liable to you for any disclosure of any information we make to that person concerning that Trade or Payment and we are entitled to rely on and to treat any information disclosed to us by that person as complete and accurate in all respects.

You must keep your contact information up to date at all times and be available should we need to contact you. You will notify us as soon as you become aware of any error in any details you have provided to us or any error in connection with a Trade or a Payment. You will also notify us immediately if any of the circumstances listed in clause 8.2.6 (which relate to your ability to pay us for Our Services) occurs. You undertake not to omit to tell us anything which may affect our decision whether or not to provide you with Our Services or to continue to do so.

#### 6.6 **Personal Capacity**

Each FX Contract and Payment Contract is personal to you. You will not complete the Request on behalf of any other person and will not provide us with any instructions for or on behalf of or on account of any other person. We have no responsibility to and will not perform Our Services for any person except you under any FX Contract or Payment Contract.

By entering into an FX Contract and/or Payment Contract, you confirm that you are over eighteen (18) years of age and are not suffering from any disability or impairment which may affect your capacity to enter into the contract.

#### 6.7 **Local Law**

We are based in and operate our business out of England and in accordance with English law. For that reason we cannot be expected to know of or investigate any local law requirements that may apply if you are accessing Our Website from outside the United Kingdom and we are not responsible for compliance with any other local law. If you are accessing Our Website from outside the United Kingdom, you must satisfy yourself of any other local law requirements.

#### 6.8 **Authorisation**

You may, subject to our acceptance, authorise another Authorised Person to provide us with instructions on your behalf. Any appointment of an Authorised Person shall remain in full force and effect unless and until a notice of cancellation of appointment is delivered to us. Unless and until you have provided notice to us to the contrary, you acknowledge and agree that:

- (a) you are responsible for ensuring that only the Authorised Person accesses Our Services to issue a Request or otherwise provide us with instruction(s) on your behalf;
- (b) you shall ensure that the Authorised Person is aware of Our Terms and you will procure that such Authorised Person complies with Our Terms; and
- (c) we will treat use of the Authorised Person's sign-in or account information or a Request by or the instructions of the Authorised Person, as if they came from and are authorised by you.

#### 6.9 **Joint Account Holders**

Where we receive an instruction to perform a Trade or Payment from any person who is a joint account holder with us, the Trade or Payment will be treated as made with all persons named as joint account holders on the relevant account and each of them will (both together and separately)



be responsible for the performance of all obligations under the FX Contract and/or Payment Contract and liable to us in the event of any breach of any of its terms. For the purposes of interpretation of Our Terms, all references to “you” and “your” in such circumstances means all such persons and any notice which we are required to give concerning any joint account will be treated as properly given if it is given in accordance with clause 15.5 of Our Terms, regardless of to whom of the joint account holders it is addressed.

## 6.10 Funding the Trade

### 6.10.1 Spot Trade

The amount we require from you for a Spot Trade will be due to and must be paid to us in full in cleared funds by no later than 12.00 midday on the Business Day we tell you in our Acceptance.

### 6.10.2 Forward Trade

The amount we require from you for a Forward Trade will be due to and must be paid to us in two parts:

- (a) a Security Payment in full in cleared funds by no later than the Business Day we tell you in our Acceptance; and
- (b) the balance, in full in cleared funds by no later than 12.00 midday on the Business Day we tell you in our Acceptance will be the Value Date for the Trade.

In addition to the Security Payment and balance due to us referred to in clause 6.10.2, we may also require an Additional Security Payment from you to make up for any Variation which may have occurred on the Trade. We will contact you if we require an Additional Security Payment from you and tell you the amount due to us.

We may ask you for proof that you have instructed your bank to pay us the additional amount we require within twenty-four (24) hours of our request. Failure to provide us with this proof on demand may result in a Close Out.

### 6.10.3 RPA Trade

In the case of a RPA Trade, details concerning the amount we require from you will be communicated to you in our Acceptance. The amount we require from you for a RPA Trade will be due to and must be paid to us as provided for in our Acceptance.

### 6.10.4 All Trades

You must pay all sums due to us for the Trade (including the Sale Currency) in full in cleared and settled funds by the due date and time we specify into Our Nominated Account.

You must pay all sums due to us for the Trade in the currency agreed in the FX Contract. We do not accept cash or cheques paid over the counter. If you attempt to make payment in cash, you will not have satisfied your payment obligation to us, and it may take up to 28 Business Days for us to make your funds accessible.

You may not make any discounts or deductions from any amounts due to us.

We may charge interest on any sum due to us at any time which is not received by us in full in cleared and settled funds by the due date at the rate of four percent (4%) per annum above our principle bank's base lending rate from time to time, and this interest will accrue daily from the due date until we are in receipt of the overdue amount in full in cleared and settled funds. This rate is available from us upon request.

You will only pay us from a legitimate source held in your name (such as your personal bank account or by using a debit or credit card held in your name and registered to the address we hold for you).





#### 6.11 **Fraud or fraudulent activity**

You will be liable to us for all losses which we suffer or incur relating to any fraud or fraudulent activity by you at any time.

### 7. **OUR RESPONSIBILITY TO YOU**

#### 7.1 **We will:**

7.1.1 provide Our Services at all times in accordance with Our Terms;

7.1.2 in relation to each Trade:

- (a) tell you what the Value Date will be;
- (b) tell you what Sale Currency amount and any other amount we require from you, together with the date and time by which we must be in receipt of that amount in full in cleared and settled funds; and
- (c) use the contact information you provide us with to contact you, including to verify any transaction, to check your identity or to notify you of any requirement for an Additional Security Payment.

7.1.3 in relation to any Payment that we have agreed to perform for you, (subject to any provisions in the Regulations affecting time for performance of any Payment falling within the ambit of the Regulations, further details concerning which are set out in clause 14) perform it:

- (a) if we are in receipt of your Request for a Payment by the Value Date and time we specify, as soon as practicable after the Value Date (or, if the Value Date is not a Business Day, as soon as practicable after the first Business Day following the Value Date) but you should be aware that it can take more than five (5) Business Days for the funds to clear, depending on local banking arrangements; or
- (b) if we are not in receipt of your Request for a Payment by the Value Date and time we specify, as soon as practicable after we have received your Request for a Payment, but you should be aware that it can take more than five (5) Business Days for the funds to clear, depending on local banking arrangements.

#### 7.2 **We will not be obliged to:**

7.2.1 provide any of Our Services to you unless or until you have met the requirements of clauses 6.1 (Registration), 6.2 (Legal requirements on us, including AML and CTF Laws), 6.3 (Payment Purposes), 6.4 (Password), 6.5 (Information) and 6.6 (Personal Capacity) of Our Terms;

7.2.2 perform a Trade or Payment until we are in receipt of cleared and settled funds from you;

7.2.3 accept any money to perform a Trade or Payment from any person other than you;

7.2.4 proceed with any Trade or Payment having a value higher than any transaction limit which we may impose from time to time.

#### 7.3 **Settlement of liabilities and deductions**

7.3.1 We may use any sum which we receive from you (including any sum forming part of any Security Payment we receive from you) at any time to settle any liability which we may incur relating to a Trade.

7.3.2 Where we are required by the law of any country, territory or state (for example, for tax reasons) to make any deduction from any amount that we receive from you for the Trade or from any of the



Purchase Currency, we must make such a deduction. The amount that we deduct will be reasonable and no more than the amount of our legal liability.

#### 7.4 **Safeguarding Client Funds**

7.4.1 We will safeguard money which is subject to a Payment Contract. Safeguarding means that we shall keep your money in a bank account separate from our own business bank account so that in the unlikely event that we go insolvent, the money which we safeguard will be protected from the claims of our creditors and it should be returned to you in full.

7.4.2 When you pay us money to fulfil an FX Contract, including any Security Payment, any Additional Security Payment and the balance, it becomes our money and is not safeguarded by us on your behalf. This means that in the unlikely event that:

- (a) we go insolvent between the FX Contract being entered into and it being completed; and
- (b) the full amount of Purchase Currency is not returned to you or sent to the Beneficiary Account (if applicable) after we go insolvent,

to get the money you have paid us back, you will need to add your name and details to the list of creditors in our insolvency. In this circumstance you may not receive all of your money back.

7.4.3 When a Trade is completed, whether or not the Purchase Currency is safeguarded depends on what you want to be done with the Purchase Currency. If the Purchase Currency is:

- (c) to be sent to a third party pursuant to a Payment Contract, then we will safeguard it; and
- (d) to be sent back to you to complete an FX Contract, then we will not safeguard it.

The reason for the difference in approach, is that the Regulations only allow us to safeguard money which is part of a Payment Service. If we enter into a Trade with you and return the Purchase Currency to you, then no “payment service” within the meaning of the Regulations is being carried out.

If you have not indicated to us whether the Purchase Currency is to be returned to you or sent to a third party, then we will not safeguard this money.

#### 7.5 **Certain High Risk or Complex Jurisdictions**

7.5.1 We reserve the right not to accept or allow payments from or to, either directly or indirectly, certain jurisdictions which we have determined, acting in our sole discretion, are high risk to our business or involve a higher level of complexity for us in carrying out our transactional monitoring process.

7.5.2 We further reserve the right to request additional information from you, including information on the payee, where payments are to be made to certain jurisdictions, acting in our sole discretion.

#### 7.6 **Online Forward Trades**

7.6.1 This clause 7.6 applies to any Forward Trade which you place with us through Our Website (“**Online Forward Trade**”), and we agree to perform with you. Our Online Forward Trade service is only available if we have agreed separately with you that we will provide this service for you.

7.6.2 An Online Forward Trade is effective from the date and time we specify in the Acceptance. You may not alter the terms of an Online Forward Trade once we have accepted it. Should you wish to alter the Online Forward Trade in any way then we may, in limited circumstances, agree to a cancellation



of your current Online Forward Trade and its replacement with a new Online Forward Trade effective from the date we determine. Cancellation charges may apply and we will inform you of these cancellation charges at the time you request a cancellation.

7.6.3 We reserve the right not to act on any Online Forward Trade placed with us where the amount of the Trade does not comply with limits imposed by us from time to time. The applicable limits will be made available on Our Website.

## 7.7 Market Orders

7.7.1 This clause 7.7 applies to any Market Order which you place with us through Our Website (“**Online Market Order**”), or over the phone (individually and collectively, “**Market Order**”), and we agree to perform for you.

7.7.2 Our Online Market Order service is only available if we have agreed separately that we will provide this service for you.

7.7.3 Without prejudice to clause 7.7.7 below, we reserve the right not to act on any Online Market Order placed with us where the amount of the Trade does not comply with limits imposed by us from time to time. We may further place limits on the number of Online Market Orders you may place at any given time and such limits will be communicated to you by email.

7.7.4 A Market Order is effective from the date and time we confirm by phone or via Our Website. A Market Order is valid and open to Acceptance until cancelled. A Market Order may only be varied or cancelled by phone save that an Online Market Order may be varied or cancelled online if we have agreed in advance that you may do so. Once a Market Order is cancelled, we have no further obligations to you in respect of that order, save to return to you any funds (and interest, if applicable) that you may have provided us with in order to perform the Market Order, subject to any deductions which we may be required to make.

7.7.5 We will execute a Stop Loss Market Order or a Limit Order after the Target Rate has been reached and when we are able to transact with bank counterparties at such Target Rate.

7.7.6 Upon Acceptance (i.e. the Market Order being executed and fulfilled at the Target Rate to meet the order), we will notify you and send you a Contract Note within two (2) Business Days. The Value Date for a Market Order will be included in the Contract Note.

7.7.7 Stop Loss Market Orders: As we communicated to you when you placed the Market Order and as accepted by you, we will use reasonable endeavours to fill the Market Order on the basis of the predetermined exchange rate specified by you but we make no guarantee that a Market Order will be filled (when such rate is reached or otherwise).

7.7.8 You acknowledge and agree that:

- (a) we will in our sole discretion (acting reasonably and in good faith) determine whether a Target Rate has been reached and may disregard temporary movements in exchange rates;
- (b) although you specified a target exchange rate for a Stop Loss Market Order, market conditions may prevent the execution of a Stop Loss Market Order at that exchange rate;
- (c) as a result of fluctuations and movements in financial markets outside of our control that affect or may affect our ability to perform a Spot Trade or a Forward Trade entered into on execution of a Stop Loss Market Order, an executed Stop Loss Market Order may be



significantly and adversely above or below the rate nominated by you.

## 7.8 **Spread**

For FX Contracts, the rate which we offer you is different to the rate we are able to obtain from the wholesale market. Accordingly, we make a profit from selling you Purchase Currency. In addition, we charge you fees when we execute Payments on your behalf and charge you administration costs. We charge these to offset the charges we incur in executing the Payments and to cover our own costs in carrying out administrative tasks.

## 8. **TERMINATION**

8.1 Each FX Contract will expire automatically following full settlement of the Trade and each Payment Contract will automatically expire once the Payment has been executed.

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

8.2.1 where you fail to provide us:

- (a) with any amount due to us relating to any Trade (including any Security Payment or Additional Security Payment) or Payment by the due date;
- (b) on demand with proof that you have instructed your bank to pay us any Additional Security Payment;

8.2.2 where we try to but are unable to make contact with you using the contact details you have provided to us, in the event that we require an Additional Security Payment;

8.2.3 where you do not provide us with instructions in writing, including all the details we require, including:

- (a) relating to Your Nominated Account, where we are completing a Trade with no associated Payment Contract; and
- (b) relating to the Beneficiary Account, where you have entered into a Payment Contract relating to the Purchase Currency;

8.2.4 where it becomes unlawful for us to continue to provide you with Our Services or we are required to do so by law, by any court of competent jurisdiction or by any governmental or regulatory body which authorises us to perform Our Services;

8.2.5 following a material breach by you of any of Our Terms (which would include any breach by you of any of the provisions of clause 6) or in the event that we discover or have reasonable cause to suspect any crime, fraud or fraudulent activity by you;

8.2.6 in the event that you become unable to pay your debts as and when they fall due, or that a petition in bankruptcy is presented against you or you are declared bankrupt, you become insolvent, you are placed into receivership, administration or go into liquidation or are subjected to any similar event;

8.2.7 where at any time, in order to protect both you and us, we reasonably believe that you will be unable to fund the Trade;

8.2.8 as provided for in clause 10 (Circumstances Beyond our Control).

8.3 We may, in our discretion, accept an instruction from you at any time after Acceptance to alter a RPA Trade. Where we accept your instruction, we will inform you and treat your instruction as a cancellation of all future Forward Trades forming part of the RPA Trade. You will be asked to make arrangements with us for a new RPA Trade. Once we have agreed the new arrangements with you, we will issue you with a new Contract Note. We may charge an administration fee for this service.

8.4 When an FX Contract is formed, we may take on risk and incur liability straight away on your behalf. For this reason, we do not give you the right to terminate a Trade except by way of cancellation of a RPA Trade in the circumstances described in clause 8.3 or by contacting us in the event that we become insolvent or we are placed into receivership, administration or go into liquidation, or on payment by you to us of the Close Out Cost as set out in clause 8.6.1(b) below and any Further Loss.



8.5 The provisions of this clause 8 (Termination) and clauses 3 (Language and Applicable Law), 9 (Our Liability), 10 (Circumstances beyond our Control), 11 (Linking and Framing), 12 (Confidentiality), 13 (Your information), 14 (Payments and the Payment Services Regulations), 15.1 (Third Party Rights) and 15.6 (Entire Agreement) shall survive the termination or expiry of Our Terms for any reason.

## 8.6 Consequences of Termination

8.6.1 If an FX Contract and/or a Payment Contract is terminated for any reason, we:

- (a) will Close Out any Trade not yet completed, which you acknowledge may involve us entering into a Reversal Transaction;
- (b) will notify you of the Close Out Cost that we will claim from you as a genuine pre-estimation of the cost to us of Close Out;
- (c) will notify you of any Further Loss;
- (d) may use any sum which you have paid us (including any Security Payment), in satisfaction of that Close Out Cost and/or Further Loss, unless the Close Out or termination is as a result of our being placed into receivership, administration or liquidation
- (e) will return the balance of any sum which you have paid us that remains to you after settlement of all liabilities; and
- (f) will not execute the Trade or Payment.

8.6.2 You must pay us on demand the amount of the Close Out Cost and / or Further Loss that we claim following any Close Out or termination, unless the Close Out or termination is as a result of our being placed into receivership, administration or liquidation.

8.7 The provisions of clauses 8.2 to 8.6 are without prejudice to any rights that we may have to recover from you such loss or damage as we may suffer as a result of a breach by you of your FX Contract with us which does not result from Close Out or termination of the FX Contract. Our rights to recover such loss or damage shall not be affected by termination or expiry of the FX Contract for any reason.

## 9. OUR LIABILITY

9.1 **Under no circumstances will we be liable to You or any third party for:**

9.1.1 any loss or damage arising directly or indirectly:

- (a) out of anything done or omitted to be done by us in good faith in the course of performing Our Services, which shall include where we refuse to enter into a FX Contract or (subject to the requirements of the Regulations) a Payment Contract or where we terminate a Contract in any of the circumstances set out in clauses 8.2 or 8.3;
- (b) as a result of any fluctuation in any exchange rate, or other circumstance beyond our control (as set out in clause 10);
- (c) as a result of any act or omission by You or any Authorised Person, which shall include where You do not provide us with any amount we require from You by the due date;

9.1.2 any loss of profits, loss of business or loss of or damage to reputation or goodwill; or

9.1.3 any indirect or consequential losses,

even if we have been advised of the possibility of such losses.

9.2 Our total liability to you in connection with the performance, or contemplated performance, of Our Services, is subject to clause 9.3 and in respect of Payment Contracts is separately subject to the Regulations, limited to the lower of:

9.2.1 the total amount paid by you to us under the FX Contract; or



9.2.2 £500,000 (five hundred thousand pounds sterling).

9.3 No provision of this clause 9, nor any other provision of Our Terms, shall have as its object or effect the exclusion or limitation of any liability we may have for personal injury or death resulting from our negligence or for fraud or any other liability which it is not possible for us to exclude or limit by law or regulation.

## 10. CIRCUMSTANCES BEYOND OUR CONTROL

We are not liable to you if we are unable to perform any of our obligations to you or our performance of any of our obligations is delayed due to any circumstances outside of our reasonable control, including (without limitation) any industrial action, labour dispute, act of God, fire, flood or storm, war, riot, civil commotion, siege, security alert, act of terrorism or any resulting precautionary measures taken, act of vandalism, sabotage, virus, malicious damage, compliance with any statute, statutory provision, law, governmental or court order, the actions or instructions of the police or of any governmental or regulatory body which authorises us to perform Our Services, cut or failure of power, failure of equipment, systems or software or internet interconnectivity or the occurrence of any extraordinary fluctuation in any financial market that may materially adversely affect our ability to perform the Trade or your ability to fund the Trade. If any of these circumstances occur then we may suspend any FX Contract or Payment Contract for the period during which they continue or, at our discretion and in order to protect both you and us, we may terminate any FX Contract or Payment Contract.

## 11. LINKING AND FRAMING

We are not responsible for the content, policies or services of any other persons or sites linked to or accessible via Our Website. The existence of any link to any other website does not constitute an endorsement of, or association with, any such website or any person operating any such website. Any reliance on any content, policies or services of any other persons or websites are at your sole risk. Any queries, concerns or complaints concerning such websites should be directed to the persons responsible for their operation.

## 12. CONFIDENTIALITY

12.1 We respect the privacy of the affairs of all our customers and always aim to treat customer information as confidential and to use customer information in confidence. Details concerning how we use information provided by you, how we share your information and the steps we take to protect such information are set out in our [Privacy Notice](#).

12.2 We will not treat client information as confidential where it is already public knowledge or where it becomes public knowledge through no fault of our own.

12.3 We may disclose client information if we are required to do so by law, by a court, by court order, to meet any statutory, legal or regulatory requirement on us, or by the police or any other law enforcement agency in connection with the prevention or detection of crime or to help combat fraud or money laundering.

12.4 In order to provide Our Services we may be relying on services of other service providers. In this context and in order to execute your FX Contract or Payment Contract we may be required to disclose relevant information about you to such third-party service providers to the extent necessary for us to provide you Our Services. For further detail, please see our Privacy Notice.

## 13. YOUR INFORMATION

13.1 Details concerning how we use your information, how we share your information and the steps we take to protect your information are set out in our Privacy Policy. We will handle your information in accordance with our Privacy Policy.

13.2 A copy of our Privacy Policy can be found on Our Website and can also be obtained by emailing us at [transfers.eu@xe.com](mailto:transfers.eu@xe.com) or by writing to us at Consumer Services, HiFX Europe Limited, trading as Xe, Maxis 1, Western Road, Bracknell, Berkshire RG12 1RT, United Kingdom. A summary of how





we collect and use your information can also be found on Our Website.

- 13.3 We may monitor and record any telephone conversation we have with you and make transcripts of them. We may store and use any recording and any transcript of any telephone conversation we have with you for the purposes of verifying the details of a Trade or Payment or to help us to resolve any dispute that may arise between us concerning an FX Contract, a Payment Contract or any of Our Services, for the purposes of the prevention or detection of money laundering or crime (including fraud), and for the purposes of training and quality control.

#### 14. **PAYMENTS AND THE PAYMENT SERVICES REGULATIONS**

##### **This clause 14 applies to Payment Contracts but not FX Contracts**

- 14.1 This clause 14 (and its sub-clauses) explains certain important rights and obligations, including our liability to you, under the Regulations.
- 14.2 After a Trade is completed, we cannot hold onto the Purchase Currency indefinitely and must either send it:
- 14.2.1 back to our client thereby completing the Trade - for the avoidance of doubt us sending the Purchase Currency to you is not a Payment Service and accordingly is not subject to the Regulations; or
  - 14.2.2 to a Beneficiary Account – for the avoidance of doubt us sending the Purchase Currency to a Beneficiary Account is a Payment Service and accordingly is subject to the Regulations.
- 14.3 The Regulations set down some rules that we must follow to protect our client. In order to comply with the Regulations, we can only accept instructions to perform a Payment within the European Economic Area (“EEA”) on a “SHA” basis that is where you pay our charges (if any) and the recipient of the Purchase Currency pays the charges of their bank or other payment service provider
- 14.4 This clause 14 (and its sub-clauses) does not apply to any Trade including any payment you or any third party make to fulfil your payment obligations under the Trade, or to any payment we make to you to settle the Purchase Currency to you.
- 14.5 **Information and notifications concerning a Payment**
- 14.5.1 The Regulations require us to provide certain information and notifications to you concerning any Payment we execute for you.
  - 14.5.2 We will communicate such information and provide you with such notifications using a method of communication which we reasonably consider appropriate, taking into account the nature of the information or subject matter of the notification, the contact details you have given us and how you are doing business with us or have done business with us in the past (online or over the phone).
  - 14.5.3 This means that, save as otherwise expressly provided for in this clause 14 and save for notices in writing required to be given by us referred to in this clause 14 (to which the provisions of clause 15.6 (Notices) apply), we may do so on Our Website, over the phone, by sending you an email or by writing to you. We may also direct you to particular pages or sections of Our Website and may provide you with or make available to you a copy of any brochures, leaflets or other documentation which we produce which we reasonably consider may be helpful.
  - 14.5.4 We will provide you with any information that we are required by the Regulations to provide to you concerning any Payment we perform for you in such manner and form and as often as we reasonably consider necessary to properly comply with our obligations under the Regulations.
- 14.6 **Consent to carry out a Payment**
- 14.6.1 You can place Requests for Payments in writing or via telephone or via any other method we make available to you. Your Request: (a) should include all the details we require (including relating to the Beneficiary Account) to perform a Payment; and (b) will be treated by us as your consent to us to go ahead with and our authorisation to execute that Payment.
  - 14.6.2 Where you have provided us with incorrect Beneficiary Account details, we will use reasonable efforts to assist in the recovery of the Payment in accordance with the Regulations. If we are unable to recover the funds in question and you provide us with a written request we will provide you with



all available relevant information in order for you to file a legal claim for repayment of the funds. You agree in both cases to pay to us our reasonable costs in doing this. Conversely where you are the recipient of an incorrect payment we are obliged under the Regulations to co-operate with the payer's bank or other payment service provider in its efforts to recover the funds in question in particular by providing all relevant information to the payer's bank or other payment service provider. In these circumstances you consent to us sharing the necessary information in a way that is consistent with data protection legislation and our obligations to you.

14.6.3 Further information and explanation about the steps you need to take to authorise us to execute a Payment will be given to you when you ask us to execute a Payment and can be found on Our Website.

14.6.4 You may by contacting us make a request for a transfer of funds back to the bank account from which such funds were received by us but only where such funds are not due, owing or incurred in respect of a Trade or otherwise due to us under Our Terms. Please note in these circumstances such transfer back to you will ordinarily be in the currency in which such funds were received and any currency conversion we may apply will not benefit from the exchange rate which might have been achieved had you agreed a Trade with us in respect of such funds.

#### 14.7 **Withdrawal of consent to carry out a Payment**

14.7.1 Where you have authorised us to perform a Payment, we will go ahead with that Payment unless:

- (a) you provide us with clear instructions to no longer to proceed with that Payment by notice in writing received by us not later than the end of the last Business Day before the day that Payment was due to take place; or
- (b) we agree in writing with you that we will not do so.

14.7.2 For the avoidance of doubt, if the instructions in your notice are unclear we will not treat your consent to execute the Payment as being withdrawn and we will proceed with the Payment. For the purposes of clause 14.7.1(a) "not later than the end of the last Business Day" means not later than 4.30pm on that Business Day.

14.7.3 Where, in accordance with clause 14.7.1, you instruct us in writing that you no longer wish us to carry out a Payment or we agree in writing with you that we will not do so (each a "**Cancellation**"), and you do not give us instructions in writing to carry out an alternative Payment for you within 10 (ten) days of a Cancellation, we reserve the right to treat the Payment Contract as terminated by you and the provisions of clause 8.6 will apply.

#### 14.8 **Unauthorised Payment**

14.8.1 We may be liable to you under the Regulations where we perform a Payment for you that you did not authorise us to perform.

14.8.2 Where you believe we may have performed such a Payment you should let us know as soon as possible. We will then investigate the matter.

14.8.3 Subject to clause 14.8.4, where we have performed such a Payment we will immediately refund to you in full the amount of that Payment.

14.8.4 You will not be entitled to any such refund:

- (a) if you do not inform us by notice in writing without undue delay (and in any event not later than 13 months after the date on which the unauthorised Payment was made) on your becoming aware that an unauthorised Payment may have occurred; or
- (b) if the Payment was authorised by you.

#### 14.9 **Failure to perform or incorrect performance of a Payment**

14.9.1 We may be liable to you under the Regulations where we fail to perform or incorrectly perform any Payment that you authorised us to perform.

14.9.2 Where you believe we may have failed to perform or incorrectly performed such a Payment you



should let us know as soon as possible and, if you request, we will make immediate efforts to investigate the matter and let you know the outcome of our investigation.

14.9.3 Subject to clauses 14.9.4 and 14.9.5, where we have failed to perform or incorrectly performed such a Payment we will without undue delay make good and correct the error and deliver the amount of the unperformed or incorrectly performed Payment to the Beneficiary Account as originally instructed.

14.9.4 You will not be entitled to the remedy mentioned in clause 14.9.3:

- (a) if you do not inform us by notice in writing without undue delay (and in any event not later than 13 months after the date on which the incorrect Payment was performed) on your becoming aware that failure by us to perform a Payment authorised by you or incorrect performance by us of a Payment authorised by you may have occurred; or
- (b) where we are able to show that the authorised amount was received at the appropriate time by the person to whom you instructed us to send the Purchase Currency; or
- (c) if the failure to perform or incorrect performance was due to you or any Authorised Person providing us with incomplete or incorrect information or was otherwise due to your fault or the fault of any Authorised Person.

14.9.5 We will have no liability to you for failure to perform or incorrect performance of a Payment where the reason for this was our refusal to proceed with that Payment or any part of it.

#### 14.10 Refusal to perform a Payment

14.10.1 We may refuse to perform a Payment at any time for any reason.

14.10.2 Where we refuse to perform a Payment:

- (a) unless it is unlawful for us to do so, we will tell you;
- (b) if possible, we will let you know our reasons for our refusal; and
- (c) if the refusal is due to any factual errors, we will tell you what these are and how to correct them.

#### 14.11 Limitation of liability for a Payment

14.11.1 Our total liability to you in connection with a Payment is limited to the full amount of the Payment together with any charges for which you may be responsible and any interest which you may be required to pay as a consequence of any non-performance or incorrect performance by us of the Payment.

14.11.2 If we contravene any requirements imposed on us under Part 6 of the Regulations (which sets out certain obligations on us as a payment service provider, including relating to unauthorised, unperformed and incorrectly performed Payments), we will not be liable to you where this is due to abnormal and unforeseeable consequences beyond our control, the consequences of which would have been unavoidable despite all efforts by us to the contrary or where this is due to other obligations imposed on us under other provisions of Community or national law.

#### 14.12 Further protection

For your further protection, we also take steps to safeguard Purchase Currency subject to a Payment consistent with our obligations under the Regulations. Further information on the steps we take can be found in clause 7.4.

#### 14.13 Additional Information relating to a Payment

If you ask us to provide you with any information or materials which we are not required to provide under the Regulations, we may ask you to pay us a fee to cover our costs of providing them to you. If you do ask us to do this, then we will advise you of any fee that may apply.



## 15. GENERAL

### 15.1 Third Party Rights

The Contract (Rights of Third Parties) Act 1999 shall not apply to Our Terms or any FX Contract or Payment Contract. This means that only you and we have any rights, obligations or privileges under the relevant contract and no-one other than you or we can enforce any of its terms or take any action under Our Terms or any FX Contract or Payment Contract.

### 15.2 Severability

If any court of competent jurisdiction finds that any part of Our Terms is invalid, unlawful or unenforceable for any reason those parts (to the extent possible) shall be deleted from Our Terms and the remaining parts (to the extent possible) shall remain in force and continue to be binding on you and us.

### 15.3 No waiver

No failure to enforce or delay in enforcing any right or remedy available to you or us under Our Terms or any FX Contract or Payment Contract (including as provided for in Our Terms or otherwise available under English law) will mean that you or we cannot exercise any such right or remedy at a later date.

### 15.4 Assignment

You may not assign, transfer, charge or dispose of Our Terms or any FX Contract or Payment Contract or any of your associated obligations, rights or privileges to any other person at any time without our prior consent in writing.

We may assign, transfer, charge or dispose of Our Terms or any FX Contract or Payment Contract in whole or in part or any of our associated obligations, rights or privileges to any other person at any time, but we will take appropriate steps to try to ensure that doing so will not harm any of your rights under the relevant contract(s).

### 15.5 Complaints

We value all our customers and take our obligations seriously. We have established internal procedures for investigating any complaint that may be made against us. If your complaint relates to a Payment, it will be dealt with in accordance with the Regulations including the time limits for dealing with complaints imposed by the Regulations. In accordance with our complaints procedure, any complaint you may make must be made or confirmed to us in writing to Head of Client Services at HiFX Europe Limited, trading as Xe, Maxis 1, Western Road, Bracknell, Berkshire RG12 1RT, United Kingdom. If you would like further details of our complaints policy refer to our Complaints Charter on Our Website. If you are still dissatisfied following our response to any complaint and your complaint relates to a Payment, you have a right to refer your complaint to the Financial Ombudsman Service, Exchange Tower, London E14 9SR. Further information about making a complaint in relation to a Payment to the Financial Ombudsman Service can be accessed at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

### 15.6 Notices

15.6.1 Where any notice is required by Our Terms to be given in writing, it must be written in the English language and:

- (a) where it is to be given by you, it must be sent by email to [transfers.eu@xe.com](mailto:transfers.eu@xe.com) or by post to Client Services at HiFX Europe Limited, Maxis 1, Western Road, Bracknell, Berkshire RG12 1RT, United Kingdom, or to such other email or postal address in the United Kingdom which we tell you to use by notifying you in advance in writing in accordance with the provisions of this clause 15.6; and
- (b) where it is to be given by us, it must be sent by email to the last email address which we hold for you or by post to the last postal address we hold for you, or to such other email or postal address in the United Kingdom which you tell us to use by notifying us in advance in writing in accordance with the provisions of this clause 15.6.



15.6.2 Any notice sent by email (provided that the sender has not received an undeliverable message) will be treated by you and us as being received on the first Business Day coming after the day on which it was sent and any notice sent by post will be treated by you and us as being received on the second Business Day coming after the day on which it was posted.

**15.7 Entire Agreement**

We intend to rely on Our Contract Note and Our Terms. If you require any changes, please make sure you ask for them to be put in writing. Neither we nor you may alter the terms of this agreement without the agreement of the other (other than as provided for in clause 15.8 below). This clause 15.7 does not exclude any liability we may have to you for fraud, or prevent you from bringing any claim against us for fraud or fraudulent misrepresentation or under the Consumer Rights Act 2015.

**15.8 Variation**

15.8.1 Changes to Our Terms can only be made as provided for in clause 2 or where you and we together agree in writing changes to Our Terms (and which will generally only be in exceptional circumstances). Our Terms can never be altered, changed or varied verbally.

15.8.2 You may not unilaterally alter, vary or make any change to Our Terms. You may however alter, vary or change any term of Our Terms where we agree this with you. Where we agree this with you, the fact of our agreement will be communicated to you orally or in writing and, where it is communicated to you orally, confirmed in writing.

