

Terms and Conditions

1 Definitions

In these terms and conditions, the following terms have the following meanings:

"We" or "Us" The Foremost Currency Group Limited of Sutton Court, Church Yard, Tring, Hertfordshire, HP23 5BB. Registered in England: No. 5544575, Money Laundering Regulation (MLR) Reg. No. 12219945. Authorised by the Financial Services Authority under the Payment Service Regulations 2009, Registration number 503906 as an Authorised Payment Institution for the provision of payment services.

"Client" and "You" an individual, firm or company who wishes to enter into a Contract with Us for the sale or purchase of currency.

"Contract" a contract for the sale or purchase of currency including

- "Forward Contracts" where currency is bought and/or sold for delivery at a fixed time in the future;
- "Forward Time Option Contracts" where currency is bought and/or sold for delivery at a time instructed by you within a defined period or at the end of that period in the absence of such instructions.
- "Limit and/or Stop Loss Orders" where currency is bought and/or sold, for the purposes of protection against adverse market movements, for delivery when an agreed exchange rate is available; and
- "Spot Orders" where currency is bought and/or sold for immediate delivery upon receipt by us of payment from you.

"Force Majeure Event" means an event which is beyond the reasonable control of an affected party including without limit any market disruption, acts or restraints of government(s) or public authorities, war, revolution, strikes or other industrial action, fire, flood, natural disaster, explosion, terrorist action, the suspension or limitation of trading by any execution venue, or any breakdown, failure, defective performance or malfunction of any telecommunications settlement or other equipment or systems

"Deposit" means in relation to a Contract, an advance payment of such amount as we may at our absolute discretion require from time to time and which will, unless notified to you otherwise, not be more than 10% of the value of the Contract. This is to provide us with security in respect of the risk we are incurring on your contract prior to You making full payment.

"Purchase Currency" the currency which you purchase under a Contract.

"Sale Currency" the currency which you sell under a Contract.

"Terms" these Terms and Conditions including the Trading Agreement of which they form part.

"Trading Facility" the account which we may, at our discretion, open with you upon our receipt of a properly completed Trading Agreement (including these Terms and Conditions) and which satisfies such regulatory and other requirements as may be necessary.

"Value Date" the date by which you must make payment to us pursuant to the Contract.

2 Introduction

- 2.1 We provide facilities to Clients for the sale or purchase of currency for personal use, for use in connection with a trade or business and where the Client wishes to protect its exposure to currency exchange rate movements.
- 2.2 We do not and will not provide these sale and purchase facilities to Clients for the purposes of pure speculation on currency exchange rate movements.
- 2.3 No Contract shall be made until you have returned to us a signed copy of these Terms and Conditions and every Contract then made incorporates and is subject to these Terms and Conditions which include the Trading Agreement of which it forms part.
- 2.4 By so signing and returning these Terms and Conditions, you represent and warrant both now and for the future as follows:
 - a. that your identity as given and/or described in the Trading Agreement is in every respect true and accurate;
 - b. that in making and/or performing any Contract
 - i. you have power and authority to do so;
 - ii. you contract as principal and not as agent;
 - iii. you will not thereby breach any law in England and Wales or any other relevant jurisdiction;
 - iv. you are not contracting for the purposes of pure speculation.
 - c. that you are the legal and beneficial owner of the Sale Currency and that the same is not and will not become subject to any charge or other security or encumbrance
 - d. that all information supplied to us is, or at the time it is supplied

to us will be, true, complete and accurate in all material respects and you will not omit or withhold any information which would render the information so supplied false, incomplete or inaccurate in any material respect;

- 2.5 All Contracts entered into by us are deliverable contracts in which we will make and you agree to take physical delivery of the relevant currency.
- 2.6 You agree that you will provide to us on request such information regarding your financial and business affairs and identity as we may reasonably require (including in relation to any obligations imposed on regulated investment businesses under the United Kingdom Money Laundering Regulations 2007);
- 2.7 We contract on an execution only basis. We may provide information to you from time to time but we will not and do not provide advice to you either upon the merits of a proposed Contract or upon any other matter. Before entering into any Contract you must therefore make your own independent assessment as to whether it is appropriate for you based upon your own judgment and upon such advice from such advisers as you consider necessary. It is an express term of every Contract which you enter into with us that you are not relying upon any communication (written or oral) made by us as constituting advice about or a recommendation to enter into such Contract.
- 2.8 Foreign currency exchange rates are subject to fluctuations outside our control or the control of any broker. Past movements or trends in the movement of foreign currency exchange rates should not be taken as an indicator of future movements in such exchange rates.

3 Instructions and Placing Orders

- 3.1 You may give us an instruction relating to the purchase or sale and delivery of currency (an "Order") in the following ways:
 - a. orally, over the telephone, in which case we shall require you on every such occasion to state the unique password with which we shall issue you on the opening of a Trading Facility and which we may from time to time change. Our verbal acceptance of such an Order concludes a binding contract between you and us.
 - b. via the Foremost Online trading platform. For orders placed online we shall, at our discretion, telephone you to confirm the order details and in such a case shall require the unique password to be stated. In the case of the online system you will have an opportunity to review the details you have input and then confirm online. We will then send you an email, with a Contract Note attached, to confirm the trade. Except in the case of system malfunction the confirmation email indicates our acceptance of the Order and concludes a binding contract between you and us.
 - c. in writing, which means by post, facsimile or email, in which case such Order must contain an immediate contact telephone number. We shall thereupon telephone you and shall require the unique password to be stated. Our verbal acceptance of the Order concludes a binding contract between you and us.
- 3.2 We shall be entitled immediately to act upon Orders placed by you or any person or entity authorised or nominated by you (an "Authorised Party").
- 3.3 Once an Order has been given by or on behalf of you in accordance with clause 3.1 above and confirmed by us a Contract is concluded and cannot be rescinded, withdrawn or amended without our express consent in writing.
- 3.4 If, with our consent, a Contract is cancelled we shall be entitled to charge a reasonable cancellation fee to cover our costs and losses including those associated with unwinding any transaction which we entered into on the basis of the Order.
- 3.5 In exceptional circumstances we may refuse to accept an Order given by you or an Authorised Party. In such circumstances, provided it is lawful to do so, we will provide you with an explanation as to the reason and a way to remedy this. We will not be liable for any loss which you may suffer as a result of such refusal.
- 3.6 We may (but shall not be obliged to) require confirmation (in such form as we may specify from time to time) from you or an Authorised Party of any Order:
 - a. if we consider that any Order is ambiguous; or
 - b. if the Order is to close your account or
 - c. to remit your funds to a third party or
 - d. if we otherwise consider that such confirmation is desirable.
4. **Payments**
 - 4.1 Subject to clause 4.2, you shall make payment of the Sale Currency in cleared funds by or before the Value Date into an account held at a bank designated by us in the name of Foremost Currency Group Ltd and which is designated as a "Transaction Account" for the purposes of such payment.
 - 4.2 In the case of Forward Contracts, Forward Time Option Contracts or any other Contract with a forward element, you shall pay a deposit of 10% of the Sale Currency in cleared funds into the relevant Transaction Account within 2 days of the verbal confirmation of the Order.

- 4.3 Payments made otherwise than by telegraphic transfer will necessarily take longer to clear and you are responsible for and must take any such delay into account in discharging your obligation to make payment of cleared funds by the Value Date or other payment date.
- 4.4 Failure by you to make cleared payment of the Sale Currency by the Value Date or other payment date under a Contract shall relieve us of any obligation to settle that Contract or to pay to you, or to your order, any amount in respect of that Contract although we may at our discretion nonetheless do so.
- 4.5 We may seek confirmation from the bank at which the Transaction Account is held or from any broker or dealer with or through whom we execute currency transactions ("the Broker") that the full amount of Sale and/or Purchase Currency due under a Contract has in fact been received before making any payment to you under that Contract.
- 4.6 All payments due from you to us under these Terms shall be made in full without set-off, counter-claim, deduction or withholding of any kind.
- 4.7 We may deduct from any payment to be made to you under any Contract
 - a. such amounts as we may be charged by the Broker or other third parties in respect of transfer charges or other fees or costs.
 - b. any sum which is overdue to us from you under any other Contract.
- 4.8 We may require a deposit from you in order to validate any contract made.
- 4.9 Any payment which we make to you will ordinarily be made on the Value Date by telegraphic transfer to an account designated by you.
- 4.10 For payments being made on the Value Date that are received by Us by 12:00h (noon) on a business day We will endeavour to make the outgoing payment on the same business day dependent on the time zone of the receiving party. For payments received after 12:00h (noon) We will endeavour to make the outgoing payment on the next business day.
- 4.11 If you become aware of an unauthorised or incorrectly executed payment transaction You must notify Us without undue delay and no later than 13 months after the date of the transaction.
- 4.12 In the event that we are notified of an incorrectly executed payment transaction (subject to clause 4.11 above) We reserve the right to investigate a claim before making a refund. Where it is apparent that We have made an error an immediate refund will be made, including any loss of interest and charges that might have occurred.
- 4.13 For future dated payments, the latest point at which You can revoke the payment instruction is the close of business on the day before the payment is due to be made, or if the payment transaction is to be made when funds are available, close of business on the day before those funds become available.
5. **Contract Notes**

Each Contract will be evidenced by a document confirming and recording the execution of a Contract between us and you (a "Contract Note"). We will endeavour to send each Contract Note via email (unless You specify post or fax) to you as soon as possible after the execution of the relevant foreign currency trade but our failure to send a Contract Note in respect of a particular contract will not prejudice the rights and obligations of either party under that Contract.
6. **Forward Contracts: Deposits, Our rights of cancellation.**
 - 6.1 You may authorise Us to enter into a Forward Contract including a Forward Time Option Contract, verbally, by fax, email or by delivering a written and signed order to Us. Forward Contracts will be subject to the specific terms and conditions set out below.
 - 6.2 You shall pay to us a Deposit, as a condition precedent to the Forward Contract depending on our perception of prevailing market conditions and your financial circumstances. The Deposit should be received within two (2) Business Days of your instruction to enter into a Forward Contract with us, be this a written or verbal confirmation.
 - 6.3 If at any time during the term of the Forward Contract, the Deposit falls below 10%, which will be calculated on the basis of the relevant current foreign exchange rate, but remains in excess of 5%, We may contact you by telephone and/or email to advise you that the amount of remaining Deposit has fallen and that we may, in the event that the Deposit should decline further, require you to make an additional deposit with us (known as a "Margin Call") to increase the Deposit to maintain the required level of at least 5%. We may in any event require you to increase the value of the Deposit as a matter of course if the value of the Deposit falls to a level of 2.5% or below. In either event we may give you formal notice of an immediate "Margin Call" by telephone to be confirmed by fax or email and the required Deposit will be required to be with us within two (2) business days of the "Margin Call" notification to you. If the required funds are not received we reserve the right

- to cancel and close out the Contract and hold You liable for any subsequent shortfall.
- 6.4 In the event of such a cancellation by us as mentioned in clause 6.3, you shall pay us within two (2) Business Days from the date of our demand, the full amount of all losses and expenses incurred by us in connection with the cancellation of the said Forward Contracts.
- 6.5 The initial Deposit, and any additional Deposit provided, will be held in a separate designated client account held with Barclays Bank.
- 6.6 On the final delivery date of the related Forward Contract and provided that we have received full settlement of the currency funds to be purchased from us as stated in the Forward Contract, we will pay the full value of the Contract to your designated account or such other account that you may instruct us in writing.
- 7 Charges**
- 7.1 Save as set out below we do not levy any charges, fees or commissions for the purchase or sale of foreign currency under Contracts which are properly executed and performed in accordance with these Terms. You acknowledge that our profit under any Contract is derived from our application of a premium or, as the case may be, discount to the relevant spot or forward exchange rate. The exchange rate which we offer you is not therefore the same as the one which we obtain for ourselves.
- 7.2 The following charges will be paid by you (in advance) for the following methods of confirmation and/or transfer of funds:
Proof of Purchase (P.O.P) -£10 per payment; Telegraphic Transfers (TT) - £10 per payment; SMS Text Message (S.M.S.) - £2.50 per payment.
- 7.3 The transmission or receipt of funds may incur charges from your bank. For details of any such charges you should contact your bank directly.
- 8 Disputes, Overdue payments and Interest**
- 8.1 If at any time a dispute arises between us and you relating to the existence of a Contract or the terms of any Contract (in either case a "Disputed Contract"), we may take any action which We reasonably consider to be necessary in the context of the dispute which may include the suspension or closing out of the Disputed Contract or any action to preserve the position of the parties under the Disputed Contract pending the settlement of the dispute. We will endeavour to notify you either orally or in writing as soon as is practicable of any such action but any failure to do so does not invalidate that action and will give rise to no liability to you.
- 8.2 In resolving any such Disputed Contract, reference shall, where relevant, be made to any available electronic messages and to recordings or transcripts of recordings of telephone conversations between the parties.
- 8.3 If you fail for any reason to make any payment to Us by the date (whether the Value Date or otherwise) upon which it falls due (an "Overdue Payment"), then we shall be entitled to recover the Overdue Payment and any expenses caused by and charges associated with your non-payment together with an Administration Fee of £10 in respect of each day or part thereof on which the same remain unpaid. We reserve the right, at our election and where applicable, to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 save that there is no such right where you are an individual consumer.
- 8.4 We do not pay Interest on any Deposit or other client money.
- 9. Default, Suspension and Termination**
- 9.1 You may at any time, subject to there being no outstanding Transactions, inform us if you wish to terminate this contract.
- 9.2 We shall have the right to refuse to perform or to close out all or any part of any Contract at any time without giving prior notice or to obtaining further instructions from you and without liability to you for losses that may be sustained as a result, if any of the following events occur:
- you shall fail to make any payment when due under these Terms or any Contract;
 - you are or threaten to be in material breach of any of these Terms or of any of your obligations under a Contract;
 - you, where applicable, die or become of unsound mind;
 - you cease to or threaten to cease to carry on your business, suspend payment of your debts, makes any composition with your creditors, have a receiver appointed over some or all of your assets, commence or are the subject of any bankruptcy or insolvency proceedings (other than for the purposes of amalgamation or reconstruction approved in advance in writing by us), or an analogous event occurs in the United Kingdom or in any other relevant jurisdiction;
 - you fail in any respect fully and promptly to comply with any obligations to us or through us to any clearing house or Broker or bank;
 - it becomes or it appears that it may become unlawful for us to maintain or give effect to all or any of the obligations under these Terms or otherwise to carry on your business or if we or you are instructed or requested to close out a Contract (or any part thereof) by any regulatory or law enforcement authority,
- whether or not that request is legally binding. In such event, we may be required to retain any sum which would otherwise be due to you and/or to pay over the same to such authority;
- we, in our discretion, consider it necessary to do so for our and/or your protection including but not limited to the following circumstances:
 - protection from fraud;
 - protection from your default;
 - protection from market failures;
 - our and/or your protection from adverse or volatile market conditions; and
 - our and/or your protection from loss.
- 9.3 Should you become aware of the occurrence or likely occurrence of any of the events referred to in clause 9.2, you shall forthwith give us notice of the same.
- 9.4 After closing out a Contract for any reason we (or the Broker) will as soon as reasonably practicable send to you a settlement notice recording your position as a consequence of the closing out of the Contract.
- 9.5 In the event that any payment made by you or on your behalf is dishonoured, returned not met on first presentation or stopped for whatever reason, you will pay to us the actual costs which we have incurred as a consequence of such event subject to a minimum charge of £50 in respect of each failure or refusal of payment.
- 9.6 We assume no responsibility whatsoever for any delay in the making of any payment which is due under these Terms and/or any Contract and which is caused by you or by any third party. You are solely responsible for ensuring that all payments which you are required to make to us are made within the time limits specified by these Terms and any Contract.
- 9.7 We may terminate or close out a contract on the occurrence of a Force Majeure event, where for us to continue would expose us to a liability against which we are not protected.
- 9.8 If We refuse or are otherwise unable to make a payment We will notify you as soon as possible and give reasons for this, unless it would be unlawful for us to do so.
- 10 Limitation and Liability**
- 10.1 We shall not be liable to you for any delay or failure to perform our obligations under these Terms or any Contract by reason of any cause which
- arises from any electronic, computer or communication failure including the failure of any such system which belongs to us or is under our control; or
 - is beyond our reasonable control and/or arises from the act or omission of any third party.
- In the event of such delay or failure we shall, with your agreement, continue to attempt to perform the relevant obligations.
- 10.2 Subject to clause 10.1, where we are in breach of our obligations under these Terms and/or any contract, our liability to you is restricted to direct losses caused to you by such breach and excludes any other loss including, without limitation, any indirect or consequential loss, loss of profit or special damage whether within the contemplation of the parties or not. For the avoidance of doubt, this clause does not seek to exclude liability for death, personal injury or fraud.
- 10.3 You will be responsible for all liabilities, damages, losses, costs (including reasonable legal costs), duties, taxes, charges or commissions incurred or suffered by us in the proper performance of our services or the enforcement of our rights under these Terms or any Contract as a consequence of amongst other things:
- our entering into any Contract with you;
 - your committing a material breach of these Terms or any Contract including any delay or failure to comply with your obligations to make payments to us under any Contract by the Value Date or to pay any other sum which may from time to time become due and payable to us under these Terms.
 - our acting upon any Order which we are entitled to regard as having been made by you or an Authorised Party.
 - our exercise of our rights under these Terms to close out all or any part of any Contract before the applicable Value Date.
- 10.4 On the happening of any event which entitles us to be indemnified and/or compensated by you, we shall be entitled to recover any sum due to us by way of indemnity, compensation or otherwise by
- retaining part or all of any sum that you have lodged with us under any Contract; and/or
 - selling any currency purchased by us pursuant to the Contract.
- 10.5. The provisions in this clause 10 shall survive termination of any Contract or other agreement under these Terms.
- 11 General**
- 11.1 These Terms constitute the whole agreement and understanding of the parties in relation to the subject matter and supersede and exclude all previous oral and written communications in relation thereto although nothing in these terms is intended to limit or exclude either party's liability for any statement or representation which has been made fraudulently.
- 11.2 We may amend these Terms by notice in writing to you at any time. Any such amendment shall take effect from the date specified by us (normally two months after notification). If We have not heard from You to the contrary, by the date specified, the variation will be deemed to be accepted.
- 11.3 If at any time any provision of these Terms or any Contract is found to be or becomes illegal, invalid or unenforceable in any respect under the laws of any relevant jurisdiction, then this shall not affect the legality, validity or enforceability of such provision under the laws of any other jurisdiction.
- 11.4 The mere failure by either party to exercise or delay any right or remedy under these Terms does not amount to the forfeiture or waiver of that right. Save where expressly so provided, the rights provided in these Terms do not exclude other rights or remedies provided by the general law.
- 11.5 The parties agree and consent to:
- the electronic recording by either party of any telephone conversations between the parties with or without the use of an automatic tone warning device or the giving of any other warning; and
 - the use and admissibility of any such recording as evidence in any dispute or anticipated dispute between the parties which relates to the dealings between the parties.
- 11.6 We may in accordance with our normal record-keeping practices destroy any recording or transcript which we have made of any telephone conversation between you and us.
- 11.7 All communications between you and us shall take place in English.
- 11.8 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 Contract under the Contract (Rights of Third Parties) Act 1999 or otherwise.
- 12 Data Protection**
- 12.1 You agree that we may hold and process, by computer or otherwise, any information obtained from you from or pursuant to these Terms or as a result of entering into a Contract or any other agreement with us ("Personal Data"). You agree that we and/or any other member of any group of companies of which we are a member may use this Personal Data for the purposes of providing services to you under these Terms or any Contract (including but not limited to the carrying out of credit checks and the confirmation of your identity) and/or improving our services.
- 12.2 You also agree that, unless you instruct us to the contrary, we may use the Personal Data to provide you with details of either our products or services which may be of interest to you or to pass the Personal Data on to any organization which may assume or succeed to our obligations and rights under a Contract or these Terms.
- 12.3 Where you have given us specific consent, either in written or electronic form, we may also pass on the Personal Data to third parties for other purposes specified in that consent.
- 12.4 These uses of Personal Data may mean that it is passed to organizations based outside the European Economic Area. In that event, we will always endeavour to ensure that the Personal Data in question is subject to a level of protection which is equivalent to that which is afforded within the EEA.
- 12.5 If you no longer wish to receive information relating to other products or services from us or from third parties then you should contact us at the address detailed above.
- 13 Applicable Law and Jurisdiction**
- These Terms and any Contract between you and us shall be governed by English law and any dispute under these Terms and/or any Contract shall be subject to the jurisdiction of the Courts of England and Wales.
- 14 Complaints**
- In accordance with Foremost Currency Group's Customer Charter, Ethics of Trading and Code of Conduct (as published on our web site), we take all complaints seriously and have established internal procedures for investigating any complaint made against us. Any complaint You may have relating to any money transfer can be made verbally or in writing to the Compliance Manager at The Foremost Currency Group, Sutton Court, Church Yard, Tring, Herts., HP23 5BB. Phone number 01442 892060. If, after having received our final response, you are still unhappy or not satisfied, you may then take your complaint to the Financial Ombudsman Service (FOS) details of which are available on the following link www.financial-ombudsman.org.uk/faq/complain.html. You can also call the FOS on 0300 123 9123 or write to: Financial Ombudsman Service, South Quay Plaza, 183 Marsh Wall, London, E14 9SR.