



# **International Money Transfer**

## **Terms & Conditions**

Terms & Conditions

June 2022

## Terms and Conditions (General Part)

The following Terms & Conditions pertains to the International Money Transfer service (“**IMT**”) provided by NIUM Japan Kabushiki Kaisha (Registration no: Kanto Financial Bureau no: 00073) (“**NIUM Japan K.K**” & “**NIUM**”) through the co-branded site with Travelex Japan KK (“**Co-Branded Site**”)

By executing an Account Application and/or undertaking any transaction with NIUM the Customer hereby agree to be bound by the following terms & conditions (as amended from time to time) (“**Terms and Conditions**”).

### 1. PURPOSE

The IMT is provided solely by NIUM to the Customer as a registered Type 2 Funds Transfer Services Provider under the Payment Services Act. Travelex Japan KK (“Travelex”) is involved in the marketing and promotion of the IMT. These Terms and Conditions are entered into between NIUM and the Customer. The Customer acknowledges and agrees that, Travelex is not responsible for providing the IMT to the Customer and Travelex will not be held liable for any claims/complaints or liabilities arising in relation to the IMT (save and except for any such liabilities arising out of Travelex’s own actions in respect of the marketing and promotion of the IMT).

2. The Customer wishes to use the IMT and transact on the Co-Branded Site in accordance with the Terms and Conditions.

### 2. DEFINITIONS AND INTERPRETATION

a) In these Terms & Conditions unless a different intention is expressed, the following terms (as subsequently modified by amended legislation or regulation) shall mean:

“Account” means the account of the Customer set up by the Customer to request for international money transfer transactions, which is established in accordance with the terms and conditions of these Terms & Conditions.

“Business Day” means a day on which trading banks in Japan are open for business.

“Contract” means any contract whether verbal or written, for providing and receiving of any Service in any currencies, entered into by the Customer.

“Customer” means the party identified in the account opening form or in the engagement letter for IMT as a customer of NIUM.

“Exchange Rate” means the price of one currency in terms of another currency.

“Settlement Date” means the date on which the funds that are being exchanged must be received by NIUM.

“Service(s)” means any service provided by NIUM to the Customer under these Terms & Conditions

“Terms & Conditions” means these terms & conditions and any other documents annexed or incorporated by reference.

b) Headings are for convenience only and shall not affect the construction and interpretation of these Terms & Conditions.

c) The singular includes the plural and vice versa.

d) Reference to a person or individual includes bodies corporate, unincorporated associations, partnerships and individuals.

e) Any reference in these Terms & Conditions to any law, statute, regulation or enactment shall include references to any statutory modification or re-enactment thereof or to any regulation or order made under such law, statute or enactment (or under such modification or re-enactment).

### 3. CUSTOMER REPRESENTATIONS AND WARRANTIES

The Customer represents and warrants to NIUM that:

a) these Terms & Conditions constitutes a legal, valid and binding obligation of the Customer.

b) all orders/transactions to be placed are conducted under these Terms & Conditions are lawful.

c) in executing and giving effect to these Terms & Conditions, the Customer does not and will not infringe any provision of any other document or agreement to which the Customer is a party, nor any law or judgment/order binding upon it.

d) where the Customer is more than one person, that all decisions made, and instructions issued, pursuant to these Terms & Conditions, are made on a fully informed and agreed basis by all the parties to the account.

- e) all information supplied to NIUM by the Customer is, or at the time it is supplied will be, accurate in all material respects and the Customer will not omit or withhold any information which would make such information inaccurate in any material respect.
- f) the Customer will provide to NIUM on request such information regarding its financial and business affairs and/or identity, as NIUM may reasonably require.
- g) the Customer and NIUM are bound by the applicable financial services laws and regulations (as modified from time to time).
- h) the Customer will take all reasonable steps to obtain and communicate to NIUM all information and shall deliver or cause to be delivered to NIUM all documents with respect to the transaction requested on the Co-Branded site or mobile phone application facility as may be requested by any person having the right to request such documents and information. The Customer authorises NIUM to pass on/deliver all such information and documents to any such person.
- i) The Customer is not insolvent, and if the Customer is a corporate Customer, no resolution has been passed and no petition has been presented or order made for the Customer's winding up or liquidation or the appointment of a receiver or a receiver and manager or an administrator of other insolvency official to the Customer or any of its assets.
- j) all such instructions provided to NIUM are of the Customer's monies beneficially owned by the Customer whereby no third party is involved for the purpose of the Anti-Money Laundering and Counter-Terrorist Financing Regulations
- k) all monies are known to best efforts of proper traceable sources and are not from any criminal related sources.
- l) NIUM relies on representations and warranties made by the Customer. These representations and warranties and those contained elsewhere in these Terms & Conditions, survive the entering into of these Terms & Conditions.
- m) The Customer and its related parties are not involved in any activity in Prohibited Business Categories set forth by NIUM group.
- n) The Customer is not a foreign politically exposed person defined in the Act on Prevention of Transfer of Criminal Proceeds and its related ordinances. A foreign "Politically Exposed Person" is a person or an entity falling under any of the following categories:
  - I. For natural person
    - i. A head of state
    - ii. A position corresponding to the Prime Minister, a Minister, a Vice Minister, or equivalent.
    - iii. A position corresponding to the Chairperson of the House of Representatives, the Vice Chairperson of the House of Representatives, or the Chairperson of the House of Councilors, or the Vice Chairperson of the House of Councilors.
    - iv. A position corresponding to a Supreme Court Judge or equivalent.
    - v. A position corresponding to an Ambassador, Special Envoy Ambassador, or Government Representative.
    - vi. A position corresponding to the Chief of Staff, Vice Chief of Staff in the Ministry of Defense, Chief of Staff, Vice Chief of Staff of Ground Self-Defense Force, Chief of Staff, Vice Chief of Staff of Maritime Self-Defense Force, Chief of Staff, Vice Chief of Staff of Air Self-Defense Force
    - vii. The Director of a Central Bank
    - viii. The Director of a corporation whose budget is approved by the Diet (i.e. a certain government-owned company may be applied).
    - ix. A person formerly in category from i to viii above
    - x. A family member of a person in category i to ix above, i.e. the spouse (including the common-law partner), father, mother, children, siblings, or the father, mother, or children of the spouse
  - II. For legal entities
 

The beneficial owner of the legal entity falls under any of the categories listed in I above.
- o) The Customer represents that the Customer and the Payee nominated by the Customer do not currently fall under an organized crime group, an organized crime group member, a person for whom a period of five years has not elapsed since that person was an organized crime group member, a quasi-member of an organized crime group, a corporation affiliated with an organized crime group, a shareholder meeting extortionist (*sokaiya*) or the like, a corporate extortionist acting under the guise of a social movement or political activity (*shakai undo-to hyobo goro*), a group or individual that in the context of having a relationship with an organized crime group plays a key part in structural injustice using force or through a financial connection with an organized crime group (*tokushu chino boryoku shudan to*), or any other person similar to any of these entities (collectively, "**Organized Crime Group Members**"), and that the Customers do not currently fall under any of the following and covenants that the Customers will not be Organized Crime Group Members or fall under any of the following in the future:
  - i. the Customer or the Payee has a relationship through which its management is considered to be controlled by Organized Crime Group Members;
  - ii. the Customer or the Payee has a relationship through which Organized Crime Group Members are considered to be substantially involved in the Customer's or the Payee's management;
  - iii. the Customer has a relationship through which Organized Crime Group Members are considered to be unjustly used for the purpose of pursuing illicit gains for the Customer or a third party, causing damage to a third party, or for any other similar purpose;

- iv. the Customer or the Payee has a relationship through which it is considered to provide funds or benefits to Organized Crime Group Members or otherwise involved with Organized Crime Group Members; or
  - v. an officer of the Customer or of the Payee or any person substantially involved in the Customer's management or in the Payee's management has a socially reprehensible relationship with Organized Crime Group Members.
- p) Each Customer covenants that it will not, by itself or using or through a third party, conduct any violent or unjust acts, conducts and behaviour including:
- i. a violent demand;
  - ii. an unjust demand that exceeds the legal liability of the recipient of the demand;
  - iii. use of threatening behavior or violence in connection with a transaction; or
  - iv. spreading of rumors or use of fraudulent means or force to damage the reputation of NIUM or to obstruct NIUM's operations

#### 4. CAPACITY TO ENTER INTO THESE TERMS & CONDITIONS

The Customer represents and warrants to NIUM that:

- a) the Customer is duly organised and validly existing (or, if an individual, is of legal age and is under no legal disability or incapacity, or if under legal age and/or legal disability or incapacity, has taken necessary actions to obtain appropriate power and authority) and has full power and authority to enter into, and has taken all necessary steps to enable it lawfully to enter into, these Terms & Conditions and the transactions contemplated by it, and perform its obligations it; and
- b) the Customer has been properly categorised as (i) an individual with a valid residency status in Japan or (ii) an individual with full power and authority to bind the Customer.

#### 5. ACCOUNT ESTABLISHMENT

- a) The Customer establishes an Account prior to entering into any Service NIUM provides. NIUM identifies and verifies the customer information and the Customer requires to provide information and documents designated by NIUM. NIUM reserves the right to refuse the account establishment at its discretion.
- b) Subject to these Terms & Conditions herein, NIUM agrees to establish an Account in the name of the Customer, who is the legal person named as the sole holder of the Account.
- c) No one except the Customer has an interest in the Customer's Account with NIUM opened under these Terms & Conditions. The Customer is strictly prohibited to use the Account on behalf or for the sake of any third party other than the Customer.
- d) NIUM may reject establishment of multiple Accounts by a single Customer. NIUM shall be entitled to close or merge multiple Accounts created by a single Customer without prior notification to the Customer.
- e) Only the Customer is allowed to pay or deposit funds into their Account. The Customer's identification information shall be indicated in such payment or depositing instructions. NIUM reserves the right to refuse and close out the funds under third party's name.
- f) The Customer is not allowed to deposit funds which are not intended to use for the Services. NIUM reserves the right to close out the funds in the Account which has not been used for the Services for 6 consecutive months.

#### 6. RISK DISCLOSURES

The Customer represents and warrants to NIUM that:

- a) they have received, read and understood these Terms & Conditions;
- b) the Customer acknowledges, recognises and understands that trading in Contracts may involve a degree of risk and loss, depending on the nature and purpose of the Contracts transacted, and is appropriate only for persons who can assume risk of such loss;
- c) the Customer has read these Terms & Conditions and understands that NIUM has only provided general advice, and the Customer has considered its objectives and financial situation and has obtained appropriate independent advice prior to entering into these Terms & Conditions, and has formed the opinion that dealing in the Contract is suitable for the Customer's needs and purposes;
- d) the Customer has taken such independent legal and financial advice as the Customer considers necessary prior to executing these Terms & Conditions; and
- e) the Customer is willing and able, financially and otherwise, to assume the risk of trading in Contracts. The Customer acknowledges that neither by NIUM nor any associated entity guarantees the performance of any given Contract and Service nor that any Contract and Service will achieve a particular rate.

#### 7. CUSTOMER ACKNOWLEDGEMENTS

The Customer acknowledges to NIUM that:

- a) Ordering a transaction create an obligation to settle such transactions by the Settlement Date in cleared funds.
- b) NIUM may appoint agents to collect money from its Customers;
- c) all dealings executed on behalf of the Customer pursuant to these Terms & Conditions shall be at the absolute discretion of NIUM. In particular, NIUM shall be entitled to take any action it considers necessary in its absolute discretion to

- ensure compliance with applicable laws and regulatory decisions;
- d) NIUM acts as principal in respect of the foreign exchange contracts traded by NIUM with the Customer;
  - e) the Customer has been made specifically aware that NIUM acts as a market maker and when so acting under normal market circumstances quote the Customer bid and ask prices;
  - f) subject to applicable legal and regulatory requirements, the Customer consents where NIUM either knowingly or unknowingly takes the opposite side to the Customer in relation to any of the foreign exchange contracts;
  - g) Subject to applicable legal and regulatory requirements, the Customer agrees and acknowledges that NIUM's directors, employees and associates may and can deal on their own account;
  - h) NIUM reserves the right, at its sole discretion and without explanation, to refuse to deal on behalf of the Customer in relation to any Contract or to limit the number of Contracts entered for the Customer. NIUM will inform the Customer of any refusal before or as soon as practicable after such refusal;
  - i) there are risks associated with utilizing an Internet-based deal execution trading system which include, but are not limited to, the failure of hardware, software, and Internet connection. Since NIUM does not control signal power, its reception or routing via Internet, configuration of your equipment or reliability of its connection, NIUM will not be responsible for communication failures, distortions or delays when trading via the Co-Branded Site or mobile phone application facility.
  - j) transaction confirmations provided to Customers, unless otherwise objected to within 24 hours after communication to the Customer, shall be deemed proof of the accuracy of such contents and their execution in accordance with these Terms & Conditions;
  - k) a notice issued by an authorised officer or agent of NIUM stating the amount of money due and payable by the Customer shall be taken as final evidence thereof in the absence of manifest error;
  - l) all determinations and calculations made by NIUM under these Terms & Conditions will be binding on the Customer in the absence of manifest error;
  - m) NIUM is entitled, in its reasonable opinion, to determine that an emergency of an exceptional market condition exists. In such cases NIUM may close any or all of the Customer's open Contracts, to the extent that the condition makes it impossible or impracticable for NIUM to comply with the Contract in question;
  - n) anything NIUM is permitted to do in accordance with these Terms & Conditions may be done in its absolute discretion, and any opinion or view required to be formed by NIUM may be formed in its absolute discretion;
  - o) Safeguarding and asset segregation do not guarantee that the Customer's money and assets are protected entirely;
  - p) The Services differ from foreign exchange transactions performed by banks, etc.;
  - q) The Services do not constitute the acceptance of bank deposits, savings or fixed time deposits by NIUM, so that the Services are not subject to the payment of insurance prescribed in the Deposit Insurance Act or the Agricultural and Fishery Cooperative Savings Insurance Act;
  - r) The Services fall under a Type 2 Funds Transfer Services under the Payment Services Act;
  - s) The security deposit system is established under the Payment Services Act for the purpose of protecting customers who use the Funds Transfer Services, and the Customers can receive refunds under the security deposit system, should the applicable circumstances arise. The right to claim the refunds belongs to the Customer until the Payee actually receives the transferred money; and
  - t) NIUM makes a deposit of security, and preserves by deposit within three business days from the last day of the calculation period a deposit of security in an amount equal to or greater than the maximum amount of the required deposit of security for the Type 2 Funds Transfer Business calculated on a weekly basis.

## **8. CO-BRANDED SITE**

- a) The Customer acknowledges that it has read, understood and agreed to the terms and conditions associated with dealing via the Co-Branded Site or mobile phone application facility as set out in these Terms & Conditions.
- b) NIUM may amend any of the terms of these Terms & Conditions and by continuing to deal with NIUM or to access or use the Co-Branded Site or mobile phone application facility as far as permitted by applicable laws and regulations, the Customer agrees to any amendments.
- c) NIUM shall permit the Customer electronically to monitor the activity and positions in its account by providing the Co-Branded Site or mobile phone application facility. The Co-Branded Site or mobile phone application facility may be a proprietary service offered by NIUM or a third-party system.
- d) The Customer agrees to use the Co-Branded Site or mobile phone application facility solely for its internal business or investment purposes.
- e) The Co-Branded Site or mobile phone application facility provided by NIUM may be used to transmit, receive and confirm the execution of orders. Regardless of any on-line confirmation received upon placement of an instruction via the Co-Branded Site or mobile phone application facility, such transaction is not confirmed by NIUM until NIUM provides confirmation.

- f) NIUM consents to the Customer's access and use in reliance upon the Customer having adopted procedures to prevent unauthorised access to and use of the Co-Branded Site or mobile phone application facility, in any event, the Customer agrees to any financial liability for trades executed through the Co-Branded Site or mobile phone application facility.
- g) NIUM reserves the right, in its sole discretion, to institute or change any policies at any time relating to the use of the Co-Branded Site or mobile phone application facility.
- h) The Co-Branded Site and mobile phone application facility are provided on an "as-is" basis and NIUM makes no express or implied representations or warranties to the Customer regarding their operation or usability.
- i) NIUM makes no representations or warranties regarding any services provided by any third party.
- j) The Co-Branded Site or mobile phone application facility may be available in several versions, which may be differentiated in various aspects including, but not limited to the level of security applied, products and services available etc. NIUM shall not be liable to the Customer for any loss, expense, cost or liability suffered or incurred by the Customer due to the Customer using a version different from the standard version with all available updates installed.
- k) NIUM may offer real-time foreign exchange margin to the Customer. Due to delayed transmission between the Customer and NIUM the foreign exchange margin offered may have changed before an order from the Customer is received by NIUM. If automatic order execution is offered to the Customer, NIUM shall be entitled to change the price on which the Customer's order is executed to the market value at the time which the order from the Customer was received.
- l) NIUM does not warrant that access to or use of the Co-Branded or mobile phone application will be uninterrupted or error-free, or that the service will meet any particular criteria with respect to its performance or quality. NIUM expressly disclaims all implied warranties, including without limitation warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security or accuracy.
- m) Under no circumstances, including negligence, will NIUM, its employees and/or service providers be liable for any direct, indirect, incidental, special or consequential damages including, without limitation, business interruption or loss of profits, that may result from the use of or inability to use the Co-Branded Site or mobile phone application facility unless such damages arise from NIUM and/or service provider's willful or gross negligence..
- n) The Customer agrees not to hold NIUM, Travelex and any of its service providers (for whom it acts as agent in this regard) liable for any form of damage arising as a result of the unavailability of the Co-Branded Site or mobile phone application facility unless such damages arise from NIUM and/or service provider's willful or gross negligence. The liability of NIUM in the event of slight negligence shall be limited to an amount equivalent to the costs paid by the user to NIUM for the use of the Co-Branded Site or mobile phone application facility.
- o) The Customer agrees that the use of the Co-Branded Site or mobile phone application facility is at the Customer's risk and the Customer assumes full responsibility for any losses resulting from the use of or materials obtained via the Co-Branded Site or mobile phone application facility unless such losses arise from NIUM and/or service provider's willful or gross negligence...
- p) NIUM, its directors, officers, employees, agents, contractors, affiliates, third party vendors, information providers, and other suppliers providing information or data services do not warrant that the Co-Branded Site or mobile phone application facility will be uninterrupted or error free nor do we or they make any warranty as to the timeliness, sequence, accuracy, completeness, reliability or content of any information, service or transaction provided through the use of the Co-Branded Site, mobile phone application facility or the results obtained from their use.
- q) The Customer is responsible for providing and maintaining the communications equipment and telephone or alternative services required for accessing and using the Co-Branded Site or mobile phone application facility, and for all communications service fees and charges incurred by the Customer in accessing the Co-Branded Site or mobile phone application facility.
- r) NIUM may at any time at its sole discretion terminate or restrict any Customer's access to the Co-Branded Site or mobile phone application facility at any time. Should NIUM terminate these Terms & Conditions or access to the trading platform or mobile phone application, the Customer will be liable for all fees charges and obligations incurred under these Terms & Conditions prior to termination.
- s) The Customer acknowledges that from time to time, and for any reason, the Co-Branded Site or mobile phone application facility may not be operational or otherwise available for the Customer's use due to servicing, hardware malfunction, software defect, service or transmission interruption or other cause.
- t) The Customer's failure to observe any of the undertakings or representations may result in civil or criminal liability, as well as termination of the use of the Co-Branded Site or mobile phone application facility.
- u) The Customer may not under any circumstance use the Co-Branded Site or mobile phone application facility to do any of the following:
  - i. publish, post, distribute or disseminate defamatory, infringing, obscene or other unlawful or offensive material or information.
  - ii. intercept or attempt to intercept any email correspondence.
  - iii. use the Co-Branded Site or mobile phone application facility in any manner that may adversely affect its availability or its resources to other users.

- iv. send correspondence electronically or otherwise to other users for any purpose other than personal communication; or
  - v. act, or fail to act in a manner which may result in the violation of any laws or regulations.
- v) Unless such losses arise from NIUM and/or service provider's willful or gross negligence, NIUM, Travelex and its service providers will not accept any form of liability including any loss or damage to the Customer or to any other person for:
- i. any inaccuracies, errors or delays or omissions of any data, information or message or transmission or delivery of any such data, information or message.
  - ii. non-performance.
  - iii. interruptions in data, information or message transmission, due to any negligent act or omission, including any "force majeure" event or any other cause, whether or not within NIUM's control. Force majeure events include amongst other things, floods, extraordinary weather conditions, earthquakes, acts of God, fire, war, riot, labour disputes, accidents, actions of any government, communications or power failure, equipment of the use and storage of any information provided Customer through the use of the Co-Branded Site or mobile phone application facility is for the use of the Customer and is the Customer's sole risk and responsibility.

## 9. NIUM REPRESENTATIONS & SERVICES

- a) NIUM seeks to act honestly, exercise due care and diligence and act in the Customer's best interests at all times. NIUM will give priority to Customer interests and undertakes that it will not misuse Customer information. NIUM will use reasonable efforts to execute or arrange the execution of the Customer's instructions.
- b) Unless otherwise expressly agreed, NIUM will provide services on an execution-only basis in accordance with the Customer's instructions, and will not provide advice to the Customer regarding the merits of a transaction. The Customer is hereby prohibited from treating any remark made by an NIUM representative regarding the market, transaction or forecast as advice.
- c) Any transaction or market information or research provided by NIUM to the Customer is provided as general information only, and does not constitute and cannot be relied upon as a recommendation to trade. NIUM makes no representation, warranty or guarantee, and accepts no liability for.

## 10. AUTHORISATIONS AND INSTRUCTIONS

### GENERAL

- a) The Customer hereby authorises NIUM to act to their instructions, or otherwise in accordance with NIUM's rights elsewhere under these Terms & Conditions. In addition, the Customer authorises NIUM to outsource its operations involved in the performance of the Services to third parties as it deems necessary.
- b) The Customer may communicate their instructions to NIUM via the Co-Branded Site or mobile phone application facility. Alternate methods will not be accepted unless agreed in writing by NIUM.
- c) In consideration of NIUM agreeing to accept instructions via an alternate method from the Customer, Customer acknowledges that NIUM is not obliged to accept/implement such instructions and will not be liable to the Customer or any other party should such instructions be unauthorised, forged or fraudulently given.
- d) The Customer shall be responsible for all Transactions, and for the accuracy of information, sent via the internet or mobile phone application using the Customer's name, pass-word or any other personal identification means implemented to identify the Customer.
- e) NIUM may, in its sole discretion and without explanation, refuse to act upon any instruction.
- f) The Customer is obliged to keep all passwords secret and ensure that third parties do not obtain access to the Customer's Account.
- g) Mere transmission of an instruction by the Customer shall not constitute a binding contract with NIUM until confirmed by NIUM via the email confirmation.
- h) The Customer shall promptly provide any instructions to NIUM, which NIUM may require. If the Customer does not provide such instructions promptly NIUM may, in its absolute discretion, take such steps at the Customer's cost, as NIUM considers necessary or desirable for its own protection or the protection of the Customer. This provision also applies in situations when NIUM is unable to contact with the Customer.
- i) In general, NIUM shall act according to instructions as soon as practically possible and shall, as far as trading instructions are concerned, act within a time frame reasonable seen in the context of the nature of the instruction. However, if after instructions are received, NIUM believes that it is not reasonably practicable to act upon such instructions within a reasonable time, NIUM may defer acting upon those instructions until it is, in NIUM's reasonable opinion, practicable to do so or notify the Customer that NIUM is refusing to act upon such instructions.

### AUTHORISATIONS AND INSTRUCTIONS VIA THE CO-BRANDED SITE

- a) NIUM will not be deemed to have any order or communication electronically transmitted by the Customer until NIUM has actual knowledge of any such order or communication. The mere transmission of an instruction by the

Customer shall not constitute a binding contract between NIUM and the Customer. The terms of any order or communication electronically transmitted to the Customer may be subject to change or correction. Regardless of the fact that the Co-Branded Site or mobile phone application facility might confirm that a contract is executed immediately when the Customer transmits instructions via the Co-Branded Site or mobile phone application facility, the confirmation forwarded by NIUM or made available on the Co-Branded Site or mobile phone application facility constitutes NIUM's confirmation of a contract. Any instruction sent electronically shall only be deemed to have been received and shall only then constitute a valid instruction and/or binding contract between NIUM and the Customer when such instruction has been recorded as executed by NIUM and confirmed by NIUM to the Customer including through an email confirmation or mobile phone application.

- b) The Customer acknowledges and warrants that it has received a password granting it access to the Co-Branded Site or mobile phone application facility; is the sole owner of the password provided; and accepts full responsibility for any Transaction that may occur on an account opened, held or accessed through the use of the password provided to the Customer by NIUM, even if such use may be unauthorised or wrongful. The Customer agrees to accept full responsibility for the use of the Co-Branded Site or mobile phone application facility, for any orders transmitted through the Co-Branded Site or mobile phone application facility and for all communications and the accuracy of all information sent via the Co-Branded Site or mobile phone application facility using the Customer's name, password or any other personal identification means implemented to identify the Customer.
- c) The Customer warrants and agrees that any person who is in possession of any password is authorised by the Customer, and the Customer acknowledges that they will be responsible for any actions on their account associated with the use of its password.
- d) The Customer agrees to notify NIUM immediately should the Customer become aware of any unauthorised use, loss or theft of the Customer's, username, password or account numbers; or inaccurate information with respect to the content of statements including, cash balances, open positions or transaction history.

## 11. PAYMENTS

The Customer agrees and acknowledges that:

- a) NIUM may advise the Customer of the need to provide payment of money, in such amount as determined by NIUM in its sole discretion to be necessary to protect itself from the personal obligation incurred by dealing in any Service on behalf of the Customer. Prior to entering into any Service, NIUM will require the Customer to deposit cleared funds. The amount required by NIUM and the time at which it is required will be at the absolute discretion of NIUM. NIUM is not obliged to permit any offset of any monies so required by NIUM;
- b) The Customer will comply with and meet all such calls in accordance with these Terms & Conditions by depositing in cleared funds the sum requested within the time specified by NIUM. NIUM may determine the amount and time in its absolute discretion. Should NIUM require additional funds from the Customer to cover market movements, the Customer must pay the amount called by NIUM immediately upon being given notice by NIUM. In all respects, time shall be of the essence for all payment obligations of the Customer;
- c) The Customer acknowledges and agrees that NIUM may refuse any request by the Customer to enter into any further Service until NIUM has confirmed the receipt of the amount in the form of cleared funds;
- d) Any exercise by NIUM of any power or right under this clause shall be binding on the Customer;
- e) It is the Customer's sole responsibility to monitor and manage their open positions and exposures, and ensure payments are met as required;
- f) Where the Customer has not met payment requirements in a timely manner, all relevant positions will be closed out by NIUM, without further reference to the Customer;
- g) The Customer is responsible to pay any deficit owing to NIUM after closure, and if the Customer defaults or refuses such payment, NIUM may apply the proceeds of any assets held by NIUM against that deficit;
- h) No credit shall be extended directly or indirectly to the Customer by NIUM, unless otherwise agreed in writing.
- i) Should the Customer fail to meet a payment request, NIUM may without prejudice to any other rights or powers under these Terms & Conditions, and in its absolute discretion, close out, without notice, any or all of the Contracts or refuse any request by the Customer to enter into any further Contracts.

## 12. COMMISSIONS FEES AND EXPENSES

- a) The Customer agrees to pay:
  - I. All legal costs incurred by the Customer associated with entering into these Terms & Conditions and all taxes and expenses incurred by the Customer in connection with these Terms & Conditions;
  - II. Any fees or associated charges upon the execution of any Contract as are disclosed and agreed prior between NIUM and the Customer, as well as an amount equal to any other fee charged or levied on NIUM, or other expense incurred by NIUM, arising from any action taken pursuant to these Terms & Conditions;
  - III. Any stamp duty, duties and taxes (including consumption tax if any stipulated by Japanese regulations now and in future) payable on or pursuant to these Terms & Conditions;
  - IV. All amounts incurred by NIUM as a result of the Customer's default under the terms of these Terms & Conditions,

including without limitation, all reasonable legal costs on a solicitor/Customer basis; and

V. Interest, in respect of any unpaid amount due under these Terms & Conditions, at a rate of fourteen per cent per annum.

Such interest shall accrue and be calculated daily from the date payment was due until the date the Customer pays in full and shall be compounded monthly.

- b) The Customer authorises NIUM to appropriate, transfer, credit, apply or pay monies that may be received by NIUM or held by NIUM on the Customer's behalf in payment of any amounts which may be outstanding by the Customer to NIUM in a transaction effected on the Customer's behalf.
- c) Where amounts are payable by one party to the other, netting principles shall apply to enable the party owing the larger amount to pay the excess only to the other party. Amounts may be converted into the same currency in accordance with these Terms & Conditions.
- d) Customer acknowledges that should they enter into any Contract, the Customer must pay all transaction charges, fees, payments, settlements, interest and any other amounts due under these Terms & Conditions on demand by NIUM in cleared funds or otherwise as required in accordance with the terms of these Terms & Conditions.
- e) Should the Customer be given access through the electronic platform or otherwise to prices or information provided by any exchange or service to which a royalty or other fee must be paid for the use of such prices or information, NIUM shall have the right to effect the payment of any such royalty or other fee by debiting the Customer's account on a monthly basis.
- f) Notwithstanding Clause (c) above, payments by the Customer to NIUM in accordance with these Terms & Conditions must be made without any offset, counter claim or condition and without any deduction or withholding for any tax or any other reason unless the deduction or withholding is required by applicable law. Should the Customer be required to make any form of deduction in respect of tax by NIUM) is required to pay any tax in respect of any payment made in relation to these Terms & Conditions at the Customer's request the Customer agrees to keep NIUM indemnified against that tax and agrees to pay to NIUM any additional amounts required to ensure NIUM receives the full net amount that is equal to the amount NIUM would have received had a deduction, withholding or payment of tax not been made.

### 13. DEFAULT

- a) The Customer acknowledges and agrees that where one of the following events occurs, NIUM may take any such action provided in Clause 13(c) below:
  - i. the Customer fails to meet a call for a payment request or make any other payment when due under these Terms & Conditions;
  - ii. the Customer is not contactable by NIUM (and has not made alternative arrangements) within the time specified by NIUM in order for NIUM to obtain instructions (where required);
  - iii. the Customer dies or becomes of unsound mind, or the partnership is dissolved or ceases to exist for any reason;
  - iv. the Customer suspends payment of its debts, makes any composition with its creditors, has a receiver appointed over some or all of its assets, takes or has any proceedings taken against it in bankruptcy or takes or allows any steps to be taken for its winding up (except for a solvent amalgamation or reconstruction approved in advance in writing by NIUM) or anything similar to any of these events happens to the Customer anywhere in the world;
  - v. the Customer fails in any respect fully and promptly to comply with any obligations to NIUM under these Terms & Conditions or otherwise or if any of the representations or information supplied by the Customer are or become inaccurate or misleading in any material respect;
  - vi. any guarantee, indemnity or security for the Customer's obligations is withdrawn or becomes defective, insufficient or unenforceable in whole or in part;
  - vii. these Terms & Conditions has been terminated;
  - viii. it becomes or may become unlawful for NIUM to maintain or give effect to all or any of the obligations under these Terms & Conditions or otherwise to carry on its business or if NIUM or the Customer is requested not to perform or to close out a transaction (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding; or
  - ix. NIUM considers it necessary to do so for its own protection.
- b) If the Customer becomes aware of the occurrence of any event referred to in clause 13(a) above, it shall notify NIUM immediately.
- c) If any event referred to in Clause 13(a) above takes place, NIUM shall at its absolute discretion be entitled, but not obliged, to, and at the expense of the Customer:
  - i. Freeze the account and/or suspension and refusal of request for a new transaction
  - ii. terminate its agreement with the Customer immediately;
  - iii. close out any or all of the Customer's Contracts;
  - iv. cancel any outstanding orders in order to close the Customer's account;
  - v. charge the Customer all of the costs, expenses and losses incurred by NIUM as a result of entering into, or closing out transactions pursuant to these Terms & Conditions; and
  - vi. take any such action a reasonably prudent person would take in the circumstances to protect the personal obligation incurred when dealing on behalf of the Customer, to the extent that any of the aforementioned actions are permissible under applicable law.

#### 14. INDEMNITY

- a) The Customer will indemnify and keep indemnified NIUM and its employees, contractors or agents from and against any cost, expense, claim, action, suit, loss, damage or other amounts whatsoever arising out of any default, whether by act or omission, of the Customer under these Terms & Conditions or anything lawfully done by NIUM in accordance with these Terms & Conditions or by reason of NIUM complying with any direction, request or requirement of any regulatory authority.
- b) NIUM shall not be responsible or liable in any way for any delay or error in the transmission or execution of any dealing by it under these Terms & Conditions caused by the Customer or any other third party, including but not limited to any systems or operational failure or action, bank delay, postal delay, failure or delay of any fax or electronic transmission or delay caused by accident, emergency or act of god.
- c) No warranty is provided by NIUM in relation to information or advice sourced from third parties, and all information or advice provided by NIUM to the Customer is for the private use of the Customer and is not to be communicated to any third party without the prior written consent of NIUM
- d) NIUM makes no representation or warranty as to the results of dealing in the Services, and shall not be liable for any damage or loss suffered or incurred by the Customer arising out of or in connection with any advice, forecast, or opinion to the Customer in relation to price movements or positions or to the likely profitability of any transaction.
- e) NIUM shall not be liable for the Customer's damage or loss when the Customer is suffered from unauthorised use of the Service by any third party, unless NIUM is responsible for such damage or loss. NIUM may announce or publish the fact that such unauthorised use of the Service occurred as promptly, when NIUM deems it is necessary to prevent enlargement or spreading of the damage or loss, it is beneficial to prevent and avoid reoccurrence of similar case and copycat crimes or there is a significant impact on the society in consideration of amount of the damage or loss and the number of the cases, in conjunction with the nature of the unauthorised use.
- f) These indemnities shall survive any termination of the Customer relationship. Should you have any inquiry on indemnification, please contact our Customer Support (refer to article 16.).

#### 15. LIMITATION OF LIABILITY

- a) The Customer declares it has read, understood and accepted all of the terms and conditions outlined in these Terms & Conditions. The Customer agrees that when entering into a Contract with NIUM the Customer is relying on its own judgment and, to the extent permitted by law, in the absence of negligence, fraud or dishonesty by NIUM or any of its employees, agents and representatives in relation to NIUM's activities as the Payment Service Provider registered by Kanto Local Finance Bureau, NIUM shall bear no responsibility or liability of any kind whatsoever with respect to any advice or recommendation given or views expressed to the Customer, whether or not the advice, recommendation, or views expressed was as a result of a request by the Customer, nor will NIUM be liable in any respect for any losses incurred by the Customer resulting from dealing in any product or products offered by NIUM.
- b) NIUM will bear no liability whatsoever in respect of any private dealings, contracts, transactions or relationships between the Customer and any of NIUM's employees or agents.
- c) NIUM shall bear no liability whatsoever in respect of any impact on the Customer caused directly or indirectly by the issuance of any instructions by the Customer to NIUM.
- d) In the absence of negligence, fraud, dishonesty or misconduct by NIUM or any of its employees, agents and representatives and to the full extent of the law, NIUM bears no responsibility or liability for any Customer's losses or damages whatsoever incurred as a result of any delay in transmitting or a failure to transmit funds caused by reasons outside the control of NIUM or as a result of NIUM's failure to execute orders in a timely manner or administer these Terms & Conditions in the manner contemplated by these Terms & Conditions for reasons beyond its control and, without limiting the indemnity in clause 16, the Customer indemnifies and agrees to keep NIUM and its employees, agents and representatives (for whom NIUM acts as agent) indemnified and against all sums of money, actions, proceedings, suits, claims, demands, damages, costs, expenses and other amounts whatsoever arising in respect of any such loss or damage. Reasons outside NIUM's control may include but are not limited to, exchange control or other government restrictions, exchange or market rulings, suspension of trading, power failure, telecommunication failure, strikes or war.
- e) All such available exemptions and limitations of liability shall apply in respect of NIUM's employees, officers, agents and representatives.

#### 16. CUSTOMER COMPLAINTS AND HOW TO CONTACT NIUM JAPAN

The contact details to complaints and inquiries from customers are as follows:

Emails: [support.travelex@nium.com](mailto:support.travelex@nium.com) Accept emails for 24 hours a day

Tel: 03 4360-5171

Address: FinGATE TERRACE #203, 8-1 Nihombashi Kabutocho, Chuo-ku, Tokyo JAPAN 103-0026

## 17. Measures for the Handling of Complaints and Resolution of Disputes

- a) Please contact NIUM customer support as stated in above Section 16 of these Terms & Conditions for complaints and inquiries regarding your transaction.
- b) If you are not satisfied with resolution, the following support organization is available to the Customers for any complaint or inquiry relating to our Funds Transfer Services:

Customer Center of Japan Payment Service Association                      TEL: 03-3556-6261

- c) The following dispute resolution support organizations are available to the Customers for any dispute relating to our Funds Transfer Services.

Tokyo Bar Association Dispute Resolution Center                      TEL: 03-3581-0031  
Arbitration Center of the Daiichi Tokyo Bar Association                      TEL: 03-3595-8588  
Arbitration Center of the Daini Tokyo Bar Association                      TEL: 03-3581-2249

## 18. TERMINATION

- a) There is no specified contract period regarding these Terms & Conditions and the Services. These Terms & Conditions can be terminated at any time by either party giving 5 Business Days written notice to the other party.
- b) NIUM may, at its sole discretion, refuse any new request or instruction for the Services from the moment that the Customer requests termination. In the event that an Account is closed, NIUM will close out the funds in the currency specified by NIUM to the bank account designated by the Customer in advance.
- c) Unless otherwise agreed in writing between the parties upon termination of these Terms & Conditions NIUM will close out all of the Contracts, at NIUM's discretion.
- d) Should any event occur which has the effect of making or declaring it unlawful or impracticable for NIUM to offer any Service to the Customer in accordance with the terms outlined in these Terms & Conditions, NIUM may immediately terminate these Terms & Conditions by providing the Customer with written notice.
- e) Termination of the Agreement shall not release either party from any existing obligations or from any liabilities for any antecedent breach of any of the terms of these Terms & Conditions and will not relieve the Customer of any obligations the Customer may owe to NIUM in accordance with these Terms & Conditions prior to its termination.
- f) Rights under these Terms & Conditions can only be waived in writing, such waiver not to affect the waiving party's rights or entitlements in respect of subsequent breaches of the Agreement. Failure to compel performance shall not be construed as a waiver.

## 19. GENERAL

- a) NIUM may amend these Terms & Conditions by giving the Customer written notice of any amendment 30 days prior to the effective day. NIUM may suspend any of the Services in whole or in part to facilitate the amendment.
- b) NIUM, to the extent reasonably practical, will notify the Customers of any change to a part or a whole of the Services on the website and /or other media prior to the introduction. In the event that NIUM ceases to provide any of the Service, NIUM will take the necessary procedures in accordance with the Payment Service Act, and will post a notice on the NIUM website at least 30 days in advance.
- c) In the event that any of the provisions contained in these Terms & Conditions are found to be invalid or unenforceable, such provisions shall be deemed deleted, and the validity and enforceability of the remaining provisions shall continue unimpaired.
- d) If a party fails to exercise or delays in exercising any right under these Terms & Conditions, by doing so it does not waive such right. The rights provided in these Terms & Conditions do not exclude other rights provided by law.
- e) The Customer may not assign or otherwise transfer, loan, pledge or otherwise establish any right of a third party on, its rights or obligations under these Terms & Conditions or any transaction, without the express written consent of NIUM.
- f) The parties agree to the electronic recording by either party of telephone or internet conversations between the parties with or without an automatic tone warning device, and the use of such recordings as evidence by either party in any dispute or anticipated dispute between the parties or relating to dealings between the parties. Customers shall be permitted access to such tapes within a reasonable period after the date of the relevant telephone conversation and shall be liable to NIUM for all reasonable costs in retrieving and providing such tape.
- g) The Customer acknowledges and agrees that NIUM is permitted to carry out an electronic database search and search credit reference agencies in order to verify the Customer's identity and credit standing. If such searches are carried out, NIUM may keep records of the contents and results of such searches in accordance with all current and applicable laws.
- h) NIUM reserves the right to collect such information as is necessary and required from the Customer to meet its obligations under applicable sanctions and Anti-Money Laundering/Counter-Terrorism Financing legislation and regulations or any other laws or regulations (hereinafter, "AML Regulations"). NIUM may pass on information collected from the Customer and relating to transactions as required by the AML Regulations and is under no obligation to inform the Customer it has

done so. NIUM may undertake all such AML Regulations checks in relation to the Customer (including restricted lists, blocked persons and countries lists) as deemed necessary or appropriate by NIUM, and reserves the right to take any action with regard thereto with no liability whatsoever therefore. The Customer undertakes not to knowingly do anything to put NIUM in breach of any of the provisions contained in the AML Regulations. The Customer undertakes to notify NIUM should the Customer become aware of anything that would put NIUM in breach of any such applicable laws and regulations.

- i) As and when requested, the Customer undertakes to provide additional information and assistance and comply with all reasonable requests to facilitate NIUM's compliance with AML Regulations.
- j) The Customer confirms that it is not aware of any fact that and have no reason to suspect that:
  - I. the money it is transferring is derived from or related to money laundering, terrorist financing or any other criminal activities (“Illegal Activities”);
  - II. the money it is transferring will be used to finance, or in connection with, any Illegal Activities; and
  - III. Any transaction, contract or deal the Customer enters into with NIUM does not, in any respect, breach sanctions.
- k) NIUM reserves the right to provide all such information regarding the Customer in relation to its obligations to, or in response to any requests (whether legally binding or not) by, a relevant regulatory body.
- l) The Customer authorises NIUM to provide any relevant information about the Customer to a credit-reporting or debt collection agency before NIUM can provide the Customer with its services and also in relation to the recovery of any overdue payments.

## 20. PRIVACY

- a) In order to provide the Customer with these services, NIUM needs to collect personal information about the Customer. If the Customer does not provide the requested information or agree to the information handling practices detailed in these Terms & Conditions, NIUM may be unable to provide the services outlined in these Terms & Conditions to the Customer.
- b) The Customer shall ensure that all information provided to NIUM is accurate and up to date at all times. Any changes must be advised to NIUM as soon as practicable.
- c) The Customer authorises NIUM to collect, use, store or otherwise process any personal information for purposes set out in NIUM’s privacy notice which can be found [here](#). The Customer further agree that NIUM may disclose the Customer’s personal information to Travelex and Travelex may use the Customer’s personal information in accordance with its privacy notice, which is available at: [Travelex page](#).

## 21. NOTICES

All communications relating to these Terms & Conditions shall be in writing and delivered electronically to the party concerned. Any such communication shall take effect if sent by electronic mail, at the time of transmission (and receipt of confirmation). For the purposes of these Terms & Conditions, notices to the Customer shall be sent to the e-mail address provided by the Customer to NIUM. Notices to NIUM shall be directed to the customer support desk.

## 22. Governing Law and Court of Competent Jurisdiction

- a) These Terms & Conditions and the Services shall be governed by and construed in accordance with the laws of Japan.
- b) The Tokyo District Court shall have the exclusive jurisdiction to hear any litigation related to these Terms & Conditions and the Services arising between NIUM and the Customers at the first instance.
- c) For the avoidance of doubt, the Customer’s relationship with NIUM and the operation of all Accounts in connection with foreign exchange transactions and the implementation of all instructions shall be subject at all times to applicable laws, provided that any breach of any applicable laws shall not relieve the Customer of its obligations under these Terms & Conditions. NIUM may take or refrain from taking any action whatsoever, and the Customer shall do all things required by NIUM, in order to procure or ensure compliance with applicable laws.

## Overseas Remittance Service

### 23. Contents of the Services

- a) NIUM as a type II Money Transfer Service Provider of Japan will execute remittance orders taken in whole based on the Customer's instructions for the amount specified by the Customer (Remitter) to the beneficiary in foreign countries nominated by the Customer based on the remittance instruction submitted by the Customer who is in Japan and in accordance with these Terms & Conditions (hereinafter, “Overseas Remittance Service”). A remittance service agreement for the Overseas Remittance Service shall be established between NIUM and the Customer upon the Customer's submission of a remittance request through a Co-Branded Site or mobile phone application facility and NIUM's receipt of the remittance amount and the transaction fees set forth in Article 25 from the Customer.
- b) Even in the event NIUM outsourced operations involved in the performance of the Overseas Remittance Service to third

parties under Article 10, the remittance service agreement set forth in the preceding section shall remain effect between NIUM and the Customer and shall not affect the rights and obligations of NIUM and the Customer.

#### **24. How to Use Overseas Remittance Service**

- a) The Customer shall inform NIUM of following information. NIUM reserves the right to ask further information to complete the transaction.
  - I. Remittance Amount and Currencies
  - II. Beneficially Name
  - III. Details of Delivery Method including Beneficiary's Financial Institution, Branch, Account Number
  - IV. Purpose of Remittance
  - V. Source of Funds
- b) The Customer shall specify the amount to remit by submitting a remittance request to NIUM by one of the following methods;
  - I. Designation of amount receivable: The Customer will specify the amount receivable in the local currency of the Payee, and the remittance amount in the local currency of the Customer will be calculated based on such amount receivable.
  - II. Designation of remittance amount: The Customer will specify the remittance amount in the local currency of the Customer, and the amount receivable in the local currency of the Payee will be calculated based on such remittance amount.
- c) The exchange rate for Overseas Remittance Service is determined based on the actual exchange rate TTM linked together with market rate provided by Reuters at the time of transaction, and with addition of FX Spread at the time of transfer which is 3% at maximum of the amount of transaction unless otherwise agreed. The exchange rate used for the calculation depends on a Target Country and currency. NIUM assumes no liability for any reduction to the amount receivable as a result of fluctuations in the currency exchange market.
- d) After submitting a remittance request, the Customer shall transfer the remittance amount and transaction fees set forth in Article 25 to the bank account designated by NIUM.
- e) In case the Customer has funded an excess amount, the Customer will have such excess amount refunded to his or her bank account. In this case no refund fees are charged to Customers. (However, for refunds due to the causes on Customers' side, FX loss is borne by the Customers.)
- f) The upper transaction limit for Overseas Remittance Service is 1,000,000 yen (not including transaction fees) or the foreign currency equivalent thereof. The maximum amount to be received by the Payee in local currency varies in accordance with the exchange rate applied at the time of remittance processing by NIUM. The lower transaction limit is 5,000 yen under the same or equivalent conditions.
- g) NIUM executes the Overseas Remittance Services when NIUM receives the remittance amount and the fees and completes the necessary checks.
- h) The fund transferred by the Customer to NIUM will be refunded to the Customer through the payment option selected by the Customer in either one of the events I to III described below:
  - I. the remittance request has been cancelled by the Customer or refused by NIUM;
  - II. a bank used at the time of providing the Service refuses the remittance transaction because of the incorrectness of the information provided by the Customer, necessity of regulation, or any other legitimate reasons; or
  - III. remittance is impossible because the account of the payee is invalid. In this case no refund fees are charged to Customers.However, for refunds due to the causes on Customers' side, FX loss is borne by the Customers.
- i) The Customer may not cancel the Overseas Remittance Service transaction after NIUM starts to execute the process. The Customer may access the Co-Branded Site or mobile phone application facility to see the current process of the request and transaction history.
- j) NIUM has a right to refuse a remittance request at its discretion, and may refuse a remittance request if the Customer's registered name or address, etc. does not match the Customer's payment details (e.g. bank account details). In this case, the amount transferred by the Customer to NIUM will be refunded to the Customer. No refund fees are charged to Customers. (For refunds due to the causes on Customers' side, FX loss is borne by the Customers.)

#### **25. Transaction Fees**

NIUM will charge maximum of JPY 600 as the transaction fee for Overseas Remittance Service. The actual transaction fee will be displayed on the screen of the Co-Branded Site or mobile phone application facility when a remittance request is made.

#### **26. Issuance of Receipts**

- a) In the event that the Customers submit a remittance request and a remittance service agreement is established under the provisions of these Terms & Conditions, NIUM will issue an electronic receipt to the Customer detailing the contents of the remittance request and the remittance amount, etc.
- b) The Customers shall agree in advance that NIUM may provide the receipt referred to in the preceding Section to the

Customers by email or display on the Website or the app. The Customers may withdraw such agreement in the manner designated by NIUM, in which case NIUM provides the Customer with the receipt in the manner designated by NIUM. On issuing such receipts, fees may be charged on the Customer.

**27. Standard Performance Period**

The standard performance period up until receipt of the money in the Payee's account is 1 to 2 Business days from the time the funds are remitted to NIUM's bank account from the Customer's bank account. The detailed performance period will be displayed on the screen when a remittance request is made.