

Terms of Service XEROF

- Preamble**
XEROF is an online exchange and money transmitting business provided by FE Swiss Financial AG, with legal seat in Zug designed to enable Users to settle the purchase price or part of the purchase price of goods, services or contributions in digital assets and the Recipient to receive the purchase price or part of the purchase price in FIAT ("XEROF Services"). User is a legal entity or individual person who desires to use the XEROF Services to settle the purchase price or part of the purchase price of goods, services or contributions in digital assets. By accessing the XEROF Website and using the XEROF Services User agrees and accepts these Terms.
- 1. Definitions**
"Recipient" shall mean the designated recipient of the Transaction.
"Recipient Bank Account" shall mean the bank account of the Recipient designated by User.
"Terms" shall mean these terms of service.
"Transaction" shall mean the transaction from User to Recipient for the purpose of settlement of a purchase price or part of the purchase price of goods, services or contributions provided by the Recipient to the User.
"Transaction Amount" shall mean the amount of digital assets transferred from User to the XEROF User Wallet.
"Transaction Information" shall mean the information provided by User to XEROF necessary to perform the Transaction as requested by XEROF (such as amount and type of User Digital Assets which shall be used for the Transaction, PUK of the User from which the User Digital Assets will be transferred to XEROF, contact details from Recipient, information regarding the underlying purchase, Recipient Bank Account details and FIAT currency in which the Recipient should receive the funds).
"User Account" shall mean the account of the User accessible via the XEROF Website.
"User Account Access Data" shall mean information and data necessary to log-in to User Account.
"User Digital Assets" shall mean digital assets of the User used to execute the Transaction.
"User Information" shall mean the information requested on the XEROF Website to create a User Account.
"XEROF User Wallet" shall mean an individual and on-chain segregated wallet held by XEROF for a User to perform the Transaction.
"XEROF Website" shall mean the website www.xerof.com.
- 2. XEROF Services**
XEROF provides a simple and convenient way to settle the purchase price of goods, services or contributions provided by the Recipient to the User ("XEROF Services").
- 3. Onboarding as a User**
3.1 Setting up a User Account
In order to use the XEROF Services, User needs to set up a User Account by providing User Information on the login interface on the XEROF Website and accepting these Terms.
3.2 KYC/AML Process
Once User has submitted User Information User must complete certain verification procedures ("KYC-Check") which will be conducted by XEROF or a KYC/AML partner of XEROF ("KYC Service Provider"). Additional KYC-Checks may be performed before each Transaction. User acknowledges that pursuant to any applicable anti-money laundering, anti-terrorist financing, government sanction and "KYC"-laws, whether within Switzerland or elsewhere (collectively, including any guidelines or orders thereunder, the "AML Legislation"), XEROF or its KYC Service Provider may be required to obtain, verify and record information regarding User, User's directors, User's partners or User's authorized signing officers and the Transaction (e.g. source of funds) contemplated by these Terms. User undertakes to promptly provide or cause to be provided to XEROF or to KYC Service Provider all required information, including supporting documentation and other evidence, as may be reasonably requested by XEROF or its KYC Service Provider, in order to complete XEROF's or the Service Provider's KYC-Check to ensure compliance with applicable AML Legislation, whether now or hereafter in existence. The same applies in case one of XEROF's bank or Recipient Bank requires additional information regarding the source of funds of deposits/transactions made or intended to be made by XEROF. User understands that the outcome of the KYC-Check, e.g. the non-admission of the Transaction, or his exclusion at any time later, lies in the sole discretion of XEROF and/or the KYC Service Provider. User further understands that the amount of information requested to provide as part of the KYC-Check may be subject to change over time and that you may at a later point in time be required to provide additional documents and/or information, based on which your Transaction may be rejected.
XEROF or the KYC Service Provider may designate the KYC-Check process to a KYC Service Provider. All documents and information submitted by the User may be sent to one or more KYC Service Provider for review.
3.3 Login Details for User Account and Transaction Fee
If the initial KYC-Check was successful, User will receive User Account Access Data and information regarding the Transaction Fee applicable for the User.
User shall not be permitted to make these User Account Access Data available to third parties and User is responsible for any use and activities in connection with the User Account. User shall inform XEROF immediately if User becomes aware of any unauthorised access to his User Account.
- 4. Performance of the Transaction**
In order to perform a Transaction, User shall designate the type of transaction which should be processed by XEROF by providing the Transaction Information in the respective form in its User Account ("Transaction Order"). XEROF may perform an additional KYC-Check for each and every Transaction Order.
Upon successful completion of the KYC-Check the User shall transfer User Digital Assets to the XEROF User Wallet. XEROF will confirm receipt of the funds by displaying them in the respective User Account. Before performing the exchange of the User Digital Assets XEROF in the FIAT currency and the Transaction Order, XEROF will propose to the User, whether or not, to what conditions the exchange shall be performed ("Exchange Confirmation"). The User shall confirm the Exchange Offer ("Exchange Confirmation"). By providing the Exchange Confirmation the User authorizes XEROF to execute the Exchange Offer and charge the User any applicable fees (as described in Section 5). XEROF will perform the exchange and transfer the FIAT amount to the Recipient Bank Account, whereas the actual exchange rate may be different from the prevailing rate indicated via the Exchange Offer. If the exchange rate from the Exchange Offer deviates, to the User's detriment, substantially from the exchange rate when the exchange may be executed (at least 1 %) XEROF will not execute the exchange ("Failed Exchange"). In such case XEROF informs User accordingly and provides a new Exchange Offer.
- 5. Fees**
The fee to be paid by User to XEROF for performance of the Transaction will be calculated as a percentage of the Transaction Amount ("Transaction Fee") and becomes due and payable upon placing the Transaction Order. By placing the Transaction Order the User accepts the Transaction Fee as designated by XEROF.
In addition to the Transaction Fees, additional expenses, interests, charges, commissions, mark-ups or taxes may occur for the execution of the Transaction ("Third Party Fees"). XEROF will inform User in advance about such Third Party Fees.
User authorizes XEROF and XEROF's designated payment processor to deduct the Transaction Fee and any applicable Third Party Fees from the Transaction Amount before transferring the Transaction Amount to the Recipient Bank Account.
Once the Transaction is executed a confirmation of the Transaction will be electronically made available via the User Account detailing the particulars of the Transaction (in particular all relevant fees).
- 6. Cancellation of the Transaction**
Both parties may, at any time before the Transaction Amount is transferred to the Recipient Bank Account, cancel the Transaction without any reasons.
If the Transaction is cancelled by one of the parties or the Transaction may not be successfully executed for any other reason (e.g. any of the involved banks refuses the Transaction) the Transaction shall be reversed. If the User Digital Assets have at the time of cancellation already been exchanged, the FIAT amount will be exchanged to the currency of the User Digital Assets again before the assets are provided to the User, whereas XEROF may in its own discretion decide when the exchange shall be executed.
XEROF shall not be liable for any currency loss, Third Party Fees or costs of additional transactions of a reversed transaction unless XEROF has cancelled the Transaction without valid reasons. In all other cases User shall carry any and all costs and losses (e.g. currency losses) of the cancelled transaction and XEROF is entitled to deduct all such costs before transferring the remaining Transaction Amount to User.
If the Transaction is cancelled by XEROF without valid reasons, no Transaction Fee is due. If the Transaction is cancelled by XEROF for valid reasons, the Transaction is cancelled by User or the Transaction is not successfully executed for any other reason a reduced Transaction Fee of 50 % of the Transaction Fee ("Reduced Transaction Fee") is due and XEROF shall be entitled to deduct this Reduced Transaction Fee from the Transaction Amount before the Transaction shall be reversed.
- 7. Risks**
The User understands and accepts the risks connected to digital assets, the Transaction and the XEROF Services. In particular, but not exhaustively, the User understands the inherent risks listed hereinafter:
• Risk of Theft: The Client understands and accepts that the digital assets used for the Transaction may be exposed to attacks by hackers or other individuals that could result in theft or complete loss of the digital assets of the User.
• Risk of Mining Attacks: The User understands and accepts that, the blockchain is susceptible to attacks, including but not limited to denial of service attacks, exploits of consensus nodes, and byzantine attacks on the consensus nodes. Any successful attacks present a risk to the performance of the XEROF Services.
• Risk of Transaction Verification: The User understands and accepts that the Transaction may be delayed or not be executed due to the transaction volume on the respective blockchain, mining attacks and/or similar events.
• Risk of Software Weaknesses: The User understands and accepts that the relevant blockchain, the underlying software application, and software platform may still be in an early developmental stage and unproven. The User acknowledges that there is an inherent risk that the software could contain weaknesses, vulnerabilities or bugs causing, inter alia, a complete loss of the digital assets for the Transaction.
• Prices and Availability: The User understands and accepts that all prices during the Suggested Exchange reflect the exchange rates of Broker/Exchange applicable to the sale of the User Digital Assets available on the Xerof User Wallet. Particularly during periods of high volume, illiquidity, fast movement or volatility in the marketplace for any digital assets, the actual market rate at which the exchange is executed may be different from the prevailing rate indicated via the Exchange Offer.
- 8. Warranties of User**
By accepting these Terms, User represents and warrants that:
• he/she is the sole legal and ultimate beneficial owner of the User Digital Assets used for the Transaction;
• he/she may only use the User Account and the XEROF Services for the contractually agreed purpose, which is the settlement of a purchase price of goods, services or contributions provided by the Recipient to the User. In particular, using the User Account and the XEROF Services for currency exchange services (this includes the exchange of fiat money into digital assets and vice versa) and any transfer of money and assets not serving as a payment by the User to Recipient for goods, services or contributions rendered by the Recipient to the User is strictly forbidden.
• he/she will use the XEROF Services and User Account only for himself/herself, and not on behalf of any third party, unless you have obtained prior approval from XEROF. Each User may register only one User Account.
• he/she is fully responsible for all activity that occurs under the User Account. XEROF may, in its sole discretion, refuse to open a User Account for a User, or fully or partially suspend or terminate any User Account.
• he/she is not using XEROF Services for any illegal purposes.
• he/she has a deep understanding of the functionality and transmission mechanisms of blockchain-based software digital assets.
• that all information provided within any registration or KYC-Check linked to his User Account is true and accurate.
• the User Digital Assets used for the Transaction are (i) good, clear, clean and are of non-criminal origin; (ii) completely free and clear of any liens or encumbrances of any kind of any rights of third-party interests; and (iii) have no origins that may be connected to any breach of money laundering regulations whatsoever, as defined in the jurisdiction of origin, or internationally.
• he/she is not being or associated with any person or entity being listed, on any of the US Department of Commerce's Denied Persons or Entity List, the US Department of Treasury's Specially Designated Nationals or Blocked Persons Lists, the US Department of State's Debarred Parties List, the EU Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions or the Swiss SECO's Overall List of Sanctioned Individuals, Entities and Organizations.
• he/she is not a citizen or resident of the United States of America, nor a person subject to US taxation based on the Foreign Account Tax Compliance Act (FATCA), nor resident of, citizen of or located in a geographic area that is subject to UN-, US-, EU-, Swiss or any other sovereign country sanctions or embargoes.
- 9. Warranties of XEROF**
XEROF is a company duly organized, validly existing and in good standing under the laws of Switzerland and has all requisite corporate power and authority to carry on its statutory purpose and operation as now conducted and as presently proposed to be conducted.
XEROF has all requisite power and authority to execute and deliver the obligations under these Terms.
The representations and warranties in these Terms are final. Apart from these representations and warranties there are no express or implied representations or warranties respecting these Terms and/or XEROF Services.
- 10. Liability**
XEROF carries out the XEROF Service with reasonable care.
The liability of XEROF is limited to acts of intent and gross negligence and direct damages. Any liability for indirect damage or consequential damage including loss of profit is excluded. In particular, XEROF shall in particular not be liable for damages resulting from delayed or non-executed processing of Transaction Orders or from transfers of the User of digital assets on non-notified block chain addresses.
XEROF cannot guarantee that the XEROF Website and XEROF Services may be available all the time. XEROF Website and XEROF Services may be unavailable for various reasons, including routine maintenance. The User accepts that due to circumstances within or outside the control of XEROF the use of the XEROF Service may be interrupted, suspended or terminated. XEROF expressly excludes any liability for damages due to such circumstances. XEROF shall not be liable for any Failed Exchange and in particular any adverse exchange rates due to a Failed Exchange.
XEROF shall be liable for the acts or omissions of their subcontractors in the same way as for itself.
- 11. Confidentiality**
The Parties agree to hold each other's "Confidential Information" confidential for a period of three (3) years following the termination of the contractual relationship. The Parties agree, that unless required by law or required by a service provider (e.g. KYC Service Provider), they shall not make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purpose other than the implementation of these Terms. Each Party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of these Terms.
Confidential Information shall mean all material and information that has or will come into possession or knowledge of the other Party in connection with its performance hereunder and which in the ordinary course of business is considered to be treated confidential. A Party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other Party; (b) was in the other Party's lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on disclosure; (d) is independently developed by the other Party; or (e) is required to be disclosed by law or governmental regulation or by any competent body or authority provided that the recipient shall inform the disclosing Party of its obligation to disclose information, of the information to be disclosed and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before such disclosure must be made and shall take all reasonable actions to avoid and limit such disclosure. The Parties agree that the information duty under (e) shall not apply to disclosures towards tax authorities.
- 12. Data Protection**
Any use of your personal data is governed by our Privacy Policy which can be accessed in its most current version on the XEROF Website.
- 13. Intellectual Property**
User accepts that any and all rights (including copyrights, design rights and/or other intellectual property rights) of XEROF (in particular but not exclusively in the XEROF Website and the XEROF Services) shall remain in the sole property of XEROF. XEROF does not assign any right, title and interest in any and all work results created or developed by XEROF under this Agreement, including, but without limitation, all patents, copyrights, trade secrets and other proprietary rights.
- 14. Applicable Law and Jurisdiction**
These Terms shall be governed by and construed in accordance with Swiss law, excluding the Swiss conflict of law rules. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded.
Any dispute, controversy or claim arising out of or in connection with this Agreement or the breach, termination, existence, legal competence or invalidity thereof, shall be exclusively settled by the courts of Zug, Switzerland.
- 15. Miscellaneous**
These Terms do not create a principal or agent, employer or employee partnership, joint venture, or any other relationship except that of independent contractors between the Parties. Nothing contained herein shall be construed to create or imply a joint venture, principal and agent, employer or employee, partnership, or any other relationship except that of independent contractors between the parties, and neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other in connection with the performance hereunder.
No modification, amendment, supplement to or waiver of these terms, including this Section, shall be binding upon the parties hereto unless made in writing and duly signed by both parties.
Neither Party shall have the right to assign or transfer these rights and obligations under these Terms, in full or in part, to any third party without the prior written and express consent of the other Party. The Parties agree that any assignment or transfer in violation of this Section shall be null and void.
XEROF shall be entitled to use subcontractors to perform the obligations under these Terms.
XEROF reserves the right to change these Terms at any time, effective immediately upon accepted by the User upon the next login to the User Account.
These Terms contain the entire agreement between the parties regarding the subject matter hereof and supercedes all understandings and agreements whether written or oral.
If any provision of these Terms should be invalid in any jurisdiction under applicable law, the legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby. In such an event, the Parties commit themselves to compose a legally valid replacement rule which approaches the invalid provision as closely as possible within the economic intent of this Agreement. With this in mind, these Terms will be interpreted as though the invalid clause had been omitted from the outset.
If any Party waives the enforcement or exercise of its contractual right in a particular case, this may not be considered a general waiver of the respective right or any other contractual right or the exercise and enforcement thereof.