



## AGILITY FOREX LTD CLIENT TERMS AND CONDITIONS

There are two versions of the Agility Forex Client agreement. The Personal or individual agreement and the Business or Legal entity agreement. When an application is started, the pathway is chosen at the outset for either Personal or Business users.

For ease of use both versions of the client agreement are attached to this document however the version that applies to your specific application is determined by the path you selected during your initial application. You will be bound under the terms of that agreement. If there is any doubt which application path you selected please contact Agility Forex Ltd.

[Personal Client Agreement](#)

[Business Client Agreement](#)



## INDIVIDUAL CLIENT AGREEMENT

The following terms and conditions apply to “the Customer” being any individual who is transacting: for their own account and/or any appointed trading authority on an individual account.

The Customer (the user of the Agility Forex service) and Agility Forex Ltd are the Parties to this agreement. The Customer and Agility Forex agree to the following:

### 1 Terms of this Agreement

**1.1 For Individuals** - The Agility Forex service is owned and operated by Agility Forex Ltd (BC0960601). These terms and conditions apply to private clients ("you") who are dealing with Agility Forex ("us" or "we") as an individual through our Website. In this agreement the terms 'Agility Forex, the Company, us and we' all refer to Agility Forex Ltd.

**1.2 Use of Agent** - If you would like us to receive instructions from somebody else acting on your behalf, you must sign an Agent Appointment Form. Please contact us for the form. Please note any individual authorized to enter transactions will be required to meet Know Your Client and ID verification requirements.

**1.3 Structure of this Agreement** - This Agreement comprises the entire agreement between the Parties with respect to the use of the Services of Agility Forex by the Customer. The Terms and Conditions of this agreement apply to all Transactions you subsequently enter into with us.

**1.4 Other Documents** – The following documents are available on our website under 'Legal' ([www.agilityforex.com](http://www.agilityforex.com)) and you acknowledge that you have access to them.

- I. Anti-Money Laundering Certification,
- II. Privacy Statement,
- III. Website User Agreement

When signed in to the Agility Forex trading platform, you will also have access to these Terms and Conditions as well as our Complaints Handling Policy.

### 2 Definitions

**Authorize** means authorize the stage of a Transaction when we transmit your funds from our account to your nominated beneficiary account.

**Authorized Signatory** means an individual appointed and authorized by you to provide



Instructions to us on your behalf.

**Beneficiary Account** means the account to which you are sending your funds.

**Booking** means booking a Transaction by providing us with all of the relevant Transaction details.

**Business Day** means a day on which we are open for business, which does not include Saturday and Sunday, New Year's Day, Christmas Day, Boxing Day, Good Friday and all Canadian statutory holidays.

**Close Out** means reversing a Transaction in the circumstances set out in Section 8 or otherwise pursuant to this Agreement.

**Transaction Confirmation** means a written communication, however described, provided by us confirming the details of any Transaction that you have booked by telephone, email or online.

**Delivery Date** means the date on which we have requested that you deliver your funds to our account for transmission.

**Forward Contract** means a foreign exchange contract under which we agree to exchange money at an agreed exchange rate and at an agreed time, which is between 48 hours and 12 months from the time of the contract being entered into.

**Insolvency Event** means:

(a) A receiver, manager, trustee, administrator, controller or similar external administrator is appointed over any of the assets or undertakings of the Client;

(b) The Client is or becomes unable to pay its debts as and when they are due;

(c) The Client ceases to carry on a business;

(d) An order is made for the winding up or dissolution of the Client otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of the Client.

**Instructions** means a request made by you to enter into a Transaction and shall be taken to include any information, communications or documents incidental to or relating to a Transaction whether we process the Transaction or not.



**Maturity Date** means either the Business Day selected by the Customer for the settlement of a Trade or if the Customer does not select a Business Day for the settlement of a Trade, then two (2) Business Days following an executed Trade.

**Order Confirmation** means the notification we send you confirming the details of the Order you have entered into with us.

**Order** means a limit order pursuant to which you may instruct us to enter into a Transaction only when a Target Rate has been reached.

**Payment Reserve** means payment of part of the full amount due to us on Maturity Date in relation to a forward transaction.

**Platform** means the Agility Forex online dealing platform

**Rate** means the foreign currency exchange rate that we quote you for a Transaction.

**Spot Contract** means a foreign exchange contract under which we agree to exchange money at an agreed rate within 48 hours of the contract being entered into.

**Target Rate** means the rate at which an Order is triggered.

**Transaction** means a Spot Contract, a Forward Contract or an Order, and shall be taken to refer to a series of transactions pursuant to standing instructions given by you.

**Websites** means any websites owned by us.

### **3 Representations and Warranties**

You represent and warrant to Agility Forex that:

- (1) You are an individual acting for your own purposes and not on behalf of a Third Party.
- (2) You are over the age of majority in the Province or Jurisdiction where your primary residence is
- (3) You have a valid or personal reason for entering into each Transaction and  
Will not enter into any Transaction for speculative trading purposes;
- (4) In making your decision to enter into a Transaction, you will not rely on any market-Related information that may be provided from time to time by us on our website or by our employees or consultants.
- (5) Execution of this Agreement and performance of your obligations under this Agreement  
Will not violate any statute, regulation or bylaw



(6) All information provided by you to the Company is true, correct and complete and you will notify the Company promptly if that information changes.

(7) You understand failure to update your account information may result in refusal to process, or close out of a Transaction.

(8) Agility Forex does not provide investment or tax advice

**Your Indemnity** - You agree to indemnify us for any costs, expenses or fees we may incur as a result of your failure to perform your obligations under this Agreement, whether they arise under Section 8 or in some other way. This includes any legal costs that we may incur in order to enforce our rights or recover any amounts you owe us. You also agree to indemnify us for any fees; costs, duties and taxes charged by third parties in relation to the Transactions you enter into, including fees charged by your beneficiary bank, whether or not those fees or charges were notified to you in advance.

You are responsible for keeping your user name and password private and responsible for access to your account on our platform once you have logged in. When we act on instructions from your account you agree to indemnify us for all losses arising from unauthorized access to your account unless these losses arise due to negligence on our part. Where we are liable for any unauthorized transaction we will credit your account with any money lost up to the amount of the transaction. We will have no further liability to you.

You will be responsible for all losses (including the amount of any transaction carried out without your authority) if you have acted without reasonable care or you have acted fraudulently. Once you have notified us of any unauthorized access to your Agility Forex account we will suspend your account and you will not be responsible for any unauthorized instructions carried out after this point.

#### **4 Limitation of Liability**

Agility Forex will not be liable to the Customer for any loss; costs or damages incurred resulting from the Customer's use of the Agility Forex online dealing platform or non-use if the platform is unavailable for any reason. Whilst we do everything in our power to ensure the speedy transmission of funds, we cannot guarantee that delays in the transfer of funds won't happen and cannot accept any liability to you for any loss resulting from such a delay.

**No Liability for Delays** - You acknowledge that delays in the transmission and receipt of payments may occur. In particular, you acknowledge that we operate an online dealing platform that could be subject to technical, or other, problems, the nature and duration of which may be beyond our control. Our service also involves the use of intermediaries who are outside our control. Accordingly, while we do everything in our power to ensure the timely transmission of funds, we cannot guarantee that transfers of funds will always be made on time and cannot accept any liability to you for any loss suffered by you as a result of any delays in the transmission of funds.



**Liability Limited** - We do not in any circumstances assume liability to you in excess of the amount of money you have actually paid to us in relation to any particular transaction. We will not be liable to you for any form of consequential damages or loss that you may suffer as a result of:

- (i) Delays in the transfer of your funds, or
- (ii) Our refusal at any time to transfer your funds.
- (iii) Communication malfunctions

Without in any way limiting the effect of this paragraph or any other paragraph of this agreement, "consequential damages" shall be taken to include damages arising from:

- (i) Loss of business,
- (ii) Loss of opportunity to realize a gain as a result of foreign exchange fluctuations;
- (iii) Loss of any other opportunity, or
- (iii) Loss of interest on funds.

For the avoidance of doubt and without limiting any other provision of this Agreement:

- (a) If your funds fail to reach your Beneficiary Account as the result of a mistake made by us, we will credit your Beneficiary Account in the full amount of the funds you expect to receive but that shall be the full extent of our liability to you;
- (b) If we Close Out or refuse to process one or more of your Transactions for any reason, we shall refund to you any funds that we hold on your behalf by way of Advance Payment or otherwise, but that shall be the full extent of our liability to you.

## **5 Anti-Money Laundering**

Due to the inherent risks in transferring Currency between entities located in different countries, Agility Forex takes extraordinary measures to ensure that it is not participating or assisting in money laundering or terrorist financing. In some circumstances, Agility Forex may not be able to onboard a customer and/or transfer funds to certain jurisdictions based upon Sanctions, Regulations or licensing



laws in the jurisdiction.

The Customer understands that law enforcement and regulatory agencies may periodically inspect all Trades executed with Agility Forex either by the consent of Agility Forex or pursuant to applicable law. Therefore, the Customer understands that all information regarding Trades, accounts, and related transactions could potentially be disclosed by Agility Forex to, and reviewed by, law enforcement and other regulatory agencies in accordance with applicable law.

**PCMLTF Compliance** - You undertake that you will not knowingly do anything to put us in breach of the *Proceeds of Crime (Money Laundering) & Terrorist Financing Act (PCMLTF)*, Anti-Corruption Act or Foreign Corrupt Practices (FCPA) rules and other subordinate instruments (AML/TF Laws). You undertake to notify us if you become aware of anything that would put us in breach of AML/TF Laws.

You agree to provide, when requested, additional information and assistance and comply with all reasonable requests to facilitate our compliance with AML/TF Laws in Canada or an equivalent overseas jurisdiction.

You acknowledge that operating an account on behalf of an undisclosed Third Party is a violation of these Terms and Conditions. You further understand that transfers to an unrelated Third Party may result in a Third Party determination requirement to identify the purpose of the transaction and relationship to you.

You undertake that you are not aware and have no reason to suspect that:

- (i) The money you are transferring is derived from or related to money laundering, terrorism financing or similar activities (Illegal Activities); and
- (ii) The money you are transferring will be used to finance, or is connected with, Illegal Activities.

In certain circumstances, we may be obliged to freeze or block an account where it is used in connection with Illegal Activities or suspected Illegal Activities. Freezing or blocking can arise as a result of the account monitoring that is required by AML/TF Laws. If this occurs, we are not liable to you for any consequences or losses whatsoever and you agree to indemnify us if we are found liable to a third party in connection with the freezing or blocking of your account.

We retain the right, at any time, to refuse, in our sole discretion, to provide services.

## 6. Privacy

The use of personal information in Canadian commercial activities is protected by the *Personal*



*Information Protection Act (PIPA), Personal Information Protection and Electronics Document Act (PIPEDA), or by substantially similar provincial legislation in Canada and internationally under regulation like general data protection regulation (GDPR).*

Agility Forex sets a high standard of information security. Our aim is to protect the confidentiality, integrity and availability of Agility Forex Ltd. and our customer information and as such we implement a range of physical, technical and administrative security measures to maintain the safety of your personal information. Comprehensive Information about your rights and the data we collect and how it is used is laid out in the Agility Forex privacy policy, which is available upon request.

Agility Forex will take all reasonable precautions to ensure that the information provided to us by the Customer will be kept private and confidential. We collect your personal information in order to provide our products and services and to satisfy our regulatory obligations under the guidelines set down by Fintrac (<http://www.fintrac-canafe.gc.ca/intro-eng.asp>)

We may provide your personal information to our intermediary bankers and to any government regulatory bodies that normally require it or may request it. We may also provide your information to any partners, agents or intermediaries who are a necessary part of the provision of our products and services.

You acknowledge and agree that we use international intermediaries to process Transactions on your behalf and that your personal information may be sent to those overseas intermediaries in order to complete the Transaction.

You acknowledge and agree that we may contact your bank to verify your identity, banking information and any other information relevant to this Agreement and your obligations under this agreement. You also authorize Agility Forex to consult reputable third party providers and to use the information we have collected from you to confirm on an ongoing basis the Customer's identity via credit file, credit reference checks and/or Mobile Service providers. These checks allow Agility Forex to verify your identity and avoid fraud. These third parties may change from time to time.

## **7. Consent**

Under the terms and conditions of this service agreement you have consented to allow Agility Forex to use your data in the manner and under the terms laid out in the Agility Forex Privacy policy. That consent is freely given, specific, informed and unambiguous. You understand how your data is collected, utilized and by whom as laid out in the privacy policy. You are giving your consent to each of the various uses of your data Agility Forex needs to offer you its services as a financial institution.

You understand that we use your data under two legal bases: your specific consent as laid out above and under the legal basis, which speaks to AFLs legal and regulatory responsibility to utilize





your data to satisfy its legal requirements as a Financial Institution.

You consent to the electronic recording of telephone conversations without a warning message being given and that we may use the recordings as evidence in any dispute that may arise between us.

You must keep your information up to date either by informing us directly or through your client profile.

Agility Forex Ltd. will review its privacy policy and by extension these terms and conditions from time to time to reflect changes to our operations and practices, new regulatory obligations and advancing technology.

## **8 Transactions/Instructions**

**Username and Password** – You will create a user name and password when you first register with Agility Forex. The password can be changed at any time by the customer by accessing the Client Profile through the Agility Forex platform. Should the customer forget his password a new temporary password will be issued once the Company has verified the customer's identity. It is your responsibility to ensure the security of your username and password. We will rely on any Instructions received pursuant to the use of the username and password without checking the identity of the user and you will at all times be bound by those Instructions. You can provide us with instructions either online, by email or by telephone.

**Authority** - If you appoint somebody else to act on your behalf ("Agent") in accordance with section 1.2, we will act in accordance with all Instructions received from your Agent, and you will be bound by those Instructions, until you withdraw your authority for that Agent.

**Right not to accept Orders** – We may, but shall not be obliged to, accept instructions to enter into a Transaction. If we decline to process your instructions we shall not be obliged to give a reason.

We may suspend any service provided to you as part of the Agility Forex service without notice where we consider it necessary to do so. We take our exchange rates from various market sources that we believe to be accurate however if one of those sources produces an 'off market' rate then we reserve the right to correct the rate. An off market rate is considered to be an exchange rate that is outside the day's trading range.

**Cancellation of Instructions** – We can only cancel your instructions if we have not acted upon them. Once a Transaction has become legally binding, you may not cancel the Transaction in any circumstances. If the customer made an error in inputting instructions then Agility Forex will make reasonable efforts to correct the Transaction but the customer understands and accepts that Agility Forex is not obliged to make corrections and if corrections are made the Customer is liable for any

costs incurred.

Customers can enter into a transaction by giving Instructions via the platform, by telephone or by email. The Transaction will be legally binding when we receive your Instructions. If transacting via the platform, the transaction is legally binding as soon as we receive your electronic instructions. We will provide you with confirmation of the Transaction details on the screen at the time of transaction and also send details by email. If you book a transaction by telephone the Transaction is legally binding at the conclusion of the telephone call. A Transaction Confirmation will be sent by email. If you book a Transaction by email, the Transaction will be legally binding when we process the email. This method may not be immediate but will be processed as soon as the email is picked up. A Transaction Confirmation will be sent by email.

### **Transaction Confirmation**

The terms of each Trade will be set out in the Transaction Confirmation presented to the Customer on the Transaction Confirmation Screen, which follows the Customer acceptance of the Transaction. The Transaction confirmation is evidence of the completed Transaction and the terms of the completed Transaction.

The Transaction will not be invalidated if, for any reason, the Transaction Confirmation is not presented to the Customer by Agility Forex on the Transaction Confirmation Screen as a result of a computer malfunction or any other reason. If, for any reason, the Transaction confirmation is not presented to the Customer, the records of Agility Forex with respect to that Transaction will constitute conclusive evidence of the terms of the Transaction. If a Transaction confirmation is not presented to the Customer for any reason, the Customer should notify Agility Forex immediately by calling the Customer Support Number, and Agility Forex may provide the Customer with a confirmation by email or other means setting out the terms of the Transaction.

### **Forward Transactions**

A forward transaction is an agreement to exchange currencies at a maturity date beyond the spot settlement date. Agility Forex offers forward transactions out to one-year maturity. Forward transactions are currently only offered by telephone dealing. Upon the completion of the telephone call any transaction agreed on the call becomes legally binding and a Transaction Confirmation will be sent by email to the customer. Any errors in the Confirmation should be reported immediately to the Company. Should we not hear from the customer within 24 hours the confirmation will be deemed to be correct. In the event of any dispute the recording of the telephone conversation will be used as evidence.

### **Payment Reserve**



To secure the forward transaction and protect the Company against adverse market movements and customer counterparty risk Agility Forex reserves the right to ask the Customer for an advance payment (Payment Reserve). This will generally be in the region of 8-10% of the full value of the forward contract. It is possible that we may request additional Payment Reserves at any time prior to Maturity Date. You acknowledge that the amount of the Payment Reserve is determined at our discretion.

Failure to pay a Payment Reserve when requested may result in the Forward Transaction being closed out as per Section 8.

### **Maturity Date**

It may be possible at our discretion to adjust the Maturity Date, either to extend it or bring it forward. If we agree to this you acknowledge that the Rate may need to be adjusted to account for the new Maturity Date.

### **Payment for Transaction**

Once a Trade has been finalized and entered into following the Customer's acceptance, the Customer must make each payment or delivery required to be made by it under the terms of the Trade in the Currency, in the amount, on the date and in accordance with the settlement instructions for the Trade, as set out in the related Trade confirmation. All payments must be received by us in cleared funds and for the full amount being transferred, including any fees that may be payable, before we credit your beneficiary account.

### **Spot Transactions**

Payment into our account of the full amount required to settle the Spot Transaction must be initiated on the day the Transaction becomes legally binding. If we have not received the funds within 2 business days we reserve the right to Close Out the Transaction in accordance with Section 9 with the Customer liable for any losses the Company might take.

### **Forward Transactions**

The Payment Reserve must be initiated on the day the Transaction becomes legally binding. The balance of the Forward Contract must be paid to us in full on or before the Maturity Date. The balance is determined as the full amount of the forward transaction less any Payment Reserves already paid. Failure to comply with these conditions may result in the transaction being Closed Out as per Section 8.

### **Electronic Funds Only**



You agree to make all payments into our account electronically and you acknowledge that we will transmit your funds by electronic means only. We do not accept cash or cheques.

### **Beneficiaries**

You must provide us with full Beneficiary details, including Name and Address of the account holder and Name and Address of the Beneficiary Bank. We will not be liable for any costs caused by delays in settling transactions due to erroneous beneficiary details.

### **Third Party Payments**

From time to time the Customer may request that a payment due to the Customer be made to an account in the name of a third party and in these cases Agility Forex may require additional background information. The Customer acknowledges and agrees that Agility Forex does not accept or bear any liability or responsibility for any loss, including Consequential Loss, incurred or sustained by the Customer as a result of or arising from Agility Forex paying a third party account.

### **Funds Held by US**

We do not hold your funds in trust. Funds are held in a client account separate from the working capital account of the Company.

### **Interest**

We shall not pay interest on any money held by us as a Payment Reserve, or held for any other reason.

### **Mistakes**

If we have acted in accordance with your instructions and your funds have been sent to the wrong account as a result of a mistake made by you we are under no obligation to recover the funds or to resend the funds to the correct Beneficiary. If we have made a mistake by sending the funds to the wrong account, we will take immediate action at our expense to recover those funds and resend them to the correct account.

### **9 Closing Out**

We may Close Out a particular transaction or all transactions you have with us without notice if:

- a) You fail to make any payment when it is due
- b) You fail to provide requested material information
- c) Information you have given us is inaccurate, incomplete or misleading
- d) Bankruptcy proceedings are



commenced against you e) You breach an important part of this agreement f) The performance of our obligations under this agreement becomes illegal. When we close out a transaction we go into the market and sell the currency we initially bought for you. In all likelihood the market price would have moved and if a loss is incurred you will be liable to pay us the amount of that loss, together with any other expenses that may have been incurred.

We will not pay out to you any resulting profit from a Closing Out.

You acknowledge that any loss resulting from closing out your transaction is a debt payable by you and that we may deduct this loss from any money we might hold for you. The balance of any money owing should be paid within 7 days of the closing out.

## **10 Services**

We offer Spot Contracts to be settled immediately and Forward Contracts to be settled between 2 days and 12 months.

The Agility Forex Platform is not for speculative trades and we do not offer any form of margin trading. All transactions entered into must be settled by the customer by delivering to us the full amount of the funds you have sold.

We will not enter into any arrangement whereby the Customer nets off 2 separate transactions that would allow the Customer to pay or receive any loss or profit realized by the net off. All transactions need to be settled in full.

We do not offer financial advice. The Agility Forex platform is for execution only.

## **11 Termination**

The parties may terminate the agreement for material or fundamental breach of the agreement as mandated under Common law. The parties independently also have a right to terminate upon any of the following termination events, which may be mutual or unilateral:

- (a) Termination on 30 days notice
- (b) Termination on insolvency
- (c) Termination on a change of control

## **12 Records**

Our records will be evidence of your dealings with Agility Forex. You agree not to object to the



admission of our records as evidence should any legal dispute arise between us. You acknowledge that our records are kept in electronic format and are not in writing.

### **13 Disputes**

If you have a problem with our service you should bring it to our attention immediately. Our complaints officer will attempt to resolve the dispute to your satisfaction as quickly as possible.

If a satisfactory outcome cannot be achieved you can refer your case to an independent arbitrator. Under this Client Agreement you agree to be bound by the decision of the arbitrator.

Nothing in this agreement prevents either of us approaching a court to appeal the decision of the arbitrator or to take legal action to recover any amounts owed to us by way of Closing Out.

### **14 Changes to Agreement**

From time to time we may modify these Agility Forex Terms and Conditions. We will inform you by email of any changes made and your continued use of the Agility Forex Service after being notified of any changes will constitute your agreement to and acceptance of the changes.

### **15 General**

This agreement shall be governed exclusively by the laws of the Province of British Columbia and Canada. All trades shall be deemed to have taken place at the head office of Agility Forex Ltd in Vancouver, British Columbia. The courts of British Columbia shall have exclusive jurisdiction for settling disputes arising from this agreement and both parties submit to this jurisdiction.

If any part of this agreement becomes invalid under applicable law it will not affect the validity of the rest of the agreement.

Neither party will be liable for any failure or delay in performance (except for responsibility to make payments) due to government acts (e.g. currency controls), acts of God, war of civil unrest, or other circumstances beyond the party's reasonable control.

The Terms & Conditions will be reviewed periodically, or upon material changes to any provision stated herein. Current Terms & Conditions are available for client review at any time on our Website. Updates to Terms & Conditions will be announced on the landing page of the Agility Webpage.

### **16 Acceptance**

By proceeding with opening an account the Customer confirms that the representations and warranties



in this Agreement are true and that the Customer accepts this agreement in its entirety.

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## LEGAL ENTITY CLIENT AGREEMENT

The following terms and conditions apply to “the Customer” being any Legal Entity who is transacting: for their own account and/or any legally authorized person or appointed trading authority on a Legal Entity account.

The Customer (the user of the Agility Forex service) and Agility Forex Ltd are the Parties to this agreement. The Customer and Agility Forex agree to the following:

### **1 Terms of this Agreement**

**1.1 For Legal Entities** - The Agility Forex service is owned and operated by Agility Forex Ltd (BC0960601). These terms and conditions apply to private clients ("you") who are dealing with Agility Forex ("us" or "we") as a Legal Entity, including but not limited to a Corporation, Sole Proprietor, Partnership, Not for Profit Organization, Registered Charity, or Formal Trust, through our Website. In this agreement the terms 'Agility Forex, the Company, us and we' all refer to Agility Forex Ltd.

**1.2 Use of Agent** - To operate an account for a Legal Entity, there must be a legally authorized person appointed Agent. A legally authorized person is defined as one who has been appointed to represent and sign on behalf of the Entity. Typically through Resolution of the Entity. Please note any individual authorized to act on behalf of the Entity will be required to meet Know Your Client and ID verification requirements.

**1.3 Structure of this Agreement** - This Agreement comprises the entire agreement between the Parties with respect to the use of the Services of Agility Forex by the Customer. The Terms and Conditions of this agreement apply to all Transactions you subsequently enter into with us.

**1.4 Other Documents** – The following documents are available on our website under 'Legal' ([www.agilityforex.com](http://www.agilityforex.com)) and you acknowledge that you have access to them.

- I. Anti-Money Laundering Certification,
- II. Privacy Statement,
- III. Website User Agreement

When signed in to the Agility Forex trading platform, you will also have access to these Terms and Conditions as well as our Complaints Handling Policy.

### **2 Definitions**





**Authorize** means authorize the stage of a Transaction when we transmit your funds from our account to your nominated beneficiary account.

**Authorized Signatory** means an individual appointed and legally authorized by you to provide Instructions to us on your behalf.

**Beneficiary Account** means the account to which you are sending your funds.

**Booking** means booking a Transaction by providing us with all of the relevant Transaction details.

**Business Day** means a day on which we are open for business, which does not include Saturday and Sunday, New Year's Day, Christmas Day, Boxing Day, Good Friday and all Canadian statutory holidays.

**Close Out** means reversing a Transaction in the circumstances set out in Section 8 or otherwise pursuant to this Agreement.

**Transaction Confirmation** means a written communication, however described, provided by us confirming the details of any Transaction that you have booked by telephone, email or online.

**Delivery Date** means the date on which we have requested that you deliver your funds to our account for transmission.

**Forward Contract** means a foreign exchange contract under which we agree to exchange money at an agreed exchange rate and at an agreed time, which is between 48 hours and 12 months from the time of the contract being entered into.

**Insolvency Event** means:

- (a) A receiver, manager, trustee, administrator, controller or similar external administrator is appointed over any of the assets or undertakings of the Client;
- (b) The Client is or becomes unable to pay its debts as and when they are due;
- (c) The Client ceases to carry on a business;
- (d) An order is made for the winding up or dissolution of the Client otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of the Client.



**Instructions** means a request made by you to enter into a Transaction and shall be taken to include any information, communications or documents incidental to or relating to a Transaction whether we process the Transaction or not.

**Maturity Date** means either the Business Day selected by the Customer for the settlement of a Trade or if the Customer does not select a Business Day for the settlement of a Trade, then two (2) Business Days following an executed Trade.

**Order Confirmation** means the notification we send you confirming the details of the Order you have entered into with us.

**Order** means a limit order pursuant to which you may instruct us to enter into a Transaction only when a Target Rate has been reached.

**Payment Reserve** means payment of part of the full amount due to us on Maturity Date in relation to a forward transaction.

**Platform** means the Agility Forex online dealing platform

**Rate** means the foreign currency exchange rate that we quote you for a Transaction.

**Spot Contract** means a foreign exchange contract under which we agree to exchange money at an agreed rate within 48 hours of the contract being entered into.

**Target Rate** means the rate at which an Order is triggered.

**Transaction** means a Spot Contract, a Forward Contract or an Order, and shall be taken to refer to a series of transactions pursuant to standing instructions given by you.

**Websites** means any websites owned by us.

### **3 Representations and Warranties**

You represent and warrant to Agility Forex that:

- (1) You are a legally authorized individual (eg. Director, Officer, Partner, Trustee) acting for the exclusive benefit of the Legal Entity (Customer) and not on behalf of a Third Party.
- (2) The Corporate Documents provided, supporting your role and responsibility for the Legal Entity, are current and valid
- (3) You have a valid commercial reason for entering into each Transaction and  
Will not enter into any Transaction for speculative trading purposes;
- (4) In making your decision to enter into a Transaction, you will not rely on any market-

Related information that may be provided from time to time by us on our website or by our employees or consultants.

(5) Execution of this Agreement and performance of your obligations under this Agreement

Will not violate any statute, regulation or bylaw

(6) All information provided by you to the Company is true, correct and complete and you will notify the Company promptly if that information changes.

(7) Any change in Legally Authorized persons, Officers or Directors or Beneficial Ownership will be reported to the Company promptly and no later than 10 business days.

(8) You understand failure to update your account information may result in refusal to process, or close out of a Transaction.

(9) Agility Forex does not provide investment or tax advice

**Your Indemnity** - You agree to indemnify us for any costs, expenses or fees we may incur as a result of your failure to perform your obligations under this Agreement, whether they arise under Section 9 or in some other way. This includes any legal costs that we may incur in order to enforce our rights or recover any amounts you owe us. You also agree to indemnify us for any fees; costs, duties and taxes charged by third parties in relation to the Transactions you enter into, including fees charged by your beneficiary bank, whether or not those fees or charges were notified to you in advance.

You are responsible for keeping your user name and password private and responsible for access to your account on our platform once you have logged in. When we act on instructions from your account you agree to indemnify us for all losses arising from unauthorized access to your account unless these losses arise due to negligence on our part. Where we are liable for any unauthorized transaction we will credit your account with any money lost up to the amount of the transaction. We will have no further liability to you.

You will be responsible for all losses (including the amount of any transaction carried out without your authority) if you have acted without reasonable care or you have acted fraudulently. Once you have notified us of any unauthorized access to your Agility Forex account we will suspend your account and you will not be responsible for any unauthorized instructions carried out after this point.

#### **4 Limitation of Liability**

Agility Forex will not be liable to the Customer for any loss; costs or damages incurred resulting from the Customer's use of the Agility Forex online dealing platform or non-use if the platform is unavailable for any reason. Whilst we do everything in our power to ensure the speedy transmission of funds, we cannot guarantee that delays in the transfer of funds won't happen and cannot accept any liability to you for any loss resulting from such a delay.

**No Liability for Delays** - You acknowledge that delays in the transmission and receipt of payments may occur. In particular, you acknowledge that we operate an online dealing platform that could be subject to technical, or other, problems, the nature and duration of which may be beyond our control. Our service also involves the use of intermediaries who are outside our control. Accordingly, while we



do everything in our power to ensure the timely transmission of funds, we cannot guarantee that transfers of funds will always be made on time and cannot accept any liability to you for any loss suffered by you as a result of any delays in the transmission of funds.

**Liability Limited** - We do not in any circumstances assume liability to you in excess of the amount of money you have actually paid to us in relation to any particular transaction. We will not be liable to you for any form of consequential damages or loss that you may suffer as a result of:

- (i) Delays in the transfer of your funds, or
- (ii) Our refusal at any time to transfer your funds.
- (iii) Communication malfunctions

Without in any way limiting the effect of this paragraph or any other paragraph of this agreement, "consequential damages" shall be taken to include damages arising from:

- (i) Loss of business,
- (ii) Loss of opportunity to realize a gain as a result of foreign exchange fluctuations;
- (iii) Loss of any other opportunity, or
- (iii) Loss of interest on funds.

For the avoidance of doubt and without limiting any other provision of this Agreement:

- (a) If your funds fail to reach your Beneficiary Account as the result of a mistake made by us, we will credit your Beneficiary Account in the full amount of the funds you expect to receive but that shall be the full extent of our liability to you;
- (b) If we Close Out or refuse to process one or more of your Transactions for any reason, we shall refund to you any funds that we hold on your behalf by way of Advance Payment or otherwise, but that shall be the full extent of our liability to you.
- (c) While transactions can be entered in the system at any time, settlement will take place during business hours and is dependent upon on banking partners. Typically, M- F 8 am - 5 pm EST.

## **5 Anti-Money Laundering**

Due to the inherent risks in transferring Currency between entities located in different countries, Agility



Forex takes extraordinary measures to ensure that it is not participating or assisting in money laundering or terrorist financing. In some circumstances, Agility Forex may not be able to onboard a customer and/or transfer funds to certain jurisdictions based upon Sanctions, Regulations or licensing laws in the jurisdiction.

The Customer understands that law enforcement and regulatory agencies may periodically inspect all Trades executed with Agility Forex either by the consent of Agility Forex or pursuant to applicable law. Therefore, the Customer understands that all information regarding Trades, accounts, and related transactions could potentially be disclosed by Agility Forex to, and reviewed by, law enforcement and other regulatory agencies in accordance with applicable law.

**PCMLTF Compliance** - You undertake that you will not knowingly do anything to put us in breach of the *Proceeds of Crime (Money Laundering) & Terrorist Financing Act (PCMLTF)*, Anti-Corruption Act or Foreign Corrupt Practices (FCPA) rules and other subordinate instruments (AML/TF Laws). You undertake to notify us if you become aware of anything that would put us in breach of AML/TF Laws.

You agree to provide, when requested, additional information and assistance and comply with all reasonable requests to facilitate our compliance with AML/TF Laws in Canada or an equivalent overseas jurisdiction.

You acknowledge that operating an account on behalf of an undisclosed Third Party is a violation of these Terms and Conditions. You further understand that transfers to an unrelated Third Party may result in a Third Party determination requirement to identify the purpose of the transaction and relationship to you.

You undertake that you are not aware and have no reason to suspect that:

- (i) The money you are transferring is derived from or related to money laundering, terrorism financing or similar activities (Illegal Activities); and
- (ii) The money you are transferring will be used to finance, or is connected with, Illegal Activities.

In certain circumstances, we may be obliged to freeze or block an account where it is used in connection with Illegal Activities or suspected Illegal Activities. Freezing or blocking can arise as a result of the account monitoring that is required by AML/TF Laws. If this occurs, we are not liable to you for any consequences or losses whatsoever and you agree to indemnify us if we are found liable to a third party in connection with the freezing or blocking of your account.

We retain the right, at any time, to refuse, in our sole discretion, to provide services.



## 6 Privacy

The use of personal information in Canadian commercial activities is protected by the *Personal Information Protection Act* (PIPA), *Personal Information Protection and Electronics Document Act* (PIPEDA), or by substantially similar provincial legislation in Canada and internationally under regulation like general data protection regulation (GDPR).

Agility Forex sets a high standard of information security. Our aim is to protect the confidentiality, integrity and availability of Agility Forex Ltd. and our customer information and as such we implement a range of physical, technical and administrative security measures to maintain the safety of your personal information. Comprehensive Information about your rights and the data we collect and how it is used is laid out in the Agility Forex privacy policy, which is available upon request.

Agility Forex will take all reasonable precautions to ensure that the information provided to us by the Customer will be kept private and confidential. We collect your personal information in order to provide our products and services and to satisfy our regulatory obligations under the guidelines set down by Fintrac (<http://www.fintrac-canafe.gc.ca/intro-eng.asp>)

We may provide your personal information to our intermediary bankers and to any government regulatory bodies that normally require it or may request it. We may also provide your information to any partners, agents or intermediaries who are a necessary part of the provision of our products and services.

You acknowledge and agree that we use international intermediaries to process Transactions on your behalf and that your personal information may be sent to those overseas intermediaries in order to complete the Transaction.

You acknowledge and agree that we may contact your bank to verify your identity, banking information and any other information relevant to this Agreement and your obligations under this agreement. You also authorize Agility Forex to consult reputable third party providers and to use the information we have collected from you to confirm on an ongoing basis the Customer's identity via credit file, credit reference checks and/or Mobile Service providers. These checks allow Agility Forex to verify your identity and avoid fraud. These third parties may change from time to time.

## 7. Consent

Under the terms and conditions of this service agreement you have consented to allow Agility Forex to use your data in the manner and under the terms laid out in the Agility Forex Privacy policy. That consent is freely given, specific, informed and unambiguous. You understand how your data is collected, utilized and by whom as laid out in the privacy policy. You are giving your consent to each of the various uses of your data Agility Forex needs to offer you its services as a financial institution.



You understand that we use your data under two legal bases: your specific consent as laid out above and under the legal basis, which speaks to AFLs legal and regulatory responsibility to utilize your data to satisfy its legal requirements as a Financial Institution.

You consent to the electronic recording of telephone conversations without a warning message being given and that we may use the recordings as evidence in any dispute that may arise between us.

You must keep your information up to date either by informing us directly or through your client profile.

Agility Forex Ltd. will review its privacy policy and by extension these terms and conditions from time to time to reflect changes to our operations and practices, new regulatory obligations and advancing technology.

## **8 Transactions/Instructions**

**Username and Password** – You will create a user name and password when you first register with Agility Forex. The customer can change the password at any time by accessing the Client Profile through the Agility Forex platform. Should the customer forget his password a new temporary password will be issued once the Company has verified the customer's identity. It is your responsibility to ensure the security of your username and password. We will rely on any Instructions received pursuant to the use of the username and password without checking the identity of the user and you will at all times be bound by those Instructions. You can provide us with instructions either online, by email or by telephone.

**Authority** - As a Legal Entity, an individual must be appointed as your Representative/Agent to act on your behalf ("Agent") in accordance with section 1.2. We will act in accordance with all Instructions received from your Agent, and you will be bound by those Instructions, until you withdraw your authority for that Agent in writing.

**Right not to accept Orders** – We may, but shall not be obliged to, accept instructions to enter into a Transaction. If we decline to process your instructions we shall not be obliged to give a reason.

We may suspend any service provided to you as part of the Agility Forex service without notice where we consider it necessary to do so. We take our exchange rates from various market sources that we believe to be accurate however if one of those sources produces an 'off market' rate then we reserve the right to correct the rate. An off market rate is considered to be an exchange rate that is outside the day's trading range.

**Cancellation of Instructions** – We can only cancel your instructions if we have not acted upon them. Once a Transaction has become legally binding, you may not cancel the Transaction in any





circumstances. If the customer made an error in inputting instructions then Agility Forex will make reasonable efforts to correct the Transaction but the customer understands and accepts that Agility Forex is not obliged to make corrections and if corrections are made the Customer is liable for any costs incurred.

Customers can enter into a transaction by giving Instructions via the platform, by telephone or by email. The Transaction will be legally binding when we receive your Instructions. If transacting via the platform, the transaction is legally binding as soon as we receive your electronic instructions. We will provide you with confirmation of the Transaction details on the screen at the time of transaction and also send details by email. If you book a transaction by telephone the Transaction is legally binding at the conclusion of the telephone call. A Transaction Confirmation will be sent by email. If you book a Transaction by email, the Transaction will be legally binding when we process the email. This method may not be immediate but will be processed as soon as the email is picked up. A Transaction Confirmation will be sent by email.

### **Transaction Confirmation**

The terms of each Trade will be set out in the Transaction Confirmation presented to the Customer on the Transaction Confirmation Screen, which follows the Customer acceptance of the Transaction. The Transaction confirmation is evidence of the completed Transaction and the terms of the completed Transaction.

The Transaction will not be invalidated if, for any reason, the Transaction Confirmation is not presented to the Customer by Agility Forex on the Transaction Confirmation Screen as a result of a computer malfunction or any other reason. If, for any reason, the Transaction confirmation is not presented to the Customer, the records of Agility Forex with respect to that Transaction will constitute conclusive evidence of the terms of the Transaction. If a Transaction confirmation is not presented to the Customer for any reason, the Customer should notify Agility Forex immediately by calling the Customer Support Number, and Agility Forex may provide the Customer with a confirmation by email or other means setting out the terms of the Transaction.

### **Forward Transactions**

A forward transaction is an agreement to exchange currencies at a maturity date beyond the spot settlement date. Agility Forex offers forward transactions out to one-year maturity. Forward transactions are currently only offered by telephone dealing. Upon the completion of the telephone call any transaction agreed on the call becomes legally binding and a Transaction Confirmation will be sent by email to the customer. Any errors in the Confirmation should be reported immediately to the Company. Should we not hear from the customer within 24 hours the confirmation will be deemed to be correct. In the event of any dispute the recording of the telephone conversation will be used as evidence.





## **Payment Reserve**

To secure the forward transaction and protect the Company against adverse market movements and customer counterparty risk Agility Forex reserves the right to ask the Customer for an advance payment (Payment Reserve). This will generally be in the region of 8-10% of the full value of the forward contract. It is possible that we may request additional Payment Reserves at any time prior to Maturity Date. You acknowledge that the amount of the Payment Reserve is determined at our discretion.

Failure to pay a Payment Reserve when requested may result in the Forward Transaction being closed out as per Section 8.

## **Maturity Date**

It may be possible at our discretion to adjust the Maturity Date, either to extend it or bring it forward. If we agree to this you acknowledge that the Rate may need to be adjusted to account for the new Maturity Date.

## **Payment for Transaction**

Once a Trade has been finalized and entered into following the Customer's acceptance, the Customer must make each payment or delivery required to be made by it under the terms of the Trade in the Currency, in the amount, on the date and in accordance with the settlement instructions for the Trade, as set out in the related Trade confirmation. All payments must be received by us in cleared funds and for the full amount being transferred, including any fees that may be payable, before we credit your beneficiary account.

## **Spot Transactions**

Payment into our account of the full amount required to settle the Spot Transaction must be initiated on the day the Transaction becomes legally binding. If we have not received the funds within 2 business days we reserve the right to Close Out the Transaction in accordance with Section 9 with the Customer liable for any losses the Company might take.

## **Forward Transactions**

The Payment Reserve must be initiated on the day the Transaction becomes legally binding. The balance of the Forward Contract must be paid to us in full on or before the Maturity Date. The balance is determined as the full amount of the forward transaction less any Payment Reserves already paid. Failure to comply with these conditions may result in the transaction being Closed Out as per Section 9.

## **Electronic Funds Only**



You agree to make all payments into our account electronically and you acknowledge that we will transmit your funds by electronic means only. We do not accept cash or cheques.

### **Beneficiaries**

You must provide us with full Beneficiary details, including Name and Address of the account holder and Name and Address of the Beneficiary Bank. We will not be liable for any costs caused by delays in settling transactions due to erroneous beneficiary details.

### **Third Party Payments**

From time to time the Customer may request that a payment due to the Customer be made to an account in the name of a third party and in these cases Agility Forex may require additional background information. The Customer acknowledges and agrees that Agility Forex does not accept or bear any liability or responsibility for any loss, including Consequential Loss, incurred or sustained by the Customer as a result of or arising from Agility Forex paying a third party account.

### **Funds Held by US**

We do not hold your funds in trust. Funds are held in a client account separate from the working capital account of the Company.

### **Interest**

We shall not pay interest on any money held by us as a Payment Reserve, or held for any other reason.

### **Mistakes**

If we have acted in accordance with your instructions and your funds have been sent to the wrong account as a result of a mistake made by you we are under no obligation to recover the funds or to resend the funds to the correct Beneficiary. If we have made a mistake by sending the funds to the wrong account, we will take immediate action at our expense to recover those funds and resend them to the correct account.

### **9 Closing Out**

We may Close Out a particular transaction or all transactions you have with us without notice if:

- a) You fail to make any payment when it is due
- b) You fail to provide requested material information
- c) Information you have given us is inaccurate, incomplete or



misleading d) Bankruptcy proceedings are commenced against you e) You breach an important part of this agreement f) The performance of our obligations under this agreement becomes illegal

When we close out a transaction we go into the market and sell the currency we initially bought for you. In all likelihood the market price would have moved and if a loss is incurred you will be liable to pay us the amount of that loss, together with any other expenses that may have been incurred.

We will not pay out to you any resulting profit from a Closing Out.

You acknowledge that any loss resulting from closing out your transaction is a debt payable by you and that we may deduct this loss from any money we might hold for you. The balance of any money owing should be paid within 7 days of the closing out.

## **10 Services**

We offer Spot Contracts to be settled immediately and Forward Contracts to be settled between 2 days and 12 months.

The Agility Forex Platform is not for speculative trades and we do not offer any form of margin trading. All transactions entered into must be settled by the customer by delivering to us the full amount of the funds you have sold.

We will not enter into any arrangement whereby the Customer nets off 2 separate transactions that would allow the Customer to pay or receive any loss or profit realized by the net off. All transactions need to be settled in full.

We do not offer financial advice. The Agility Forex platform is for execution only.

## **11 Termination**

The parties may terminate the agreement for material or fundamental breach of the agreement as mandated under Common law. The parties independently also have a right to terminate upon any of the following termination events, which may be mutual or unilateral:

- (a) Termination on 30 days notice
- (b) Termination on insolvency
- (c) Termination on a change of control

## **12 Records**

Our records will be evidence of your dealings with Agility Forex. You agree not to object to the admission of our records as evidence should any legal dispute arise between us. You acknowledge that our records are kept in electronic format and are not in writing.

## **13 Disputes**

If you have a problem with our service you should bring it to our attention immediately. Our complaints officer will attempt to resolve the dispute to your satisfaction as quickly as possible.

If a satisfactory outcome cannot be achieved you can refer your case to an independent arbitrator. Under this Client Agreement you agree to be bound by the decision of the arbitrator.

Nothing in this agreement prevents either of us approaching a court to appeal the decision of the arbitrator or to take legal action to recover any amounts owed to us by way of Closing Out.

## **14 Changes to Agreement**

From time to time we may modify these Agility Forex Terms and Conditions. We will inform you by email of any changes made and your continued use of the Agility Forex Service after being notified of any changes will constitute your agreement to and acceptance of the changes.

## **15 General**

This agreement shall be governed exclusively by the laws of the Province of British Columbia and Canada. All trades shall be deemed to have taken place at the head office of Agility Forex Ltd in Vancouver, British Columbia. The courts of British Columbia shall have exclusive jurisdiction for settling disputes arising from this agreement and both parties submit to this jurisdiction.

If any part of this agreement becomes invalid under applicable law it will not affect the validity of the rest of the agreement.

Neither party will be liable for any failure or delay in performance (except for responsibility to make payments) due to government acts (e.g. currency controls), acts of God, war of civil unrest, or other circumstances beyond the party's reasonable control.

The Terms & Conditions will be reviewed periodically, or upon material changes to any provision stated herein. Current Terms & Conditions are available for client review at any time on our Website. Updates to Terms & Conditions will be announced on the landing page of the Agility Webpage.



## **16 Acceptance**

By proceeding with opening an account the Customer confirms that the representations and warranties in this Agreement are true and that the Customer accepts this agreement in its entirety.