

## GCEN'S CURRENT TERMS OF SERVICE

### 1. DEFINITIONS

1.1 This Agreement employs the following defined terms:

- 1.1.1 "Charity" means a body whose annual income is less than £1 million and is:(a) in England and Wales, a charity as defined by section 1(1) of the Charities Act 2011;(b) in Scotland, a charity as defined by section 106 of the Charities and Trustee Investment (Scotland) Act 2005; or(c) in Northern Ireland, a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008;
- 1.1.2 "Client" means GCEN's client who has executed relevant application forms and agreed to be bound by this Agreement;
- 1.1.3 "Consumer" means an individual who, in contracts for payment services to which the Payment Services Regulations apply, is acting for purposes other than a trade, business or profession;
- 1.1.4 "Client Personal Data" means personal data provided by or on behalf of the Client or otherwise obtained or generated by GCEN on the Client's behalf in connection with the provision of the Services;
- 1.1.5 "Contract" means each and every specific foreign exchange transaction undertaken by GCEN for the Client in performance of the FOREX Service;
- 1.1.6 "Data Protection Legislation" means the Data Protection Act 2018, the GDPR, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable, any guidance notes and codes of practice issued by the European Commission and applicable national Data Regulators, including the UK Information Commissioner;
- 1.1.7 "Data Regulator" means any regulatory body with responsibility for ensuring compliance with Data Protection Legislation;
- 1.1.8 "Data Security Breach" means accidental or deliberate, unauthorised or unlawful acquisition, destruction, loss, alteration, corruption, access, use or disclosure of personal data processed under this Agreement or breach of GCEN's security obligations under this Agreement;
- 1.1.9 "EEA" means the European Economic Area;
- 1.1.10 "FCA" means the UK Financial Conduct Authority and its successors;
- 1.1.11 "Fees and Charges Annex" means the annex to this Agreement setting out details of GCEN's fees and charges for providing the Services to the Client;
- 1.1.12 "FOREX Services" means providing foreign exchange services to facilitate payments;
- 1.1.13 "FSMA" means the Financial Services and Markets Act 2000, as amended from time to time;
- 1.1.14 "GCEN" means Global Currency Exchange Network Limited, which also trades as GC Partners;
- 1.1.15 "GDPR" means 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;

1.1.16 “Micro-Enterprise” means an enterprise which employs fewer than ten (10) persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million;

1.1.17 “Money Remittance Services” means services for the transmission of money (or any representation of monetary value) without any payment accounts being created in the name of the payer or the payee, where:(a) funds are received from a payer for the sole purpose of transferring a corresponding amount to a payee or to another payment services provider acting on behalf of the payee; or(b) funds are received on behalf of, and made available to, the payee;1.1.18 “Payment Services Regulations” means the Payment Services Regulations 2017, as amended from time to time;1.1.19 “RAO” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, as amended from time to time; and1.1.20 “Services” means the totality of the services which GCEN agrees to provide to the Client (on an as required basis), and which comprise the Money Remittance Services and the FOREX Services.

1.2 The term “framework contract” bears the meaning given to it in the Payment Services Regulations.

1.3 References to “written” or “in writing” shall include communication by electronic mail (including attachments to electronic mail).

## 2. GENERAL

2.1 The terms and conditions set out in this Agreement (as amended by GCEN and notified to the Client from time to time) shall apply as between GCEN and the Client, and shall regulate the provision of the Services by GCEN to the Client or (on the Client’s instructions and subject to GCEN’s acceptance of the same) to any third party named in any order received by GCEN from the Client.

2.2 For the purposes of the Payment Services Regulations, this Agreement including the Fees and Charges Annex (together with any customer agreement entered into between the Client and GCEN (“Customer Agreement”)) constitutes a framework contract.

2.3 This Agreement shall come into force the date that it is communicated to the Client (whether by post, fax or email or by reference to the GCEN website).

2.4 Any reference to GCEN or the Client in this Agreement shall be deemed to include that party’s officers, employees and/or agents.

2.5 References to clauses are to the clauses of this Agreement and the headings in this Agreement are for convenience only and shall not affect its interpretation.

2.6 Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

## 3. REGULATORY STATUS AND CLIENT STATUS

3.1 GCEN is authorised and regulated by the FCA as an authorised payment institution (reference number504346). GCEN discharges its obligations to the Client subject to the relevant provisions of the Payment Services Regulations and the FCA’s relevant rules and guidance. Further details and information on GCEN’s regulatory status can be found in the FCA Financial Services Register.

3.2 For avoidance of doubt, GCEN is not authorised or regulated by the FCA in relation to any other matters which are subject to the jurisdiction of the FCA.

3.3 GCEN provides the Services from its registered office, the full address of which is 3rd Floor, 20 Dering Street, London W1S 1AJ.

3.4 Where the Client is not a Consumer, Micro-Enterprise or Charity (as defined in the Payment Services Regulations), the Client agrees that those Payment Services Regulations which may be disappplied by GCEN where the payment service user is not a Consumer, Micro-Enterprise or Charity are all so disappplied with respect to the Client.

#### **4. INFORMATION PRIOR TO AND DURING THEPROVISION OF SERVICES**

4.1 In accordance with the Payment Services Regulations (and in particular Schedule 4 thereto), GCEN is required to give various items of information to its Clients prior to providing them with Money Remittance Services. The parties confirm that such information is deemed to be provided in this Agreement.

4.2 If the Client so requests at any time during the contractual relationship, GCEN will provide the Client with a copy of this Agreement.

#### **5. THE SERVICES**

5.1 The Services shall be limited to the FOREX Services and the Money Remittance Services.

5.2 GCEN shall record in writing the details of each Contract entered into in the course of providing the FOREX Services, and send a copy to the Client at the time the Contract is performed. This will include details of applicable exchange rates.

5.3 Where providing FOREX Services, GCEN shall unless otherwise agreed, contract as principal with the Client for the delivery of the currency or payment in question and deal with the Client on an execution only basis.

5.4 Where providing FOREX Services, GCEN may provide the Client with information concerning the foreign exchange markets, but will not at any time offer advice to the Client on taxation, investment products or markets or the merits or otherwise of any currency or money remittance.

5.4.1 The Client accepts that any such information does not constitute advice and does not form part of the Services and agrees that it shall rely purely on its own judgement when entering into any Contract.

5.4.2 In providing the information referred to above, GCEN makes no warranty or representation as to its accuracy, and is not liable to the Client in relation to the use made of such information.

5.5 Each order shall stand as a separate Contract. Where FOREX Services are provided, the Client will take physical delivery of the purchased currency upon payment of the full amount of the sold currency, unless a Money Remittance Service is also requested in which case the purchased currency will be transmitted to a third party.

#### **6. INSTRUCTIONS AND COMMUNICATIONS**

6.1 All communications between the Client and GCEN, in either direction, shall be in English.

6.2 GCEN may, at its absolute discretion, accept or refuse (without attributing any reason or being liable for any claims, loss of profits, depletion of goodwill or damage, and whether direct, consequential or anticipated)any order for Services or any instruction relating to Services from any officer, employee or agent of the Client. Where only certain named personnel are authorised by the Client to place orders and give instructions to GCEN for Services, an "authorised personnel" list shall be annexed to this Agreement, and where such a list is annexed, GCEN shall only deal with those authorised persons.

- 6.3 For any order for Services or instructions relating to Services, the Client will be required to provide details to GCEN of the currency they have, the currency they require and to whom the money is to be transmitted, as relevant.
- 6.4 Orders may be placed, and instructions may be given orally or in writing for Services. In the case of a written order or instruction, the Client will use their personalised security credentials to log in to GCEN's online portal, in order to be permitted to place the order or instruction. In the case of an oral order or instruction, the Client will call GCEN using the telephone number provided by GCEN, and will give their personalised security credentials, in order to be permitted to place the order or instruction. GCEN is entitled to require the Client to confirm such order or instruction in writing prior to executing the same. Alternatively, GCEN may itself confirm in writing any orally communicated order or instruction for Services, and if so, this shall be final and conclusive evidence of the order or the instruction in question.
- 6.5 The Client may also set up a recurring order for Services. The Client must complete a recurring order form provided by GCEN, in which the Client will set out details of the recurring order for Services, including:
- 6.5.1 details of the Client's payment account at its credit institution from which the Client will transfer the funds; 6.5.2 any currency conversion required as part of the FOREX Service; 6.5.3 frequency of the recurring order for Services; and 6.5.4 details of whether the funds are transmitted back to the Client's payment account at its credit institution or are transmitted to a third party as part of the Money Remittance Service. Each order of any recurring order for Services will be subject to the requirements set out in this clause 6. If the Client wishes to stop any recurring order for Services, it must notify GCEN in accordance with clause 16 at least one business day before the next recurrence of the order for Services.
- 6.6 In accordance with Regulation 67 of the Payment Services Regulations, a Client may withdraw their consent to money remittance in certain circumstances, subject to the conditions set out therein.
- 6.7 In relation to any money remittance instructed by the Client to GCEN (and prior to execution of the same), GCEN will provide the Client with details of the maximum execution time for money remittance, the applicable charges and (if relevant) how such charges are broken down.
- 6.8 GCEN will provide the Client, in relation to each transaction or money remittance, with:
- 6.8.1 a reference enabling the Client to identify the transaction or money remittance; 6.8.2 for Money Remittance Service, the amount remitted, and for a FOREX Service, the amount or value of the relevant foreign currency purchased; 6.8.3 the amount of charges (and if relevant, interest) due from the Client in relation to the transaction or money remittance; 6.8.4 in relation to FOREX Services, the exchange rate or rates used; and 6.8.5 the transfer date, in relation to the money remittance made.
- 6.9 The information referred to in clause 6.8 will be provided free of charge on a monthly basis by GCEN in respect of all Services provided during the month in question (unless the Client and GCEN agree to provision of such information on a more frequent basis). Unless the Client notifies GCEN of any error or omission in relation to such information within twenty four (24) hours of receipt, the Client shall be deemed to have agreed and accepted the accuracy of all such reported information and it will be legally binding on the Client.
- 6.10 If the Client considers that GCEN has executed an instruction in its name which it has not originated, it shall notify GCEN forthwith. In accordance with the Payment Services Regulations, there are certain circumstances in which GCEN will be liable to the Client where a money remittance has been incorrectly executed and in those circumstances GCEN will without delay refund the amount of the non-executed or defective money remittance and where applicable refund to the Client the relevant amount. Further details can be obtained from GCEN.

- 6.11 Requests for refunds must be made within eight (8) weeks from the date on which the funds were remitted by GCEN. GCEN may require the Client to provide further information and refuse the refund until such information is received.
- 6.12 A Client is entitled to redress from GCEN for unauthorised money remittance, non-execution or defective or late execution of money remittance, but only if the Client has not acted fraudulently, has taken all reasonable steps to keep safe personalised security credentials relating to a payment instrument and notifies GCEN without undue delay on becoming aware of any unauthorised money remittance (and in any event no later than thirteen (13) months after the Client becomes aware of any unauthorised or incorrectly executed money remittance). Notification must be made in writing to [info@GCPartners.co](mailto:info@GCPartners.co).
- 6.13 GCEN is liable to the Client for the correct execution of money remittance unless it can prove to the Client, and where relevant, the payee's payment service provider, that the payee's payment service provider received the amount of the money remittance, subject to the conditions in the Payment Services Regulations.
- 6.14 The Client is liable for all losses incurred in respect of unauthorised money remittance where the Client has acted fraudulently. Except where the Client has acted fraudulently, the Client is not liable for losses incurred in respect of unauthorised money remittance where GCEN has failed at any time to provide appropriate means for notification in accordance with the Payment Services Regulations.

## **7. GCEN'S FEES AND CHARGES**

- 7.1 GCEN's fees and charges for providing the Services to the Client are set out in detail in the Fees and Charges Annex, which forms a part of this Agreement and are subject to such further details as are contained in this Agreement.
- 7.2 GCEN reserves the right to modify the charges made for the Services from time to time, giving the Client written notice of not less than seven (7) days before introducing any such modifications. GCEN does not impose any charge or reduction on the Client for using a particular form of payment instrument.
- 7.3 In addition, GCEN is entitled to be reimbursed at the Client's expense with such expenses and fees as it incurs in performing the Services as are notified to the Client in this Agreement or in an annexure hereto, and to modify such fees or rates from time to time, giving the Client written notice of not less than seven (7) days before introducing any such modifications.
- 7.4 All fees due to GCEN and remaining unpaid, together with all bank, brokerage and other charges which the Client is obliged to bear but which have not yet been debited, shall be treated as due and payable.

## **8. MARGIN CALL**

- 8.1 From time to time, GCEN may require the Client to post funds ("Margin") as security for GCEN entering into one or more Contracts. Prior to this requirement, GCEN will provide the Client, in writing, with the terms on which it provides credit to the Client and when it requires Margin to be posted ("FX Credit Terms").
- 8.2 If GCEN determines, in its sole discretion, that the net market value of all of the Client's open Contracts has declined and the unrealised loss when marked to market exceeds the amount set out in the FX Credit Terms, the Client shall post Margin with GCEN in the amount calculated in accordance with the FX Credit Terms.
- 8.3 Payment of any amount of Margin is due on or before the business day following the date GCEN provides written notice to the Client of its request for payment of Margin (such notice, a "Margin Call").
- 8.4 If GCEN considers (in its sole discretion) from time to time, that the amount of Margin

transferred to it by the Client is insufficient to secure or otherwise collateralise the Client's obligations and liabilities to GCEN under its open Contracts, GCEN may make additional Margin Calls to the Client.

- 8.5 If GCEN does not receive the amount of Margin requested in a Margin Call when due, GCEN, in its sole discretion, may close out any or all of the Client's open Contracts and apply the proceeds of such Contracts to reimburse GCEN for all amounts due to it under such Contracts, including all realised losses.
- 8.6 If, after such application of proceeds, there is a positive balance in favour of the Client, GCEN will remit the balance of the proceeds to the Client on or before the following business day.
- 8.7 If the proceeds of such Contracts are insufficient to fully satisfy all amounts the Client owes to GCEN, the Client shall pay to GCEN the amount of such shortfall on or before the business day following the date of being notified of such shortfall.
- 8.8 The value of a Contract shall be marked to market by GCEN using its internal GCEN systems.
- 8.9 Any Margin paid to GCEN by the Client, or on the Client's behalf, will be used to secure or cover all the Client's present or future, actual or contingent, obligations to GCEN under this Agreement. GCEN shall acquire full ownership of such Margin upon receipt and shall not hold any Margin on the Client's behalf (whether on trust or otherwise) and GCEN may deal with such Margin as its own funds. In the event of GCEN's insolvency, the Client shall rank as a general creditor of GCEN in relation to any Margin paid to GCEN.
- 8.10 GCEN will owe the Client a debt equal to the amount of Margin received by GCEN, as reduced by any set-off rights under, or other terms of, this Agreement or under general law.
- 8.11 GCEN shall pay to the Client all or part of any amount of Margin transferred to GCEN by the Client under this Agreement if GCEN considers, in its sole discretion, that the amount of Margin transferred to it exceeds the amount required by GCEN to secure or cover all the Client's present or future, actual or contingent, obligations to GCEN under this Agreement or otherwise.
- 8.12 The Client is not entitled to receive any interest on Margin delivered to GCEN.
- 8.13 In certain circumstances, it will not be possible for GCEN to provide FX Credit Terms prior to entry into a Contract. In such a case, if a significant exchange rate fluctuation occurs between the date on which a particular Contract is placed and (if different) the value date for the transaction to which such Contract relates, GCEN may request the Client to provide additional funds to maintain the value and level thereof at the stipulated percentage rate on the original Contract note. Such funds shall be paid in full by the Client on or before the business day following the date of request.

## 9. CLIENT'S WARRANTIES

9.1 The Client hereby warrants and represents to GCEN as follows:

- 9.1.1 the Client has full capacity to enter into this Agreement and to provide instructions to GCEN to enter into contracts, whether as part of Money Remittance Services or FOREX Services; 9.1.2 all orders will be placed in pursuance of the Client's usual trade or business; 9.1.3 the Client is not acting for any third party; 9.1.4 all Contracts instructed to GCEN are to be entered into either for the Client's commercial purposes (in accordance with Article 84(2) RAO) or for its private purposes, but shall in any event not be or represent Contracts for investment purposes; and 9.1.5 all funds to be provided by the Client will be beneficially owned by the Client (or will be held subject to a constitution that entitles the Client to dispose of such funds as if fully beneficially entitled) and will not be subject to any charge, lien or other encumbrance, and the Client will not create or permit the creation of any charge, lien or other encumbrance over any funds so provided.

9.2 The warranties in clause 9.1 are deemed to be repeated at every point at which the Client provides an instruction to GCEN.

## 10. **LIMITATION OF LIABILITY**

10.1 Nothing in this clause 10 seeks to limit GCEN's liability to the Client for death or personal injury resulting from the negligence of GCEN, its employees, agents or sub-contractors, or in any way which is not permitted in accordance with the Payment Services Regulations.

10.2 Subject to clause 10.1 above, GCEN's total liability to the Client arising in connection with the performance of the Services shall be limited to damages of an amount equal to the direct loss incurred, provided that GCEN's liability shall in no circumstances exceed:

10.2.1 in the case of FOREX Services, the value of currency as at the Contract date to be purchased by GCEN from the Client; and 10.2.2 in the case of Money Remittance Services, the value of the money intended to be remitted.

10.3 GCEN shall not under any circumstances be liable to the Client for loss of profits or goodwill, anticipated savings, or any type of special indirect or consequential loss (including loss or damage suffered by the Client as a result of an action brought by a third party) arising in connection with the provision of the Services, even if such loss was reasonably foreseeable.

10.4 The Client will, on demand by GCEN, indemnify GCEN and keep it indemnified against all losses, damages and costs of any nature suffered by GCEN including any costs suffered by GCEN in covering, reducing or eliminating its risk, arising as a result of any breach by the Client of this Agreement.

## 11. **DATA PROCESSING**

11.1 References in this clause 11 to "data controller", "data processor", "processing", "data protection officer" and "personal data" shall have the same meaning as defined in Data Protection Legislation.

11.2 The parties acknowledge and agree that in order to provide the Services or otherwise to fulfil its regulatory requirements, GCEN may access, process and retain Client Personal Data. The type of personal data that may be processed under this Agreement includes categories of data such as the Client's name, address, other contact information, identification documents, other personal information, and payment data.

11.3 GCEN and the Client agree that in respect of the Client Personal Data:

11.3.1 GCEN may, in some instances where GCEN is processing Client Personal Data on behalf of Client, be acting as a data processor and the Client shall be the data controller; and 11.3.2 GCEN may, in other instances where GCEN is separately determining the purpose and manner of processing the Client Personal Data (e.g. for the purposes of fulfilling its regulatory requirements), be acting as an independent controller with the Client.

11.4 The Client shall:

11.4.1 comply with its obligations under applicable Data Protection Legislation in respect of the processing of Client Personal Data under or in connection with this Agreement;

11.4.2 have sole responsibility for the legality, reliability, integrity, accuracy and quality of any personal data it provides to GCEN and shall ensure that any instructions it gives in respect of such processing of Client Personal Data comply with applicable Data Protection Legislation. The Client hereby warrants and undertakes that it has all necessary rights to provide such personal data to GCEN and shall in particular ensure that GCEN is lawfully permitted to process Client Personal Data on its

behalf;

- 11.4.3 ensure it only provides such personal data that may be requested by GCEN for the provision of the Services and no more. To the extent Client provides additional personal data over and above what is requested by GCEN, GCEN shall not be liable in respect of its processing of such additional personal data.
- 11.5 Each party acknowledges and agrees that each party has respective rights and obligations under applicable Data Protection Legislation.
- 11.6 Without prejudice to its other rights or obligations, where GCEN acts as a data processor in respect of its processing of Client Personal Data:
  - 11.6.1 it shall process the Client Personal Data only to the extent, and in such a manner, as is necessary for the purposes of this Agreement and in accordance with the Client's lawful written instructions from time to time. If GCEN is unsure as to the parameters of the instructions issued by the Client and/or believes that the Client's instructions may conflict with the requirements of Data Protection Legislation or other applicable laws, GCEN may notify the Client for clarification and provide reasonable details in support of any assertion that the Client's instructions may not be lawful;11.6.2 it shall ensure the reliability of all its personnel who have access to the Client Personal Data and shall in particular, having regard to the state of technological development and the cost of implementing any measures, take such technical and organisational measures against the unauthorised or unlawful processing of Client Personal Data and against the accidental loss or destruction of, or damage to Client Personal Data, to ensure a level of security appropriate to:(a) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage of the Client Personal Data; and(b) the nature of the Client Personal Data to be protected;11.6.3 at the Client's cost, it shall assist the Client by using appropriate technical and organizational measures in responding to, and complying with, data subject requests;11.6.4 at the Client's cost, it shall provide the Client with reasonable co-operation and assistance in relation to the Client's obligations and rights under Data Protection Legislation, taking into account the nature of the processing and the information available to the processor, including providing the Client and relevant Regulators (as applicable) with all information and assistance reasonably necessary to investigate security breaches, carry out privacy impact assessments or otherwise to demonstrate compliance by the parties with Data Protection Legislation;11.6.5 at the Client's cost, it shall provide such co-operation, assistance and information as the Client may reasonably require if GCEN:(a) receives any complaint, notice or communication which relates directly or indirectly to the processing of Client Personal Data under this Agreement or to either party's compliance with Data Protection Legislation; and/or(b) becomes aware of any Data Security Breach;11.6.6 it shall keep a written record of any processing of the data carried out in the course of theServices;11.6.7 it may engage a sub processor to process data (or otherwise sub-contract or outsource the processing of Client Personal Data to a third party) (a "Sub processor"), provided that it:(a) notifies the Client of any new or replacement Sub processors (if the Client objects to the appointment of a new or replacement Sub processor, it shall notify GCEN within five (5) business days);(b) enters into a written contract with the Sub processor that:(i) provides protections or guarantees that Sub processor considers necessary to implement appropriate technical and organisation measures in compliance with the Data Protection Legislation; and(ii) terminates, in relation to the processing of Client Personal Data under this Agreement, automatically on termination or expiry of this Agreement for any reason; and(c) remains liable for all acts or omissions of the Sub processors as if they were acts or omissions of GCEN (except to the extent caused or exacerbated by the Client);11.6.8 at the Client's cost, it shall return or destroy (as directed in writing by the Client) all Client Personal Data it has in its possession and delete existing copies unless applicable law requires storage of the personal data;11.6.9 to the extent that GCEN is required to transfer



Client Personal Data pursuant to this Agreement to a territory outside of the EEA that does not have a finding of adequacy by the European Commission, the parties shall execute or procure the execution of the standard contractual clauses set out in Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC ("Model Clauses") unless the parties agree another more appropriate lawful data transfer mechanism exists. The parties agree that if the Model Clauses (or agreed alternative mechanisms) cease to exist or are no longer considered by both parties to be a lawful method of transferring personal data outside of the EEA, the parties shall have a good faith discussion and agree an alternative lawful transfer mechanism and GCEN may cease or procure that the relevant third party cease the processing of personal data until such time as the parties have agreed an alternative transfer mechanism to enable the personal data to be transferred outside of the EEA in a compliant manner;

- 11.7 The Client grants GCEN a non-exclusive, perpetual, worldwide, royalty-free license to use, copy, transmit, sub-license, index, model, aggregate (including with other third party data), publish, display and distribute any anonymous and/or aggregated information (including anonymous and/or aggregated information derived from Client Personal Data) obtained in connection with the provision of the Services for GCEN's own purposes.
- 11.8 The Client shall indemnify GCEN on demand against all claims, liabilities, costs, expenses, damages and losses (including all interest, penalties and legal costs and all other professional costs and expenses) suffered or incurred by GCEN arising out of the Client's breach of this clause 11. Each party acknowledges that Claims include any claim or action brought by a data subject arising from the Client's breach of its obligations in this clause.

## 12. **FORCE MAJEURE**

- 12.1 GCEN shall not be deemed to be in breach of this Agreement or otherwise have any liability to the Client for any failure or delay on the part of GCEN in performing its obligations under this Agreement arising from or attributable to abnormal and unforeseeable circumstances beyond the control of GCEN, the consequences of which would have been unavoidable despite all effort to the contrary (a "Force Majeure Event"). GCEN shall notify the Client of the occurrence of a Force Majeure Event as soon as is reasonably practicable following the occurrence of such Force Majeure Event.
- 12.2 Where a Force Majeure Event occurs, GCEN may (at its option), on the subsistence of such Force Majeure Event for fourteen (14) consecutive days, and will, on the subsistence of such Force Majeure Event for twenty eight (28) consecutive days, cancel any as yet unexecuted money remittance and refund to the Client's payment account at its credit institution any such amount. The Client shall not be entitled to compensation in respect of any Force Majeure Event occurring.

## 13. **DEFAULT**

- 13.1 GCEN shall have the right to close any Contract by entering into an equal but opposite Contract or, at its absolute discretion, by any other actions deemed necessary, or to terminate this Agreement in its entirety, in each case without any further liability for any loss or otherwise in the event of any of the following:
- 13.1.1 any default of payment by the Client of any sum due to GCEN; 13.1.2 any other breach by the Client of this Agreement; 13.1.3 if the Client is an individual, it is declared bankrupt or enters into an arrangement with its creditors; 13.1.4 if the Client is a legal entity, it enters into any form of insolvency or administration procedure (other than for the purposes of a reconstruction which has been agreed in advance with GCEN) or is unable to pay its debts as they fall due (as defined in section 123 of the Insolvency Act 1986); 13.1.5 it becomes unlawful for GCEN to give effect to any or all of its obligations to the Client under this Agreement or where GCEN or the Client is ordered by any governmental or regulatory body to

cease to perform this Agreement; or 13.1.6 GCEN considers it desirable to do so for its own protection or for the protection of its other Clients.

13.2 Where a Contract is closed out by GCEN in accordance with clause 13.1, a Contract note will be issued and dispatched to the Client detailing the specifics of the closure and any loss suffered by GCEN as a result of such closure.

13.3 GCEN is entitled to a full indemnity from the Client in relation to all costs incurred by GCEN in reversing or otherwise terminating all Contracts still subject to execution.

#### 14. **DURATION, TERMINATION**

14.1 Subject as set out below, these terms shall continue in force until terminated by the Client giving to GCEN written notice of one (1) month or by GCEN giving to the Client two (2) months' written notice. Such written notice shall be given in accordance with clause 16.

14.2 Either party shall be entitled to terminate this Agreement forthwith by written notice to the other if:

14.2.1 that other party commits any material breach of any of the provisions of these terms and, in the case of a breach capable of remedy, fails to remedy the same within fourteen (14) days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; 14.2.2 either party enters into any form of insolvency or administration procedure (other than for the purposes of a reconstruction which has been agreed in advance with the other party) or is unable to pay its debts as they fall due (as defined in section 123 of the Insolvency Act 1986); or 14.2.3 if GCEN ceases to be regulated by the FCA in accordance with the Payment Services Regulations.

14.3 GCEN may terminate this Agreement as provided for in clause 13.1 (default by the Client) or in clause 17.3 (termination where modification is not agreed).

14.4 Any waiver by either party of a breach of any provision of these terms shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.

14.5 The rights to terminate given by this clause 14 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

14.6 In the event of termination, however arising, GCEN has the power and right to ensure that all Contracts entered into for the Client prior to termination taking effect shall be executed and settled for the Client's account.

14.7 Subject as otherwise provided in the Contract, upon the termination of these terms for any reason and following the conclusion of any foreign currency transacted under these terms, neither party shall have any further obligation to the other save for any rights, obligations and/or liabilities which have arisen under these terms but have not been discharged prior to termination.

#### 15. **DISPUTES**

15.1 The Client shall notify GCEN if at any time it is dissatisfied with GCEN's performance of this Agreement or otherwise disputes the validity or enforceability of it (the "Dispute").

15.2 Without prejudice to their rights under this Agreement, GCEN and the Client shall attempt to resolve any Dispute in good faith. GCEN will make every possible effort to address all points of the Client's dispute, and will send a written reply to the Client within an adequate timeframe and no later than fifteen (15) business days after the day on which GCEN is notified by the Client.

15.3 In exceptional circumstances, if GCEN cannot give the Client a full written reply in accordance

with clause 15.2, then GCEN must give the Client a holding reply, clearing indicating the reasons for the delay, and specifying a deadline by which to send the full written reply which is no later than thirty five (35) business days after the day on which GCEN is notified by the Client.

15.4 If the Dispute remains unresolved, you may be entitled to refer it to the Financial Ombudsman Service (“FOS”). Further information, contact details and eligibility requirements are set out on [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

## 16. NOTICE

16.1 Any notice, document or other information to be given by one party to the other party under or in connection with this Agreement (a “Notice”):

16.1.1 shall be in writing (which shall include email); 16.1.2 shall be in the English language; and 16.1.3 shall be delivered personally, or sent by first class post (or air mail if overseas) or by email to the party due to receive the Notice to the address specified in clause 16.2 (or to another address, person, or fax number specified by that party by not less than seven (7) days’ written notice to the other party and received by the other party before the Notice was despatched). GCEN may require the Client to provide documents in a particular format, such as a spreadsheet or PDF.

16.2 The address referred to in Clause 16.1.3 is:

16.2.1 in the case of GCEN: Address: Global Currency Exchange Network Limited 20 Dering Street London W1S 1AJ Email: [info@gcpartners.co](mailto:info@gcpartners.co) Marked for the attention of: Account Management; Termination 16.2.2 in the case of the Client, such details as the Client has notified to GCEN.

16.3 Unless there is evidence that it was received earlier or later, a Notice is deemed given:

16.3.1 if delivered personally, when left at the address referred to in clause 16.2; 16.3.2 if sent by post, except air mail, two (2) business days after posting it; 16.3.3 if sent by air mail, six (6) business days after posting it; and 16.3.4 if sent by email, when received in full by the recipient.

16.4 In the event of suspected or actual fraud or security threats, GCEN will contact the Client using a secure procedure via a recorded telephone line and/or via [compliance@gcpartners.co](mailto:compliance@gcpartners.co).

## 17. MISCELLANEOUS FURTHER PROVISIONS

17.1 Nothing in these terms shall create, or be deemed to create, a partnership or the relationship of employer and employee between the parties.

17.2 This Agreement, of which these terms and the Fees and Charges Annex form part, together with any documents referred to in this Agreement or annexed hereto, represents the entire agreement between the parties and supersedes all previous arrangements, agreements and understandings between the parties in respect of the Services.

17.3 This Agreement may be modified by GCEN providing written notice to the Client no later than two (2) months before the date on which the proposed changes are to take effect. Any such proposed changes will apply automatically from the date set out in the written notice from GCEN to the Client, unless the Client notifies GCEN to the contrary before the date on which the proposed changes are to take effect. The Client will be deemed to have accepted such proposed changes if it does not notify GCEN to the contrary before the date on which the proposed changes are to take effect. The Client has the right to terminate this Agreement in accordance with clause 14 at any time before the date on which the proposed changes are to take effect.

17.4 Each party acknowledges that, in entering into this Agreement, it does not rely on any

statement, representation, assurance or warranty of any person (whether party to this Agreement or not) except as expressly provided herein, and that all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

17.5 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

17.6 If any one or more of the provisions contained in this Agreement shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall in no way be prejudiced or otherwise affected.

## 18. **THIRD PARTY RIGHTS**

18.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## 19. **GOVERNING LAW AND JURISDICTION**

19.1 This Agreement and all non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the Laws of England.

19.2 Other than where clause 15.2 applies in relation to dispute resolution by alternative means, each party hereby submits to the exclusive jurisdiction of the English Courts to settle any dispute arising from or connected with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or relating to any non-contractual or other obligation arising out of or in connection with this Agreement) or the consequences of its nullity. The parties agree that the courts of England are the most appropriate and convenient courts to settle any such dispute and, accordingly, that they will not argue to the contrary or bring proceedings to that effect.

## GCEN BUSINESS TERMS AND CONDITIONS OF SERVICE

### 1. DEFINITIONS

1.1 In this Agreement the following words and expressions have the following meanings:

- 1.1.1 **"Account"** means the Client's account with GCEN;
- 1.1.2 **"Authorised User"** means any person authorised by the Client to place orders and give instructions to GCEN for Services, or to access the Portal, on behalf of the Client;
- 1.1.3 **"Business Client"** means a Client that is not a Consumer, Micro-Enterprise or Charity;
- 1.1.4 **"Business Day"** means a day other than a Saturday, Sunday or bank or public holiday in England;
- 1.1.5 **"Charity"** means a body whose annual income is less than £1 million and is:
  - (a) in England and Wales, a charity as defined by section 1(1) of the Charities Act 2011;
  - (b) in Scotland, a charity as defined by section 106 of the Charities and Trustee Investment (Scotland) Act 2005; or
  - (c) in Northern Ireland, a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008;
- 1.1.6 **"Client"** means GCEN's client who has completed the registration process, executed the relevant application forms and agreed to be bound by this Agreement;
- 1.1.7 **"Consumer"** means an individual who, in contracts for payment services to which the Payment Services Regulations apply, is acting for purposes other than a trade, business or profession;
- 1.1.8 **"Client Personal Data"** means personal data provided by or on behalf of the Client or otherwise obtained, generated or processed by GCEN on the Client's behalf in connection with the provision of the Services;
- 1.1.9 **"Contract"** means each and every specific: (a) foreign exchange transaction or Forward Contract transaction undertaken by GCEN for the Client in performance of the FOREX Services; or (b) money remittance transaction undertaken by GCEN for the Client in performance of the Money Remittance Services;
- 1.1.10 **"Data Protection Legislation"** means the Data Protection Act 2018, the GDPR, the UK's retained EU version of GDPR ("**UK GDPR**"), the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all other applicable laws and regulations relating to the processing of personal data and privacy, including where applicable, any guidance notes and codes of practice issued by the European Commission and applicable national Data Regulators, including the UK Information Commissioner;
- 1.1.11 **"Data Regulator"** means any regulatory body with responsibility for ensuring compliance with Data Protection Legislation;
- 1.1.12 **"FCA"** means the UK Financial Conduct Authority and its successors;

- 1.1.13 "FOREX **Services**" means providing foreign exchange services to facilitate payments, including but not limited to Forward Contract transactions;
- 1.1.14 "**Forward Contract**" means any Contract for FOREX Services whereby a Client purchases another currency at the exchange rate prevailing at the time of concluding the Contract, and takes delivery of the purchased amount at a later date, as agreed between the parties;
- 1.1.15 "**FSMA**" means the Financial Services and Markets Act 2000, as amended from time to time;
- 1.1.16 "**GCEN**" means Global Currency Exchange Network Limited, which also trades as GC Partners;
- 1.1.17 "**GDPR**" means 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;
- 1.1.18 "**Micro-Enterprise**" means an enterprise which employs fewer than ten (10) persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million;
- 1.1.19 "**Money Remittance Services**" means services for the transmission of money (or any representation of monetary value) without any payment accounts being created in the name of the payer or the payee, where:
- (a) funds are received from a payer for the sole purpose of transferring a corresponding amount to a payee or to another payment services provider acting on behalf of the payee; or
  - (b) funds are received on behalf of, and made available to, the payee;
- 1.1.20 "**Payment Services Regulations**" means the Payment Services Regulations 2017, as amended from time to time;
- 1.1.21 "**Portal**" means GCEN's online portal through which orders for Services can be placed;
- 1.1.22 "**RAO**" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, as amended from time to time;
- 1.1.23 "**Settlement Date**" means, in respect of a Forward Contract, the date on which the Client is to take physical delivery of the purchased currency, as agreed between the Client and GCEN at the time of concluding the Forward Contract; and
- 1.1.24 "**Services**" means the totality of the services which GCEN agrees to provide to the Client (on an as required basis), and which comprise the Money Remittance Services and the FOREX Services.
- 1.2 Terms such as "**controller**", "**data protection impact assessment**", "**data subject**", "**process/processing**" and "**processor**" shall have the same meaning ascribed to them in Data Protection Legislation.
- 1.3 The term "**framework contract**" bears the meaning given to it in the Payment Services Regulations.
- 1.4 References to "written" or "in writing" shall include communication by electronic mail (including attachments to electronic mail).

## 2. **CLIENT STATUS**

2.1 This Agreement sets out the Terms and Conditions of Service that apply to Business Clients only.

2.2 In agreeing to be bound by the Business Terms and Conditions of Service contained in this Agreement, the Client:

2.2.1 represents and warrants that it is **not** a Consumer, Micro-Enterprise or Charity;

2.2.2 agrees that those Payment Services Regulations which may be disapplied by GCEN where the payment service user is not a Consumer, Micro-Enterprise or Charity are all so disapplied to the maximum extent possible with respect to the Client; and

2.2.3 agrees to notify GCEN immediately if it becomes or is likely to become a Consumer, Micro-Enterprise or Charity.

## 3. **GENERAL**

3.1 The terms and conditions set out in this Agreement (as amended by GCEN and notified to the Client from time to time) shall apply as between GCEN and the Client, and shall regulate the provision of the Services by GCEN to the Client or (on the Client's instructions and subject to GCEN's acceptance of the same) to any third party named in any order received by GCEN from the Client.

3.2 For the purposes of the Payment Services Regulations, this Agreement (together with any Contract entered into) constitutes a framework contract.

3.3 This Agreement shall come into force on the date that the Client registers an Account and agrees to this Agreement.

3.4 Any reference to GCEN or the Client in this Agreement shall be deemed to include that party's officers, employees and/or agents.

3.5 References to clauses are to the clauses of this Agreement, references to paragraphs are to paragraphs of the Schedule to this Agreement, and the headings in this Agreement are for convenience only and shall not affect its interpretation.

3.6 Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

## 4. **REGULATORY STATUS**

4.1 GCEN is authorised and regulated by the FCA as an authorised payment institution (reference number 504346). GCEN discharges its obligations to the Client subject to the relevant provisions of the Payment Services Regulations and the FCA's relevant rules and guidance. Further details and information on GCEN's regulatory status can be found in the FCA Financial Services Register.

4.2 For the avoidance of doubt, GCEN is not authorised or regulated by the FCA in relation to any other matters which are subject to the jurisdiction of the FCA.

4.3 GCEN provides the Services from its registered office, the full address of which is 3rd Floor, 20 Dering Street, London W1S 1AJ.

## 5. **INFORMATION PRIOR TO AND DURING THE PROVISION OF SERVICES**

5.1 In accordance with the Payment Services Regulations, GCEN is required to give various items

of information to its clients prior to providing them with Money Remittance Services. The parties confirm that such information is deemed to be provided in this Agreement.

5.2 If the Client so requests at any time during the contractual relationship, GCEN will provide the Client with a copy of this Agreement.

## 6. THE SERVICES

6.1 The Services shall be limited to the FOREX Services and the Money Remittance Services.

6.2 GCEN shall record in writing the details of all orders or instructions, whether communicated orally or in writing, for each Contract entered into in the course of providing the FOREX Services, and shall send a copy to the Client at the time the Contract is concluded between the parties ("**Confirmation Email**"). The Confirmation Email will include details of applicable exchange rates and any other key commercial terms relating to the Contract. Such Confirmation Email will form part of the legal contract between GCEN and the Client in respect of the relevant Contract.

6.3 Where providing FOREX Services, GCEN shall unless otherwise agreed, contract as principal with the Client for the delivery of the currency or payment in question and deal with the Client on an execution only basis.

6.4 Where providing FOREX Services, GCEN may provide the Client with information concerning the foreign exchange markets, but will not at any time offer advice to the Client on taxation, investment products or markets or the merits or otherwise of any currency or money remittance, and

6.4.1 the Client accepts that any such information does not constitute advice and does not form part of the Services and agrees that it shall rely purely on its own judgement when entering into any Contract; and

6.4.2 in providing the information referred to above, GCEN makes no warranty or representation as to its accuracy, and is not liable to the Client in relation to the use made of such information.

6.5 Each order for Services shall stand as a separate Contract. GCEN has the right to cancel any Contract for FOREX Services at any time, where GCEN becomes aware of any pricing error in providing the Client with the correct exchange rate for that Contract, and the Client is or should reasonably be aware of such error, by providing the Client a full refund of any amount that may have been charged (including any fees or charges) to the Client for the purposes of processing the Contract its original currency.

6.6 In respect of Forward Contracts, the Client acknowledges and agrees that:

6.6.1 the Client will buy the currency required from GCEN at the exchange rate prevailing on the day that the Forward Contract is concluded between the parties, and then take physical delivery of the purchased currency upon payment of the full amount of the sold currency on the Settlement Date;

6.6.2 once concluded, the Client shall settle each Forward Contract as agreed with GCEN, unless GCEN agrees (in its sole discretion) to amend any terms of such a Contract in writing;

6.6.3 the Settlement Date for each Forward Contract shall be agreed between the parties at the time of concluding that Forward Contract, and shall be no later than 2 years from the conclusion of the Forward Contract;

6.6.4 Forward Contracts must be entered into for a purpose that is not related (wholly or partially) to any trading or investment activity;



- 6.6.5 any Forward Contract may be cancelled by GCEN in accordance with clauses 6.5 or 7.5 at any time.
- 6.7 For all other Contracts for FOREX Services, the Client will take physical delivery of the purchased currency upon payment of the full amount of the sold currency, unless a Money Remittance Service is also requested in which case the purchased currency will be transmitted to a third party.
7. **Margin for forward contracts**
- 7.1 From time to time, GCEN may require the Client to post funds ("**Margin**") as security for GCEN entering into one or more Forward Contracts. Prior to this requirement, GCEN will provide the Client, in writing, with the terms on which it provides credit to the Client and when it requires Margin to be posted ("**FX Credit Terms**").
- 7.2 If GCEN determines, in its sole discretion, that (a) the net market value of all of the Client's open Forward Contracts has declined and the unrealised loss when marked to market exceeds the amount of the current Margin set out in the FX Credit Terms, or (b) the risk of GCEN providing Forward Contracts to the Client has increased for any reason, the Client shall post a revised Margin with GCEN in the amount calculated in accordance with the FX Credit Terms.
- 7.3 Payment of any amount of Margin is due on or before the Business Day following the date GCEN provides written notice to the Client of its request for payment of Margin (such notice, a "**Margin Call**").
- 7.4 Notwithstanding clauses 7.1 and 7.2, GCEN may (in its sole discretion) make additional Margin Calls to the Client in any amount and at any time,
- 7.5 If GCEN does not receive the amount of Margin requested in a Margin Call when due, GCEN, in its sole discretion, may close out any or all of the Client's open Forward Contracts and apply the proceeds of such Forward Contracts to reimburse GCEN for all amounts due to it under such Contracts, including all realised losses.
- 7.6 If, after such application of proceeds, there is a positive balance in favour of the Client, GCEN will, upon written request of the Client, remit the balance of the proceeds to the Client within 7 Business Days of receiving such a request.
- 7.7 If the proceeds of such Contracts are insufficient to fully satisfy all amounts the Client owes to GCEN, the Client shall pay to GCEN the amount of such shortfall on or before the Business Day following the date of being notified of such shortfall.
- 7.8 The value of a Forward Contract shall be marked to market by GCEN using its internal GCEN systems.
- 7.9 Any Margin paid to GCEN by the Client, or on the Client's behalf, will be used to secure or cover all the Client's present or future, actual or contingent, obligations to GCEN in respect of Forward Contracts under this Agreement. GCEN shall acquire full ownership of such Margin upon receipt and shall not hold any Margin on the Client's behalf (whether on trust or otherwise) and GCEN may deal with such Margin as its own funds. In the event of GCEN's insolvency, the Client shall rank as a general creditor of GCEN in relation to any Margin paid to GCEN.
- 7.10 GCEN will owe the Client a debt equal to the amount of Margin received by GCEN, as reduced by any set-off rights under, or other terms of, this Agreement or under general law.
- 7.11 GCEN shall pay to the Client all or part of any amount of Margin transferred to GCEN by the Client under this Agreement if GCEN considers, in its sole discretion, that the amount of Margin transferred to it exceeds the amount required by GCEN to secure or cover all the Client's present or future, actual or contingent, obligations to GCEN under this Agreement or otherwise.
- 7.12 The Client is not entitled to receive any interest on Margin delivered to GCEN.

- 7.13 In certain circumstances, it will not be possible for GCEN to provide FX Credit Terms prior to entry into a Forward Contract. In such a case, if a significant exchange rate fluctuation occurs between the date on which a particular Forward Contract is placed and (if different) the value date for the transaction to which such Forward Contract relates, GCEN may request the Client to provide additional funds to maintain the value and level thereof at the stipulated percentage rate on the original Forward Contract note. Such funds shall be paid in full by the Client on or before the business day following the date of request.

## 8. **CREATING AN ACCOUNT**

- 8.1 To access and use the Services, the Client must first register and create an Account with GCEN by following GCEN's relevant client onboarding procedures from time to time in force.
- 8.2 The individual completing the onboarding process on the Client's behalf must have the necessary authority, power and right to fully bind the Client.
- 8.3 Once GCEN has opened an Account for the Client, GCEN will issue the Client with a unique client reference number.
- 8.4 The Client must promptly update the Client's account information online or by contacting us at [info@gcpartners.co](mailto:info@gcpartners.co) in the event of any changes to this information.
- 8.5 GCEN reserves the right to suspend or terminate the Client's Account and access to the Services if any information provided proves not to be accurate or current.

## 9. **SECURITY**

- 9.1 The Client must take all reasonable steps to keep (and shall procure that its Authorised Users keep) any username and password (together, "**Login Details**") used to access the Service or the Client's Account safe, secure and confidential.
- 9.2 GCEN may disable Login Details at any time and at GCEN's sole discretion if an Authorised User or the Client has failed to comply with any of the provisions of this Agreement, or if it reasonably suspects that there has been unauthorised or fraudulent use of the Client's Login Details or the security of the Client's Login Details have been otherwise compromised. The Client is responsible for any activities that occur under its Account including the activities of Authorised Users.
- 9.3 Whenever applicable, GCEN encourages the Client to use "strong" passwords (passwords that use a combination of upper and lower case letters, numbers and symbols) with its Account.
- 9.4 If the Client has any concerns about the Login Details for its Account or thinks they have been lost, stolen, misappropriated or misused, or is aware of any other actual or potential security breach, the Client must notify GCEN immediately at [compliance@gcpartners.co](mailto:compliance@gcpartners.co). Following receipt of such notification, GCEN will disable such Login Details.
- 9.5 The Client must take reasonable precautions to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify GCEN.

## 10. **USE OF THE PORTAL**

- 10.1 The Client:
- 10.1.1 must use and ensure its Authorised Users use the Services in accordance with the terms of this Agreement and shall be responsible for any actions and omissions in connection with the use of the Services by any Authorised Users;
  - 10.1.2 must ensure that its network and systems, including its internet browser complies with any relevant specifications provided by GCEN from time to time relating to the

operation of the Portal;

10.1.3 is solely responsible for procuring and maintaining its network connections and telecommunications links from its systems in order to access and use the Portal; and

10.1.4 must not use the Portal: (a) to access, store, distribute or transmit or prepare for distribution or transmission any virus (b) to access, store, distribute or transmit or prepare for distribution or transmission any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (c) in a manner that is illegal or causes damage or injury to any person or property; (d) to infringe any copyright, database right or trade mark of any person; (e) to transmit, send prepare for transmission or prepare for sending any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation ('spam'); (f) to interfere with or attempt to interfere with or compromise the Portal's **integrity or security**.

## 11. INSTRUCTIONS AND COMMUNICATIONS

11.1 All communications between the Client and GCEN, in either direction, shall be in English.

11.2 GCEN may, at its absolute discretion, accept or refuse (without being liable for any claims, loss of profits, depletion of goodwill or damage, and whether direct, consequential or anticipated) any order for Services or any instruction relating to Services from any officer, employee or agent of the Client.

11.3 Where only certain named personnel are authorised by the Client to place orders and give instructions to GCEN for Services, an "Authorised User" list shall be annexed to this Agreement, and where such a list is annexed, GCEN shall only deal with those authorised persons.

11.4 For any order for Services or instructions relating to Services, the Client will be required to provide details to GCEN of:

11.4.1 the intended recipient, where applicable;

11.4.2 for a Money Remittance Service where funds are received from the Client for the sole purpose of transferring a corresponding amount to a third party or to another payment services provider acting on behalf of the third party, the amount to be remitted;

11.4.3 for a Money Remittance Service where funds are received on behalf of, and made available to, the Client when and from whom the incoming funds are expected. The Client must also ensure that the payer includes the Client's reference number in the payment instruction to its bank or payment service provider, otherwise there may be a delay before GCEN is able to make these funds available to the Client;

11.4.4 for a FOREX Service, the amount or value of the relevant foreign currency to be purchased, the currency the Client has, the currency the Client requires and its amount or value; and

11.4.5 for a Forward Contract, in addition to the detail set out in clause 11.4.4 above, the intended Settlement Date and the purpose of the transaction.

11.5 Orders for Services may be placed, and instructions may be given orally by telephone or in writing via the Portal. In the case of a written order or instruction, the Client must use their personalised security credentials to log in to the Portal, in order to be permitted to place the order or instruction. In the case of an oral order or instruction, the Client must call GCEN using the telephone number provided by GCEN, and will give their personalised security credentials, in order to be permitted to place the order or instruction. GCEN is entitled to require the Client to confirm oral orders or instructions in writing prior to executing the same. Alternatively, GCEN

may itself confirm in writing any orally communicated order or instruction for Services, and if so, this shall be final and conclusive evidence of the order or the instruction in question.

- 11.6 The Client may also set up a recurring order for FOREX Services and Money Remittance Services where funds are received from the Client for the sole purpose of transferring a corresponding amount to a third party or to another payment services provider acting on behalf of the third party (a "**Recurring Order**"). The Client must complete a recurring order form provided by GCEN, in which the Client will set out details of the Recurring Order, including:
- 11.6.1 details of the Client's payment account at its credit institution from which the Client will transfer the funds;
  - 11.6.2 any currency conversion required as part of the FOREX Service;
  - 11.6.3 frequency of the Recurring Order; and
  - 11.6.4 details of whether the funds are transmitted back to the Client's payment account at its credit institution or are transmitted to a third party as part of the Money Remittance Services.
- 11.7 Each Recurring Order will be subject to the requirements set out in this clause 11. If the Client wishes to stop any Recurring Order, it must notify GCEN in accordance with clause 23 at least one (1) Business Day before the next transaction under the Recurring Order is due to take place.
- 11.8 In relation to any money remittance instructed by the Client to GCEN (and prior to execution of the same), GCEN will provide the Client with details of the maximum execution time for money remittance, the applicable charges and (if relevant) how such charges are broken down.
- 11.9 GCEN will provide the Client, in relation to each transaction or money remittance, with:
- 11.9.1 a reference enabling the Client to identify the transaction or money remittance and, where applicable, information concerning the payee;
  - 11.9.2 for a Money Remittance Service, the amount remitted, and for a FOREX Service, the amount or value of the relevant foreign currency purchased;
  - 11.9.3 the amount of charges (and if relevant, interest) due and, where applicable, the corresponding breakdown of those charges, from the Client in relation to the transaction or money remittance;
  - 11.9.4 in relation to FOREX Services, the exchange rate or rates used, and if relevant the amount of the payment transaction after the currency conversion; and
  - 11.9.5 the transfer date, in relation to the money remittance made.
- 11.10 The information referred to in clause 11.9 will be provided free of charge on a monthly basis by GCEN in respect of all Services provided during the month in question (unless the Client and GCEN agree to provision of such information on a more frequent basis). Unless the Client notifies GCEN of any error or omission in relation to such information within twenty-four (24) hours of receipt, the Client shall be deemed to have agreed and accepted the accuracy of all such reported information and it will be legally binding on the Client.
- 11.11 If the Client considers that GCEN has executed an instruction in its name which it has not originated, it shall notify GCEN forthwith. In accordance with the Payment Services Regulations, there are certain circumstances in which GCEN will be liable to the Client where a money remittance has been incorrectly executed and in those circumstances GCEN will without delay refund the amount of the non-executed or defective money remittance and where applicable refund to the Client the relevant amount. Further details can be obtained from GCEN.

- 11.12 Requests for refunds must be made within eight (8) weeks from the date on which the funds were remitted by GCEN. GCEN shall have the right to require the Client to provide further information and refuse the refund until such information is received.
- 11.13 A Client is entitled to redress from GCEN for unauthorised money remittance, non-execution or defective or late execution of money remittance, but only if the Client has not acted fraudulently, has taken all reasonable steps to keep safe personalised security credentials relating to a payment instrument and notifies GCEN without undue delay on becoming aware of any unauthorised money remittance (and in any event no later than thirteen (13) months after the Client becomes aware of any unauthorised or incorrectly executed money remittance). Notification must be made in writing to [info@GCPartners.co](mailto:info@GCPartners.co).
- 11.14 GCEN is liable to the Client for the correct execution of money remittance unless it can prove to the Client, and where relevant, the payee's payment service provider, that the payee's payment service provider received the amount of the money remittance, subject to the conditions in the Payment Services Regulations.
- 11.15 The Client is liable for all losses incurred in respect of unauthorised money remittance where the Client has acted fraudulently. Except where the Client has acted fraudulently, the Client is not liable for losses incurred in respect of unauthorised money remittance where GCEN has failed at any time to provide appropriate means for notification in accordance with the Payment Services Regulations.
- 11.16 In the event of any significant exchange rate fluctuations occurring between the date on which a particular Contract is executed and (if different) the value date for the transaction to which such Contract relates, GCEN may require the Client to provide additional funds to maintain the value and level thereof at the stipulated percentage rate on the original Contract note. Such funds shall be paid by the Client immediately and in full.

## 12. **GCEN'S FEES AND CHARGES**

- 12.1 GCEN's fees and charges for providing the Services to the Client will be provided to the Client during the registration process or, for transaction-specific fees and charges, before the Client submits an order for Services.
- 12.2 GCEN reserves the right to modify the fees and charges made for the Services from time to time. GCEN will give the Client written notice of not less than seven (7) days before introducing any such modifications, unless agreed otherwise between the parties. GCEN does not impose any charge or reduction on the Client for using a particular form of payment instrument.
- 12.3 In addition, GCEN is entitled to be reimbursed at the Client's expense with such expenses and fees as it incurs in performing the Services as are notified to the Client from time to time either before or after the relevant Service has been performed, and to modify such fees or rates from time to time, giving the Client written notice of not less than seven (7) days before introducing any such modifications.
- 12.4 GCEN may, without prior notice to the Client, set off any amount owing by the Client to it against any other amount owing by it to the Client, including amounts transferred to GCEN as Margin. In the event that any Margin is used to set-off any amounts owed by the Client, the Client shall immediately restore such Margin, as requested by GCEN; failing which GCEN may terminate any or all unfulfilled orders for Services or close out any open Contracts, and Client shall be responsible for any losses and charges suffered by GCEN as a result of such termination.
- 12.5 In addition to GCEN's rights specified in clause 12.4 above, in relation to each Contract, GCEN's fees and charges payable, and any expenses or fees to be reimbursed pursuant to clause 12.3, for payment transactions in which the Client is the payee, GCEN may deduct the charges from the amount transferred before crediting the amount received. For payment transactions in which the Client is the payer, GCEN will transfer the full amount of the transaction, without deducting the charges from the amount transferred, but the fees, charges and expenses shall be charged and added to the amount collected from the Client at the time

of processing the transaction.

- 12.6 All fees due to GCEN and remaining unpaid, together with all bank, brokerage and other charges which the Client is obliged to bear but which have not yet been debited, shall be treated as due and payable. All amounts due to GCEN by the Client under this Agreement shall be paid by the Client to GCEN in full without any set-off, counterclaim, deduction or withholding.

### 13. **CLIENT'S WARRANTIES AND OBLIGATIONS**

- 13.1 The Client hereby warrants and represents to GCEN as follows:

13.1.1 the Client has full capacity to enter into this Agreement and to provide instructions to GCEN to enter into contracts, whether as part of Money Remittance Services or FOREX Services;

13.1.2 all orders will be placed in pursuance of the Client's usual trade or business;

13.1.3 the Client is not acting for any third party;

13.1.4 all Contracts instructed to GCEN are to be entered into either for the Client's commercial purposes (in accordance with Article 84(2) RAO) or for its private purposes, but shall in any event not be or represent Contracts for investment purposes; and

13.1.5 all funds to be provided by the Client will be beneficially owned by the Client (or will be held subject to a constitution that entitles the Client to dispose of such funds as if fully beneficially entitled) and will not be subject to any charge, lien or other encumbrance, and the Client will not create or permit the creation of any charge, lien or other encumbrance over any funds so provided.

- 13.2 The warranties in clause 13.1 are deemed to be repeated at every point at which the Client provides an instruction to GCEN.

- 13.3 The Client shall

13.3.1 co-operate with GCEN in all matters relating to the Services;

13.3.2 provide to GCEN in a timely manner all documents, information, items and materials in any form reasonably required and requested by GCEN in connection with the Services and ensure that they are accurate and complete in all material respects; and

13.3.3 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Client to receive the Services.

- 13.4 If GCEN's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors or consultants, then, without prejudice to any other right or remedy it may have and insofar as permitted under applicable laws, GCEN shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client its agents, subcontractors or consultants.

### 14. **LIMITATION OF LIABILITY**

- 14.1 Nothing in this clause 14 seeks to limit GCEN's liability to the Client for death or personal injury resulting from the negligence of GCEN, its employees, agents or sub-contractors, or in any way which is not permitted in accordance with the Payment Services Regulations.

- 14.2 Subject to clause 14.1 above, GCEN's total liability to the Client arising in connection with the performance of the Services shall be limited to damages of an amount equal to the direct loss

incurred, provided that GCEN's liability shall in no circumstances exceed:

- 14.2.1 in the case of FOREX Services, the value of currency as at the Contract date to be purchased by GCEN from the Client at the time the liability arose; and
  - 14.2.2 in the case of Money Remittance Services, the value of the money intended to be remitted at the time the liability arose.
- 14.3 GCEN shall not under any circumstances be liable to the Client for loss of profits or goodwill, anticipated savings, or any type of special indirect or consequential loss (including loss or damage suffered by the Client as a result of an action brought by a third party) arising in connection with the provision of the Services, even if such loss was reasonably foreseeable.
- 14.4 The Client will, on demand by GCEN, indemnify GCEN and keep it indemnified against all losses, damages and costs of any nature suffered by GCEN including any costs suffered by GCEN in covering, reducing or eliminating its risk, arising as a result of any breach by the Client of this Agreement.
- 14.5 GCEN will not be responsible for any interruptions, delays, failures or non-availability affecting the Services which are caused by third party services or errors or bugs in software, hardware or the internet on which GCEN relies to provide the Services and the Client acknowledges that GCEN does not control such third party services and that such errors and bugs are inherent in the use of such software, hardware and the Internet.
- 14.6 GCEN is not liable for any contravention of a requirement imposed on it by or under Part 7 of the Payment Services Regulations, where it is obliged to do so in order to comply with its other legal obligations.
15. **DATA PROCESSING**
- 15.1 The parties acknowledge and agree that in order to provide the Services or otherwise to fulfil its regulatory requirements, GCEN may process certain Client Personal Data.
- 15.2 GCEN and the Client agree that in respect of the Client Personal Data:
- 15.2.1 GCEN will in some instances process Client Personal Data as processor on behalf of Client, in which case the provisions of Schedule 1 shall apply; and
  - 15.2.2 GCEN will in other instances process Client Personal Data as controller where GCEN is separately and independently determining the purpose and manner of processing the Client Personal Data (for example, when processing Client Personal Data for the purposes of fulfilling its regulatory requirements), in which case the provisions of clause 15.5 shall apply.
- 15.3 The Client shall:
- 15.3.1 comply with its obligations under applicable Data Protection Legislation in respect of the Client Personal Data that is processed under or in connection with this Agreement;
  - 15.3.2 have sole responsibility for the legality, reliability, integrity, accuracy and quality of any Client Personal Data it provides to GCEN and shall ensure that any instructions it gives relating to the processing of Client Personal Data comply with applicable Data Protection Legislation;
  - 15.3.3 ensure it only provides such personal data that may be requested or required by GCEN for the provision of the Services and no more.
- 15.4 The Client hereby warrants and undertakes that it has all necessary rights to provide Client

Personal Data to GCEN and shall in particular ensure that GCEN is lawfully permitted to process Client Personal Data for and in connection with the Services and the performance of GCEN's obligations pursuant to this Agreement and applicable law and regulatory requirements.

- 15.5 When processing Client Personal Data as controller, GCEN shall limit such processing to that which is required in order to comply with GCEN's legal and regulatory obligations in connection with the Services.
- 15.6 The Client grants GCEN a non-exclusive, perpetual, worldwide, royalty-free license to use, copy, transmit, sub-license, index, model, aggregate (including with other third party data), publish, display and distribute any anonymous and/or aggregated information (including anonymous and/or aggregated information derived from Client Personal Data) obtained in connection with the provision of the Services for GCEN's own purposes.
- 15.7 The Client shall indemnify GCEN on demand against all claims, liabilities, costs, expenses, damages and losses (including all interest, penalties and legal costs and all other professional costs and expenses) suffered or incurred by GCEN arising out of the Client's breach of the Data Protection Legislation, this clause 15 or the data processing terms at Schedule 1. The Client acknowledges that claims include any claim or action brought by a data subject arising from such a breach.

## 16. **INTELLECTUAL PROPERTY RIGHTS**

- 16.1 GCEN is the owner of or the licensee of all intellectual property rights in the Services and the Portal. These works are protected by copyright and other laws and treaties around the world. All such rights are reserved.
- 16.2 The Client will not, when using the Services or Portal, except as may be allowed by any applicable law which is incapable of exclusion by GCEN and to the extent expressly permitted under this Agreement:
  - 16.2.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Portal in any form or media or by any means; or
  - 16.2.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Portal; or
  - 16.2.3 access all or any part of the Services or Portal in order to build a product or service which competes with them or use or attempt to use them to directly compete with GCEN.

## 17. **CONFIDENTIALITY**

- 17.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except as permitted by clause 17.2.
- 17.2 Each party may disclose the other party's confidential information:
  - 17.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 17; and
  - 17.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.



18. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

## 19. **FORCE MAJEURE**

19.1 GCEN shall not be deemed to be in breach of this Agreement or otherwise have any liability to the Client for any failure or delay on the part of GCEN in performing its obligations under this Agreement arising from or attributable to abnormal and unforeseeable circumstances beyond the control of GCEN, the consequences of which would have been unavoidable despite all effort to the contrary (a "**Force Majeure Event**"). GCEN shall notify the Client of the occurrence of a Force Majeure Event as soon as is reasonably practicable following the occurrence of such Force Majeure Event.

19.2 Where a Force Majeure Event occurs, GCEN may (at its option), on the subsistence of such Force Majeure Event for fourteen (14) consecutive days, and will, on the subsistence of such Force Majeure Event for twenty-eight (28) consecutive days, cancel any as yet unexecuted money remittance and refund to the Client's payment account at its credit institution any such amount. The Client shall not be entitled to compensation in respect of any Force Majeure Event occurring.

## 20. **DEFAULT**

20.1 GCEN shall have the right to close any Contract by entering into an equal but opposite Contract or, at its absolute discretion, by any other actions deemed necessary, or to terminate this Agreement in its entirety, in each case without any further liability for any loss or otherwise in the event of any of the following:

20.1.1 any default of payment by the Client of any sum due to GCEN;

20.1.2 any other breach by the Client of this Agreement;

20.1.3 if the Client is an individual, it is declared bankrupt or enters into an arrangement with its creditors;

20.1.4 if the Client is a legal entity, it enters into any form of insolvency or administration procedure (other than for the purposes of a reconstruction which has been agreed in advance with GCEN) or is unable to pay its debts as they fall due (as defined in section 123 of the Insolvency Act 1986);

20.1.5 it becomes unlawful for GCEN to give effect to any or all of its obligations to the Client under this Agreement or where GCEN or the Client is ordered by any governmental or regulatory body to cease to perform this Agreement; or

20.1.6 GCEN considers it desirable to do so for its own protection or for the protection of its other Clients.

20.2 Where a Contract is closed out by GCEN in accordance with clause 20.1, a Contract note will be issued and dispatched to the Client detailing the specifics of the closure and any loss suffered by GCEN as a result of such closure.

20.3 GCEN is entitled to a full indemnity from the Client in relation to all costs incurred by GCEN in reversing or otherwise terminating all Contracts still subject to execution.

## 21. **DURATION AND TERMINATION**

21.1 Subject as set out below, this Agreement shall continue in force until terminated by the Client giving to GCEN written notice of one (1) month or by GCEN giving to the Client two (2) months' written notice.

- 21.2 Either party shall be entitled to terminate this Agreement immediately by written notice to the other if:
- 21.2.1 that other party commits any material breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within fourteen (14) days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
  - 21.2.2 either party enters into any form of insolvency or administration procedure (other than for the purposes of a reconstruction which has been agreed in advance with the other party) or is unable to pay its debts as they fall due (as defined in section 123 of the Insolvency Act 1986); or
  - 21.2.3 if GCEN ceases to be regulated by the FCA in accordance with the Payment Services Regulations.
- 21.3 GCEN may terminate this Agreement as provided for in clause 20.1 (default by the Client).
- 21.4 Any waiver by either party of a breach of any provision of these terms shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 21.5 The rights to terminate given by this clause 21 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.
- 21.6 In the event of termination, however arising, GCEN has the power and right to ensure that all Contracts entered into for the Client prior to termination taking effect shall be executed and settled for the Client's account.
- 21.7 Subject as otherwise provided in this Agreement, upon the termination of this Agreement for any reason and following the conclusion of any foreign currency transacted under it, neither party shall have any further obligation to the other save for any rights, obligations and/or liabilities which have arisen under this Agreement but have not been discharged prior to termination.
22. **DISPUTES**
- 22.1 The Client shall notify GCEN if at any time it is dissatisfied with GCEN's performance of this Agreement (the "**Dispute**").
- 22.2 Without prejudice to their respective rights under this Agreement, GCEN and the Client shall attempt to resolve any Dispute in good faith.
- 22.3 GCEN will send a written reply responding to all points of the Dispute via email to the Client within an adequate timeframe and no later than fifteen (15) Business Days after the day on which GCEN is notified by the Client.
- 22.4 In exceptional circumstances, if GCEN cannot give the Client a full written reply in accordance with clause 22.2 for reasons beyond GCEN's control, then GCEN must give the Client a holding reply, clearly indicating the reasons for the delay, and specifying a deadline by which to send the full written reply which is no later than thirty-five (35) Business Days after the day on which GCEN is notified by the Client.
- 22.5 If the Dispute remains unresolved, the Client may be entitled to refer it to the Financial Ombudsman Service ("**FOS**"). Further information, contact details and eligibility requirements are set out on [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).
23. **NOTICE**
- 23.1 Any notice, document or other information to be given by one party to the other party under or

in connection with this Agreement (a "**Notice**"):

- 23.1.1 shall be in writing (which shall include email);
- 23.1.2 shall be in the English language; and
- 23.1.3 shall be delivered personally, or sent by first class post (or air mail if overseas) or by email to the party due to receive the Notice to the address specified in clause 23.2 (or to another address, person, or fax number specified by that party by not less than seven (7) days' written notice to the other party and received by the other party before the Notice was despatched).

GCEN may require the Client to provide documents in a particular format, such as a spreadsheet or PDF.

23.2 The address referred to in Clause 23.1.3 is:

23.2.1 in the case of GCEN:

Address: Global Currency Exchange Network Limited  
3<sup>rd</sup> Floor, 20 Dering Street, London, W1S 1AJ

Email: [info@gcpartners.co](mailto:info@gcpartners.co)

Marked for the attention of: Account Management: Termination

23.2.2 in the case of the Client, such details as the Client has notified to GCEN.

23.3 Unless there is evidence that it was received earlier or later, a Notice is deemed given:

- 23.3.1 if delivered personally, when left at the address referred to in clause 23.2;
- 23.3.2 if sent by post, except air mail, two (2) Business Days after posting it;
- 23.3.3 if sent by air mail, six (6) Business Days after posting it; and
- 23.3.4 if sent by email, when received in full by the recipient.

23.4 In the event of suspected or actual fraud or security threats, GCEN will contact the Client using a secure procedure via a recorded telephone line and/or via [compliance@gcpartners.co](mailto:compliance@gcpartners.co).

## 24. MISCELLANEOUS FURTHER PROVISIONS

24.1 Nothing in these terms shall create, or be deemed to create, a partnership or the relationship of employer and employee between the parties.

24.2 This Agreement, of which these terms form part, together with any documents referred to in this Agreement or annexed hereto, represents the entire agreement between the parties and supersedes all previous arrangements, agreements and understandings between the parties in respect of the Services.

24.3 This Agreement may be modified by GCEN providing written notice to the Client no later than two (2) months before the date on which the proposed changes are to take effect. Any such proposed changes will apply automatically from the date set out in the written notice from GCEN to the Client, unless the Client notifies GCEN to the contrary before the date on which the proposed changes are to take effect. The Client will be deemed to have accepted such proposed changes if it does not notify GCEN to the contrary before the date on which the proposed changes are to take effect. The Client has the right to terminate this Agreement by

providing notice to GCEN at any time before the date on which the proposed changes are to take effect.

- 24.4 Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty of any person (whether party to this Agreement or not) except as expressly provided herein, and that all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.
- 24.5 If any one or more of the provisions contained in this Agreement shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall in no way be prejudiced or otherwise affected.
- 24.6 This Agreement is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.
- 24.7 GCEN may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement.

25. **THIRD PARTY RIGHTS**

- 25.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

26. **GOVERNING LAW AND JURISDICTION**

- 26.1 This Agreement and all non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the Laws of England and Wales.
- 26.2 Each party hereby submits to the exclusive jurisdiction of the English Courts to settle any dispute arising from or connected with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or relating to any non-contractual or other obligation arising out of or in connection with this Agreement) or the consequences of its nullity. The parties agree that the courts of England are the most appropriate and convenient courts to settle any such dispute and, accordingly, that they will not argue to the contrary or bring proceedings to that effect.

## SCHEDULE 1: DATA PROCESSING SCHEDULE

### 1. INTRODUCTION

- 1.1 This Schedule sets out the terms upon which GCEN will process personal data on the Client's behalf when providing the Services.

### 2. DEFINITIONS

- 2.1 In this Schedule, save where the context requires otherwise, the following words and expressions have the following meaning:

**"Data Subject Request"** means a request made by a data subject to exercise any rights of data subjects under Data Protection Legislation relating to the Personal Data;

**"EEA"** means the European Economic Area;

**"Personal Data"** means the personal data described in Annex 1 (*Data Processing Information*) and any other personal data processed by GCEN on behalf of the Client pursuant to or in connection with this Agreement;

**"Personal Data Breach"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed by GCEN or any Sub-processor;

**"Sub-processor"** means any data processor (including any affiliate of GCEN) appointed by GCEN to process Personal Data on behalf of the Client; and

**"UK"** means the United Kingdom.

### 3. PROCESSING OF THE PERSONAL DATA

- 3.1 Each party acknowledges and agrees that for certain purposes of this Agreement and Data Protection Legislation, the Client shall be the controller and GCEN the processor in respect of the processing of Client Personal Data carried out by GCEN on behalf of the Client.
- 3.2 Annex 1 (*Data Processing Information*) to this Data Processing Schedule describes the subject matter, duration, nature and purpose of processing and the Client Personal Data categories and data subject types in respect of which GCEN may process on Client's behalf in order to deliver the Services.
- 3.3 GCEN shall not process the Client Personal Data other than in accordance with the Client's documented instructions (whether in this Agreement or otherwise) unless processing is required by applicable law to which GCEN is subject, in which case GCEN shall, to the extent permitted by such law, inform the Client of that legal requirement before processing that Client Personal Data.
- 3.4 GCEN shall inform the Client if, in its opinion, an instruction it receives from the Client pursuant to this Agreement infringes the Data Protection Legislation.

### 4. CLIENT WARRANTY

- 4.1 The Client warrants that it has all necessary rights to provide the Personal Data to GCEN for the processing to be performed in relation to the Services.

## **5. GCEN PERSONNEL**

- 5.1 GCEN shall treat all Personal Data as confidential and shall inform all its relevant employees, contractors and/or any Sub-processors engaged in processing the Personal Data of the confidential nature of such Personal Data.
- 5.2 GCEN shall take reasonable steps to ensure the reliability of any employee, contractor and/or any Sub-processor who may have access to the Personal Data, ensuring in each case that access is limited to those persons or parties who need to access the relevant Personal Data, as necessary for the purposes set out in paragraph 3.3 in the context of that person's or party's duties to GCEN.
- 5.3 GCEN shall ensure that all such persons or parties involved in the processing of Personal Data are subject to:
  - 5.3.1 confidentiality undertakings or are under an appropriate statutory obligation of confidentiality; and
  - 5.3.2 user authentication processes when accessing the Personal Data.

## **6. SECURITY**

- 6.1 GCEN shall implement appropriate technical and organisational measures to ensure a level of security of the Personal Data appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed, and shall take all measures required pursuant to Article 32 GDPR.

## **7. SUBPROCESSING**

- 7.1 The Client hereby grants its specific authorisation to the appointment of the Sub-processors listed in Annex 1.
- 7.2 If GCEN seeks to replace any existing Sub-processor and/or appoint any new Sub-processor, GCEN will provide the Client with a reasonable opportunity to object to the change prior to the replacement or appointment of the Sub-processor. The Client shall be provided with at least thirty (30) days to object to the change.
- 7.3 The Client's sole remedy if it does not agree to the replacement or appointment of a Sub-processor shall be to terminate the Agreement and refund of any prepaid fees and charges for the period after the date of termination.
- 7.4 With respect to each Sub-processor, GCEN shall:
  - 7.4.1 enter into a written contract with the Sub-processor which shall contain terms materially the same as those set out in this Schedule;
  - 7.4.2 within ten (10) Business Days of the Client's request, provide the Client with details of all or any of the Sub-processors, including full details of GCEN's ability to require the deletion and/or return of the Personal Data held or processed by the Sub-processors; and
  - 7.4.3 remain liable to the Client for any failure by the Sub-processor to fulfil its obligations in relation to the processing of any Personal Data.
- 7.5 An overview of the Sub-processors GCEN relies upon as at the Commencement Date (and which are authorised by the Client), including their functions and locations, is set out in Annex 1 (*Data Processing Information*).

## **8. DATA SUBJECT RIGHTS**

- 8.1 GCEN shall refer all Data Subject Requests it receives to the Client without undue delay.
- 8.2 GCEN shall co-operate as reasonably requested by the Client (insofar as technically possible) to enable the Client to comply with any such request.

## **9. INCIDENT MANAGEMENT**

- 9.1 In the case of a Personal Data Breach, GCEN shall immediately and, in any event, not later than 24 hours after having become aware of it, notify the Personal Data Breach to the Client providing the Client with sufficient information which allows the Client to meet any obligations to report a Personal Data Breach under Data Protection Legislation, and any further information the Client reasonably requests.

## **10. DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION**

- 10.1 GCEN shall, at the Client's request, provide reasonable assistance to the Client with any data protection impact assessments which are required under applicable Data Protection Legislation and with any prior consultations to any Data Regulator of the Client or any of its affiliates which are required under Data Protection Legislation, in each case in relation to processing of Personal Data by GCEN on behalf of the Client and taking into account the nature of the processing and information available to GCEN.

## **11. DELETION OR RETURN OF PERSONAL DATA**

- 11.1 On cessation of processing of Personal Data by GCEN, or termination of this Agreement, GCEN shall (at Client's election) return to Client or securely delete the Personal Data (and procure that any Sub-processor does the same) unless required to retain such data in order to comply with applicable laws.

## **12. AUDIT RIGHTS**

- 12.1 GCEN shall make available to the Client on request all information reasonably necessary to demonstrate compliance with this Schedule and allow for and contribute to audits in accordance with GCEN's or its Sub-processors policies in place from time to time. GCEN shall allow a representative of the Client to inspect GCEN's premises and/or GCEN's compliance with the obligations laid down in this Schedule, provided such representative has been approved in advance by GCEN and is subject to appropriate confidentiality undertakings.
- 12.2 Prior to conducting any audit pursuant to paragraph 12.1, the Client must submit an audit request to GCEN and the Client and GCEN must agree the start date, scope and duration of and security and confidentiality controls applicable to any such audit. Where there has been a Personal Data Breach or the Client reasonable suspects there has been a Personal Data Breach, GCEN shall allow the Client to audit its compliance with this Schedule within seven (7) days of the Client's notice.
- 12.3 GCEN may (acting reasonably) object to the appointment by the Client of an independent auditor to carry out an audit pursuant to paragraph 12.1 and, where this is the case, the Client shall be required to appoint another auditor or conduct the audit itself.

## **13. INTERNATIONAL TRANSFERS OF PERSONAL DATA**

- 13.1 GCEN must not transfer or otherwise process the Personal Data outside the UK or, the EEA without obtaining the Client's prior written consent.

**14. COSTS**

- 14.1 The Client shall pay any reasonable costs and expenses incurred by GCEN in meeting the Client's requests made under paragraphs 8, 10 and 12 of this Schedule, provided that such costs and expenses are agreed in writing by both parties in advance of being incurred.

**15. MISCELLANEOUS**

- 15.1 Any obligation imposed on GCEN under the Agreement in relation to the processing of Client Personal Data shall survive any termination or expiration of the Agreement.



## ANNEX 1: DATA PROCESSING INFORMATION

This Annex 1 includes certain details of the processing of Personal Data as required by Article 28(3) UK GDPR.

<b>Subject matter, nature and purposes of the processing of Personal Data</b>	Processing for the purposes of provision of the Services and any technical support in connection with the Client's use of the services.
<b>Duration of the processing</b>	The duration of this Agreement.
<b>Types of Personal Data</b>	
<b>Categories of data subjects</b>	
<b>Sub-processors and their functions and location</b>	