



**PAYMENTS**

## **Financial Institution Addendum**

**13 September 2024**

These terms may apply when you use our services for certain activities as described below.

Please read these terms carefully and retain a copy for your reference.

The latest version of these terms are available on our website.

## FINANCIAL INSTITUTION ADDENDUM

This addendum (**Addendum**) supplements any agreement in place between the Customer and IFX governing the use of the Services (together the **Agreement**).

This Addendum applies to Customers offering professional services involving the investment, lending, management or processing of money and other assets (**Financial Services**) and shall become effective upon the Customer receiving or agreeing to receive all or any of the Services. Should any member of the Customer's Group receive or benefit from the Services, it is the Customer's responsibility to ensure that the Group company complies with this Addendum.

### 1. INTERPRETATION

1.1. The following definitions and rules of interpretation apply in this Addendum:

**AML Laws:** means all applicable anti-money laundering legislation, directives, guidance and regulations from time to time, including but not limited to:

- the Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005), the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001) and the Terrorism Act 2006, with respect to the laws of England and Wales; and
- the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c.17), and the associated regulations, including, the Suspicious Transaction Reporting Regulations (SOR/2001-317), Cross-Border Currency and Monetary Instruments Reporting Regulations (SOR/2002-412), the Registration Regulations (SOR/2007-121) and the Administrative Monetary Penalties Regulations (SOR/2007-292), with respect to the laws of Canada.

**Applicable Law:** means the laws or regulations of the United Kingdom, the EU, Canada or any country to which each party's affairs or those of any of its Group companies are subject from time to time and/or an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction.

**Available Information:** means any and all data, reports, documentation and such other information relating to or in connection with the Onward Services.

**Business Day:** means a day (other than a Saturday or Sunday or public holiday) when banks are open for the transaction of normal banking business in London, United Kingdom.

**CDD:** means client due diligence.

**Cryptoasset:** means a digital representation of value or rights which may be transferred and stored using cryptography and distributed ledger technology (or similar technology).

**Customer, you:** means the person(s) receiving any of the Services from IFX pursuant to the Agreement.

**EEA:** means the European Economic Area.

**End Client:** means persons who have entered into an agreement with you or are otherwise in receipt of your services.

**EU:** means the European Union.

**Group:** means in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group.

**Ibanq:** means IFX's multi-currency payment platform.

**IFX, we:** means IFX (UK) Limited incorporated and registered in England and Wales with company registration number 05422718, trading as IFX Payments.

**KYC:** means "know-your-client".

**Mandatory Minimum Balance Account:** means an account which will hold the Mandatory Minimum Balance.

**Mandatory Minimum Balance:** means the mandatory minimum balance amount as agreed between you and IFX in writing.

**OFAC:** means the Office of Foreign Assets Control.

**Onward Services:** means the services provided by the Customer (or other entities within the Customer's Group) to the End Client which make use of, are reliant on or are associated with the Services.

**Order:** means when you wish to effect a currency exchange.

**Payment Instructions:** means when you instruct us to make a payment.

**Prohibited Jurisdictions:** means Cuba, Iran, North Korea, Syria, OFAC prohibited jurisdictions and/or such other additional jurisdictions notified by IFX to you from time to time.

**Prohibited Sectors:** means adult entertainment, casinos, Cryptoassets, money service businesses, offshore banking, shell companies, cash businesses, correspondent banking and/or such other sectors or firms notified by IFX to you from time to time. For the avoidance of doubt, this definition includes any engagement with any activities analogous to the Prohibited Sectors, such as dealing in Prohibited Sector-related products or services.

**PSP:** means a payment service provider.

**Regulated Provider:** means a Customer where such entity is subject to oversight by a Regulator.

**Regulator:** means (i) the Financial Conduct Authority (or any successor United Kingdom financial regulator); (ii) the Financial Transactions and Reports Analysis Centre of Canada (or any successor Canadian financial regulator) or (iii) the equivalent regulator of financial services in a relevant jurisdiction from time to time.

**Services:** means the services received or to be received by the Customer or its Group under the Agreement. For the avoidance of doubt, these may include (i) ibanq services, (ii) telephone-brokered foreign exchange services, (iii) e-wallet services, (iv) read-only ibanq services (or any analogous service) or (v) any other service IFX may offer from time-to-time.

**White Label Services:** means a product or service developed by a Regulated Provider which is then rebranded or co-branded and provided by a different entity (which may or may not be a Regulated Provider) to an End Client.

1.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.3. A reference to a party includes its successors and permitted assigns.

1.4. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1.5. Any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

### PART 1

*Part 1 of this Addendum applies if and so long as the Financial Services are provided as part of the Onward Services. The applicability of Part 1 of this Addendum to the Customer shall be determined by IFX in its sole discretion.*

### 2. PROVISION OF INFORMATION

2.1. IFX and/or its banking partners may require the Customer to provide it with Available Information in order for IFX to discharge its obligations under Applicable Laws. Should IFX require the Customer to provide Available Information, the Customer will acknowledge any such request within 2 Business Days and provide a substantive response within the timeframes outlined in IFX's request.

2.2. IFX is under an obligation to comply with AML Laws and may therefore request any information and documentation it reasonably deems necessary (in its sole discretion) to satisfy its obligations from time to time. This may relate to the Customer and/or any End Client. The Customer will acknowledge any such request within 2 Business Days and provide the requisite information or documentation. If the Customer fails to provide such information or documents within 10 Business Days of IFX's request, IFX may elect (in its sole discretion) to cancel the relevant Payment Instruction without further notice to the Customer. IFX shall have no liability to the Customer whatsoever in the event it cancels a Payment Instruction in accordance with this clause.

2.3. Should the information and/or documentation requested by IFX in accordance with clause 2.2 be outside of the Customer's remit and/or control, the Customer shall use all reasonable endeavours to obtain such information and documentation and shall keep IFX fully informed of the steps it is taking and progress made in connection with the same.



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2.4. IFX may, in order to assess the Customer's compliance with this Addendum, from time to time:

- (i) undertake audit(s) on the Customer; or
- (ii) appoint an independent third-party to undertake audit(s) on the Customer and produce a report of the findings; or
- (iii) instruct the Customer to conduct audit(s) and provide IFX with the results; or
- (iv) instruct the Customer to appoint an independent third-party auditor to undertake audit(s) on the Customer and produce a report of the findings for IFX's review;

(each an **Audit**).

2.5. The Customer shall:

- (i) comply with IFX's instructions in connection with the Audit from time to time;
- (ii) subject to Applicable Law, provide IFX (and/or any applicable third-party) the necessary access to all documentation and information required to conduct the Audit; and
- (iii) co-operate with IFX (and/or any applicable third-party) and provide all reasonable assistance to IFX (and/or any applicable third-party) in connection with the Audit.

### 3. ONGOING OBLIGATIONS

*Customers providing Financial Services to End Clients are categorised as high risk by IFX.*

3.1. The Customer undertakes that it will carry out all necessary KYC and CDD checks on each End Client and comply at all times with AML Laws.

3.2. The Customer undertakes to IFX that it shall notify IFX immediately:

- (i) upon becoming aware of any actual or suspected breach of AML Laws by the Customer or the End Client;
- (ii) of any direct or indirect change of control of the Customer;
- (iii) of any changes to the structure of its Group;
- (iv) of any change to any ultimate beneficial owners holding directly or indirectly 25% or more of the shares or voting rights in the Customer;
- (v) of any change to the right to appoint or remove a majority of its board of directors (whether directly or indirectly); and
- (vi) of any change to its officers or directors.

3.3. The undertakings in this clause 3 shall continue if and for so long as the Customer has access to the Services.

3.4. For any sub-accounts opened and held by IFX on behalf of the Customer's End Client(s), the Customer shall ensure the full legal name of the respective End Client is included in the account name.

### 4. ONGOING RESTRICTIONS

4.1. The Customer undertakes to IFX that, it shall not:

- (i) directly or indirectly process any payments or Orders through the Services relating to any Prohibited Sectors; or
- (ii) directly or indirectly service any End Client operating as or in any Prohibited Sector; or
- (iii) directly or indirectly process any payments for or on behalf of End Clients who are based in Prohibited Jurisdictions; or
- (iv) grant an End Client access to the Services without the prior written consent of IFX.

4.2. The undertakings in this clause 4 shall continue if and for so long as the Customer has access to and/or receives the Services.

### 5. WARRANTIES

5.1. The Customer hereby warrants and represents to IFX, that:

- (i) it holds all licences, consents, permits and authorities necessary to carry on the services it provides to the End Client (the **Consents**);
- (ii) each of the Consents is valid and subsisting and there is no reason why any of the Consents may be revoked, suspended or cancelled (in whole or in part);
- (iii) it complies with any applicable safeguarding obligations as prescribed under the Electronic Money Regulations 2011, the Payment Services Regulations 2017, the Payment Services Directive (EU) 2015/2366 (PSD2), the E-money Directive 2009/110/EC (EMD) and/or the equivalent

safeguarding legislation in its respective jurisdiction (together the **Safeguarding Laws**);

- (iv) it can evidence the measures employed in order to safeguard in accordance with the legislation referenced in Clause 5.1(iii); and
- (v) it acts in accordance with all Applicable Laws,

(each a **Warranty** together the **Warranties**).

5.2. Each of the Warranties shall be deemed to be repeated on each day that this Addendum is subsisting, by reference to the facts and circumstances then subsisting.

5.3. The Customer shall immediately notify IFX if it becomes aware of a fact or circumstance which constitutes (or which is reasonably expected to constitute) a breach of Warranty, or which would cause (or is reasonably expected to cause) a Warranty to be untrue, inaccurate or misleading.

### 6. AUTHORISED PUSH PAYMENT SCAMS

6.1. The Customer hereby undertakes to IFX, that:

- (i) it complies with any applicable authorised push payment scam (**APP Scam**) regulations, including but not limited to those issued by the Payment Systems Regulator, Pay.UK and any other relevant regulatory authority (as amended from time to time) (**APP Scam Regulations**);
- (ii) if it is agreed with IFX in advance in writing that the Customer is not in scope of the APP Scam Regulations;

(a) the Customer shall sign an attestation in a form acceptable to IFX, confirming the Customer's status as outside of scope of the APP Scam Regulations, which IFX may request to be updated or supplemented from time to time;

(b) the Customer shall immediately notify IFX if it becomes aware of a fact or circumstance which may result in the Customer being in scope of the APP Scam Regulations; and

(iii) the Customer agrees and acknowledges that IFX may place limitations on the Customer's use of the Services or provision of Onward Services (such as limiting payments out in certain currencies in scope of the APP Scam Regulations and/or to select beneficiaries only);

(iv) it will be liable to IFX for any losses or expenses suffered by IFX in connection with reimbursement under the APP Scam Regulations where they relate to the Customer's account, the Customer's End Clients and/or the Customer's provision of Onward Services. For the avoidance of doubt, the Customer shall have no right of dispute under this provision where IFX can show evidence of the loss relating to the Customer's account, End Client or provision of Onward Services.

6.2. The Customer agrees that:

- (i) if requested by IFX, it will open a Mandatory Minimum Balance Account and maintain the Mandatory Minimum Balance in that account for the term of this Agreement; and
- (ii) subject to clause 6.1(iv), where IFX suffers any loss in connection with reimbursement under the APP Scam Regulations in relation to the Customer's account, the Customer's End Clients and/or the Customer's provision of Onward Services, IFX shall have the right to debit the Customer's Mandated Minimum Balance Account without notice for that amount.

6.3. The Customer acknowledges and agrees that, where the Customer is in breach of any provision of this clause 6 or if the Customer or its End Clients are found to have been involved in or connected with an APP Scam or other fraudulent activity, IFX shall have the right to exercise its rights under clause 9.1.

### 7. INDEMNITY

7.1. Without prejudice to any other right or remedy available to IFX in the Agreement or at law, the Customer undertakes to indemnify IFX against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) which IFX sustains or incurs (including any cost incurred in enforcing this indemnity) arising from or in connection with (i) the Customer's provision of Onward Services, and/or (ii) any breach of this Addendum by the Customer, and/or (iii) any act or omission by the Customer, the Customer's personnel or the Customer's End Clients in connection with the Customer's use or receipt of the Services, and/or (iv) a claim for reimbursement under the APP Scam Regulations in relation to payments made to or from the Customer or its End Clients.

### PART 2



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*In addition to Part 1 of this Addendum, Part 2 of this Addendum applies if and for so long as the Customer is a Regulated Provider and is subject to oversight by a Regulator. The applicability of Part 2 of this Addendum to the Customer shall be determined by IFX in its sole discretion.*

### 8. ADDITIONAL OBLIGATIONS AND RESTRICTIONS

8.1. A Regulated Provider must update IFX immediately should there be any change to the terms of its licence granted by the Regulator. This shall include, for the avoidance of doubt, revocation of its licence.

8.2. A Regulated Provider must be fully regulated in its own right, in the United Kingdom, the EEA or an approved non-EEA jurisdiction in accordance with IFX's internal policies and procedures. The Regulated Provider shall not seek to rely on the regulated status of another entity as an agent or representative.

8.3. A Regulated Provider must not provide Onward Services to another regulated financial services provider or another entity providing Financial Services (**FI End Client**), unless that FI End Client utilises the Onward Services exclusively with their own treasury or operational funds. For example, a PSP must not service an End Client which is a PSP (**PSP End Client**) where the PSP End Client utilises the Onward Services to facilitate payments for their own clients.

8.4. Payments or Orders made through the Services must relate to the Regulated Provider or the Regulated Provider's immediate client (being the End Client). Payments or Orders which include two or more "layers" are prohibited by IFX.

8.5. A Regulated Provider must not provide White Label Services, through or in connection with the Services.

8.6. The Customer understands and agrees that ibanq, and certain other of the Services, are not suitable for use by retail clients. The Customer warrants and represents that it has not, and will not at any time, grant any End Client access to the Services. In the event any End Client is in direct receipt of Services (or if the Customer attempts to grant such access to its End Clients), IFX is permitted to immediately terminate this Agreement and cease providing the Services to the Customer without notice. For the avoidance of doubt, nothing in this clause shall prohibit the Customer from servicing such End Clients via ibanq's sub-account infrastructure.

8.7. A Regulated Provider is mandated to safeguard customer's funds, as captured by the Safeguarding Laws, where applicable. A Regulated Provider is required to safeguard customer funds via two permitted methods (i) the segregation method, and/or (ii) the insurance or guarantee method. Please note, IFX does not safeguard on behalf of a Regulated Provider, in respect of its customers' funds, and is not required to monitor a Regulated Provider's compliance with its Safeguarding Laws.

### PART 3

*The terms set out in Part 3 of this Addendum are applicable to all Customers subject to this Addendum.*

### 9. GENERAL

9.1. **Termination.** Should the Customer fail to comply with or breach the terms of this Addendum, IFX may, in its sole discretion (i) terminate the Addendum; (ii) temporarily suspend access to all or any accounts held by the Customer; (iii) suspend, investigate or reject any transactions, Payment Instructions or Orders submitted to IFX via the Services; and/or (iv) permanently close all or any accounts held by the Customer.

9.2. **Term.** This Addendum shall cease to apply upon permanent closure of accounts held with IFX by the Customer. Termination or expiry of this Addendum shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Addendum which existed at or before the date of termination or expiry.

9.3. **Survival:** Clauses 1, 6, 7 and 9 and any other term that is expressly or by implication intended to continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

9.4. **Assignment.** IFX may assign or transfer its rights this Addendum to any other member of its Group. Save as set out in this clause 9.4, no party shall assign, transfer, mortgage, charge, declare a trust of, or deal in any other manner with any or all of its rights and obligations under this Addendum.

9.5. **Third Party Rights.** No one other than a party to this Addendum, their successors and permitted assignees, shall have any right to enforce any of its terms.

9.6. **Waiver.** No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or

remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

9.7. **Governing Law and Jurisdiction.** This Addendum and all disputes or claims (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Addendum or its subject matter or formation.