



# AXIS INC

## Margin Foreign Exchange (FX) and Contracts for Difference (CFDs) Client Agreement

Axis Inc. 24078 IBC 2017

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**MYFX** Markets

Axis Inc. Client Agreement  
Date: 28 October 2019

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## 1 INTRODUCTION

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These terms and conditions form part of the agreement between the client (**You, Your or Yourself**) and Axis Inc. (International Business Company Number 24078 IBC 2017) (**Axis, We, Our, Ourselves or Us**). They govern Our dealings with You in relation to Our Products and Services.

**You should carefully read this Agreement in its entirety, including all documents listed below, as well as Our Privacy Policy on Our website.**

The Agreement between You and Us is constituted by the following documents:

- The Application Form
- The Products Disclosure Statement (**PDS**)
- The Product Schedule; and
- The terms and conditions set out in this agreement, and any additional terms and conditions issued by Us and accepted by You in connection with Our dealings with You (together, the **Agreement**).

The following documents explain the basis of Our dealings with You but do not form part of the Agreement:

- Our Privacy Policy;
- Our Website, which includes Our Trading Platform.

**All transactions You enter into pursuant to the terms and conditions of this Agreement carry a high level of risk and can result in losses that exceed Your initial deposit.** A more detailed explanation of the risks is described in section 5 of the PDS (Risk Warning). You should ensure that You fully understand such risks before entering this Agreement and any transactions with Us.

By signing and returning or electronically submitting the Application Form or by taking any action consistent with agreeing to these terms and conditions, You are confirming that You:

- Have received, read and understood this Agreement, including Our current PDS; and
- Agree that We will provide Our Products and Services to You on the terms and conditions of this Agreement.

When We open an account for You, You will be bound by the Agreement in all Your dealings with Us. Contracts that arise out of the transactions We conduct with You under this Agreement are legally binding and enforceable.

You must therefore read this Agreement carefully and seek professional advice if necessary. You should particularly take note of the clauses which deal with Margin, those that set out the rights to terminate and/or close out a Position and those that relate to the termination of this Agreement and closing of Your Account, as You need to clearly understand these important terms and the implications arising from Your failure to comply with these terms.

## 2 GENERAL INFORMATION

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### 2.1 PRINCIPAL

We act as Principal in all Our dealings with You. Accordingly, We will be the counterparty to all of Your trades.

Unless We otherwise agree in writing, You will also deal with Us as principal, and not as an agent or representative of another person.

If You act on behalf of a principal, whether or not You identify that principal to Us, such Principal will not be a client and We do not deal with You unless We otherwise agree in writing (on satisfaction of Our requirements).

If You are a principal and wish to deal with Us through Your agent, You agree that We will be entitled to rely on any instructions given to Us by the agent in relation to Your Account. But, from time to time, We may require confirmation that the agent has the authority to act on Your behalf.

### 2.2 NO RECOMMENDATION, ADVICE OR OPINION

We do not make or give any recommendation, advice or opinion. We deal with You on an execution-only basis only. We do not take into account Your particular financial situation or goals. You should obtain Your own independent financial, legal, taxation and other professional advice before entering into this Agreement or any Margin FX Contract or CFD.

### 2.3 ALL TRADES AT YOUR OWN RISK

We are under no obligation:

- (a) To satisfy Ourselves as to the suitability of any Position for You (see section 2 of the PDS for Our general client suitability obligations);
- (b) To monitor or advise You on the status of any of Your Positions;
- (c) To prevent You from trading beyond Your means or ability or to protect You; or
- (d) To close any open Position.

All trades will, therefore, be made at Your own risk and to the maximum extent permitted by law, We will not be in any way liable for any claims, damages, losses (including consequential losses) or injury suffered or incurred by You as a result arising out of any statement, information, or communication provided by, or on behalf of, Us or any financial adviser:

- a. relating to a trade entered into, or proposed trade to be entered into by You under this Agreement; or
- b. In relation to any financial product that You may deal in under this agreement.

For further information on the risks associated with Our Products and Services, please refer to section 5 of Our PDS.

### 3 OUR TRADING SERVICE

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Our trading service is an online service. You specifically consent to the receipt of documents and information about Us and Our Services, costs and charges and Our notices via email, website or other electronic means. Upon Your request, We will send You the PDS in paper form at no charge.

You undertake that in the event that You are unable for any reason whatsoever to open or close a Position because of technical difficulties You may be having with Our Trading Platform, You will immediately telephone Us. Our contact details can be found on the "Contact Us" page of Our website.

### 4 DEFINITIONS

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In this Agreement, capitalised terms and expressions have, unless the context otherwise requires, the meaning given to in the PDS.

### 5 INTERPRETATION

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(a) In this Agreement, *unless* the context otherwise requires:

a. references - a reference to:

- i. *gender* - one gender *includes* the other;
- ii. *number* - the singular *includes* the plural and the plural *includes* the singular;
- iii. *provisions* - a recital, clause, schedule or annexure is a reference to a clause of or recital, schedule or annexure to this Agreement and references to this Agreement *include* any recital, schedule or annexure;
- iv. *agreements* - any contract (*including* this Agreement) or other instrument *includes* any variation or replacement of it and as it may be assigned or novated;
- v. *legislation* - a statute, ordinance, code or other law *includes* subordinate legislation (*including* regulations) and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- vi. *entities* - a person or entity *includes* an individual, a firm, a body corporate, a trust, an unincorporated association or an authority;
- vii. *persons* - a person *includes* their legal personal representatives (*including* executors), administrators, successors, substitutes (*including* by way of novation) and permitted assigns;
- viii. *group* - a group of persons is a reference to any two (2) or more of them taken together and to each of them individually;

- ix. *bodies* - an entity which has been reconstituted or merged means the body as reconstituted or merged, and to an entity which has ceased to exist where its functions have been substantially taken over by another body, means that other body;
- (b) no agency - *unless* expressly stated, no party enters into this Agreement as agent for any other person (or otherwise on their behalf or for their benefit);
- (c) inclusion - the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as', 'for example' or similar words are not words of limitation;
- (d) headings - headings and the table of contents are for convenience only and do not form part of this Agreement or affect its interpretation;
- (e) periods - if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (f) timing - the time between two (2) days, acts or events *includes* the day of occurrence or performance of the second (2<sup>nd</sup>) but not the first (1<sup>st</sup>) day act or event;
- (g) action - if the last day for doing an act is not a Business Day, the act must be done instead on the next Business Day; and
- (h) examples – if an example is given of anything (including a right, obligation or concept) such as by saying it includes something else, the example does not limit the scope of that thing.
- (i) Inconsistency – if there is any inconsistency between a Confirmation and this Agreement, the Confirmation will prevail.
- (j) construction - a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement.

## 6 ACCOUNT OPERATION

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### 6.1 OPENING

After We accept Your Application, We will open an Account in Your name. The Account may be split into different sub-accounts denominated in different currencies or commodities. Reference in this Agreement to Your Account are taken to include reference to sub-accounts or the relevant sub-accounts as the case may be.

We may, at Our absolute discretion, refuse to open an Account for any reason We consider appropriate. Each Account will have a Base Currency.

### 6.2 ACCOUNT INFORMATION

- (a) You undertake and warrant to Us that any information provided to Us at any time is accurate, true and correct and that You will immediately inform Us of any changes to that information.

- (b) You are required to keep confidential all security information relating to Your Account, including but not limited to any username, account number, user ID and password. Once You have established this security information, We have no obligation to verify the authority of anyone using this information to operate Your Account. If You are aware or suspect that these items are no longer confidential, You should contact Us immediately.

### 6.3 INTRODUCING BROKER

You understand and agree that if Your Account with Us is introduced by an Introducing Broker, the Introducing Broker:

- (a) Does not have the right to enter into any trades on Your behalf (unless they are an Authorised Person);
- (b) May be authorised by Us to view trades on Your Account.

### 6.4 AUTHORISED PERSONS

You may, by written notice to Us, change the persons who are authorised to give Us instructions on Your behalf. This can include an Introducing Broker, but We will require an authorisation by You under a power of attorney or other permissible evidence of authority granting such Introducing Broker the right to trade on Your Account. You agree to produce the original of any such power of attorney or other permissible evidence of authority to Us on request (or a copy that has been certified as a true copy in a manner acceptable to Us).

We are not bound to act according to any such variation until We receive written notice and agree to such requested change. We are also under no obligation to verify the authority of any person who purports to be authorised by You in connection with this Agreement.

### 6.5 CHARGES AND CREDIT TO YOUR ACCOUNT

- (a) You agree to pay Us the interest, charges and fees as specified in this Agreement from time to time and receive the benefits set out in this Agreement.
- (b) Any charges will be deducted from Your Account the day following the day on which the charges were incurred, and benefits will be paid the day on which they are derived. Deductions from Your Account will be made any time without notice or recourse to You.
- (c) If We discover that We have made an error in respect of any fee calculation, We will rectify that error by giving You written notice within twenty-eight (28) days.
- (d) If a Position is closed at a loss, that loss will immediately be deducted from Your Account and Your available trading resources will be adjusted accordingly.
- (e) If a Position is closed at a profit, that profit will immediately be credited to Your Account and Your available trading resources will be adjusted accordingly, subject to this clause 6 (Account Operation) and clause 7 (Trading).

## 6.6 CORRECT DESIGNATION

It is Your responsibility to ensure that monies sent to Us are correctly designated in all respects, including, where applicable, that the monies are by way of Margin and to which of Your Accounts they should be applied. We will provide You from time to time with details of such arrangements as may apply to making payments to Us, which may include permitting payments in different currencies as notified by Us to You.

## 6.7 INCORRECT CREDITING OF ACCOUNT

- (a) Limitation of liability: Except in the case of Our fraud, We do not accept responsibility for, nor are We liable for, any loss or damage suffered by You as a result of You trading on monies deposited in or credited to Your Account in error by, or on behalf of Us.
- (b) Permitted deductions: We are entitled at any time to deduct, without notice or recourse to You, any monies deposited in, or credited to, Your Account in error or on behalf of Us.

## 6.8 REPORTING TO YOU

We will provide You with Confirmations and Reports via Our Trading Platform or by email.

Any confirmation or Report will, in the absence of obvious error, be conclusive unless You notify Us in writing to the contrary within two (2) Business Days of the Confirmation or Report being issued. You will access and use the Trading Platform to confirm all Your Positions with U, to download and view the Confirmations and Reports and to monitor Your obligations under this Agreement.

## 6.9 DELIVERY OF CONFIRMATIONS AND STATEMENTS ELECTRONICALLY

At any time, You execute a transaction with Us, a confirmation of the executed trade will appear in the Trading Platform. Daily and monthly statements will also be made available to You through the Trading Platform following their respective trading periods. You may print the daily and monthly statements for Your records.

## 6.10 OPERATING YOUR ACCOUNT THROUGH OUR TRADING PLATFORM

When using Our Trading Platform, Your Positions may be viewed at any point in real-time, as well as deals, orders, pending orders and available statements using the dealing platform. You agree to use the Trading Platform to:

- Confirm all transactions entered into with Us; and
- Monitor Your obligations to Us.

We may make available to You documents, including those which have the effect of amending the Client Agreement by either:

- Sending them to Your email address or other means;
- Posting them on Our Website;

- Sending a link to the relevant document by either email or other electronic means; or
- Sending them as otherwise permitted by law.

### 6.11 DAILY STATEMENTS

Following Our end of day settlement time, provided You have dealt with or have an open Position, or a balance, We will electronically produce a daily statement which will be emailed to You and made available on the Trading Platform. Daily Statements include details of:

- Your open Positions;
- Your new Positions;
- The opening cash balance on Your Account, together with details of Account movements such as deposits, withdrawals or settlements;
- Your closing Account balance for the day;
- Profits or losses made on Open Positions (Your open trade equity);
- The value of Your Positions and movements on Your Account in the currency in which Your Account is denominated, indicating, where appropriate the consolidated rate used;
- Other items affecting Your Account such as Rollover Benefits or Rollover Charges applied to Your Account;
- Your Total Margin Requirement; and
- Your Margin excess or deficit.

### 6.12 MONTHLY STATEMENTS

Following month end, We will email You Your trading statement. The trading statement will also be available on the Trading Platform. This will provide the same details as the daily statements but cover all account movements and Positions open for the month.

### 6.13 CHECKING OF CONFIRMATIONS

It is crucial You check all the contents of the Confirmations of Your trades and You contact Us immediately if You disagree with any of their contents. The Confirmation will, in the absence of manifest error, otherwise be conclusive. The time from which You must contact Us commences from time to time the Confirmation is available on the Trading Platform, although We may also send the documents to You electronically via email.

### 6.14 CHECKING OF STATEMENTS

It is crucial that You check all the contents of the daily statements and monthly statements in detail. If You disagree with any of the content, You must contact Us within three (3) Business Days. In the absence of manifest error, these documents will

be conclusive unless You notify Us in writing of the contrary within three (3) Business Days.

The three (3) Business Days commence from the time the document is available on the Trading Platform, although We may also send the document to You electronically via email.

**The summary of Your financial position will provide You with Your Margin Position, and indicate to You whether You are approaching Your minimum Total Equity balance. It will also indicate the excess funds available, if any, that You may either use to open new Margin FX Contracts or CFD Positions or withdraw. It is very important that You remain aware of Your daily Total Equity balance, Your Total Margin Requirement for Your open Position(s) and any Free Equity available.**

## 7 TRADING

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### 7.1 NO RIGHTS IN UNDERLYING INSTRUMENT

A trade does not entitle You to any rights in relation to the Underlying Instrument being traded and You will not be entitled to delivery of the Underlying Instrument; nor will You acquire any ownership or other such rights in relation to it.

### 7.2 INSTRUCTIONS

**(a) By internet:**

- a. You may open or close a Position and execute Limit orders and Stop Loss orders on a trade opened with Us via Our Trading Platform.
- b. We will have no liability to You if any internet connection is lost with the result that You are unable to trade at any given price.
- c. We do not warrant the Trading Platform will be available or accessible when the exchanges on which the Underlying Instrument in respect of which You have traded or wish to trade are open and We reserve the right altogether to reduce the Trading Platform service at any time for any purpose without thereby incurring any liability to You.
- d. If Our computer records are at a variance with Your own records or recollection of Your trading, the version of events recorded contemporaneously by Our computer will prevail and Our obligations to each other (including the obligation to pay any money) will be assessed and calculated on the basis Our records are correct and conclusive evidence of the matters they record.
- e. Subject to clause 7.3, any order or instruction sent by You via the internet will only be deemed to have been received and will only then constitute a valid instruction and binding Margin FX Contract or CFD between You and Us when such order or instruction has been recorded and accepted and confirmed by Us to You.

**(b)** If You execute an order on the Trading Platform, You are deemed to be making an offer to trade at the price quoted. A Product contract and the quoted price offered by You will not be binding until Your order has been accepted and confirmed by the Trading Platform. We reserve the right to decline to enter

into any Position proposed by You and are under no obligation to provide You with a reason. We will, however, provide You with prompt notice in accordance with clause 22 (Trading Platform) of this document in such event.

- (c) We may, from time to time, require Your instructions in respect of any Position or proposed Position. You must promptly provide Us with those instructions through the Trading Platform. If You do not, We may, in Our absolute discretion, take all steps We consider reasonably necessary for Our or Your protection, which will be at Your cost.

### 7.3 INSTRUCTIONS NOT A CONTRACT

When You transmit an order or instruction to Us, this does not automatically give rise to a binding Margin FX Contract or CFD between You and Us because any order made by You is always subject to Us accepting Your offer and such order having been recorded as accepted and confirmed by Us to You. You are responsible for inquiring of Us if a Confirmation is expected in relation to a transaction, but has not been received by You.

### 7.4 NATURE OF QUOTE

A quote given to you by one of our traders is not an offer to contract. If you indicate that you wish to trade at the price quoted you will be deemed to be making an offer to trade at the quoted price and our trader will be entitled to confirm or reject that offer. No trade will be effective unless and until such confirmation is given.

### 7.5 AMENDED QUOTES AND MARGIN FX CONTRACTS

When You make a request to place an order outside the normal trading size, We may:

- (a) Provide an amended quote of the Contract Price originally quoted by Our Trading Platform; and/or
- (b) Make the quote subject to special conditions and requirements

as We consider fair and reasonable and as notified to You by Us at the time of the order being considered by Us.

This may occur, for example, when You place an order outside the Normal Trading Size, or the aggregate of Your order and all other orders for a Margin FX Contract or CFD is outside the Normal Trading Size, or to take account of any change in market conditions since the original quote. Such amended Contract Price will be determined by Us as We consider fair and reasonable having regard to the applicable prices and costs of entering into a transaction of that size on the relevant market.

You will not be obliged to proceed with any order for which special conditions and requirements are notified to You by Us. For example, We may quote a revised price applicable to the proposed Margin FX Contract or CFD which You may, at Your absolute discretion, accept or reject. The amended quote may no longer be available if there is any delay in acceptance.

## 7.6 CONFIRMATION OF INSTRUCTIONS

Although We are not obliged to, We may also require confirmation of any order or instruction:

- (a) If any instruction is to close an Account or remit money to You; or
- (b) Otherwise, if it reasonably appears to Us that confirmation is necessary or appropriate.

## 7.7 ACKNOWLEDGEMENT OF INSTRUCTIONS

Instructions may be acknowledged orally or in writing by Us, as appropriate.

## 7.8 FURTHER INSTRUCTIONS

We may require instructions from You in respect of any Margin FX Contract or CFD or proposed Margin FX Contract or CFD and if We do, You must promptly provide Us with such information. If You do not, We may in Our absolute discretion take all such reasonable steps at Your cost as We consider reasonably necessary or desirable for Our or Your protection. However, this does not detract from Your responsibility to keep Yourself informed at all times as to the key dates and events effecting Your Margin FX Contracts and CFDs.

## 7.9 MINIMUM TRADING SIZE

The size of Your Position must exceed the Minimum Trading Size.

## 7.10 CURRENCY

- (a) All Positions will be entered into in the currency specified for the trade and will be converted into the Base Currency of Your Account at the live Exchange Rate for the purposes of calculating the components of Your account summary.
- (b) All payments made by You to Us and by Us to You will be converted into the Base Currency of Your Account unless otherwise agreed.

## 7.11 POSITION DURATION

With the exception of Cash CFDs and Commodity CFDs, a Position has no inherent limit to its duration and, subject to the payment of Margin and other relevant sums, can continue indefinitely. Without limitation, any Position opened by You may be closed by Us at the prevailing rate in the event of an Event of Default.

## 7.12 OPPOSING POSITIONS

You may run opposing Positions in the same market. A Position in a market where You have an opposing Position already open may be deemed to be an instruction to close out the earlier Position (to the extent of any overlap).

## 7.13 DIFFERENCE IN BUY AND SELL PRICES

You understand and acknowledge that there may be a wider difference between “buy” and “sell” prices You are quoted on closing a Position than when it was opened.

## 7.14 PROMOTIONAL EVENTS

Axis Inc. may run promotional events from time to time in relation to its Products. Each promotion is subject to its unique terms which may vary the terms and conditions of this Client Agreement. Clients must accept all terms and conditions of the promotion before You participate. If You do not agree with part or all the terms of each promotion, You will not be eligible to participate.

## 7.15 HEDGING DISRPUTIONS

In some circumstances, We may be unable, after using all reasonable efforts, to acquire, substitute, maintain, unwind or dispose of an underlying hedge position We consider necessary to hedge or protect Our exposure to the market and other risks arising from an open Position. In such circumstances, We may, at Our absolute discretion, close that open Position at the Contract Price.

## 7.16 MARGIN FX CONTRACTS

- (a) Contract Unit: of a Margin FX Contract will be a bid or offer price (whichever is applicable) calculated by Us by applying Our markup to the Interbank Rate.
- (b) If the Specified Date of a Margin FX Contract is other than a date generally quoted in the market, We will calculate the Interbank Rate from the available market prices for other value dates as We consider representative, fair and reasonable.

## 7.17 CHOICE TO DEAL

Except where:

- (a) We exercise any of Our rights to close out a Margin FX Contract or CFD; or
- (b) A Margin FX Contract or CFD closes automatically;

it is Your responsibility to decide whether or not You wish to deal at those prices. If You decide to deal at the prices indicated by Us, You may make an offer to Us to deal at that price. We may choose, in Our absolute discretion, whether to accept or reject any offer to deal made by You.

## 7.18 ERRORS IN PRICES

- (a) It is possible that material errors, omissions or misquotes (**Material Error**) may occur in relation to Margin FX Contracts or CFDs, which by fault of neither of Us or any third party, is materially incorrect when taking into account market conditions and quotes in Underlying Instruments which prevailed at the time. A material error may include an incorrect price, date, time or other characteristic of a Margin FX Contract or CFD or any error or lack of clarity of any information. If a trade is based on a Material Error, We reserve the right without Your consent to:
  - a. Amend the terms and conditions of the Margin FX Contract or CFD to reflect what We consider to have been the fair price at the time the Margin FX Contract or CFD was entered into had there been no material error;
  - b. Close the trade and any open Position resulting from it;

- c. Void the Margin FX Contract or CFD from the outset; or
  - d. Refrain from taking action to amend or void the Margin FX Contract or CFD.
- (b) We will exercise the right in clause 7.18(a) reasonably, in good faith and as soon as reasonably practicable after We become aware of the Material Error. To the extent practicable, We will give You prior notice of any action We take under this clause. However, if this is not practicable, We will give You notice as soon as practicable afterwards. In the absence of fraud on Our part, We are not liable to You for any loss, cost, claim, demand or expense that You incur or suffer (including loss of profits or indirect or consequential loss), arising from or connected with the Material Error including where the Material Error arising from an information service on which We rely.
- (c) In the event that a Material Error has occurred and We exercise Our rights under clause 7.18(a), We may, without notice, adjust Your Account or require that any monies paid to You in relation to the Margin FX Contract or CFD the subject of the Material Error be repaid to Us as a debt due payable to Us on demand.

#### 7.19 PRICE, EXECUTION PROCESS AND TRADING MANIPULATION

If We reasonably believe that You have manipulated Our prices, Our execution processes or Our Trading Platform, We may, in Our sole and absolute discretion, without notice to You:

- (a) Enforce the trade(s) against You if it is a trade which results in You owing money to Us;
- (b) Treat some or all of Your trades as void from the outset if they are trades which result in Us owing money to You unless You produce conclusive evidence within thirty (30) days of Us giving You notice under this clause that You have not committed any breach or warranty, misrepresentation or undertaking in this Agreement;
- (c) Withhold any funds suspected to have been derived from any such activities;
- (d) Make any resultant corrections or adjustments to Your Account;
- (e) Close Your Account; and/or
- (f) Take such other action as We consider appropriate.

#### 7.20 MARKET DISRUPTION: CASH CFDs

- (a) If We reasonably believe that We can no longer perform our obligations under the CFDs on the same economic basis as the Underlying Instrument that the terms of the Contract was originally entered into because of a supervision or halt in the Underlying Market for an Underlying Instrument, then We will give notice to You of that fact and will, at Your request, provide you with reasonable evidence of such circumstances, although our determination will be conclusive.
- (b) At any time following our giving of notice to you under this clause, We may halt trading and the use of Client Money in the CFD.

## 8 MARGIN

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### 8.1 INITIAL MARGIN

You are required to pay the Initial Margin for a Position as calculated by Us upon placing a trade that creates an open Position.

### 8.2 YOUR MARGIN OBLIGATIONS

- (a) You must pay to Us such amounts of Margin as We may require under this Agreement. Your failure to pay any Margin or comply with your obligations in connection with Margin as required under this Agreement will be regarded as an Event of Default.
- (b) It is Your sole responsibility to monitor at all times through the Trading Platform any notification that We may, but are not obliged to, provide, the Margin deposited or any Minimum Margin requirement under this Agreement having regard to such matters as:
  - a. Your open Positions;
  - b. The volatility of any relevant Underlying Instruments;
  - c. The volatility of the Underlying Market and the markets generally;
  - d. An applicable Exchange Rate risk; and
  - e. The time it will take for You to remit sufficient cleared funds to Us.
- (c) You must always ensure Your Account balance meet the higher of the Margin Requirement or the Minimum Margin Requirement;
- (d) We may, in Our absolute discretion, provide You with further time to meet Your Margin Requirements. Such permission will only be effective once confirmed in writing by Us only to the extent specified in Our notice, and in accordance with clause 27 (Notices) of this Agreement.

### 8.3 EXCEPTIONS

The requirements imposed under clause 8.1 and 8.2 will vary in the following circumstances:

- (a) We have expressly advised You in writing that You have an Account type that allows for longer payment periods for Margin, in which case you must pay Margin in accordance with the payment periods that We have advised You;
- (b) We have expressly agreed to reduce or waive a part of the Margin that We would otherwise require You to pay Us in respect of a trade; the period of waiver or reduction may be temporary and must be agreed in writing by Us. Any such agreement will not restrict Our right to seek further Margin in respect of the trade or open Positions at any time thereafter;
- (c) We agree other than in writing, in which case You will be required to comply with such terms and conditions as stated in such written agreement;
- (d) When You hold open Position in a Margin FX Contract or CFD and you place one or more trades in the opposite direction in a Margin FX Contract or CFD

with the same Underlying Instrument, your Margin Requirement for all open Positions with the same Underlying Instrument is the larger of the aggregate of the Margin Requirements for all Long Positions or the aggregate of the Margin Requirements for all Short Positions;

- (e) We agree otherwise in writing for certain Margin FX Contracts or options or option related instruments.

In the case of your continuous Margin obligation set out in clause 10.2, you will not be required to pay it if We have extended you a credit facility, and You have sufficient credit to cover Your Margin Requirements. However, if at any time the credit facility is not sufficient to cover the Margin Requirement on Your open Positions You must immediately place additional funds in your Account in order to fully cover the Margin Requirements.

#### **8.4 CHANGING MARGIN PERCENTAGE**

- (a) We may vary the Margin Percentage in respect of any Position at any time by giving notice in accordance with clause 27 (Notices).
- (b) Any variation of the Margin Percentage and/or increase in Margin or Minimum Margin Requirement will be due and payable immediately on Our demand, subject to clause 8.2(d) above.

#### **8.5 NOTIFICATION OF INCREASED MARGIN PERCENTAGE**

We will notify You of a change in the Margin Percentage by any of the following means: telephone, post, fax, email, text message or by posting notice of increase on Our Website or Electronic Service. Any increase in Margin arising from an increase in the Margin Percentage will be due and payable immediately on notice to You including any deemed notice in accordance with clause 27.

#### **8.6 NO OBLIGATION TO MAKE MARGIN CALL**

Notwithstanding any other terms of any document, We are not under any obligation at any time to keep You informed of Your Account balance and required Margin by making any Margin Call.

#### **8.7 OUR RIGHTS**

In addition to the requirements set out in clauses 8.1 and 8.2, if at any time Total Equity less aggregate Margin Requirement is at or below 50% of the aggregate Margin Requirement, whilst it is not an Event of Default, we may (but are not obliged to) close some or all of your open Positions at our absolute discretion. We will not be responsible for any losses you may suffer or incur in connection with any such closing of your open Position or any lack of closing thereof, however adjustments could be provided at our discretion.

## 9 DAILY VALUATION

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### 9.1 CONTRACT VALUE

We will calculate the Contract Value for each Position, as at each Valuation Time during the term of a Position. The Contract Price for each Position at the Close of Business is to be calculated, in respect of each relevant Product, in accordance with sections 3, 5 and 7 of the PDS and the Product Schedule.

### 9.2 VALUATION

If, at any Valuation Time:

- (a) The Contract Value exceeds the Contract Value at the preceding Valuation Time, the Short Party will pay to the Long party the value of such excess;
- (b) The Contract Value at the preceding Valuation Time exceeds the current Contract Value, the Long Party will pay to the Short Party the value of such excess.

### 9.3 ACCOUNT ADJUSTMENTS

Any payments due under this clause 9 will, subject to clause 16 (Set Off) of this Agreement, be made by Us by debiting or crediting the Account with effect immediately after the relevant Valuation Time.

## 10 CLOSING POSITIONS

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### 10.1 GENERAL

- (a) You may provide instructions through the Trading Platform to close out a Position at any time. We will act on those instructions as soon as reasonably practicable.
- (b) Details of the last day and time for closing out a Position are available upon request. It is Your responsibility to be aware of the last day and time for closing out a particular Position as set out in the Product Schedule, on the Website, and available on the Trading Platform.
- (c) The close out provisions are set out in section 5 of the PDS.

### 10.2 WHEN CAN A MARGIN FX CONTRACT OR CFD (OTHER THAN AN INDEX FUTURES CFD OR A COMMODITY CFD) BE CLOSED?

A Margin FX Contract or CFD (other than an Index Futures CFD or a Commodity CFD, which are together referred to in this clause as "Excepted Contracts") may be closed out if:

- (a) You provide Us with instructions to close a Margin FX Contract or CFD other than an Excepted Contract by requesting to enter into an equal and opposite Contract irrespective of the date on which either Contract closes automatically under clause 10.4 as follows:

- a. Single Position Closing: a single open trade Position can be requested to be closed by choosing the close button on line. The Contract maybe closed and offset by the opposite trade; or
  - b. Close by Opposite Positions: You can choose to request the close a Position by an opposite Position by will appear in Your trade account. You can choose to request offset of the trades at a later time when You prefer.
- (b) We may exercise any of Our rights under this Agreement to close a Margin FX Contract or CFD other than an Excepted Contract at any time before the Contract closes automatically under clause 10.3

### 10.3 WHEN CAN AN ACCEPTED CONTRACT BE CLOSED?

An Excepted Contract ay be closed out if:

- (a) You give instructions to request to close an Excepted Contract by requesting to enter into an equal and opposite Contract with the same Specified Date as follows:
  - a. Single Position Closing: a single open trade Position can be requested to be closed by choosing the close button on line. The Contract maybe closed and offset by the opposite trade; or
  - b. Close by Opposite Positions: You can choose to request to close a Position by an opposite Position but not offsetting the two trades. You can request execution of an opposite trade and both long and short Positions will appear in Your trade account. You can choose to request offset of the trades at a later time when You prefer.
- (b) We may exercise any of Our rights under this Agreement to close an Excepted Contract at any time before the Contract closes automatically under clause 10.4.

### 10.4 AUTOMATIC CLOSURE

- (a) A Position may automatically close on the fifth (5<sup>th</sup>) anniversary of the date on which the Position was first entered into unless the Position has already been closed in the circumstances described in clause 10.1 above.
- (b) Margin FX Contracts and CFDs (other than Excepted Contracts): Subject to clauses 10.11 and 10.12, Margin FX Contracts and CFDs other than Excepted Contracts close automatically at Close of Business on that Business Day and this will not affected the automatic closing of a contract under clause 10.4, with effect that the five (5) year will run from the date on which the contract was first entered into and when such contract closes automatically under clause 10.4 it will not be reopened in accordance with this clause 10.4.

### 10.5 TIME LIMITS FOR CLOSING

Details of the last day and time for closing out a Margin FX Contract or CFD are available on request. It is Your responsibility to be aware of the last day and time for closing out a particular Margin FX Contract or CFD.

## 10.6 CONTRACT PRICE AT CLOSING

Where:

- (a) We exercise any of Our rights under this Agreement to close a Margin FX Contract or CFD;
- (b) A Margin FX Contract or CFD closes automatically under clause 10.4 of this Agreement,

We will determine the Contract Price at the time of closing in accordance with the current prices then being quoted by Us, but, except where the Margin FX Contract or CFD to be closed is outside the Normal Trading Size, Our additional markup used in calculating the Contract Price will not exceed 20% or one cent (or equivalent currency unit), whichever is the greater.

## 10.7 CONTRACT VALUE AT CLOSING

A Margin FX Contract or CFD will close at the Contract Value at the time of closing as calculated by Us, which will equal: Contract Price x Contract Quantity and as notified by You.

## 10.8 CLOSURE DURING BUSINESS DAY

Where a Margin FX Contract or CFD has been closed out during a Business Day, clauses 10.4 and 10.5 of this Agreement will continue to apply to Your long and short Positions in the particular Underlying Instrument until Close of Business on such Business Day and will apply to the balance of Your outstanding long or short Position (if any) in the relevant Underlying Instrument with the effect immediately after Close of Business on such Business Day.

## 10.9 TIMING OF PAYMENTS

Any payments due by either Us or You under this clause 10 in respect of dates on or after the Closing Date will be made by Us debiting or crediting Your Account at Close of Business on the Settlement Date. If You have insufficient funds in Your Account to meet a payment obligation, You must immediately pay to Us as a debt an amount equal to the shortfall.

## 10.10 AUTOMATIC CLOSURE: EXCEPTED CONTRACT

Subject to clauses 10.4, 10.11 and 10.12, an Excepted Contract will close automatically at Close of Business on the Specified Date and not on the daily Close of Business:

- (a) If the period from the date of the transaction to the Specified Date of the Except Contract is, or is part of, a market standard period during which equivalent contracts are traded on the relevant exchange, as reasonably determined by Us, such Excepted Contract will be replaced with effect immediately after Close of Business on the Specified Date by an equivalent Excepted Contract or Margin FX Option for the same market standard period to the replacement Specified Date. The Opening Value of that replacement Excepted Contract must equal the current Contract Price of the replacement Excepted Contract, multiplied by the applicable Contract Quantity. The provisions of this Agreement will then apply to such Excepted Contract, but this will not affect the automatic closing of an Excepted Contract under clause

10.3 with effect that the five (5) year period will run from the date on which the original Excepted Contract was first entered into, and when that Excepted Contract closes automatically under this clause 10.9.

- (b) When an Excepted Contract is closed by another Excepted Contract under this clause 10.10 at the Close of Business on the Specified Date of the original Excepted Contract, We will calculate the difference between the Closing Contract Value of the original Excepted Contract as determined by Us under clause 10.6 and the Opening Value of the replacement Excepted Contract and We will:
- a. If the amount calculated as the Contract Value is greater than the amount calculated as the Opening Value, credit the difference to the Account; and/or
  - b. If the amount calculated as the Opening Value is greater than the amount calculated as the Contract Value, debit the difference from Your Account.

#### **10.11 CLOSURE: LONG AND SHORT CONTRACT**

If You are long and short a Margin FX Contract or CFD, with effect immediately after Close of Business on the Closing Date, We will close the relevant long and short Positions and record in Your account the balance, if any, of Your then outstanding long or short Position in the Contract, as appropriate. If there is more than one Contract in relation to the particular Underlying Instrument, or in the case of Index Future CFDs or Commodity CFDs in relation to the Underlying Instrument with the same Specified Date, We may close out whatever Contract We consider appropriate.

#### **10.12 CLOSURE: TWO OR MORE MARGIN FX CONTRACTS OR CFDS**

Where You have two or more Margin FX Contracts or CFDs:

- (a) Which are in respect of the same Underlying Instrument or in the case of Index Future CFDs or Commodity CFDs are in respect of the same Underlying Instrument with the same Specified Date; and
- (b) Where You are in the Margin FX Contracts or CFDs as either the Long Party or the Short Party;

We will with effect immediately after Close of Business on each Business Day replace such Margin FX Contracts or CFDs with a single aggregated Margin FX Contract or CFD equivalent to the total of the Contract Quantities of each Margin FX Contract or CFD. The date on which such replacement Margin FX Contract or CFD will expire automatically under clause 10.3 will be the latest of the Expiry Date of each of the original Margin FX Contracts or CFDs.

## **11 CLOSE OF BUSINESS ACCOUNTING**

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### **11.1 WHEN WE ACCOUNT**

Commencing at Close of Business on the date of the transaction and at Close of Business on each subsequent Business day during the term of the Margin FX Contracts or CFDs (including the Closing Date), We will account under this clause 11.

## 11.2 CONTRACT VALUE

We will calculate the Contract Value which will equal: Contract Price x Contract Quality.

## 11.3 CONTRACT PRICE AT CLOSE

The Contract Price of:

- (a) Cash CFDs will be calculated in accordance with PDS.
- (b) Bullion CFDs will be calculated in accordance with PDS.
- (c) Commodity CFDs will be calculated in accordance with PDS.
- (d) Crypto CFDs will be calculated in accordance with PDS.
- (e) Margin FX Contracts will be calculated in accordance with PDS.

## 11.4 VALUATION

- (a) If on the date of the transaction:
  - i. The current Contract Value exceeds the Opening Value, the Short Party will pay to the Long Party such excess;
  - ii. The Opening Value exceeds the current Contract Value, the Long Party will pay to the Short Party such excess.
- (b) If, on any Business Day during the term of the Margin FX Contract or CFD (including the Closing Date):
  - i. The Contract Value exceeds the Contract Value on the preceding Business Day, the Short party will pay the Long Party such excess;
  - ii. The Closing Value on the preceding Business Day, exceeds the current Contract Value, the Long Party will pay to the Short Party such excess.

## 11.5 DAILY SWAPS OF MARGIN FX CONTRACTS AND CFDs (OTHER THAN EXCEPTED CONTRACTS)

When You hold a Position or Positions overnight in a Margin FX Contract or CFD (other than an Excepted Contract) they will be rolled to the next Business Day which will result in You paying a Swap Charge or receiving a Swap Benefit. The amount is determined by Us and depends on factors including Our Swap Rate, being the rates at which You receive or pay interest on Positions that remain open overnight.

This is a varying rate dependent upon the applicable rate in the interbank markets for the currencies or Bullion, with the duration of Our discretion. No Swap Charge is paid or Swap Benefit is Spread that is applied at Our discretion.

The operation of this clause 11.5 is subject to clauses 11.7, 11.8, 11.9 and 11.10.

## 11.6 ENTITLEMENT

- (a) If You are long on a Margin FX Contract, You may either receive a Swap Benefit or pay a Swap Charge, depending on the currency You are long, subject to clause 11.7.
- (b) If You are Short on a Margin FX Contract, You may either pay a Swap Charge or receive a Swap Benefit, depending on the currency You are short on, subject to clause 11.9.

## 11.7 LONG MARGIN FX CONTRACTS

If You are long on a Margin FX Contract where the bought currency interest rates are higher than the sold currency interest rates, You will receive interest at the Swap Rate if You hold the Position overnight and do not close it before the settlement time. This is because You are holding the higher yielding currency.

On the other hand, if You are long on a Margin FX Contract where the bought currency interest rates are lower than the sold currency interest rates then You will pay interest at the Swap Rate if You hold the Position overnight and do not close it before the settlement time. This is because You are holding the lower yielding currency.

## 11.8 LONG BULLION CFDS

If You have a long US dollar/short Bullion Position and interest rates in the USA are higher than the Bullion Swap Rate You will receive a Swap Benefit at the Bullion Swap Rate if You hold the Position overnight and do not close it before settlement time. This is because You are holding the lower yielding asset.

## 11.9 SHORT MARGIN FX CONTRACTS

If You are short on a Margin FX Contract where the sold currency interest rates are higher than the bought currency interest rates You will pay interest at the Swap Rate if You hold the Position overnight and do not close it before the settlement time. This is because You are holding the lower yielding currency. On the other hand, if You are short on a Margin FX Contract where the sold currency interest rates are lower than the bought currency interest rates then You will receive interest at the Swap Rate if You hold the Position overnight and do not close it before the settlement time. This is because You are holding the higher yielding currency.

## 11.10 SHORT BULLION CFDS

If You have a short US dollar/long Bullion Position and interest rates in the USA are higher than the Bullion Swap Rate You will pay a Swap Charge at the relevant Swap Rate if You hold the Position overnight and do not close it before settlement time. This is because You are holding the higher yielding asset.

## 11.11 REVALUATION OF POSITIONS AFFECTED BY LIMITED HOURS TRADING

You acknowledge and agree that the application of Limited Hours Trading under this Agreement has the result that open Positions will be marked after close of trading on the primary exchange and Your Margin Requirement will vary accordingly.

## 11.12 WHEN WE MAKE ACCOUNTING PAYMENTS

Any payments due under this clause 11 will, subject to clause 16 (Set-off) of this Agreement, be made by Us adjusting the Account with effect immediately after Close of Business on the relevant Business Day.

## 12 STOP LOSS ORDERS AND LIMIT ORDERS

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### 12.1 AVAILABILITY OF ORDERS

Stop Loss Orders and Limit Order are only available on selected instruments. We may refuse to accept any Stop Loss Orders or Limit Orders on any trade. Such orders as We do accept may be placed or (save in the case of a Stop Loss Order which We impose (see clause 12.4) cancelled at any time during the trading hours of the exchange on which the Underlying Instrument is traded.

### 12.2 MARGIN REQUIREMENTS TO FILL ORDERS

An order which involves an instruction to Us to open a trade above a certain price will not ordinarily be filled unless at the time when the price reaches the relevant limit Your Account contains sufficient trading resources to cover the initial Margin for the trade which is to be opened.

We may, however, at Our discretion proceed to fill such an order notwithstanding that Your account has insufficient trading resources to cover the initial Margin for the trade which is to be opened. In such circumstances We reserve the right at any time after the opening of the trade to require You to deposit cash in the amount of the required initial Margin for that trade. Any such further cash deposits will be payable as Margin in accordance with the provisions of clause 8 (Margin). A failure to make payment in the time and manner required will be an Event of Default. We reserve the right to refuse to open a trade in accordance with a Limit Order if:

- (a) There has been an Event of Default; and
- (b) In any other circumstances where We would be entitled to close the trade if it had already been opened.

### 12.3 LIABILITY OF LOSSES ARISING FROM ORDERS

You will remain liable for any losses in Your Account which may be realised as the result of the filling of an order, regardless of the trading resources available on Your account at the time the order was filled.

### 12.4 OUR RIGHT TO IMPOSE A STOP LOSS ORDER

We may impose a Stop Loss order on any of Your open trades where We believe such action is necessary or desirable to limit the losses on any of Your Positions including, without limitation, where:

- (a) We have any reason to think that You will not pay Us any money that is or may become due to Us;
- (b) You make any statement to Us which We have reason to believe is or may not be true;
- (c) You fail to do anything that You have undertaken to Us that You will do;

## 12.5 INFORMING YOU OF ORDERS WE IMPOSE

We will as soon as is reasonably practicable after imposing a Stop Loss Order attempt to inform You of it by telephoning You on the number or numbers that You leave with Us and:

- (a) Informing You personally of the Stop Loss order, or if this is not possible, by;
- (b) Leaving You a message if, and only if, there is an automated message-taking facility or person who offers to take such a message for You. If a message is left, it will be deemed to have reached You whether or not it in fact has done so. We will also send written notification to You by post and/or email at the addresses You have provided to Us. We are under no obligation to take any other steps to inform You of the stop loss order and a failure for any reason to inform You of the imposition of a Stop Loss order will not affect the validity and enforceability of that Stop Loss Order.

## 13 ACKNOWLEDGEMENTS

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### 13.1 YOU ACKNOWLEDGE AND AGREE THAT:

- (a) **Independence:** We operate independently of any Introducing Broker who is not an authorised representative or related body corporate of Ours or any other third-party vendors that You may interact with in relation to a Position under this Agreement. You understand that any agreement between Us and an Introducing Broker does not establish a joint venture or partnership and any such Introducing Broker is not an agent or employee of Ours. You also acknowledge that We may not warrant as to an Introducing Broker's or a third party's regulatory status, compliance with the Applicable Laws or the quality of service they provide to You in relation to the Products entered into under this Agreement.
- (b) **Spread:** We may remunerate an Introducing Broker by introducing You to Us and such remuneration may be on a per-trade basis or other basis. Such remuneration to the Introducing Broker may require You to make an additional payment above and beyond the ordinary spread generally provided by Us. This payment could take the form of wider spreads, commissions, fees or other charges. We will provide You with information as to the precise nature of such remuneration upon request; and
- (c) **Acting as principal:** in Our dealings with You, We will act as a principal counterparty to all of Your Positions. Unless We agree otherwise in writing, You will also deal with Us as principal, and not as an agent or representative of another person.

## 14 REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

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### 14.1 YOUR WARRANTIES

You represent, warrant and undertake to Us, at the time of entering into this Agreement and each time You provide instructions through the Trading Platform or to Us directly that You:

- (a) **Existence:** (if not an individual) are duly established and validly existing under the laws of the place of establishment;
- (b) **Power:** have the legal capacity and, if not an individual, have the full corporate power and authority to enter into, and perform and complete the obligations under this Agreement and the transactions contemplated by it; and
- (c) **Authorisations:** where applicable, have obtained all necessary consents and have the authority to enter into this Agreement and the transactions contemplated by it;
- (d) **Binding:** this Agreement constitutes valid, legal and binding obligations of the party, enforceable against You accordance with its terms;
- (e) **Compliance with laws:** You are complying with all laws which You are subject;
- (f) **No litigation:** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to Your knowledge after due enquiry, threatened which, if adversely decided, could have a material adverse effect on You;
- (g) **Solvency:** You are able to pay Your debts as and when they fall due and are not otherwise insolvent or presumed to be insolvent under any law;
- (h) **Accuracy of information:** at all times the information provided by You to Us in connection with this Agreement, whether in the Application Form or otherwise, will be complete, true, accurate and not misleading (including by omission);
- (i) **Disclosure of relevant information:** You have disclosed to Us all information that We require to assess the risks We assume by entering into this Agreement with You;
- (j) **No contravention:** neither Your execution of this Agreement nor Your carrying out of the transactions under this Agreement contemplates, does or will:
  - i. Contravene any law which You or any of Your property is subject or any order of any Government Agency that is binding on You or any of Your property;
  - ii. Contravene any Authorisation;
  - iii. Contravene any agreement binding on You or any of Your property; or
  - iv. Contravene Your constitution or the powers or duties of Your directors;
- (k) **Payment:** You will pay any amount due and payable by You under this Agreement when it is due;
- (l) **AML/CTF Legislation:**

You acknowledge that by entering into this Agreement, We may require further information from You from time to time to comply with Our obligations under the Anti-Money Laundering and Terrorism Financing laws and regulations (**AML/CTF Laws**). By entering into this Agreement, opening an

Account and transacting with Us, You undertake to promptly provide Us with all additional information and assistance that We may reasonably require to comply with the AML/CTF Laws.

You also warrant that:

- i. You are not aware and have no reason to suspect that:
  - a. The monies used to fund Your transactions have been or will be derived from or related to any money laundering, terrorism financing or other illegal activities whether prohibited under Applicable Laws, international law or convention or by agreement; or
  - b. The proceeds of Your investment will be used to finance any illegal activities; and
  - c. Neither You nor Your directors (if applicable) are politically exposed persons or organisations (as defined in the AML/CTF Laws)

## 14.2 TRUSTEE OF A TRUST

Where You are the trustee of a trust, settlement or fund (the **Trust**), You further represent, warrant and undertake to Us at the time of entering into this Agreement and each time You provide instructions to Us:

- (a) **Status of the Trust:** The Trust is validly constituted and has not terminated, nor has the date or any event occurred for the vesting of the assets of the Trust. You will notify Us immediately in writing if the Trust is determined or ceases to exist;
- (b) **Status as trustee:** You are the sole trustee or trustees of the Trust and You have been validly appointed. You have not given any notice of resignation and no action has been taken to remove You or to appoint an additional trustee of the Trust. You will notify Us immediately in writing if You cease for any reason to be the trustee of the Trust;
- (c) **Trust power:** You have power under the instrument that constitutes the Trust (**Trust Deed**) to:
  - i. Own the Trust assets and carry on the business of the Trust as it is now being conducted; and
  - ii. Enter into this Agreement and to perform Your obligations under this Agreement. You will ensure that Your powers under the Trust Deed are not revoked or modified;
- (d) **Trust authority:** all action has been taken that is necessary or desirable under the Trust Deed or at law to:
  - i. Authorise Your entry into the Agreement and to perform Your obligations under this Agreement;

- ii. Ensure that this Agreement is binding on You as trustee of the Trust; and
  - iii. Enable You to properly carry on the business of the Trust;
- (e) **No amendment:** the Trust Deed has not been amended;
- (f) **Benefit of beneficiaries:** You are entering into this Agreement as part of the proper administration of the Trust for the commercial benefit of the Trust and for the benefit of the beneficiaries of the Trust;
- (g) **Right of indemnity:**
  - i. You have the right to be indemnified out of the Trust assets in relation to any liability arising under or in connection with the proper performance of Your rights and obligations under this Agreement; and
  - ii. The Trust assets are sufficient to satisfy that right in full;
  - iii. You have not released or disposed of Your equitable lien over the Trust assets;
- (h) **Right of beneficiaries:** the rights of the beneficiaries to and their interest in the Trust assets are subject to:
  - i. Our rights and interests in the Trust assets under this Agreement; and
  - ii. Any rights and interests that You hold in the Trust assets to which Our rights may be subrogated;
- (i) **Priority against beneficiaries:** this Agreement has priority over the interests of the beneficiaries of the Trust;
- (j) **Terms of Trust:** You have disclosed to Us the full particulars of the Trust and any other trust or fiduciary relationship affecting the Trust assets and have given Us a complete and up-to date copy of the Trust Deed;
- (k) **Compliance:** You will comply with all Your obligations as trustee of the Trust, whether under the terms of the Trust Deed or otherwise;
- (l) **No breach:** You are not in breach of any of Your obligations as trustee of the Trust, whether under the terms of the Trust Deed or otherwise;
- (m) **No termination:** no action has been taken nor is there any proposal or requirement to wind up, terminate, reconstitute or resettle the Trust, and that no date or event for the vesting of the Trust is contemplated to occur before the final vesting date for distribution specified in the Trust Deed;
- (n) **No other business:** You will not act as trustee of any other trust or fund, or carry on any business except as trustee of the Trust, without Our consent;

(o) **No distribution of capital or income:** You will not make any distribution of any income or capital or assets of the Trust that results in there being insufficient assets of the Trust to meet any of Your liabilities under this Agreement;

(p) **Right of indemnity:** You will not release, dispose of or otherwise prejudice Your:

- i. Rights of indemnity against the Trust assets; or
- ii. Equitable lien over the Trust assets,

And at Our request, must exercise those rights that lien and facilitate the subrogation of Our rights to them;

(q) **Other information:** You will promptly and within five (5) Business Days provide any information relating to the financial condition, business, assets and affairs of the Trust that We reasonably request. As at the date of this Agreement, or, if given later, when given, You represent and warrant that:

- i. The other information and reports (if any) relating to the Trust that You have given to Us in connection with this Agreement are true and accurate in all material respects and not misleading in any material respect (including by omission); and
- ii. Any forecasts, projections and opinions in that other information and reports are fair and reasonable (and were made or formed on the basis of recent historical information and reasonable assumptions after inquiry and consideration).

### 14.3 NOTIFICATION OF CHANGES

You undertake that through the term of this Agreement You will promptly notify Us of:

- (a) Any changes to the details supplied by You in Your Application Form; and
- (b) Any change to Your officeholders, share structure or control and any material or anticipated change in Your financial circumstances.

## 15 DEFAULT

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### 15.1 EVENTS OF DEFAULT

The following constitute Events of Default, which upon their occurrence give Us the right to take action in accordance with clause 15.2:

- (a) An Insolvency Event occurs in relation to You;
- (b) You are an individual and You die or become of unsound mind;
- (c) You fail to provide any Margin or other sum due under this Agreement in respect of any Position, or the Margin held by Us in respect of Your Positions falls below Our Margin Requirements;

- (d) You are in breach of any representation, warranty, undertaking or material term of this Agreement and/or any information provided to Us in connection with this Agreement is or has become untrue or misleading;
- (e) You knowingly take advantage of an incorrect price when dealing with Us and a reasonable person in Your position would have known the price offered was incorrect or We consider that You have, or have attempted to, manipulate the Trading Platform or any other system of ours in any way;
- (f) You have not paid any fees, charges or any other payments due to Us under this Agreement;
- (g) We reasonably believe it is prudent for Us to take any or all of the actions described in clause 15.2 below, in light of any relevant legal or regulatory requirement applicable either to You or Us;
- (h) We reasonably consider it necessary for the protection of Our rights under this Agreement;
- (i) We reasonably consider that You may be in breach of have failed to comply with any Applicable Law;
- (j) We are so requested by any relevant government body, regulatory body or other authority;
- (k) Any Dispute occurs, or litigation is commenced and, in view of the subject matter of or any issues in dispute in relation to that litigation, We reasonably decide that We cannot continue to deal with You while the litigation is pending;
- (l) Where We have not received, within ten (10) days of a written request, all information which We have requested in connection with this Agreement;
- (m) Where We believe on reasonable grounds that You are unable to manage the risks that arise from Your Positions;
- (n) Any restrictions on Your Position size is, or is likely to be, exceeded;
- (o) Where You are a trustee of a Trust, and without Our consent, You cease to be sole trustee of the Trust or any step is taken to:
  - a. Remove You as a trustee or to appoint a substitute or additional trustee; or
  - b. Bring any part of the Trust assets under the control of any court; or
  - c. Any of the following were to occur where You are trustee of a trust:
    - i. Any application or court order is made in any court for:
      - 1. Accounts to be taken in respect of the Trust; or
      - 2. Any property of the Trust is to be brought into court or administered by the court under its control;
    - ii. The beneficiaries of the Trust resolve to wind up the Trust;

- iii. You are required to wind up the Trust under the Trust Deed or applicable law; or
- iv. The winding up of the Trust commences for any other reason;
- (p) Where You are trustee of a Trust, the Trust is held or conceded by You not to have been properly constituted;
- (q) Where You are trustee of a Trust, You cease to be authorised under the Trust Deed or at law to own the Trust assets in Your name or to perform Your obligations under this Agreement; or
- (r) Where You are trustee of a Trust, You breach any of Your obligations as trustee of the Trust.

## 15.2 CONSEQUENCES OF DEFAULT

If an event of Default occurs, We may take any or all of the following actions:

- (a) Immediately require payment of any amount You owe to Us, including Margin;
- (b) Terminate this Agreement;
- (c) Close or limit the size of all or any of Your open Positions or the number of Positions You have with Us;
- (d) Refuse orders to establish new Positions;
- (e) Cancel existing Positions;
- (f) Convert any ledger balances to the Base Currency of Your Account;
- (g) Exercise Our rights under this clause 15 and clause 16 (Set-off) below;
- (h) Change the Margin level at which We may close Your Account;
- (i) Impose new Margin requirements on Your Account;
- (j) Limit or withdraw the credit on Your Account;
- (k) Call on any guarantee in respect to Your obligations;
- (l) Suspend Your Account and refuse to exercise any trades;
- (m) Require you to immediately close out and settle the Margin FX Contract or CFD in such a manner as we request;
- (n) Combine, close or consolidate any of the Accounts and offset any amounts owed to, or by Us, in such manner as We may in Our absolute discretion determine;
- (o) Enter into any transaction at such rates and times as We may determine in order to meet or hedge any obligation You may have incurred under a new Position; or
- (p) Retain any amount owed to Us by You against any contingent liability of Yours to Us, so long as the contingency exists.

### 15.3 ADDITIONAL SUSPENSION AND CLOSING RIGHTS

We may also close your Account on fourteen (14) days' notice in the circumstances set out below. If we rely on our rights under this clause, Your Account will be suspended during the fourteen (14) day notice period and you will not be able to place trades other than those to close existing open Positions. If you have not closed all the open Positions within the fourteen (14) days' notice period, we may take any action referred to in clause 15.2.

The relevant circumstances are:

- (a) Any litigation is commenced involving both of Us in an adversarial position to each other and, in view of the subject matter or any issues in dispute in relation to that litigation, We reasonably decide that We cannot continue to provide Our Services to You while the litigation is pending;
- (b) Where you have persistently acted in an abusive manner toward our staff (for example by displaying what we consider to be serious discourtesy or the use of offensive or insulting language); or
- (c) Where We believe on reasonable grounds that You are unable to manage the risks that arise from Your trades.

### 15.4 OUR RIGHTS TO CLOSE OR VOID

Without limiting our right to take action under clause 15.2 and 15.3, We may also close or void individual open Positions and/or cancel any order where:

- (a) We are in a dispute with You in respect of an open Position. In this case, We can close all or part of the open Position in order to minimise the amount in the dispute; and/or
- (b) There is as material breach of this Agreement in relation to the open Position.

### 15.5 OUR RIGHT TO SUSPEND ACCOUNT

Without limiting Our right to take action under clauses 15.2, 15.3 and 15.4, We may, in Our discretion, suspend Your Account pending investigation for any reason. Whilst Your Account is suspended, You will be able to close Your open Positions, but you will not be able to place new trades. Circumstances in which we may choose to exercise this right include, but are not limited to the following:

- (a) When we have reasonable grounds for believing that an Event of Default has occurred or may occur but believe it is reasonably necessary to investigate circumstances with a view to confirming this;
- (b) When We have reasonable grounds for believe that You do not have a sufficient understanding of the trade which You are placing or the risks involved;
- (c) When We have not received within ten (10) days of a written request, all information which We believe that We require in connection with this Agreement; or
- (d) We have reason to believe that there has been a breach in Your Account share or that that there has been a threat to Your Account share.

## 15.6 CONCLUDE INVESTIGATIONS

If we have suspended your Account pending investigation, we will use reasonable endeavours to conclude our investigation within five (5) Business Days. When we conclude our investigation we will inform you whether trading on your Account may resume or whether we will seek to take further action pursuant to this Agreement.

## 15.7 EXERCISE OF RIGHTS

We may exercise our rights to close open Positions under this clause 15 at any time after the relevant event has occurred and will do so on the basis of the next available price for the affected open Position, as determined under clause 10.

## 16 SET OFF

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- (a) This Agreement and all Positions under it form part of a singular agreement between Us and You.
- (b) In the circumstances an Event of Default occurs, We shall:
  - i. Calculate a final Contract Value in respect of all Positions;
  - ii. Calculate all amounts owing to Us by You under this Agreement or otherwise (including any costs arising from the Event of Default) to form a singular net sum;
  - iii. If a relevant amount in clause 16(b)i or 16(b)ii above are denominated in a currency other than the Account Currency, then We shall determine the amount in US Dollars that would be required to purchase the equivalent amount of the other currency on the date of the calculation at a rate We determine, at Our absolute discretion;
  - iv. As soon as reasonably practicable, following Our determination of the above amounts, We shall aggregate all such amounts and set-off the total of all amounts due from Us to You against the total of all amounts (the **Net Termination Amount**) is payable by the relevant party having a net payment obligation; and
  - v. We will notify You in writing of Our Calculation of the Net Termination Amount promptly following Our determination, pursuant to clause 27 (Notices) of this Agreement. The Net Termination Amount shall be payable on the date on which such notice is effective.
- (c) The Net Termination Amount shall accrue interest at the rate reasonably determined by Us from (and including) the date of the close out (but excluding) the date on which such notice is effective.
- (d) For the avoidance of doubt, We have a right of set-off across all Accounts and sub-accounts You hold with Us.

## 17 PAYMENTS

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### 17.1 YOUR PAYMENTS MUST BE THE FULL AMOUNT

When You make any payment which is subject to any withholding or deduction under this Agreement, You must pay to us an amount that ensures that the amount actually received by Us is equal to the full amount we would have received had no withholding or deduction been made.

### 17.2 PAYMENTS WE OWE TO YOU AND YOU OWE TO US ARE OFFSET

- (a) If on any day, the same amounts are payable under this Agreement in respect of the same Account by You and Us to the other in the same currency, then, on such date, each of our obligations to make payment to such amount will be automatically satisfied and discharged.
- (b) On the other hand, if the aggregate amount that is payable by You or Us exceeds the aggregate amount that is payable by the other in the same currency, then the one who has to pay the larger amount must pay the excess to the other, and the obligations to make payment of each party will be satisfied and discharged.

### 17.3 PAYMENT OF AMOUNTS DUE TO US

Unless otherwise provided in this Agreement, all amounts due to Us will, at Our decision:

- (a) Be deducted from any funds held by Us for You; or
- (b) Be paid by You in accordance with this Agreement.

If You fail to make any payment required under this Agreement when it falls due, interest will be charged (and You will pay interest) on the outstanding sum at a rate of 5% per annum over the cash rate determined for interbank loans. Interest accrues and is calculated daily from the date payment was due until the date You pay in full and is compounded monthly.

### 17.4 WITHDRAWING CREDIT FROM YOUR ACCOUNT

When Your Account is in credit, You may request Us to send You an cheque or effect payment by alternative means of the amount in credit of such amount as you may specify. But, we may at Our discretion withhold from the amount of the credit balance if:

- (a) Any overnight Position on Your account shows a notional loss;
  - (b) We reasonably consider that further amounts may be required to meet any current or future margin requirement or open Positions, or Your obligations (whether actual or contingent) under this Agreement including due to the Underlying Market conditions;
  - (c) If you have any contingent liability to us (or to any of our Associates), in respect of any other Account;
  - (d) We reasonably determine that there is an unresolved dispute between You and Us in connection with this Agreement or any Margin FX Contract or CFD;
- or

- (e) We consider it necessary and desirable to withhold such amount to comply with our regulatory or legal obligations,

And we will, except where paragraph 17.4(e) applies, notify You as soon as reasonably practicable if we decide to take such action.

#### **17.5 NO SECURITY INTERESTS CREATED**

Nothing in this Agreement is intended to create or does not create in favour of Us or You any mortgage, charge, lien, pledge or other security interest in any cash or other property transferred by one to the other under any Margin FX Contract or CFD.

#### **17.6 PAYMENT TRANSFERRED MUST HAVE FREE TITLE**

We and You agree that all rights, title and interest to and in any payment which one party transfers to the other in respect of a Margin FX Contract or CFD under this Agreement vests in the recipient clear of any liens, charges, encumbrances or other interest of the transferor or any third party.

### **18 DISPUTE RESOLUTION**

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#### **18.1 PROCEDURE**

Axis Inc. has an internal dispute relation process in place to resolve any complaints or concerns You may have, quickly and fairly. Any complaints or concerns should be directed to Our client services team by telephone or email.

We will do our best to resolve the issue at the first point of contact, however where we are unable to do so at Your satisfaction, You may refer the complaint to Our Complaints Officer. We will investigate Your complaint and provide us with Our decision and the reasoning behind it in writing. We will seek to resolve Your complaint within twenty-one (21) calendar days.

In the circumstances we are unable to resolve Your complaint within forty-five (45) calendar days, we will: (a) inform You of the reasons for the delay; (b) provide You with updates on the process of the complaint; and (c) specify a date when a decision can reasonably be expected. We would expect that in most cases the above process would deal with the matter fully and to Your satisfaction.

If You are dissatisfied with the outcome, You may lodge a complaint with the Financial Commission, an external dispute resolution form external to us using the contact details available on Our Website.

#### **18.2 CONTINUANCE OF PERFORMANCE**

Despite the existence of a Dispute, the Parties must continue to perform their respective obligations under this Agreement unless the Parties have agreed otherwise in writing. If You have submitted Your complaint to Us (or an alternative external dispute resolution service), You are still required to do what You can to mitigate Your losses.

### 18.3 WHERE WE MAY COMMENCE LEGAL PROCEEDINGS

Clause 18.1 of this Agreement does not prevent us from commencing legal proceedings against You in any relevant jurisdiction in addition to submitting any dispute or difference whatsoever in connection with this Agreement to the Financial Services Commission.

## 19 LIABILITY AND INDEMNITY

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### 19.1 EXCLUSION OF LIABILITY

To the maximum extent permitted by law, We are not liable for:

- (a) Any Loss or Claim in respect of an alleged loss of profits, loss of revenue or loss of opportunity;
- (b) Any Loss that is not reasonably foreseeable;
- (c) Any action We may take under this Agreement so long as We act within the terms of its provisions;
- (d) Any action taken by or on the instructions of a market, clearing house or regulatory body;
- (e) Any breach of this Agreement, except in the case of Our fraud, negligence or willful default;
- (f) Any Error that may occur;
- (g) Any Claim in respect of general financial advice provided by Us;
- (h) Any error or inaccuracy in, or unsuitability of, or omission from the Agreement or any other information provided by Us, whether negligent or otherwise;
- (i) Any Loss or Claim suffered or incurred by You in respect of Our Trading Platform including due to the unavailability of the Trading Platform, system and data errors, delays, inaccuracies, errors or omissions in data provided to You, software or computer viruses or the unauthorized use of the Trading Platform at any time; and
- (j) Any errors, actions or inactions of any Introducing Broker, Associate or any other third-party.

### 19.2 TRADING PLATFORM

We do not provide any warranty as to the availability, accessibility, description, quality, performance or fitness for purpose for You of the Trading Platform or any component of the Trading Platform. We reserve the right to remove altogether or reduce the Trading Platform service at any time for any purpose without incurring any liability to You, however where possible will provide written notice of Our intention to do so in accordance with clause 27 (Notices).

### 19.3 INDEMNITY

You agree to indemnify Us against, and You must pay Us on demand, all Losses and Claims (including without limitation loss of profit or business opportunity and loss of or damage to reputation) which may be suffered or incurred or brought against Us in connection or caused by:

- (a) A breach by You of Your obligations under this Agreement, or where relevant, by any of Your officers, employees, agents or contractors;
- (b) Any willful, unlawful or negligent act or omission by You, or where relevant, by any of Your officers, employees, agents or contractors;
- (c) Any Loss suffered by Us as a result of any computer viruses, worms, software bombs or similar items introduced by You into the system via the Trading Platform or any software provided by Us to You in order to enable You to use the Trading Platform;
- (d) Us entering into any Position with You;
- (e) Us taking any action under clause 15 (Default) or 16 (Set-off) of this Agreement,

Unless such Loss or Claim is suffered or incurred as a result of Our fraud, negligence or willful default.

## 20 AMENDMENT, ASSIGNMENT AND TERMINATION

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### 20.1 AMENDING THE AGREEMENT

We may amend or replace this Agreement at any time by giving written notice to You of the changes.

### 20.2 TERMINATION

- (a) Notwithstanding any other termination rights We have under this Agreement, We may immediately terminate this Agreement at any time by giving You written notice in accordance with clause 27 (Notices) of this Agreement.
- (b) You may terminate this Agreement at any time by providing Us ten (10) Business Days' prior written notice in accordance with clause 27 of this Agreement.
- (c) Your Account will be closed as soon as reasonably practicable after the expiry of the termination notice period, with all open Positions or orders cancelled and all Your obligations discharged.

### 20.3 RESERVATION OF RIGHTS

If You provide such notice under clause 0 above, We reserve the right to refuse or allow You to enter into any further Positions or orders which may lead You to holding further open Positions during the termination notice period.

## 20.4 ASSIGNMENT AND DELEGATION

- (a) You may not assign or delegate any of Your rights and obligations under this Agreement to any person without Our written prior consent.
- (b) You may not create any security interest over any of Your rights under this Agreement, including any rights to deposit held by Us.
- (c) We may assign, novate or otherwise transfer Our rights or delegate any of Our obligations under this Agreement to any person, in whole or in part, without Your prior consent on giving not less than seven (7) Business Days' notice in accordance with clause 27 of this Agreement.
- (d) If You are in default of Your obligations under this Agreement, We will be entitled (without prejudice to any other rights We may have) to assign to any person with immediate effect all or any of Our rights in respect of monies owing to Us under this Agreement, as well as any security or other remedies available to Us in respect of such monies. You may be required to acknowledge in writing to Us that the assignee has assumed Our rights and obligations under this Agreement in relation to the relevant monies owing by You.

## 21 FORCE MAJEURE

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### 21.1 DEFINITION OF FORCE MAJEURE EVENT

A Force Majeure Event refers to any occurrence as a direct or indirect result of which a Party is prevented from or delayed in performing any of its obligations (other than a payment obligation) under this Agreement that is beyond the reasonable control of the Party, including forces of nature, industrial action and action or inaction by a government agency.

A Force Majeure Event includes:

- (a) Us, in Our opinion, becoming unable to maintain an orderly market in respect of a Product for one or more of the Underlying Instruments as a result of the occurrence of any act, omission or event (including a strike, riot, civil unrest or failure of power supply, communications or other infrastructure);
- (b) The suspension, closure, liquidation or abandonment of any relevant market or Underlying Instruments; or
- (c) The imposition of limits or special or unusual terms in the relevant markets or Underlying Instruments; or
- (d) The excessive movement, volatility or loss of liquidity in the relevant markets or Underlying Instruments; or
- (e) Where We reasonably anticipate that any of the circumstances listed in subsections (a) to (d) are about to occur.

## 21.2 NOTICE AND SUSPENSION OF OBLIGATIONS

If a Party to this Agreement is affected or likely to be affected by a Force Majeure Event:

- (a) That Party must immediately give the other prompt notice of that fact including:
  - a. Full particulars of the Force Majeure Event;
  - b. An estimate of its likely duration;
  - c. The obligations affected by its and the extent of its effect on those obligations;
  - d. The steps taken to rectify it; and
- (b) The obligations under this Agreement of the Party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

## 21.3 REASONABLE ENDEAVOURS

A party claiming a Force Majeure Event must use reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. This does not require a Party to settle any industrial dispute in any way it considers inappropriate. If the Party comes to the view that the Force Majeure Event is not amenable to such actions, it must notify the other party as soon as possible.

## 21.4 TERMINATION DUE TO FORCE MAJEURE EVENT

- (a) In the circumstances a Force Majeure Event continues for more than five (5) Business Days, either Party may terminate this Agreement immediately by giving written notice to the other party in accordance with clause 27 of this Agreement; and
- (b) In the event of termination under sub-clause (a), neither Party is liable to the other except to the extent of rights or obligations which accrued before termination.

## 21.5 ADDITIONAL ACTIONS

Notwithstanding clauses 21.2 and 21.3 above, if We reasonably determine that a Force Majeure Event exists then We may (without prejudice to any other rights under this Agreement and at Our sole discretion) take any one or more of the following actions:

- (a) Alter normal trading times;
- (b) Alter the Margin Requirement;
- (c) Amend or vary this Agreement and any transaction contemplated by this Agreement, including any Position, insofar as it is impractical or impossible for Us to comply with Our obligations to You;
- (d) Close any or all existing Positions, cancel instructions and orders as We deem to be appropriate in the circumstances; or

- (e) Take or omit to take all such other actions as We deem to be necessarily appropriate in the circumstances having regard to the Positions of Us, You and other clients.

To the extent practicable, We will take reasonable steps to notify You, in accordance with clause 27, of any action that We propose to take under this clause 21.5. If it is not practicable to give You prior notice, We will notify You promptly after taking any such action.

## 21.6 LIABILITY

If We reasonably determine in Our absolute discretion that a Force Majeure Event exists, We will not be liable to You for any failure, hindrance or delay in performing Our obligations under this Agreement or for taking or omitting to take any action in accordance with clauses 21.2 and 21.3 of this Agreement.

## 22 TRADING PLATFORM

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### 22.1 USE OF INFORMATION, DATA AND SOFTWARE

- (a) If You receive any data, information or software via the Trading Platform other than that which You are entitled to receive pursuant to this Agreement, You will immediately notify Us and will not use, in any way whatsoever, such data, information or software.
- (b) You will promptly take all reasonable steps to delete such data, information or software from Your systems if We request You do so.

### 22.2 MAINTAINING STANDARDS

When using the Trading Platform, You must:

- (a) Ensure that Your systems are maintained in good order and is suitable for use with the Trading Platform;
- (b) Carry out virus checks on a regular basis;
- (c) Not at any time leave the terminal from which You have accessed the Trading Platform or let anyone else use the terminal until You have logged off the Trading Platform;
- (d) Run such tests and provide such information to Us as We reasonably consider necessary to establish that the system satisfies the requirements notified by Us to You from time to time; and
- (e) Inform Us immediately of any system defect, or any unauthorized access to the Trading Platform or any unauthorized transaction or instruction which You know of or suspect and, if within Your control, cause such unauthorised use to cease and cease all use of such Trading Platform until You have received permission from Us to resume use.

## 22.3 SYSTEM DEFECTS

In the event You come become aware of a defect, malfunction or virus in Your systems or in the Trading Platform, You will immediately notify Us of such defect, malfunction or virus and cease all use of such Trading Platform until You have received permission from Us to resume use.

## 22.4 INTELLECTUAL PROPERTY

All rights in patents, copyrights, design rights, trademarks and any other intellectual property rights (whether registered or unregistered) relating to the Trading Platform remain vested in Us or Our licensors. You will not copy, interfere with, tamper with, alter, amend, reverse compile, disassemble or modify the Trading Platform or any part or parts thereof unless expressly permitted by Us in writing or expressly permitted by law. Any copies of the Trading Platform made in accordance with law are subject to the terms and conditions of this Agreement. You must ensure that all the licensor's trademarks and copyright and restricted rights notices are reproduced on these copies. You must maintain an up-to-date written record of the number of copies of the Trading Platform made by You. If We so request, You must as soon as reasonably practicable provide Us a statement of the number and whereabouts of copies of the Trading Platform.

## 22.5 IMMEDIATE SUSPENSION OR PERMANENT WITHDRAWAL

We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently Your ability to use the Trading Platform or any part thereof, without notice, where We consider it necessary or advisable to do so. In addition, Your use of the Trading Platform will be terminated automatically upon the termination (for whatever reason) of (i) any licence granted to Us that relates to the Trading Platform; or (ii) this Agreement.

## 22.6 EFFECTS OF TERMINATION

If either Party terminates Your use of the Trading Platform for any reason, You must, upon Our request, return to Us or destroy all hardware, software and documentation that We have provided to You in connection with the Trading Platform and any copies thereof.

# 23 PROHIBITED TRADING TECHNIQUES

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## 23.1 CIRCUMVENTION, REVERSE ENGINEERING OR USE OF ARTIFICIAL INTELLIGENCE SOFTWARE

- (a) You shall not unlawfully access or attempt to access, reverse engineer or otherwise circumvent any security measures We have applied to Our Online Trading Platform and/or computer systems.
- (b) It is absolutely prohibited to use any software which We determine at Our sole discretion to have at its purpose to apply any kind of artificial intelligence analysis to Our Online Trading Platform and/or computer system(s) relating to the use of Our services.

## 23.2 UNLAWFUL TRADING TECHNIQUES

- (a) Internet connectivity delays and price feed errors sometimes create a situation where the price(s) displayed on Our Online Trading Platform do(es) not accurately reflect the market rates. The concept of using trading strategies aimed at exploiting errors in prices and/or concluding trades at off-market prices and/or by taking advantage of internet delays (commonly known as “arbitrage”, “sniping” or “scalping” hereinafter collectively referred to as **Arbitrage**) cannot exist in an over-the-counter market where the Client is buying or selling directly from the principal. Accordingly, We reserve the right at Our sole discretion NOT to permit the exploitation of Arbitrage on Our Online Trading Platform and/or in connection with Our services. Any Transactions or Contracts that rely on price latency Arbitrage opportunities may be revoked at Our sole discretion and without prior notice being required. Furthermore, in those instances, We reserve the right, at Our sole discretion and without prior notice being required to:
- a. Make the necessary corrections or adjustments on the Account(s) involved (including and without limitation, adjusting the price spreads available to the Client);
  - b. Restrict the Account(s) involved’s access to streaming, instantly tradable quotes (including and without limitation, providing manual quotations only and submitting any orders to Our prior approval);
  - c. Retrieve from the Account(s) involved any historic trading profits that We can document as having been gained through such abuse of liquidity at any time during the client relationship;
  - d. To terminate the client relationship and/or close all Accounts involved (including and without limitation, all other accounts held by the same account holder with Us immediately by giving written notice).
- (b) Any indication or suspicion in Our sole discretion of any form of Arbitrage (including but not limited to risk-free profiting), abuse (including but not limited to the Client’s trading activity patterns that indicate that the Client solely aims to benefit financially without being genuinely interested in trading in the markets and/or taking market risks), internal hedging in coordination with other parties, abuse of Our ‘no negative balance’ policy, fraud, manipulation, cash-bank Arbitrage or any other forms of deceitful or fraudulent activity will constitute all Transactions carried and/or profits or losses garnered as invalid. In these circumstances, We reserve the right to close/suspend (either temporarily or permanently) all of the Client’s trading accounts and cancelling any transactions.

## 23.3 ACTION WE MAY TAKE AGAINST PROHIBITED TRADING TECHNIQUES

- (c) If, at Our sole discretion, We determine that You have breached this clause 23, We reserve the right to take any action as We see fit, including and without limitation, completely blocking access to Our Online Trading Platform, blocking and/or revoking Your access codes and/or terminating Your account. Under these circumstances, We reserve the right to seize any profits and/or revenues generated directly or indirectly by exercising such prohibited trading activities and We shall be entitled to inform any interested third-parties of Your breach of this clause.

- (d) We have and will continue to develop any tools necessary to identify fraudulent and/or unlawful use of Our Online Trading Platform; any dispute arising from such fraudulent and/or unlawful trading activities will be resolved by Us in Our sole and absolute discretion in the manner We deem to be fairest for all parties concerned. The decision made by Us shall be final and binding on all participants.

## 23.4 INDEMNIFICATION

Without prejudice to any other provisions of these Terms and Conditions, You agree to indemnify Us and hold Us and any of Our Associates harmless from and against any and all liabilities, losses, damages, costs and expenses, including and without limitation, legal fees and expenses incurred in connection with and/or directly or indirectly related with, any fraudulent and/or unlawful access and use by You of Our Online Trading Platform and/or the prevention and/or remediation thereof, provided that any such liabilities, losses, damages, costs and expenses would not have arisen, but for Our gross negligence, fraud or willful default.

## 24 YOUR PRIVACY AND DISCLOSURE

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We collect, maintain, use and disclose Personal Information in the manner described in Our Privacy Policy. Our Privacy Policy is available on Our Website or by contacting Our client services team.

## 25 CONFIDENTIALITY

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Each Party agrees not to disclose information provided by any other Party that is not publicly available (including the existence or contents of Agreements): except:

- (a) With the consent of the Party who provided the information (such consent is not to be unreasonably withheld);
- (b) If allowed, compelled or required by law, the Agreements, Our Privacy Policy or required by any market exchange;
- (c) In connection with any legal proceedings related to the Agreements; or
- (d) To any person in connection with an exercise of rights or when dealing with rights or obligation under the Agreements (including in connection with preparatory steps such as in relation to assignments).

This clause does not apply in relation to Personal Information (see Our Privacy Policy).

## 26 SURVIVAL OF OBLIGATIONS

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The following clauses survive the termination or expiry of this Agreement:

- (a) 1 Introduction;
- (b) 14 Representations, warranties and undertakings;
- (c) 16 Set Off;

- (d) 18 Dispute resolution,
- (e) 19 Liability and indemnity;
- (f) 20.3 Reservation of rights;
- (g) 25 Confidentiality;
- (h) 26 Survival of obligations;
- (i) 27 Notices; and
- (j) 28 Governing law and jurisdiction.

## 27 NOTICES

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### 27.1 NOTICES MUST BE IN WRITING

Subject to clause 27.2 below, any notice or other communication (including any Confirmations, Reports, statements or supplementary PDS) given or made under or in connection with the matters contemplated by this Agreement will, except where oral communication is expressly provided for, be in writing and will be sent to the address below:

- (a) **Us:** the “Contact Us” page of Our Website provides Our contact details for the purposes of written notifications.
- (b) **You:** The address and electronic mail address provided by You in the Application Form

### 27.2 PROVISION OF NOTICE

A notice in writing can be provided by letter, email or to the extent permitted by Applicable Laws, the Website including the Trading Platform.

### 27.3 WHEN NOTICES ARE RECEIVED

Any such notice will be deemed to have been received:

- (a) If delivered by hand, at the time of delivery;
- (b) If delivered by post, then it would be delivered in the ordinary course of post but in any event no later than seven (7) Business Days after posting;
- (c) If delivered by email, then notice will be taken as given:
  - a. If by 5:00pm on a Business Day (in the place of receipt), then at the time the email is sent;
  - b. If after 5:00pm (in the place of receipt), then on the next Business Day, provided the sender has not received a notification for any such reason that the email was not received by the recipient.

### 27.4 CHANGE OF NOTICE DETAILS

You may alter the address (including email address) which Confirmations, Reports, notices and other communications are issued, by written notice to Us. Such change, however, will not be actioned until approved by Us. You agree and acknowledge that

You are solely responsible for ensuring that We have Your current address, telephone number, email address and other details.

## 28 GOVERNING LAW AND JURISDICTION

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### 28.1 LAW

This Agreement and each Position between Us and You will be governed by and construed in accordance with the laws of Saint Vincent and the Grenadines.

### 28.2 JURISDICTION

Both Parties submit irrevocably, for Our benefit only, to the exclusive jurisdiction of the laws of Saint Vincent and the Grenadines. Both parties waive any objection they may have to proceedings being brought in such courts, waive any claim that such proceedings have been brought in an inconvenient forum and further waive the right to object, with respect to such proceedings, that such courts do not have any jurisdiction over such party. For the avoidance of doubt, this clause 28.2 will not prevent Us from commencing proceedings in any other relevant jurisdiction.

## 29 MISCELLANEOUS

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### 29.1 CONSENT TO RECORDING OF TELEPHONE CONVERSATIONS

You consent to the electronic recording of Your telephone discussions with Us, email logs and chat records, and the use of recordings or transcripts from such recordings for any purpose.

### 29.2 OUR ACTION TO COMPLY WITH THE LAW

Despite any other provision of this Agreement, in providing the Services in this Agreement, We will be entitled to take any action as We consider necessary in Our absolute discretion to ensure compliance with the Applicable Laws.

### 29.3 CLIENT MONEY

**(a)** Details of how We handle Your Client Money can be found in section 6 of the PDS (Holding Your Money).

**(b) Client Classification**

In agreeing to these terms, You are providing written agreement to be classified as a retail or wholesale client in accordance with the client money procedures in section 6 of the PDS.

**(c) Treatment of interest**

Unless otherwise agreed in writing with You, We are solely entitled to any interest or earnings derived from Your money;

**(d) You irrevocably and unconditionally authorise Us to:**

- i. Withdraw, deduct or apply any amounts payable by You to Us under this Agreement from Your account, including, without limitation, making a payment for, or in connection with, the margining, adjusting or settling of dealings in Positions entered into by You or the payment of interest or fees or charges to Us, it being acknowledged and agreed by You that such amounts belong to Us under this Agreement and may be used by Us in Our business from time to time, including for the payment of amounts to Our counterparties;
- ii. Deal with any property other than money given to Us in accordance with the terms and conditions of this Agreement, including, without limitation:
  1. Dealing with such property in connection with the margining, adjusting or settling of dealings in Positions entered into by You; or
  2. Selling or charging in any way, any or all of Your property which may from time to time be in Our possession or control, or the possession or control of Our associates, following an Event of Default.

#### 29.4 DIRECT DEBIT AUTHORISATION

The following provisions apply if a direct debit arrangement (**Direct Debit Authorisation**) is entered into between You and Us to debit an account owned by You for moneys You owe to Us:

(a) The Direct Debit Authorisation applies in respect of all monies due and payable to Us under the Confirmation and this Agreement;

(b) You:

- i. Must ensure that sufficient funds are available in the nominated account to meet all drawings on their due dates;
- ii. Must advise us immediately if the account nominated is transferred or closed;
- iii. Must ensure a suitable alternate payment method is arranged with Us if You have terminated this Direct Debit Authorisation; and
- iv. Are liable for all fees incurred by Us in relation to failed drawings.

(c) We:

- i. Where the due date falls on a non-business day, will draw the amount on the next Business Day thereafter; and
- ii. Reserve the right to cancel the Direct Debit Authorisation if three or more drawings are returned unpaid by your nominated financial institution and to arrange with You an alternate payment method.

(d) You:

- i. May terminate or amend the Direct Debit Authorisation at any time by giving us fourteen (14) days prior written notice to Us;
- ii. Stop payment of a drawing under the Direct Debit Authorisation by giving three (3) days prior written notice to Us; and

- iii. Where you consider a drawing has been debited incorrectly, You can dispute the drawing directly with Us or lodge a direct debit claim through your nominated financial institution.

## 29.5 SEVERABILITY

Any provision of this Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable, unless this would materially change the intended effect of this Agreement.

## 29.6 INCONSISTENCIES WITH TRANSLATIONS

If there is any inconsistency between the English version of this Agreement and any translation of this Agreement, the English version will prevail to the extent of any inconsistency.

## 29.7 RIGHTS AND REMEDIES

The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## 29.8 RIGHTS OF THIRD PARTIES

Nothing in this Agreement is intended to confer on any person other than Us or You any right to enforce any term of this Agreement.

## 29.9 WAIVER AND VARIATION OF RIGHTS

- (a) No delay or omission on Our part in exercising any right, power or remedy under this Agreement or by law, or partial or defective exercise thereof will:
  - i. Impair or prevent further or other exercise of such right, power or remedy; or
  - ii. Operate as a waiver of such right, power or remedy.
- (b) No waiver of any breach of any term of this Agreement will (unless expressly agreed in writing by Us) be construed as a waiver of a future breach of the same term or as authorizing a continuation of the particular breach.
- (c) Our exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this Agreement. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this Agreement.

## 29.10 OUR OFFICE AND TRADING HOURS

Trading hours for Margin FX Contracts and CFDs vary and will depend on the relevant Underlying Instrument's hours of operation. Our office hours and trading hours are set on Our website.

We are under no obligation to quote prices or accept orders or instructions on Contracts to which Limited Trading Hours apply.

## 29.11 MULTIPLE PARTIES

If a Party to this Agreement is made up of more than one person, or a term is used in this Agreement to refer to more than one party, then unless otherwise specified in this Agreement:

- (a) An obligation of those persons is joint and several;
- (b) A right of those persons is held by each of them severally; and
- (c) Any other reference to that Party or that term is a reference to each of those persons separately, so that (for example):
  - a. A representation, warranty or undertaking relates to each of them separately; and
  - b. A reference to that Party or term in clause 14 (Representations, warranties undertakings) is a reference to each of those persons separately.

## 29.12 TIME IS OF THE ESSENCE

Time is of the essence for this Agreement.

## 29.13 LIABILITY FOR EXPENSES

Each Party must pay its own expenses incurred in executing this Agreement and negotiating any additional terms and conditions as it relates to a Position.

## 29.14 GIVING EFFECT TO TRANSACTIONS

Each Party must do anything (including execute any document) and must ensure that its employees and Authorised Person does anything (including executing any document), that any other party may reasonably require to give full effect to this Agreement.