

TERMS & CONDITIONS

1. INTERPRETATION

In this Agreement:

"**Applicable Regulations**" means:

- a) Rules or any other rules of a relevant regulatory authority;
- b) the Rules of the relevant Market; and
- c) all other applicable laws, rules, and regulations as in force from time to time;

"**Associate**" means an undertaking in the same group as us, a representative whom we or an undertaking in the same group as us appoint, or any other person with whom we have a relationship that might reasonably be expected to give rise to a community of interest between us and them;

"**Business Day**" means a day which is not a Saturday or a Sunday and upon which banks are open for business in Labuan;

"**Electronic Services**" means a service provided by us, for example, an internet trading service offering clients access to information, electronic trading platform and trading facilities, via an internet service, a WAP service, and/or an electronic order routing system.

"**Event of Default**" means any of the events of default as listed in Clause 10; "**FSA**" means Labuan Financial Service Authority;

"**Market**" means any regulated market or multilateral trading facility;

"**Netting Transaction**" means a Transaction which is intended to be subject to the clause entitled "Netting" and for such purposes is identified as a "Netting Transaction" in the Individually Agreed Terms Schedule or by its terms;

"**Rules**" means applicable laws, articles, rules, regulations, procedures, and customs, as in force from time to time;

"**Secured Obligations**" means the net obligation owed by you to us after the application of set-off under Clause 8.5; "**System**" means all computer hardware and software, equipment, network facilities, and other resources and facilities needed to enable you to use an Electronic Service;

"**Transaction**" means any transaction subject to this Agreement, and includes:

- (i) a contract made on a Market or pursuant to the Rules of a Market;
- (ii) contract which is subject to the Rules of a Market;
- (iii) a contract which would (but for its term to maturity only) be a contract made on, or subject to the Rules of a Market and which, at the appropriate time, is to be submitted for clearing as a contract made on, or subject to the Rules of a Market; in any of cases (i), (ii) and (iii) being a future, option, contract for differences, spot, or forward contract of any kind in relation to any commodity, metal, financial instrument (including any security), currency, interest rate, index, or any combination thereof;
- (iv) a transaction which is matched with any transaction within paragraph (i), (ii), or (iii) of this definition; or
- (v) any other transaction which we both agree, in any specific Clause, or otherwise, shall be a Transaction.

"Website" means our internet address which comprises information about us, and our services and may provide you with a link to the agreed Trading Platform.

General interpretation: A reference in this Agreement to a "clause" or "Schedule" shall be construed as a reference to, respectively, a clause or Schedule of this Agreement, unless the context requires otherwise. References in this Agreement to any statute statutory instrument or Applicable Regulations include any modification, amendment, extension, or re-enactment thereof. A reference in this Agreement to "document" shall be construed to include any electronic document. The masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires.

Schedules: The clauses contained in the attached Schedule(s) (as amended from time to time) shall apply. We may from time to time send you further Schedules in respect of Markets or Transactions. In the event of any conflict between the clauses of any Schedule and this Agreement, the clauses of the Schedule shall prevail. The fact that a clause is specifically included in a Schedule in respect of one Market or Transaction shall not preclude a similar clause from being expressed or implied in relation to any other Market or Transaction.

Headings: Headings are for ease of reference only and do not form part of this Agreement.

2. GENERAL INFORMATION

Risk warning: Please note that trading in derivative financial contracts (including FX or forex and contracts for differences or CFDs) on a margin or leverage basis involves a high degree of risk to your capital and may not be appropriate for all investors. The price of the contract you make with us may change quickly due to market fluctuations that are outside of our control and you could sustain a total loss of deposited funds, though are not subject to subsequent payment obligations beyond the deposited funds. If you do not hold sufficient funds to meet your margin requirements, then we may close your open positions immediately and without notice, regardless of whether this would be at a loss.

Please read this Agreement carefully and discuss with us anything that you do not understand.

Information about us: Cerus Markets Limited with registration no.: LL17651 per Labuan Federal Territory of Malaysia's business registry, is authorized and regulated by the Labuan Financial Service Authority "LFSA". LFSA License Reference LFSA.900-14/MB/148/2021 (153).

21 Our registered office address in Labuan is:

Cerus Markets Limited

**U0065, 3rd Floor, Jalan OKK Awang Besar,
87000 Labuan FT,
Malaysia**

22 **Capacity:** We act as matched principal broker on your behalf in respect of Rolling Spot Forex, Contracts for Differences ("CFD"), over-the-counter products, and any other financial product that we are permitted to offer.

23 You confirm that you act as principal and not as agent or trustee on behalf of someone else. We may agree for you to act as an agent or trustee on behalf of the client. If we agree it will be in writing and you will be notified of the same, and you agree that you will not permit any person to deal on your behalf unless we so agree in writing. We will be entitled to rely on any instructions given to us by your duly appointed agent in relation to your account with us.

- 24 *Commencement:* This Agreement supersedes any previous agreement between you and us on the same subject matter, and takes effect when you signify acceptance of this Agreement or when you give us an order to enter into a transaction. This Agreement shall apply to all Transactions contemplated under this Agreement. In the event that any conflict between the clauses of this Agreement and the terms of any other material distributed by us the clauses of this Agreement shall prevail.
- 25 *Subject to Applicable Regulations:* This Agreement and all Transactions are subject to Applicable Regulations so that:
- i. If there is any conflict between this Agreement and any Applicable Regulations, the Applicable Regulations will prevail;
 - ii. nothing in this Agreement shall exclude or restrict any obligation which we have to you under Applicable Regulations;
 - iii. we may take or omit to take any action we consider necessary to ensure compliance with any Applicable Regulations;
 - iv. all Applicable Regulations and whatever we do or fail to do in order to comply with them will be binding on you; and
 - v. such actions that we take or fail to take for the purpose of compliance with any Applicable Regulations shall not render us or any of our directors, officers, employees, or agents liable.
- 26 *Market action:* If a Market (or intermediate broker or agent, acting at the direction of, or as a result of action taken by a Market) or regulatory body takes any action which affects a Transaction, then we may take any action which we, in our reasonable discretion, consider desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on you. If a Market or regulatory body enquires in respect of any of your Transactions, you agree to cooperate with us and to promptly supply the information requested in connection with the inquiry.
- 27 *Scope of this Agreement:* This Agreement sets out the basis on which we will provide services to you. This Agreement governs each Transaction entered into or outstanding between us on or after the execution of this Agreement.
- 28 *Charges:* You shall pay our charges as agreed with you from time to time, any taxes imposed by any competent authority on any account opened or Transaction effected by or cleared for you; any fees or other charges imposed by a Market or any clearing organization; interest on any amount due to us at the rates then charged by us (and which are available on request); and any other value-added or other applicable taxes of any of the foregoing, including any withholding tax. We will notify you of our current charges. Any alteration to charges will be notified to you before the time of the change.
- 29 *Costs resulting from the use of distance means:* In addition to the costs set out above, additional costs may be payable by you by virtue of the fact that this contract is entered into via email, telephone or other distance means.
- 2.10 *Additional costs:* You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.
- 2.11 *Payments:* All payments to us under this Agreement shall be made in such currency as we may from time to time specify to the bank account designated by us for such purposes. All such payments shall be made by you without any deduction or withholding.
- 2.12 *Remuneration and sharing of charges:* We may receive remuneration from, or share charges with, an Associate or other third party in connection with Transactions carried out on your behalf.
- 2.13 *Description of Service:* A description of the main characteristics of the service we will provide is enclosed.
- 2.14 *Minimum duration:* The minimum duration of this Agreement shall be the earlier settlement of the first trade in respect of which you instruct us or the occurrence of an Event of Default.
- 2.15 *Conflicts of Interest:* We, our Associates, or other persons or companies connected with us may have a relationship or arrangement

that is material in relation to any transaction or Contract affected, or advice provided by us, under the terms of this Agreement. By accepting the terms of this Agreement, you agree that we may transact such business without prior reference to any potential specific conflict of interest.

3. ADVICE

3.1 *Information from you:* **We shall not advise you on the merits of any trade and none of our staff are authorised by us to give you investment advice. You should not regard any of our materials or any communication from us as investment advice or recommendations or as an expression of whether we think a particular trade is suitable for you. If you need advice, please contact an independent investment adviser.**

3.2 *Investment research and other published information:* We may from time to time send published research reports and other publications to you. If the document contains a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on to any such person or category of persons. We make no representations as to the time of receipt by you of research reports and cannot guarantee that you will receive such research reports at the same time as other clients. We shall not be liable for any investment decision you make, based in whole or in part, on any investment research report or other publication we send to you. Any such published research reports or publications may appear in one or more information services.

3.3 *Tax advice:* We will not provide any tax advice. In addition, we shall not at any time be deemed to be under any duty to provide tax advice. If you need tax advice, please contact an independent tax adviser.

4. YOUR INFORMATION

4.1 *Confidentiality and data protection:* Subject to the following we will treat all information we hold about you as private and confidential. You agree, however, that we and other companies in our group may:

- a) use your information to administer and operate your account and monitor and analyse its conduct, provide services to you, assess any credit limit or other credit decision (and the interest rate, fees, and other charges to be applied to your account) and enable us to carry out statistical and other analysis;
- b) disclose your information to other companies in our group; those who provide services to us or act as our agents; anyone to whom we transfer or propose to transfer any of our rights or duties under this Agreement; credit reference agencies or other organisations that help us and others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity, fraud prevention or credit control checks; where we are required to do so by Applicable Regulations, there is a public duty to disclose or our interests require disclosure; at your request; or with your consent (and in the case of a joint account, we may disclose to any of you information obtained by us from any of you in relation to the account);
- c) use your information, unless you have told us that you do not wish us to do so, to inform you (by post, telephone, email, or other medium, using the contact details you have given us) about products and services offered by us, other companies in our group or selected third parties which we believe may be of interest to you; and
- d) transfer your information to any country, including countries outside the European Economic Area which may not have strong data protection laws, for any of the purposes described in this clause.

4.2 *Your rights:* You may have rights of access to some or all of the information we hold about you, to have inaccurate information corrected, and to tell us that you do not wish to receive marketing information, under data protection law. If you wish to exercise any of these rights, please contact us in writing.

5. **INSTRUCTIONS AND BASIS OF DEALING**

51 *Placing of instructions:* You may give us instructions for Transactions by electronic means on the electronic trading system, or orally (including by telephone) unless we tell you that instructions can only be given in a particular way. If you give instructions by telephone, your conversation will be recorded. If any instructions are received by us by telephone, computer, or other medium we may ask you to confirm such instructions in writing or by other electronic means. We shall be authorised to follow instructions notwithstanding your failure to confirm them in writing or by other electronic means. In this Agreement "instructions" and "orders" have the same meaning.

52 *Authority:* Electronic Services include any trading, direct market access order routing, or information services that we grant you access to or make available to you directly or through a third-party service provider, and used by you to view the information and/or enter into Transactions. We shall be entitled to act for you upon instructions given or purporting to be given by you without further inquiry as to the genuineness, authority, or identity of the person giving or purporting to give such instructions.

53 *Cancellation/withdrawal of instructions:* We can only cancel your instructions if we have not acted upon those instructions. Instructions may only be withdrawn or amended by you with our consent.

54 *Appropriateness:* In order for us to assess whether a service or Transaction is appropriate for you, you are required to provide information regarding your knowledge and experience in the investment field relevant to the specific type of product or service offered. In order that we can carry out this assessment, you must ensure that all information you provide is accurate. Unless you inform us that the information you have previously provided is out of date or inaccurate, we will be entitled to rely on it.

55 *Right not to accept orders:* We may, but shall not be obliged to, accept instructions to enter into a Transaction. If we decline to enter into a proposed Transaction, we shall not be obliged to give a reason but we shall promptly notify you accordingly. We make no obligation to accept or to execute or cancel, all or any part of a transaction that you seek to execute or cancel through the Electronic Service. We have no responsibility for transmissions that are inaccurate or are not received by us and may execute any transaction on the terms actually received by us.

56 *Control of orders prior to execution:* We have the right (but no obligation) to set limits and/or parameters to control your ability to place orders at our absolute discretion. Such limits and/or parameters may be amended, increased, decreased, removed, or added to by us at our absolute discretion and may include (without limitation): (i) controls over maximum order amounts and maximum order sizes; (ii) controls over our total exposure to you; (iii) controls over prices at which orders may be submitted (to include (without limitation) controls over orders which are at a price which differs greatly from the market price at the time the order is submitted to the order book); (iv) controls over the Electronic Services (to include (without limitation) any verification procedures to ensure that any particular order or orders has come from you); or (v) any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.

57 *Execution of orders:* Your orders may be routed to an affiliate of CERUS or a subsidiary of CERUS. We shall use our reasonable endeavours to execute any order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. If we encounter any material difficulty relevant to the proper carrying out of an order on your behalf, we shall notify you promptly. We shall carry out an order on your behalf only when the relevant Market is open for dealings, and we shall deal with any instructions received outside Market hours as soon as possible when that relevant Market is next open for business (in accordance with the rules of that Market). You agree that we may execute an order on your behalf outside a Market. When you give us a specific instruction, our order execution policy will not apply, and we may be unable to take the steps described in such policy to obtain the best possible result in executing your order. You confirm that you have read and agree to our order execution policy and best execution policy contained in the Schedule to this Agreement. We will notify you of any material changes to our order execution policy, but it is your responsibility to check for any other changes to our order execution policy as published from

time to time on our website. We will consider the continued placement of orders by you to constitute your continued consent to our order execution policy as in effect from time to time.

- 58 *Crossing of orders:* We may arrange for a Transaction to be executed, either in whole or in part, by selling an investment to you from another client, or a client of an Associate of ours, or vice-versa. We shall not give you prior notice if we arrange for a Transaction to be executed in this manner.
- 59 *Aggregation of orders:* CERUS may act as a "matched-principal" basis in all your Transactions, which are bilateral transactions between you and CERUS Accordingly, there will be no aggregation, allocation, or re-allocation of your and/or CERUS's own account orders or transactions.
- 510 *Confirmations:* We may provide you access to view your account at any time with an online login via the Internet and you confirm to us that you have regular access to the Internet and you have provided us with a valid email address. You may run reports of the confirmation of orders and statements of accounts. It is your responsibility to inform us of the non-receipt of a confirmation, or whether any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within one (1) Business Day after the execution of your order or we notify you of an error in the confirmation within the same period. We reserve the right to reverse trades in the event of manifest error or fraud.
- 511 *Performance and settlement:* When appropriate, you will promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us for the purpose of enabling us to perform our obligations under the relevant matching Transaction on a Market or an intermediate broker. We will not be obligated to execute any Transactions in the event that you fail to deliver any instructions, money, documents, or property so required, and shall not be liable for any loss consequent on any such failure to deliver or late delivery by you.
- 512 *Intermediate brokers and other agents:* We may, at our entire discretion, arrange for any Transaction to be affected with or through the agency of an intermediate broker, who may be an Associate of ours. Neither we nor our respective directors, officers, employees, or agents will be liable to you for any act or omission of an intermediate broker or agent. No responsibility will be accepted for intermediate brokers or agents selected by you.
- 513 *Position limits:* We may require you to limit the number of open positions which you may have with us at any time and we may in our sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained.
- 514 *Trade Reporting:* Under Applicable Regulations, we may be obliged to make information about certain Transactions public. You agree and acknowledge that any and all proprietary rights in such Transaction information are owned by us and you waive any duty of confidentiality attaching to the information which we reasonably disclose.

6. ELECTRONIC TRADING TERMS

- 61 *Scope:* These clauses apply to your use of any Electronic Services.
- 62 *Access:* Once you have gone through the security procedures associated with an Electronic Service provided by us, you will get access to such service, unless agreed otherwise or stated on our website. Please consult our website for more details on operating times. We may change our security procedures at any time and we will tell you of any new procedures that apply to you as soon as possible.
- 63 For each account we open in your name, we will give you a unique account number and will require such other security information as we consider necessary and appropriate. You will be required to set a username and password. It is your responsibility to keep your security information and any account number or username confidential, and you agree that you will not disclose your account number or username, or any other of your security-related information to anyone else. When you

deal with us or give us an instruction, we will require details of your security information, including your account number or username and password.

- 64 *Restrictions on services provided:* There may be restrictions on the number of Transactions that you can enter into on any one day and also in terms of the total value of those Transactions when using an Electronic Service. You acknowledge that some Markets place restrictions on the types of orders that can be directly transmitted to their electronic trading systems. These types of orders are sometimes described as synthetic orders. The transmission of synthetic orders to the Market is dependent upon the accurate and timely receipt of prices or quotes from the relevant Market or market data provider. You acknowledge that a Market may cancel a synthetic order when upgrading its systems, trading screens may drop the record of such an order, and you enter such orders at your own risk.
- 65 *Access requirements:* You confirm that you have regular access to the Internet to enable you to use an Electronic Service.
- 66 *Use of information, data and software:* In the event that you receive any data, information or software via an Electronic Service 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.
- 67 *Maintaining standards:* When using an Electronic Service, you must inform us immediately of any unauthorised access to an Electronic Service or any unauthorised Transaction or instruction which you know of or suspect and, if within your control, cause such unauthorised use to cease.
- 68 *System defects:* In the event you become aware of a material defect, malfunction, or virus in the System or in an Electronic Service, you will immediately notify us of such defect, malfunction or virus and cease all use of such Electronic Service until you have received permission from us to resume use.
- 69 *Intellectual Property:* All rights in patents, copyrights, design rights, trademarks, and any other intellectual property rights (whether registered or unregistered) relating to the Electronic Service remain vested in us or our licensors. You will not copy, interfere with, tamper with, alter, amend or modify the Electronic Services or any part or parts thereof unless expressly permitted by us in writing, reverse compile or disassemble the Electronic Services, nor purport to do any of the same or permit any of the same to be done, except in so far as such acts are expressly permitted by law. Any copies of the Electronic Services made in accordance with law are subject to the terms and conditions of this Agreement. You shall ensure that all the licensors' trademarks and copyright and restricted rights notices are reproduced on these copies. You shall maintain an up-to-date written record of the number of copies of the Electronic Services made by you. If we so request, you shall as soon as reasonably practical, provide to us a statement of the number and whereabouts of copies of the Electronic Services.
- 6.10 *Liability and Indemnity:* Without prejudice to any other terms of this Agreement, relating to the limitation of liability and provision of indemnities, the following clauses shall apply to our Electronic Services:
- 6.10.1 *System errors:* We shall have no liability to you for damage that you may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers. You acknowledge that access to Electronic Services may be limited or unavailable due to such system errors and that we reserve the right upon notice to suspend access to Electronic Services for this reason.
- 6.10.2 *Delays:* Neither we nor any third-party software provider accepts any liability in respect of any delays, inaccuracies, errors, or omissions in any data provided to you in connection with an Electronic Service.
- 6.10.3 *Viruses from an Electronic Service:* We shall have no liability to you (whether in contract or in tort, including negligence) in the event that any viruses, worms, software bombs, or similar items are introduced into the System via an Electronic Service or any software provided by us to you in order to enable you to use the Electronic Service, provided that we have taken reasonable steps to prevent any such introduction.

- 6.10.4 *Unauthorised use:* We shall not be liable for any loss, liability, or cost whatsoever arising from any unauthorised use of the Electronic Service. You shall on demand indemnify, protect, and hold us harmless from and against all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, and costs resulting from or arising out of any act or omission by any person using an Electronic Service by using your designated passwords, whether or not you authorised such use.
- 6.10.5 *Markets:* We shall not be liable for any act taken by or on the instruction of a Market, clearing house, or regulatory body.
- 6.11 *Suspension or permanent withdrawal with notice:* We may suspend or permanently withdraw an Electronic Service, by giving you one day written notice.
- 6.12 *Immediate suspension or permanent withdrawal:* We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently your ability to use any Electronic Service, or any part thereof, without notice, where we consider it necessary or advisable to do so, for example due to your non-compliance with the Applicable Regulations, breach of any provisions of this Agreement, on the occurrence of an Event of Default, network problems, failure of power supply, for maintenance, or to protect you when there has been a breach of security. In addition, the use of an Electronic Service may be terminated automatically, upon the termination (for whatever reason) of (i) any licence granted to us that relates to the Electronic Service; or (ii) this Agreement. The use of an Electronic Service may be terminated immediately if an Electronic Service is withdrawn by any Market or we are required to withdraw the facility to comply with Applicable Regulations.
- 6.13 *Effects of termination:* In the event of a termination of the use of an Electronic Service for any reason, upon request by us, you shall, at our option, return to us or destroy all hardware, software, and documentation we have provided you in connection with such Electronic Service and any copies thereof.

7. CLIENT MONEY

- 7.1 *Effects of termination:* In the event of a termination of the use of an Electronic Service for any reason, upon request by us, you shall, at our option, return to us or destroy all hardware, software, and documentation we have provided you in connection with such Electronic Service and any copies thereof.

- 7.2 *Passing money to third parties:* We may need to pass money received from you to a third party (e.g. a market, intermediate broker, OTC counterparty, or clearing house) to hold or control in order to effect a Transaction through or with that person or to satisfy your obligation to provide collateral (e.g. initial margin requirement) in respect of a Transaction. We have no responsibility for any acts or omissions of any third party to whom we pass money received from you. The third party to whom we pass money may hold it in an omnibus account and it may not be possible to separate it from our money, or the third party's money. In the event of insolvency or any other analogous proceedings in relation to that third party, we will only have an unsecured claim against the third party on behalf of you and our other clients, and you will be exposed to the risk that the money received by us from the third party is insufficient to satisfy the claims of you and all other clients with claims in respect of the relevant account.

- 7.3 *Overseas banks, intermediate brokers, settlement agents, or OTC counterparty:* We may hold client money on your behalf outside Labuan. The legal and regulatory regime applying to any such bank or person will be different from that of Labuan and in the event of insolvency or any other analogous proceedings in relation to that bank or person, your money may be treated differently from the treatment which would apply if the money was held with a bank in an account in Labuan. We will not be liable for the insolvency, acts, or omissions of any third party referred to in this sub-clause. *Unclaimed client money:* You agree that we may cease to treat your money as client money if there has been no movement on your balance for six years. We shall write to you at your last known address informing you of our intention of no longer treating your balance as client money and giving you 28 days to make a claim.

8. MARGINING ARRANGEMENTS

- 8.1 *Contingent liability:* Where we effect or arrange a Transaction involving an option, future, or contract for differences or any

other product that requires an initial margin, you should note that, depending upon the nature of the Transaction, you may be liable to make further payments when the Transaction fails to be completed or upon the earlier settlement or closing out of your position. You will be required to make further variable payments by way of margin against the purchase price of the investment, instead of paying (or receiving) the whole purchase (or sale) price immediately. The movement in the market price of your investment will affect the amount of margin payment you will be required to make. For margining arrangements of forex accounts please refer to the Forex Annex.

82 *Margin call:* You agree to pay us on demand such sums by way of margin as are required from time to time under the rules of any relevant market (if applicable) or as we may in our discretion reasonably require for the purpose of protecting ourselves against loss or risk of loss on present, future or contemplated Transactions under this Agreement.

83 *Failure to meet margin call:* Please note that in the event that you fail to meet a margin call, we may close the position unless we have previously granted you a loan or credit in accordance with Applicable Regulations.

84 *Form of margin:* Unless otherwise agreed, margin must be paid in cash. The currency of the cash margin you pay to us shall be the currency of the relevant underlying Transaction (if applicable) or as we may in our discretion reasonably decide from time to time.

85 *Set-off on default:* If there is an Event of Default or this Agreement terminates, we shall set-off the balance of cash margin owed by us to you against your obligations (as reasonably valued by us) to us. The net amount, if any, payable between us following such set-off, shall take into account the Liquidation Amount payable under Clause 11.

9. REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 *Representations and warranties:* You represent and warrant to us on the date this Agreement comes into effect and as of the date of each Transaction that:

- a) you will provide us, in a timely manner, with any information or documentation as is reasonably requested by us to satisfy our obligations under any Applicable Regulations, including (but not limited to) all applicable anti-money laundering or counter-terrorism financing rules or regulations and any information or documentation requested.
- b) if you are an individual you warrant that you have reached the age of 18 years or over and have full capacity to enter into this Agreement;
- c) if you are a company or body corporate you are properly empowered and have obtained all necessary corporate or other authority under your memorandum and articles of association or other constitutional documents;
- d) you have all necessary consents and authorisations and have taken all necessary action to enable you lawfully to enter into and perform this Agreement and such Transaction;

- e) the persons entering into this Agreement and each Transaction on your behalf have been duly authorised to do so;
- f) this Agreement, each Transaction, and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms and do not and will not violate the terms of any regulation, order, charge, or agreement by which you are bound;
- g) no Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination, or any combination of the above) an Event of Default (a "Potential Event of Default") has occurred and is continuing with respect to you;
- h) you act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Transaction;
- i) any information that you provide or have provided to us whether in respect of your financial position, domicile, or other matters is accurate and not misleading in any material respect;
- j) you agree that for the duration of this Agreement you will promptly notify us of any change to the details supplied by you on your Application Form, or any subsequent information form, including in particular moving to another country or territory or any change or anticipated change in your financial circumstances, regulatory or employment status (including redundancy and/or unemployment) which may affect the basis on which we do business with you;
- k) you are willing and financially able to sustain a total loss of funds resulting from Transactions.

92 *Covenants:* You covenant to us that:

- m) you will at all times obtain and comply with and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences, and authorisations referred to in this clause;
- n) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself;
- o) you will use all reasonable steps to comply with all Applicable Regulations in relation to this Agreement and any Transaction, so far as they are applicable to you or us;
- p) you will not send orders or otherwise take any action that could create a false impression of the demand or value for a security financial instrument, or send orders which you have reason to believe are in breach of Applicable Regulations. You shall observe the standard of behaviour reasonably expected of persons in your position and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position; and
- q) upon demand, you will provide us with such information as we may reasonably require evidencing the matters referred to in this clause or to comply with any Applicable Regulations.

10. EVENTS OF DEFAULT

The following shall constitute Events of Default:

- a) you fail to make any payment (including payment of Margin) when due under this Agreement;
- b) you fail to perform any obligation due to us;
- c) where any transaction or transactions, or any realised or unrealised losses on any transaction or transactions you open with us results in you exceeding any credit or other limits placed on your dealings;
- d) if you are an individual, your death or incapacity;
- e) a third party bringing proceedings for your bankruptcy (if you are an individual) or for your winding-up or for the appointment of an administrator or receiver in respect of you or any of your assets (if you are a company) or (in both cases) if you make an arrangement or composition with your creditors or any other similar or analogous procedure is commenced in respect of you;
- f) where any representation or warranty made by you in this agreement is or becomes untrue;
- g) you are or become unable to pay your debts as and when they fall due; or
- h) any other circumstance where we reasonably believe that it is necessary or desirable to take action to protect ourselves or all or any of our other clients.

11. NETTING

11.1 *Rights on Default:* On the occurrence of an Event of Default, we may exercise our rights under this clause, except that, if so specified by us, in the case of the occurrence of any Event of Default specified in paragraphs (e) of the definition of Events of Default (each a "Bankruptcy Default"), the automatic termination provision of this clause shall apply.

11.2 *Liquidation Date:* Subject to the following sub-clause, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a date (the "Liquidation Date") for the termination and liquidation of Netting Transactions in accordance with this clause.

11.3 *Automatic termination:* Where so specified, the date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date, without the need for any notice by us and the provisions of the following sub-clause shall then apply.

11.4 *Calculation of Liquidation Amount:* Upon the occurrence of a Liquidation Date:

- a) neither of us shall be obliged to make any further payments or deliveries under any Netting Transactions which would, but for this clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount;
- b) we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Netting Transaction referred to in paragraph (a) the total cost, loss or, as the case may be, gain, in each case expressed in the Base Currency specified by us or otherwise in writing or, failing any such specification, the lawful Currency of the United States (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position) as a result of the termination, pursuant to this Agreement, of each payment or delivery which would otherwise have been required to be made under such Netting Transaction (assuming satisfaction of each applicable condition precedent and having due regard, if appropriate, to such market quotations published on, or official settlement prices set by the relevant Market as may be available on, or immediately preceding, the date of calculation); and

- c) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the "Liquidation Amount").
- 11.5 *Payer:* If the Liquidation Amount determined pursuant to this clause is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the Liquidation Amount, and by whom it is payable, immediately after the calculation of such amount.
- 11.6 *Other transactions:* Where termination or liquidation occurs in accordance with this clause, we shall also be entitled, at our discretion, to terminate and liquidate, in accordance with the provisions of this clause, any other transactions entered into between us which are then outstanding.
- 11.7 *Payment:* The Liquidation Amount shall be paid in the Base Currency by the close of business on the Business Day following the completion of the termination and liquidation under this clause (converted as required by applicable law into any other currency, any costs of such conversion to be borne by you, and (if applicable) deducted from any payment to you). Any Liquidation Amount not paid on the due date shall be treated as an unpaid such amount and bear interest, at the average rate at which overnight deposits in the currency of such payment are offered by major banks in the London interbank market as of 11.00 am (London time) (or, if no such rate is available, at such reasonable rate as we may select) of 1% per annum for each day for which such amount remains unpaid.
- 11.8 *Base Currency:* For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as we shall reasonably select.
- 11.9 *Payments:* Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Netting Transaction for as long as an Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination hereunder, or any combination thereof) an Event of Default with respect to you has occurred and is continuing.
- 11.10 *Additional rights:* Our rights under this clause shall be in addition to, and not in limitation or exclusion of, any other rights that we may have (whether by agreement, operation of law or otherwise).
- 11.11 *Application of netting to Netting Transactions:* Subject to the Individually Agreed Terms Schedule, this clause applies to each Netting Transaction entered into or outstanding between us on or after the date this Agreement takes effect.
- 11.12 *Single agreement:* This Agreement, the particular terms applicable to each Netting Transaction, and all amendments to any of them shall together constitute a single agreement between us. We both acknowledge that all Netting Transactions entered into on or after the date this Agreement takes effect are entered into in reliance upon the fact that the Agreement and all such terms constitute a single agreement between us.
- 11.13 *Other agreements:* Subject to sub-clause 11.6, the provisions of this clause shall not apply to any Transaction which is subject to liquidation and termination under another agreement. However, any sum resulting from a liquidation and termination under another agreement, may be set-off against the Liquidation Amount.

12. RIGHTS ON DEFAULT

12.1 *Default:* On an Event of Default or at any time after we have determined, in our absolute discretion, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, in addition to any rights under the Netting Clause we shall be entitled without prior notice to you:

- a) instead of returning to you investments equivalent to those credited to your account, to pay to you the fair market value of such investments at the time we exercise such right, and/or
- b) to sell such of your investments as are in our possession or in the possession of any nominee or third party appointed under or pursuant to this Agreement, in each case as we may in our absolute discretion select or and upon such terms as we may in our absolute discretion think fit (without being responsible for any loss or diminution in price) in order to realise funds sufficient to cover any amount due by you hereunder, and/or
- c) to freeze, close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments.

If any Event of Default occurs, we may take all or any of the following actions:

- a) immediately require payment of any amounts you owe us, including in relation to margin;
- b) close all or any of your Transactions that remain open;
- c) convert any balance to your Base Currency;
- d) cancel any orders you have placed with us;
- e) exercise our rights of set-off;
- f) suspend your account with us and refuse to execute any trades, orders, or instructions from you;
- g) terminate this Agreement; and/or
- h) take or omit to take all such other actions as we consider to be reasonable in the circumstances to protect our customers and ourselves.

13. TERMINATION WITHOUT DEFAULT

13.1 *Termination:* Unless required by Applicable Regulations, either party may terminate this Agreement (and the relationship between us) at any time by giving written notice of termination to the other. We may terminate this Agreement immediately if you fail to observe or perform any provision of this Agreement or in the event of your insolvency other than in the case of force majeure.

Upon terminating this Agreement, all amounts payable by you to us will become immediately due and payable including (but without limitation):

- a) all outstanding fees, charges, and commissions; and
 - b) any dealing expenses incurred by terminating this Agreement; and
 - c) any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.
- 13.2 *Existing rights:* Termination shall not affect then outstanding rights and obligations (in particular relating to the Indemnities and Limitation of Liability Clause and the Miscellaneous and Governing Law Clause) and Transactions which shall continue to be governed by this Agreement and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed.

14. EXCLUSIONS, LIMITATIONS, AND INDEMNITY

- 14.1 *General Exclusion:* Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses, whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under this Agreement (including any Transaction or where we have declined to enter into a proposed Transaction) unless such loss is a reasonably foreseeable consequence or arises directly from our or their respective gross negligence (as defined under the laws of Labuan), willful default or actual fraud. In no circumstance, shall we have liability for losses suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with this Agreement, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in this Agreement will limit our liability for death or personal injury resulting from our negligence.
- 14.2 *Tax implications:* Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.
- 14.3 *Changes in the market:* Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular Transaction is affected.
- 14.4 *Limitation of Liability:* We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, an act of terrorism, an act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, Market, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations. Nothing in this Agreement will exclude or restrict any duty or liability we may have to you under any Applicable Regulations.
- 14.5 *Responsibility for orders:* You will be responsible for all orders entered on your behalf via an Electronic Service and you will be fully liable to us for the settlement of any Transaction arising from it.
- 14.6 *Entire Agreement:* You acknowledge that you have not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement. We will not be liable to you for a representation that is not set out in this Agreement and that is not fraudulent.
- 14.7 *Indemnity:* You shall pay to us such sums as we may from time to time require in or towards satisfaction of any debit balance on any of your accounts with us and, on a full indemnity basis, any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your accounts or any Transaction or any matching Transaction on a Market or with an intermediate broker or as a result of any misrepresentation by you or any violation by you of your obligations under this Agreement (including any Transaction) or by the enforcement of our rights.

15. MISCELLANEOUS

- 15.1 *Amendments:* We have the right to amend this Agreement without obtaining your prior consent unless required by any Applicable Regulations. If we make any material change to this Agreement, we will give at least seven business days' notice to you. Such amendment will become effective on the date specified in the notice. Any other amendment must be agreed in writing between us. Unless otherwise agreed, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.
- 15.2 *Notices:* Unless otherwise agreed, all notices, instructions, and other communications to be given by us under this Agreement shall be given to the e-mail address provided by you to us. Likewise, all notices, instructions, and other communications to be given by you under this Agreement shall be given to the e-mail address and/or by notice in writing by either party. You will notify us of any change of your e-mail address in accordance with this clause.

- 153 *Electronic Communications:* Subject to Applicable Regulations, any communication between us using electronic signatures shall be binding as if it were in writing. Orders or instructions given to you via e-mail or other electronic means will constitute evidence of the orders or instructions given.
- 154 *Recording of calls:* We may record telephone conversations without use of a warning tone to ensure that the material terms of the Transaction, and any other material information relating to the Transaction is promptly and accurately recorded. Such records will be our sole property and accepted by you as evidence of the orders or instructions given.
- 155 *Our records:* Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to comply with your record-keeping obligations, although records may be made available to you on request at our absolute discretion.
- 156 *Complaints procedure:* We have in place internal procedures for handling complaints fairly and promptly. If you have a complaint, please contact us promptly. You may submit a complaint to us, for example by letter, telephone, email, or in person. We will send you a written acknowledgement of your complaint promptly following receipt enclosing details of our complaints procedures. Please contact us if you would like further details regarding our complaints procedures.
- 157 *Third Party Rights:* This Agreement shall be for the benefit of and binding upon us both and our respective successors and assigns. You shall not assign, charge, or otherwise transfer or purport to assign, charge, or otherwise transfer your rights or obligations under this Agreement or any interest in this Agreement, without our prior written consent, and any purported assignment, charge, or transfer in violation of this clause shall be void. Each express beneficiary of this Agreement who is not a party to this Agreement, may enforce its rights under this Agreement by virtue of the Contracts (Rights of Third Parties) Law, 2014 of the Cayman Islands, provided that this Agreement may be amended at any time in accordance with the terms of this Agreement without the consent of any such third party.
- 158 *Time of essence:* Time shall be of the essence in respect of all obligations of yours under this Agreement (including any Transaction).
- 159 *Rights and remedies:* The rights and remedies provided under this Agreement are cumulative and not exclusive of those provided by law. We shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by us to exercise or delay by us in exercising any of our rights under this Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.
- 15.10 *Set-off:* Without prejudice to any other rights to which we may be entitled, we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) owed by you to us against any amount (whether actual or contingent, present or future) owed by us to you. For these purposes, we may ascribe a commercially reasonable value to any amount which is contingent or which for any other reason is unascertained.
- 15.11 *Partial invalidity:* If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
16. **GOVERNING LAW AND JURISDICTION**
- 16.1 *Governing law:* A Transaction which is subject to the Rules of a Market shall be governed by the law applicable to it under those Rules. Subject thereto, this Agreement shall be governed by and construed in accordance with Labuan laws.
- 16.2 *Law applicable to relationship prior to the conclusion of the Agreement:* The law applicable to the relationship between us prior to the conclusion of this Agreement is Labuan laws.

- 163 *Jurisdiction:* Each of the parties irrevocably:
- a) agrees for our benefit that the courts of Labuan shall have jurisdiction to settle any suit, action or other proceedings relating to this Agreement ("Proceedings") and irrevocably submits to the jurisdiction of such courts (provided that this shall not prevent us from bringing an action in the courts of any other jurisdiction); and
 - b) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court and agrees not to claim that such Proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over it.
- 164 *Waiver of immunity and consent to enforcement:* You irrevocably waive to the fullest extent permitted by applicable law, with respect to yourself and your revenue and assets (irrespective of their use or intended use) all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any courts, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which you or your revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agree that you will not claim any immunity in any Proceedings. You consent generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.
- 165 *Service of process:* If you are situated outside Labuan, process by which any Proceedings in Labuan are begun may be served on you by being delivered to the address in Labuan nominated by you for this purpose in the Individually Agreed Terms Schedule. This does not affect our right to serve process in another manner permitted by law.