

**convera**

# Standard Terms and Conditions

**CORPORATE CLIENTS**

Convera Malta Financial Limited

# Standard Terms and Conditions

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## 1. Our Service to You

**1.1** We, Convera, may provide Services to you, the Client, if you wish to make a payment and/or require an exchange of currency or other online payment services to facilitate business transfers or to purchase goods or services. Convera is registered in Malta under its legal name, Convera Malta Financial Limited with a company registration number C22339 and has its registered and head office at W Business Centre, Level 5, Triq Dun Karm, Birkirkara By-Pass, Birkirkara, BKR 9033, Malta. Our contact details are: telephone +356 23289200 or +356 23289210; website <https://www.convera.com/en-mt>. We are licensed to undertake the business of a financial institution by the Malta Financial Services Authority, Notabile Road, Attard, BKR 3000, Malta, and website: [www.mfsa.com.mt](http://www.mfsa.com.mt)

**1.2 Whilst Convera may provide you with general information about currency markets, it cannot provide you with any advice.** You, the Client, must make any decision to buy or sell currency, to enter into any Forward Contract or to receive any other Services from Convera based solely on your own judgement.

**1.3** These Terms and Conditions will govern your relationship with Convera and, subject to the following sentence, will become binding upon you immediately upon your first Instruction to Convera. Sections 4, 12, 13, 14, and 15 will become binding upon you as soon as you sign the Application Form. Any Addendum to these Terms and Conditions will be binding upon you as soon as you sign such Addendum. These Terms and Conditions will continue in force from the date they become binding until the date they expire or are terminated in accordance with Section 15.2, Section 15.9 or as otherwise agreed between the Parties.

**1.4** The Client hereby represents and warrants that it is not a consumer or a Micro-Enterprise. The Client must immediately inform Convera if at any time during the term of the Terms and Conditions it becomes a consumer or a Micro-Enterprise.

## 2. Definitions

**Addendum:** An additional agreement which may contain additional terms and conditions, as provided to the Client by Convera from time to time, including without limitation, any fee schedules, service-specific addendums, and credit letters. Any such additional agreement shall form an integral part of these Terms and Conditions. In case of conflict between these Terms and Conditions and the specific terms and conditions contained in any additional agreement, the specific terms and conditions contained in any such additional agreement shall prevail.

**Application Form:** The document the Client completes to apply for the provision of the services.

**Authorised User:** Any individual authorised by the Client to access the Online Payment System and/or to submit Instructions on behalf of the Client.

**Beneficiary:** A Payee or, where the Client has directed that payment be delivered to the Client, the Client.

**Cleared Funds:** Funds received by Convera in respect of the Services which are no longer subject to a right of recall initiated by the payment provider or the financial institution from which the funds are sent under the terms of the applicable payment system.

**Client:** The entity entering into these Terms and Conditions with Convera as identified in the Application Form.

**Client Access Methods:** The unique password(s) and user identification(s) required to access the Online Payment System.

**Convera:** means Convera Malta Financial Limited, a limited company registered in Malta (Company Number C22339) with its registered office at W Business Centre, Level 5, Triq Dun Karm, Birkirkara BPass, Birkirkara, BKR 9033, Malta and which is licensed and regulated by the Malta Financial Services Authority to undertake the business of financial services in terms of the Financial Institutions Act).

**Convera Group:** Convera, Convera's parent company and any subsidiaries of Convera or its parent company at any time. In these Terms and Conditions the terms "parent company" and "subsidiary" shall have the same meaning given to them in the Maltese Companies Act 1995.

**Contract Funds:** The amount and type of currency the Client agrees to purchase from, or sell to, Convera.

**Control:** The power of a person to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person:

- a. by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body corporate; or
- b. as a result of any powers conferred by the articles of association or any other document regulating that or any other body corporate, and a **Change of Control** occurs if a person who Controls any body corporate ceases to do so or if another person acquires Control of it.

**EEA:** The European Economic Area.

**Holding Balances:** Funds held temporarily by Convera for the benefit and on behalf of and for the convenience of the Client pending receipt from the Client or an Authorised User of an Instruction, including Payee designation.

**Instruction (which may also be referred to as a Request):** An instruction by an Authorised User for Convera to provide Services to the Client, including any instruction made by telephone, letter, email or using the Online Payment System.

**Market Disturbance:** means any circumstance where Convera reasonably believes that market conditions in the relevant financial market are abnormal and this includes circumstances where in Convera's opinion, deposits in the currency concerned are not available in the ordinary course of business to Convera in the relevant financial market or because of national or international financial, political or economic circumstances or exchange controls it is impractical for Convera to execute a transaction in the applicable foreign currency.

**Market Order Effective Period:** The period of time, which shall not exceed 60 days and which shall remain in effect until 17:00 Malta time on the last day of this period of time, within which the Client has instructed Convera to purchase or sell the Contract Funds at the Target Rate.

**Market Order Instruction:** An Instruction to purchase/sell for the Client's account Contract Funds at the Target Rate within the Market Order Effective Period.

**Micro Enterprise:** Any entity, irrespective of legal form, which at the time of entering into these Terms and Conditions: (a) employs fewer than ten (10) employees; and (b) has either an annual turnover not exceeding two million euros (2,000,000.00) or a balance sheet total not exceeding two million euros (2,000,000.00).

**Online Payment System(s):** The proprietary online system(s) developed and the components thereof, owned and maintained by Convera that enables the Client to send and receive global business payments, including any replacement thereof and any related software, websites, URLs, software programs and deliverable ancillary to the Online Payment System such as reports, compilations or databases.

**Party or Parties:** Individually or collectively the Client and Convera.

**Payee:** Any third party to which the Client or Authorised User instructs Convera to deliver a payment.

**Personal Data:** 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 individual's physical, physiological, genetic, mental, economic, cultural or social identity.

**Process or Processing:** in relation to Personal Data, means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**Relevant Transaction:** Any transaction(s) that is the subject of a dispute or claim between the Client and Convera.

**Sanctions:** means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority.

**Sanctions Authority:** means:

- (i) the Security Council of the United Nations;
- (ii) the United States of America;
- (iii) the European Union;
- (iv) the member states of the European Union;
- (v) the United Kingdom; and
- (vi) the governments and institutions or agencies of any of the foregoing, including OFAC, the US Department of State, the Council of the European Union, Her Majesty's Treasury, the Ministry of Finance of Luxembourg, the Ministry of Foreign and European Affairs and the Luxembourg Commission of Supervision of the Financial Sector (CSSF).

**Sanctions List:** means the Specially Designated Nationals and Blocked Persons list maintained by OFAC, the Consolidated List of Persons and Entities subject to Sanctions maintained by the European Commission, the Consolidated List of Sanctions Targets maintained by Her Majesty's Treasury, or any similar list maintained by, or public announcement of a Sanctions designation made by, a Sanctions Authority, each as amended, supplemented or substituted from time to time;

**Services:** Whether in the singular or the plural, the buying or selling of foreign currency, the making of payments by electronic means, by wire or draft or by other agreed means, the entering into of Forward Contracts, purchase of foreign currency cheques, the use of the Online Payment System, the Services contemplated in any Addendum, the debiting and/or crediting of the Client's bank account and any other global payment, or related, solutions provided by Convera in accordance with the Client's Instruction.

**Settlement Amount:** The total amount, including the cost of currency acquisition as well as any fees and charges (including any fees and charges set forth in any Addendum, if applicable), the Client owes to Convera.

**Site Administrator:** The individual designated by the Client to access and administer the security of the Client's and its Authorised Users' use of the Online Payment System.

**Sustainable and Purchasable:** Where a foreign exchange rate is traded in the market with volume sufficient to sustain that rate level for a commercially reasonable timeframe.

**Target Rate:** The conversion rate stipulated by the Client, if and when such stipulated rate becomes Sustainable and Purchasable, at which the Client has instructed Convera to purchase/sell Contract Funds.

**Terms and Conditions:** These Terms and Conditions, including any Addendums, attachments and/or schedules, which shall govern the relationship between the Parties, as it relates to the ordering and delivery of the Services contemplated herein.

**Transaction Confirmation Form:** A notification that sets forth a confirmation number and other relevant details related to an Instruction.

**Transaction Date:** The date on which Convera executes an Instruction on behalf of the Client.

**Working Day:** Mondays to Fridays (excluding public holidays).

### 3. Doing Business with the Company – General Terms

**3.1 Completion of Application.** Subject to Section 3.2, once the Client has completed the Application Form and Convera has verified the Client's identity and the purpose for requiring the Services, the Client or an Authorised User shall be able to submit Instructions in accordance with, and subject to, the terms set out in these Terms and Conditions.

**3.2 Submitting an Instruction.** (a) Save as provided in Section 3.2(b), an Instruction for Services can be made by letter email, telephone, file transfer, or the Online Payment System; (b) a Market Order Instruction can be made by telephone, letter or email.

**3.3 Reliance on Instruction.** The Client hereby authorises Convera to accept, act and rely upon any Instruction that Convera reasonably believes to have been delivered by the Client's Representative. Convera has the right, acting reasonably, to decline to accept any Instruction.

**3.4 Rate Quotes.** Where a foreign currency conversion service is requested, the Client will receive an exchange rate quote which will only be valid for such time specified at the time the exchange rate is requested. The exchange rate applicable to any particular Instruction is the exchange rate provided to the Client at the time the Instruction is submitted by the Client and accepted by Convera.

**3.5 Accuracy of Instruction.** Before submitting an Instruction to Convera, the Client shall ensure that all information contained in the Instruction is complete, accurate and, if in writing, legible. If the Client subsequently learns of any error in an Instruction the Client must immediately notify Convera in writing.

**3.6 Incomplete/Inaccurate Instructions.** If the Client fails to provide a timely, complete, and legible Instruction, Convera may be unable to process the Instruction or may be delayed in processing the Instruction. In this event, Convera may elect to hold any Settlement Amount received pending receipt from the Client of the information necessary to complete the transaction(s); or return such Settlement Amount to the Client. Convera shall not be liable for any loss, damage, cost or expense suffered by the Client or any other party as a result of any such delay or failure in processing such Instructions.

**3.7 Transaction Processing Times.** The time of receipt of an Instruction shall be deemed to be the time when Convera receives from the Client an Instruction together with the Settlement Amount in Cleared Funds (or if applicable, sufficient settlement-related Facility available to the Client). Convera will inform the Client of the deemed time of receipt of such Instruction. For the avoidance of doubt, Convera will not debit the Client's account held with Convera until such Instruction has been received. Convera agrees to process transactions for the Client in accordance with the Client's Instruction: (i) on the same day of the Instruction if the Instruction (together with the Settlement Amount in Cleared Funds (or if applicable, sufficient settlement-related Facility available to the Client) is received before 12.30pm on a Working Day; or (ii) in case of future-dated transactions, Convera shall start to process the transaction for the Client on the agreed date for execution of the payment to be made pursuant to an Instruction. The deemed time of receipt of Instructions by Convera shall be as follows: (1) online Instructions are received at the time that the Instruction is confirmed on the website; (2) Instruction by phone are deemed received at the time the Instruction is confirmed with the dealer; and (3) Instructions by letter are deemed to be received three (3) Working Days after the date of posting if sent by 1st class post or four (4) Working Days for 2nd class mail. Instructions received after the cut-off time of 12:30pm or on a day other than a Working Day will be deemed to have been received on the next Working Day.

Where the Client places funds on its account held with Convera in the same currency as that such account, Convera shall ensure that the amount is made available to the Client and value dated no later than the end of the next Business Day after the receipt of the funds.

**3.8 Transaction Confirmation Form.** The Parties agree that, subject to Section 7, an Instruction shall be binding upon the Client once it is submitted to Convera. For each Instruction, a transaction confirmation number will be generated by Convera or a member of the Group and Convera will send to the Client a Transaction Confirmation Form. If the Client has not received the Transaction Confirmation Form within 24 hours of deemed receipt of the Instruction by Convera, the Client must contact Convera to request a copy. The Client agrees to promptly review each Transaction Confirmation form for accuracy and immediately advise Convera of any error or discrepancy therein.

**3.9 Delivery of Funds.** Convera will deliver electronic funds transfer payment(s) requested by the Client as follows: (a) if the payment is to be delivered in euro and in the EEA, payment will be delivered to the account of the Beneficiary's payment service provider by no later than the end of the next Working Day following the time of receipt by Convera of the payment order; (b) if the payment is to be delivered in any EEA currency other than euro but in the EEA, the payment will be delivered to the account of the Beneficiary's payment service provider by no later than the end of the fourth Working Day following the time of receipt by Convera of the payment order; and (c) payments transactions to be delivered outside of the EEA or in any non-EEA currency and payments to be delivered by draft shall be processed and delivered by Convera in accordance with Convera's standard processing times.

**3.10 Assignment of Interest to Convera.** The Client understands that no interest will be paid by Convera to the Client with respect to any funds held by Convera.

**3.11 Fees.** The Client understands that Convera will charge certain fees for the Services and that the fees shall be set forth in a fee schedule that will be provided to the Client. Unless otherwise agreed in writing, Convera may change the fees charged for the Services at any time upon one month's written notice to the Client. Convera and the Client agree that Convera may deduct fees from any Settlement Amount or Incoming Payment.

**3.12 Safeguarding of Funds.** Where Convera receives funds from the Client or from another payment service provider on the Client's behalf, Convera shall hold the funds on trust for the Client. The Client will remain the beneficial owner of the funds except for the amount that Convera deducts from the funds in relation to its fees, charges and expenses. The funds will be pooled with those of Convera's other clients in a designated client bank account held in Malta until the funds are required in order to provide the Services to the Client.

**3.13 Auto Convert Service.** The provisions of this Section 3.13 shall not apply to Clients that are Micro Enterprises. Convera shall use its reasonable endeavours to provide the Services in accordance with Client's Instruction. However, in the event Client provides an Instruction to Convera for the initiation of a payment in a particular currency (the **Instruction Currency**) that is different from the currency in which the Payee's bank account (or other payment account) is kept and maintained (the **Payee Currency**), Client hereby authorises and instructs Convera to initiate the payment in the Payee Currency and agrees that Convera shall convert the Instruction Currency into the Payee Currency by applying an exchange rate of 2% above the interbank market rate prevailing at the time the transaction is processed or if the interbank market rate is not used, such other rate, which is applied to the payment by Convera's counterparty bank (an **Automatic Currency Conversion**). Client hereby acknowledges and accepts that this may result in two consecutive currency conversions. Details of the interbank market rate are publicly available online on the trading platforms of the Electronic Broking Services and Thomson Reuters and upon request Convera shall confirm to the Client the current interbank market rate.

Client is aware that in cases where Convera executes an Automatic Currency Conversion, the Confirmation provided by Convera to the Client will not state the foreign exchange rate applied to the Automatic Currency Conversion, because at the time the Confirmation is issued, Convera will not be able to predict whether or not an Automatic Currency Conversion will be necessary. It is understood that once Convera has become aware of the foreign exchange rate to be applied to an Automatic Currency Conversion, Convera shall be under no obligation to inform the Client about such foreign exchange rate, unless the Client requests such information.

**3.14 Quoting Error.** If a quoting error occurs due to a typographical error made by Convera or there is an obvious mistake in an exchange rate quote provided by Convera to the Client in the relation to an Instruction made by telephone, letter or email (the **Quoting Error**), Convera shall not be liable for any damages, claims, losses, liabilities or costs arising from the Quoting Error. Convera will make reasonable efforts to correct the Quoting Error and recover the funds involved in the relevant transaction. Any dispute arising from a Quoting Error will be resolved on the basis of fair market value as determined by Convera acting reasonably, of the relevant currency at the time the Quoting Error occurred.

### 3A Holding Balances

**3A.1** Funds may be maintained in a Holding Balance for a maximum of ninety (90) days. The Client shall be responsible for all risks (including without limitation, fluctuations in the value of currency held) associated with maintaining Holding Balances in one or more foreign currencies.

**3A.2** If Convera does not receive a timely Instruction for the disposition of any funds prior to the expiry of the ninety (90) day period, Convera may, unless otherwise agreed in writing:

- a) apply a cancellation charge to any Holding Balance or part thereof held by Convera for ninety (90) days (the Aged Holding Balance) equal to the lesser of: (i) €50; and (ii) the value of the Aged Holding Balance, such charge to be satisfied from the proceeds of the Aged Holding Balance; and
- b) return any remaining funds from the Aged Holding Balance (following the application of the cancellation charge as detailed in Section 3A.2(a)) to the Client's notified account within five (5) business days of the cancellation.

### 4. Doing Business with Convera Using the Online Payment System – Additional Terms

**4.1 Use of the Online Payment System.** The Client may use the Online Payment System for the purpose of obtaining the Services, including sending or receiving global business payments, or buying or selling currency subject to any restrictions or limitations imposed by Convera.

**4.2 User License.** Convera grants to the Client, for so long as these Terms and Conditions remain in effect, a nonexclusive, non-transferable, non-sublicensable license to use the Online Payment System for the sole purpose of facilitating its use of the Services in the ordinary course of its business. The Client agrees to use the Online Payment System in accordance with these Terms and Conditions and to ensure that access to the Online Payment System is limited to those of the Client's employees or agents whose job performance requires access to the Online Payment System in the ordinary course of the Client's business. Unauthorised use of the Online Payment System shall constitute default and breach of this license.

**4.3 Online Payment System Restrictions.** The Client agrees that the Online Payment System(s) and all of the Company web-pages (including service marks, logos and trademarks), Services, applications, process and systems, and deliverables produced by Convera to perform the Services (including without limitation, reports, compilations and databases in any and all media) (collectively, "Company's IP") are and shall remain the exclusive property of Convera and are protected by copyright law or other intellectual property laws. The Client agrees that no copyright or other intellectual property rights, title or interest, whether express or implied, in any of Convera's IP shall be acquired by the Client, except to the extent expressly contemplated in these Terms and Conditions. The Client shall not distribute, disclose, sell Convera IP or Online Payment System to, or permit use of the Online Payment System or Company IP by, any third party whether in whole or in part without the express written consent of Convera. The Client shall not, directly or indirectly, copy, modify, decompile, disassemble, reverse engineer or otherwise attempt to derive or discern the source code or internal workings of the Online Payment System. The Client may not: (i) reproduce any part(s) of the Online Payment System or Company IP in any form; (ii) create any derivative work based thereon; (iii) incorporate the site into other websites, electronic retrieval systems, publications or otherwise, or (iv) disclose the Online Payment System to, or permit use of the Online Payment System by, any third party. Provided that the Client is in compliance with these Terms and Conditions, the Client is permitted to view,

use, and download a single copy of any web-page(s) (excluding applications, processes or systems) and to use reports, compilations or databases for its own internal business, recordkeeping and accounting purposes.

**4.4 Intellectual Property Indemnity.** Convera shall indemnify and hold the Client harmless from any damages and costs awarded by a court of competent jurisdiction against the Client, which relate directly to finding by such court that the Client's use of the Online Payment System in accordance with these Terms and Conditions infringes any copyright, patent, trade secret or other intellectual property right of a third party; provided, however, that the Client (i) provides Convera with prompt notice of any actual or potential third party claim, agrees to allow Convera, to the extent it chooses, to defend and direct all activities relating to the defence and/or settlement of any such third party claim, (iii) does not make any comment or admission in relation to such claims without Convera's prior written consent, and (iv) cooperates as reasonably required with Convera in connection with defending such claim.

**4.5 Online Payment System(s) Security.** If the Client requests access to an Online Payment System, Convera may, depending on specific Online Payment System to be used, issue the Client with security credentials and the Client will assume sole responsibility for use of such credentials. The Client agrees that the credentials will be used only by and Authorised User.

**4.6 Client Access Methods.** The security of the Client's access to an Online Payment System, including, but not limited to, the security and secrecy of the Client Access Methods, shall at all times be the sole responsibility of the Client and shall be administered by the Site Administrator.

**4.7 Site Administrator.** The Client shall appoint and maintain the appointment of a Site Administrator and provide the name of this individual to Convera. The Site Administrator shall be designated as the primary Client contact (unless otherwise communicated in writing by the Site Administrator, which writing shall designate a replacement primary contact).

**4.8 Authorised Users.** The Client shall provide Convera with a list of Authorised User(s) so Convera can properly assign the Client Access Methods. Each Authorised User may change its Client Access Methods, relating to that individual Authorised User only, at any time after Convera's initial assignment. In addition, the Site Administrator may at any time after the initial assignment, change the Client Access Methods or amend certain access rights for any Authorised User.

**4.9 Security of the Client Access Methods.** The Client shall notify Convera immediately in the event of any suspected breach of the Client Access Methods, any change in the information contained in security credentials (if applicable), the case of suspected fraudulent activity, or upon learning of any actual or suspected compromise in the security of any provided security credentials or any change, addition or deletion of an Authorised User's Client Access Rights. Subject to what is provided in Sections 13.9 and 13.10, the Client accepts responsibility for all acts or omissions of any person that accesses the Online Payment System through the Client Access Methods and, agrees to be bound by the terms of all online transactions executed and orders placed through the Online Payment System using the Client Access Methods.

## **5. Doing Business with the Company over the Telephone – Additional Terms**

**5.1** The Client may submit Instructions by telephone to the dealers by quoting the security details as required.

**5.2** The conclusion of a Client's Instruction on the phone shall be a verbal contract between the Client and Convera. The Client will be bound to buy/sell the relevant currencies at the quoted exchange rate on and subject to these Terms and Conditions.

**5.3** The Client shall at all times be solely responsible for the security of any telephone password(s), access codes, account numbers and agrees that any use of such data to provide an Instruction to Convera shall be binding on the Client. The Client agrees to inform Convera immediately of any of the following: (a) suspected fraudulent activity on its account with Convera; or (b) any compromised security of Client's authorisation details.

## 5A. Market Order Instructions

**5A.1 Market Order Instruction.** If an Authorised User submits a Market Order Instruction to Convera, the Client authorises Convera to accept and act in accordance with the Market Order Instruction. Each Market Order Instruction shall be effective only after Convera has received it and has had a commercially reasonable opportunity to act upon it.

**5A.2 Market Order Execution.** If the Target Rate becomes Sustainable and Purchasable during the Market Order Effective Period, Convera will execute the Market Order Instruction, without prior approval from the Client, and send to the Client a Transaction Confirmation Form. The Client agrees to promptly review each Transaction Confirmation Form for accuracy and immediately advise Convera of any error or discrepancy therein. Once the Target Rate becomes Sustainable and Purchasable during the Market Order Effective Period, the Client shall be liable for the Settlement Amount payable pursuant to the Market Order Instruction.

**5A.3 Cancellation of Market Order Instruction.** Market Order Instructions may not be cancelled by the Client at any time after the Target Rate has become Sustainable and Purchasable. In order to cancel a Market Order Instruction during the Market Order Effective Period, Convera must receive an Instruction, either written or through the Online Payment System, directing cancellation. Such cancellation Instruction shall only be effective once Convera has had a commercially reasonable opportunity to act upon such Instruction.

**5A.4 Target Rate.** If the Target Rate does not become Sustainable and Purchasable during the Market Order Effective Period, the Market Order Instruction shall automatically expire at the end of the Market Order Effective Period. Unless otherwise stated in the Market Order Instruction, Market Order Instructions shall remain in effect until 17:00hrs on the last day of the Market Order Effective Period.

## 6. File Transfer

**6.1 Acceptance and Processing of Instruction Files.** Once Convera has notified the Client that all set-up and testing has been completed with respect to the Client's desire to deliver an Instruction to Convera in a file format, Convera shall then accept and process each Instruction delivered in a file format and notify the Client of any issues relating to the format on receipt of any such file.

**6.2 Consistent File Format.** The Client agrees to ensure all files are transmitted to Convera pursuant to the file specifications mutually agreed by Convera and the Client. It is expressly understood that Convera shall not be responsible for any delays caused by a file that deviates from the agreed upon format and specification. Any change to the file format and specification, or to its implementation schedule, must be mutually agreed by Convera and the Client.

**6.3 Rejected Files.** The Client agrees to be solely responsible for resubmitting any file that has been rejected by the Company. The Company will not be liable for any loss, costs, damages or expenses incurred in connection with any delay in, or failure to act on any Instruction in connection with rejected files.

## 7. Cancellations

**7.1 Client Cancellation Request.** The Client may cancel the Services requested provided that the Instruction for the cancellation is sent to Convera before the payment related to that Instruction is released by Convera for payment to the Beneficiary. Where the payment has not been released by Convera, Convera will cancel the Instruction as per the Client's request and advise the Client of the cancellation. The Client agrees to indemnify Convera in full against any and all losses, costs, damages and expenses (including without limitation, any foreign exchange losses) incurred by Convera in connection with any such cancellation.

**7.2 Company Cancellation.** Convera shall be entitled to cancel any Instruction, irrespective of whether a Transaction Confirmation Form has been issued or the Settlement Amount or any portion thereof has been received by Convera, and/or

to prevent access to an Online Payment System in any of the following circumstances: (a) the Client is in default under these Terms and Conditions or any other terms, agreement or arrangement with Convera; or (b) where the carrying out by Convera of any such Instruction or provision of access to an Online Payment System would be unlawful, illegal or would contravene the requirements of any regulatory authority; or (c) where Convera suspects an unauthorised or fraudulent use of the Services, an Online Payment System, the Client Access Methods and/or a payment instrument, as means to pay the Settlement Amount; or (d) the Client becomes insolvent, goes into liquidation, administration or receivership or is unable to pay its debts as and when they fall due; or (e) where the Client has been granted a credit facility and there is evidence to show that the Client may be unable to fulfill its liability or obligations to pay for the Services. If Convera decides to cancel any Instruction or prevent access to an Online Payment System, for any of the reasons stated above, Convera will, in so far as legally permissible, inform the Client as soon as possible but no later than the following Business Day and the Client further agrees to indemnify Convera in full against all losses, costs, damages and expenses (including without limitation, foreign exchange losses) incurred by Convera in connection with any such cancellation or withdrawal of access.

## 8. Incoming Electronic Payments

**8.1 Delivery of Incoming Payments.** The Client may instruct a third party to electronically deliver a certain amount of funds for the benefit of the Client into a correspondent bank account designated, owned and maintained by Convera (the “**Incoming Payment**”). The Client shall require that the third party sender include the Client’s name and company ID as designated by Convera in the memo or reference line of any such Incoming Payment. Convera may, in its sole discretion, attempt to contact the third party sender to secure any additional information that may be needed to ensure accurate processing of the Incoming Payment. Convera shall not be liable to the Client for any loss, damage, cost or expense incurred by the Client as a result of any delay in delivery of the Incoming Payment which occurs in connection with the receipt by Convera of incomplete or inaccurate Incoming Payment information. Following Convera’s receipt and confirmation of the Incoming Payment, Convera shall deduct its applicable fees and deliver the Incoming Payment to the Client.

**8.2 Incoming Payment Availability.** When Convera accepts an Incoming Payment from a third party and the Incoming Payment is not credited to the account of the Client, Convera shall make such Incoming Payment available to the Client immediately after the Incoming Payment has been received by Convera.

**8.3 Incoming Payment into Client’s account held with Convera.** Where the Client elects to have such Incoming Payment credited to its account held with Convera, Convera shall ensure that the credit value date shall be no later than the Business Day on which the amount of the Incoming Payment is credited to Convera’s account.

**8.4 Access to Incoming Payment.** Where the Incoming Payment does not involve a (i) currency conversion; or (ii) involves only a currency conversion between euro and sterling or another EU currency, between sterling or another EU currency, or between two EU currencies, Convera shall ensure that the Incoming Payment is at the disposal of the Client immediately after it is credited to Convera’s account.

## 9. Settlement

**9.1 Settlement.** Unless otherwise provided in these Terms and Conditions or agreed in writing between Convera and the Client, the Client agrees to promptly deliver the Settlement Amount to Convera in Cleared Funds. If the Settlement Amount is paid to Convera electronically, the Client agrees that the Settlement Amount shall not be recallable by the Client without Convera’s prior written consent. If the Client does not deliver the Settlement Amount within five (5) Working Days following the Client’s Instruction to purchase/sell the Contract Funds or informs Convera that it is not willing or able to deliver the Settlement Amount, Convera shall have the right to suspend, cancel or terminate any Instruction or the Services (including the cancellation of any outstanding Instructions previously submitted by the Client) and/or initiate any proceedings necessary to recover any balance due. Such steps shall be at the sole discretion of Convera, and the Client agrees (i) that

Convera shall have no liability to the Client, and the Client waives any claim or action against Convera, in the event of such cancellation, suspension or termination; and (ii) to indemnify and hold Convera harmless from any and all liability, claims, damages, and costs, including foreign exchange losses and all reasonable fees incurred by Convera resulting from the Client's failure to pay and Convera's effort to collect any balance due. The Client agrees that Convera may recover interest upon any unpaid amounts due at the maximum rate allowed by law, plus any reasonable legal costs incurred by Convera.

**9.2 Settlement Using Collateral.** The Client agrees that any funds held from time to time by Convera for the Client shall secure all liabilities and obligations of the Client (including in respect of fees, charges, expenses and interest) which may at any time be or become due, owing or incurred to Convera hereunder. The Client further agrees that in the event of any default in payment or reimbursement of any such liabilities and obligations by the Client in accordance with the terms hereof, Convera shall be entitled to satisfy such liabilities or obligations of the Client out of such funds (or out of any other obligations which Convera has to the Client), without prior notification to the Client. In the event that funds held by Convera are so applied and are insufficient, the Client shall remain liable to Convera for any balance and the Client shall forthwith pay or reimburse such balance in full on demand.

**9.3 Dishonoured Settlement.** Without limiting the Client's obligations under Section 9.1, in the event that any cheque delivered or electronic debit authorised by the Client is dishonoured by the Client's bank, Convera will charge, and the Client agrees to pay, all processing costs associated with each returned cheque.

## 10. Cheques and Drafts Issued to Client or Payees

**10.1 Notification of Non-receipt of Cheques or Drafts.** In the event that the Client submits an Instruction directing Convera to issue a cheque or draft payable to the Client or a Payee and the cheque or draft is not received by the intended recipient, then the Client shall notify Convera forthwith upon becoming aware of the non-receipt.

**10.2 Cancellation of Cheques or Drafts.** Upon notification from the Client of the non-receipt of a cheque or draft in accordance with Section 10.1, Convera will use its reasonable endeavours to obtain confirmation of stop and cancellation of the cheque or draft from Convera's bank. Convera will only issue a replacement cheque upon receipt of confirmation of stop and cancellation from its bank and receipt from the Client of a written stop payment order and indemnity. In the event that the original cheque or draft is subsequently encashed by any person and Convera is unable to obtain reimbursement from the paying bank, Convera shall be entitled at its discretion to stop any replacement cheque or draft that may have been issued and the Client shall indemnify Convera for any and all losses, damages, costs and expenses incurred by Convera in connection with such encashment.

**10.3 Un-cashed Cheques and Drafts.** If a cheque or draft remains un-cashed for a period of six (6) months, as measured from the date on the cheque or draft, Convera will, unless otherwise agreed in writing:

- a) cancel the uncashed cheque or draft and charge the Client a cancellation charge equal to the lesser of: (i) €50; and (ii) the value of the uncashed cheque or draft, such charge to be satisfied from the proceeds of the cancelled uncashed cheque or draft; and
- b) return any remaining funds (following the application of the cancellation charge as detailed in Section

12.3(a)) to the Client's notified account within five (5) business days of the cancellation.

**10.4** The Client shall indemnify and hold Convera harmless against any damages, losses, costs and expenses incurred by Convera arising directly as a result of a claim by the relevant Payee in connection with any un-cashed cheques or drafts. Such indemnity shall be capped at the value of the relevant un-cashed cheque or draft.

## 11. Foreign Currency Cheques and Cash Letters Purchase

**11.1 Purchase and Conversion of Foreign Currency Cheques.** Convera may agree to purchase and convert into euro or some other currency, a foreign currency cheque or cash letter ("Foreign Currency Item(s)") that the Client has received in its name and delivered to Convera. Convera may, but is not required to, provide value to the Client for any Foreign Currency Item prior to receipt by Convera of Cleared Funds from the clearing bank. The rate of exchange and applicable charges will be agreed upon before Convera takes delivery of the Foreign Currency Item. The Client acknowledges and agrees that Convera may refuse to accept any Foreign Currency Item at any time and for any reason. The Client further acknowledges and agrees that Convera may request additional information satisfactory to Convera, in its sole discretion, and warrants and represents that the Client has the authority to deliver the Foreign Currency Item to Convera for purposes of foreign currency conversion and negotiation.

**11.2 Endorsement.** All Foreign Currency Item(s) delivered to Convera must be endorsed, without restriction or qualification, by an Authorised User and state the following: "Pay to the Order of: Convera Malta Financial Limited" or such other name as advised by Convera from time to time.

**11.3 Non-negotiable Foreign Currency Item(s).** In the event that the Foreign Currency Item(s) is deemed by Convera, at its sole discretion, as invalid or is returned to Convera as non-negotiable, returned for insufficient funds or otherwise not accepted by Convera's bank, such Foreign Currency Item(s) shall be returned to the Client and the Client agrees to immediately reimburse Convera for amounts delivered to the Client by Convera in connection with the Foreign Currency Item(s) purchase, plus any losses, charges or fees that Convera may have incurred, including any foreign exchange losses.

**11.4 Lost, Stolen or Destroyed Foreign Currency Item(s).** In the event that a Foreign Currency Item(s) is lost, stolen or destroyed in transit during the clearing process, Convera shall promptly notify the Client after being advised of any such loss, theft or destruction. Convera shall provide the Client with a letter certifying that Convera has not received value for the Foreign Currency Item(s) and the Client agrees to immediately reimburse Convera for any amounts delivered to the Client by Convera in connection with the Foreign Currency Item(s) purchase.

**11.5 Foreign Currency Item Indemnity.** The Client agrees to indemnify and hold Convera harmless for any damages, losses, costs and expenses incurred by Convera in connection with Convera's acceptance, negotiation or purchase of any Foreign Currency Item received by Convera from the Client. The Client acknowledges that Convera is relying upon this indemnity in providing value in exchange for any Foreign Currency Item.

## 12. Data Rights; Confidentiality

**12.1 Information for Services.** The Client acknowledges that, in order for Convera to perform any of the Services hereunder, it will be necessary for the Client to provide certain information to Convera from time to time, such as the Client's banking details, transaction currencies, amounts or any other information related to the payment ("Confidential Client Information"). Confidential Client Information does not include information that is or has become publicly known, has been lawfully received from a third party.

**12.2 Use of Confidential Client Information.** Convera shall not disclose, share, sell or otherwise transfer Confidential Client Information and any transaction related information (whether such information is provided by the Client or someone acting on behalf of the Client) except: to its contractors, business partners, affiliated entities, credit reference and fraud prevention agencies and financial institutions whether located within or outside the [A and the entities referred to in Section 14.4 (*Disclosure*), for the purpose of providing the Services, for fraud and other crime prevention/detection, to verify the Client's identity or for the purposes of granting a Facility, or continuing or extending any Facility, for market research, insurance, audit or administrative purposes, or as otherwise set out in Section 12 of these Terms and Conditions provided,

however, that Convera shall have the right to disclose such information to any third party if such disclosure is required by applicable law or regulation.

**12.3 Credit Reference and fraud prevention agencies will record details of any credit search made by Convera.** The Client has the right of access to personal records held by credit reference and fraud prevention agencies and Convera will supply their names and addresses upon request.

**12.4 Personal Data Necessary to Services; Controllership.** Convera must collect and Process Personal Data in order to perform the Services. Such Personal Data may be provided by the Client, such as when you provide beneficiary details, and may also be collected by Convera, such as in cases where Convera collects supplementary information to verify information the Client have provided. The Client understands that Convera is an independent service provider who separately controls Personal Data that the Client provide or that Convera collects, obtains, and/or Processes in connection with providing the Services. Convera will Process Personal Data obtained in connection with the Services in a manner consistent with these Terms and Conditions including this clause 12.4, as otherwise expressly agreed between the Client and Convera in writing, or as is otherwise necessary in light of any Request the Client make which Convera accepts.

**12.5 Consent Pursuant to Applicable Payment Systems Law in Connection with the Client Transactions.** The Client acknowledge that we must Process Personal Data in order to perform the Services. The Client hereby expressly consents to Convera's collection, Processing, and retention of Personal Data in relation to performing the Services. Furthermore, the Client agrees that by requesting Convera to perform a transaction, the Client is consenting to and authorizing Convera to collect, Process, and retain all Personal Data necessary to execute the transaction; in the case of a Request, the Client consents to Convera Processing and retaining any Personal Data set forth in a Transaction Confirmation Form.

The Client hereby represents and warrants that the individual executing these Terms and Conditions on the Client's behalf has the capacity and is authorized by the Client to provide consent on the Client's behalf, as well as on behalf of any companies, corporations, organizations, or businesses affiliated with the Client who may make use of or receive the benefit of Convera's Services.

To the extent applicable law permits the Client to withdraw the Client consent in regards to a particular Transaction, the Client agrees that the cancellation provisions contained in clause constitute the exclusive method for withdrawing the Client's consent, subject to the restrictions and limitations set forth therein. The Client acknowledges and agrees that the Client's withdrawal of consent, even if effective, shall not affect the lawfulness of any Processing that occurred prior to the withdrawal. Furthermore, the Client acknowledges that its withdrawal of consent shall not prejudice Convera's rights to Process, continue Processing, and/or retain Personal Data to the extent permitted by applicable law and/or these Terms and Conditions.

**12.6 Representations and Warranties.** The Client guarantees to Convera that when the Client communicates Personal Data to Convera or when the Client ask Convera to perform the Services, the Client is acting in compliance with the laws and regulations applicable to the Client. In particular (and without limitation), the Client represents and warrants that (a) any Personal Data the Client provides to Convera has been lawfully collected and Processed; (b) the Client have collected all necessary consents and/or authorizations, provided all necessary notices, and done all such other things as are required under applicable law for the Client to lawfully disclose Personal Data to Convera for purposes of any Transaction its requests and any Processing permitted under these Terms and Conditions; and (c) the Processing that the Client is requesting Convera to perform in relation to any Personal Data is lawful. The Client agrees to indemnify Convera in respect of any claim that may be filed against Convera by a third party (including any governmental or supervisory agency) in the event of any breach by the Client of the laws or regulations applicable to the Client, or in respect of any claim filed against Convera by a third party (including any governmental or supervisory agency) that arises out of or relates to a breach of the representations and warranties set forth herein.

**12.7 Information Security.** Convera will implement technical and organisational measures designed to protect Personal Data against unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. Such measures shall be appropriate to the harm that might result from unauthorised or unlawful Processing or accidental loss, destruction or damage to Personal Data, and to the nature of the Personal Data to be protected. **12.8 Permitted Data Processing.** Convera Processes Personal Data consistent with and to the extent permitted by the provisions of applicable data protection law applicable to data controllers. Personal Data that Convera Processes includes information the Client provide to Convera, as well as information Convera may obtain from other programs or services of its Group, Convera affiliates, third-party individuals or entities, or from publicly available sources.

The manner in which Convera Processes Personal Data obtained in connection with the Services is set forth in the applicable privacy notice. Convera will reasonably ensure that the applicable privacy notice accurately reflects how Personal Data is processed in connection with the Services, and will provide reasonable notice of any modifications.

**12.9 Third Parties and Transfers.** Convera may disclose Personal Data to third parties, including vendors, contractors, and/or business partners, for any purpose or Processing permitted under these Terms and Conditions. These third parties may be located outside the European Economic Area (EEA), including in countries outside the EEA whose privacy laws may not provide the same level of data protection as the law in force within the EEA. Convera ensure that third parties who receive Personal Data are subject to such contractual terms and that transfers to third parties outside of the EEA are subject to such safeguards as required by applicable data protection law. Where required by applicable law, Convera will request the Client's express consent. Convera may disclose Personal Data or any other information we hold to law enforcement authorities or other government officials if required to do so by domestic or foreign law or legal process, or as needed to assert or defend Convera's rights or interests or those of others. Personal Data and any other information Convera hold may be accessed by Convera and affiliates of Convera Malta Financial Limited for any purpose set forth in these Terms and Conditions, including but not limited to: Custom House Financial (UK) Limited (in the process of changing its name to Convera UK Limited), the Western Union Business Solutions (USA), LLC (in the process of changing its name to Convera USA, LLC), the Western Union Business Solutions (Australia) Pty Limited (in the process of changing its name to Convera Australia Pty Limited), Convera Lithuania UAB and Convera Payments Costa Rica, S.R.L.. Convera shall ensure that access by Convera Affiliates located outside of the EEA is subject to such safeguards as required by applicable data protection law.

**12.10 Notification and Cooperation.** Each Party shall notify the other promptly upon receiving a request for information, claim, complaint or allegation relating to the other Party's compliance with applicable data protection and/or information security law in relation to Personal Data Processed in connection with these Terms and Conditions. Each Party shall provide the other Party with all such assistance in dealing with and responding to such Enquiry as the other party shall reasonably request.

### **13. Indemnification; Exclusion of Warranties; Limitation of Liability; Micro-Enterprises**

**13.1 Client Indemnity.** The Client agrees to indemnify and hold Convera harmless for any damages, losses, costs and expenses incurred by Convera in connection with any Instruction made by the Client or Convera's reasonable actions in response to receiving an Instruction from the Client, unless such damages, losses, costs and expenses are caused by Convera's gross negligence or intentional misconduct or unless liability results from law or is expressly assumed by Convera under these Terms and Conditions.

**13.2 No Warranties; Information Warranty Exclusion.** The Client understands that the Services (including the Online Payment System) are provided on an "as is" basis, without warranty of any kind, either express or implied. Convera does not warrant the accuracy or completeness of the information available through the Online Payment System or guarantee uninterrupted, continuous or secure access to the Services (including through the Online Payment System).

**13.3 Underlying Payment Warranty Exclusion.** Convera does not warrant any aspect of the underlying transaction(s), including, for example, whether goods or services for which payment is being made are conforming or satisfactory or whether payment has been made in the right amount or within the time agreed between the Client and Payee.

**13.4 Disclaimer.** Except as expressly provided in this Agreement Convera does not make any representations or warranties, express or implied, including but not limited to any warranties of satisfactory quality, fitness for a particular purpose, no infringement and performance or otherwise. The Client agrees that Convera shall not be liable for any errors or losses caused by third parties, including but not limited to any banking institution.

**13.5 No Lost Profits or Indirect Loss.** The Client agrees that Convera shall not be liable to the Client for any lost profits, lost business opportunities, loss of reputation or goodwill, or any indirect, incidental, consequential, special or exemplary damages, arising from or in connection with the Services (including the Online Payment System), these Terms and Conditions and/or any Addendum, if applicable (however arising, regardless of the nature of the claim or the form or cause of action, including in the case of negligence) and regardless of whether Convera has been advised of the possibility of such damages.

**13.6 Limitation of Liability of Company.** Except to the extent contemplated under Section 4.4 above, under no circumstances shall Convera's liability to the Client or any third party for any damages or losses of any kind whatsoever (however arising, regardless of the nature of the claim or the form of cause of action), exceed the sum of (i) the euro value, as of the Transaction Date of the Relevant Transaction(s), and (ii) the amount of any fee or commission charged and collected by Convera in connection with the Relevant Transaction(s). The Client expressly agrees that any unauthorised or incorrectly executed payment transaction and any claim for damages or losses of any kind whatsoever arising hereunder must be notified to Convera by telephone on +356 23289209 or +356 23289210 as soon as the Client is aware of such unauthorised or incorrectly executed payment transaction or claim and in any case within two (2) months of the circumstances that allegedly caused the incident giving rise to the unauthorised or incorrectly executed payment transaction or claim. The limitations of liability set out in this Section 13 do not apply to: a) liability arising from death or injury to persons caused by negligence, to which no limit applies; or b) liability arising as a result of fraud of Convera, to which no limit applies. The parties acknowledge and agree that the exclusions and limitations of liability in this section are reasonable having regard to all relevant factors, including the nature and cost of the Services provided, which take into account an appropriate allocation of risk and liability.

**13.7 Liability of Company for Unauthorised Transactions.** Notwithstanding any other provision in these Terms and Conditions to the contrary, provided that the notification requirements in Section 13.6 have been met, should any payment be made by Convera after receipt of such notification, pursuant to an Instruction which has not been authorized by the Client or an Authorised User then Convera shall refund the amount of the payment (and where delivered to the Beneficiary in the currency of the payments so delivered), or at the Clients option re-execute the payment no later than the end of the Business Day following the day on which it becomes aware of the unauthorised or incorrectly executed transaction. The credit value date of the refund shall be no later than the date on which the unauthorised or incorrectly executed transaction was debited (and where delivered to the Beneficiary in the currency of the payment so delivered), or at the Client's option re- execute the payment. Nothing in this Section 13.7 shall be construed to limit or exclude the liability of the Client for any and all losses incurred in respect of an unauthorised payment transaction where the Client has acted fraudulently or has with intent or gross negligence: (a) failed to comply with these Terms and Conditions; (b) failed to notify Convera without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the Services; or (c) failed to take all reasonable steps to keep the Client Access Methods or other personalised security features secure.

**13.8 Opt-out Provision.** To the full extent permitted by law, any Client entering into these Terms and Conditions, excluding Micro-enterprises, hereby expressly opt-outs of the application of paragraph 30, the second subparagraph of paragraph 32 (2), and paragraphs 37, 39, 40, 41, 44 and 52 of the Central Bank of Malta Directive Number 1 of 2009 as may be amended from time to time.

**13.9 Liability in respect to Micro-enterprises for Unauthorised Payment Transactions.** This Section shall apply solely to the remittance of electronic funds transfer payments delivered by Convera in euro or another currency of an EEA State that has not adopted the euro as its currency where the Client is a Micro-enterprise. Notwithstanding any other provision in these Terms and Conditions to the contrary, provided that the notification requirements in Section 13.6 have been met, should any payment be made by Convera, pursuant to an Instruction which has not been authorised by the Client or an Authorised User or which was not correctly executed by Convera, then Convera shall forthwith refund the amount of the payment (and where delivered to the Beneficiary in the currency of the payment so delivered), or at the Clients option re-execute the payment. Provided that the Client has not acted fraudulently and that the Client has notified Convera in accordance with Section 13.6, the Client shall not be liable for any losses (excluding foreign exchange losses) incurred by either Party in respect of such unauthorised payment transaction which arise following notification made pursuant to Section 13.6. The Client shall be liable to Convera up to a maximum of €25 for any losses incurred by the Client or Convera prior to notification to Convera, as required pursuant to Section 13.6, where the Client has failed to keep the Client Access Methods or any other security features used in submitting Instructions safe and secure. Unless the Client has acted fraudulently, it will not be responsible for any losses in respect of unauthorised Instructions after it has notified Convera in accordance with Section 13.6 of any unauthorised Instructions sent in the Client's name; or if Convera has failed to provide the facilities for the Client to enable it to notify Convera of the unauthorised payment transaction.

**13.10** Where the unauthorised Instruction referred to in Section 13.9 takes place in a currency of a non-EEA State, the Client will be liable for the full amount of the unauthorised Instruction which takes place until the time it notifies Convera.

**13.11** Nothing in Sections 13.10 and 13.11 shall be construed to limit the liability of the Client for any and all losses incurred in respect of an unauthorised payment transaction where the Client has acted fraudulently or has with intent or gross negligence: (a) failed to comply with these Terms and Conditions; (b) failed to notify Convera without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the Services; or (c) failed to take all reasonable steps to keep the Client Access Methods or other personalised security features secure.

**13.12** For the avoidance of doubt, in no event shall anything in Sections 13.9, 13.10 and 13.11 be construed as limiting any liability or obligation of a Micro-enterprise to Convera arising pursuant to these Terms and Conditions (or otherwise at law) in connection with foreign currency exchange transactions.

**13.13 Liability in respect to Clients (not being Micro- enterprises) for Unauthorised Payment Transactions.** Where the Client is not a Micro-enterprise and claims that a payment transaction was unauthorised it will be liable for the full amount of the unauthorised transaction which takes place until the time it notifies Convera in accordance with Section 13.6. The Client will be liable unless it can prove that Convera failed to provide it with the facilities to enable it to stop a payment transaction and/or a payment instrument. The Client will be responsible for all losses if it acts fraudulently.

**13.14 Changes in status of Micro-Enterprises.** The Client agrees that it will inform Convera if it is a Micro-Enterprise at the time it enters into these Terms and Conditions and of any change in its status while these Terms and Conditions are in force such that the Client becomes a Microenterprise or ceases to be a Micro-enterprise.

**13.15 Non-Executed or Defectively Executed Instruction.** Convera shall not be liable to the Client for any losses it suffers or costs it incurs as a result of any delay or failure to execute the Client's Instructions, if: (i) the delay or failure to execute the Client's Instructions is for any reason specified in Section 7; or (ii) the details contained in the Instruction are not correct; or Convera can prove that the payment the Client requested was received by the beneficiary's payment service provider within the timeframe established for executing the Client's Instruction.

**13.16** Unless Section 13.15 applies, Convera shall be responsible to the Client for the correct execution of any Instruction that it gives to Convera and Convera will, without undue delay refund to the Client the amount of any non-executed or defectively executed Instruction in the same currency in which it requested the payment to be executed, or at the Client's option, re- execute the Instruction.

**13.17** Irrespective of Convera's liability or otherwise for a non-executed or defectively executed Instruction, Convera will make immediate efforts to trace a payment the Client had requested Convera to effect, and Convera will tell the Client the outcome. A charge may apply. Details of charges levied by Convera may be obtained from its branch, the fees schedule, or by calling Convera on +356 23289209 or +356 23289210.

**13.18** For the avoidance of doubt, nothing in this Section 13 shall be construed as giving rise to liability by Convera, if Convera fails to comply with any of the Terms and Conditions: (i) due to abnormal and unforeseen circumstances beyond Convera's control, the consequences of which would have been unavoidable despite all efforts to the contrary; or (ii) where Convera's failure to comply is due to its obligations under EC Law or Maltese Law.

## **14. Legal Compliance; Representations and Warranties**

**14.1 Representations and Warranties.** The Client represents upon the execution of these Terms and Conditions and each time the Client submits an Instruction to Convera that: (a) the Services are being used by the Client solely for business/commercial purposes and that each use of the Services by the Client is exercised to manage the risk associated with an asset or liability owned or incurred in the conduct of the Client's business; (b) the Services are not being used by the Client to make payments for any illegal purpose, pornography or other similar activities, or for personal, family or household purposes, or investment or speculative purposes; (c) any Instruction issued by the Client or an Authorised User pursuant to these Terms and Conditions will be binding upon and enforceable against the Client and does not violate the terms of any other agreement to which the Client is bound and (d) the Client is not subject to any Sanctions.

**14.2 Client Funds.** The Client represents and warrants that it is acting as a principal and has legal title to all funds used in connection with the Services, and that any transaction conducted with Convera is being undertaken in accordance with applicable law.

**14.3 Authority.** The Client represents and warrants that the individual signing the Application Form has the authority to agree to be bound by these Terms and Conditions and that the person signing the account application is authorised to act on the Client's behalf.

**14.4 Disclosure.** The Client understands that Convera takes appropriate measures to ensure that it is not participating or assisting in money laundering or terrorist financing. The Client understands and agrees that Convera, at its sole discretion, may disclose any Client Confidential Information in order to satisfy Convera's legal obligations under applicable law, including, but not limited to, anti-money laundering, trade and economic sanctions laws and/or regulations, or as may otherwise be required by law or court order. Furthermore, such disclosure may be made to any governmental agency, body or department that exercises regulatory or supervisory authority with respect to Convera's operations, where such disclosure is made to satisfy routine governmental regulatory or supervisory audit or examination requirements or as part of informational submissions required to be made to such governmental entities or to regulatory or supervisory authorities in the ordinary course of business.

**14.5 Additional Information.** Upon request, the Client agrees to provide any additional information that Convera may need to satisfy its obligations under Section 14.4.

**14.6 Transaction Processing.** The Client understands, acknowledges and agrees that all transactions, wherever originated, may be processed by Convera or may be processed on behalf of Convera by one or more of the companies within the Convera Group or any correspondent bank, one or more of which may be located outside of Malta. As such, all transactions, wherever originated, shall be processed in accordance with the laws and regulations of the jurisdiction where the transaction is being processed, including but not limited to, those laws and regulations relating to anti-money laundering, anti-terrorism and foreign asset control. Convera shall not be liable to the Client for any delays or losses incurred as a consequence of Convera, any member of the Convera Group and/or any correspondent bank, making such enquiries as they deem necessary in order to discharge their legal and regulatory responsibilities.

**14.7 Regulatory Termination/Cancellation.** Convera may terminate these Terms and Conditions (and/or any Addendum, if applicable) and/or cancel or reject any Instruction at any time, with or without notice, in the event of any regulatory non-compliance by the Client or if otherwise required to comply with applicable laws or regulations, including if the Client is subject to Sanctions at any time.

**14.8 Sanctions** If the Client is subject to Sanctions at any time, Convera may, in addition to the termination rights set out in Section 14.7 above, take any steps Convera deems necessary (in its sole discretion exercised reasonably) to comply with Convera's regulatory and/or legal obligations, including freezing any funds held by Convera on behalf of the Client.

## 15. Miscellaneous

**15.1 Governing Law and Venue.** These Terms and Conditions are in English and governed by the laws of Malta, without regard to the laws of conflicts, and Parties agree to be subject to the non-exclusive jurisdiction and venue of the courts of Malta with respect to any disputes arising out of these Terms and Conditions as well as any non-contractual obligations arising between the Parties.

**15.2 Modification of Terms and Conditions.** Convera reserves the right, in its sole discretion, to change, amend or otherwise modify these Terms and Conditions (including any applicable Addendum) upon one (1) months' written notice to the Client. Such notice will include the details of the proposed revisions. Any change, amendment, or modification so conveyed to the Client shall become effective on the date noted in the notice (the "Effective Date") and the Client will be deemed to have accepted the changes, amendments, or modifications unless the Client notifies Convera to the contrary before the Effective Date. Should the Client not agree to the changes, amendments, or modifications it has the right to terminate these Terms and Conditions immediately and without charge by informing Convera by telephone on +356 23289209 or +356 23289210 or by visiting our branch prior to the Effective Date. If the Client does not tell Convera that it wants to end these Terms and Conditions, and if Convera does not hear from the Client in accordance with this Section before the date each change is to take effect, then the Client will be deemed to have accepted the change and it will take effect automatically.

**15.3 Force Majeure.** Except for the obligation to pay for Services delivered, non-performance of either Party shall be excused to the extent that the performance is rendered impossible by strike, fire, flood, other natural disasters, governmental acts, acts of terror or orders or restrictions, failure of suppliers, or act of God, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing Party.

**15.4 Telephone Recording.** The Client understands and agrees that telephone communications with Convera may be monitored and/or recorded for the protection of the Client and Convera.

**15.5 Historical Transaction Data Costs.** The Client understands and agrees that, to the extent possible, Convera will respond to any reasonable Client request for copies of historical transaction or other similar information (e.g. a copy of a cashed cheque). The Client acknowledges and agrees that any costs associated with retrieving and providing such information will be billed to and payable by the Client.

**15.6 Entire Agreement.** These Terms and Conditions, (including any applicable Addendum, the fee schedule and the Forward Contract Addendum), each as amended by Convera from time to time, shall constitute the entire agreement between the Parties concerning the subject matter hereof and supersede all prior agreements between the Parties concerning the subject matter hereof.

**15.7 Suspended Account.** The Client's account will be suspended if there is continued non-use of the Services by the Client for a period of one (1) year. Should the Client wish to submit an Instruction after the account has been suspended, the Client will be required to first undergo re-accreditation in line with Convera's accreditation and other policies in force at that time.

**15.8** These Terms and Conditions will remain in force until such time as terminated in accordance with Section 15.9.

**15.9 Termination and Survival:**

**15.9.1** Unless otherwise contemplated in any Addendum, if applicable, the Client may immediately terminate these Terms and Conditions with or without cause at any time upon providing written notice to Convera. Termination for any reason including a breach of these Terms and Conditions by Convera shall not affect the Client's obligation to pay any Settlement Amount or other outstanding or accrued liabilities owed to Convera at the time of termination.

**15.9.2** Convera can immediately terminate these Terms and Conditions (and/or any Addendum, if applicable) or any product or service it provides to the Client in the following situations: (i) if the Client has significantly breached the Terms and Conditions or presented to Convera cheques which are dishonoured; or (ii) there has been or Convera suspects there has been fraud involving any of the Client's transactions; or (iii) if there has been or Convera suspects there has been suspicious activity on any of the Client's transactions; or (iv) if Convera has reasonable grounds for believing the Client has committed or is about to commit a crime in connection with any of its payment transactions; or (v) if the Client has not satisfied any anti-money laundering requirements; or (vi) if the Client suspends payments of any of its debts or is unable to or admits inability to pay its debts as they become due; or (vii) if any other event occurs or circumstances arise which in Convera's opinion are likely to affect materially and adversely the Client's ability to perform all or any of its obligations under or otherwise to comply with the Terms and Conditions; or (viii) if required to comply with any law or regulation applicable to Convera and/or any member of the Convera Group; or (ix) if Convera determines (at Convera's sole discretion acting reasonably) that the Client is using the Services for (or in connection with): (a) gambling, pornography or other similar activities; (b) personal, family or household purposes; or (c) investment or speculative purposes; or (x) if a Change of Control of the Client occurs.

**15.9.3** Convera will give the Client notice in writing immediately after it terminates any service pursuant to Section 15.9.2 above.

**15.9.4** Convera may end any product or service it provides or terminate these Terms and Conditions (and/or any Addendum, if applicable) for any other reason not contemplated in Section 15.9.2 by giving the Client at least one month's written notice.

**15.9.5** The provisions in these Terms and Conditions relating to the Online Payment System restrictions and security in Section 4, indemnification in Sections 7, 10 and 11, Settlement in Section 9, reimbursement obligations in Sections 11.3 and 11.4, and all of Sections 12, 13, 14 and 15 shall survive completion of Convera's Services to the Client and termination of these Terms and Conditions.

**15.10 Taxes.** The Client shall be responsible for remitting to the appropriate tax authority any taxes that may apply to any payments initiated in connection with the Services. The Client acknowledges that Convera shall not be responsible for determining what, if any, taxes apply to the Client's payments.

**15.11 Independent Contractors.** Convera and the Client shall each act at all times as independent contractors and nothing contained in these Terms and Conditions shall be interpreted, construed or implied to create any agency, partnership or joint venture between Convera and the Client. Nothing in these Terms and Conditions shall be interpreted, construed or implied as creating or establishing the relationship of employer and employee between Convera and the Client. At no time shall either Convera or the Client make commitments for or in the name of the other.

**15.12 Publicity and Marketing Collateral.** Neither Party may use the other Party's name in news releases, articles, brochures, marketing materials, advertisements and other publicity or investor promotions without the written consent of the other Party. Client acknowledges and agrees that any marketing collateral, including without limitation, any weekly currency tracker report or rate files, which include any foreign currency exchange rate(s) will not be constitute an offer to buy/sell such currency(ies) and is provided to the Client for indication purposes only.

**15.13 Severability.** If for any reason a court of competent jurisdiction finds any provision of these Terms and Conditions, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of these Terms and Conditions shall continue in full force and effect.

**15.14 Waiver.** Any failure by either Party to require strict performance by the other of any provision of these Terms and Conditions shall not constitute a waiver of such provision or thereafter affect that Party's full rights to require strict performance.

**15.15 Notices.** Communications and notices required or permitted under these Terms and Conditions and these Terms and Conditions shall be in English and deemed delivered: (i) if delivered by the Client: five (5) days after dispatch by registered or certified mail addressed to Convera at: W Business Centre, Level 5, Triq Dun Karm, Birkirkara By-Pass, Birkirkara, BKR 9033, Malta for the attention of Accreditation Department, Convera Malta Financial Limited (or such other address as Convera may notify to the Client); and (ii) if delivered by Convera: five (5) days after dispatch by registered, certified or first class mail addressed to the Client at the registered address as notified on the application form; or (iii) if sent by fax or email: they are considered received by the addressee on the same day of transmission provided they are received within working hours (i.e. between 9am-5pm). If they are received outside such working hours, they are deemed received on the next Working Day. Any Party may change its address for purposes of this notice provision by giving notice in the manner prescribed above. The Client must advise Convera of any changes in its contact details including its business address. The Client hereby agrees that Convera may serve documents, including service of legal process, at the last address provided to Convera and that such service shall be effective.

**15.16 Changing Opening Hours or Practices.** Convera may change its opening hours, practices, availability of the branch and similar matters by giving the Client notice in its branch or by post.

**15.17 Complaints.** If the Client is not satisfied with the Services it receives from Convera, it may raise its concerns to Convera. All communications shall be in English and may be in a durable medium by electronic means rather than paper. The Client can file a complaint:

- in person by visiting Convera's local office;
- by post addressing its complaint to: Complaints, Convera, W Business Centre, Level 5, Triq Dun Karm, Birkirkara By-Pass, Birkirkara, BKR 9033, Malta; or
- by email at [customerservicemt@convera.com](mailto:customerservicemt@convera.com).

The Client may also complain to the Office of the Arbiter for Financial Services, First Floor, St. Calcedonius Square, Floriana FRN 1530, Malta or via telephone on (+356 80072366 and (+356)21249245. Further information about the complaint process may be obtained from the website of the Office of the Arbiter for Financial Services: [www.financialarbiter.org.mt](http://www.financialarbiter.org.mt).

Convera will investigate any complaint and will usually send a final reply to the Client accepting or rejecting it within 15 Business Days of the date of receipt. If Convera is unable to provide a full response within 15 Business Days of receipt for reasons beyond its control, it shall send a holding reply, informing the Client of progress and indicating when a final response is expected to be issued.

More information the complaint process is provided on Convera's website: <https://convera.com/en-mt/compliance-legal/file-a-complaint/>

**15.18 Assignment.** The Client may not transfer or assign its rights or obligations under these Terms and Conditions without Convera's prior written consent. Convera shall have the right to transfer or assign its rights and obligations under these Terms and Conditions to any legal successor or to any member of the Convera Group. These Terms and Conditions shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

**15.19 Signature.** The Application Form along with these Terms and Conditions (and any Addendum) may be signed in counterparts, all of which together shall constitute a fully executed Terms and Conditions. Counterpart signatures transmitted by email or facsimile shall be enforceable against the transmitting Party in the same manner as the original signature of such Party, with any requirement that the existence of the original signature be established hereby waived.

**15.20 Third Party Rights.** The Parties to these Terms and Conditions do not intend for any provision of these Terms and Conditions to be enforceable by any person or entity that is not a Party to these Terms and Conditions.

**15.21 Headings.** The headings of sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of these Terms and Conditions.

**15.22 Set Off.** Convera will be entitled to set off any sums that are due to the Client by Convera against any sums that are due to Convera in relation to the Services.

**15.23** The Client agrees that Convera may perform the set-off pursuant to Section 15.22 against any of the Client's claims against Convera, irrespective whether these are due or not and irrespective of their currency. In order to perform the set-off where the respective claims are denominated in different currencies, the Client agrees that Convera may convert one currency into another at the rate of exchange at which Convera, acting in a reasonable manner and in good faith, specifies for such conversion.

For further information,  
please contact us.

[customerservicemt@convera.com](mailto:customerservicemt@convera.com)