

# Fluid Finance App Terms of Use

Last modification: 14 February 2023

This document contains the terms and conditions ("**Terms**") governing your use of the mobile App and the web App ("**App**") developed by Fluid Finance SA ("**Fluid Finance**", "**Company**", "**we**" or "**us**").

Please note: all banking services are offered via our partners. Fluid Finance is not a bank, nor a regulated entity.

**Risk Warning: Fluid Accounts (and Digital Products, including digital cash) are offered by Fluid Finance and no other party. The purchase of a savings product (including Fluid Accounts), as well as Digital Products, is a sale transaction between you and Fluid Finance. As set out in these Terms, no partner of Fluid Finance bears any responsibility or liability in relation to Digital Products. The savings product (including Fluid Accounts and other Digital Products) are not safeguarded funds and not subject to investor protections, including not being insured by the FDIC in the United States.**

The App is operated by Fluid Finance, a company duly incorporated under the laws of Switzerland, with registration number CHE-323.697.011 and official address at Quai du Mont-Blanc 3, 1201 Geneva.

The Company operates the App and the Execution Interface. Fluid Finance acts as a technological provider.

When installing the App, you are invited to agree with these Terms. You should therefore take the time to read this document carefully and thoroughly.

## Important notice

Prior to accessing, purchasing or using the App, you must inform yourself of and observe any regulations applicable to you.

Accessing, purchasing or using the App may be restricted by law in certain jurisdictions and activities undertaken through the App may be subject to specific regulations or review by certain authorities.

A failure to comply therewith may result in sanctions as provided for in the concerned regulations.

## Territorial limitation

Fluid Finance SA does not allow residents of certain countries to use its services. The App is not available for residents from our Restricted Countries. See Annex 5 for a list of these countries.

## 1. Definitions

For the purpose of these Terms, the capitalized terms are defined in Annex 1.

## 2. Terms

### 2.1. Legal agreement

When accessing the App or upon download of the App from the Google Play Store or the Apple Store, you are invited to agree to these Terms and the Privacy Notice before completing the registration process.

When you click on "**I agree to the Terms & Conditions and Privacy Policy**", these Terms become a legal agreement between you and Fluid Finance.

By registering as a User, you represent and warrant that you are eighteen (18) years of age or older or have the legal capacity to enter legally binding contracts under Applicable Laws. Misrepresentation of your age to gain access to the App and the Services is a breach of these Terms.

You represent and warrant that registering as a User, using the App and benefiting from the Services are not actions prohibited or otherwise in violation of the laws and regulations of the country, state, province, or other jurisdiction in which you reside or of which you are a citizen. You agree to cease using the App and the Services should these actions become prohibited or otherwise in violation of the laws and regulations after your registration as a User.

By clicking the "**I agree to the Terms & Conditions and Privacy Policy**" checkbox, you confirm that your knowledge of English is sufficient to understand the meaning of the Terms and the Privacy Notice. You hereby consent that you will not hold the Company liable for any losses or damages resulting from a misunderstanding of the Terms or the Privacy Notice.

By clicking the "**I agree to the Terms & Conditions and Privacy Policy**" checkbox when registering a User Account, by subsequently using the App and benefitting from the Services, you acknowledge that you have read, understood and agreed to be bound and comply with these Terms and the Privacy Notice in their latest version, as they may be amended from time to time by the Company. If you do not agree with these Terms and/or the Privacy Notice, you should refrain from using the App and/or benefiting from the Services.

By clicking the "**I agree to the Terms & Conditions and Privacy Policy**" checkbox, you understand and agree to be bound by the terms of our Partners as well (see Annexes 2 and 3), which are an integral part of these Terms.

## **2.2. Scope**

These Terms govern your access and use of the App and of the Services.

You understand that any documentation and publication made available on the App, as well as any notifications made on or through the App or on or through the Website with regards to the Services provided by the Company are also binding with regards to your activity on the App.

The browsing of the Website available at the following URL [www.fluid.ch](http://www.fluid.ch) is governed by distinct terms of use available on the website.

The Personal Data collected on or through the App shall be processed in accordance with our Privacy Notice available on the website.

In case of any discrepancy or ambiguity between the Terms and the Privacy Notice, the Terms shall prevail over all other documents related thereto.

## **3. User account**

## 3.1 Registration

### Registration process

You need to register as a User to access the App and benefit from the Services. At the outcome of the registration process, you become a User and gain access to the App and the Services.

Through the registration process, you need to provide the following Personal Data: Full legal name; E-mail address; Phone number; Place of residence; Answers to the questions related to the basic Suitability Process; All Personal data required to complete the KYC Process. **Please note that, regarding the KYC Process, the Company only collects the necessary information from the Users but the verification is done by our Partners (see Section 10).** Note: for Fluid Accounts, KYC is collected by the Company and our Partners and may be required based on amounts added; see details in the Apps.

The use of temporary email or phone numbers as well as of phone numbers attributed to prepaid cards is strictly prohibited for the creation of a User Account.

Through the registration process, or later, you will be requested to provide certain information pursuant to our Compliance Policies and Applicable Law, including, if necessary, information that will enable us to report to the relevant authorities where we are required to do under Applicable Law. If you fail to reply promptly to any request from us, or if your responses are unsatisfactory, we may close or suspend your User Account and/or you may be unable to use the Services.

### Obligation to provide reliable data

You agree to provide true, accurate, actual and complete information when opening a User Account, and you further agree to maintain and promptly update the information you have provided to ensure it remains true, accurate, actual and complete at all times while you are a User. You are besides obliged to notify the Company of any changes to your Personal data requested through the KYC Process immediately at the following email address: [support@fluid.ch](mailto:support@fluid.ch)

You authorize the Company to use any Personal data or information provided in registering to verify your identity (including any updated information).

You authorize the Company, its Partners or a Third-Party Service Provider listed in Annex 4, to take any measures deemed necessary to verify and authenticate your identity, confirm the information you submit and to take any action we deem necessary based on the results of our investigations.

If you provide any information that is, or that we have reasonable grounds to suspect to be inaccurate, misleading, outdated or incomplete, we reserve the right to, in our sole and absolute discretion, but subject to Applicable Laws, block access to or to suspend, close or terminate your User Account, freeze Assets or your User Account, at any time, with or without advance notice.

The same measures can be undertaken should you fail to notify the Company of changes to your Personal data immediately.

In case of termination, Assets in your User Account will be sent back to a Bank Account given by the User. All fees applicable to such transfer (including but not limited to Service Fees, bank fees for Fiat Assets or network fees for Digital Cash) will be charged to you as a liability towards the Company which will be set-off and withdrawn from your Assets.

To the fullest extent permitted by law, we shall not be liable to make any compensation, monetary or otherwise, following such suspension, freeze, termination or inability to use your User Account.

You are responsible for any fees that we incur with respect to your User Account as a result of any of the foregoing. Such fees will be charged as Service Fees.

You understand and agree that you shall not circumvent or attempt to circumvent any Company's policy about your User status such as temporary or definitive suspensions or other type of access limitations or restrictions.

### **Registration effects**

By registering on the App you agree to:

- (a) The content of these Terms and the Privacy Notice;
- (b) Review and understand the Company's AML Policy;
- (c) Provide true, accurate, actual and complete Personal data as requested in the KYC Process;
- (d) Maintain and promptly update the Personal data and any other information you provide to the Company, and to keep such information accurate, actual and complete;
- (e) Maintain the confidentiality of your password and other information related to the security of your User Account;
- (f) Be fully responsible for all use of your User Account and for any action that takes place through your User Account;
- (g) Not impersonate anybody by opening a false User Account;
- (h) Not use robots, scrappers or other tools to open Accounts or extract Personal data or information from the App.

### **Registration refusal**

The Company reserves the right to reject any registration and to refuse Services to anyone for any reason, at its sole and absolute discretion, and without any obligation to indemnify the concerned person or User.

### **3.2 Account access**

In order to log into your User Account, you will be required to enter your login ID or password and comply with such other security protocols as we may implement from time to time (the "**Security Procedures**"). In some cases, at our sole discretion, we may require additional verbal or electronic confirmation of a transaction prior to processing such a transaction.

You hereby agree to consider your access credentials as Confidential information on any electronic device you use, and you understand to not disclose such information to any third party.

You are responsible for any and all activities conducted through your User Account, notwithstanding that such activities were not authorized by you.

You are solely responsible for maintaining the security and confidentiality of your login ID, password. You agree to notify us immediately of any unauthorized use of your login ID, password as well as of any other breach of security.

You can use your User Account on multiple electronic devices. It is therefore your sole responsibility to ensure that all the electronic devices used are properly secured and that unauthorized access to the App is not permitted. Any unauthorized access to the App on any electronic device by third parties could result in the loss or theft of your assets.

Please note that we will never ask you, for any reason, whether by email, regular mail or telephone, to disclose your User Account password. We will never send you embedded links in an email requesting that you sign onto the App by clicking such a link. If you receive an embedded link by email claiming to be from us, you should not open it or click on the link. The email is not from us and is likely fraudulent and/or a phishing attempt. Never give your User Account password to anyone whom you do not intend to authorize to use your User Account.

Any loss or compromise of your electronic device or security details may result in unauthorized access to the App by third parties and the loss or theft of your assets. You hereby agree to consider your access credentials as Confidential information, and you understand to not disclose such information to a third party.

If you lose access to your User Account, We will be able under certain conditions to get back access to your User Account. The procedures outlined in the App will need to be followed by you in order to regain access to the User Account.

You may not transfer, lease, assign or sell your User Account (or any use thereof) to a third party without the consent of Fluid Finance. In addition, you may not grant any person access to your User Account by communicating your password. If, as permitted by us, you grant express permission to a third party to access or connect to your User Account or if you communicate your password to any third party, you acknowledge that granting permission to a third party to take specific actions on your behalf does not relieve you of any of your responsibilities under these Terms. You are fully responsible for all acts or omissions of any third party with access to your User Account and any action of such third party shall be considered to be an action authorized by you. Further, you acknowledge and agree that you will not hold the Company responsible for, and will indemnify us from, any liability arising out of or related to any act or omission of any third party.

By using the Services, you agree that the Security Procedures are used to verify the authenticity of your information, Orders or other instructions, but not to detect errors in any order or other instruction you transmit or to avoid any misrepresentation. You agree that we may update or amend the Security Procedures at any time.

While we do not have any obligation to monitor your activity on the App, we may implement certain monitoring procedures designed to alert us to fraudulent activity. We are not however responsible for any unauthorized use of your User Account and, to the fullest extent permitted by Applicable Law, we will not be liable for any loss that you may incur as a result of someone accessing your User Account, either with or without your knowledge. To the fullest extent permitted by law, we disclaim any and all liability arising from fraudulent entry and use of your User Account or of the Services (including, but not limited to, liabilities arising from unauthorized activity undertaken through your User Account). If

someone fraudulently obtains access to your User Account, we will take such action as we determine to be warranted, including without limitation, terminating your access, freezing your User Account and/or membership immediately, closing the User Account, and taking all necessary and appropriate actions under Applicable Laws.

### 3.3. Type of Account

#### E-money Wallet (Traditional Account)

We offer, via our Partners, traditional banking services. From your Traditional Account, you have the ability to top up and send traditional currencies. Fluid Finance offers various traditional currencies in the App at its sole discretion. You may also exchange between different traditional currencies in the App, if that functionality is available in your jurisdiction.

Upon opening a Traditional Account via our App, you understand that Fluid Finance only acts as an intermediary between its Partners and you. The E-money Wallet is opened under your name within our Partners, and your funds are held by our Partners, in accordance with their terms and conditions, which are an integral part of these Terms (see Annexes 2 and 3). The agreement is therefore concluded between you and our Partners only.

The KYC Process is operated by our Partners. Fluid Finance only collects the necessary information from the Users and sends it to its Partners (see section 10).

Debit cards can be issued by our Partners upon opening of your Traditional Account.

The table below lists our different Partners according to the user's geographical area (Fluid Finance reserves its right to modify this list):

European Economic Area and United Kingdom	<p>Accomplish Financial Limited <b>(“AF Payments”)</b></p> <p>33 Lowndes Street Knightsbridge London SW1X 9HX United Kingdom</p> <p>AF Payments is an Authorized Electronic Money Institution (EMI) operating from the United Kingdom under the permission and supervision of the Financial Conduct Authority, with registration number 900440. It is authorized to offer financial products in the European Economic Area and the United Kingdom.</p> <p>AF Payments is also a Principal Member of Mastercard.</p> <p>AF Payments Limited is registered in England and Wales with Company Number 09356276. Mastercard Products issued by AF Payments Limited pursuant to a license by Mastercard International.</p>
---	--

<p>European Economic Area and United Kingdom</p>	<p>Modulr Finance Limited is a company registered in England with company number 09897957 and ICO Registration: ZA183068.</p> <p>The Account is provided by Modulr FS Limited, regulated by the Financial Conduct Authority for issuance of electronic money (FRN 900573).</p> <p>Modulr Finance B.V. is a company registered in the Netherlands with company number 81852401.</p> <p>Modulr Finance B.V. is regulated by De Nederlandsche Bank NV.</p>
<p>United States</p>	<p>Evolve Bank &amp; Trust ("<b>Evolve</b>")</p> <p>Triad Centre III 6070 Poplar Avenue, Suite 100 Memphis, TN 38119 United States</p> <p>U.S. residents may be eligible to apply for a prepaid account and debit card with Evolve, Member FDIC, through the App. During the application process and periodically thereafter, you will be presented with certain agreements, disclosures, notices, and other information ("<b>Evolve Documents</b>") governing your relationship with Evolve as it pertains to the account, card, and related services described in the Evolve Documents ("<b>Evolve Services</b>"). Evolve is the financial institution that provides the Evolve Services. We facilitate the delivery of Evolve Services by obtaining, processing, and sharing your information and transaction instructions with Evolve, but we do not hold or transfer your money in connection with the Evolve Services. We offer our own services, and the services of other third parties, that are separate from the Evolve Services described in the Evolve Documents ("<b>Non-Evolve Services</b>"). Evolve is not responsible or liable for the Non-Evolve Services, even if the Non-Evolve Services are financial in nature and seem related to the Evolve Services. Please refer to the terms and conditions governing the Non-Evolve Services for more information. In the event of a conflict between the Evolve Documents and these Terms or any other terms governing Non-Evolve Services, the Evolve Documents will control, but only as they relate to the Evolve Services.</p> <p>Evolve Services are offered through our Related Entity in the United States, Fluid Finance SA, LLC. With respect to the Evolve Services, references to "Company," "we," or "us" includes Fluid Finance SA, LLC.</p>

### Fluid Account(s)

Fluid Finance offers accounts that are related to its Digital Cash product. These are not Bank Accounts. Your Digital Cash is held by Fluid Finance. You may use Digital Cash in your Fluid Account to make purchases in the digital world.

The purchase of Digital Cash is offered by FluidFi Pte. Limited, a company incorporated in Singapore. The User purchases Digital Cash (using Fiat Currencies) from the Fluid Finance Limited to fund a Fluid

Account. Purchase details are available in the App. The Company has no repurchase obligation but may do so at its sole discretion, based on a best effort basis.

Digital Cash is a digital representation of a traditional currency. For example, our digital dollar is a digital representation of a US dollar. Digital Cash is always 1:1 backed by traditional currency held with our bank Partners; Digital Cash is not legal tender and may not be transmitted through the banking system.

You should be aware of the risks related to Digital Cash. For Digital Cash held within Fluid Finance there is no (or very limited) risk of theft, as all related funds are held in Bank Accounts with regulated, investment-grade bank partners. Digital Cash may also be sent outside of Fluid Finance, in the digital world, by connecting a Web3 wallet to Your Fluid Account. In this case, You take over responsibility for the control of the Digital Cash. In this case, as Digital Cash has moved outside of Fluid Finance and into your own possession, Fluid Finance is not responsible if you lose control of your Digital Cash.

For all holdings in Fluid Accounts, Fluid Finance may pay a share of fees from our in-house exchange activities. This is referred to as a target interest rate and varies from time to time. This fee sharing is solely at the discretion of the Company and is not an obligation of Fluid Finance. The Company reserves the right to change the target interest rate at any time. By opening a Fluid Account, you accept that the Digital Cash in your Fluid Account may be used in our internal exchange operations to facilitate liquidity provision. The User can choose to opt-out. If the User chooses to opt-out, he must inform the Company promptly upon acceptance of these Terms.

From a Fluid Account, it is possible for a user to purchase various Digital Products. These Digital Products are not traditional financial products and are not covered by investor protections. Terms for various Digital Products are set out in the Annexes to this Agreement.

Regarding Fluid Account(s), KYC Process is operated by the Company (see section 10).

## **4. The app**

Users access Services through the App. The App is not an exchange (centralized or decentralized), nor an organized or multilateral trading facility or a trading venue.

The Execution Interface allows you to directly place Orders. Regarding the E-money Wallet, you understand and accept that the Company only provides the software to transmit the Order to Third-Party Service Provider who Execute the Orders placed by the User within the App (e.g. Currencycloud Ltd), according to their own terms and privacy notice. The Execution Interface does not constitute and should not be regarded as a recommendation or endorsement of the quality, service level or qualification to which it is interfaced.

## **5. Funds on account**

5.1. Fluid Finance works with its Partners to ensure that any funds deposited by Users are as safe as possible. Our financial technology partners have relationships with banks in their jurisdictions who hold deposited monies as client safeguarded funds (in the EEA and the UK) and as FDIC-insured funds (in the United States). These Partners also have insurance policies in place that provide further protection. Fluid Finance also holds insurance policies to protect funds, including against fraud and theft.

5.2. The User's Digital Cash is stored on his Fluid Account which is based on the Company's technology. Segregation of User's Fluid Accounts is done by the Company.

5.3. From the App, the user can proceed to the purchase of Digital Cash, by using either an E-money Wallet or an external Bank Account.

5.4. By purchasing/transferring Digital Cash, you warrant us that:

(a) You are authorized to use the designated payment method;

(b) You authorize us to charge you the Designated Payment Method, and any extra charges, should they arise and be supported by us; and

© You give us the order to store your Digital Cash in your Fluid Account.

5.5. The Company retains the right, in its sole discretion, to determine whether to support or allow Transactions related to any Digital Cash. The Company may discontinue or terminate any support for any Digital Cash at any time for any or no reason. Unless otherwise required by law or by law enforcement, the Company will make reasonable efforts to notify you of its decision to cease the support of a Digital Cash on the App.

5.6. If the Company ceases to support the transfer of a particular Digital Cash, the Company will use commercially reasonable efforts to notify you.

## 6. The services

6.1. Orders are only accepted if placed on or through the App. Fluid Finance is under no obligation to Execute Orders placed by other means (telephone, email or other electronic communication). Regarding the E-money Wallet, the User agrees that Fluid Finance only provides the software that allows the Order to be transmitted to its Partners. The Order is then Executed by a Third-Party Service Provider (e.g. Currencycloud Limited), according to their own terms and privacy notice.

6.2. Through the App, the Company allows you to place Digital Cash and/or Fiat Assets in your Fluid Account and/or E-money Wallet. Users confirm they understand that Fluid Finance is not offering any financial instrument or investment advice through the operation of the App.

6.3. Please note that you must send Digital Cash to an address which supports the technology and/or blockchain protocol of that specific Digital Cash. If you send Digital Cash to an address that does not support that specific Digital Cash, or if you send Digital Cash to an incorrect address, you take full responsibility for all the losses that might occur by doing so.

6.4. With regard to E-money Wallet, by clicking "Confirm", "Save" "Invest" or similar term, you are giving an Order to the Company to send the instruction to a Third Party Service Provider to carry out the Transaction on your behalf. With regard to the Fluid Account, the Order is directly Executed by the Company.

6.5. **Fluid Account:** With a Fluid Account, Users can access services offered from time to time via the App.

6.6. **E-money Wallet:** Fiat Assets placed in your E-money Wallet managed by our Partners can be used for accessing the traditional banking, payment and card systems.

6.7. You are informed that through the operation of the App, the Company does not engage in any banking activity nor acts itself as a custodian. Your Fluid Account with the Company is not a Bank Account, a deposit account or a trust or custody account.

6.8. You hereby understand and agree that there may be some delays or lags when you place an Order within the App due to the processing of the Orders. The Company cannot be held responsible for any damage (loss or unrealised gains) incurred as a delay or lag.

**Please note that E-money Wallets are operated and maintained by our Partners, at their sole risk and liability, and according to their terms of use which are part of these Terms (see Annexes 2 and 3).** The Company has no control over the performance or non-performance of the E-money Wallet. Therefore, placing your Fiat Assets into your E-money Wallet is at your sole risk and losses incurred will be suffered by you exclusively. You hereby withhold any claim against the Company for losses incurred or unrealised gains resulting from your E-money Wallet.

## **7. Investigation**

7.1. You understand that the Company or our Partners reserve the right to investigate the source of any assets available on your Fluid Account or E-money Wallet and determine, in the Company's sole discretion, how to handle their disposition in accordance with the internal Company's AML Policy, and any Applicable Laws.

7.2. If, following the review of any funds, a blockchain analysis and/or the circumstances by which You receive them, it appears that you are not the owner of these assets and/or that the asset stemming from criminal or illicit activities, You hereby accept and understand that the Company reserves the right to dispose of these Assets in accordance with the Applicable Laws and to report any findings to the Relevant Authority.

7.3 In the event of a formal request received by the Company from a Relevant Authority and/or from competent tax authorities, the Company shall be entitled to submit your Personal Data to the Relevant Authority and/or to competent tax authorities.

## **8. Orders**

### **8.1. Possible Transactions**

The User may place the Orders through the Execution Interface that are offered from time to time in the App.

### **8.2. Order Execution**

An Order placed from your Fluid Account through the Execution Interface will be Executed and the Transaction will appear in your Fluid Account. An Order placed from your E-money Wallet will be transmitted to a Third Party Service Provider and executed by them, according to their terms and privacy notice.

With regard to your Fluid Account, by clicking "Confirm" or other similar button, you instruct and give Order to the Company to use Digital Cash in your Fluid Account to Execute the Order on your behalf. You are aware and agree that the Company merely Executes the Order and is under no obligation to verify whether the Order is adequate and appropriate. You acknowledge and agree to the absence of

such verification, and that it will not be reminded at the occasion of each Order placed. When we Execute a Transaction based on your Order, we are not able to assess whether the Transaction you make is compatible with your necessities and therefore, you are responsible for your use of Digital Cash whether or not it meets your needs or objectives. All Transactions are Executed automatically subsequent to the User setting the parameter of the Orders and in accordance with Execution procedures which are operated by the Company.

The User is the sole responsible for determining whether any Transaction or the Order(s) placed through the Execution Interface is/are suitable, adapted to his/her financial situation, personal objectives, financial circumstances, and risk tolerance. The User should consult a legal, financial or tax professional regarding his/her specific situation before placing any Order through the Execution Interface within the App.

If you have an insufficient amount of Assets in your Fluid Account to Execute an Order, the Transaction will be canceled.

An Order summary shall appear in your Fluid Account and E-money Wallet and it will indicate at least, but not limited to the following:

- (a) The Order that you placed, as per Section 8.1;
- (b) The amount transacted and whether it was transacted in Fiat Assets and/or Digital Cash;
- (c) The Transaction number;
- (d) The date of the Transaction;
- (e) The fees which are charged for the Transactions;
- (f) The time taken for the Transaction to be Executed;
- (g) The Service fee; and
- (h) The status of your Order.

Notwithstanding the foregoing, you agree that the failure to provide the Order summary or confirmation shall not prejudice or invalidate any Order or any Transaction completed based on such Order. You acknowledge, understand and accept that Fluid Finance is not liable for the amounts and type of Orders which you place on through the App.

### **8.3. Transaction Price**

The Execution Interface is programmed to calculate the optimal Transaction Price for the Execution of the Order. The Transaction Price shall at all times be disclosed to the User.

We do not accept any returns or give Refunds for your purchase of Digital Cash. You will not hold the Company liable for any damages and losses which result from the Transaction Price. The Company may proceed to reimburse at its sole discretion and on a best effort basis.

### **8.4. Legality**

You hereby acknowledge and accept that, under no circumstances, will the Company be obliged to place an Order if the Company suspects that such Transaction would violate any law, rule, regulation or the rules or regulations of any regulatory or self-regulatory organization or be above the threshold defined by the Company. In such an event, you shall not claim against the Company for any lost profits or any opportunities which are lost to Execute a Transaction.

## **9. Security breach**

9.1. The Company shall not be held liable for and shall not remain liable to you for the actions and/or omissions which may result in a Security Breach by a Partner. These actions or omissions shall include the treatment of any information or Personal data which belongs to you.

9.2. The User warrants that he/she shall not hold the Company liable for any actions and/or omissions which result in a breach of any warranties made by a Third Party Service Provider to the Company by virtue of any contractual agreement between them. The Company shall not be held liable for any losses or any damages suffered by the User for any Security Breach or any other form of operational or technical breach which falls under the responsibility of the Third Party Service Provider.

## **10. Eligibility**

10.1.**KYC/AML.** With regard to your E-money Wallet, KYC/AML Process is operated by Fluid Finance's Partners directly. The company's role is only to collect the necessary information (Personal data). With regard to your Fluid Account, to become a User, you may need to pass the KYC/AML Process, conducted by the Company, at the discretion of the Company (usually this has to do with the amount added to the Fluid Account). To comply with KYC/AML requirements, the Company may require additional information and Personal data in order to verify your identity and assess business risk.

10.1.1. The Company uses external Third-Party Service Provider(s) to conduct KYC and AML checks to fulfill its legal obligations and process Personal data. The User shall not hold the Company liable for any losses or damages which may arise for any data loss, misconduct or any other action or inaction which is carried out by the Thirty-Party Services Provider(s).

10.1.2. The list of information, Personal data and/or documents which are requested by the Company to fulfill the KYC Process are set out under par. 10.2.1.

10.1.3. Each User must carry out the KYC Process at least once. The list of information, Personal data and/or documents which are requested by the Company to fulfill the KYC Process may be amended depending on any new regulatory requirements applicable to the Company. The Company, at its sole discretion, reserves the right to request to Users additional information, Personal data, or documents.

10.1.4. Users will also undergo a Suitability Process to ensure that his/her profile is deemed suitable for the purposes of using the Services which are offered by the Company on or through the App. The Company shall also carry out a behavioural analysis of the Users interaction with the App in order to analyse whether there is the possibility of money laundering activity and the funding of terrorism on the App.

10.1.5. The Company may impose limitations on the Services offered to the User based on the Suitability Process which is undertaken by the User. The Company shall not be held liable for any losses or damages resulting from the limitation of the Services which are offered to the User.

10.1.6. On the basis of the Suitability Process, more information or documentation could be required depending on factors which determine the usage of the App, the amounts deposited or the amount of Orders made by the User on the Execution Interface.

10.1.7. Such factors include, but are not limited to:

- (a) The amount of Digital Cash placed on your Fluid Account;
- (b) The amount of Transactions carried out by you in your Fluid Account.

10.1.8. The Company may also request additional information, Personal data and/or documentation when deemed necessary to clarify any doubts relating to your identity, the purpose of the Transactions or usage of your Fluid Account and/or related to any other topic. By not providing these documents, Personal data or information, you hereby consent that the Company may take any action which it deems appropriate, including preventing you from using the App.

10.1.9. The Company reserves its right to reject your Fluid Account registration or to later close your Fluid Account, if you do not provide Us with accurate, complete and satisfactory information, Personal data or documents.

10.1.10. You must provide the Company with all documents and information and Personal data promptly and accurately. You accept that delays from your side to provide documents and/or information may delay the approval of your Fluid Account registration.

10.1.11. The Company shall unilaterally accept or reject potential Users in accordance with its own internal rules, KYC and AML policies, the analysis carried out on the behaviour of the User and on the analysis on the source of the funds relevant legislations, as well as international obligations resulting from Anti-Money Laundering and Countering of Terrorism Financing laws, regulations, and guidelines.

10.1.12. You shall not hold the Company or our Partners liable for any losses or damages which result in the rejection or closing of your Fluid Account or E-money Wallet and/or breach of your obligations under anti-money laundering and countering of terrorism financing laws, regulations and guidelines.

10.2. **Collected Data.** The Company and/or the Third-Party Service Provider(s) will collect and/or process and/or handle the following Personal Data:

10.2.1. **User data.** In order to become a User who can benefit from the Services rendered on the App, the following Personal Data shall be collected:

- (a) User ID (time at which it is created);
- (b) Biometric features used by Face ID;
- (c) Your phone number;
- (d) Your email address;
- (e) Your logs (date and time);
- (f) Your Transactions;

- (g) Balances of Fiat Assets and/or Digital Cash;
- (h) Financial Data as detailed in the Privacy Notice;
- (i) (Any of) your Cookies in accordance with our Cookie Policy;
- (j) Your geographical location.

**10.2.2. KYC & AML data.** The Personal data you provide in the course of your registration or during the KYC Process or while using the App and/or Services will be used in accordance with the Privacy Notice which are hereby incorporated into these Terms. The following Personal Data may be collected for KYC purposes, including but not limited to:

- Full name;
- Date of Birth;
- Place of birth;
- Address (Full details);
- Nationality;
- Valid Identity document (such as an unexpired passport, a valid unexpired national or another government-issued identity card, a valid unexpired residence card or a valid unexpired driving license);
- Selfie or video for facial similarity check;
- Basic suitability question regarding your source of income;
- Basic suitability question regarding your origin of Assets;
- Proof of residence document;
- Proof of Wealth documentation.

10.3. Unless corporate use is approved by the Company, the App is intended solely for individual Users that use the Services **on their own behalf** and who comply with the criteria listed below. Therefore, you represent and warrant that:

- (a) You are at least eighteen (18) years old or of legal age to enter into a binding contract;
- (b) You have the right, authority and capacity to agree to the Terms on your own behalf;
- (c) You will not use a false name, identity or email address owned or controlled by another person with the intent to impersonate that person for any other reason;
- (d) You shall not use a name that is subject to any rights of a person other than yourself without proper authorization;
- (e) You are not a resident of any Restricted Country or any other country that is under FATF sanctions or deemed very high risk by the FIU, FINMA or the self-regulatory organization to which Fluid Finance SA is affiliated;
- (f) Access and use of the App and/or the Services are NOT restricted in your country;
- (g) You have not previously been suspended or removed from using the Services offered on the App;
- (h) You must provide current, accurate identification, contact, and other information that may be required as part of the registration process and/or continued use of the Services;

(i) You understand the nature of Transactions and that you may be exposed to a loss which can be equal to the total amount of Assets visible on your Wallet;

(j) You have regular access to the internet and you have provided us a valid email address which we can use to communicate with you;

(k) You will conduct yourself in a civil manner in all your interactions with us.

10.4 Any legal person, including but not limited to any enterprise, corporation, foundation, association or other legal entity is eligible to use the App, subject to prior approval by the Company (or its Partners) and to the compliance with the KYC Process applicable to corporate clients. A natural person cannot use the App on behalf of an enterprise, foundation, association, corporation or any other legal entity unless a power of attorney has been uploaded onto the App.

Should you not fulfill the conditions for creating a Fluid Account or an E-money Wallet and/or benefiting from the Services, you shall immediately refrain from doing so. In any event, the Company reserves the right to refuse Services to any User at any time.

10.5. If you create a Fluid Account and/or an E-money Wallet, you are solely responsible for maintaining the confidentiality of your password and you are responsible for all activities that occur in relation to your Fluid Account and/or an E-money Wallet. The Company will not be liable for any loss or damage from your failure to maintain the security of your Fluid Account and/or an E-money Wallet. You may not disclose your password to any third party, and you are solely responsible for any use of or action taken under your password through the App.

10.6. You hereby acknowledge and agree that you may not be able to access all or some Services through the App outside of the jurisdictions where the Company is regulated and/or entitled to conduct business. You acknowledge and agree that the Company may suspend or terminate, at any time and without prior notice, your authorization to download, install or use the App and to access and use the Services through the App.

10.7. You may not use the App at any place or in any manner that would violate any Applicable Laws and/or regulations. Any offer of any feature, product or service is void where prohibited. You acknowledge and warrant that when traveling abroad, it is your duty to verify whether in the country where you are traveling, the Services are prohibited, as it is also your duty to check the local laws and regulations in order to make sure that you are not in any breach. It may be amended from time to time. Users who are located in restricted countries must refrain from downloading/using the App.

10.8. The App cannot be used by persons who are on any trade or economic sanctions lists.

## **11. Statistics**

11.1. We provide statistics in your Fluid Account and/or E-money Wallet in order to provide you with a better understanding of your assets, Service Fees which are charged or may be charged. These statistics are provided for information purposes only. Although effort has been made to provide complete and accurate information, we make no warranties, express or implied, or representations as to the accuracy, completeness or reliability of content on these statistics. We assume no liability or responsibility for any error or omissions in the information contained herein. We may discontinue showing this information at any time without notice.

11.2. Any social media posts, advertising material, video content, articles, blog posts as well as any content which is produced by the Company or any Related Entity is purely informative and shall not serve as investment advice, marketing of financial products or as a personal recommendation to you.

## **12. Statement of account**

12.1 A statement of your Fluid Account and/or E-money Wallet, including the amount and type of your assets, may be accessed in electronic format for viewing online on the App. We use commercially reasonable efforts to ensure that the information contained in your statement of your Fluid Account and/or E-money Wallet is accurate and reliable; however, because the information is provided real-time, errors may occur.

12.2 Your Fluid Account and/or E-money Wallet will reflect your actual balance. Your actual balance displayed on the App will be indicative only and shall not engage Fluid Finance or its directors or employees in any way towards you.

12.3 If you believe that your statement of your Fluid Account and/or E-money Wallet contains any errors, please notify us immediately of such error, along with any additional information concerning the error.

## **13. Fees**

13.1. **E-money Wallet:** Transaction Fees are charged by our Partners, according to their terms. Our Partners may modify the Transaction Fees at any time. By clicking "Confirm", you are giving your consent for Service Fees to be charged by the Company for the transmission of the Orders to Third Party Service Providers.

13.2. **Fluid Account:** Fees may be charged by the Company to the Users as set out from time to time in the App.

## **14. Fluid Finance materials**

Any materials that can be found on the App, including but not limited to App Content including video materials or articles, are for informational purposes only. Although effort has been made to provide complete and accurate information, the Company does not make any warranties, express or implied, or representations as to the accuracy, completeness or reliability of content of any information provided. We assume no liability or responsibility for any error or omissions in the information contained herein.

**Any analysis or statistic is purely informative and shall not serve as investment advice or as a personal recommendation to the User.**

## **15. Intellectual property rights**

15.1. The Company reserves all right, title and interest in its and any possible affiliates' Intellectual Property Rights in and to the Execution Interface, the App and/or the Services, the Company name, the domain names and the App Content. Intellectual Property Rights and all other proprietary rights in relation to the App Content available on or through the App (including but not limited to: the Execution Interface, software, mobile software, algorithms, codes, audio, video, text, animations, files,

photographs designs, graphics, layouts, images, video, information and their selection and arrangement for the App, but excluding the Exchange API and software) are the exclusive property of the Company or its licensors.

15.2. With regards to the App Content, Intellectual Property Rights also include rights to (i) the App (ii) the Execution Interface (iii) the Services provided by the Company or any Related Entity and (iv) all designs, layouts, software, databases, interfaces, displayed and technical information associated with the Services or the App.

15.3. All Intellectual Property Rights in and to the App Content not expressly mentioned herein are reserved to the Company. All copyright and other proprietary notices shall be retained on all reproductions of the App Content. Any other use of the App Content, including but not limited to the distribution, reproduction, modification, the making available, the communication to the public, publicly performance, framing, downloading, displaying or transmission, including the creation of any derivative work in whole or in part, without the prior written consent of the Company is strictly prohibited.

15.4. You may not derive or attempt to derive the source code of all or any portion of the App, Execution Interface, software or mobile software (hereinafter referred to as “**Software**”), permit any third party to derive or attempt to derive such source code, or reverse engineer, decompile, disassemble, or translate the Software or any part thereof. The Company shall retain all Intellectual Property Rights and other rights in and to the Software, and any changes, modifications or corrections thereto, subject to open source software used in relation to the App.

15.5. The Company, together with its licensors expressly reserves all Intellectual Property Rights in all text, programs, products, processes, technology, content, source code, object codes, layouts, and other materials, which appear on the App. Access to the Services does not confer and shall not be considered as conferring upon anyone any license under any third party's intellectual property rights.

## **16. License**

16.1. Subject to strict compliance with these Terms and for the purpose of using the App and benefiting from the Services, the Company grants you a limited, non-transferable, non-exclusive, non-sublicensable, revocable license to:

- (a) Download, install and use one copy of the App in object code form only on a mobile device that you own or control;
- (b) Use and display the App Content on your computer screen or mobile devices, such as smartphones or tablets;
- (c) Place Assets into your Fluid Account and/or your E-money Wallet;
- (d) Access your Fluid Account and/or your E-money Wallet;
- (e) Use the App, particularly the Execution Interface, for placing Order(s);
- (f) Using the App and benefiting from the Services in accordance with their intended purposes, subject to your strict compliance with these Terms, Applicable Laws and any of our policies.

(all together hereinafter referred to as the “**License**”).

16.2. We are constantly modifying and improving the App and/or our Services. We may at any time introduce new features, change existing features, or remove features from the App and/or Services at any time and without notice.

16.3 The License granted to you by the Company will automatically extend to any new feature or Service available on or through the App. The License is granted to you subject to the payment of Service Fees and/or any fees which the Company may impose whenever a Transaction is carried out by you. In the event that the Company, at its sole discretion, suspends or terminates the possibility of the User to make use of the App or Services, the License granted by the Company is immediately revoked without any reservation and the User Account shall be closed with immediate effect.

## **17. Reviews, feedback & comments**

17.1. If you provide us with any feedback or comments regarding the App and/or the Services, you grant the Company the right to use such feedback or comments for any purpose without restriction or payment to you. you consent that these comments and reviews are displayed on the App.

17.2. Upon posting any reviews, comments or ratings on Google Play Store or the App Store, you hereby assign all your intellectual property rights that may exist on your reviews to the Company.

17.3. You hereby irrevocably release the Company from and waive all rights against the Company in respect of any liability arising out of or in connection with the publication of any defamatory, infringing or illegal reviews about you.

17.4. You agree to fully indemnify (including court and attorney fees) and hold harmless the Company and Related Entities (including its respective employees, directors and representatives) against any claim or action brought by a third party, arising out of or in connection with any of the reviews left by you on Google Play Store or the App Store. Should you have any claim against any other User, you shall address such dispute directly to such User.

## **18. Closing your account**

18.1 **E-money Wallet:** You may close your account at any time by contacting Support in the App.

18.2. **Fluid Finance:** You may close your account at any time by contacting Support in the App.

## **19. Prohibited actions**

19.1. When using the App and/or the Services, you shall not, including but not limited to:

(a) Disclose your login referential. We will never ask you for your credentials by telephone or email;

(b) Falsely state or otherwise misrepresent yourself or impersonate any other User or person;

(c) Authorize third-parties from using your Fluid Account and/or E-money Wallet. You should not authorize at any time a third-party to use your Fluid Account and/or E-money Wallet. If, however you grant access to a third party, you are solely responsible for granting access to the App to any third parties and the consequences thereof;

- (d) Share your Fluid Account and/or E-money Wallet with another individual or entity. At any time, you should refrain from disclosing your credentials to a third-party;
- (e) Copy, in whole or in part, any of the information on the App or App Content other than for the purposes contemplated by these Terms;
- (f) Exploit the App or the Services or any part of it for any commercial purpose, including any advertisement for your own or any other person's products and services;
- (g) Copy, adapt, modify, perform, translate, reverse engineering, disassemble or decompile any of the software underlying the App or the App, including the Execution Interface;
- (h) Duplicate, copy or reproduce any part of the App or the Services;
- (i) Create or maintain any unauthorized connection to the App;
- (j) Disseminate, launch or use viruses, trojan horses, and other malware using the App;
- (k) Use automated programs and scripts in particular, for the collection of the information on the other Users of the App;
- (l) Copy, modify, distribute or sell any part of the App or Services;
- (m) Introduce any material that contains software viruses, malwares, ransomwares or spywares or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware, mobile devices or telecommunications equipment or any other technologies that may harm the App, the Services or the interests or property of the User or of the Company;
- (n) Introduce backdoors or malicious code that exploits system flaws and vulnerabilities and is used to facilitate remote unauthorized access to a computer system or program;
- (o) Carry out permanent denial of service attacks (PDOS) attack which results in denying the Company or any Third-Party Service Providers;
- (p) Copy, modifying, distributing or selling any part of the Services and/or the App;
- (q) Interfere or attempt to disrupt the Services and/or the App in any way;
- (r) Create any derivative works based on or using the App;
- (s) Use the App and the Services for any public display, public performance, sale or rental;
- (t) Use Company's data or Users' data to develop, create, register, list, trade, clear, or settle any investment product or financial product of any kind;
- (u) Knowingly or recklessly use and/or take advantage of a technical or technological error, loophole or glitch in the App or Services;
- (v) Re-distribute the App or the Services;

(w) Remove any copyright or other proprietary notices from the App Content or, falsify or delete any author attributions, legal or other proper notices or labels of the origin or source material that is uploaded or otherwise provided by you;

(x) Use meta-tags, pay-per-click advertising, or any other “hidden text” using our App’s name or marks or the Company’s trademarks;

(y) Re-sell, deep-link to any page of the App, use, copy, monitor (e.g. scrape), display, download or reproduce any content or information, software or Services available on the App.

19.2. You also warrant that you will not, including but not limited to:

(a) Copy the App, the App Content the Execution Interface or any part of the App;

(b) Copy, reproduce or modify the whole or any part of the App or the Execution Interface, or permit it to be combined with, or become incorporated in any other programs, except as necessary to use the App on devices as permitted in these Terms;

(c) Attempt to reverse engineer the App (except as permitted by law), source code or the Execution Interface;

(d) Use the App in any unlawful manner or for any unlawful purpose, including but not limited to illegal gambling, money laundering, fraud, blackmail, extortion, for illicit Transactions or activities, ransoming data or the financing of terrorism, or other violent activities;

(e) Use the App in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other Users;

(f) Collect or harvest any information or Personal data from the App or our systems or attempt to decipher any transmissions to or from the servers running the App and/or storing the Personal data;

(g) Circumvent any encryption or other security tools used anywhere on the App or in conjunction with the Services (including the theft of usernames, passwords or API keys or using another person’s username, password or API key in order to gain access to a restricted area of the App);

(h) Sell, rent, lease, license, sublicense, transfer, distribute, re-transmit, time-share, or otherwise assign to any third party the App Content, the Personal Data or the Services or any of your rights to access and use the App;

(i) Use any App Content or information on the App or included in the Services in any manner that infringes any copyright, trademark, patent, trade secret, publicity or other proprietary right of any party;

(j) Upload or attempt to upload files that contain viruses, Trojan horses, worms, time bombs, cancel bots, corrupted files, or any other similar software or programs that may damage the operation of the App or another’s property;

(k) Upload, post, email or otherwise transmit to us any submission that you do not have a right to transmit under contractual, fiduciary or other relationships (such as inside information, trade secrets, proprietary and Confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);

(l) Upload, post, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "phishing mail", "spam," "chain letters," "pyramid schemes," or any other form of solicitation using the App, App Content or the Company's trademarks;

(m) Restrict or inhibit any other User from using and enjoying the Services;

(n) Harvest or otherwise collect information about other Users of the App, including email addresses or other personally identifiable information;

(o) Use the App or the Services to pay for, support, receive proceeds from or otherwise engage in any illegal gambling activities;

(p) Upload, post, email or otherwise transmit any material that is illegal, immoral, obscene or defamatory of any person;

(q) Do anything that may adversely affect proper operation of the App or the Services and the reputation and goodwill of the Company;

(r) Manipulate our billing process in order to appropriate Services Fees and/or any fees owed for the Services rendered;

(s) Use the App to manipulate the price of any Asset supported by the App;

(t) Use the information, material available on the App and the App Content for competing, directly or indirectly, with the Company or any Related Entity;

(u) Violate any Applicable Laws, regulations or policies, or these Terms.

19.3. Should you do so, please be informed that you may be irrevocably banned from using the Services and the Company reserves to claim for damages and/or to request injunctions.

19.4. If you breach any of these conditions, representations and warranties under these Terms or the Applicable Laws, we may terminate your use of the App and take legal actions under the Applicable Laws and these Terms.

## **20. Suspension and termination of your account**

20.1. Without limiting other remedies that may be available to us, we also reserve the right, in our sole and absolute discretion, but subject to Applicable Laws, to block access to or to suspend, close or terminate your Fluid Account at any time, with (termination) or without (suspension) prior notice, if:

(a) We believe, in our sole and absolute discretion, that you have breached these Terms;

(b) You provide incorrect, incomplete or misleading information or make a representation or warranty that is incorrect, incomplete or misleading;

(c) You are located in a country where the App cannot be used in accordance with the local laws and regulations;

(d) You breach any payment or delivery obligation or other term of the Terms, any other agreement with us, or any term of any arrangement you have with any financial institution, or any financial institution has suspended or terminated your use of any financial services;

(e) You engage in abusive behaviour, as determined in our sole and absolute discretion including, without limitation, actions which impose an unreasonable or disproportionately large load on our infrastructure, or detrimentally interfere with, intercept, or expropriate any system, data, or information; transmit or upload any material to the App that contains viruses, trojan horses, worms, or any other harmful or deleterious programs; attempt to gain unauthorized access to the App, other accounts, computer systems or networks connected to the App, through password mining or any other means; use the User Account information of another person to access or use the App; or transfer your Account access or rights to your User Account to a third party, unless by operation of law or with our express permission;

(f) We believe, in our sole discretion, that your actions interfere with another individual's or entity's access to or use of the App; defame, abuse, extort, harass, stalk, threaten or otherwise violate or infringe the legal rights (such as, but not limited to, rights of privacy, publicity and intellectual property) of others; incite, threaten, facilitate, promote, or encourage hate, racial intolerance, or violent acts against others; harvest or otherwise collect information from the App about others, including without limitation email addresses, without proper consent;

(g) We are unable to verify or authenticate any information you provide to us in your KYC;

(h) We believe, in our sole and absolute discretion, that your actions may cause legal liability for you, our Users or us;

(i) We have reasonable suspicion that you are directly or indirectly using the App in a way which would violate, or assist in violation of, any law, statute, ordinance, or regulation or sanctions programs, or which would involve proceeds of any unlawful activity; publish, distribute or disseminate any unlawful material or information in violation of Applicable Law or regulation, or these Terms;

(j) We are directed to do so by law enforcement, regulatory authority or court order;

(k) We are required to do so by Applicable Law or regulation;

(l) Your Fluid Account is subject to pending litigation, investigation or governmental proceeding;

(m) You become insolvent or any of your Assets are subject to insolvency proceedings;

(n) You disaffirm, disclaim, repudiate or reject, in whole or in part, the Terms or any transaction undertaken by you through the App;

(o) We believe that someone is attempting to gain unauthorized access to your Fluid Account;

(p) You are convicted of a tax or other crime in any jurisdiction;

(q) We believe there is unusual activity in your Fluid Account or that your User Account is being operated or the App is being used by you in an irregular or improper manner;

(r) Any of your Assets are subject to enforcement of a judgment or are expropriated, compulsorily acquired or resumed on any basis;

(s) Your Fluid Account is empty, inactive or has not been accessed for more than one (1) year;

(t) Anything occurs which, in our opinion, is likely to have a material adverse effect on your ability or willingness to comply with your obligations under the Terms; or

(u) Subject to Applicable Law, for any other reason in our sole and absolute discretion.

In addition, we may discontinue the App at any time. For the avoidance of doubt, our rights under this provision do not affect any other right under these Terms and are subject to the giving of any notice, demand or lapse of time which is required by Applicable Law and cannot be excluded.

20.2 The Company is not responsible for any loss of value of Assets to your Fluid Account resulting from the suspension or closing of your Fluid Account for any of the reasons listed above, including your violation of these Terms or from any government seizure or forfeiture. To the fullest extent permitted by Applicable Laws, you agree that neither we nor any third party acting on our behalf shall be liable to you for any termination of your access to any part of the App.

## **21. Fraud detection**

21.1. You must notify us immediately if you suspect or become aware of any fraud or unauthorized use of your Fluid Account and/or E-money Wallet or any other breach of security by sending us an email at [support@fluid.ch](mailto:support@fluid.ch).

21.2. Upon receipt of written notice from you that the security of your Fluid Account and/or E-money Wallet has been compromised, the Company, along with its Partners, will take reasonable steps to protect your Fluid Account and/or E-money Wallet, including, for example, to prohibit actions initiated by the compromised Fluid Account and/or E-money Wallet. The Company is entitled to accept and rely on Orders, authorizations, instructions and any other actions coming from your Fluid Account and/or E-money Wallet before you warn us that your it has been compromised.

21.3. If You share your mobile device with others, the Company will not be liable for any loss that You may incur as a result of someone else using your Fluid Account and/or E-money Wallet with or without your knowledge. The Company will ensure all Personal data or any form of data which is subject to the Privacy Notice that the Third-Party Service Providers request to be provided, including those needed for fraud checks, are provided to the Third-Party Service Providers with each Transaction submitted for processing.

21.4. You hereby agree to provide the Company upon the first request with all data requested by the Company for processing your Transaction. All Transactions processed by the Third-Party Service Providers will be screened and a number of checks on the Transactions will be done by the Third-Party Service Providers.

## **22. Order cancellation and refunds**

22.1. Once an Order is placed by the User through the Execution Interface and subsequently Executed either by Third Party Service Provider (E-money Wallet) or by Fluid Finance directly (Fluid Account), the User is not entitled to cancellations or Refunds. Through the operation of the Execution Interface and whenever instructed to do so by any national authority, Relevant Authority, tax authorities, national agency or any self-regulatory organization or if after internal assessment, we deem that a Transaction is being made with the intention to circumvent anti-money laundering, tax laws or funding

of terrorism laws, the Company shall take immediate action in preventing the Order from being Executed.

22.2. Through the operation of the Execution Interface, the Company also reserves the right to not allow for an Order to be Executed if the conditions of these Terms are not respected by you. You hereby agree not to unduly oppose any payments processed through the Third-Party Service Providers. Should you unduly oppose to payments processed through the Third-Party Service Providers, you hereby agree to indemnify and hold the Company, any Related Entity and directors, consultants or employees free from all direct and indirect damages and/or fees (including chargeback fees, attorneys and court fees) incurred by such undue opposition.

22.3. We reserve the right to cancel any Transaction affected by such circumstances without any obligation to indemnify the Users.

## 23. Links and linking

23.1 **Third Party Links.** Some websites, apps and resources that are framed or linked to or accessible from the App are owned and operated by third parties. Because we have no control over such websites and resources, you understand, acknowledge and agree that the Company is not responsible or liable for the availability of such external websites or resources, and do not screen, offer or distribute or endorse such websites or the content, products, including financial products, advertising or other materials presented therein, and is not responsible or liable for any such content, advertising, services, products, including financial products, or other materials on or available from such websites, apps or resources.

Use of any website or app or resource controlled, owned, or operated by third parties is governed by the terms and conditions of use (including privacy policies) for those websites, apps or resources and not by the Terms or our Privacy Notice. We reserve the right to terminate any link or linking program at any time.

23.2 **No Liability; Indemnification.** You further understand, acknowledge, and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by, or in connection with use of or reliance on, any such third-party content, products or services available on or through any such website, app or resource. If you decide to access any such third-party website, you do so entirely at your own risk and subject to any terms and conditions and privacy policies posted therein.

You hereby agree to defend and hold harmless the Company from and against all losses that may result from your use of links that may appear on the App or via the Services.

## 24. Taxes

You are aware and accept that we do not provide any legal or tax advice. You are responsible for your compliance with any tax laws, regulations and guidelines which affect the Transactions which you carry out through the Execution Interface. We are not responsible for the verification of your taxation/fiscal integrity. If you are unaware of your fiscal obligations, if need be, you will seek the advice of a lawyer or tax expert.

## 25. Electronic communications

25.1. When you use the App and the Services, or send emails to the Company, you are communicating with us electronically. When sending us emails, you need to use your correct email address. The Company is not responsible or liable for any wrong or misspelled email address or inaccurate or wrong Personal data submitted to the Company.

25.2 By using the App, you agree to receive electronically any communications related to your use of the Services and/or the App. We will communicate with you by email or by posting notices on the App. You agree that all agreements, notices, disclosures, and other communications that are provided to you electronically satisfy any legal requirement that such communications be in writing. All notices from us intended for receipt by You shall be deemed delivered and effective when sent to the email address you provide using the Services for your Fluid Account and/or E-money Wallet.

## **26. Trademarks**

26.1. Company's names and logos and all related product and service names, design marks and slogans are the trademarks or service marks of the Company or its licensors. No trademark or service mark license is granted in connection with the materials contained on the Services. Access to the Services does not authorize anyone to use any name, logo or mark in any manner whatsoever.

26.2. "Fluid Finance" is a registered trademark as a name and logo and [www.fluid.ch](http://www.fluid.ch) a domain name owned by the Company. The trademark "Fluid Finance" together with the other graphics, logos, layouts, designs, page headers, button icons, scripts and service names on the App are the trademarks or trade dress of the Company (referred to as the "**Trademarks**").

26.3. You may not use the Trademarks, including as part of domain names, in connection with any product or service in any manner that is likely to cause confusion or create the impression that the Company endorses any product or service. You may not reproduce or use the Trademarks without the prior written permission of the Company.

## **27. Risk disclosure**

The Services offered through the App involve significant risks.

You hereby confirm that you have carefully and thoroughly read and understood the risks resulting from your use of the App and its Services as described under these Terms.

You hereby acknowledge that you have carefully assessed your financial situation and risk tolerance.

You agree to assume responsibility for any of the risks resulting from these Terms and any other risks, assumptions and decisions involved.

You agree to use the App at your sole risk and to hold the Company, any Related Entity and directors, consultants or employees free from any claim with respect to risks resulting from these Terms.

## **28. Liability and disclaimer of warranties**

28.1. The Services on the App are provided "as is" and "as available" with the customary duty of care applicable to the Execution of Orders. To the maximum extent permitted by Applicable Laws, the

Company and the related entities altogether disclaim all representations and warranties, express, implied, or statutory, including the implied warranties of merchantability, fitness for a particular purpose, and non-infringement, in relation to the Services on the App and the transactions it Executes on behalf of the User and based on the orders given by the User.

28.2. In addition, the Company does not make any representation, warranty, or guarantee regarding the reliability, timeliness, quality, suitability, or availability of the App or the Services, or that the Services will be uninterrupted or error-free. The Company does not guarantee the quality, suitability, speed, safety or ability of the Services and/or the App and/or the Transaction Executed through the Execution Interface on behalf of the user. You agree that the entire risk arising out of your use of the Services and Transactions carried out on your behalf remains solely with you.

28.3. You agree that neither the Company nor any Related Entity nor Third-Party Service Providers is/are responsible for the fitness or conduct of any user or for any service provided by any User. Neither the Company nor any related entity will be liable for any claim or damage arising in connection with the acts or omissions of any User on the App.

28.4. you acknowledge and agree that you access and use the App and the Services at your own risk.

28.5. Any warranty, condition or other term arising out of or in connection with the Services or the Execution of Orders by the Company which might otherwise be implied into or incorporated into these Terms by statute, laws applicable in the country where the Services or Execution of Orders by the Company are used or otherwise (including without limitation any implied term as to quality, fitness for purpose, reasonable care, and skill) is hereby expressly excluded.

28.6. If You have a dispute with one or more User(s), You agree to release the Company, any Related Entities, our Partners and/or Third-Party Service Providers from any claims, demands and damages of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected to such disputes.

## **29. Downtime**

Since most of the Services are web-based, they might be subject to temporary downtime. From time to time, we also update or maintain the App, which will result in the App not being available for a certain period of time ("Downtime"). We do not warrant that the App and the Services operate uninterrupted or error free. We are not responsible for any damages or losses suffered by you because of any failure or interruption of the App, suspension of your access to the App, including any damage occurring as a direct or indirect result of a missed Transaction.

From time to time due to technological factors, scheduled software updates and the performance of other maintenance, as well as factors beyond or within our control, the Site, the Products, or other Services may be temporarily interrupted. Open orders, transfers will be held during Downtime and processed normally following Downtime, canceled or dealt with in such other manner as may be specified by the Company from time to time. The Company shall not be responsible for any loss resulting from Downtime.

## **30. User responsible to update**

You acknowledge that when we perform an update to the App, you would be required or asked to update the version of the App which is available on your device. We strongly recommend you perform these updates immediately due to the fact that these updates might contain security patches, new

services or upgrades that are not available on older versions. We are not responsible for any damages or losses suffered by you because of your failure to perform an update of the App.

### **31. Customer support agent**

If you should have any difficulties, a customer support service is available for You to make contact with one of our Support Agents. Any information or Personal data which is handled by the Support Agent shall be collected and processed in line with the Privacy Notice and with the Company's internal customer complaint procedures.

### **32. Limitation of liability**

32.1. These Terms set out the full extent of our obligations and liabilities with respect to the Services and the provision of the App.

32.2. To the extent permitted by law, the Company disclaims any liability (contract or tort) for any loss or damages resulting from Orders placed on or through the App.

32.3. The Company cannot be held responsible or liable in any way for inaccurate or misleading or in any other manner deceptive information which is not provided directly by the Company on or through the App.

32.4. The Company cannot be held responsible or liable for any errors (including manifest and typographical errors), any interruptions (whether due to any (temporary and/or partial) breakdown, repair, upgrade or maintenance of the App or the Services) or otherwise, inaccurate, misleading or untrue information or non-delivery of information. Each User remains responsible at all times for the accuracy, completeness and correctness of the (descriptive) information (including, availability and any Personal data or other information) displayed on or through the App.

32.5. The App, along with the underlying Execution Interface, requires an internet connection in order to function. Therefore, the User shall not hold the Company and/or any related entity liable or responsible for any damages or losses which may arise from the fact that the User does not have sufficient wifi or internet connection in order for the App and/or the underlying Execution Interface to function properly.

32.6. You hereby irrevocably release the Company and any Related Entity (and its officers, directors, employees and agents) from any damages or claims (including consequential and incidental damages) of every kind or nature, suspected and unsuspected, known and unknown, and disclosed or undisclosed, arising out of the User's interaction with the Execution Interface and/or the App and the Transactions which you instruct the Company to carry out on your behalf.

32.7. To the extent permitted by law, the Company, along with any Related Entity, hereby excludes: (i) all conditions, warranties and other terms which might otherwise be implied by statute, Swiss law or the law of equity; and (ii) any liability for any direct, indirect, punitive or consequential loss or damage (including, but not limited to, damages for deletion, corruption, loss of data, loss of programs, loss of income, profit or revenue; loss of business; loss of profits; loss of anticipated savings; loss of goodwill,

user dissatisfaction, failure to store any information or other content maintained or transmitted by the services, service interruptions, whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable, incurred by any user in connection with the App, the Services, the Execution Interface within the App or these Terms.

32.8. The User understands and agrees that their E-money Wallet is operated by our Partners which do not fall within the scope of control of the Company. The User understands that the company is only a technology provider. The User understands and agrees that the Company is not responsible for any direct or indirect damages which may arise from operations on their Fluid Account and/or E-money Wallet

32.9. The Company and Related Entities will not be liable for any direct, indirect, special, punitive, incidental, exemplary and/or consequential damages arising out of your use of the App, the Services and the Execution Interface within the App. The Company and the Related Entities will not be liable for the quality of the Digital Cash which may be purchased on the Execution Interface. The User shall not hold the Company and the Related Entities liable or responsible for any Digital Cash purchased which are tainted with funds originating from money laundering. The Company and the Related Entities will not be liable for the non-compliance of the User with any laws governing his/her activity on the App.

32.10. the Company and the Related Entities will not be liable in any way if the Services made available on the App are not available. The Company will not be liable for any advertisement made in relation to the Services made available on or through the App.

32.11. The Company and the Related Entities is/are not liable for (partial) interruptions to and downtime or system failure of the Services due to repair, maintenance or update work or for other reasons that it cannot directly control including but not limited to hacks or that only impede use of the services, exchanges, or Third-party Service Providers to any negligible extent, whether foreseeable or unforeseeable. This provision applies to the maximum extent permitted by Applicable Laws.

32.12. In any event, the Company will not be liable for aggregate liability for any claims relating to the App, Services or any Transaction, any losses which might be incurred by you due to price fluctuation whether in tort (including negligence) or otherwise, more than the value of the relevant Transaction.

32.13. The Company is not liable or responsible for the remittance, collection, withholding or payment of the relevant taxes due on Digital Cash you purchase to the relevant tax authorities. You understand and agree that by filing any claim more than thirty (30) days after the discovery of the alleged liability, you will be deemed to have forfeited your rights. Any such claim shall be time-barred.

### **33. Force majeure**

33.1 The Company cannot accept responsibility for any damage, loss, delay, or inconvenience caused to the User by circumstances beyond our reasonable control, whether foreseeable or unforeseeable. Such circumstances, include but are not limited to:

- (a) Act(s) of war or threat of war; or
- (b) Riots, civil strife, or terrorist activity; or
- (c) Industrial disputes, natural or nuclear disasters; or

- (d) Fire, airport closures, bad weather conditions; or
- (e) Interruption or failure of a utility service including lack of electricity; or
- (f) The acts of any local or national government such as an imposition of economic sanctions; or
- (g) Cyber-terrorism, cyber-attacks, hacking, bugs; or
- (h) Nuclear disaster or explosion;
- (i) Any epidemics or pandemics;
- (j) Crypto market collapse or fluctuations;
- (k) Lockdown(s); or
- (l) Instances where the possibility to carry out the Services are materially and adversely affected under the Terms, even though all reasonable precautions, due care, and reasonable alternative measures to avoid these instances have been taken to diminish the inability to perform such Services;
- (m) technical problems, including hardware and software crashes and other malfunctions, blockchain network disruptions and failures, failure of the telecommunications or information services infrastructure, hacking, DDOS attacks, SPAM or failure of any computer, server or software disruptions on account of or caused by vandalism, theft, phone service outages, power outage, Internet disruptions, viruses, and mechanical, power or communications failures

#### **("Force Majeure Events")**

33.2 Neither we, Related Entities, our Partners or Third Party Service Provider will be liable for our failure to perform any obligations under this Agreement due to Force Majeure Events.

33.3 If any law, regulation, rule or decision of any self-regulatory organization, or ordinance, whether domestic or international, becomes effective which substantially alters our ability to offer the App, the Services hereunder, we shall have to terminate the Agreement set forth in these Terms.

33.4 In the absence of fraud or gross negligence, our total aggregate liability to you for any individual claim or series of connected claims for losses, costs, liabilities or expenses which you may suffer arising out of, or in connection with, any breach by us of these Terms shall be limited to a maximum aggregate of the balance in your Fluid Account and/or E-money Wallet at the time of the relevant claim.

33.5 To the extent permitted by Applicable Law, we reserve the right to set-off any damages or amounts owed to us by you for your breach of these Terms, your indemnification obligations, or for your other obligations under these Terms (including, without limitation, Service Fees) and you expressly authorize us to debit Virtual Currencies, Fiat Assets or Digital Cash from your Fluid Account and/or E-money Wallet to account for such liabilities to us.

33.6 Nothing in this clause shall affect any statutory rights or other rights which cannot be excluded under Applicable Law.

## **34. Indemnification**

You agree to defend, indemnify and hold harmless the Company with their respective shareholders, officers, directors, employees, agents (each, an "**Indemnified Party**") from and against any losses, claims, actions, costs, damages, penalties, fines and expenses, including without limitation attorneys' and experts' fees and expenses, that may be incurred by an Indemnified Party arising out of, relating to or resulting from your unauthorized use of the or from any breach by you of these Terms, the Privacy Notice, the Company's AML Policy including without limitation any actual or alleged violation of any law, rule or regulation.

## **35. Entire agreement & severability**

These Terms (including its Annexes), the Privacy Notice and the applicable policies (including the Company's AML Policy), subject to any amendments, shall constitute the entire Agreement between you and the Company with respect to the Services including the App and the Execution Interface. If any provision of these Terms is found to be invalid by a court or competent jurisdiction, that provision only will be limited to the minimum extent necessary, and the remaining provisions will remain in full force and effect.

## **36. Termination**

36.1. You may terminate your Fluid Account and stop using the Services at any time and without notice to the Company.

36.2. The Company may terminate or suspend your Fluid Account or ability to use the Service, in whole or in part, in the event that (i) you violate these Terms or violate any other rules that govern the use of the Services, including policies, (ii) your conduct may harm the Company, Users or others or cause the Company or others to incur liability, (iii) your Fluid Account or Orders have been used for or suspected to be used for illegal, fraudulent or malicious activities or (iv) the Company receives a freezing order, stop order, directive, or any form of order from any judicial body, national authority or governmental authority or governmental agency which is directed towards any account registered under your name or (iv) as otherwise determined by the Company in its sole discretion.

36.3. The Company may modify and adapt the Services, and all App Content and other items used or contained in the Service, at any time without any obligation to indemnify you. The Company is entitled at any time to delete your Fluid Account and block your access to the App in the event it considers that your use of the Services does not fully comply with these Terms or with any Applicable Laws.

36.4. In any case, the Company reserves the right to terminate the Services to anyone at any time without notice for any reason. Your access to, use of, or participation in the Services, including any content therein, may be prevented by the Company at any time after your termination of your Fluid Account and/or E-money Wallet. Notwithstanding such termination, you agree that you will continue to be subject to the obligations which, by their nature, survive such termination or suspension, including the obligations relating to Intellectual Property Rights and conservation of certain information for a certain period of time.

## **37. Reservation of rights**

37.1. The Company retains the right to, in its sole discretion, immediately terminate any Fluid Account, prevent or restrict access to the Services or take any other action to restrict access to the App or Execution Interface. The Company reserves the right and has absolute discretion but not an obligation, to remove, screen or edit any content that violates these provisions or is otherwise objectionable.

37.2. The Company reserves the right to refuse or terminate a Fluid Account if you are otherwise making inappropriate use of your domain name. In any such case, the Company shall duly inform you with a reason why it exercised the right set out in this Section 37. The Company shall proceed to return the assets to you, unless the termination of the User Account was carried out by the Company due to any illicit activity which contravenes any anti-money laundering laws and thereby triggers the Company's obligation to freeze any or all the User's assets until further notice.

## **38. No waiver**

The Company's failure to enforce a provision of these Terms does not constitute a waiver of its right to do so in the future with respect to that provision, any other provision, or these Terms as a whole.

## **39. Modifications**

The Company reserves the right to make any changes to these Terms at any time, as the Company deems necessary or desirable. If we make any material changes restricting or affecting in any way your rights, we will notify you on the App and, when possible, by email, prior to the change becoming effective. Your continued use of the App and the Services after any such changes or after explicitly accepting the new Terms, upon logging into the App and/or using the Services shall constitute your consent to such changes. If you do not agree to any modifications to these Terms, you should stop using the Services. Your use of Services following the date on which such amended Terms are published will constitute your consent to the updated Terms.

The updated version of the Terms will include a new "last modified" date at the top of the Agreement to identify the then-currently applicable Terms. Following receipt of such a notice and the posting of the updated version of the Terms on the App, please review the Terms to ensure that you understand how your rights and responsibilities may have been affected by the revisions.

## **40. Assignment**

You may not assign any of your rights, licenses, or obligations under these Terms. Any such attempt at assignment by you shall be void. The Company may assign its rights, licenses, and obligations under these Terms without limitation.

## **41. Governing law and jurisdiction**

The Terms shall be governed and interpreted in accordance with Swiss law, to the exclusion of any rules of conflict resulting from private international law. Any dispute regarding these Terms must exclusively be brought before the courts of Geneva, subject to an appeal to the Swiss Federal Court. Terms in respect of E-money Wallets, cards and other products offered by our Partners may be subject to different governing laws and jurisdiction; we invite you to check the respective terms for details.

## **42. Contact**

If You wish to contact us regarding these Terms please do so at the following address:

Fluid Finance SA

Quai du Mont-Blanc 3  
1201 Geneva  
Switzerland

or at the following email address: [support@fluid.ch](mailto:support@fluid.ch)

# Annex 1 – DEFINITIONS

**AML Policy** means Anti-Money Laundering and Combating Terrorist Financing rules and regulations in force in all jurisdictions in which the Company operates. This includes all applicable rules and regulations that apply to the Partners of the Company. For the avoidance of doubt, the AML Policy is applicable to all Users who open E-money Wallets and/or Traditional Accounts in the European Economic Area, the United Kingdom and the United States. This includes any cards issued by the Company or our partners. The Company identifies all such Users through the KYC Process as defined in Section 10 of the Terms. Fluid Finance also monitors all User Account transactions to satisfy Anti-Money Laundering and Combating Terrorist Financing rules and regulations. In order to mitigate anti-avoidance, the Company's internal AML rules are not made public. In accepting the Terms, all Users explicitly agree to be subject to the Company's AML Policy.

**App** refers to the Fluid Finance Application available on Android and iOS and the web Application;

**App Content** means the content available on the App which is also accessible on the App and includes the reports, information, analysis and marketing material and videos;

**Applicable Law(s)** means the applicable law to the Terms and/or other laws of other jurisdictions, rules, regulations, directives, circulars, notices, guidelines, and practice notes of any governmental authority.

**Bank Account** means an account opened by a regulated bank, financial institution or custodian which belongs to the User;

**Company** refers to Fluid Finance SA and Related Entities;

**Compliance Policies** means the policies set forth and implemented by the compliance officer in order for the Company to comply with AML obligations.

**Confidential information** means information, idea, concept, material or any other Company's data, not yet entered into the public domain, whether it has been communicated orally or in writing, including but not limited to all information regarding the Company's business, concept or business model, all trade secret, all price lists and User's data, including and in particular the Transaction;

**Digital Cash** means a digital representation of Fiat Assets sold by the Company. Digital Cash may be used as a good in the digital world and the digital representation is not legal tender. The Company acts as a merchant in the sale of Digital Cash. Fluid Finance may, at its sole discretion, repurchase Digital Cash. The Company may also, at its sole discretion, share fees related to its operations (including the operation of savings products); this may be represented as a percentage paid in relation to the amount of Digital Cash held by a User. For the avoidance of doubt, funds held by the Company that represent Digital Cash are the property of the Company. All sales are final. All aspects of Digital Cash are operated by Fluid Finance and not by any of the partners of the Company. No partner bears any responsibility or liability in relation to Digital Cash.

**Digital Products** mean digital goods sold by the Company or Related Entities. These digital goods are not traditional investment products and are not covered by investor protections. Terms for various Digital Products are set out in the Annexes to this Agreement.

**E-money Wallet** means a digital account used for holding Fiat Assets.

**Execution Interface** means the Order management system of the Company;

**“Execution of” or “Execute” or “Executed” or “Executing” an Order(s) and/or Transaction on behalf of Users** means acting to conclude agreements to buy, to sell or to transfer one or more Asset(s) on behalf of Users;

**FATF** refers to the Financial Action Task Force;

**Fiat Asset(s)** means a centralized issued currency which is not backed by a physical commodity and established as a currency by governmental regulations or law.

**Fluid Account** means a digital space for holding Digital Cash provided by Fluid Finance.

**Intellectual Property Right(s)** means including but not limited to, copyrights, patents, registered designs, design rights, database rights, trademarks, domain name rights, trade secrets, know-how, Confidential information or any other proprietary or industrial right, and any other similar protected rights in any country, whether registered or unregistered;

**KYC** means the “Know-Your-Customer” obligations of the Company or its Partners as well as any other Applicable Laws, regulations and guidelines and the Company’s AML Policy;

**KYC Process** means the procedure which the User needs to follow whereby such User provides information to the Company in line with the Privacy Notice and these Terms;

**Order(s)** means the instruction transmitted by a User through the Execution Interface to carry out a Transaction pursuant to these Terms;

**Order summary** means the information which summarizes each Transaction Executed by a User on the basis of the Assets available in the account;

**Partners** mean third-party service providers who provide services to the Company. A non-exhaustive list of Partners is set out in Annex 4.

**Personal data** means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

**Privacy Notice** means the notification which indicates how the Personal Data is handled and processed throughout the use of the App;

**Refund(s)** means a (partial) reversal of a particular Transaction, whereby the funds are reimbursed to the User on the initiative or request of the Company;

**Related Entity/ies** refers to any entity controlled, directly or indirectly by the Company;

**Relevant Authority** refers to the authority within the Applicable Laws where any findings related to anti-money laundering are subject to the investigation in Section 7 of these Terms;

**Restricted Countries** means any state or territory listed in Annex 5;

**Security Breach(es)** means any act or omission that materially compromises either the security, confidentiality or integrity of any information, details or data or the physical, technical, administrative or organizational safeguards put in place that relates to the protection of the security, confidentiality or integrity of information, details or data including any breach or alleged breach of any security standards or such privacy practices;

**Security Measures** means the security checks, protocols, guidelines and policies implemented, from time to time, and maintained by the cybersecurity team with respect to the App;

**Services** means the services made available by the Company on or through the App as outlined in Section 6 of these Terms;

**Service Fees** shall mean any fees displayed on the App which will be charged by the Company for the Services, including but not limited to network fees, third party fees, margin, Transaction Fees, fees charged for Withdrawals, funds transfer fees and dormancy fees.

**Suitability Process** means the process put in place by the Company to carry out a due diligence on Personal data provided by Users in the course of the KYC Process;

**Support Agent** means a Fluid Finance employee or a Third-Party Service Provider who is responsible for providing customer support services to the User;

**Fluid Finance's AML Policy** refers to the anti-money laundering policy which is adopted by the Company which is also applicable for the activities carried out by the User on the App;

**Terms** means these Terms of Use including its Annexes;

**Third-Party Service Provider(s)** means any natural or legal person providing an outsourced service on behalf of the Company, in line with an outsourcing agreement signed by the Company and the Third-Party Service Provider. A list of Third-Party Service Providers is available in Annex 4;

**Traditional Account** means an account for holding Fiat Assets;

**Transaction(s)** means the Execution of an Order on or through the App, using the Execution Interface. The possible Transactions are defined in Section 8.1 of these Terms;

**Transaction Fees** means the amount that the Company will charge in order to carry out a Transaction;

**Transaction Price** means the cost per Virtual Currency or Fiat Asset or the cost of Executing an Order at the time when it was Executed;

**User(s)** means any natural person who completes the KYC Process as defined in Section 10 of the Terms. The User is referred to as "You" and/or "you" and/or as "Your" and/or "your" when indicating the possession of something within the Terms;

**User Account(s)** means the account created upon the User's registration with the App;

**Virtual Currency(-ies)** means a value represented in the digital form, which may be digitally transferred, preserved or traded;

**Website** refers to the website available at [www.fluid.ch](http://www.fluid.ch).

# Annex 2 – Accomplish Financial Limited

## Fluid Debit Mastercard® card Terms and Conditions

These Terms and Conditions apply to Your Fluid Debit Card and Card Account.

You must read these Terms and Conditions carefully. By using Your Card or Your Card Account You will be deemed to have accepted these Terms and Conditions. If You do not accept these Terms and Conditions You should not use Your Card or Your Card Account.

Your Card and Card Account is issued by and Your Card is the property of AF Payments Limited (registered number 09356276), 33 Lowndes Street, London SW1X 9HX, United Kingdom. AF Payments Limited is an electronic money issuer regulated by the Financial Conduct Authority under registration number FRN: 900440. Your Card is not transferable.

If you have any queries or complaints please contact customer services (see details below).

### 1. Definitions

*"App" means the Fluid mobile and web application which is available for download from Apple's App Store and the Google Play Market and via the Website.*

*"Authentication" means entering Your password and completing biometric authentication using fingerprint or facial recognition using Your mobile device, as applicable.*

*"Business Day" means any day (other than a Saturday or Sunday) on which banks are open in London for normal banking business.*

*"Card" means the Fluid Mastercard® Debit card issued to You whether in the form of a plastic, digital or virtual card, under these Terms and Conditions.*

*"Card Account" means the electronic money Account held by You with Us and to which Your Card is linked.*

*"Card Account ID Information" means any and all of the following pieces of information: Your Card details (Card number, expiry date and CVV code), Your PIN, information You use to log in to Your Card Account, and any credentials and information specific to Your Card Account, including any set of security information which must be provided to authorise Transfers.*

*"Customer Services" can be contacted on:*

Email: [support@fluid.ch](mailto:support@fluid.ch)

Website: [support.fluid.ch](http://support.fluid.ch)

Lost or Stolen Cards or Card Account ID Information: [www.support.fluid.ch](http://www.support.fluid.ch)

Available 24 Hours, 7 Days a Week via Website

*"Fees Table" means the table of fees and charges applicable to the Card and Card Account as set out in these Terms and Conditions.*

*"Mastercard®" means Mastercard International of New York or its successors or assigns.*

*"Merchant" means a retailer or any other person or firm or company providing goods and /or services that accepts cards displaying the Mastercard® acceptance symbol in payment for such goods and /or services.*

*"PIN" means the personal identification number which We may issue or approve to be used with Your Card.*

*"Terms and Conditions" means these terms and conditions together with the Fees Table and any supplementary terms and conditions and amendments to them that We may notify You of from time to time.*

*"TPP" means a Third Party Provider who is properly authorised by a regulatory authority to provide Account information services and/or payment initiation services.*

*"Transaction" means any cash withdrawal, purchase of goods and/or services (as appropriate) completed by You using Your Card or Card Account, any Transfer, or any action which alters the balance of Your Card Account, including a redemption instruction.*

*"Transfer" means making a payment from Your Card Account to, or receiving a payment to Your Card Account from, another Account which has an International Bank Account Number (IBAN) and/or a UK bank Account number.*

*"Transfer Bank" means a third party which enables the sending of Transfers from and receipt of Transfers to Your Card Account.*

*"Us" or "We" or "Our" means AF Payments Limited.*

*"Website" means [www.fluid.ch](http://www.fluid.ch).*

*"You" or "Your" means the person entering into these Terms and Conditions with Us.*

## **2. Fees**

2.1. Your use of Your Card and Card Account is subject to the fees and charges set out in the Fees Table. These fees and charges are part of these *Terms and Conditions*. Any or all of these fees/charges may be waived or reduced at Our discretion. Our fees/charges may change over time; if so We will notify You in advance of such changes in accordance with Section 3.1. Your banking provider may charge a fee for the transfer of funds and/or additional ATM fees may be charged by the ATM provider. Any such fees would be in addition to the fees set out in the Fees Table.

2.2. Fees and charges will be paid from Your Card Account at such time as they are incurred. You must ensure Your Card Account balance is sufficient to cover the cost of any Transaction and any associated fees/charges.

### **3. These Terms and Conditions**

3.1. We may change these Terms and Conditions including changing existing fees, introducing new fees, or adding or removing functionality, from time to time. Where required, we will provide You with at least two months' notice before the proposed change comes into effect, however changes that relate to exchange rates shall come into effect immediately if so stated in the change notice. All such changes will be posted on the Website with a link to the amended terms and conditions and shall be notified to You either by (i) sending an email to the email address registered with Your Card Account, (ii) writing to You at the postal address registered with Your Card Account or (iii) requesting that You accept the amended terms and conditions when You access the Website.

3.2. The up-to-date version of these *Terms and Conditions* will be posted on the Website. You should check the Website regularly so that You can see the latest version. You will be bound by these Terms and Conditions and any amendments made to them. We recommend that You print off a copy of these *Terms and Conditions* to keep for Your records.

3.3. You will be taken to have accepted any change We notify to You unless You tell us that You do not agree to it prior to the relevant change taking effect. In such circumstance, We will treat Your notice to Us as notification that You wish to terminate these *Terms and Conditions* immediately and We will refund the balance on Your Card Account. If you do this, You will not be charged a refund fee.

### **4. Scope of these Terms and Conditions**

4.1. These Terms and Conditions govern Your use of Your Card and Card Account. The funds for all Transactions are held in Your Card Account and no interest will be paid on these. When You make a Transaction using Your Card or Card Account the value of the Transaction plus any associated fees payable will be deducted from Your Card Account and used to complete the Transaction.

4.2. Your Card is a Debit card and the funds loaded onto Your Card are known as electronic money. Your Card is not a credit card or a charge card. You can only spend to the value of the funds that are loaded onto it. All Cards are issued by Us pursuant to a licence by Mastercard®.

4.3. Although Our activities are regulated by the Financial Conduct Authority, neither Your Card nor Your Card Account is covered by the Financial Services Compensation Scheme. However the funds in Your Card Account are safeguarded by Us in accordance with the Electronic Money Regulations 2011, which means that they are kept separate from Our assets so in the unlikely event We become insolvent, Your funds remain safe from Our creditors.

### **5. Card issuance**

5.1. To apply for a Card Account and Card You must be at least 18 years old. Before We can set up a Card Account for you and issue You a Card, We will need to know some information about You. We will check Your identity and where You live. We may use third parties to obtain this information and carry out checks on Our behalf, this may include using credit reference agencies. However a credit check is not performed and Your credit rating will not be affected.

5.2. We reserve the right to refuse to set up a Card Account or issue You a Card.

5.3. If You have any problems with Your Card Account or Card please contact Customer Services.

5.4. If You receive a plastic Card, You must sign it as soon as You receive it and activate it. Activation instructions are set out on the packaging that Your Card is attached to. Your Card cannot be used until this is done. A virtual Card can be used immediately upon receipt and does not need to be activated.

## **6. Loading Your Card Account and requesting redemption**

6.1. Funds can be loaded on to Your Card Account by You as set out in the App. Depending on the method You use to load Your Card Account, a fee may be charged (see the App for details). Provided that there are sufficient funds in Your Card Account to cover any applicable fees, the funds will be credited to the Card Account balance once they have been received by Us.

6.2. Limits apply to the number of times Your Card Account may be loaded in a day. Minimum and maximum load limits also apply, and these are set out in the Fees Table. We reserve the right to refuse to accept any particular load Transaction.

6.3 You have the right to redeem the funds in Your Card Account at any time in whole or in part up until the date that is 6 years after the expiry date or the termination date of the contract. To do so, please contact Customer Services. We will only redeem funds to a bank Account in Your name. We may ask You to provide Us with documents, evidence and other information to verify Your identity or to enable Us to comply with applicable legal and regulatory requirements.

6.4 We may charge You a fee (see Fees Table) to cover redemption costs on each occasion that You redeem if You redeem all or part of Your balance at the following times:

- a. where redemption is requested before termination of these Terms and Conditions; or
- b. where redemption is requested more than one year after termination of these Terms and Conditions.

## **7. Use of Your Card Account, Your Card and the App**

7.1. You can use Your Card to purchase goods and services anywhere Mastercard® is accepted. You may also be able to withdraw cash at an ATM or over the counter at a financial institution displaying the Mastercard® logo, subject to there being sufficient funds allocated to Your Card and the Merchant, ATM supplier or financial institution being able to verify this online. You must keep Your PIN and other Card Account ID Information safe and ensure that You log out of the App after using it.

7.2. There are spending and withdrawal limits for the use of Your Card; please see the Fees Table for details.

7.3. Be aware that some ATM providers charge additional fees for the use of their ATMs and some Merchants add a surcharge for using certain types of cards. You may also be subject to their terms and conditions of business. It is Your responsibility to check before proceeding with Your Transaction.

7.4. You can use Your Card Account to make and receive Transfers. To make a Transfer, You must provide us with the following information:

- a. the UK bank Account number and sort code or, for international Transfers, the International Bank Account Number (IBAN) and Business Identifier Code (BIC) of the intended beneficiary;
- b. the name and address of the intended beneficiary;
- c. the amount of the Transfer;

- d. the currency of the Transfer;
- e. a payment reference for the Transfer; and
- f. any other information we may require to enable us to execute the transfer.

It is important you give Us the correct details of the intended beneficiary, as if the Transfer is made to the wrong recipient because You have given Us incorrect details, We may not be able to get the money back.

7.5 You can receive Transfers into Your Card Account from other people. If You receive a Transfer, We will credit the money to Your Card Account immediately after We receive it. We may take longer to credit Your Card Account with the amount of a Transfer if the Transfer has involved a currency conversion.

7.6 We reserve the right to decline any Transaction at Our discretion.

- a. We may at any time suspend, restrict or cancel Your Card or Card Account or refuse to issue or replace a Card for reasons relating to the following:
  - i. We are concerned about the security of Your Card or Card Account;
  - ii. We suspect Your Card or Card Account is being used in an unauthorised or fraudulent manner;
  - iii. We need to do so to comply with applicable laws, regulations or Mastercard rules; or
  - iii. You break an important part of these Terms and Conditions or repeatedly break any term in these Terms and Conditions and fail to resolve the matter in a timely manner.
- b. If We take any of the steps referred to above in Section 7.4a., We will tell You as soon as We can or are permitted to do so either before or after We have taken such steps. We may ask You to stop using Your Card and/or Card Account and return the Card to Us or destroy the Card. We will issue You with a replacement Card or re-activate Your Card if, after further investigations, We believe that the relevant circumstances no longer apply or exist.
- c. We may also decline to authorise a Transaction:
  - i. if We suspect Your Card or Card Account is being used in an unauthorised or fraudulent manner;
  - ii. if sufficient funds are not loaded on Your Card Account at the time of a Transaction to cover the amount of the Transaction and any applicable fees; or
  - iii. if We believe that a Transaction will break the law.
- d. If We refuse to authorise a Transaction, We will, if practicable, tell You why immediately unless it would be unlawful for Us to do so. You may correct any information We hold and which may have caused Us to refuse a Transaction by contacting Customer Services.
- e. We shall not be liable if a Merchant refuses to accept Your Card or if We do not authorise a Transaction, or if We cancel or suspend use of Your Card or Card Account. Unless otherwise required by law, We shall not be liable for any loss or damage You may suffer as a result of Your inability to use Your Card or Card Account for a Transaction.

7.7. You must not spend more money on Your Card than You have available in Your Card Account. You are responsible for ensuring that You have sufficient funds when You authorise a Transaction. If You do not do this it may result in an overspend on Your Card Account. If this occurs You must pay the overspend back to Us immediately. We will take any such action seriously and take any steps necessary to enforce any actions against You.

7.8. You agree that once We notify You of any such overspend by whatever means You must repay it immediately. We reserve the right to deduct an amount equivalent to the overspend from any other Cards or Card Accounts that You hold with Us or from any other payment instrument You designate to Your Card Account and against any funds which You subsequently paid into Your Card Account or which are received into Your Card Account (for example through receipt of a Transfer). We may suspend Your

Card or Card Account and any other Cards connected to You until we are reimbursed the overspend amount.

7.9. In certain sectors, Merchants such as car hire companies, hotels, restaurants and other service providers will estimate the sum of money You may spend or for which You require authorisation. The estimate may be for greater than the amount You spend or are charged, for example:

- a. at restaurants You may be required to have a maximum of 20% more on Your Card than the value of the bill to allow for any service charge added by the restaurant;
- b. at “pay at pump” petrol pumps (if applicable) You may be required to have an amount equal to the maximum Transaction value permitted at the pump in Your Card Account.  
This means that some of the funds on Your Card Account may be held for up to 30 days until the Merchant has settled the Transaction amount and, accordingly, You will not be able to spend this estimated sum during this period. We cannot release such sum without authorisation from the Merchant.

7.10. Merchants may not be able to authorise a *Transaction* if they cannot obtain online authorisation from Us. Any refunds for goods or services purchased with Your Card may only be returned as a credit to the Card. You are not entitled to receive refunds in cash.

7.11. We accept no responsibility for the goods or services purchased by You with Your Card. All such disputes must be addressed directly with the Merchant providing the relevant goods or services. Once You have authorised Your Card to make a purchase, We cannot stop that Transaction. However, where You have used Your Card to buy goods or services You may have a claim against the Merchant if the goods or services are unsatisfactory, not supplied, supplied only in part or do not match the supplier’s description. You must notify Us of any dispute within 60 days of the purchase and the chargeback will only be applied to Your Card Account if successfully secured from the Merchant. If You wrongly make a chargeback claim, We will be entitled to charge You any fees We reasonably incur in pursuing the chargeback claim and We will be entitled to debit Your Card Account with the amount of any such fees.

7.12. Authorising Transactions:

- a. A Card Transaction will be regarded as authorised by You, either at the point of sale by following the instructions provided by the Merchant, or for a redemption instruction by following the instructions provided by Customer Services, which includes:
  - i. entering Your PIN or providing any other security code;
  - ii. signing a sales voucher;
  - iii. providing the Card details and/ or providing any other details as requested;
  - iv. waving or swiping the Card over a card reader;
  - v. inserting a Card and entering Your PIN to request a cash withdrawal at an ATM;
  - vi. making a request for a cash advance at any bank counter; and
  - vii. entering a one-time passcode in the App which we will send to the mobile number that You have registered with Us.
- b. A Transfer made from Your Card Account will be regarded as authorised by You when you perform the authorization steps in the App.

- c. Authorisation for a Transaction may not be withdrawn (or revoked) by You after the time We have received it. However, any Transaction which is agreed to take place on a date later than the date it was authorised may be withdrawn if You give notice to the Merchant (providing a copy of the notice to Us) as long as notice was provided no later than the close of business on the Business Day before the Transaction was due to take place. We may charge You a fee if a Transaction is revoked by You under this Section (see the Fees Table for details).

7.13. We reserve the right to apply a monthly maintenance charge, if we do, the amount will be set out in the Fees Table. You are responsible for all Transactions and fees charged to Your Card Account.

7.14. You can use the App to allocate funds to Your Card, manage Your Card and Card Account, view recent Card Transactions, view Your Card Account balance, view and set Card spend limits, change or request reset of Your Card Account password and PIN. For more information on using the App, please visit the Website.

## **8. Transactions made in foreign currencies**

8.1 Your Card Account is denominated in either GBP or EUR. If You use Your Card to purchase goods or services or withdraw cash in a currency other than the currency of Your Card Account, then such Card Transaction will be converted to the currency of Your Card on the day We receive details of it. We will use Mastercard® authorised rates applicable for such a Card Transaction see [www.mastercard.com/global/currencyconversion](http://www.mastercard.com/global/currencyconversion)

A foreign exchange fee will also apply (see the Fees Table for details).

8.2 You can make Transfers from Your Card Account to a different currency from Your Card Account. If You do this, We will convert the amount of the payment You wish to make into the appropriate currency before sending the money to the recipient's Account.

8.3 You can also receive Transfers into Your Card Account in a different currency from Your Card Account, but if this happens, you must be aware of the following:

- a. There could be occasions where the funds are rejected by the Transfer Bank. If this happens, the Transfer Bank will decide what to do with the funds and they may not be received by You into Your Card Account.

- b. If accepted by the Transfer Bank, and the funds have not been converted into the currency of Your Card Account by the sender of the funds, the Transfer Bank will convert the amount of the Transfer into the currency of Your Card Account and may apply charges for doing this which will be passed on to You. We have no control over the charges that would be applied by the Transfer Bank for these currency conversions.

- c. We may ask You for further information with respect to any such Transfer and may not be able to make the funds available to You until we are satisfied with the information provided by You.

8.4 Whenever a currency conversion is required for a Transfer, the standard exchange rate of the Transfer Bank will be applied, as well as any applicable fees/charges. The standard exchange rate of the Transfer Bank (which may change at any time) can be found in the App. For Transfers being made

from Your Card Account, the exchange rate and all fees/charges to be applied for the Transfer will be displayed before You complete the Transfer.

## **9. Disputed Transactions**

9.1. You may be entitled to claim a refund in relation to Transactions made using Your Card and/or Card Account where:

- a. the Transaction was not authorised under these Terms and Conditions;
- b. We are responsible for a Transaction which was incorrectly executed and notified to Us in accordance with Section 14 below;
- c. a pre-authorised Transaction did not specify the exact amount at the time of its authorisation and the amount charged by a Merchant is more than You could reasonably have expected taking into Account normal spending patterns on the Card or the circumstances of the Transaction. However, a claim for a refund in this circumstance will not be accepted if the amount of the Transaction was made known to You at least four weeks before the Transaction date or if the claim is made more than eight weeks after being debited to Your Card Account;
- d. We were notified of the unauthorised/incorrectly executed Transaction within 13 months of the debit date of such Transaction.

9.2. If any of the above circumstances apply in relation to a Card Transaction, You should also contact the Merchant as this may lead to a quicker resolution of the dispute.

9.3 You can also ask Us to investigate the Transaction or misuse of Your Card or Card Account. We will immediately process a refund of the amount of the disputed Transaction. We may need more information and assistance from You to carry out such investigation.

9.3. If We refund a disputed Transaction to Your Card Account and subsequently receive information to confirm that the Transaction was authorised by You and correctly posted to Your Card Account, We shall deduct the amount of the disputed Transaction from the funds in Your Card Account. If there are no or insufficient funds then the provisions regarding overspend on Your Card Account (see Section 7.6) will apply.

9.4. If Our investigations discover that the disputed Transaction was genuine and authorised by You directly or indirectly, or that You have acted fraudulently or with gross negligence, We may charge You an investigation fee (see the Fees Table for details).

9.5 If You request a refund for an incorrectly executed Transfer made by You to an intended recipient, We may refuse Your request if We can show the payment service provider of the intended recipient received the money, or that there was a mistake in the recipient's details which You gave Us. However, if there was a mistake in the recipient's details You gave Us, we will still make a reasonable effort to recover the money. If We are unable to do so, You can make a written request for Us to provide You with all the information available to us which is relevant to You in order for You to file a legal claim to recover the money. We may charge you a fee for our efforts in attempting to recover any funds (see the Fees Table for details).

9.6 In any event, if You ask Us to, we will make efforts to trace any Transfer which has not been made or has been made incorrectly and notify You of the outcome.

9.7 If We fail to send a Transfer on time, You can contact Us to ask the recipient's payment service provider to pay the recipient the interest (if applicable) on their Account that would have been paid if the Transfer You made had arrived on time.

## **10. Card expiry and damaged and new Cards**

10.1. Your Card is valid for the period stated on the Card, unless its use is terminated earlier by Us in accordance with these Terms and Conditions. You will not be able to use Your Card once it has expired. We may renew Your Card when it expires so that You may continue to use the funds in Your Card Account. A Fee may apply (see the Fees Table for details). We reserve the right to decline to issue a replacement Card.

10.2. If You do not request, or we have not provided You with, a new Card following expiry of Your Card, any funds in Your Card Account will remain for a period of six years from the Card expiry date. Your Card Account may be subject to a monthly maintenance charge (see the Fees Table for details). You may contact Customer Services to request Your funds be returned to You at any time within the six year period. The funds cannot be provided to You in the form of cash (notes and coins). Any funds remaining in Your Card Account after six years will not be refunded.

10.3. If You ask, We may replace a damaged Card. If We do this a fee may apply (see the Fees Table for details). You will be asked to provide Us with Your Card number and other information so that We can identify You.

## **11. Refunds from Merchants**

11.1. If You receive a refund of sums paid for goods and services on Your Card back from a Merchant, the refund amount will be added to the balance in Your Card Account.

## **12. Keeping Your Card, Your Card Account and Your Card Account ID Information safe**

12.1. *You must keep Your Card, Your Card Account and Your Card Account ID Information safe.* Your Card and Your Card Account ID Information are personal to You and You must not give them to anyone else to use. You must take all reasonable precautions to prevent fraudulent use of Your Card, Your Card Account and Your Card Account ID Information. You are however permitted to give certain of Your Card Account ID Information to a TPP to enable them to access Your Card Account.

12.2. You should treat the value on Your Card and Card Account like cash in a wallet. If Your Card is lost or stolen or there is unauthorised use of Your Card or Card Account, You may lose some or all of the value on Your Card Account in the same way as if You lost cash.

12.3 You will receive a PIN for Your Card and *You must keep Your PIN safe.* This means that when You receive Your PIN You must memorise it. You must keep Your PIN secret at all times. You must not disclose Your PIN to anyone including friends, family or Merchant staff.

12.4 If You suspect that someone else knows Your PIN or any other Card Account ID Information (other than a TPP knowing certain of Your Card Account ID Information), You must contact Customer Services immediately. If You forget Your PIN You can access it when You log on to Your Card Account.

12.5 You must keep Your Card Account ID Information secure, as it provides access to Your Card Account details and Your Card PIN, and enables You to make Transfers.

### **13. Lost or stolen Cards or Card Account ID Information, unauthorised Transactions and liability**

13.1 If You think that:

- a. You have lost any of Your Card Account ID Information, or they have been stolen; or
- b. if You believe that any Transaction is unauthorised, has been posted in error or is otherwise incorrect; or
- c. a Transaction which has not been executed or has been incorrectly executed by Us, then You must let Us know immediately and in any case no later than 13 months after the debit date, by contacting Customer Services. If requested to, You must also write to Us within seven days to confirm the loss, theft or possible misuse. You may be required to help Us, Our agents or any enforcement agency, at Our request, if Your Card or Card Account ID Information is lost or stolen or if We suspect Your Card or Card Account is being misused.

13.2 If Your Card is reported lost or stolen We will cancel it and may issue a new one. A fee may apply (see the Fees Table for details). If You find Your Card after You have reported it lost, stolen or misused, You must destroy it and inform Us immediately by contacting Customer Services.

13.3 Subject to sections 13.4 and 13.5, You shall be entitled to a refund in the amount of an unauthorised Transaction or a Transaction incorrectly executed by Us and, where applicable, restoration of Your Card Account to the state it would have been in had the unauthorised or incorrectly executed Transaction not taken place, provided You have notified Us of the Transaction in question without undue delay and in any case no later than 13 months after the debit date (save where We have failed to provide or make available the required Transaction information to You). Any undue delay in making a notification may result in You being liable for any losses as a result. We will make the refund immediately unless We have any reason to believe that the incident may have been caused by Your breach of these Terms and Conditions, Your negligence or if We have reasonable grounds to suspect that it has been caused by Your fraudulent behaviour, deception or other wrongdoing perpetrated by You.

13.4 Subject to section 13.5, You are liable up to a maximum of £35 (or the equivalent in the currency of Your Card Account) for any losses incurred in respect of an unauthorised Transaction arising from:

- a. the use of Your Card or Card Account ID Information where these have been lost or stolen; or
- b. where You have failed to keep Your Card Account ID Information safe.

13.5 You will not be liable for any losses incurred in respect of an unauthorised Transaction if You have exercised reasonable care in safeguarding Your Card and Card Account ID Information from risk of loss or theft and, upon becoming aware of an unauthorised Transaction or the loss or theft of Your Card or Card Account ID Information, You notified Us promptly. You will not be liable for any losses which arise after You have notified Us that You believe Your Card or any of Your Card Account ID Information has been stolen or might be used in an unauthorised way, as specified in section 13.1.

13.6 You shall be liable for all losses incurred in respect of an unauthorised Transaction where:  
You have acted fraudulently;

You have compromised the security of Your Card Account and/or Card with intent or with gross negligence (for example by failing to comply with this section 13); or

You have provided any of Your Card Account ID Information to another person (other than to a TPP which You have allowed to act on Your behalf, so long as the TPP is permitted by law to do so) who then uses those details to make a Transaction.

In these circumstances, We reserve the right to charge You for any reasonable costs that We incur in taking action to stop Your Card or Card Account being used and to recover any monies owed as a result.

13.7 If Our investigations show that a Transaction reported by You as unauthorised or incorrectly executed was in fact authorised by You or correctly executed, or You have acted with intent or negligence, We may reverse any refund made and You may be liable for any loss We suffer from Your use of Your Card or Card Account.

13.8. Our liability to You under these Terms and Conditions shall be subject to the following exclusions and limitations. We will not be liable for any loss arising from:

- a. a Merchant refusing to accept Your Card; or
- b. any cause which results from abnormal or unforeseen circumstances beyond Our reasonable control or which would have been unavoidable despite all Our efforts to stop it; or
- c. Us suspending, restricting or cancelling Your Card or Card Account or refusing to issue or replace Your Card if We suspect Your Card or Card Account is being used in an unauthorised or fraudulent manner, or as a result of You breaking an important term or repeatedly breaking any term in these Terms and Conditions;
- d. Our compliance with any applicable laws, regulations or Mastercard rules; or
- e. loss or corruption of data unless caused by Our wilful default/wrongdoing.

13.9. Unless otherwise required by law or as set out in these Terms and Conditions, We will not be liable to You in respect of any losses You or any third party may suffer in connection with the Card or Card Account as a result of Our actions which were not a foreseeable consequence of Our actions.

13.10. We will not be liable for the goods or services that You purchase with Your Card or Card Account.

13.11. From time to time, Your ability to use Your Card or Card Account may be interrupted, e.g. when We carry out maintenance. If this happens, You may be unable to:

- a. load Your Card; and/or
- b. use Your Card to pay for purchases or obtain cash from ATMs (if applicable); and/or
- c. obtain information about the funds available in Your Card Account and/or about Your recent Transactions; and/or
- d. make Transactions using Your Card or Card Account, including Transfers.

13.12. Where the Card is faulty Our liability shall be limited to replacement of the Card loaded with Your funds on the Card Account.

13.13. Where sums are incorrectly deducted from Your Card Account funds, Our liability shall be limited to payment to You of the amount of the incorrect deduction.

13.14. In all other circumstances Our liability will be limited to repayment of the amount of the funds in Your Card Account.

13.15. Nothing in these Terms and Conditions will exclude or limit Our liability for death or personal injury or to the extent that it cannot otherwise be limited or restricted by law.

## **14. Statements**

14.1. You can view Your Card Account balance and Transactions via the App at any time. You are responsible for keeping Your log on details secret. If You believe someone else is using Your log on details or may know them You must contact Customer Services immediately.

## **15. Cancellation, termination and suspension**

15.1. You may cancel Your Card and Card Account up to 14 days after You receive Your Card ('the Cancellation Period'), without reason, by contacting Customer Services. We will not charge You a cancellation fee. We will require You to confirm Your wish to cancel in writing. This will not entitle You to a refund of any Transactions You have made (authorised or pending) or charges incurred in respect of such Transactions. The purchase price of the Card (Card Fee) will not be refundable.

15.2. Depending on the method by which You choose to have Your remaining Card Account balance refunded, a fee may be charged which will be deducted from the balance of Your Account (see the Fees Table for details).

15.3. You may cancel Your Card Account at any time and without penalty i. during the Cancellation Period (see Section 15.1 above) or ii. if You disagree with a change we intend to make to these Terms and Conditions. You may also cancel Your Card Account at any time for any reason, however a cancellation fee may apply (see the Fees Table for details). If You cancel Your Card Account, this will automatically cancel any Card being used in connection with Your Card Account.

15.4. To cancel Your Card Account and/or any Card You must notify Customer Services. You will be responsible for any Transactions You have made or charges incurred before You cancelled Your Card Account and/or any Card. Once We have been notified by You, We will block the Card(s) and Card Account straight away so they cannot be used.

15.5. When Your Card is cancelled You must destroy it by cutting it in half through the chip and magnetic strip.

15.6. We can terminate Your Card Account and/or any Card at any time if We give You two months' notice and refund any remaining funds to Your nominated bank Account.

15.7. We can suspend or terminate these Terms and Conditions with You and Your use of Your Card Account and/or any Card immediately if:

- a. You are in breach of these Terms and Conditions;
- b. You violate or We have reason to believe that You are in violation of any law or regulation that is applicable to Your use of Your Card or Card Account;
- c. We have reason to believe that You are in any way involved in any fraudulent activity, money laundering, terrorism financing or other criminal activity;
- d. We can no longer process Your Transactions for any legal or security reason or due to the actions of any third party;
- e. You refuse to co-operate in an investigation or to provide adequate identity or security information or documentary evidence for verification when requested;
- f. We have reason to believe that Your Card, Card Account or conduct poses a security, credit, fraud, business or reputational risk to Us;
- g. We need to do so in order to comply with applicable law or regulation or Mastercard rules;
- h. We are required to do so by any applicable regulatory body; or

- i. You fail to pay any fees or charges that You have incurred or fail to repay any overspend incurred on Your Card Account.

15.8. These Terms and Conditions will terminate in the event of Your death.

15.9. If there is a positive balance in Your Card Account at the time Your Card Account is closed for any reason, these remaining funds will be returned to You (less any applicable fees) provided the funds are not subject to any restriction. We will only redeem funds to a bank Account in Your name and we may ask You to provide Us with documents, evidence and other information to verify that this is the case.

15.10. Any funds which remain unclaimed for a period of six years following closure of Your Card Account shall expire and be forfeited.

15.11. We can suspend Your Card at any time with immediate effect if:

- a. We discover that any information You have provided is incorrect or incomplete; or
- b. if a Transaction has been declined because of lack of available value in Your Card Account.

15.12. If any Transaction, fee or charge is found to have been incurred using Your Card Account or Card following cancellation or termination, You agree to pay all such sums to Us immediately on demand.

## **16. Personal data**

16.1. The processing of Your personal data is governed by Our privacy policy which can be found at <https://www.afpay.com/privacy/>. By accepting these Terms and Conditions, You also agree to the terms of Our privacy policy.

## **17. Your details**

17.1. You must let Us know as soon as possible if You change Your name, address, telephone number or email address. If We contact You in relation to Your Card, for example, to notify You that We will be changing the *Terms and Conditions* or have cancelled Your Card and wish to send You a refund, We will use the most recent contact details You have provided to Us. Any email to You will be treated as being received as soon as it is sent by Us.

17.2. We will not be liable to You if Your contact details have changed and You have not told Us.

## **18. Complaints procedure**

18.1. If You are not satisfied with the service You are receiving You should provide written details of Your concerns to Customer Services. All queries will be handled in accordance with Our complaints procedure. Customer Services will provide a copy of the complaints procedure upon request.

18.2. If You have not received a satisfactory response within eight (8) weeks from the date of Your complaint, You may refer Your complaint to the UK Financial Ombudsman Service.

18.3. You may contact the Financial Ombudsman Service at Exchange Tower, London E14 9SR, United Kingdom. For additional contact details You may visit the Financial Ombudsman Service's Website at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

18.4 You may also be able to refer Your complaint to the European Commission Online Dispute Resolution platform at [www.ec.europa.eu/odr](http://www.ec.europa.eu/odr). The platform is a web-based platform which is designed to help consumers who have bought goods, services or digital content online. It provides access to independent alternative dispute resolution services which are usually free for You to use.

## **19. Customer Services**

19.1. The Customer Service department is open 24/7 via the Website. A Lost and Stolen reporting service is available 24 hours a day, 7 days a week via the Website. We may save any email correspondence You have with Customer Services for training and/or monitoring purposes. Customer Services will be provided by Fluid Finance SA acting on behalf of AF Payments Limited.

## **20. General**

20.1. In these *Terms and Conditions*, headings are for convenience only and shall not affect the interpretation of these Terms and Conditions. Any delay or failure by Us to exercise any right or remedy under these Terms and Conditions shall not be interpreted as a waiver of that right or remedy or stop Us from exercising Our rights at any subsequent time.

20.2. You may not transfer, novate, assign, subcontract or delegate Your rights or obligations under these *Terms and Conditions*. You agree that We may transfer or assign Our rights or novate Our obligations under these Terms and Conditions at any time without prior written notice to You and without Your further consent. If You do not want to transfer to the new Card Issuer You may contact Us and We will terminate Your Card and Card Account. Any balance remaining in Your Card Account will be returned to You in accordance with Our redemption procedure.

20.3. We may subcontract any of Our obligations under these *Terms and Conditions*.

20.4. These Terms and Conditions are subject to amendment, modification or deletion if required by, or found to be in conflict with, applicable law or regulation, without affecting the validity or enforceability of the remaining terms and conditions. In the event that any part of these *Terms and Conditions* are held not to be enforceable, this shall not affect the remainder of these *Terms and Conditions* which shall remain in full force and effect.

20.5. You will remain responsible for complying with these *Terms and Conditions* until Your Card and Your Card Account are closed (for whatever reason) and all sums due under these *Terms and Conditions* have been paid in full.

### **20.6 Execution times**

a. The instructions to make a Transaction will be received when We receive them from the Merchant's payment service provider or the automated teller machine (ATM) operator or from You. If We receive instructions on a non-Business Day or after 4:00 pm on a Business Day (or at any time during the weekend), they will be deemed received by Us on the following Business Day.

b. We will ensure that a Transaction You make is credited to the relevant payment service provider within certain timescales, provided:

- i. the payment service provider is located within the European Economic Area (EEA); and
- ii. the payment services being carried out are transacted in Euro, or another currency of an EEA member state.

c. Transactions carried out in Euro (€) or Pounds Sterling (£) or involving a single currency conversion between Euro and Pounds Sterling (provided any cross-border Transaction takes place in Euro) will be credited by the end of the Business Day following the day on which the Transaction is received by Us. We will credit the recipient's Account for all other Transactions by the end of the fourth Business Day following the day on which the instruction is received by Us.

#### 20.7 Third party providers (TPPs)

a. You can choose to allow a TPP to access information on Your Card Account, to combine and display information about Your Card Account with information from Accounts You have with other payment service providers, or to initiate Transfers from Your Card Account using any relevant Card Account ID Information, provided the TPP is authorised by the FCA or another European regulator and You have given Your explicit consent.

b. If You do allow access by a TPP, You must keep us informed of any incorrect or unauthorised Transactions that happen so We can take steps to stop further misuse of Your Card Account and arrange any refund You may be entitled to. If You are thinking of using a TPP, it is important You check with the relevant regulator whether it is authorised before You use it.

c. We can refuse or stop access to a TPP if We are concerned it isn't authorised or if We believe it's fraudulent or acting fraudulently. If that happens, We will contact You to explain why unless We believe that would compromise Our security or it would be unlawful.

20.8. These *Terms and Conditions* are written and available only in English and all correspondence with You in respect of Your Card and Card Account shall be in English. In the event that these *Terms and Conditions* are translated, the version in English shall take priority.

20.9. These *Terms and Conditions* are governed by the laws of England and You agree to the non-exclusive jurisdiction of the English courts.

## Fees Table (Cards linked to an E-money Wallet or a Traditional Account)

### Euro cards

Activity	Fee
Loading fee	Free
Annual fee	Free
Activation fee	Free
Domestic spending (point of sale)	Free
International spending (point of sale)	Free
Monthly fee	Free
Account closure	Free
Domestic ATM withdrawal	Euro 1.75 per withdrawal
International ATM withdrawal	Euro 1.75 per withdrawal
Inactivity fee	Euro 3 per month after 1 year of inactivity.
Decline fee	Free
Foreign currency conversion	2.5% over the Mastercard base charge
Outside EU transaction fee	Euro 0.50 per transaction
Chargeback handling	Euro 30 per incident

### British Pound cards

Activity	Fee
Loading fee	Free
Annual fee	Free
Activation fee	Free
Domestic spending (point of sale)	Free
International spending (point of sale)	Free
Monthly fee	Free
Account closure	Free
Domestic ATM withdrawal	GBP 1.75 per withdrawal
International ATM withdrawal	GBP 1.75 per withdrawal
Inactivity fee	GBP 3 per month after 1 year of inactivity.
Decline fee	Free
Foreign currency conversion	2.5% over the Mastercard base charge
Outside GB/EU transaction fee	GBP 0.50 per transaction
Chargeback handling	GBP 25 per incident

## **Annex 3 – US users**

Terms and conditions for US users are set out in the app. Users need to accept these terms as part of the sign-up process. All users can consult the terms at any time in their profile page.

# Annex 4 – Partners and Third-Party Service Providers

The non-exhaustive list of our Partners may include, inter alia, the companies set out below.

Accomplish Financial Limited (including AF Payments Limited)

Currencycloud Limited

Mastercard

Merkle Science Pty Limited

Modulr Finance Limited and Modulr Finance BV

Plaid Financial Limited

Sumsub Limited

Tink AB

Trust Payments Limited

Visa

# Annex 5 – Restricted Countries

Afghanistan  
Belarus  
Cuba  
Iran  
Myanmar  
North Korea  
Russian federation  
Syria  
Venezuela  
Yemen

In addition, some of our Third-Party Service Providers may have their own list of restricted countries. In this case, both restricted lists will apply.

# Annex 6 – Digital Products (digital tokens)

Fluid Finance and/or Related Entities makes available the sale of Digital Products, including digital tokens (“**Digital Tokens**”), via the App. The terms for these Digital Tokens are set out below.

6.1. FluidFi Pte. Limited, a company incorporated in Singapore, offers Users the opportunity to purchase Digital Tokens via the App.

6.2. You may hold Digital Tokens in your Fluid Account, which functions as a hosted digital asset wallet (the “**Hosted Wallet**”). Your Hosted Wallet allows you to store, transfer, and manage your Digital Tokens. At times, we may securely store private keys related to Digital Tokens, in a combination of online and offline storage. As a result of our security protocols, it may be necessary for us to retrieve private keys or related information from offline storage in order to facilitate transfers of Digital Tokens in accordance with your instructions. You acknowledge that this key management process may delay the movement of Digital Tokens.

6.3. You may also hold Digital Tokens in your Web3 wallet. This includes connecting your Web3 wallet to your Fluid Account and moving Digital Tokens to your own control. This is an unhosted digital asset wallet (the “**Unhosted Wallet**”). As an Unhosted Wallet, including any Digital Tokens held therein, is under your control and the Company bears no responsibility in relation to such assets.

6.4. Fluid Finance may make Digital Tokens available through a number of Partners, including Paraswap and Genesis Global Trading. Details in regard to specific Digital Tokens may be set out in the App.

6.5. Fees for the purchase of Digital Tokens are set out in the App. There may be additional fees charged by third party entities, including gas fees charged by the blockchains on which Digital Tokens function.

6.6. The Company does not own or control the blockchain networks that facilitate the operation of Digital Tokens. The blockchain networks are open source, and anyone can use, copy, modify, and distribute this software. The Company assumes no responsibility for the operation of the blockchain networks and does not guarantee the functionality or security of network operations.

6.7. Title to Digital Tokens shall at all times remain with You. All Digital Tokens held in Hosted Wallets belong to Users and are not property of Fluid Finance.

# Annex 7 – Modulr UK Terms

## BACKGROUND

Modulr is a provider of Modulr Products (as described to you by Partner Platform), which includes the provision of an electronic money account for businesses and associated payment services. The electronic money account is provided by Modulr FS. These Introduced Client Terms of Business govern the Modulr Products that Modulr agrees to provide to the Introduced Client.

These Introduced Client Terms of Business (including all the attached Schedules), together with the Modulr Account Terms and Conditions set out the terms on which the Modulr Products are provided and constitute the Agreement between Modulr, Modulr FS and the Introduced Client.

## THE PARTIES AGREE AS FOLLOWS:

### 1. Interpretation

- 1.1. In these Introduced Client Terms of Business: (a) a reference to a clause is a reference to a clause in these Introduced Client Terms of Business; (b) headings are for reference only and shall not affect the interpretation of these Introduced Client Terms of Business; (c) the singular shall include the plural and vice versa; (d) a reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns; (e) a reference to a party shall include its personal representatives, successors and permitted assigns; (f) reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

### 2. Modulr Products

- 2.1. Modulr will make available to the Introduced Client such products that are provided to the Partner Platform and, as described by Partner Platform in the application process.
- 2.2. The Introduced Client agrees to the Partner Platform providing all such information to Modulr who will check and verify the identity of the Introduced Client, its directors, beneficial owners and Authorised Users as required by law.
- 2.3. The Introduced Client acknowledges that a search of the electoral register may take place for anti-money laundering purposes on the individuals listed in clause 2.2 above.
- 2.4. The Introduced Client acknowledges that a “soft footprint” search may be placed on the electronic files of the individuals noted in clause 2.2 above by the Credit Reference Agencies and their personal details may be accessed by third parties for the specific purpose of anti-money laundering and countering the financing of terrorism (AML/CFT), identity verification and fraud prevention.
- 2.5. The Account and Cards (where applicable) are provided by Modulr FS to the Introduced Client in accordance with the Modulr Account Terms and Conditions. Modulr Products provided to the Introduced Client under this Agreement are for the sole use by the Introduced Client.

- 2.6. The Introduced Client can use the Account and Cards (where applicable) to make Transactions on the terms and conditions set out in the Modulr Account Terms and Conditions. A record of all Transactions relating to the Account can viewed on the Website or accessed via the Partner Platform (as applicable).
- 2.7. The Introduced Client shall promptly notify Customer Services as soon as it becomes aware login and security information enabling access to its Modulr Products have been lost, stolen or compromised.
- 2.8. From time to time Modulr may carry out additional checks on the Introduced Client, including the identity of its directors, beneficial owners and the nature of its business in accordance with its Due Diligence Procedure and as required by law. Modulr may contact the Introduced Client or the Partner Platform (as applicable) for such purposes. The Introduced Client agrees to provide such information as necessary.
- 2.9. The Introduced Client shall comply with all legislation and regulation as it applies to the Introduced Client. Any failure to comply with relevant legislation or regulation shall be considered a material breach of the Agreement and may result in Modulr discontinuing the provision of the Modulr Products as set out in clause 6.4.
- 2.10. The Introduced Client shall implement as appropriate Modulr's reasonable security recommendations it notifies to the Introduced Client from time to time.

### **3. Authorised Users**

- 3.1. Access to the Modulr Products is restricted to individuals that have been designated by the Introduced Client as Authorised Users.
- 3.2. The Introduced Client must notify Modulr of all individuals it wishes to be an Authorised User.
- 3.3. Each Authorised User is permitted to access and use the Modulr Products in accordance with these Introduced Client Terms of Business.
- 3.4. The Introduced Client will be responsible for training its Authorised Users in the appropriate use of Modulr Products.
- 3.5. The Introduced Client shall ensure its Authorised Users;
  - 3.5.1 take all reasonable care to ensure Modulr Product access credentials, including login details to the Website, where applicable, are kept confidential to each Authorised User; and
  - 3.5.2 do not share any information that would enable another party to access the Introduced Client's Account.
- 3.6. The Introduced Client acknowledges and agrees that each Authorised User is authorised by the Introduced Client to act on its behalf. Modulr shall deem any instruction given by an Authorised User is an instruction given by the Introduced Client.
- 3.7. The Introduced Client will be responsible for timely notification to Modulr of any revocation of Authorised User access and will be liable for Transactions made, Fees incurred and use of

Modulr Products by an Authorised User until Modulr has had one full Business Day to act on any received notice. This clause shall not apply to Introduced Clients accessing Modulr Products via the Partner Platform.

- 3.8. Where the Introduced Client accesses Modulr Products through a Partner Platform, such Partner Platform will be considered the Authorised User. In this instance if additional Authorised Users are required they must be requested by the Partner Platform. The use of a Partner Platform to access the Modulr Products by the Introduced Client are set out in further detail below.

#### **4. Accessing Modulr Products through a Partner Platform**

- 4.1. In the event the Introduced Client utilizes a Partner Platform to access Modulr Products, the Introduced Client agrees and authorises the Partner Platform to instruct Modulr to access and use the Modulr Products on behalf of the Introduced Client, which shall include but not be limited to making Transactions, viewing and retrieving Transaction data, initiating refunds and closing the Account.
- 4.2. The Introduced Client acknowledges and agrees that Modulr shall have no liability whatsoever with respect to the performance, availability or quality of any Partner Platform.
- 4.3. The Introduced Client acknowledges and agrees to the following:
  - 4.3.1. it must satisfy itself that its Platform Partner Agreement grants the Partner Platform all permission necessary to operate the Account on the Introduced Client's behalf;
  - 4.3.2. the Platform Partner will be granted full access to operate the Introduced Client's Account as an Authorised User of the Introduced Client;
  - 4.3.3. it is responsible for monitoring Partner Platform activities on its Account. Any queries relating to such activities will be raised with the Partner Platform directly and settled between Partner Platform and the Introduced Client;
  - 4.3.4. the Introduced Client has no recourse against Modulr for any act or omission of the Partner Platform with respect to its Account;
  - 4.3.5. the Introduced Client understands it can only access its Account to make Transactions, review Transactions made or otherwise use Modulr Products through the service provided by the Partner Platform; and
  - 4.3.6. it will only use the Account for the purpose set out in the Partner Platform Agreement.
- 4.4. On receipt of notification by Modulr from the Partner Platform that it wishes to terminate this Agreement, this Agreement shall terminate. Any funds in the Introduced Client's Account will be returned in accordance with the terms of the Modulr Account Terms and Conditions.
- 4.5. If the Introduced Client has any complaint or concern relating to the Account or other Modulr Products, such complaint or concern shall be raised directly to the Partner Platform, who shall deal with it in accordance with Modulr's Complaints Policy, a copy of which is available on request from the Partner Platform and on the Website.

## **5. Customer Services**

- 5.1. The Introduced Client can contact Customer Services if it has any queries about the Modulr Products. Information may be requested from the Introduced Client, including but not limited to, its Authorised Users, Cardholders or Transaction information so that it can verify the identity of an Authorised User, the Cardholder and/or the Modulr Products provided to such Introduced Client.
- 5.2. Any information shared by the Introduced Client will be kept strictly confidential. Where such information is provided in connection to a service provided by a third party, for example, the Account, then the Introduced Client's information will only be used in accordance with instructions of such third party and only for the purpose of providing Customer Services to the Introduced Client on behalf of such third party.
- 5.3. As part of Modulr's commitment to providing a quality customer service, its managers periodically monitor telephone communications between its employees and Introduced Clients to ensure that Modulr's high quality service standards are maintained. The Introduced Client consents to such monitoring and recording of telephone communications and agrees to make its Authorised Users aware of such practice.

## **6. Term and Termination**

- 6.1. This Agreement shall commence on the date the Introduced Client receives confirmation from Modulr or the Partner Platform (where applicable) of its successful application for Modulr Products and shall continue until terminated by the Introduced Client, Partner Platform (if acting on behalf of the Introduced Client) or Modulr.
- 6.2. The Introduced Client or the Partner Platform (where applicable) may terminate this Agreement immediately by notifying Customer Services in writing by post or email.
- 6.3. Modulr may terminate this Agreement and close the Introduced Client's Account(s) by providing the Introduced Client with at least two months' notice.
- 6.4. Modulr may suspend or terminate this Agreement immediately if, for any reason, the Introduced Client (i) is unable to satisfy the Due Diligence Procedures, (ii) for breach of this Agreement, (iii) has provided false, incomplete or misleading information, (iv) has engaged in fraudulent, money laundering, terrorism financing or other illegal activity or we have reasonable suspicions in respect of same or (v) we are required to do so under any applicable law or regulation or at the direction of any regulatory, law enforcement or other competent authority. Modulr shall notify you as soon as possible, unless prohibited by law, of such suspension or termination of the Agreement.
- 6.5. This Agreement will automatically terminate when all Accounts of the Introduced Client are closed (for any reason).
- 6.6. Modulr may terminate or suspend this Agreement in whole or in part immediately by giving written notice to the Introduced Client if Modulr ceases to provide Cards pursuant to the provisions of Schedule 1.
- 6.7. On termination of this Agreement for any reason, any balance remaining in the Introduced Client's Account(s) shall be returned to the Introduced Client in accordance with the Modulr

Account Terms and Conditions. The Introduced Client shall pay immediately all outstanding Fees due (where applicable) under this Agreement and in the event of a negative balance in an Account, shall reimburse Modulr FS such amount equal to the negative balance.

## **7. Intellectual Property**

- 7.1. The Introduced Client acknowledges all Intellectual Property Rights in the Modulr Products are owned by or provided under licence to Modulr. Modulr grants the Introduced Client a non-exclusive, royalty-free licence for the duration of this Agreement to access and use the Modulr Products only for the purpose contemplated by this Agreement.
- 7.2. Nothing in this Agreement shall operate to create or transfer any Intellectual Property Right to the Introduced Client.

## **8. Force Majeure**

- 8.1. Modulr and/or Modulr FS will not be liable for the non-performance or failure to provide any part of the Modulr Products occurring as a result of any events that are beyond the reasonable control of Modulr, for example, but not limited to, fire, telecommunications or internet failure, utility failure, power failure, equipment failure, employment strife, riot, war, terrorist attack, non-performance of third party suppliers, acts of God such as storm or lightening damage, or other causes over which Modulr and/or Modulr FS has no reasonable control.

## **9. Assignment Transfer and Subcontracting**

- 9.1. The Modulr Products provided to the Introduced Client are personal to the Introduced Client. The Introduced Client may not novate, assign or otherwise transfer this Agreement, any interest or right under this Agreement (in whole or in part) without the prior written consent of Modulr.
- 9.2. The Introduced Client agrees Modulr may, in its sole discretion, assign, or transfer some or all of its rights and obligations or delegate any duty of performance set out in the documents forming this Agreement. Modulr may subcontract any of its obligations under this Agreement.
- 9.3. In the event of any transfer of this Agreement by Modulr to another service provider; if the Introduced Client does not want to transfer to the new provider, the Introduced Client must notify Modulr of its objection in writing to Customer Services. On receipt of such notification, Modulr it will terminate this Agreement. Any balance remaining in the Introduced Client's Account(s) will be returned to the Introduced Client in accordance with the redemption procedure set out in the Modulr Account Terms and Conditions.
- 9.4. It is acknowledged by the Introduced Client that Modulr enters into this Agreement on its own behalf and as agent for and on behalf of Modulr FS with respect only to clauses 10 and 14 of these Introduced Client Terms of Business.

## **10. Liability**

- 10.1. Nothing in this Agreement will operate to limit either party or its agent's liability with respect to fraud or for death or personal injury resulting from negligence, in either case whether committed by that party or its employees, agents or subcontractors.

- 10.2. Modulr and Modulr FS makes no warranty that access to and use of the Modulr Products will be uninterrupted or error free.
- 10.3. The Introduced Client acknowledges and agrees that Modulr and/or Modulr FS are not liable to the Introduced Client for any loss, liability or damages the Introduced Client suffers which result from, are related to, or in any way are connected with any fraud control, restriction measures or other measures implemented from time to time including as require, unless such loss, liability or damage is a direct result of Modulr and/or Modulr FS's fraud, gross negligence or willful misconduct in procuring the implementation of fraud control or purchase restriction measures that Modulr has expressly agreed in writing to procure for the Introduced Client.
- 10.4. Modulr and Modulr FS shall not be liable to the Introduced Client for any loss or damage the Introduced Client may suffer as a result of any act or omission of an Authorised User or Cardholder or an Authorised User's or Cardholder's use of or inability to use of the Modulr Products.
- 10.5. The Introduced Client agrees to indemnify Modulr and Modulr FS against any and all actions, claims, costs, damages, demands, expenses, liabilities, losses and proceedings Modulr and/or Modulr FS directly or indirectly incurs or which are brought against Modulr if the Introduced Client, or an Authorised User, or a Cardholder has acted fraudulently, been negligent or has misused a Modulr Product or any of the services provided under this Agreement.
- 10.6. Modulr and/or Modulr FS shall not be responsible in any way for any interest or claims of any third parties in respect of the Modulr Products, except as required by law or regulation.

## **11. Reports**

- 11.1. Modulr may make available certain management or other reporting or business administration functionality via the Website.
- 11.2. Modulr may from time to time amend, modify, replace or withdraw in whole or in part such reporting it provides without further notice.

## **12. Data Privacy**

- 12.1. Modulr will collect and retain personal information about the Introduced Client and each Authorised User and Cardholder to enable Modulr to deliver the Modulr Products, the services linked to it and deal with any enquiries that the Introduced Client may have about it. Modulr is the data controller of the personal information gathered by Modulr for such purpose. If Modulr uses a third party to provide a part of the Modulr Product then that provider will be the owner and controller of the personal information they require to collect in order to operate the relevant service. The use of personal information by third-party service providers will be set out in their service terms and conditions of use. Modulr will, at such third-party provider's direction, process personal data on its behalf, for example, to enable Modulr to provide Customer Services to the Introduced Client.
- 12.2. Modulr processes personal information in accordance with relevant laws on the protection of personal data.

- 12.3. If Modulr transfers the Introduced Client's information to a third party in a country outside of the European Economic Area Modulr will ensure that the third party agrees to apply the same levels of protection that Modulr is legally obliged to have in place when Modulr processes personal data.
- 12.4. Further information about how Modulr uses personal information can be found in Modulr's Privacy Policy; please contact Customer Services for a copy of this.

### **13. Changes to the Agreement**

- 13.1. Modulr may amend or modify this Agreement by giving no less than two (2) months' notice to the Introduced Client unless Modulr is required to make such a change sooner by law. All proposed changes will be posted on the Website and communicated to the Introduced Client by such other means that Modulr agreed with the Introduced Client, for example by email. If the Introduced Client is accessing Modulr Products via a Partner Platform, all notifications will be communicated via such Partner Platform.
- 13.2. The Introduced Client has no obligation to accept such amendments proposed by Modulr.
- 13.3. The Introduced Client will be taken to have accepted any change to this Agreement that Modulr notifies to the Introduced Client unless the Introduced Client tells Modulr otherwise before the relevant change takes effect. In such circumstance, Modulr will treat notice of objection by the Introduced Client as notification that the Introduced Client wishes to terminate this Agreement and the use of all Modulr Products immediately. All Accounts of the Introduced Client will be closed and any balance remaining in the Introduced Client's Account will be returned to the Introduced Client in accordance with the redemption procedure set out in the Modulr Account Terms and Conditions. In this circumstance the Introduced Client will not be charged a fee for the Account closure and return of any balance.

### **14. General**

- 14.1. In these Introduced Client Terms of Business, headings are for convenience only and shall not affect the interpretation of these Introduced Client Terms of Business.
- 14.2. Any delay or failure by Modulr to exercise any right or remedy under this Agreement shall not be interpreted as a waiver of that right or remedy or stop Modulr from exercising its rights at any subsequent time.
- 14.3. In the event that any part of this Agreement is held not to be enforceable, this shall not affect the remainder of the Agreement which shall remain in full force and effect.
- 14.4. The Introduced Client shall remain responsible for complying with this Agreement until its Account(s) are closed (for whatever reason) and all sums due under this Agreement have been paid in full.
- 14.5. This Agreement is written and available only in English and all correspondence with the Introduced Client shall be in English.
- 14.6. This Agreement is governed by the laws of England and the Introduced Client agrees to the non-exclusive jurisdiction of the English courts.

## **Schedule 1: Card Obligations**

### **1. Introduction**

- 1.1. The terms of Schedule 1 shall apply where Virtual Cards and/or Physical Cards are included within the Modulr Products.

### **2. Transactions Disputes and Chargebacks**

- 2.1. For the purposes of these Introduced Client Terms of Business, a “**Chargeback**” means a refund of a Card Transaction after the Introduced Client (or Modulr FS on its behalf) successfully disputes the Card Transaction as permitted by the Card Scheme rules.
- 2.2. The Introduced Client shall provide Modulr all relevant information in relation to Virtual Card Transaction as may be required by Modulr to resolve the dispute in accordance with applicable law and, where applicable, to raise a Chargeback in accordance with Card Scheme rules.
- 2.3. The Introduced Client agrees that Card Scheme’s decision on the validity of the Chargeback is final and binding and that in the event a Chargeback is not successful or is subsequently reversed the Introduced Client will be liable for the amount of the disputed Card Transaction.
- 2.4. Modulr shall at its discretion not refund a Chargeback to the Introduced Client until the relevant challenge periods have passed under the relevant Card Scheme rules unless it is required to do under relevant law or regulation.

### **3. Cardholders**

- 3.1. Where corporate Cards are made available to the Introduced Client as part of Modulr Products, Introduced Client will be able to designate individuals as Cardholders permitted to use certain Cards.
- 3.2. The Introduced Client must notify Modulr of all individuals it wishes to be Cardholders and shall not permit any other person to use the Cards.
- 3.3. The Introduced Client shall be responsible for ensuring that each Cardholder is informed of the Modulr Account Terms and Conditions as they apply to the Cards and the Introduced Client shall ensure that the Cardholder complies with them.
- 3.4. In addition to clause 3.3 above, Introduced Client shall be responsible for ensuring that each Cardholder reads and accepts the Modulr Corporate Cardholder Terms and Conditions, which shall be made available to the Cardholder by the Introduced Client. Introduced Client shall keep a record of each Cardholder’s confirmation given in accordance with this clause and shall promptly make such records available to Modulr on request.
- 3.5. The Introduced Client shall ensure its Cardholders take all reasonable care to keep any security credentials relating to the use of Cards, such as PIN or any access or similar codes, where applicable, confidential and in accordance with the Modulr Account Terms and Conditions and Corporate Cardholder Terms and Conditions. Where Modulr enables Cards to be registered/stored within third party apps/devices, the security credentials relating to those

third party apps/devices will also be deemed to be security credentials relating to the use of Cards.

- 3.6. The Introduced Client acknowledges and agrees that each Cardholder is authorised by the Introduced Client to act on its behalf. Modulr shall deem any instruction given by a Cardholder with respect to Card Transactions as an instruction given by the Introduced Client and the Introduced Client shall be responsible for all actions and the use of Physical Cards by any Cardholder.
- 3.7. In the event of any changes to this Agreement, Modulr Account Terms and Conditions and/or the Modulr Corporate Cardholder Terms and Conditions, or if the Introduced Client's Account and/or Card is suspended, cancelled or terminated, it is the Introduced Client's responsibility to communicate any such changes and/or any information regarding the suspension, cancellation or termination to each Cardholder.

#### **4. Withdrawal of Cards; Change of Card Scheme; and Conditions for Tokenisation Services**

4.1. Modulr reserves the right to:

4.1.1. cease providing Cards as part of Modulr Products for any reason;

4.1.2. provide Cards issued under a different Card Scheme ; and

4.1.3. cease or amend the ability for Cards to be registered/stored within one or more third party apps/devices.

4.2. Modulr shall provide to Introduced Client tokenisation services subject to, where applicable, prior approval of the Introduced Clients by the relevant tokenisation provider (Apple Pay and/or Google Pay). Modulr shall not be liable to the Introduced Client in the event approval is not granted or is later withdrawn by the relevant tokenisation provider.

## **Schedule 2 – Direct Debit Collection Service**

### **1. Introduction**

- 1.1. The terms of this Schedule 2 shall apply where Direct Debit Collections are included within the Modulr Products as set out in the Introduced Client Application Form.

### **2. Direct Debit Collection Service**

- 2.1. The Direct Debit service allows the Introduced Client to set up a direct debit to collect funds from a bank account of an individual or business (the “**Direct Debit Customer**”) that uses the Introduced Client’s services to be paid into an account in the name of Introduced Client for the specific purpose of collection (the “**Collection Account**”) (the “**Direct Debit Collection Service**”). The terms and conditions of service, which are set out below apply.
- 2.2. The Collateral Account shall hold the Collateral Account Amount and the Collateral Account Amount may only be applied by Modulr in accordance with the terms of this Schedule 2.

### **3. Interpretation**

- 3.1. In this Schedule the following expressions shall bear the following meanings:-

- 3.1.1. “Accounting Month” shall be calculated by reference to the first day to the last day of each calendar month.
- 3.1.2. “BACS” means Bankers Automated Clearing System.
- 3.1.3. "Collateral Account" means an account held by Modulr in the name of the Introduced Client for holding the Collateral Account Amount as notified to Introduced Client from time to time.
- 3.1.4. "Collateral Account Amount" means the amount required to be held in the Collateral Account being the amount specified by Modulr and notified to Introduced Client from time to time.
- 3.1.5. “Collection Account” as defined above.
- 3.1.6. “Collection Request” shall mean a request made by the Introduced Client, in the agreed format, to Modulr to effect the collection of any number of individual monetary sums due in any Accounting Month. A Collection Request may effect either single or multiple collections.
- 3.1.7. “Direct Debit Claims Guide” means the direct debit claims guide issued by Modulr (as amended from time to time) in relation to process flow, required documentation and contesting claims.
- 3.1.9. “Direct Debit Indemnity Claim" has the meaning given to it in the Direct Debit scheme rules.
- 3.1.10. “Failure(s)” means any act of default by the Direct Debit Customer in making any payment due directly to Modulr or any other third party, agent or intermediary or

failure by the Direct Debit Customer to adequately and timeously complete a Mandate Request incorporating an instruction to its bank or building society to pay direct debits or the Direct Debit Customer becoming bankrupt or insolvent as prescribed by the Insolvency Act 1986 or compounding with its creditors or passing a resolution or having proceedings commenced against it for its administration or liquidation or the appointment of a receiver manager administrator or administrative receiver in respect of all or any part of the Direct Debit Customer's assets or undertaking, or withdrawal of the Direct Debit Customer's consent to the collection of direct debit transactions.

3.1.11. "Indemnity Claim(s)" means a claim for reimbursement made in accordance with the BACS rules and submitted by the Direct Debit Customer to the Direct Debit Customer's bank.

3.1.12. "Invoice Balance" means the credit incurred by the Direct Debit Customer.

3.1.13. "Mandate Request" means a request sent by the Introduced Client to Modulr via API or Online Portal (as relevant) from time to time in order to set up collections from a Direct Debit Customer providing such information as is required by BACS to set up a paperless direct debit (including Direct Debit Customer's name, address, bank account number and sort code).

3.1.14. "Service User Number" or "SUN" means the user number allocated to the Introduced Client under which the Introduced Client can submit Collection Requests and direct debit collections will be processed.

3.1.15. "Terms" means these terms between Modulr and the Introduced Client.

#### **4. Obligations of Modulr**

4.1. On receipt of a Mandate Request Modulr will set up a Direct Debit Customer wishing to use the Direct Debit Collection Service. Modulr will apply for payment of the Invoice Balance on receipt of a Collection Request submitted by the Introduced Client. Subject to clauses 4.2, and 4.3., Modulr will submit all Collection Requests and Mandate Requests received prior to 23.59 on a Business Day to BACS no later than the next Business Day.

4.2. Modulr may refuse to process a Collection Request or Mandate Request if it suspects there has been unauthorised or fraudulent use of this direct debit service. In such instance, Modulr shall give written notice to the Introduced Client setting out the reasons for the refusal either before the scheduled submission time or, if it is unable to do so, immediately afterwards, unless providing such notification would compromise reasonable security measures or is unlawful.

4.3. Modulr shall notify the Introduced Client at the earliest opportunity of any other refusal to initiate or execute a Collection Request and shall include the reasons for the refusal and the procedure for rectifying any factual errors that led to the refusal in such notice, provided that such notification is not unlawful.

4.4. Modulr shall monitor the receipt of payments received from a Direct Debit Customer and notify the Introduced Client of any payments that are not made when due.

- 4.5. In the event of Modulr becoming aware of a Failure, Modulr shall notify the Introduced Client. Modulr shall use all reasonable endeavours to provide success and failure information on the Business Day after the collection date, and will provide any additional information on the following Business Day. Modulr will notify Indemnity Claims received prior to 23.59 on a Business Day no later than the next Business Day.

## **5. Obligations of the Introduced Client**

- 5.1. The Introduced Client shall send Mandate Requests to Modulr via API or Online Portal (as relevant) from time to time in order to set up collections from the Direct Debit Customer.
- 5.2. The Introduced Client shall use its Service User Number in Collection Requests in order for transactions to be executed.
- 5.3. The Introduced Client shall submit Collection Requests via the interface provided by Modulr prior to

23.59 on a Business Day not less than two (2) Business Days prior to the collection date. By submitting the Collection Request via the interface, it is deemed to be authorised by the Introduced Client. Once the Collection Request is submitted, it cannot be revoked.

- 5.4. The Introduced Client warrants that any sum submitted to Modulr for collection from the Direct Debit Customer is due and owing by the Direct Debit Customer to the Introduced Client and that any invoice issued will be made available to Modulr if requested.
- 5.5. The Introduced Client must not include any sums disputed at any time between the Direct Debit Customer and the Introduced Client as a sum to be collected by Modulr until such dispute is resolved to the Direct Debit Customer's satisfaction.
- 5.6. Where Modulr is advised of any Failures or is required to repay any sum or sums to the Direct Debit Customer under its BACS obligations, these Failures and Indemnity Claims will fall immediately due for reimbursement from the Introduced Client to Modulr and the Introduced Client indemnifies Modulr in respect of any such sums. Modulr reserves the right to deduct any such sums from future payments made to the Introduced Client under clause 4.1 of these Terms.
- 5.7. If requested, the Introduced Client will forward copies of all invoices due between the Direct Debit Customer and the Introduced Client to Modulr.
- 5.8. The Introduced Client shall ensure that its terms and conditions of trading in connection with providing or distributing services to the Direct Debit Customer shall not in any way conflict with or prejudice the timing and methods of Modulr collecting payments from the Direct Debit Customer in accordance with these Terms or any of the other provisions of these Terms and in the event and to the extent that such conflict or prejudice exists the Introduced Client shall forthwith rectify and remedy the conflict or prejudice by amending the said terms and conditions and shall be responsible for all losses, damages, claims, demands proceedings liabilities and costs that are directly incurred by Modulr as a result of the existence of any such conflict or prejudice.

- 5.9. The Introduced Client shall notify Modulr without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the credentials used by it to access the Modulr services for the purposes of initiating Collection Requests.
- 5.10. The Introduced Client shall notify Modulr without undue delay upon becoming aware of any transaction which has been incorrectly processed or settled by Modulr.
- 5.11. Notwithstanding the termination of these Terms for any reason the terms set out in clause 5.8 shall continue to apply in respect of any amounts which Modulr may be obliged to repay in respect of any Failures or under its BACS obligations and whether during the subsistence of these Terms or after its termination.
- 5.12. The Introduced Client will use the Direct Debit Collection Service only for its own, internal business purposes, and will not resell them or otherwise make them available to any third party. The Introduced Client will not permit any third party to access the Direct Debit Collection Service, except its accountants or such other third-party access is expressly agreed to in writing by Modulr.
- 5.13. Introduced Client shall be responsible for handling Direct Debit Customer disputes or requests for refunds and Direct Debit Indemnity Claims with respect to the Direct Debit Collection service from Direct Debit Customers in accordance with the Direct Debit Indemnity Claims Guide.

## **6. Collateral Account**

- 6.1. The terms of this clause 6 shall apply where the Introduced Client has its own Service User Number.
- 6.2. Introduced Client shall prior to the Go Live Date pay the Collateral Account Amount into the Collateral Account. Without prejudice to any other rights of Modulr under this Agreement, Modulr shall be under no obligation to provide the Direct Debit Collection Service unless and until the Collateral Account Amount is received in cleared funds into the Collateral Account.
- 6.3. Introduced Client shall ensure that from the Go Live Date until this Agreement is terminated, the Collateral Account Amount is maintained in the Collateral Account at all times and in accordance with the terms set out in this Schedule 2 by making further payments into the Collateral Account.
- 6.4. Introduced Client agrees that Modulr may at any time immediately and without notice, apply any sums held in the Collateral Account in satisfaction of all or any of liabilities or fees payable or incurred by Modulr as a result of providing the Direct Debit Collection Service to Introduced Client including but not limited to any deficit in a Direct Debit Customer's Account or Introduced Client Account as a result of the payment of a Direct Debit from such Accounts or any liability arising under clause 6.5 of this Schedule 2.
- 6.5. Introduced Client shall indemnify Modulr for any loss or damage or liability Modulr incurs under this Schedule 2 as a result of Modulr being unable to otherwise apply funds in the Collateral Account due to insufficient funds.

- 6.6. Upon Modulr exercising its rights under clause 6.4 of this Schedule 2, Introduced Client shall within 2 Business Days pay an amount into the Collateral Account in order to ensure the Collateral Account Amount is maintained.
- 6.7. Modulr will review the Collateral Account Amount from time to time and, if the Collateral Account Amount is revised, Modulr will notify the Introduced Client of the revised Collateral Account Amount and the amount (if any) to be paid by the Introduced Client in order to ensure that the revised Collateral Account Amount is maintained in the Collateral Account. The Introduced Client shall pay the said amount into the Collateral Account within 2 Business Days of Modulr's notice. Where Modulr's review results in a decrease in Collateral Account Amount from the amount then held as such in the Collateral Account, Modulr shall pay to the Introduced Client the amount of the surplus.
- 6.8. Any failure to make a payment and/or to maintain the Collateral Account Amount by the Introduced Client in accordance with this clause 6 of this Schedule 2 shall be deemed a material breach of the Agreement and in case of such breach Modulr can (notwithstanding any other rights Modulr may have as a result of Introduced Client's breach) immediately and without notice suspend or withdraw the Direct Debit Collection service in whole or in part.
- 6.9. Upon termination of this Agreement or the Direct Debit Collection service, Modulr shall return the amounts in the Collateral Account to Introduced Client within 30 days, notwithstanding that Modulr shall be entitled to deduct any amounts to satisfy in full any liabilities of Modulr relating to providing the Direct Debit Collection service. In the event Modulr's liabilities are greater than the amount in the Collateral Account, Introduced Client shall pay such amount to Modulr on Modulr's demand.

## **7. Termination**

- 7.1. In addition and without prejudice to the termination rights of Modulr in the Agreement, Modulr may terminate or suspend the Direct Debit Collection Service in whole or in part immediately by giving written notice to the Introduced Client if:
  - 7.1.1. indemnity claims exceed the 2% threshold for more than one month in any period;  
and/or
  - 7.1.2. Introduced Client fails to discharge its obligations under this Schedule.

## **Schedule 3 – Direct Debit Mandate Service**

### **1. Introduction**

- 1.1. The terms of this Schedule 3 shall apply where BACS Direct Debit Mandates are included within the Modulr Products.

### **2. Direct Debit Mandate Service**

- 2.1. The Direct Debit Mandate service enables the Introduced Client and / or Account Manager to set up Direct Debit Mandates on an Account via UK BACS Direct Debit scheme (“**Direct Debit Mandate Service**”). The amounts and payment dates of the Direct Debits may vary.
- 2.2. The Introduced Clients (or the Partner Platform or the Account Manager acting on the Introduced Client’s behalf) will be able to set up a Direct Debit Mandate on the Account by completing a Direct Debit Mandate form.
- 2.3. The Introduced Client will be able to view or cancel a Direct Debit Mandate on the Introduced Client’s Account via the user interface provided by Partner Platform.
- 2.4. Without prejudice to any other rights of Modulr, Modulr may withdraw the Direct Debit Mandate Service by giving the Introduced Client at least 2 months’ notice by e-mail.

## Schedule 4 – PIS Terms and Conditions

### 1. INTRODUCTION

**1.1** The terms of Schedule 4 shall apply where the PIS is included within the Modulr Products provided to you.

**1.2** These PIS Terms and Conditions, alongside the Modulr Account Terms and Conditions form the agreement between Modulr FS and you and sets out the terms that apply to your use of PIS as defined below.

**1.3** We are authorised by the Financial Conduct Authority (FRN 900573) for the issuance of electronic money and providing payment services, including payment initiation services.

**1.4** Unless expressly stated in this Schedule 4, the definitions contained in this Agreement shall apply to this Schedule 4.

### 2. DEFINITIONS

**Account Servicing Payment Service Provider or ASPSP** – the third party payment service provider, such as a bank, with whom you or the End User holds an online payment account (Source Account) which we will access when you use PIS;  
**End User** – means your customer who wishes to purchase your goods and/or services using PIS, and who holds a Source Account;

**Information** – in relation to PIS, means any information related to you, and any personal information related to the End User;

**Payment Initiation** – means either (i) a payment order initiated at your request from your Source Account to your Modulr Account ; or (ii) a payment order initiated at the request of an End User from their Source Account to your Account;

**Payment Initiation Service or PIS** – means a service to initiate a payment from a Source Account, as more particularly described in clause 3.

**Source Account** – a payment account accessible online which you or an End User holds with an ASPSP;

**Standing Order** – a regular, recurring Payment Initiation as instructed by an End User.

### 3. OUR SERVICES

**3.1** You can only use PIS if you have an Account. You can continue to use PIS as long as you continue to hold an Account.

**3.2** You will be able to use our API to:

**3.2.1** add funds to your Modulr Account from a Source Account;

**3.2.2** allow an End User to initiate a payment from a Source Account to your Account; and

**3.2.3** allow an End User to set up a Standing Order from their Source Account to your Account.

**3.3** When using PIS to add funds to your Modulr Account, we will provide you with a redirection URL which will redirect you to your ASPSP, where you can log in using your ASPSP credentials and consent to the Payment Initiation from your Source Account.

**3.4** For End Users, we will provide you with a redirection URL to provide to the End User to redirect them to their ASPSP, where they can log in using their ASPSP credentials and consent to the Payment Initiation from their Source Account.

**3.5** We are not responsible for the services or provided by the ASPSP. The services provided in relation to the Source Account are subject to a separate agreement between you and your ASPSP, or the End User and their ASPSP.

#### **4. END USERS**

**4.1** You will only allow End Users to request Payment Initiations and Standing Orders in accordance with these PIS Terms and Conditions and the End User Terms and Conditions (contained at Annex 1 to this Schedule 4).

**4.2** You will ensure that End Users have read and accepted the End User Terms and Conditions prior to the End User using PIS.

**4.3** You will keep a record of each End User's confirmation given in accordance with clause 4.2 above and shall promptly make such records available to Modulr on request.

**4.4** You acknowledge that an End User may revoke their consent to process Payment Initiations or Standing Orders at any time, and Modulr shall not be liable to you for failing to provide the Information requested by you.

**4.5** We will not be able to revoke a transfer from a Source Account once it has been confirmed by an End User.

**4.6** Once an End User requests us to initiate a payment from a Source Account, Modulr will make the following information available to you and you must provide it immediately to the End User:

**4.6.1** a confirmation that the payment has been successfully initiated with the End User's ASPSP;

**4.6.2** a reference to identify the payment transaction and any information transferred with the payment order; and

**4.6.3** the amount of payment.

**4.7** Where applicable, you will comply with Modulr's PIS Customer Requirement Guidelines as provided to you by Partner Platform and as may be amended from time to time.

#### **5. ACCOUNT TOP UP**

**5.1** You may use PIS to make a payment initiation for the purpose of adding funds to your Modulr Account.

**5.2** When you request us to initiate a payment from your Source Account, Modulr will make the following information available to you:

**5.2.1** a confirmation that the payment has been successfully initiated with your ASPSP;

**5.2.2** a reference to identify the payment transaction and any information transferred with the payment order; and

**5.2.3** the amount of payment.

## **6. SECURITY**

**6.1** You must not allow another person to use security information necessary to use PIS;

**6.2** We can restrict or suspend your ability to use PIS, including refusing to initiate the payment from a Source Account, if we are concerned about the security of your access to the Online Portal or the API, using PIS is causing or could cause a breach of these Terms and Conditions or if we have reasonable grounds for suspecting that you or a third party has committed or is about to commit a crime or other abuse in connection with your use of our API or Online Portal.

**6.3** If we restrict or suspend your use of PIS or refuse to initiate the payment from a Source Account, we will, without undue delay and provided we are legally permitted to do so, notify you. If possible, we will provide the reasons for this and where it is possible will provide reasons for the restriction or suspension and where those reasons relate to factual matters, the procedure of rectifying any factual errors that led to the restriction or suspension. Where we need to contact you, we will use the contact details associated with your Account, such as email, or telephone. You should inform us without delay if your contact details change.

## **7. DISPUTES AND INCORRECT TRANSACTIONS**

**7.1** If you or the End User have a reason to believe that a payment from a Source Account initiated by us was unauthorised or was made incorrectly, , the owner of the Source Account (i.e. you or the End User, as the context allows) should contact their ASPSP to resolve their query and we will cooperate with the ASPSP's investigation in to such payment. Where we believe that the incorrect payment was due to our error in respect of the part of the Payment Initiation we were responsible for, we will refund the incorrectly initiated payment back to the original Source Account.

**7.2.** You will be liable for all payments initiated through our API or Online Portal if you have acted fraudulently or with gross negligence (for example failed to keep your security information such as but not limited to the Online Portal log in details and API security details or Source Account credentials safe).

## **8. YOUR LIABILITY**

**8.1** You are responsible for understanding and complying with these PIS Terms and Conditions.

**8.2** You agree to indemnify and hold harmless, us, Modulr and our distributors, partners, agents, sponsors, and service providers and their group companies from and against the costs of any legal action (including any loss arising from action taken by a Regulator) taken to enforce these PIS Terms and Conditions and/or any breach of these PIS Terms and Conditions by you, including in respect of any non-compliance with clauses 4.2 and 4.3 of these PIS Terms and Conditions.

## **9. OUR LIABILITY**

**9.1** In addition to our liability set out in the Modulr Account Terms and Conditions (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise), where a Payment Initiation is incorrectly made from a Source Account due to our default, our liability shall be limited as appropriate (i) to refund to you an equivalent amount to which was incorrectly deducted from your Source Account; or (ii) to refund to the End User of an equivalent amount to that which was incorrectly deducted from their Source Account.

## **10. TERMINATION**

**10.1** These PIS Terms and Conditions will apply each time you use PIS in relation to your Account.

**10.2** We can terminate your access to PIS at any time if we give you two months' notice.

**10.3.** We can terminate your access to PIS at any time with immediate effect (and until your default has been remedied or these Terms and Conditions terminated) without any prior notice to you if:

**10.3.1** we discover any of the Information that we hold for you is incorrect; or

**10.3.2** if we have reason to believe that you or a third party has committed or is about to commit a crime or other abuse (including fraud) in connection with your use of PIS; or

**10.3.3** you have breached these Terms and Conditions.

## ANNEX 1 TO SCHEDULE 4 –

### End User PIS Terms and Conditions

#### Important information you need to know

These End User PIS Terms and Conditions (“**Terms and Conditions**”) form the agreement between Modulr FS and you and sets out the terms that apply to your use of PIS as defined below.

Please read these Terms and Conditions carefully before you agree to use PIS provided by us.

By using PIS, you accept the terms of these Terms and Conditions. If there is anything you do not understand, please contact Customer Services using the contact details set out below. You can also request a copy of these Terms and Conditions at any time by contacting Customer Services.

#### 1. DEFINITIONS

**Account Servicing Payment Service Provider or ASPSP** – the third party payment service provider, such as a bank, with whom you hold an online payment account (Source Account) which we will access when you use our Service.

**Customer Services** - the contact centre for dealing with queries about our Services, who can be contacted at [support@modulrfinance.com](mailto:support@modulrfinance.com) or 0303 313 0060.

**Data Protection Laws** – the following, to the extent they are applicable to a party: the General Data Protection Regulation (EU) 2016/679, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy (as amended or replaced from time to time), including where applicable the guidance and codes of practice issued by the Information Commissioner (in the United Kingdom) or other applicable supervisory authority.

**Information** – means any personal information related to you

**Merchant** - the entity legally responsible for the Modulr Account, from whom you are purchasing goods or services.

**Modulr** – Modulr Finance Ltd, a company registered in England and Wales with number 09897957 and whose registered office is at Scale Space, 58 Wood Lane, London, W12 7RZ. Modulr Finance Ltd (FRN: 900699) is a registered agent of Modulr FS Ltd.

**Modulr Account** - the electronic account provided by us to the Merchant.

**Payment Initiation Service or PIS** – means a service to initiate a payment at your request from a Source Account held by you, as more particularly described in clause 3.1.

**Source Account** – a payment account accessible online which you hold with an ASPSP;

**Standing Order** - a regular, recurring Payment Initiation as instructed by you.

**we, us, our or Modulr FS** - Modulr FS Ltd, a company registered in England and Wales with number 09897919 and whose registered office is at Scale Space, 58 Wood Lane, London, W12 7RZ and who is

regulated by the Financial Conduct Authority for issuance of electronic money under FRN 900573, or Modulr acting on Modulr FS Ltd's behalf.

**you, your** - the payee who wishes to use PIS to send funds to a Merchant's Modulr Account.

## **2. SCOPE OF THESE TERMS AND CONDITIONS**

**2.1** These Terms and Conditions apply to your use of PIS. We are authorised by the Financial Conduct Authority (FRN 900573) for the issuance of electronic money and providing payment services, including payment initiation services. Your rights and obligations relating to the use of PIS are subject to these Terms and Conditions between you and us.

**2.2** These Terms and Conditions are written and available only in English and we undertake to communicate with you in English regarding any aspect of your use of PIS.

## **3. OUR SERVICES**

**3.1** You will be able to initiate a payment from your Source Account to the Merchant's Modulr Account, or set up a Standing Order. You will need to select the linked Source Account and the amount when you ask us to initiate the payment.

**3.2** We may use internet providers, web browsers and other third parties to access your Source Account held with the ASPSP, so that we can transmit the information relating to your Source Account or initiate the payment.

**3.3** The services provided to you in relation to your Source Account are subject to a separate agreement between you and the ASPSP. We are not responsible for the services or provided to you by the ASPSP.

## **4. USING THE SERVICES**

**4.1** Each time you use our PIS, you are giving us your explicit consent to initiate the payment from your Source Account to the Modulr Account for the amount you select at the time of your request.

**4.2** You will need to provide the same identifying information that you use when logging into to access your Source Account online with your ASPSP, such as your user name, password and/or other security information (such as answers to challenge questions or one-time-passcodes) ("**Security Credentials**"). You will need to provide your Security Credentials to:

**4.2.1** link the Source Account; and

**4.2.2** authorise a payment from your Source Account you have asked us to initiate.

**4.3** We will not be able to revoke a transfer from your Source Account once you have confirmed it.

**4.4** Once you request us to initiate a payment from your Source Account, the Merchant will provide:

**4.4.1** a confirmation that the payment has been successfully initiated with your ASPSP;

**4.4.2** a reference to identify the payment transaction and any information transferred with the payment order; and

**4.4.3** the amount of payment.

## **5. STANDING ORDERS**

**5.1** You will be able to set up a Standing Order to make regular, recurring Payment Initiations to the Merchant's Modulr Account. When setting up a Standing Order, you are giving us explicit consent to initiate a regular, recurring Payment Initiations from your Source Account to the Modulr Account for the amount you select at the time of your request.

**5.2** You must provide the following information to allow us to set up the Standing Order: the date of the first Payment Initiation, the amount of the Standing Order, and if the Standing Order is not open-ended, the date of the final Payment Initiation.

**5.3** If you wish to amend or cancel a Standing Order, you must contact your ASPSP. Modulr is not able to amend or cancel Standing Orders and accepts no liability for Standing Orders which have been incorrectly amended or cancelled.

## **6. FEES**

We will not charge you any fees for using PIS.

## **7. SECURITY**

**7.1** You must not:

**7.1.1** allow another person to use security information necessary to use PIS;

**7.1.2** write down password(s) or any security information unless this is done in a way that would make it impossible for anyone else to recognise any of that information; or

**7.1.3** disclose passwords or any security information, or otherwise make them available to any other person, whether verbally or by entering them in a way that allows them to be observed by others.

**7.2** We can restrict or suspend your ability to use PIS, including refusing to initiate the payment from your Source Account, if we are concerned that using PIS is causing or could cause a breach of these Terms and Conditions or if we have reasonable grounds for suspecting that you or a third party has committed or is about to commit a crime or other abuse in connection with your use of our PIS.

**7.3** If we refuse to initiate the payment from your Source Account, we will, without undue delay and provided we are legally permitted to do so, notify you, via the Merchant. If possible, we will provide the reasons for this and where it is possible will provide reasons for the restriction or suspension and where those reasons relate to factual matters, the procedure of rectifying any factual errors that led to the restriction or suspension.

## **8. DISPUTES AND INCORRECT TRANSACTIONS**

**8.1** If you have a reason to believe that a payment from your Source Account initiated using our PIS was unauthorised or was made incorrectly, you can contact your ASPSP to resolve your query and we will cooperate with the ASPSP's investigation in to such payment. Where we believe that the incorrect payment was due to our error in respect of the part of the initiated payment we were responsible for, we will refund the incorrectly initiated payment back to the original Source Account.

**8.2.** You will be liable for all payments initiated through our PIS if you have acted fraudulently or with gross negligence (for example failed to keep your security information or Source Account Security Credentials safe).

**8.3** In circumstances where payment is initiated from your Source Account by us is disputed by you or your ASPSP, if we require your support to enable us to establish the cause of the incorrectly initiated payment, you agree to provide us with all assistance that we reasonably require.

## **9. YOUR LIABILITY**

**9.1** You are responsible for understanding and complying with these Terms and Conditions.

**9.2** It is your responsibility to keep the Merchant updated of changes to your Information, including e-mail address and mobile numbers. Failure to do so may result in us being unable to contact you regarding our PIS or to let you know about changes to these Terms and Conditions.

**9.3** You agree to indemnify and hold harmless, us, Modulr and our distributors, partners, agents, sponsors, and service providers and their group companies from and against the costs of any legal action taken to enforce these Terms and Conditions and/or any breach of these Terms and Conditions by you.

## **10. OUR LIABILITY**

**10.1** Our liability in connection with these Terms and Conditions (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise) shall be subject to the following exclusions and limitations:

**10.1.1** we shall not be liable for any default resulting directly or indirectly from any cause beyond our control;

**10.1.2** we shall not be liable for any loss of profits, loss of business, or any indirect, consequential, special or punitive losses;

**10.1.3** where payment is incorrectly initiated from your Source Account due to our default, our liability shall be limited to refund to you of an equivalent amount to that which was incorrectly deducted from your Source Account.

**10.2** Nothing in these Terms and Conditions shall exclude or limit our liability for death or personal injury resulting from our negligence or fraud.

**10.3** To the extent permitted by law, all conditions or warranties implied by law, statute or otherwise are expressly excluded.

**10.4** The above exclusions and limitations set out in this paragraph shall apply to any liability of our affiliates and other suppliers, contractors, agents or distributors and any of their respective affiliates (if any), to you, which may arise in connection with these Terms and Conditions.

## **11. VARIATION**

**11.1** Each time you use our PIS you will be bound by the Terms of Service in force at that time.

**11.2** From time to time, we may update these Terms and Conditions. If we do this then we will provide an updated copy to Merchants and you will be bound by those new terms the next time you use our PIS. If you do not agree to those changes you should not use our PIS.

**11.3** If any part of these Terms and Conditions are inconsistent with any legal requirements then we will not rely on that part but treat it as if it did actually reflect the relevant legal requirement. If we need to make operational changes before we can fully comply with the new regulatory requirement, we will make those changes as soon as reasonably practical.

## **12. TERMINATION OR SUSPENSION**

**12.1** We may at any time terminate or withhold your access to all or any part of our PIS at any time, effective immediately:

**12.1.1** if you have breached any provision of these Terms and Conditions (or have acted in a manner which clearly shows that you do not intend to, or are unable to comply with the provisions of these Terms and Conditions); or

**12.1.2** if we, in our sole discretion, believe we are required to do so by law (for example, where the provision of the PIS to you is, or becomes, unlawful).

## **13. YOUR INFORMATION**

**13.1** You may provide us with your Information from time to time in connection with your use of PIS. Some Information, especially the Account Information, will be necessary for us to provide you with the PIS under these Terms and Conditions.

**13.2** We and our affiliates are committed to maintaining your Information in accordance with the requirements of the Data Protection Laws. You acknowledge and agree that any Information provided by you or a third party on your behalf to us shall be used, kept and may be disclosed to third parties in accordance with our Privacy Policy which is available on our website. We will take all reasonable steps to ensure that your Information is kept secure against unauthorised access, loss, disclosure or destruction. Except as required by law, or in accordance with these Terms and Conditions, your Information will not be passed to anyone without your permission.

**13.3** You explicitly consent to us accessing, processing and retaining any Information you provide to us for the purposes of providing payment services to you. This does not affect any rights and obligations you or we have under Data Protection Laws. You agree that we can use your Information in connection with the PIS, to enable us to review, develop and improve our products and services. This may involve providing your Information to our partners, affiliates, agents, distributors and suppliers to process transactions and for their statistical research and analytical purposes. We may also disclose your Information as required by law, regulation or any competent authority or agency to investigate possible fraudulent, unlawful or unauthorised activity. You may withdraw your consent at any time. If you do this, we will stop providing our PIS to you and stop using your Information to provide payment services to you. We may continue to process your Information for other purposes, for example where we are required by law to do so.

**13.4** If we discover that the Information we hold about you is incorrect, we may have to suspend or cancel your access to the PIS until we can establish the correct Information, in order to protect us both.

## **14. COMPLAINTS PROCEDURE**

**14.1** Complaints regarding any element of the PIS provided by us can be sent to Customer Services.

**14.2** All complaints will be subject to our complaints procedure. We will provide you with a copy of our complaints procedure upon request and, if we receive a complaint from you, a copy of our complaints procedure will automatically be posted or emailed to you.

**14.3** In most cases we will provide a full response by email to your complaint within fifteen business days after the date we receive your complaint. In exceptional circumstances where we are unable to respond in full to your complaint, we will inform you of this giving our reasons for the delay and the timeframe within which you will receive a full reply, which in any event shall be within thirty-five days of the date we received your complaint.

**14.4** If we fail to resolve your complaint to your satisfaction you may refer your complaint to the Financial Ombudsman Service (Exchange Tower, London E14 9SR, phone 0800 023 4567). Details of the service offered by the Financial Ombudsman Service are available at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

## **15. GENERAL**

**15.1** Any delay or failure to exercise any right or remedy under these Terms and Conditions by us shall not be construed as a waiver of that right or remedy or preclude its exercise at any subsequent time.

**15.2** If any provision of these Terms and Conditions is deemed unenforceable or illegal, the remaining provisions will continue in full force and effect.

**15.3** You may not assign or transfer any of your rights and/or benefits under these Terms and Conditions and you shall be the sole party to the contract between us. We may assign our rights and benefits at any time without prior written notice to you. We may subcontract any of our obligations under these Terms and Conditions.

**15.4** Save for Modulr, who act on our behalf, no third party who is not a party to these Terms and Conditions has a right to enforce any of the provisions in these Terms and Conditions.

**15.6** These Terms and Conditions are governed by English law and you agree to the exclusive jurisdiction of the courts of England and Wales.

## Schedule 5: Confirmation of Payee

For the purposes of this Schedule, the following definitions shall apply:

“**CoP Operating Guide**” means the operating guide published by Pay.UK in force at the time of this Agreement and as updated from time to time;

“**CoP Rules**” means the rules contained in the Confirmation of Payee Rulebook published by Pay.UK in force at the time of this Agreement and as updated from time to time;

“**Data Privacy Notice**” means the Modulr privacy policy available online at <https://www.modulrfinance.com/privacy-policy>, as updated from time to time; and

“**Modulr CoP Developer Guide**” means the documentation relating to CoP made available to Partner Platform in the Modulr Developer Centre, as updated from time to time.

### 1. Introduction

- 1.1. These CoP Terms and Conditions shall apply where Confirmation of Payee (“**CoP**”) is included within the Modulr Products provided to you.
- 1.2. These CoP Terms and Conditions, alongside the Modulr Account Terms and Conditions form the agreement between Modulr FS and you and sets out the terms that apply to your use of CoP as defined below.

### 2. Compliance with Confirmation of Payee Rules

- 2.1. Where applicable, you will comply with all CoP Rules as they apply to CoP.
- 2.2. The Introduced Client shall be responsible for ensuring that any authorised user who uses CoP complies with these terms and conditions and Modulr Account Terms and Conditions.

### 3. Confirmation of Payee

- 3.1. CoP allows the account details of a payee to be checked with their payment service provider before a payment is instructed and made by the sender.

#### Outbound requests – Checking a payee’s details before making a payment

- 3.2. Modulr FS enables access to the Application Programming Interface (**API**) used by Modulr FS to send requests to the payee’s payment service provider in order to check that the details entered match the details of the person or business to be paid.
- 3.3. When setting up a new payee for a payment (eg. Faster Payment), you must provide:
  - 3.3.1. the payee’s full name, account number and sort code; and
  - 3.3.2. the type of account that will be paid (eg. either Business or Personal).

- 3.4. Modulr FS will then send a request to the receiving payment service provider to check these details and provide the Partner Platform with a result within the API in line with the CoP Rules and Modulr CoP Developer Guide. These results include but are not limited to:
  - 3.4.1. the account name is a match;
  - 3.4.2. the account name is a close match; and
  - 3.4.3. the account name is not a match.
- 3.5. Partner Platform will then display results to you in accordance with the CoP Rules and the Modulr CoP Developer Guide, as agreed with Modulr FS.
- 3.6. It is acknowledged that, notwithstanding any results returned pursuant to clauses 3.4 and 3.5 above:
  - 3.6.1. the decision as to whether to proceed to payment or not remains with you. For the avoidance of doubt, if a payment is made by you and the money is ultimately sent to an incorrect account, Modulr FS may not be able to get the money back; and
  - 3.6.2. Modulr FS will not be liable for any subsequent properly authorised and executed payment.

#### **Inbound requests – Receiving a payment**

- 3.7. Modulr FS intends to enable checks made by other participants of CoP against accounts held with it and respond to such requests from a payer's payment service provider in order to check that the details provided match that of the intended payee.
- 3.8. The use of this service, when available, will be subject to FAQs and the Data Privacy Notice.

#### **4. Fair usage**

- 4.1. The use of CoP is subject to conditions contained in the CoP Rules, which include but are not limited to:
  - 4.1.1. CoP may only be used by you in anticipation of making a payment; and
  - 4.1.2. the number of the requests by you shall not exceed limits included in the CoP Rules and determined by Modulr FS from time to time.
- 4.2. For the avoidance of doubt, a breach of these fair usage provisions shall be a breach of these CoP Terms and Conditions which could result in the suspension or termination of this service.

## **Part C: - The Modulr Account Terms and Conditions; Important information you need to know**

### The Modulr Account Terms and Conditions

Please read these Terms and Conditions carefully before you agree to use an Account or any related services provided by or through us.

These Terms and Conditions, together with the Introduced Client Terms of Business constitute the entire agreement between Modulr and you.

By signing the Modulr Account Terms and Conditions you accept the terms of the Agreement, or by agreeing to open an Account and/or using our services, you accept these Terms and Conditions. If there is anything you do not understand, please contact Customer Services using the contact details provided to you by Partner Platform.

### **1. DEFINITIONS**

**Account** - The electronic money account, also known as Modulr Account provided by us in accordance with these Terms and Conditions.

**Account Information Service Provider** – means a third party payment service provider who is authorised by or registered with the Financial Conduct Authority or another European regulator to provide online account information services, who, with your permission will be able to access certain online account information on one or more payment accounts held by you to give you a consolidated view of your payment accounts.

**Account Limit** – any limit that applies in relation to your Account and/or Card, such as account maximum balance, and limits on receiving and sending payments from your Account as referred in paragraph 2.

**Account Manager** - The individuals elected by the Account Owner to be responsible for the management of the Account, also known as an “Authorised User”.

**Account Owner** – The entity legally responsible for an Account.

**Agreement** - The agreement for your Account made up of these Terms and Conditions, together with the Introduced Client Terms of Business which constitute the entire agreement between you and Modulr.

**Application Programming Interface (API)** – means the interfaces provided by Modulr to the Introduced Client (and the Partner Platform on the Introduced Client’s behalf) to directly instruct Accounts via the Introduced Client’s or the Partner Platform’s own application.

**AML Policy** - Modulr’s written policy on anti-money laundering and counter terrorist financing as may be amended from time to time by Modulr.

**Applicant** – A customer of the Partner Platform who applies for Modulr Products but is yet to be accepted by the Modulr as an Introduced Client.

**Available Balance** - The value of funds available on your Account.

**Bacs Credit** – Means Bacs Direct Credit. A service enabling organisations to make payments to an account which takes 3 Business Days for the funds to be cleared.

**Business Days** - Monday to Friday between the hours of 9am-5pm but does not include bank holidays, or public holidays in the United Kingdom.

**Card** – means a Virtual Card or a Physical Card.

**Cardholder** - means the individual authorised to use the Physical Card issued to you.

**Card Scheme** -Mastercard and/or Visa or such other payment network through which Card Transactions are processed as may be made available to you from time to time.

**Card Transaction** –means a Virtual Card Transaction or a Physical Card Transaction.

**CHAPS** – the Clearing House Automated Payment System, a service enabling organisations to make same-day payments to an account within the UK, within the CHAPS operating days and times.

**Chargeback** has the meaning given to it in Schedule 1 of the Introduced Client Terms of Business.

**Confidential Information** - any information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to: the business, products, affairs, strategy, contracts, customer relationships, commercial pipelines, business contacts, prospective customers, existing customers, business models, customer pricing, management systems, business methods, corporate plans, maturing new business opportunities, research and development projects, marketing and sales information, sales targets and statistics, discount structures, suppliers and potential suppliers, source codes, computer programs inventions, know-how, technical specifications and other technical information relating to products and services.

**Customer Services** - The contact centre for dealing with queries about your Account. Contact details for Customer Services can be obtained from the Partner Platform.

**Data Protection Laws** – the following, to the extent they are applicable to a party: the Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy (as amended or replaced from time to time), including where applicable the guidance and codes of practice issued by the Information Commissioner (in the United Kingdom) or other applicable supervisory authority;

**Direct Debit** – a payment collected via UK Direct Debit scheme operated by Bacs from or to your Account.

**Direct Debit Collection** – a payment collected to your Account via UK Direct Debit scheme on the basis of an instruction given by you to the payer's payment service provider.

**Direct Debit Guarantee** – means the refund terms applicable to Direct Debit Mandates as set out on the direct debit form or direct debit confirmation provided to you by the payment recipient.

**Direct Debit Mandate** – a payment collected from your Account via UK Direct Debit scheme on the basis of a mandate permitting someone else (recipient) to instruct us to transfer money from your Account to that recipient.

**Due Diligence Procedure** - Modulr's procedures for carrying out due diligence on Introduced Clients in order to comply with its policies and regulatory obligations.

**Faster Payment** – A service allowing you to make and receive electronic payments in the UK which is received by the recipient bank within 2 hours provided that the receiving organisation or bank is part of Faster Payments Scheme.

**Fees** – where relevant, those fees payable by the Introduced Client.

**Information** – Means any information related to the organisation, and any personal information related to Account Manager or the Cardholder.

**Intellectual Property Rights** – means without limitation, all patents (including models and inventions), trademarks, service marks, trade names, domain names, business names, copyrights, design rights, database rights, rights to or in computer software, know-how, trade secrets, rights to or in confidential information and all other intellectual property rights and rights or forms of protection of a similar nature or effect which may subsist anywhere in the world whether or not registered or capable of registration, together with all applications for registration of, and any licence to use, any of the foregoing and "Intellectual Property" shall be construed accordingly;

**Introduced Client** – Any client of Modulr which has been introduced by the Partner Platform and whose account is operated by the Partner Platform based on instructions the Partner Platform receives from the Introduced Client (where relevant).

**Introduced Client Terms of Business** - The terms on which Modulr provides Modulr Products to the Introduced Client.

**Merchant**- means a merchant authorised to accept Card Scheme-branded Cards.

**Modulr** – Modulr Finance Ltd, a company registered in England and Wales with number 09897957 and whose registered office is at Scale Space, 58 Wood Lane, London, W12 7RZ. Modulr Finance Ltd (FRN: 900699) is a registered agent of Modulr FS Ltd.

**Modulr Account Terms and Conditions** - This agreement, between Modulr FS and the Introduced Client which governs the terms on which the Introduced Client may use its Account.

**Modulr Products** – those products, including but not limited to the Account as described by Partner Platform in the application process.

**Online Portal** – means the interface provided by Modulr for the Introduced Client to access via the public internet, subject to applicability based on the Introduced Client's relationship with the Partner Platform.

**Payment Initiation Service Provider** – means a third party payment service provider authorised by or registered with by the Financial Conduct Authority or another European regulator to provide an online service to initiate a Transaction at your request on your Account.

**Partner Platform** – A third party that is permitted by Modulr and Modulr FS to introduce and act on behalf of Introduced Clients, and permitted by you to act as an Authorised User.

**Partner Platform Agreement** - an agreement between the Account Owner and the Partner Platform for the provision of various services, under the terms of which the Introduced Client wishes to open an Account with Modulr to be used for the purpose and in accordance with the terms set out in the Partner Platform Agreement.

**Physical Card** - means a physical card-based payment instrument issued by us to you which uses the Card Scheme payments network, as well as any version or record of such an issued payment instrument stored on an app or other platform, and which may be used to make Physical Card Transactions.

**Physical Card Transaction** - means the use of a Physical Card to make a payment to a Merchant.

**Regulator** – the Financial Conduct Authority, located at 12 Endeavour Square, London, E20 1JN or any authority, body or person having, or who has had, responsibility for the supervision or regulation of any regulated activities or other financial services in the United Kingdom.

**SEPA** – the Single Euro Payments Area is the area where citizens, companies and other economic actors can make and receive payments in euro, within Europe, whether within or across national boundaries under the same basic conditions, rights and obligations, regardless of their location. SEPA is driven by the European Commission and the European Central Bank, amongst others, as a key component of the EU Internal Market. SEPA shall be deemed to encompass the countries and territories which are part of the geographical scope of the SEPA Schemes, as listed in the EPC List of SEPA Scheme Countries, as amended from time to time.

**SEPA Credit Transfer** - a service allowing you to make and receive non urgent EUR electronic payments within SEPA provided that the receiving organisation or bank is part of the scheme.

**SEPA Instant Credit Transfer** - a service allowing you to make and receive near real time EUR electronic payments within SEPA provided that the receiving organisation or bank is part of the scheme.

**SEPA Transfers** – means, together, SEPA Credit Transfer and SEPA Instant Credit Transfer.

**SWIFT** – the global member-owned financial telecommunications system used to facilitate the secure transfer of messages, including payment instructions, between financial institutions.

**SWIFT Inbound Payment** – an inbound payment (in such currencies as may be supported by Modulr from time to time) made via SWIFT.

**SWIFT Outbound Payment** – an outbound payment (in such currencies as may be supported by Modulr from time to time) made via SWIFT.

**SWIFT Payments** – means, together, SWIFT Inbound Payments and SWIFT Outbound Payments (and **SWIFT Payment** shall be construed accordingly).

**Transaction** – any debit, credit or other adjustment to an Account that affects the balance of monies held in it, including a Virtual Card Transaction.

**TPP (Third Party Provider)** – means an Account Information Service Provider or a Payment Initiation Service Provider.

**we, us, our or Modulr FS** - Modulr FS Ltd, a company registered in England and Wales with number 09897919 and whose registered office is at Scale Space, 58 Wood Lane, London, W12 7RZ and who is regulated by the Financial Conduct Authority for issuance of electronic money under FRN 900573, or Modulr acting on Modulr FS Ltd's behalf.

**Virtual Card** – means a virtual card-based payment instrument consisting of (amongst other things) a unique 16 digit account number issued to you which uses the Card Scheme payments network, as well as any version or record of such an issued payment instrument stored on an app or other platform, and which may be used to make Virtual Card Transactions.

**Virtual Card Transaction** – means the use of a Virtual Card to make a payment to a Merchant.

**Website** – means the customer portal that Introduced Clients can login to in order to use the Modulr Products.

**you, your** - The Account Owner, also referred to as an Introduced Client.

## **2. ACCOUNT & CARD LIMITS**

**2.1** Limits may apply to the balance on your Account at any time, the maximum value of an individual payment Transaction, maximum Virtual Transaction value per Card, the maximum aggregate value of all payment Transactions made from your Account or Cards in a particular time period e.g. during any one Business Day and the maximum number of payment Transactions made from your Account over a particular timeframe. Your Cards may also have certain Card Transaction types disabled, such as cash withdrawals at an ATM.

**2.2** The limits and restrictions that apply to your Account and Card will be communicated to you during the Account set-up process and/or before the Card is issued to you (as applicable). These limits may also change over time based on your Account and/or Card usage; any such change will be communicated to you. You can check the limits at any time by contacting Customer Services. You should not make a payment Transaction request which exceeds such.

**2.3** From time to time a Card Transaction may be authorised which exceeds the limit or restriction applicable to your Account or Card, for example when it is used in an offline environment for example but not limited to payments for or on transport (purchases on a train, aeroplane, underground or toll payments). In such circumstance, a negative balance on your Account may occur. In this case the process in paragraphs 5.14 to 5.16 inclusive will apply.

**2.4** Certain Merchants may require verification that the funds held on your Account will cover the Card Transaction amount and will place a “pre-authorisation” on your Card. This amount will be unavailable to you until the Card Transaction is completed or released by the Merchant. The pre-authorisation allows the Merchant up to 30 days to claim and settle any funds owed to them from the Card. Examples include but are not limited to hotels and rental cars. If there are insufficient funds available on your Account, Modulr must still make this settlement, which may result in a negative balance on your Account. In this case the process in paragraphs 5.14 to 5.16 inclusive will apply.

**2.5** To manage our risk, particularly with respect to money laundering, fraud or security concerns, we also apply internal controls, including limits, to certain types of payment. We change these as necessary but for security purposes, we do not disclose them.

### **3. SCOPE OF THESE TERMS AND CONDITIONS**

**3.1** Your Account is an electronic money account and the electronic money and any Card associated with it is issued to you by us. We are regulated by the Financial Conduct Authority for the issuance of electronic money (FRN 900573). Your rights and obligations relating to the use of this Account are subject to these Terms and Conditions between you and us.

**3.2** The types of Transactions enabled for your Account will be explained to you by the Partner Platform, or as subsequently enabled by us. The terms of these Modulr Account Terms and Conditions applicable to specific Transactions or payment types (for example, Cards) apply only to the extent that such Transactions or payment types are enabled for your Account.

**3.3** This Agreement is written and available only in English and we undertake to communicate with you in English regarding any aspect of your Account.

**3.4** You agree that we or the Partner Platform may communicate with you by e-mail or telephone for issuing any notices or information about your Account and therefore it is important that you ensure you keep your e-mail address and mobile phone number updated.

**3.5** You can request a copy of these Terms and Conditions at any time by contacting Customer Services.

### **4. OPENING YOUR ACCOUNT**

**4.1** Your Account will be opened on your behalf by the Partner Platform. You may only hold an Account so long as you remain an approved client of the Partner Platform that provided you with your account details.

### **5. USING THE ACCOUNT**

**5.1** Your Account can receive bank transfers and other payment types as added and notified to you by Modulr from time to time. Subject to paragraph 5.3, we will credit your Account when we receive the funds which could be up to three Business Days after the payment being instructed, depending on how the payment was sent.

**5.2** Your Account can also receive internal transfers from other Accounts owned or controlled by the Partner Platform, which apply instantly.

**5.3** An incoming payment will not be credited to your Account if:

**5.3.1** the Account has reached the Account Limits; or

**5.3.2** the Account is blocked or terminated; or

**5.3.3** the sender has provided incorrect/invalid Account Details for your Account; or

**5.3.4** we suspect the payment to be fraudulent.

**5.4** If we are unable to credit your Account for any of the reasons in paragraph 5.3 then the funds may be sent back to the sender without a prior notification to you.

**5.5** Your Account can make payments out to external bank accounts via Faster Payments, SEPA Transfer, SWIFT Payments (if selected as a Modulr Product) and other methods as added and notified to you by the Partner Platform from time to time.

**5.6** Your Account will be configured and operated by the Partner Platform. You agree that Modulr and we may take instructions from the Partner Platform regarding the operation of your Account, including the creation of beneficiaries and instruction of payments, on your behalf. We and Modulr have no liability for actions taken by the Partner Platform. If you disagree with any actions taken by the Partner Platform these should be discussed with the Partner Platform. We are also authorised to take instructions from any other Account Manager (where different from Partner Platform) and, with respect to Physical Card Transactions, from the Cardholder. You are responsible for all actions of the Account Manager and any Cardholder in relation to the Account and/or Card(s).

**5.7** Where Cards are made available to you, your Account can be used to fund Card Transactions. You or your Account Manager or Partner Platform can request a Virtual Card or a Physical Card to be issued to you via the Online Portal or Modulr API.

**5.8** Where a Virtual Card or Physical Card is issued to you, you may be able to register and/or store the details of the Card within third party apps and/or devices and to use those third party apps/devices to initiate payments with your Card. When you first register your Card within a third party app/device we support, you may be required to verify that it is you requesting the registration of the Card. If you do not do this, you may not be able to register and use your Card through the third party app/device.

**5.9** The value of any Card Transaction, together with any applicable fees and charges, will be deducted from your Account once we receive the authorisation request from the Merchant.

**5.10** If the Card Transaction is made in a currency other than the currency the Card is denominated in, the Card Transaction will be converted to the currency of the Card by the relevant Card Scheme at a rate set by it on the day we receive details of the Card Transaction. The exchange rate varies throughout the day and is not set by us. You can check the relevant Card Scheme rate as follows.

Mastercard Card Scheme rate at: <https://www.mastercard.co.uk/en-gb/consumers/get-support/convert-currency.html>;

VISA Card Scheme rate at: <https://www.visa.co.uk/support/consumer/travel-support/exchange-rate-calculator.html>.

**5.11** A Transaction is deemed to be authorised by you:

**5.11.1** when you or your Account Manager or Partner Platform enters the security information on the Modulr Online Portal to confirm a Transaction is authorised, or when it is instructed via the Modulr API with the relevant security credentials;

**5.11.2** when you or your Account Manager or Partner Platform submits a request for a creation of a Virtual Card via the Online Portal or Modulr API, you shall be deemed to have authorised any

subsequent Virtual Card Transaction made using such Virtual Card up to the authorisation value specified when creating the request for creation of the Virtual Card;

**5.11.3** when you or the Cardholder (i) enter a PIN or provide any other security credentials; (ii) sign a sales voucher; (iii) provide the Physical Card details and/or provide any other details as requested; (iv) wave/swipe the Physical Card over a card reader; or (v) insert the Physical Card into a card device or an ATM;

**5.11.4** when you give instructions through a third party (such as the recipient of a Direct Debit Mandate or a Payment Initiation Service Provider).

Once the Transaction is confirmed, we cannot revoke the Transaction save for in those circumstances set out in paragraph 5.10 below.

**5.12** You can cancel any Transaction which is agreed to take place on a date later than the date you authorised it, provided that you give us notice to cancel no later than close of business on the Business Day before the Transaction was due to take place;

**5.13** Cancelling a Direct Debit Mandate with us will not cancel the agreement with the organisation you are paying. It is your responsibility to tell the organisation collecting the payment about the changes to your instructions.

**5.14** If for any reason whatsoever, a negative balance arises because a Transaction is completed when there are not enough funds on your Account for that Transaction, you shall reimburse the negative balance amount immediately, unless circumstances described in sections 5.15 and 5.16 apply. You agree that once we make this negative balance known to you, we will charge you the amount of negative balance and you must repay it immediately. We may charge the amount of the negative balance against any funds on your Account, including any subsequently loaded funds. Until we are reimbursed this negative balance amount, we may arrange for your Account, including Card(s) to be suspended. We may also report the negative balance to credit reference agencies.

**5.15** Where a negative balance arises because of an error on the part of a Merchant where the Card Transaction occurred, we will seek to recover the negative balance amount from the Merchant.

**5.16** Where a negative balance arises because of an error on the part of the recipient of the payment or us, we will seek to recover the negative balance amount from the person who made the error.

**5.17** The Available Balance on your Account will not earn any interest.

**5.18** You can check the balance and Transaction history of your Account at any time via the interface provided to you by the Partner Platform or by contacting Customer Services, or the Online Portal if you have relevant access details.

**5.19** You will be provided with a monthly statement free of charge setting out information relating to individual payment Transactions by the Partner Platform or us (using the details we have associated with your Account).

## **6. THIRD PARTY ACCESS**

**6.1** You can instruct a TPP to access information on your Account or initiate certain Transactions from your Account provided such TPP has identified itself to us and it has acted in accordance with the

relevant regulatory requirements. We will treat any instruction from an TPP as if it was from you or an Account Manager.

**6.2** We may deny a TPP access to your Account if we are concerned about unauthorised or fraudulent access by that TPP, setting out the reason for such denial. Before doing so, we will tell you that we intend to deny access and give our reasons for doing so, unless it is not reasonably practicable, in which case we will immediately inform you afterwards. In either case, we will tell you in the manner in which we consider most appropriate in the circumstances. We will not tell you if doing so would compromise our security measures or would otherwise be unlawful.

**6.3** If you have provided consent to a TPP to access the data in your Account to enable them to provide account information services to you or initiate Transactions on your behalf, you consent to us sharing your information with the TPP as is reasonably required for them to provide their services to you. You must let us know if you withdraw this permission and we recommend you let the TPP know. On notification from you, we will not provide such TPP access to your Account or the data in it.

## **7. CLOSING YOUR ACCOUNT**

**7.1** You may close your Account by contacting Customer Services. Please refer to your contract with the Partner Platform for any terms relating to your need to maintain your Account.

**7.2** The Account will be closed if the Partner Platform instructs us to close your Account (in which case the Partner Platform will inform you of this instruction).

**7.3** On termination of the Agreement for any reason, these Terms and Conditions will automatically terminate, and your Account will be closed and any Cards issued to you will be cancelled.

**7.4** Any Available Balance remaining on the Account after Account closure will be transferred to your nominated bank account via Faster Payments or SEPA Transfer (as relevant) based on instructions to us from the Partner Platform. If for any reason this is not possible, such Available Balance will remain yours for a period of six years from the date of Account closure. Within this period, you may at any time request a refund by contacting Customer Services. You will not have any access to your Account and we will not return any funds remaining on the Account after six years from the date of Account closure and this Agreement will terminate.

## **8. YOUR LIABILITY AND AUTHORISATIONS**

**8.1** You are responsible for understanding and complying with the Agreement including these Terms and Conditions.

**8.2** We may at any time suspend, restrict or refuse to authorise any use of your Account and/or Cards (including cancelling Card(s)) or refuse to process your instructions or authorise any particular Transaction where:

**8.2.1** we are concerned about the security of or access to your Account and/or your Card;

**8.2.2** we know or suspect that that your Account and/or Card is being used in an unauthorised or fraudulent manner;

**8.2.3** we need to do so in order to comply with the law or otherwise for regulatory or crime prevention purposes;

**8.2.4** the Transaction would breach the limits applicable to your Account and/or Card; **8.2.5** you, the Account Manager or the Cardholder breach an important part of these Terms and Conditions, or repeatedly breach any term in this Agreement and fail to resolve the matter in a timely manner.

**8.3** If we cancel, suspend or restrict your Account and/or Card(s), or otherwise refuse to execute a payment order to or to initiate a Transaction, we will, without undue delay and provided we are legally permitted to do so, notify you or the Partner Platform of the refusal, suspension or cancellation (as applicable). If possible, we will provide the reasons for the refusal to execute the Transaction and/or suspending the use of your Account and/or Card and where those reasons relate to factual matters, the procedure of rectifying any factual errors that led to the refusal.

**8.4** You or the Account Manager or the Cardholder must not:

**8.4.1** allow another person to use security information related to the Account, Cards and/or app/device you use to make Transactions

**8.4.2** write down password(s) or any security information unless this is done in a way that would make it impossible for anyone else to recognise any of that information, or

**8.4.3** disclose passwords or any security information, or otherwise make them available to any other person, whether verbally or by entering them in a way that allows them to be observed by others.

**8.5** You must take all reasonable steps to keep your Account and password(s) and any other security-related details safe, including the security-related details relating to any app and/or devices you have registered or stored your Card on, at all times. If you visit a website or receive a message that asks for your password, other than the Modulr website, this should be reported to us. If you are in doubt whether a website is genuine, you should contact Customer Services. If you have any indication that your Account, password or other security information has been compromised, you must immediately change your password and notify us as soon as possible.

**8.6** You will be liable for all Transactions that take place as a result of you, the Account Manager or the Cardholder acting fraudulently or failing to comply with these Terms and Conditions with intent or gross negligence. Any such Transactions and any fees and charges relating to such Transactions will be deducted from the Available Balance on your Account.

**8.7** You will be liable for all Transactions that the Partner Platform, any other Account Manager makes on your behalf or the Cardholder makes as per this Agreement, along with those made by a TPP authorised by you to initiate a Transaction.

**8.8** You will be liable for all unauthorised Transactions that arise from the use of lost or stolen Physical Cards, the Account or Card security information such as but not limited to the Online Portal log in details and API security details, Card number and CVV if you, the Account Manager, or the Cardholder fail to keep the security features of the Account, Cards and/or app/device where your Card is registered/stored safe.

**8.9** It is your responsibility to keep us updated of changes to your Information, including e-mail address and mobile numbers. Failure to do so may result in us being unable to contact you regarding your Account or to let you know about changes to these Terms and Conditions.

**8.10** If you request to recall a Transaction due to an error or mistake caused other than by Modulr, we reserve the right to charge you (i) a handling fee of £25 per recall and (ii) any fee payable by Modulr to a third-party bank or institution for handling the recall.

**8.11** You agree to indemnify and hold harmless, us, Modulr and our distributors, partners, agents, sponsors, and service providers and their group companies from and against the costs of any legal action taken to enforce this Agreement, including these Terms and Conditions and/or any breach of these Terms and Conditions by you.

## **9. DISPUTES AND INCORRECT TRANSACTIONS**

**9.1** If you (or an Account Manager or Cardholder) have a reason to believe that (i) a Transaction on your Account was unauthorised or was made incorrectly, (ii) a Physical Card is lost or stolen; or (iii) someone else (other than TPP) knows the security credentials or otherwise has unauthorised access to your Account and/or Card, you must inform us immediately by contacting Customer Services. After you notify us, we will replace a lost, stolen or misappropriated Physical Card and/or security credentials, as appropriate.

**9.2** We will investigate your claim for a refund of unauthorised or incorrectly executed Transactions, provided at all times that you have notified us without undue delay of becoming aware of such incorrectly executed or unauthorised Transaction and in any case within the timeframes required by the Card Scheme rules if the incorrect Transaction relates to a Card Transaction and for all other Transactions within 13 months of the date of the relevant Transaction. We will not be liable for any unauthorised or incorrectly executed Transactions notified to us after this period.

**9.3** If you dispute a Transaction:

**9.3.1** subject to 9.3.2 and 9.3.3 we will immediately refund the amount to your Account to the position it would have been in if the unauthorised Transaction had not taken place. We will have no further liability to you. If we subsequently discover that you were not entitled to a refund, we shall treat the refund as a mistake and be entitled to reapply the Transaction.

**9.3.2** if there are reasonable grounds for thinking that you may not be entitled to a refund (based on the evidence available to us at the time you report the unauthorised Transaction), we may investigate before giving you a refund and we will provide you with our supporting evidence if we believe you are not entitled to the refund;

**9.3.3** if the Transaction was initiated through a TPP, it is for the TPP to prove that, the Transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the TPP's payment initiation service; and

**9.3.4** if we make an error on a Transaction made to someone else through the Direct Debit scheme, we will refund you in accordance with the Direct Debit Guarantee.

**9.4.** If an incorrect Transaction is paid into your Account that should not have, we will, where possible, immediately send the funds back to the bank acting for the person from whose account the Transaction was made. In such circumstance you agree to return the funds to us and provide such assistance that we require in recovering the amount from you. If we cannot recover the funds, we are required to provide sufficient details about you and the incorrect payment to the bank or institution that sent the payment to enable them to recover the funds.

**9.5** You will be liable for all Transactions made from your Account if you (or the Account Manager or the Cardholder) have acted fraudulently or have failed with gross negligence:

**9.5.1** to keep the security credentials used to access or use your Account and/or Card safe and secure or otherwise failed to comply with these Terms and Conditions in relation to the safety of your Account and/or Card; or

**9.5.2** failed to notify us in accordance with 9.1 above.

**9.6** You may be entitled to a refund where a Transaction from your account which was initiated by payee provided that:

**9.6.1** the authorisation did not specify the exact amount;

**9.6.2** the amount of Transaction exceeded the amount you could reasonably have expected (taking into your previous spending pattern and other relevant circumstances). We may ask you to provide such information as is reasonably necessary for us to determine if this is correct; and

**9.6.3** you asked for a refund within 8 weeks of the date the Transaction was debited to your Account.

In such circumstances we will refund you within 10 Business Days of receiving your claim for a refund or, where applicable, within 10 Business Days of receiving any further information we requested - or we will provide you with reasons for refusing the refund.

**9.7** If you want a refund for a Transaction made using the Direct Debit scheme, the Direct Debit Guarantee will apply instead of the terms in 9.6 above.

## **10. VARIATION**

**10.1** We may change these Terms and Conditions by providing you with at least two months' prior notice by e-mail (provided you have supplied us with an up-to-date e-mail address).

**10.2** If you do not agree with the changes to the Terms and Conditions, you may at any time within the two months' notice period notify us and these Terms and Conditions will be terminated and your Account closed. If you do not notify us to the contrary during this period then you will be deemed to have accepted the change and it will apply to you when it comes into force.

**10.3** If any part of these Terms and Conditions are inconsistent with any legal requirements then we will not rely on that part but treat it as if it did actually reflect the relevant legal requirement. If we need to make operational changes before we can fully comply with the new regulatory requirement, we will make those changes as soon as reasonably practical.

## **11. TERMINATION OR SUSPENSION**

**11.1** We can terminate your Account at any time if we give you two months' notice and transfer any Available Balance at the time to your nominated bank account without a charge.

**11.2** We can suspend or terminate your Account at any time with immediate effect (and until your default has been remedied or the Agreement terminated) without any prior notice to you if:

**11.2.1** we discover any of the Information that we hold for you is false, misleading or materially incorrect; or

**11.2.2** if you, the Account Manager, the Cardholder or a third party has engaged in fraudulent activity, money laundering, terrorism, terrorism financing or other illegal activity in connection with your Account or we have reasonable suspicions in respect of the same; or

**11.2.3** if you have reached your Account Limit;

**11.2.4** you or the Account Manager have breached these Terms and Conditions; or

**11.2.5** we are required to do so under any applicable law or regulation or at the direction of any regulatory, law enforcement or other competent authority.

**11.3** In the event that we do suspend or terminate your Account then if we are able to do so, we will tell you in advance otherwise we will let you know immediately afterwards (to the extent we are permitted by law).

## **12. OUR LIABILITY**

**12.1** Our liability and the liability of our agents in connection with these Terms and Conditions (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise) shall be subject to the following exclusions and limitations:

**12.1.1** Neither we, nor our agents shall be liable for any default resulting directly or indirectly from any cause beyond our control, including but not limited to, a lack of funds;

**12.1.2** Neither we, nor our agents shall be liable for any loss of profits, loss of business, or any indirect, consequential, special or punitive losses;

**12.1.3** where sums are incorrectly deducted from your Available Balance due to our default, our liability and that of our agents shall be limited to payment to you of an equivalent amount to that which was incorrectly deducted from your Available Balance;

**12.1.4** in all other circumstances of our default, our liability and that of our agents jointly will be limited to transferring any Available Balance to your nominated bank account.

**12.2** In circumstances where sums are incorrectly deducted from your Available Balance due to our fault, if we require your support to enable us to recover the incorrect deduction, you agree to provide us and our agents with all assistance that we reasonably require.

**12.3** Nothing in these Terms and Conditions shall exclude or limit our liability or that of our agents for death or personal injury resulting from our negligence or fraud.

**12.4** To the extent permitted by law, all conditions or warranties implied by law, statute or otherwise are expressly excluded.

**12.5** The above exclusions and limitations set out in this paragraph shall apply to any liability of our affiliates and other suppliers, contractors, agents or distributors and any of their respective affiliates (if any), to you, which may arise in connection with these Terms and Conditions.

## **13. YOUR INFORMATION**

**13.1** Some personal data will be necessary for us to provide you with the Account and services under this Agreement. Modulr FS is a Data Controller and shall only use your personal data for this purpose. Please see the Privacy Policy (please contact Customer Services for details of where to access this) for full details on the personal data that we and Modulr Finance Ltd hold, how we will use it and how we will keep it safe. Modulr will at all times comply with Data Protection Laws.

**13.2** We will retain details of individual transactions for six years from the date on which the particular transaction was completed. We will maintain all other records for six years from which we have ceased to provide you with any product or service

**13.3** You must update any changes to your Information by contacting Customer Services.

**13.4** If we discover that the Information we hold about you is incorrect, we may have to suspend or cancel your Account until we can establish the correct Information, in order to protect us both.

**13.5** If you or the Account Manager allow or give consent to an Authorised Third Party Provider to access your Account to provide their services, you should know that we have no control over how an Authorised Third Party Provider will use your information nor will we be liable for any loss of information after an Authorised Third Party Provider have access to your information.

## **14. COMPLAINTS PROCEDURE**

**14.1** Complaints regarding any element of the service provided by us can be sent to Customer Services.

**14.2** All complaints will be subject to our complaints procedure. We will provide you with a copy of our complaints procedure upon request and, if we receive a complaint from you, a copy of our complaints procedure will automatically be posted or emailed to you.

**14.3** In most cases we will provide a full response by email to your complaint within fifteen Business Days after the date we receive your complaint. In exceptional circumstances where we are unable to respond in full to your complaint, we will inform you of this giving our reasons for the delay and the timeframe within which you will receive a full reply, which in any event shall be within thirty-five Business Days of the date we received your complaint.

**14.4** If we fail to resolve your complaint to your satisfaction you may refer your complaint to the Financial Ombudsman Service (Exchange Tower, London E14 9SR, phone 0800 023 4567). Details of the service offered by the Financial Ombudsman Service are available at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

## **15. GENERAL**

**15.1** Any delay or failure to exercise any right or remedy under these Terms and Conditions by us shall not be construed as a waiver of that right or remedy or preclude its exercise at any subsequent time.

**15.2** If any provision of these Terms and Conditions is deemed unenforceable or illegal, the remaining provisions will continue in full force and effect.

**15.3** You may not assign or transfer any of your rights and/or benefits under these Terms and Conditions and you shall be the sole party to the contract between us. You will remain liable until the Account issued to you is terminated. We may assign our rights and benefits at any time without prior written notice to you. We may subcontract any of our obligations under these Terms and Conditions.

**15.4** Save for Modulr, who acts on our behalf, no third party who is not a party to these Terms and Conditions has a right to enforce any of the provisions in these Terms and Conditions and the Contracts (Rights of Third Parties) Act 1999 shall not apply.

**15.5** These Terms and Conditions contain the information set out in Schedule 4 of the Payment Service Regulations 2017 and you can obtain a copy of this Agreement at any time by contacting Customer Services.

**15.6** These Terms and Conditions are governed by English law and you agree to the exclusive jurisdiction of the courts of England and Wales.

**15.7** The Financial Services Compensation Scheme is not applicable for this Account. No other compensation schemes exist to cover losses claimed in connection with your Account. As a responsible e-money issuer, we will ensure that once we have received your funds they are deposited in a safeguarded account in accordance with our legal obligations. In the event that we become insolvent funds that are safeguarded by us are protected against the claims made by our creditors.

## **16. CONTACTING CUSTOMER SERVICES**

**16.1** Customer Services are provided by the Partner Platform. The details shall be provided by the Partner Platform.

# Annex 7 – Modulr EEA Terms

## BACKGROUND

Modulr Finance B.V. (“**Modulr**”) is a provider of Modulr Products (as described to you by Partner Platform), which includes the provision of an electronic money account for businesses and associated payment services. These Introduced Client Terms of Business govern the Modulr Products that Modulr agrees to provide to the Introduced Client.

These Introduced Client Terms of Business (including all the attached Schedules), together with the Modulr Account Terms and Conditions set out the terms on which the Modulr Products are provided and constitute the Agreement between Modulr and the Introduced Client.

## THE PARTIES AGREE AS FOLLOWS:

### 15. Interpretation

- 15.1. In these Introduced Client Terms of Business: (a) a reference to a clause is a reference to a clause in these Introduced Client Terms of Business; (b) headings are for reference only and shall not affect the interpretation of these Introduced Client Terms of Business; (c) the singular shall include the plural and vice versa; (d) a reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns; (e) a reference to a party shall include its personal representatives, successors and permitted assigns; (f) reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

### 16. Modulr Products

- 16.1. Modulr will make available to the Introduced Client such products that are provided to the Partner Platform and as described by Partner Platform in the application process.
- 16.2. The Introduced Client agrees to the Partner Platform providing all such information to Modulr who will check and verify the identity of the Introduced Client, its directors, beneficial owners and Authorised Users as required by law.
- 16.3. The Introduced Client acknowledges that a search of the available public registers may take place for anti-money laundering purposes on the individuals listed in clause 2.2 above.
- 16.4. The Introduced Client acknowledges that the individuals noted in clause 2.2 above may have their their personal details accessed by third parties for the specific purpose of anti-money laundering and countering the financing of terrorism (AML/CFT), identity verification and fraud prevention.
- 16.5. The Account is provided by Modulr to the Introduced Client in accordance with the Modulr Account Terms and Conditions. Modulr Products provided to the Introduced Client under this Agreement are for the sole use by the Introduced Client.
- 16.6. The Introduced Client can use the Account and Cards (where applicable) to make Transactions on the terms and conditions set out in the Modulr Account Terms and

Conditions. A record of all Transactions relating to the Account can viewed on the Website or accessed via the Partner Platform (as applicable).

- 16.7. The Introduced Client shall promptly notify Customer Services as soon as it becomes aware login and security information enabling access to its Modulr Products have been lost, stolen or compromised.
- 16.8. From time to time Modulr may carry out additional checks on the Introduced Client, including the identity of its directors, beneficial owners and the nature of its business in accordance with its Due Diligence Procedure and as required by law. Modulr may contact the Introduced Client or the Partner Platform (as applicable) for such purposes. The Introduced Client agrees to provide such information as necessary.
- 16.9. The Introduced Client shall comply with all legislation and regulation as it applies to the Introduced Client. Any failure to comply with relevant legislation or regulation shall be considered a material breach of the Agreement and may result in Modulr discontinuing the provision of the Modulr Products as set out in clause 20.4.
- 16.10. The Introduced Client shall implement as appropriate Modulr's reasonable security recommendations it notifies to the Introduced Client from time to time.

## **17. Authorised Users**

- 17.1. Access to the Modulr Products is restricted to individuals that have been designated by the Introduced Client as Authorised Users.
- 17.2. The Introduced Client must notify Modulr of all individuals it wishes to be an Authorised User.
- 17.3. Each Authorised User is permitted to access and use the Modulr Products in accordance with these Introduced Client Terms of Business.
- 17.4. The Introduced Client will be responsible for training its Authorised Users in the appropriate use of Modulr Products.
- 17.5. The Introduced Client shall ensure its Authorised Users;
  - 3.5.3 take all reasonable care to ensure Modulr Product access credentials, including login details to the Website, where applicable, are kept confidential to each Authorised User; and
  - 3.5.4 do not share any information that would enable another party to access the Introduced Client's Modulr Account.
- 17.6. The Introduced Client acknowledges and agrees that each Authorised User is authorised by the Introduced Client to act on its behalf. Modulr shall deem any instruction given by an Authorised User is an instruction given by the Introduced Client.
- 17.7. The Introduced Client will be responsible for timely notification to Modulr of any revocation of Authorised User access and will be liable for Transactions made, Fees incurred and use of Modulr Products by an Authorised User until Modulr has had two full Business

Days to act on any received notice. This clause shall not apply to Introduced Clients accessing Modulr Products via the Partner Platform.

- 17.8. Where the Introduced Client accesses Modulr Products through a Partner Platform, such Partner Platform will be considered the Authorised User. In this instance if additional Authorised Users are required they must be requested by the Partner Platform. The use of a Partner Platform to access the Modulr Products by the Introduced Client are set out in further detail below.

## **18. Accessing Modulr Products through a Partner Platform**

- 18.1. In the event the Introduced Client utilizes a Partner Platform to access Modulr Products, the Introduced Client agrees and authorises the Partner Platform to instruct Modulr to access and use the Modulr Products on behalf of the Introduced Client, which shall include but not be limited to making Transactions, viewing and retrieving Transaction data, initiating refunds and closing the Account.
- 18.2. The Introduced Client acknowledges and agrees that Modulr shall have no liability whatsoever with respect to the performance, availability or quality of any Partner Platform.
- 18.3. The Introduced Client acknowledges and agrees to the following:
- 18.3.1. it must satisfy itself that its Platform Partner Agreement grants the Partner Platform all permission necessary to operate the Account on the Introduced Client's behalf;
  - 18.3.2. the Platform Partner will be granted full access to operate the Introduced Client's Account as an Authorised User of the Introduced Client;
  - 18.3.3. it is responsible for monitoring Partner Platform activities on its Account. Any queries relating to such activities will be raised with the Partner Platform directly and settled between Partner Platform and the Introduced Client;
  - 18.3.4. the Introduced Client has no recourse against Modulr for any act or omission of the Partner Platform with respect to its Account;
  - 18.3.5. the Introduced Client understands it can only access its Account to make Transactions, review Transactions made or otherwise use Modulr Products through the service provided by the Partner Platform; and
  - 18.3.6. it will only use the Account for the purpose set out in the Partner Platform Agreement.
- 18.4. On receipt of notification by Modulr from the Partner Platform that it wishes to terminate this Agreement, this Agreement shall terminate. Any funds in the Introduced Client's Account will be returned in accordance with the terms of the Modulr Account Terms and Conditions.
- 18.5. If the Introduced Client has any complaint or concern relating to the Modulr Account or other Modulr Products, such complaint or concern shall be raised directly to the Partner Platform, who shall deal with it in accordance with Modulr's Complaints Policy, a copy of which is available on request from the Partner Platform and on the Website.

## 19. Customer Services

- 19.1. The Introduced Client can contact Customer Services if it has any queries about the Modulr Products. Information may be requested from the Introduced Client, including but not limited to, its Authorised Users, Cardholders or Transaction information so that it can verify the identity of an Authorised User, the Cardholder and/or the Modulr Products provided to such Introduced Client.
- 19.2. Any information shared by the Introduced Client will be kept strictly confidential. Where such information is provided in connection to a service provided by a third party, for example, the Account, then the Introduced Client's information will only be used in accordance with instructions of such third party and only for the purpose of providing Customer Services to the Introduced Client on behalf of such third party.
- 19.3. As part of Modulr's commitment to providing a quality customer service, its managers periodically monitor telephone communications between its employees and Introduced Clients to ensure that Modulr's high quality service standards are maintained. The Introduced Client consents to such monitoring and recording of telephone communications and agrees to make its Authorised Users aware of such practice.

## 20. Term and Termination

- 20.1. This Agreement shall commence on the date the Introduced Client receives confirmation from Modulr or the Partner Platform (where applicable) of its successful application for Modulr Products and shall continue until terminated by the Introduced Client, Partner Platform (if acting on behalf of the Introduced Client) or Modulr.
- 20.2. The Introduced Client or the Partner Platform (where applicable) may terminate this Agreement immediately by notifying Customer Services in writing by post or email.
- 20.3. Modulr may terminate this Agreement and close the Introduced Client's Account(s) by providing the Introduced Client with at least two months' notice.
- 20.4. Modulr may suspend or terminate this Agreement immediately if, for any reason, the Introduced Client (i) is unable to satisfy the Due Diligence Procedures, (ii) for breach of this Agreement, (iii) has provided false, incomplete or misleading information, (iv) has engaged in fraudulent, money laundering, terrorism financing or other illegal activity or we have reasonable suspicions in respect of same or (v) we are required to do so under any applicable law or regulation or at the direction of any regulatory, law enforcement or other competent authority. Modulr shall notify you as soon as possible, unless prohibited by law, of such suspension or termination of the Agreement.
- 20.5. This Agreement will automatically terminate when all Accounts of the Introduced Client are closed (for any reason).
- 20.6. Modulr may terminate or suspend this Agreement in whole or in part immediately by giving written notice to the Introduced Client if Modulr ceases to provide Cards pursuant to the provisions of Schedule 1.
- 20.7. On termination of this Agreement for any reason, any balance remaining in the Introduced Client's Account(s) shall be returned to the Introduced Client in accordance with

the Modulr Account Terms and Conditions. The Introduced Client shall pay immediately all outstanding Fees due (where applicable) under this Agreement and in the event of a negative balance in an Account, shall reimburse Modulr such amount equal to the negative balance.

## **21. Intellectual Property**

- 21.1. The Introduced Client acknowledges all Intellectual Property Rights in the Modulr Products are owned by or provided under licence to Modulr. Modulr grants the Introduced Client a non-exclusive, royalty-free licence for the duration of this Agreement to access and use the Modulr Products only for the purpose contemplated by this Agreement.
- 21.2. Nothing in this Agreement shall operate to create or transfer any Intellectual Property Right to the Introduced Client.

## **22. Force Majeure**

- 22.1. Modulr will not be liable for the non-performance or failure to provide any part of the Modulr Products occurring as a result of any events that are beyond the reasonable control of Modulr, for example, but not limited to, fire, telecommunications or internet failure, utility failure, power failure, equipment failure, employment strife, riot, war, terrorist attack, non-performance of third party suppliers, acts of God such as storm or lightening damage, or other causes over which Modulr has no reasonable control.

## **23. Assignment Transfer and Subcontracting**

- 23.1. The Modulr Products provided to the Introduced Client are personal to the Introduced Client. The Introduced Client cannot novate, assign or otherwise transfer this Agreement, any interest or right under this Agreement (in whole or in part) without the prior written consent of Modulr. This clause shall have proprietary effect (*goederenrechtelijke werking*).
- 23.2. The Introduced Client agrees Modulr may, in its sole discretion, assign, or transfer some or all of its rights and obligations or delegate any duty of performance set out in the documents forming this Agreement. Modulr may subcontract any of its obligations under this Agreement.
- 23.3. In the event of any transfer of this Agreement by Modulr to another service provider, Modulr will notify the Introduced Client no later than two months before the proposed transfer; if the Introduced Client does not want to transfer to the new provider, the Introduced Client must notify Modulr of its objection in writing to Customer Services. On receipt of such notification, Modulr will terminate this Agreement. Any balance remaining in the Introduced Client's Account(s) will be returned to the Introduced Client in accordance with the redemption procedure set out in the Modulr Account Terms and Conditions.

## **24. Liability**

- 24.1. Nothing in this Agreement will operate to limit either party's liability with respect to fraud or for death or personal injury resulting from negligence, in either case whether committed by that party or its employees, agents or subcontractors.
- 24.2. Modulr makes no warranty that access to and use of the Modulr Products will be uninterrupted or error free.

- 24.3. The Introduced Client acknowledges and agrees that Modulr is not liable to the Introduced Client for any loss, liability or damages the Introduced Client suffers which result from, are related to, or in any way are connected with any fraud control, restriction measures, or other measures implemented from time to time including as required for compliance with legal and regulatory requirements, unless such loss, liability or damage is a direct result of Modulr's fraud, gross negligence or willful misconduct in procuring the implementation of fraud control or purchase restriction measures that Modulr has expressly agreed in writing to procure for the Introduced Client.
- 24.4. Modulr shall not be liable to the Introduced Client for any loss or damage the Introduced Client may suffer as a result of any act or omission of an Authorised User or Cardholder or an Authorised User's use or Cardholder's use or inability to use of the Modulr Products.
- 24.5. The Introduced Client agrees to indemnify Modulr against any and all actions, claims, costs, damages, demands, expenses, liabilities, losses and proceedings Modulr directly or indirectly incurs or which are brought against Modulr if the Introduced Client, or an Authorised User, or a Cardholder has acted fraudulently, been negligent or has misused a Modulr Product or any of the services provided under this Agreement.
- 24.6. Modulr shall not be responsible in any way for any interest or claims of any third parties in respect of the Modulr Products, except as required by law or regulation.

## **25. Reports**

- 25.1. Modulr may make available certain management or other reporting or business administration functionality via the Website.
- 25.2. Modulr may from time to time amend, modify, replace or withdraw in whole or in part such reporting it provides without further notice.

## **26. Data Privacy**

- 26.1. Modulr will collect and retain personal information about the Introduced Client and each Authorised User and Cardholder to enable Modulr to deliver the Modulr Products, the services linked to it and deal with any enquiries that the Introduced Client may have about it. Modulr is the data controller of the personal information gathered by Modulr for such purpose. If Modulr uses a third party to provide a part of the Modulr Product then that provider will be the owner and controller of the personal information they require to collect in order to operate the relevant service. The use of personal information by third-party service providers will be set out in their service terms and conditions of use. Modulr will, at such third-party provider's direction, process personal data on its behalf, for example, to enable Modulr to provide Customer Services to the Introduced Client.
- 26.2. Modulr processes personal information in accordance with relevant laws on the protection of personal data.
- 26.3. If Modulr transfers the Introduced Client's information to a third party in a country outside of the European Economic Area Modulr will ensure that the third party agrees to apply the same levels of protection that Modulr is legally obliged to have in place when Modulr processes personal data.

- 26.4. Further information about how Modulr uses personal information can be found in Modulr's Privacy Policy; please contact Customer Services for a copy of this.

## **27. Changes to the Agreement**

- 27.1. Modulr may amend or modify this Agreement by giving two months' notice to the Introduced Client unless Modulr is required to make such a change sooner by law. All proposed changes will be posted on the Website and communicated to the Introduced Client by such other means that Modulr agreed with the Introduced Client, for example by email. If the Introduced Client is accessing Modulr Products via a Partner Platform, all notifications will be communicated via such Partner Platform.
- 27.2. The Introduced Client has no obligation to accept such amendments proposed by Modulr.
- 27.3. The Introduced Client will be taken to have accepted any change to this Agreement that Modulr notifies to the Introduced Client unless the Introduced Client tells Modulr otherwise before the relevant change takes effect. In such circumstances, Modulr will treat notice of objection by the Introduced Client as notification that the Introduced Client wishes to terminate this Agreement and the use of all Modulr Products immediately. All Accounts of the Introduced Client will be closed and any balance remaining in the Introduced Client's Account will be returned to the Introduced Client in accordance with the redemption procedure set out in the Modulr Account Terms and Conditions. In such circumstances, the Introduced Client will not be charged a fee for the Account closure and return of any balance.

## **28. General**

- 28.1. In these Introduced Client Terms of Business, headings are for convenience only and shall not affect the interpretation of these Introduced Client Terms of Business.
- 28.2. Any delay or failure by Modulr to exercise any right or remedy under this Agreement shall not be interpreted as a waiver of that right or remedy or stop Modulr from exercising its rights at any subsequent time.
- 28.3. In the event that any part of this Agreement is held not to be enforceable, this shall not affect the remainder of the Agreement which shall remain in full force and effect.
- 28.4. The Introduced Client shall remain responsible for complying with this Agreement until its Account(s) are closed (for whatever reason) and all sums due under this Agreement have been paid in full.
- 28.5. This Agreement is written and available only in English and all correspondence with the Introduced Client shall be in English.
- 28.6. Exclusion of relevant statutory provisions: the following provisions of the Netherlands Civil Code do not apply in the relationship between Modulr and the Introduced Client: articles 7:516, 7:517, 7:518 and 7:519, article 7:520(1), article 7:522(3), article 7:527, articles 7:529 to 7:531, article 7:534 and articles 7:543, 7:544 and 7:545 Netherlands Civil Code and all legislation pursuant to and/or based on such articles. Furthermore, if not already covered by the articles referred to in the preceding sentence, the rules regarding provision of information in the Market Conduct Supervision (Financial Institutions) Decree (Besluit gedragstoezicht

financiële ondernemingen Wft) that follow from Title III PSD2 do not apply. The above contains the exclusion of the relevant provisions of PSD2 as implemented in Dutch law. Consequently, all rules with regard to the content and provision of the information required by Title III of PSD2 and the following provisions of Title IV of PSD2 do not apply to this Agreement: article 62(1), article 64(3), article 72, article 74, article 76, article 77, article 80 and article 89 of PSD2 and all legislation pursuant to and/or based on such articles. This clause shall not apply if the Introduced Client is a Consumer

- 28.7. This Agreement – and any contractual and non-contractual obligation pursuant hereto - is governed by the laws of the Netherlands and the Introduced Client agrees that any disputes hereunder (including non-contractual disputes) shall be under the exclusive jurisdiction of the competent Courts of Amsterdam.

## **Schedule 1: Card Obligations**

### **5. Introduction**

- 5.1. The terms of Schedule 1 shall apply where Virtual Cards and/or Physical Cards are included within the Modulr Products.

### **6. Transactions Disputes and Chargebacks**

- 6.1. For the purposes of these Introduced Client Terms of Business, a “**Chargeback**” means a refund of a Card Transaction after the Introduced Client (or Modulr on its behalf) successfully disputes the Card Transaction as permitted by the Card Scheme rules.
- 6.2. The Introduced Client shall provide Modulr all relevant information in relation to Virtual Card Transaction as may be required by Modulr to resolve the dispute in accordance with applicable law and, where applicable, to raise a Chargeback in accordance with Card Scheme rules.
- 6.3. The Introduced Client agrees that Card Scheme’s decision on the validity of the Chargeback is final and binding and that in the event a Chargeback is not successful or is subsequently reversed the Introduced Client will be liable for the amount of the disputed Card Transaction.
- 6.4. Modulr shall at its discretion not refund a Chargeback to the Introduced Client until the relevant challenge periods have passed under the relevant Card Scheme rules unless it is required to do under relevant law or regulation.

### **7. Cardholders**

- 7.1. Where corporate Cards are made available to the Introduced Client as part of Modulr Products, Introduced Client will be able to designate individuals as Cardholders permitted to use certain Cards.
- 7.2. The Introduced Client must notify Modulr of all individuals it wishes to be Cardholders and shall not permit any other person to use the Cards.
- 7.3. The Introduced Client shall be responsible for ensuring that each Cardholder is informed of the Modulr Account Terms and Conditions as they apply to the Cards and the Introduced Client shall ensure that the Cardholder complies with them.
- 7.4. In addition to clause 3.3 above, Introduced Client shall be responsible for ensuring that each Cardholder reads and accepts the Modulr Corporate Cardholder Terms and Conditions, which shall be made available to the Cardholder by the Introduced Client. Introduced Client shall keep a record of each Cardholder’s confirmation given in accordance with this clause and shall promptly make such records available to Modulr on request.
- 7.5. The Introduced Client shall ensure its Cardholders take all reasonable care to keep any security credentials relating to the use of Cards, such as PIN or any access or similar codes, where applicable, confidential and in accordance with the Modulr Account Terms and Conditions and Corporate Cardholder Terms and Conditions. Where Cards are enabled to be registered/stored within third party apps/devices, the security credentials relating to those

third party apps/devices will also be deemed to be security credentials relating to the use of Cards.

- 7.6. The Introduced Client acknowledges and agrees that each Cardholder is authorised by the Introduced Client to act on its behalf. Modulr shall deem any instruction given by a Cardholder with respect to Card Transactions as an instruction given by the Introduced Client and the Introduced Client shall be responsible for all actions and the use of Physical Cards by any Cardholder.
- 7.7. In the event of any changes to this Agreement, Modulr Account Terms and Conditions and/or the Modulr Corporate Cardholder Terms and Conditions, or if the Introduced Client's Account and/or Card is suspended, cancelled or terminated, it is the Introduced Client's responsibility to communicate any such changes and/or any information regarding the suspension, cancellation or termination to each Cardholder.

## **8. Withdrawal of Cards; Change of Card Scheme; and Conditions for Tokenisation Services**

8.1. Modulr reserves the right to:

8.1.1. cease providing Cards as part of Modulr Products for any reason;

8.1.2. provide Cards issued under a different Card Scheme; and

8.1.3. cease or amend the ability for Cards to be registered/stored within one or more third party apps/devices.

8.2. Modulr shall provide to Introduced Client tokenisation services subject to, where applicable, prior approval of the Introduced Clients by the relevant tokenisation provider (Apple Pay and/or Google Pay). Modulr shall not be liable to the Introduced Client in the event approval is not granted or is later withdrawn by the relevant tokenisation provider.

## **The Modulr Account Terms and Conditions; Important information you need to know**

Please read these Terms and Conditions carefully before you agree to use an Account or any related services provided by or through us.

These Terms and Conditions, together with the Introduced Client Terms of Business constitute the entire agreement between Modulr and you.

By accepting the Modulr Account Terms and Conditions you accept the terms of the Agreement, or by agreeing to open an Account and/or using our services, you accept these Terms and Conditions. If there is anything you do not understand, please contact Customer Services.

### **1. DEFINITIONS**

**3DS** - means the EMV 3DS service offered by us for you or a Cardholder to use when you or a Cardholder make a purchase or place an order on the internet with your Card.

**Account** - The electronic money account, also known as Modulr Account provided by us in accordance with these Terms and Conditions.

**Account Information Service Provider** – means a third party payment service provider who is authorised by or registered with De Nederlandsche Bank N.V. or another European regulator to provide online account information services, who, with your permission will be able to access certain online account information on one or more payment accounts held by you to give you a consolidated view of your payment accounts.

**Account Limits** – any limit that applies in relation to your Account and/or Card, such as account maximum balance, and limits on receiving and sending payments from your Account as referred in paragraph 2.

**Account Manager** - The individuals elected by the Account Owner to be responsible for the management of the Account, also known as an “Authorised User”.

**Account Owner** – The entity legally responsible for an Account.

**Agreement** - The agreement for your Account made up of these Terms and Conditions, together with the Introduced Client Terms of Business, which constitute the entire agreement between you and Modulr.

**Application Programming Interface (API)** – means the interfaces provided by Modulr to the Introduced Client (and the Partner Platform on the Introduced Client’s behalf) to directly instruct Modulr Accounts via the Introduced Client’s or the Partner Platform’s own application.

**AML Policy** - Modulr’s written policy on anti-money laundering and counter terrorist financing as may be amended from time to time by Modulr.

**Applicant** – A customer of the Partner Platform who applies for Modulr Products but is yet to be accepted by Modulr as an Introduced Client.

**Available Balance** - The value of funds available on your Account.

**Bacs Credit** – Means Bacs Direct Credit. A service enabling organisations to make payments to an account which takes 3 Business Days for the funds to be cleared.

**Business Days** - Monday to Friday between the hours of 9am-5pm but does not include bank holidays, or public holidays in the Netherlands.

**Card** – means a Virtual Card or a Physical Card.

**Cardholder** - means the individual authorised to use the Physical or Virtual Card issued to you.

**Card Scheme** -Mastercard and/or Visa or such other payment network through which Card Transactions are processed as may be made available to you from time to time.

**Card Transaction** –means a Virtual Card Transaction or a Physical Card Transaction.

**CHAPS** – the Clearing House Automated Payment System, a service enabling organisations to make same-day payments to an account within the UK, within the CHAPS operating days and times.

**Chargeback** has the meaning given to it in Schedule 1 of the Introduced Client Terms of Business.

**Consumer** - means a natural person not acting in the course of its business or profession.

**Confidential Information** - any information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to: the business, products, affairs, strategy, contracts, customer relationships, commercial pipelines, business contacts, prospective customers, existing customers, business models, customer pricing, management systems, business methods, corporate plans, maturing new business opportunities, research and development projects, marketing and sales information, sales targets and statistics, discount structures, suppliers and potential suppliers, source codes, computer programs inventions, know-how, technical specifications and other technical information relating to products and services.

**Customer Services** - The contact centre for dealing with queries about your Account.

**Data Protection Laws** – means all laws relating to the processing of Personal Data, privacy and security, including, without limitation, the EU Data Protection Directive 95/46/EC, the Dutch GDPR Implementation Act (Uitvoeringswet Algemene Verordening gegevensbescherming) (as may be amended from time to time) and the General Data Protection Regulations (EU) 2016/679 ("**GDPR**") together with equivalent legislation of any other applicable jurisdiction, delegated legislation of other national data protection legislation, and all other applicable law, regulations and approved codes of conduct, certifications, seals or marks in any relevant jurisdiction relating to the processing of personal data including the opinions, guidance, advice, directions, orders and codes of practice issued or approved by a supervisory authority or the Article 29 Working Party or the European Data Protection Board.

**Due Diligence Procedure** - Modul's procedures for carrying out due diligence on Introduced Clients in order to comply with its policies and regulatory obligations.

**Faster Payment** - A service allowing you to make and receive electronic GBP payments in the which is received by the recipient bank within 2 hours provided that the receiving organisation or bank is part of Faster Payments Scheme.

**Information** – Means any information related to the organisation, and any personal information related to Account Manager or the Cardholder.

**Intellectual Property Rights** – means without limitation all patents (including models and inventions), trademarks, service marks, trade names, internet designations including domain names, business names, copyrights, design rights, database rights, rights to or in computer software, know-how, trade secrets, rights to or in confidential information and all other intellectual property rights and rights or forms of protection of a similar nature or effect which may subsist anywhere in the world whether or not registered or capable of registration, together with all applications for registration of, and any licence to use, any of the foregoing and "Intellectual Property" shall be construed accordingly;

**Introduced Client** – Any client of Modulr which has been introduced by the Partner Platform and whose account is operated by the Partner Platform based on instructions the Partner Platform receives from the Introduced Client (where relevant).

**Introduced Client Terms of Business** - The terms on which Modulr provides Modulr Products to the Introduced Client.

**Merchant**- means a merchant authorised to accept Card Scheme-branded Cards.

**Modulr Account Terms and Conditions** - This agreement, between Modulr and the Introduced Client which governs the terms on which the Introduced Client may use its Account.

**Modulr Products** – those products, including but not limited to the Account described by the Partner Platform in the application process.

**One-Time Passcode** – means the six-digit passcode sent to your mobile phone number by us, via SMS.

**Online Portal** – means the interface provided by Modulr for the Introduced Client to access via the public internet, subject to applicability based on the Introduced Client's relationship with the Partner Platform and can be used for the management of accounts.

**Partner Platform** – A third party that is permitted by Modulr to introduce and act on behalf of Introduced Clients, and permitted by you to act as an Authorised User.

**Partner Platform Agreement** - an agreement between the Introduced Client and the Partner Platform for the provision of various services, under the terms of which the Introduced Client wishes to open an Account with Modulr to be used for the purpose and in accordance with the terms set out in the Partner Platform Agreement.

**Payment Initiation Service Provider** – means a third party payment service provider authorised by or registered with De Nederlandsche Bank N.V. or another European regulator to provide an online service to initiate a Transaction at your request on your Account.

**Physical Card** - means a physical card-based payment instrument issued by us to you which uses the Card Scheme payments network, as well as any version or record of such an issued payment instrument stored on an app or other platform, and which may be used to make Physical Card Transactions.

**Physical Card Transaction** - means the use of a Physical Card to make a payment to a Merchant.

**Regulator** – De Nederlandsche Bank N.V., located at Spaklerweg 4, 1096 BA Amsterdam, Netherlands or any authority, body or person having, or who has had, responsibility for the supervision or regulation of any regulated activities or other financial services in the Netherlands.

**SEPA** – the Single Euro Payments Area is the area where citizens, companies and other economic actors can make and receive payments in euro, within Europe, whether within or across national boundaries under the same basic conditions, rights and obligations, regardless of their location. SEPA is driven by the European Commission and the European Central Bank, amongst others, as a key component of the EU Internal Market. SEPA shall be deemed to encompass the countries and territories which are part of the geographical scope of the SEPA Schemes, as listed in the EPC List of SEPA Scheme Countries, as amended from time to time.

**SEPA Credit Transfer** - a service allowing you to make and receive non urgent EUR electronic payments within SEPA provided that the receiving organisation or bank is part of the scheme.

**SEPA Instant Credit Transfer** - a service allowing you to make and receive near real time EUR electronic payments within SEPA provided that the receiving organisation or bank is part of the scheme.

**SEPA Transfers** – means, together, SEPA Credit Transfer and SEPA Instant Credit Transfer.

**SWIFT** – the global member-owned financial telecommunications system used to facilitate the secure transfer of messages, including payment instructions, between financial institutions.

**SWIFT Inbound Payment** – an inbound payment (in such currencies as may be supported by Modulr from time to time) made via SWIFT.

**SWIFT Outbound Payment** – an outbound payment (in such currencies as may be supported by Modulr from time to time) made via SWIFT.

**SWIFT Payments** – means, together, SWIFT Inbound Payments and SWIFT Outbound Payments (and SWIFT Payment shall be construed accordingly).

**Transaction** – any debit, credit or other adjustment to an Account that affects the balance of monies held in it, including a Card Transaction.

**TPP (Third Party Provider)** – means an Account Information Service Provider or a Payment Initiation Service Provider.

**we, us, our or Modulr** - Modulr Finance B.V., a company registered in the Netherlands with number 81852401, whose registered office is at Weteringschans 165 C, 1017 XD Amsterdam and who is regulated by De Nederlandsche Bank N.V. for issuance of electronic money under reference number R182870.

**Virtual Card** – means a virtual card-based payment instrument consisting of (amongst other things) a unique 16 digit account number issued to you which uses the Card Scheme payments network, as well as any version or record of such an issued payment instrument stored on an app or other platform, and which may be used to make Virtual Card Transactions.

**Virtual Card Transaction** – means the use of a Virtual Card to make a payment to a Merchant.

**Website** – means the customer portal that Introduced Clients can login to in order to use the Modulr Products.

**you, your** - The Account Owner, also referred to as an Introduced Client.

## **2. ACCOUNT & CARD LIMITS**

**2.1** Limits may apply to the balance on your Account at any time, the maximum value of an individual payment Transaction, maximum Virtual Transaction value per Card, the maximum aggregate value of all payment Transactions made from your Account or Cards in a particular time period e.g. during any one Business Day and the maximum number of payment Transactions made from your Account over a particular timeframe. Your Cards may also have certain Card Transaction types disabled, such as cash withdrawals at an ATM.

**2.2** The limits and restrictions that apply to your Account and Card will be communicated to you during the Account set-up process and/or before the Card is issued to you (as applicable). These limits may also change over time based on your Account and/or Card usage; any such change will be communicated to you. You can check the limits at any time by contacting Customer Services. You should not make a payment Transaction request which exceeds such.

**2.3** From time to time a Card Transaction may be authorised which exceeds the limit or restriction applicable to your Account or Card, for example when it is used in an offline environment for example but not limited to payments for or on transport (purchases on a train, aeroplane, underground or toll payments). In such circumstance, a negative balance on your Account may occur. In this case the process in paragraphs 5.15 to 5.17 inclusive will apply.

**2.4** Certain Merchants may require verification that the funds held on your Account will cover the Card Transaction amount and will place a “pre-authorisation” on your Card. This amount will be unavailable to you until the Card Transaction is completed or released by the Merchant. The pre-authorisation allows the Merchant up to 30 days to claim and settle any funds owed to them from the Card. Examples include but are not limited to hotels and rental cars. If there are insufficient funds available on your Account, Modulr must still make this settlement, which may result in a negative balance on your Account. In this case the process in paragraphs 5.15 to 5.17 inclusive will apply.

**2.5** To manage our risk, particularly with respect to money laundering, fraud or security concerns, we also apply internal controls, including limits, to certain types of payment. We change these as necessary but for security purposes, we do not disclose them.

## **3. SCOPE OF THESE TERMS AND CONDITIONS**

**3.1** Your Account is an electronic money account (and therefore is not a traditional bank account) and the electronic money and any Card associated with it is issued to you by us. We are regulated by De Nederlandsche Bank N.V. for the issuance of electronic money. Your rights and obligations relating to the use of this Account are subject to these Terms and Conditions between you and us.

**3.2** The types of Transactions enabled for your Account will be explained to you by the Partner Platform, or as subsequently enabled by us. The terms of these Modulr Account Terms and Conditions applicable to specific Transactions or payment types (for example, Cards) apply only to the extent that such Transactions or payment types are enabled for your Account.

**3.3** This Agreement is written and available only in English and we undertake to communicate with you in English regarding any aspect of your Account.

**3.4** You agree that we or the Partner Platform may communicate with you by e-mail or telephone for issuing any notices or information about your Account and therefore it is important that you ensure you keep your e-mail address and mobile phone number updated.

**3.5** You can request a copy of these Terms and Conditions at any time by contacting Customer Services.

**3.6.** By accepting these Terms and Conditions, you acknowledge that the Dutch Deposit Guarantee Scheme or other government sponsored insurance does not apply to funds held in the Account.

#### **4. OPENING YOUR ACCOUNT**

**4.1** Your Account will be opened on your behalf by the Partner Platform. You may only hold an Account so long as you remain an approved client of the Partner Platform that provided you with your account details.

#### **5. USING THE ACCOUNT**

**5.1** Your Account can receive bank transfers and other payment types as added and notified to you by Modulr from time to time. Subject to paragraph 5.3, we will credit your Account when we receive the funds which could be up to three Business Days after the payment being instructed, depending on how the payment was sent.

**5.2** Your Account can also receive internal transfers from other Modulr Accounts owned or controlled by the Partner Platform, which apply instantly.

**5.3** An incoming payment will not be credited to your Account if:

**5.3.1** the Account has reached the Account Maximum Balance or Account Limits; or

**5.3.2** the Account is blocked or terminated; or

**5.3.3** the sender has provided incorrect/invalid Account Details for your Account; or

**5.3.4** we suspect the payment to be fraudulent.

**5.4** If we are unable to credit your Account for any of the reasons in paragraph 5.3 then the funds may be sent back to the sender without a prior notification to you.

**5.5** Your Account will be configured and operated by the Partner Platform. You agree that Modulr and we may take instructions from the Partner Platform regarding the operation of your Account, including the creation of beneficiaries and instruction of payments, on your behalf. We and Modulr have no liability for actions taken by the Partner Platform. If you disagree with any actions taken by the Partner Platform these should be discussed with the Partner Platform. We are also authorised to take instructions from any other Account Manager (where different from Partner Platform) and, with respect to Physical Card Transactions, from the Cardholder. You are responsible for all actions of the Account Manager and any Cardholder in relation to the Account and/or Card(s).

**5.6** Your Account can make payments out to external bank accounts via SEPA Transfer, Faster Payments, SWIFT Payments (if selected as a Modulr Product) and other methods as added and notified to you by the Partner Platform from time to time. With regard to SEPA Transfers, Modulr will automatically process inbound and outbound SEPA payments via SEPA Instant Credit Transfers where possible. In the event Modulr is unable to process such payments via SEPA Instant Credit Transfers, the payments will default to being made via SEPA Credit Transfers.

**5.7** Where Cards are made available to you, your Account can be used to fund Card Transactions. You or your Account Manager or Partner Platform can request a Virtual Card or a Physical Card to be issued to you via the Online Portal or Modulr API.

**5.8** Where a Virtual Card or Physical Card is issued to you, you may be able to register and/or store the details of the Card within third party apps and/or devices and to use those third party apps/devices to initiate payments with your Card. When you first register your Card within a third party app/device we support, you may be required to verify that it is you requesting the registration of the Card. If you do not do this, you may not be able to register and use your Card through the third party app/device.

**5.9** The value of any Card Transaction, together with any applicable fees and charges, will be deducted from your Account once we receive the authorisation request from the Merchant.

**5.10** If the Card Transaction is made in a currency other than the currency the Card is denominated in, the Card Transaction will be converted to the currency of the Card by the relevant Card Scheme at a rate set by it on the day we receive details of the Card Transaction. The exchange rate varies throughout the day and is not set by us. You can check the relevant Card Scheme rate as follows.

Mastercard Card Scheme rate at: <https://www.mastercard.co.uk/en-gb/consumers/get-support/convert-currency.html>;

VISA Card Scheme rate at: <https://www.visa.co.uk/support/consumer/travel-support/exchange-rate-calculator.html>.

**5.11** If you use the Card to make a purchase online you may be asked by the Merchant to use 3DS. Physical Cards are automatically enrolled for use with 3DS. When you use 3DS, you agree that the following shall apply in relation to your use of the Card:

**5.11.1** You must provide us with your mobile phone number before you can use 3DS. You must ensure that your mobile phone can receive SMS at the time of your purchase.

**5.11.2** When you use 3DS to purchase from a participating Merchant, you will be presented with an electronic receipt and the One-Time Passcode will be sent to your mobile phone.

**5.11.3** Without your One-Time Passcode, you will not be able to make purchases from participating Merchants.

**5.11.4** If you update your mobile phone number then you must notify us immediately of your new details, to ensure our records are correct.

**5.11.5** The One-Time Passcode is valid for the purchase you received it for. You are responsible for the security and confidentiality of your One-Time Passcode and must not share it with anyone else.

**5.11.6** You will be responsible for any fees or charges imposed by your mobile phone service provider in connection with your use of 3DS.

**5.12** A Transaction is deemed to be authorised by you, when you or your Account Manager or Partner Platform:

**5.12.1** enters the security information on the Modulr Online Portal to confirm a Transaction is authorised, or when it is instructed via the Modulr API with the relevant security credentials;

**5.12.2** when you or your Account Manager or Partner Platform submits a request for a creation of a Virtual Card via the Online Portal or Modulr API, you shall be deemed to have authorised any subsequent Virtual Card Transaction made using such Virtual Card up to the authorisation value specified when creating the request for creation of the Virtual Card;

**5.12.3** when you or the Cardholder (i) enter a PIN or provide any other security credentials; (ii) sign a sales voucher; (iii) provide the Physical Card details and/or provide any other details as requested; (iv) wave/swipe the Physical Card over a card reader; or (v) insert the Physical Card into a card device or an ATM;

**5.12.4** when you give instructions through a third party (such as the recipient of a Payment Initiation Service Provider).

Once the Transaction is confirmed, we cannot revoke the Transaction save for in those circumstances set out in paragraph 5.13 below.

**5.13** You can cancel any Transaction which is agreed to take place on a date later than the date you authorised it, provided that you give us notice to cancel no later than close of business on the Business Day before the Transaction was due to take place.

**5.14** Cancelling a recurring Card Transaction with us will not cancel the agreement with the organisation you are paying. It is your responsibility to tell the organisation collecting the payment about the changes to your instructions.

**5.15** If for any reason whatsoever, a negative balance arises because a Transaction is completed when there are not enough funds on your Account for that Transaction, you shall reimburse the negative balance amount immediately, unless circumstances described in sections 5.16 and 5.17 apply. You agree that once we make this negative balance known to you, we will charge you the amount of negative balance and you must repay it immediately. We may set-off the amount of the negative balance against any funds on your Account, including any subsequently loaded funds. Until we are reimbursed this negative balance amount, we may arrange for your Account, including Card(s) to be suspended. We may also report the negative balance to credit reference agencies.

**5.16** Where a negative balance arises because of an error on the part of a Merchant where the Card Transaction occurred, we will seek to recover the negative balance amount from the Merchant.

**5.17** Where a negative balance arises because of an error on the part of the recipient of the payment or us, we will seek to recover the negative balance amount from the person who made the error.

**5.18** The Available Balance on your Account will not earn any interest.

**5.19** You can check the balance and Transaction history of your Account at any time via the interface provided to you by the Partner Platform or by contacting Customer Services, or the Online Portal if you have relevant access details.

**5.20** You will be provided with a monthly statement free of charge setting out information relating to individual payment Transactions by the Partner Platform or us (using the details we have associated with your Account).

## **6. THIRD PARTY ACCESS**

**6.1** You can instruct a TPP to access information on your Account or initiate certain Transactions from your Account provided such TPP has identified itself to us and it has acted in accordance with the relevant regulatory requirements. We will treat any instruction from an TPP as if it was from you or an Account Manager.

**6.2** We may deny a TPP access to your Account if we are concerned about unauthorised or fraudulent access by that TPP. Setting out the reason for such denial. Before doing so, we will tell you that we intend to deny access and give our reasons for doing so, unless it is not reasonably practicable, in which case we will immediately inform you afterwards. In either case, we will tell you in the manner in which we consider most appropriate in the circumstances. We will not tell you if doing so would compromise our security measures or would otherwise be unlawful.

**6.3** If you have provided consent to a TPP to access the data in your Account to enable them to provide account information services to you or initiate Transactions on your behalf, you consent to us sharing your information with the TPP as is reasonably required for them to provide their services to you. You must let us know if you withdraw this permission and we recommend you let the TPP know. On notification from you, we will not provide such TPP access to your Account or the data in it.

## **7. CLOSING YOUR ACCOUNT**

**7.1** You may close your Account by contacting Customer Services. Please refer to your contract with the Partner Platform for any terms relating to your need to maintain your Account.

**7.2** The Account will be closed if the Partner Platform instructs us to close your Account (in which case the Partner Platform will inform you of this instruction).

**7.3** On termination of the Agreement for any reason, these Terms and Conditions will automatically terminate, and your Account will be closed and any Cards issued to you will be cancelled.

**7.4** Any Available Balance remaining on the Account after Account closure will be transferred to your nominated bank account via SEPA Transfer based on instructions to us from the Partner Platform. If for any reason this is not possible, such Available Balance will remain yours and you may at any time request a refund by contacting Customer Services. You will not have any access to your Account from the date of Account closure and this Agreement will terminate.

## **8. YOUR LIABILITY AND AUTHORISATIONS**

**8.1** You are responsible for understanding and complying with the Agreement including these Terms and Conditions.

**8.2** We may at any time suspend, restrict or refuse to authorise any use of your Account, Cards (including cancelling Card(s)) or refuse to process your instructions or authorise any particular Transaction where:

**8.2.1** we are concerned about the security of or access to your Account and/or your Card;

**8.2.2** we know or suspect that that your Account and/or Card is being used in an unauthorised or fraudulent manner;

**8.2.3** we need to do so in order to comply with the law or otherwise for regulatory or crime prevention purposes;

**8.2.4** the Transaction would breach the limits applicable to your Account and/or Card;

**8.2.5** you, the Account Manager or the Cardholder breach an important part of these Terms and Conditions, or repeatedly breach any term in this Agreement and fail to resolve the matter in a timely manner.

**8.3** If we cancel, suspend or restrict your Account and/or Card(s), or otherwise refuse to execute a payment order to or to initiate a Transaction, we will, without undue delay and provided we are legally permitted to do so, notify you or the Partner Platform of the refusal, suspension or cancellation (as applicable). If possible, we will provide the reasons for the refusal to execute the Transaction and/or suspending the use of your Account and/or Card and where those reasons relate to factual matters, the procedure of rectifying any factual errors that led to the refusal.

**8.4** You, the Account Manager or Cardholder must not:

**8.4.1** allow another person to use security information related to the Account, Cards, and/or app/device you use to make Transactions, write down password(s) or any security information unless this is done in a way that would make it impossible for anyone else to recognise any of that information, or

**8.4.2** disclose passwords or any security information, or otherwise make them available to any other person, whether verbally or by entering them in a way that allows them to be observed by others.

**8.5** You must take all reasonable steps to keep your Account and password(s) and any other security-related details safe, including the security-related details relating to any app and/or devices you have registered or stored your Card on, at all times. If you visit a website or receive a message that asks for your password, other than the Modulr website, this should be reported to us. If you are in doubt whether a website is genuine, you should contact Customer Services. If you have any indication that your Account, password or other security information has been compromised, you must immediately change your password and notify us as soon as possible.

**8.6** In the event that a Transaction was not authorised by you, your Account Manager, a Cardholder or by a TPP on your behalf, we will refund the amount of the Transaction to the you immediately and in any event not later than the end of the Business Day immediately following notification of the unauthorised Transaction and your maximum liability in respect of the Transaction will be €50.

**8.6.1** 8.6 will not apply and you will bear all losses and liability for:

**8.6.2** all Transactions that take place as a result of you or the Account Manager or Cardholder acting fraudulently or failing to comply with these Terms and Conditions with intent or gross negligence. Any

such Transactions and any fees and charges relating to such Transactions will be deducted from the Available Balance on your Account.

**8.6.3** all Transactions that the Partner Platform or any other Account Manager or Cardholder makes on your behalf as per this Agreement, along with those made by a TPP authorised by you to initiate a Transaction.

**8.6.4** all unauthorised Transactions that arise from the use of lost or stolen Physical Cards, the Account or Card security information such as but not limited to the Online Portal log in details, API security details, Card number and CVV, if you, the Account Manager or Cardholder fail to keep the security features of the Account, Cards and/or app/device where your Card is registered/stored safe.

**8.7** It is your responsibility to keep us updated of changes to your Information, including e-mail address and mobile numbers. Failure to do so may result in us being unable to contact you regarding your Account or to let you know about changes to these Terms and Conditions.

**8.8** If you request to recall a Transaction due to an error or mistake caused other than by Modulr, we reserve the right to charge you (i) a handling fee of €25 per recall and (ii) any fee payable by Modulr to a third-party bank or institution for handling the recall.

**8.9** You agree to indemnify and hold harmless, us, Modulr and our distributors, partners, agents, sponsors, and service providers and their group companies from and against the costs of any legal action taken to enforce this Agreement, including these Terms and Conditions and/or any breach of these Terms and Conditions by you.

## **9. DISPUTES AND INCORRECT TRANSACTIONS**

**9.1** If you (or an Account Manager or Cardholder) have a reason to believe that (i) a Transaction on your Account was unauthorised or was made incorrectly, (ii) a Physical Card is lost or stolen; or (iii) someone else (other than TPP) knows the security credentials or otherwise has unauthorised access to your Account and/or Card, you must inform us immediately by contacting Customer Services. After you notify us, we will replace a lost, stolen or misappropriated Physical Card and/or security credentials, as appropriate.

**9.2** We will investigate your claim for a refund of unauthorised or incorrectly executed Transactions, provided at all times that you have notified us without undue delay of becoming aware of such incorrectly executed or unauthorised Transaction and in any case within the timeframes required by the Card Scheme rules if the incorrect Transaction relates to a Card Transaction and for all other Transactions within 13 months of the date of the relevant Transaction. We will not be liable for any unauthorised or incorrectly executed Transactions notified to us after this period.

**9.3** If you dispute a Transaction:

**9.3.1** subject to 9.3.2 and 9.3.3 we will immediately refund the amount to your Account to the position it would have been in if the unauthorised Transaction had not taken place. We will have no further liability to you. If we subsequently discover that you were not entitled to a refund, we shall treat the refund as a mistake and be entitled to reapply the Transaction;

**9.3.2** if there are reasonable grounds for thinking that you may not be entitled to a refund (based on the evidence available to us at the time you report the unauthorised Transaction), we may

investigate before giving you a refund and we will provide you with our supporting evidence if we believe you are not entitled to the refund; and

**9.3.3** if the Transaction was initiated through a TPP, it is for the TPP to prove that, the Transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the TPP's payment initiation service.

**9.4.** If an incorrect Transaction is paid into your Account that should not have, we will, where possible, immediately send the funds back to the bank acting for the person from whose account the Transaction was made. In such circumstance you agree to return the funds to us and provide such assistance that we require in recovering the amount from you. If we cannot recover the funds, we are required to provide sufficient details about you and the incorrect payment to the bank or institution that sent the payment to enable them to recover the funds.

**9.5** You will be liable for all Transactions made from your Account if you (or the Account Manager or the Cardholder) have acted fraudulently or have failed with gross negligence:

**9.5.1** to keep the security credentials used to access or use your Account and/or Card safe and secure or otherwise failed to comply with these Terms and Conditions in relation to the safety of your Account and/or Card; or

**9.5.2** failed to notify us in accordance with 9.1 above.

**9.6** You may be entitled to a refund where a Transaction from your account which was initiated by payee provided that:

**9.6.1** the authorisation did not specify the exact amount;

**9.6.2** the amount of Transaction exceeded the amount you could reasonably have expected (taking into your previous spending pattern and other relevant circumstances). We may ask you to provide such information as is reasonably necessary for us to determine if this is correct; and

**9.6.3** you asked for a refund within 8 weeks of the date the Transaction was debited to your Account.

In such circumstances we will refund you within 10 Business Days of receiving your claim for a refund or, where applicable, within 10 Business Days of receiving any further information we requested – or we will provide you with reasons for refusing the refund.

## **10. VARIATION**

**10.1** We may change these Terms and Conditions by providing you with at least two months' prior notice by e-mail (provided you have supplied us with an up-to-date e-mail address).

**10.2** If you do not agree with the changes to the Terms and Conditions, you may at any time within the two months' notice period notify us and these Terms and Conditions will be terminated and your Account closed free of charge. If you do not notify us to the contrary during this period then you will be deemed to have accepted the change and it will apply to you when it comes into force.

**10.3** If any part of these Terms and Conditions are inconsistent with any legal requirements then we will not rely on that part but treat it as if it did actually reflect the relevant legal requirement. If we

need to make operational changes before we can fully comply with the new regulatory requirement, we will make those changes as soon as reasonably practical.

## **11. TERMINATION OR SUSPENSION**

**11.1** We can terminate your Account at any time if we give you two months' notice and transfer any Available Balance at the time to your nominated bank account without a charge, or

**11.2** We can suspend or terminate your Account at any time with immediate effect (and until your default has been remedied or the Agreement terminated) without any prior notice to you if:

**11.2.1** we discover any of the Information that we hold for you is false, misleading or materially incorrect; or

**11.2.2** if you, the Account Manager, the Cardholder or a third party has engaged in fraudulent activity, money laundering, terrorism, terrorism financing or other illegal activity in connection with your Account or we have reasonable suspicions in respect of same; or

**11.2.3** if you have reached your Account Limit; or

**11.2.4** you or the Account Manager have breached these Terms and Conditions; or

**11.2.5** we are required to do so under any applicable law or regulation or at the direction of any regulatory, law enforcement or other competent authority.

**11.3** In the event that we do suspend or terminate your Account then if we are able to do so, we will tell you in advance otherwise we will let you know immediately afterwards (to the extent we are permitted by law).

## **12. OUR LIABILITY**

**12.1** Our liability in connection with these Terms and Conditions (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise) shall be subject to the following exclusions and limitations:

**12.1.1** We shall not be liable for any default resulting directly or indirectly from any cause beyond our control, including but not limited to, a lack of funds;

**12.1.2** We shall not be liable for any loss of profits, loss of business, or any indirect, consequential, special or punitive losses;

**12.1.3** where sums are incorrectly deducted from your Available Balance due to our default, our liability shall be limited to payment to you of an equivalent amount to that which was incorrectly deducted from your Available Balance;

**12.1.4** in all other circumstances of our default, our liability will be limited to transferring any Available Balance to your nominated bank account.

**12.2** In circumstances where sums are incorrectly deducted from your Available Balance due to our fault, if we require your support to enable us to recover the incorrect deduction, you agree to provide us with all assistance that we reasonably require.

**12.3** Nothing in these Terms and Conditions shall exclude or limit our liability for death or personal injury resulting from our negligence or fraud.

**12.4** To the extent permitted by law, all conditions or warranties implied by law, statute or otherwise are expressly excluded.

**12.5** The above exclusions and limitations set out in this paragraph shall apply to any liability of our affiliates and other suppliers, contractors, agents or distributors and any of their respective affiliates (if any), to you, which may arise in connection with these Terms and Conditions.

### **13. YOUR INFORMATION**

**13.1** Some personal data will be necessary for us to provide you with the Account and services under this Agreement. Modulr is a Data Controller and shall only use your personal data for this purpose. Please see the Privacy Policy (please contact Customer Services for details of where to access this) for full details on the personal data that we hold, how we will use it and how we will keep it safe. Modulr will at all times comply with Data Protection Laws.

**13.2** We will retain details of individual transactions for six years from the date on which the particular transaction was completed. We will maintain all other records for six years from which we have ceased to provide you with any product or service.

**13.3** You must update any changes to your Information by contacting Customer Services.

**13.4** If we discover that the Information we hold about you is incorrect, we may have to suspend or cancel your Account until we can establish the correct Information, in order to protect us both.

**13.5** If you or the Account Manager allow or give consent to an Authorised Third Party Provider to access your Account to provide their services, you should know that we have no control over how an Authorised Third Party Provider will use your information nor will we be liable for any loss of information after an Authorised Third Party Provider have access to your information.

### **14. COMPLAINTS PROCEDURE**

**14.1** Complaints regarding any element of the service provided by us can be sent to Customer Services.

**14.2** All complaints will be subject to our complaints procedure. We will provide you with a copy of our complaints procedure upon request and, if we receive a complaint from you, a copy of our complaints procedure will automatically be posted or emailed to you.

**14.3** In most cases we will provide a full response by email to your complaint within fifteen Business Days after the date we receive your complaint. In exceptional circumstances where we are unable to respond in full to your complaint, we will inform you of this giving our reasons for the delay and the timeframe within which you will receive a full reply, which in any event shall be within thirty-five days of the date we received your complaint.

**14.4** If we fail to resolve your complaint to your satisfaction any disputes must be submitted to the exclusive jurisdiction of the competent courts in Amsterdam, the Netherlands except for as subject to your local statutory rights. If you qualify as a Consumer (i.e. non-business or professional user) you may also refer your complaint to the Financial Services Complaints Tribunal (Kifid – [www.kifid.nl](http://www.kifid.nl)).

## **15. GENERAL**

**15.1** Any delay or failure to exercise any right or remedy under these Terms and Conditions by us shall not be construed as a waiver of that right or remedy or preclude its exercise at any subsequent time.

**15.2** If any provision of these Terms and Conditions is deemed unenforceable or illegal, the remaining provisions will continue in full force and effect.

**15.3** You may not assign or transfer any of your rights and/or benefits under these Terms and Conditions and you shall be the sole party to the contract between us. You will remain liable until the Account issued to you is terminated. We may assign our rights and benefits at any time without prior written notice to you. We may subcontract any of our obligations under these Terms and Conditions.

**15.4** No third party who is not a party to these Terms and Conditions has a right to enforce any of the provisions in these Terms and Conditions.

**15.5** You can obtain a copy of this Agreement at any time by contacting Customer Services.

**15.6** These Terms and Conditions – including any contractual and non-contractual obligations hereto - are governed by the laws of the Netherlands and you agree to the exclusive jurisdiction of the Courts of Amsterdam.

**15.7** This Account is not covered by a compensation scheme. As a responsible e-money issuer, we will ensure that once we have received your funds they are deposited in a secure account, specifically for the purpose of redeeming Transactions made from your Account and will be safeguarded in accordance with our obligations under the Dutch Financial Supervision Act (Wet op het financieel toezicht). In the event that we become insolvent funds that you have loaded which have arrived with and been deposited by us are protected against the claims made by our creditors in line with Dutch law.

**15.8.** Exclusion of relevant statutory provisions: the following provisions of the Netherlands Civil Code do not apply in the relationship between Modulr and the Introduced Client: articles 7:516, 7:517, 7:518 and 7:519, article 7:520(1), article 7:522(3), article 7:527, articles 7:529 to 7:531, article 7:534 and articles 7:543, 7:544 and 7:545 Netherlands Civil Code and all legislation pursuant to and/or based on such articles. Furthermore, if not already covered by the articles referred to in the preceding sentence, the rules regarding provision of information in the Market Conduct Supervision (Financial Institutions) Decree (Besluit gedragstoezicht financiële ondernemingen Wft) that follow from Title III PSD2 do not apply. The above contains the exclusion of the relevant provisions of PSD2 as implemented in Dutch law. Consequently, all rules with regard to the content and provision of the information required by Title III of PSD2 and the following provisions of Title IV of PSD2 do not apply to this Agreement: article 62(1), article 64(3), article 72, article 74, article 76, article 77, article 80 and article 89 of PSD2 and all legislation pursuant to and/or based on such articles. This paragraph shall not apply if the Introduced Client is a Consumer.

## **16. CONTACTING CUSTOMER SERVICES**

**16.1** Customer Services are provided by the Partner Platform. The details shall be provided by Partner Platform.