



Escrow Terms and Conditions

These Terms and Conditions apply to all of the Company's (as defined below) dealings with the Client (as defined below), they set out the terms under which SGM-FX will carry out currency transactions and any arrangements entered into on the basis of these Terms and Conditions.

Definitions

"Company" or "SGM-FX" means SGM-Foreign Exchange Limited (company number 4529539) of Prince Rupert House, 64 Queen Street, London EC4R 1AD.

"Client" means the addressee of the attached facsimile and signatory to the client registration form.

"Spot" means a transaction where the Delivery Date is two working days after the date when the transaction is agreed.

"Forward" means a transaction where the Delivery Date is later than two working days after the date when the transaction is agreed.

"Payment Date" means the date agreed at inception of the transaction between the Client and the Company which is specified on the Contract Note when the Client must deliver his funds to the Stakeholder to ensure that the Stakeholder can meet the agreed Delivery Date for the Client's purchased currency.

"Delivery Date" means the date on which the Client will expect to have the use of the currency funds he has purchased in his designated account.

"Stakeholder" means Hutchinson & Co Trust Company Limited (company number 2553542) of Priory Court, Tuscam Way, Camberley, Surrey, GU15 3YX, an independent company appointed by SGM-FX to act as trustee and stakeholder in the manner described herein.

1. SGM-FX SERVICES

- a) The Company at such time or times as it may agree will contract to provide foreign currency purchase and sale transactions for either Spot or Forward delivery on behalf of the Client (the "Transactions" and each "Transaction").
- b) The Company will not provide advice on the advantages or disadvantages of any Transaction with respect to the prevailing market conditions or the suitability of a Transaction nor will the Company contract to provide any advice whether general or specific to the Client.
- c) Once a signed copy of these Terms and Conditions is received by SGM-FX, together with the client registration form and the documentation specified therein, the Company will at such time or times as it may agree enter into a Transaction subject to these Terms and Conditions.
- d) Every Transaction entered into between the Company and the Client will be evidenced by a contract note confirming the details of the Transaction (the "Contract Note") which will be sent to the Client by the Company or its properly authorised agent in either original form or as a copy.

2. CLIENT REPRESENTATIONS

The Client represents and undertakes at the date hereof and at the date of all Transactions to SGM-FX that:

- a) The Client is acting as principal and has full power and authority lawfully to enter into the Transaction with SGM-FX.
- b) The information provided to SGM-FX by the Client is at all times true and accurate and that the Client will provide full disclosure of any information relevant to any Transaction entered into with SGM-FX.
- c) The Client will make available on request any information which SGM-FX may reasonably request necessary to enable SGM-FX to comply with the Money Laundering Regulations 1993 and 2001.
- d) Each Transaction entered into by the Client with the Company is a genuine transaction entered into for commercial purposes.
- e) The Client will rely on their own judgement when entering into a Transaction and will not rely on any information, advice or opinion communicated by the Company.

3. CLIENT INSTRUCTIONS

- a) SGM-FX will act on either an oral or a written instruction from a Client to transact the purchase or sale and delivery of currency which will be an irrevocable and binding commitment by the Client. SGM-FX may require the Client to sign and return the Contract Note in a timely fashion by facsimile transmission, electronic mail or post. While the Company will endeavour to obtain signed confirmation of acceptance of the Contract Note from the Client, failure to do so will not alter the fact that the Client has entered into a legally binding and enforceable contract, and in so doing has accepted these Terms and Conditions in their entirety, by giving either an oral or written instruction to purchase or sell currency for delivery. Notwithstanding the above, the Stakeholder will only remit the currency to the designated recipient upon receipt of written confirmation from the Client by facsimile transmission, electronic mail or post, of the recipient's full bank account details.
- b) Any Transaction instruction given by the Client will be irrevocable and may not be amended or cancelled without the prior written consent of the Company.

- c) The Company may at its discretion refuse to accept a client instruction and is not obliged to enter into a Transaction with a Client.
- d) If there is any error or omission in the Contract Note, the Client shall notify the Company by telephone immediately and in writing by fax forthwith and in any event within two working days of receiving the Contract Note.

4. CLIENT OBLIGATIONS

- a) The Client agrees to fulfil the obligations contained in each and every Contract Note including inter alia:-
 - (i) agreeing to pay for and to take delivery of each of the currencies on the date specified in the Contract Note and to pay further amounts due to the Company under the terms of the Contract Note and these Terms and Conditions,
 - (ii) independently providing to the Stakeholder accurate and adequate details of the ultimate beneficiary of each currency transaction to enable the Stakeholder to deliver the currency by the settlement date.
- b) The Client shall pay or arrange to pay cleared funds of the amount specified in the Contract Note to be the value of the purchased currency (the "Transaction Value") into a bank account with a major UK clearing bank (the "Bank"), designated Hutchinson & Co Trust Company Ltd SGM-FX Client Escrow Account (the "Account"), such account being subdivided in order that each Client's funds may be separately identified.
- c) All payments due from the Client to SGM-FX under these Terms and Conditions and the Contract Note will be paid in full and the Client will have no right of set off, counterclaim or deduction.
- d) SGM-FX may deduct, or instruct the Stakeholder to deduct, from any payment due to the Client such amounts as it may be required by law to deduct in respect of taxation or which it incurs in respect of transfer charges that may be levied at some time in the future.

5. CLIENT ACKNOWLEDGEMENTS

- a) The Client acknowledges that all monies paid by the Client into the Account shall be held by the Stakeholder for the benefit of SGM-FX, subject to the Client having a charge over the funds until such time as the amount of foreign currency specified in the Contract Note has been received by the Stakeholder pending despatch in accordance with the Client's instructions
- b) The Client acknowledges that funds held in the Account are not available for off-set against any liabilities of either the Stakeholder or SGM-FX. The terms governing the Account are available from the Stakeholder on request.
- c) The Client acknowledges the Account is governed by the terms of a bank mandate which has been provided and is exclusively operated by the Stakeholder in accordance with its terms and that when the Bank acts on properly mandated instructions it will receive a safe receipt and discharge and will not be bound to enquire as to the purpose to which those funds are applied and the Bank shall not be prejudiced for acting on such mandated instructions.
- d) The Client acknowledges that neither the Company nor the Stakeholder is under any obligation to pay interest on any balance of the funds held on their behalf in the designated account.

6. STAKEHOLDER RESPONSIBILITIES

- a) When the Stakeholder and the Company have received confirmation that the Transaction Value has been received in cleared funds in the Account the Company will instruct the Stakeholder to settle the contract and pay to the Client or to the Client's order the amount due to the Client under the Contract Note.
- b) The Stakeholder has a duty to ensure that the Account remains free from any charge, lien, mortgage or encumbrance and will be used only for holding monies for third parties in trust and will not be used for any other purpose by the Stakeholder or any affiliated or subsidiary company of the Stakeholder (save for the subsequent disbursement of such funds under these Terms and Conditions).

7. CHARGES, DEPOSITS AND CLIENT DEFAULT

- a) The SGM-FX fees payable for the Transaction shall be set out in the Contract Note issued in respect of that Transaction such payment of fees shall be subject to these Terms and Conditions.
- b) SGM-FX will require a deposit of at least 10% however SGM-FX may at its sole discretion ask for a deposit in excess of 10% of the Transaction Value in respect of all Forward contracts for the purchase or sale and delivery of currency. The Client agrees to pay such a deposit within two working days of the date of the Transaction. Non-payment of the deposit will incur interest charges as set out in clause 9a) below.
- c) SGM-FX require an initial margin of 10% of the Transaction Value in respect of all Forward contracts for the purchase or sale and delivery of currency. In the event of the market moving against the Client and the Client's deposit not being sufficient to satisfy SGM-FX's initial margin requirement the Client agrees to send to the Stakeholder additional funds to top up their initial margin.

- d) In the event of a Client failing to fulfil the terms of a Contract Note including but not limited to Forward contracts for delivery of currency and/or by failing to make payments such as the deposit supporting a Forward contract, the Client agrees that:
- (i) SGM-FX will reverse the Transaction in the market thereby terminating the Transaction; and
 - (ii) SGM-FX will charge the Client all of the costs of reversing the Transaction in the market incurred by SGM-FX plus interest as set out in clause 9a) below. In such circumstances, the Client waives his charge over such part of any funds held by the Stakeholder as is necessary to satisfy all costs, and where insufficient funds have been deposited with the Stakeholder to meet the costs in their entirety, the Client shall make good the difference direct to SGM-FX. The Stakeholder is entitled to rely solely on the information provided to it by SGM-FX with regard to the total sum required to meet all costs.

8. DISPUTES

- a) If a dispute arises between SGM-FX and the Client at any time with respect to a Transaction or the terms of a Contract Note, SGM-FX may without notice take any action which it deems necessary and appropriate for account of the Client with respect to that disputed Transaction or Contract Note.
- b) The amount of the liability of either the Client or the Company at fault under the disputed Transaction or Contract Note will equal the amount of the direct loss plus interest calculated pursuant to clause 9a) of these Terms and Conditions.
- c) Resolution of such a dispute may involve reference to electronic recordings, transcripts of those recordings and any other relevant material reflecting the conversations between the Client and the Company. The Client accepts that evidence of any such recordings may be referred to by the Company in resolving any dispute or difference between the Client and the Company.

9. DEFAULT

- a) In the event that the Client does not make any payment due to the Company under these Terms and Conditions or a Contract Note the Client will incur interest on any outstanding sum at a rate of 15% per annum over the Base Rate of the Royal Bank of Scotland plc from time to time (or such rate that may replace Base Rate) payable to the Company upon demand calculated daily from the date of non-payment until the payment is received by the Company and compounded monthly if not settled within that time. The Company will provide notification in writing to the Client of the date of non-payment and upon which the default therefore occurs.

10. INDEMNITY

- a) The Client will indemnify SGM-FX and the Stakeholder and keep them jointly and severally indemnified in respect of all liabilities, claims, losses and costs (including legal costs) suffered by the Company and/or the Stakeholder during the performance of their obligations under these Terms and Conditions.

11. GOVERNING LAW

These Terms and Conditions are governed by and shall be construed in accordance with English Law and the parties hereto submit to the non-exclusive jurisdiction of the English Courts.

12. MISCELLANEOUS

- a) These Terms and Conditions may not be superceded or amended in any way without the prior written consent of the Company.
- b) No oral representation by the Company, its employees or its agents shall be binding upon the Company or will be part of these Terms and Conditions unless it is agreed in writing by a Director of the Company.

13. GENERAL

- a) The Client accepts that the nature of the currency markets demand that any currency transaction between the Client and the Company is time critical and therefore time shall be of the essence in respect of any of the Clients obligations.
- b) The Client confirms that within twenty minutes of the receipt by the Client of a Transaction Contract Note from the Company that that Transaction Contract Note shall be properly completed, signed and returned via facsimile.
- c) The Client by signing this Agreement understands that failure to comply with the requirement in 13b) may result in the Company treating the Transaction as void.
- d) The Client agrees that if the Company believes it to be necessary that the Company may carry out any check regarding the financial status of the Client.
- e) The Company may terminate any Transaction and may be required to provide any information necessary if the Company is obliged to comply with money laundering regulations adopted by any relevant governments and financial authorities.
- f) The Company is entitled to terminate any Transactions at its discretion if the Client suffers from either health or financial problems which in the opinion of the Company are of sufficient seriousness to warrant such action.
- g) Any telephone calls between the Company and the Client may be recorded, in which case the recordings will be accepted by the Client as evidence of the instructions or communication recorded.
- h) These Terms and Conditions may by notice in writing to the Client be amended or terminated by the Company.
- i) No failure or omission by the Company or the Stakeholder to carry out or observe any of the stipulations or conditions of these Terms and Conditions or a Contract Note shall give rise to any claim against the Company or the Stakeholder if such failure or omission arises from any cause reasonably beyond the control of the Company or the Stakeholder. In the event that the Company or the Stakeholder is unable to fulfil its obligations in the above circumstances it shall give notice to the Client of that fact and its obligations shall be suspended until after the removal of the cause. The Company and/or the Stakeholder shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause and shall so notify the Client.
- j) Any notice to be given under these Terms and Conditions agreement shall be in writing (other than writing on the screen of a visual display unit or other similar device which shall not be treated as writing for the purposes of this clause unless receipt of the communication in question is acknowledged by the relevant party either by electronic mail or by other written means) and delivered by hand or by pre-paid first class post or by facsimile letter or by electronic mail letter (notices sent by facsimile or by electronic mail shall be confirmed immediately by pre-paid first class post). Notices shall be deemed to have been duly served:
- (i) if sent by personal delivery, upon delivery at the address of the relevant party;
 - (ii) if sent by first class post, two business days after the date of posting if posted in the country of destination and otherwise after seven days;
 - (iii) if sent by facsimile, when despatched provided that if any such notice would otherwise be deemed to be served outside working hours, such notice shall be deemed to be served at the start of working hours on the next business day; and
 - (iv) if sent by electronic mail, when receipt of the notice is acknowledged in accordance with this clause.
- k) In order that SGM-FX may provide the Client with its services SGM-FX and the Stakeholder need to record and maintain certain factual information about the Client's personal and financial circumstances. This data will be held in hard copy and/or in electronic form. The Client hereby consents to SGM-FX and the Stakeholder recording and maintaining this information. In accordance with the Data Protection Act 1998, the Client can ask to see a copy of the personal information concerning them that is held by SGM-FX and the Stakeholder.

I confirm that I have read and understood the Terms and Conditions of the Agreement set out above and confirm my acceptance of them.

CLIENT NAME _____

CLIENT SIGNATURE _____

DATE _____