



# AXICORP LIMITED

## CLIENT AGREEMENT

WE PROVIDE SERVICES RELATING TO TRADING COMPLEX DERIVATIVE FINANCIAL PRODUCTS. THE CONTRACTS THAT YOU CAN TRADE ON OUR ONLINE FACILITY ARE TRADED ON A MARGIN OR LEVERAGE BASIS, A TYPE OF TRADING WHICH CARRIES A HIGH DEGREE OF RISK TO YOUR CAPITAL. THE PRICE OF THE CONTRACT YOU MAKE WITH US MAY CHANGE QUICKLY AND YOUR PROFITS AND LOSSES MAY BE MANY TIMES THE AMOUNT OF YOUR INVESTMENT OR DEPOSIT. IF YOU DO NOT HOLD SUFFICIENT FUNDS TO MEET YOUR MARGIN REQUIREMENTS, THEN WE MAY CLOSE YOUR OPEN POSITIONS IMMEDIATELY AND WITHOUT NOTICE. PLEASE READ THE RISK WARNING NOTICES ON OUR ONLINE FACILITY CAREFULLY TO UNDERSTAND THE RISKS OF TRADING ON A MARGIN OR LEVERAGE BASIS. TRADING IN THESE PRODUCTS MAY NOT BE SUITABLE FOR EVERYONE AND YOU SHOULD NOT TRADE OUR PRODUCTS UNLESS YOU UNDERSTAND AND ACCEPT THE RISKS OF TRADING ON A MARGIN OR LEVERAGE BASIS AND ARE ABLE TO WITHSTAND SUSTAINING POTENTIAL LOSSES.

## CONTENTS

1	INTRODUCTION	1
2	SERVICES	2
3	PRICES	3
4	ORDERS, TRANSACTIONS AND OPEN POSITIONS	3
5	ONLINE FACILITY	5
6	TRANSACTION CONFIRMATIONS AND ACCOUNT STATEMENTS	8
7	CONSENT TO ELECTRONIC COMMUNICATION	9
8	MARGIN	9
9	SETTLEMENT DATE, ROLLOVER AND OFFSET INSTRUCTIONS	10
10	CLIENT MONEY	10
11	TOTAL TITLE TRANSFER ARRANGEMENTS	11
12	PROFITS, LOSSES AND INTEREST CHARGES ON OPEN POSITIONS	11
13	FEES AND CHARGES	12
14	CONFLICTS OF INTEREST	12
15	LIABILITY AND LOSSES	12
16	RISK WARNING	13
17	REPRESENTATIONS AND WARRANTIES	13
18	COVENANTS	14
19	CONFIDENTIALITY AND DATA PROTECTION	15
20	DEFAULT AND NETTING	17
21	INTELLECTUAL PROPERTY RIGHTS	18
22	LINKS	19
23	TERMINATION	19
24	NOTICES	20
25	COMPLAINTS	20
26	GENERAL	20
27	FORCE MAJEURE	21
28	GOVERNING LAW AND JURISDICTION	22

# 1 INTRODUCTION

- 1.1 AxiTrader online trading services are provided by AxiCorp Limited whose registered office is 55 Baker Street, London W1U 7EU, United Kingdom (**AxiCorp, we, us** or **our** as appropriate) on and subject to the following terms and conditions which shall be deemed to include the duly completed account opening documentation (**Account Opening Form**) (each as updated or amended from time to time) (together **Agreement**) which shall apply to all dealings between us and you.
- 1.2 We are authorised and regulated by the Financial Conduct Authority (**FCA**) for the conduct of designated investment business in the UK (FCA Firm Reference Number 509746). The address of the FCA is 25 The North Colonnade, Canary Wharf, London E14 5HS.
- 1.3 We shall treat you as a retail client for the purposes of the rules and guidance issued by the FCA from time to time (**FCA Rules**) unless we notify you that you are to be classified as a professional client. Your client classification may be subject to change at any time upon receipt of a notification from us. You have a right to request a different client classification but we will not be obliged to reclassify you. If we do reclassify you, we will inform you of any limitations to the level of client protection that this might entail.
- 1.4 For the avoidance of doubt, your electronic acceptance of the terms and conditions of this Agreement and your use or continued use of our services will be taken as your consent to be legally bound by this Agreement.
- 1.5 This Agreement shall supersede any previous agreement, arrangement or understanding, whether written or oral, between us as to the basis on which we provide services to you. We may vary or amend the Agreement at any time upon notice to you, given or confirmed in writing (which variation or amendment shall be effective on the date specified in our notice or, if no date is specified, immediately) which may include displaying them on website or online trading platform. Our services are provided subject to any disclosures or disclaimers found in this Agreement or within the website, online trading platform and account review facility (collectively, the **Online Facility**).
- 1.6 A current and definitive copy of this Agreement (as amended from time to time) will be available to you on the Online Facility at all times.
- 1.7 You undertake (which is a type of contractually binding promise) to notify us immediately of any changes to any information you have provided to us in connection with this Agreement (including in relation to the Account Opening Form).
- 1.8 In entering into this Agreement you authorise us or any agent acting on our behalf to investigate your identity or credit standing and to contact such banks, financial institutions and credit agencies as we or they shall deem appropriate to verify such information. You further authorise us or any agent to investigate any current and past

investment activity, and in connection therewith, to contact such banks, brokers and others as we shall deem appropriate.

**1.9** We will communicate with you in the English language and all transactions you enter into with or through us will be concluded in the English language.

**1.10** In this Agreement we have used defined words and terms in order to make it easier to read. After a definition or an explanatory word or phrase, we have included the relevant defined word or term in bold between brackets. Unless the context requires otherwise, all other uses of a defined word or term will have the same meaning.

### **1.11** Cancellation rights

1.11.1 You have a right to cancel this Agreement within 14 days of the day we receive the duly completed Account Opening Form from you. If you would like to cancel the Agreement please let your contact at AxiCorp know or contact us using the contact details on our website: <https://www.axitrader.com/uk/contact-us>.

1.11.2 The right to cancel the Agreement only relates to cancelling the Agreement itself. Cancellation will not affect your or our accrued rights, indemnities, existing commitments or any other contractual provision intended to survive termination of the Agreement.

1.11.3 No penalty will apply on cancellation. Cancellation will not affect the completion of transactions initiated prior to us receiving your notice of cancellation. In addition, you will pay any fees and charges incurred up to the date of cancellation and any additional expenses necessarily incurred by us (or a third party) in cancelling the Agreement and any losses necessarily realised in settling or concluding outstanding transactions and transferring your funds back to you.

1.11.4 If you do not exercise the right to cancel within the requisite time period, you will still be entitled to exercise your right to terminate this Agreement under clause 23.

## **2** SERVICES

**2.1** We offer a non-advisory, execution-only dealing service to you in relation to transactions in Foreign Exchange and Contracts for Differences (**CFDs**) where the underlying investments or products include foreign exchange contracts, metals, equity indices and any other financial products we may offer through the Online Facility from time to time (collectively **Products**).

**2.2** We will not advise you on the merits of any transaction entered into by you nor will we manage or monitor any open positions you may have in the Products. You acknowledge that our execution of any order on your behalf does not in any way imply that we have approved or recommended that transaction or Product. We have set out various risk disclosures in relation to our services and the Products on the Online Facility.

- 2.3** Unless we have otherwise agreed in advance in writing, you will enter into each transaction as principal and not as agent on behalf of someone else. We shall be responsible to you alone and shall have no duties or obligations to any of your underlying principals or customers. You alone will be responsible for the performance of your obligations to us.
- 2.4** All transactions we enter into with you or on your behalf will be placed and executed generally in accordance with the terms of our order execution policy (as amended from time to time) full details of which are available on the Online Facility (**Order Execution Policy**). Our Order Execution Policy is a policy only, is not part of this Agreement, is not intended to be contractually binding and does not impose or seek to impose any obligations on us which we would not otherwise have whether under this Agreement or FCA Rules.
- 2.5** We reserve the right to modify, suspend or discontinue, temporarily or permanently, all or any of our dealing services (in whole or in part) with or without notice. You agree that we will not be responsible or liable to you or to any third party (for whom you may be acting) for any modification, suspension or discontinuance of any of our dealing services.

### 3 PRICES

- 3.1** We will provide you with “bid” and “offer” prices in respect of each of the Products offered through the Online Facility. We may also charge you a commission on each transaction which shall be notified to you through the Online Facility.
- 3.2** Each price published through the Online Facility shall be valid until the earlier of its expiration time and the time, if any, at which it is otherwise cancelled or withdrawn by us. Each price shall be available for you to enter into a transaction with or through us up to a principal amount not to exceed a maximum determined by us published on the Online Facility or otherwise notified to you.
- 3.3** You acknowledge that the prices and maximum amounts we may offer to you may differ from prices and maximum amounts provided to our other clients and may be withdrawn or changed without notice. We may at our absolute discretion and without prior notice to you immediately alter, withdraw or refuse to deal on any price we may have published or cease the provision of prices altogether in some or all Products and for some or all delivery or settlement dates at any time.

### 4 ORDERS, TRANSACTIONS AND OPEN POSITIONS

- 4.1** Unless otherwise agreed by us all orders must be given to us electronically through the Online Facility (although we may in an emergency and at our absolute discretion accept instructions by telephone).
- 4.2** We may at our absolute discretion require confirmation of any order in such form as we may specify.
- 4.3** An order given to us by you, or on your behalf, shall not take effect until actually received and accepted by us. An order once received by us cannot be rescinded, withdrawn or amended without our express consent.
- 4.4** We shall be entitled to act on your behalf upon any order or instruction we reasonably believe to have been given or purporting to be given by you or any other person on your behalf

without further enquiry as to the authenticity of the order or the instruction or the authority or identity of any such person giving or purporting to give such order or instruction.

- 4.5** We may, at our discretion refuse to accept any order from you in whole or in part or following receipt of your order refuse to act on it but should we do so we will use our reasonable endeavours to notify you of any such refusal, with or without giving any reasons. In addition, an order which, for any reason, is not received by us in a manner in which it can be processed, including a failure of the Online Facility to accept or process such instruction, shall be deemed not to have been received by us.
- 4.6** The execution of an order by us shall constitute a binding agreement between us on the terms of such executed order.
- 4.7** The procedure for entering orders is specified on the Online Facility.
- 4.8** You acknowledge that following execution of any transaction, you are solely responsible for making and maintaining contact with us and for monitoring open positions and ensuring that any further instructions are given on a timely basis. In the event of any failure to do so, we can give no assurance that it will be possible for us to contact you and we accept no responsibility or liability to you for loss suffered (or alleged to be suffered) as a result of any failure by you to do so.
- 4.9** You agree to keep adequate records to demonstrate the nature of orders submitted and the time at which such orders are submitted.
- 4.10** We may, at our absolute discretion, require you to limit the number of orders you may give us or the number or value of open positions which you may have at any time and/or only allow you to enter into closing transactions or we may close out any one or more positions or reverse transactions in order to ensure that any position limits we may have imposed are maintained.
- 4.11** Should quoting and/or execution errors occur due to a typographical error or other obvious mistake in a quote or indication, we will not be responsible or liable to you for the resulting errors in your account balances. In the event of a quoting and/or execution error, we reserve the right to cancel orders, reverse transactions, close positions and make any necessary corrections or adjustments on the account involved. Any dispute arising from such quoting or execution errors will be resolved by us at our absolute discretion.
- 4.12** We reserve the right to, without your consent, either void from the outset or amend the terms of any Transaction containing or based on any error that we reasonably believe to be obvious or palpable (a 'Manifest Error'). If, in our discretion, we choose to amend the terms of any such Manifestly Erroneous Transaction, the amended level will be such level as we reasonably believe would have been fair at the time the Transaction was entered into. In deciding whether an error is a Manifest Error we shall act reasonably and we may take into account any relevant information including, without limitation, the state of the Underlying Market at the time of the error or any error in, or lack of clarity of, any information source or pronouncement upon which we base our quoted prices. Any financial commitment that you have entered into or refrained from entering into in reliance on a Transaction with us will not be taken into account in deciding whether or not there has been a Manifest Error.
- 4.13** In the absence of our fraud, wilful default or negligence, we will not be liable to you for any loss, cost, claim, demand or expense following a Manifest Error (including where the Manifest

Error is made by any information source, commentator or official on whom we reasonably rely).

- 4.14** If any regulated market, central clearing counterparty, multilateral trading facility or other type of trading platform (each 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, or becomes insolvent or is suspended from operating, then we may take any action which we, in our reasonable discretion, consider desirable to correspond with such action or event or to mitigate any loss incurred as a result of such action or event. Any such action shall be binding on you. If a Market or regulatory body makes an enquiry in respect of any of your transactions, you agree to co-operate with us and to promptly supply information requested by us.

## 5 ONLINE FACILITY

- 5.1** To use our Online Facility, you will need to request a username and password (**Access Code**) allocated by us. The use of your Access Code will be deemed by us to be use of the Online Facility by you or someone with your knowledge and consent.
- 5.2** In relation to the Access Code, you acknowledge and undertake that:
- 5.2.1 you will be responsible for the confidentiality and use of your Access Code;
  - 5.2.2 you will change your password regularly;
  - 5.2.3 other than with our prior written consent, you will not disclose your Access Code to other persons for any purpose whatsoever;
  - 5.2.4 without limiting the generality of clause 4, we may rely on all instructions, orders and other communications entered using your Access Code, and you will be bound by any resulting transaction entered into or expense incurred on your behalf; and
  - 5.2.5 you will immediately notify us on the telephone number provided on our website if you become aware of the loss, theft or disclosure to any third party or of any unauthorised use of your Access Code.
- 5.3** You acknowledge that the Online Facility is provided for use only by you or by others you have permitted to use the Online Facility on your behalf.
- 5.4** If you tell us or we believe that your Access Code is being used without your knowledge by unauthorised persons or has been disclosed by you to other persons without our consent, we may without prior notice suspend or terminate your right to use the Online Facility.
- 5.5** We shall not be responsible or liable to you for any loss, liability or cost whatsoever arising from any unauthorised use of your Access Code or the Online Facility. You shall remain responsible for and on demand indemnify, protect and hold us harmless from and against (i.e. you will be responsible for and reimburse us on demand for) all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs resulting from or arising out of any act or omission by any person using the Online Facility by using your Access Code, whether or not you authorised such use.

- 5.6** We may at our absolute discretion introduce and require additional levels of user identification and security. 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.
- 5.7** You shall be solely responsible for providing and maintaining any equipment you use to access the Online Facility and for making all appropriate arrangements with any telecommunications suppliers or, where access to the Online Facility is provided through a third party server, any such third party, necessary in order to obtain access to the Online Facility. Neither we nor any company maintaining, operating, owning, licensing, or providing services to us in connection with the Online Facility (**Service Providers**) make any representation or warranty as to the availability, utility, suitability or otherwise of the Online Facility or any such equipment or arrangements (i.e. neither we nor any third parties that we use are responsible or liable to you for the same). Since we do not control signal power, its reception or routing via the internet, configuration of your equipment or that of any third party or the reliability of its connection, we will not be responsible for communication failures, distortions or delays when you are accessing the Online Facility via the internet.
- 5.8** For the avoidance of doubt, we shall have no responsibility or liability to you (whether in contract or in tort, including negligence) for damage (i.e losses or expenses or anything similar) which 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 will be responsible for all orders entered on your behalf via the Online Facility and you will be fully responsible and liable to us for the settlement of any transaction arising from such use. You acknowledge that access to the Online Facility may be limited or unavailable due to such system errors, and that we reserve the right upon notice to suspend access to the Online Facility for this reason.
- 5.9** We shall have no responsibility or liability to you in the event that any viruses, worms, software bombs or similar items are introduced into your equipment or systems via the Online Facility or any software provided by us to you in order to enable you to use the Online Facility, provided that we have taken reasonable steps to prevent any such introduction.
- 5.10** You will ensure that no computer viruses, worms, software bombs or similar items are introduced into our computer system or network and you will be responsible for and will indemnify us on demand, protect and hold us harmless for any loss that we suffer arising as a result of any such introduction.
- 5.11** We shall not be responsible or liable to you for any act taken by or on the instruction of a Market, clearing house or regulatory body.
- 5.12** Internet connectivity delays and price feed errors sometimes create a situation where the prices displayed on the Online Facility do not accurately reflect the then prevailing market rates. In the event of such delays and errors, we reserve the right to cancel orders, reverse transactions, close positions and make any necessary corrections or adjustments on the account involved.
- 5.13** You will not use, or allow the use of, the Online Facility:



- 5.13.1 in contravention of any laws (in any jurisdiction), regulations or the FCA Rules (including rules on market abuse) or any other regulatory authorities to which you or we may be subject;
  - 5.13.2 in any way (including, without limitation, posting information on the Online Facility where this facility is available) which is defamatory, obscene, abusive, indecent or menacing or which infringes any intellectual property rights or breaches obligations of confidence or which is otherwise illegal or unlawful;
  - 5.13.3 to introduce a software virus or other disruptive program or do any act which would cause the Online Facility damage or to become unavailable for use by others;
  - 5.13.4 to solicit or encourage other internet websites to frame or hypertext link direct to the Online Facility without our prior written consent; or
  - 5.13.5 in any way which is not authorised by us or is otherwise in breach of this Agreement.
- 5.14** We do not permit the use of the Online Facility for unfair arbitrage activity or otherwise taking advantage of internet delays, using any other manipulative or abusive behaviour (such as the dissemination of false or misleading market information through media, including the internet, or by any other means with the intention of moving the price of a Product or the underlying property or value) which could adversely impact on fair and orderly trading on the Online Facility.
- 5.15** We regularly publish on the Online Facility updates of the system, features available to clients as well as information, declarations and warnings related to our services. We may also send this information to your email address. You undertake to read any such communications on publication or receipt and regularly familiarise yourself with this information and to inform us immediately of any disagreement with any such information.
- 5.16** You will be responsible for obtaining and using a suitable device, mechanism, or system (**Device**) to enable you to use the Online Facility and you will be responsible for the installation and proper use of any virus detection/scanning program we may require from time to time.
- 5.17** When using the Online Facility you must:
- 5.17.1 ensure that your Device is maintained in good order and is suitable for use with the Online Facility;
  - 5.17.2 run such tests and provide such information to us as we shall reasonably consider necessary to establish that your Device satisfies the requirements notified by us to you from time to time;
  - 5.17.3 carry out virus checks on a regular basis;
  - 5.17.4 inform us immediately of any unauthorised access to the Online Facility or any unauthorised transaction or instruction which you know of or suspect and, if within your control, cause such unauthorised use to cease; and
  - 5.17.5 not at any time leave unattended the Device from which you have accessed the Online Facility or let anyone else use the Device until you have logged off the Online Facility.

- 5.18** In the event you become aware of a material defect, malfunction or virus in any Device through which you access the Online Facility, or in the Online Facility itself, you will immediately notify us of such defect, malfunction or virus and cease all use of the Online Facility until you have received permission from us to resume use.
- 5.19** All rights in patents, copyrights, design rights, trade marks and any other intellectual property rights (whether registered or unregistered) relating to the Online Facility remain vested in us or our licensors. You will not copy, interfere with, tamper with, alter, amend or modify the Online Facility or any part or parts thereof unless expressly permitted by us in writing; reverse compile or disassemble the Online Facility; 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 Online Facility must be made on your behalf 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 any copies. You shall maintain an up-to-date written record of the number of copies of the Online Facility 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 Online Facility. In the event that you receive any data, information or software via the Online Facility 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.
- 5.20** We may suspend or permanently withdraw the Online Facility, by giving you reasonable written notice.
- 5.21** We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently your ability to use the Online Facility, or any part thereof, without notice, where we consider it necessary or advisable to do so, in our discretion and in good faith. We may choose to do so, for example, in the event of your non-compliance with an applicable law or regulation or your breach of any provisions of this Agreement.
- 5.22** In the event of a termination of the use of the Online Facility for any reason, upon request by us, you shall, at our option, return to us or destroy all hardware, software and documentation we may have provided you in connection with the Online Facility and any copies thereof.

## **6 TRANSACTION CONFIRMATIONS AND ACCOUNT STATEMENTS**

- 6.1** Following the execution of an order for your account, we will confirm that transaction via the Online Facility or via email (**Confirmation**) on or before the next business day after the execution but failure to do so will not affect the validity of the transaction.
- 6.2** We will post details of your positions and account activity via the Online Facility or via email on the first day of each month for the previous month's activity. Account information may include Confirmations, statements of profits and losses and any other information required to be provided by the FCA Rules (together **Account Information**). Posting of Account Information via the Online Facility or via email will be deemed delivery of Confirmations and account statements. We may at our absolute discretion withdraw or amend any Account Information at any time. You agree that we are under no obligation to provide Confirmations in hard copy. The Account Information posted via the Online Facility or via email (save if manifestly incorrect) shall be conclusive evidence of your transactions and shall be binding on you if not objected to immediately upon receipt with such objection confirmed in writing (including email

or similar electronic mail) and (in any event) no later than one business day after the Account Information is posted via the Online Facility or via email.

## 7 CONSENT TO ELECTRONIC COMMUNICATION

You consent to communications being made via electronic media. If you no longer wish to communicate via electronic media, you must notify us and revoke this consent in writing. If you do not wish to communicate via electronic media at all, you must inform us of your wishes when completing the Account Opening Form. Communications sent through the Online Facility or by electronic media shall be treated as satisfying any legal requirement that a communication should be signed and in writing, to the extent permitted by applicable law.

## 8 MARGIN

- 8.1** You shall provide to us and maintain with us such amount of money in respect of and as security for your actual, future and contingent or potential liabilities to us (**Liabilities**) in such amounts and in such forms as we, at our absolute discretion, may require (**Margin**). We may change our Margin requirements at any time.
- 8.2** Any requirement for Margin must be satisfied in such currency and within such time as may be specified by us (in our absolute discretion) or, if none is specified, immediately. One Margin demand does not preclude another. Margin shall be provided in the form of cash or such other forms as we may agree or accept. It is your responsibility to monitor your trading account and you should not rely on our right to call you for margin as a means of monitoring your account. Margin calls are made as a matter of courtesy and we are not obliged to make margin calls to clients.
- 8.3** You are responsible for maintaining appropriate arrangements with us at all times for the receipt and communication of information regarding Margin. If you fail to provide Margin to us in the required time, we may automatically close out some or all of your open positions and we will be entitled to exercise our rights in accordance with clause 20 below. We will endeavour to follow an orderly stop out procedure, as detailed in the Product Schedule.
- 8.4** Unless otherwise agreed by us, you charge to us all Margin provided by you to us under the Agreement as a continuing security for your Liabilities under or pursuant to the Agreement (including under every transaction from time to time governed by the Agreement).
- 8.5** You agree to execute such further documents and to take such further steps as we may reasonably require to perfect our security interest over, be registered as owner of or obtain legal title to the Margin, secure further the Liabilities, enable us to exercise our rights.
- 8.6** You may not withdraw or substitute any property which is subject to our security interest without our prior consent.
- 8.7** If this Agreement terminates, we will not be obliged to repay any cash margin to the extent that you owe, or may owe, Liabilities to us. In determining the amounts of cash margin, your Liabilities, and our obligations to you, we may apply such methodology (including judgements as to the future movement of markets and values) as we consider appropriate, consistent with applicable law.

## 9 SETTLEMENT DATE, ROLLOVER AND OFFSET INSTRUCTIONS

- 9.1** All positions held at the end of each business day may be subject to automatic rollover. We may charge you a fee in respect of each such position that is rolled over. The fees that we charge will be published on the Online Facility.
- 9.2** In the absence of clear and timely instructions from you, you agree that in order to protect your interests and ours we are authorised, at our absolute discretion and at your expense, at the end of each business day, to close any open position, rollover or offset all or any open position(s), enter into offsetting transactions or to make or receive delivery on your behalf upon such terms and by such methods as we may deem reasonable in the circumstances.
- 9.3** For the avoidance of doubt, we will not arrange delivery of any applicable underlying investment or product which is linked to any Product (including any foreign currency) unless we deem it necessary or if we otherwise agreed in writing with you to do so and, accordingly, unless such arrangements have been made by us any open positions (where applicable) shall be closed and the resulting profit or loss credited or debited to your account with us.

## 10 CLIENT MONEY

- 10.1** This clause 10 shall apply to you unless we have notified you: that we will treat you as a professional client; and also that the terms of clause 11 will apply to you for all or any of your use of our services.
- 10.2** Any money received by us from you will be held in an account with us or with a bank approved by us and will be segregated from our own funds in accordance with the FCA Rules on Client Money. Unless otherwise agreed in writing between us, your funds may be pooled with the funds of other clients in a general omnibus account.
- 10.3** We will not pay interest to you on any of your money that we hold and by entering into this Agreement you acknowledge that you waive any entitlement to interest on such money under the FCA Rules or otherwise.
- 10.4** We may hold funds you pay to us with banks located outside the United Kingdom. The legal and regulatory regime applying to any such bank will be different from that of the United Kingdom and in the event of the insolvency or any other equivalent failure of the bank, your money may be treated differently from the treatment which would apply if the money was held in the United Kingdom. We will not be responsible or liable to you for the solvency, acts or omissions of any bank or other third party holding money under this clause 10.
- 10.5** We are authorised to convert money in your account (including for Margin) into and from such foreign currency at a rate of exchange determined by us on the basis of the then prevailing money market rates. In such circumstances, we will not be responsible or liable to you for any loss suffered by you as a result of such action (although, we will use reasonable endeavours to only convert such funds as may prudently be required to cover Liabilities in respect of relevant transactions).
- 10.6** Where any obligations owing to us from you are due and payable to us, we may cease to treat as client money so much of the money held on your behalf as equals the amount of those obligations in accordance with the FCA Rules relating to client money. You agree that we may apply that money in or towards satisfaction of all or part of those obligations due and payable

to us. For the purposes of this clause 10, any such obligations become immediately due and payable, without notice or demand by us, when incurred by you or on your behalf.

- 10.7** You agree that we shall be entitled to apply money you hold with us in or towards satisfaction of all or any part of any Liabilities which are due and payable.
- 10.8** You agree that we may cease to treat your money as client money if there has been no movement on your balance for at least 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.

## 11 TOTAL TITLE TRANSFER ARRANGEMENTS

- 11.1** This clause shall only apply to you if we have notified you: that we will treat you as a professional client; and also that the terms of this clause will apply to you for all or any of your use of our services.
- 11.2** You shall transfer to us absolute title to any funds transferred to us (including Margin) as required by us for the purpose of securing or covering your present or future, actual or contingent or prospective obligations to us (**Title Transfer Funds**). Any such Title Transfer Funds so transferred to us shall be transferred free and clear of any lien, pledge, claim, charge, encumbrance or other security interest whatsoever. As a result, we shall not be required to hold such Title Transfer Funds in accordance with the FCA Rules on Client Money. Consequently, we shall not owe any fiduciary duties to you in respect of such Title Transfer Funds. Upon transfer to us, Title Transfer Funds shall become our absolute property and you shall not retain any equity, right, title or interest in such Title Transfer Funds.
- 11.3** Subject to our rights under this Agreement and each transaction, we shall have a contractual obligation to repay you an amount of money equivalent to the Title Transfer Funds to which you may be entitled (or in our absolute discretion assets the value thereof) when it is no longer necessary for us to hold the Title Transfer Funds. Our repayment obligations shall be reduced to the extent that (i) we are entitled to apply such money, or set-off its repayment obligation, against any of your obligations to us, whether under any transaction, this Agreement or otherwise; and/or (ii) any market, intermediate broker, bank or other third party to whom we have transferred money as Margin in relation to transactions, fails (whether as a result of insolvency or otherwise) to return an equivalent amount of money to us. Unless we agree otherwise in writing, you shall not be entitled to receive interest on Title Transfer Funds.
- 11.4** We shall not be liable to you for the loss of any Title Transfer Funds which is the direct or indirect result of the bankruptcy, insolvency, liquidation, receivership, custodianship, or assignment for the benefit of creditors of any bank, another broker, market, clearing organisation, or similar entity.
- 11.5** You may request a cancellation of the Title Transfer Funds arrangements in which case we may terminate the Agreement and an amount of money (or in our absolute discretion assets to the value thereof) equivalent to the Title Transfer Funds due to you will be returned to you.

## 12 PROFITS, LOSSES AND INTEREST CHARGES ON OPEN POSITIONS

For any open position held by you, we shall from time to time credit your account with profits, or debit your account for losses, interest and fees incurred.

## 13 FEES AND CHARGES

- 13.1** You shall pay to us such fees and charges at such rates as published on the Online Facility or as otherwise notified by us to you from time to time. These will include transaction charges, interest and charges in respect of automatic rollover of your positions pursuant to clause 9.1. In addition to this you shall be responsible for the payment of any other charges that we have notified to you that may be incurred as a result of the provision of our services to you.
- 13.2** You acknowledge and agree that we may make or receive a fee, commission or non-monetary benefit to or from a third party in connection with our service to you. Upon request, if you have been introduced to us for trading purposes, we will provide further details of any fee, rebate, commission, widened spread, performance fee or management fee paid to third parties that help initiate, conclude or maintain a business relationship between you and the firm, thus enhancing the service offered to you.
- 13.3** All fees and charges shall be regarded as being due and payable immediately. Any sums due to us may be deducted by us from the proceeds of any transaction or debited from your account(s) with us. In the event of late payment by you, overdue amounts shall bear interest at a rate that we shall reasonably determine and notify to you.
- 13.4** If we receive or recover any amount in respect of any of your obligations in a currency other than that in which such amount is payable, whether pursuant to a judgment of any court or otherwise, you will be responsible for and indemnify us on demand and hold us harmless from and against any cost (including costs of conversion) and loss suffered by us as a result of receiving such amount in a currency other than the currency in which it is due.

## 14 CONFLICTS OF INTEREST

- 14.1** You should be aware that when we enter into a transaction with or for you, we or our directors, officers, employees, agents and affiliated entities (together **Associates**) or Service Providers, may have an interest, relationship or arrangement that is material in relation to the transaction concerned. Should such a conflict of interest arise we will seek to resolve such conflict in such a way as we believe is in your best interests in accordance with our conflicts of interest policy (as amended from time to time) (**Conflicts of Interest Policy**).
- 14.2** Full details of our Conflicts of Interest Policy are available on the Online Facility. Our Conflicts of Interest Policy is a policy only; it does not form part of the Agreement and is not intended to be contractually binding or to impose any obligations on us which we would not otherwise have whether under this Agreement or the FCA Rules.

## 15 LIABILITY AND LOSSES

- 15.1** You shall be responsible or liable on our written demand for all direct losses, damage, costs and expenses (**Direct Losses**) and all indirect losses, damage, costs and expenses and other similar liabilities (such as the loss of an opportunity to gain) (**Indirect Losses**) incurred by us or any of our Associates as a consequence of your use of our services (including the Online Facility) or your breach of any of the terms of this Agreement. However, you shall not be responsible or liable to us for any Direct Losses or Indirect Losses (together **Losses**) incurred by us to the extent that they are caused by our breach of the Agreement, negligence, wilful default or fraud.

- 15.2** We will carry out our duties pursuant to the Agreement with reasonable skill, care and diligence and in accordance with the instructions and authority you have given us. As long as we do this, neither we nor any Associates accept any responsibility or liability for your Losses which arise from the provision of our services to you or otherwise pursuant to the Agreement. However, we shall be responsible or liable you for any Direct Losses you incur because we have not carried out our duties pursuant to the Agreement with reasonable skill, care and diligence or in accordance with the instructions and authority you have given us, or to the extent such Direct Losses are caused by our wilful default or fraud.
- 15.3** Without limiting the general scope of the previous sub-clauses, neither we nor any Associates shall be responsible or liable to you for any Losses incurred by you arising out of, or in connection with your use of any data or information obtained, downloaded or supplied in relation thereto, including (without limitation) any loss of, or delay in the transmission of, instructions or the inability to make instructions or access the Online Facility whether due to breakdown or failure of communication facilities or otherwise.
- 15.4** Without limiting the general scope of the previous sub-clauses, we will exercise reasonable care in our choice of nominees or agents and we will monitor their continuing suitability. As long as we do this, neither we nor any of our Associates shall be responsible or liable to you for any Losses incurred by you arising from any act or omission of any nominees or agents.
- 15.5** You are responsible for the tax implications or treatment of transactions entered into by you pursuant to the Agreement.
- 15.6** If you hold an account with us with another person(s) (in the case of joint account holders) the responsibilities or liabilities to us of each such person shall be joint and several (i.e. we can hold any one or group of you solely responsible or liable to us, or we can hold all of you, as a group, responsible or liable to us ) and we may act upon orders and instructions received from any one person (unless you notify us in writing to the contrary) who is, or who appears to us to be, such a person.
- 15.7** Nothing in the Agreement shall exclude or restrict our responsibility or liability to you in respect of a breach by us or any of our Associates under the regulatory system (as defined in the FCA Rules or as otherwise may be prohibited by law).

## 16 RISK WARNING

You should consider the risk warnings notified to you on the Online Facility and if you do not understand them contact your customer representative or seek independent advice.

## 17 REPRESENTATIONS AND WARRANTIES

- 17.1** You represent and warrant to us (i.e. you are making statements and promises on which we will rely when we provide services to you. You therefore need to make sure that they are accurate as you will be responsible and liable to us if they are not) that:
- 17.1.1 if you are an individual, you are at least 18 years of age, of sound mind and have the legal capacity to enter into a legally binding agreement with us;
- 17.1.2 if you are a corporation, you are duly incorporated and validly existing under the laws of the country of your incorporation and that you have approved the opening of an account with us by a board resolution certified by the corporation's officers;



- 17.1.3 no person other than you has or will have an interest in your account(s);
- 17.1.4 the Agreement, each transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound;
- 17.1.5 except as otherwise agreed by us, you are the sole beneficial owner (i.e. no one else has any kind of legal ownership rights) of all Margin or money you transfer under this Agreement, free and clear of any security interest (i.e. you have not given some form of rights to the money to someone else);
- 17.1.6 regardless of any subsequent determination to the contrary, trading in the Products is suitable for you and that you are aware of the risks involved with such transactions; and
- 17.1.7 the information disclosed to us in the Account Opening Form (including any financial information) is true, accurate and complete in all material respects (save for any change to such information notified to us in writing).
- 17.2** Each representation and warranty under clause 17.1 shall be deemed repeated on each occasion you place an order or enter into a transaction with or through us.

## 18 COVENANTS

- 18.1** You covenant to us (i.e. you make a contractually binding promise to us that you will do things on which we will rely when we provide services to you. You therefore need to make sure that you keep those promises as you will be responsible and liable to us if you do not) that:
- 18.1.1 you will at all times obtain and comply, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences and authorisations referred to in clause 17;
- 18.1.2 you are willing and able, upon request, to provide us with information in respect of your financial position, domicile or other matters;
- 18.1.3 you will promptly notify us of the occurrence of any bankruptcy or insolvency event or anything similar;
- 18.1.4 you will:
- (a) comply with all applicable law in relation to the Agreement and any transaction, so far as they are applicable to you; and
  - (b) use all reasonable steps to comply with all applicable law and regulations in relation to the Agreement and each transaction, where such applicable law and regulations do not apply to you but your cooperation is needed to help us comply with our obligations;
- 18.1.5 you will not send orders or otherwise take any action that could create a false impression of the demand for or value of a Product, or send orders which you have reason to believe are in breach of applicable law or 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

18.1.6 upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause.

## 19 CONFIDENTIALITY AND DATA PROTECTION

**19.1** We may collect, use and disclose personal data about living identifiable individuals (**Individuals**), including personal data you may voluntarily disclose to us in any manner, so that we can:

19.1.1 carry out our obligations under the Agreement;

19.1.2 carry out our everyday business activities and dealings with you;

19.1.3 compile statistical analysis of the pages of the Online Facility visited;

19.1.4 monitor and analyse our business;

19.1.5 participate in crime prevention, legal and regulatory compliance;

19.1.6 market and develop other products and services;

19.1.7 transfer any of our rights or obligations under the Agreement; and

19.1.8 process any personal data for other related purposes.

**19.2** We will not obtain or require disclosure of sensitive personal data (such as ethnic origin, religious beliefs or medical records) about Individuals but if you choose to provide such sensitive personal data, we may assume such sensitive personal data is provided with the Individual's consent for processing for the purposes for which such personal data was provided, unless otherwise notified by you to us in writing.

**19.3** Neither we nor any of our Associates or Service Providers will disclose any personal data we or they may collect about an Individual to third parties except:

19.3.1 to the extent that we or they are required to do so by any applicable law or regulation;

19.3.2 where there is a duty to the public to disclose;

19.3.3 where our legitimate business interests require disclosure; or

19.3.4 at the request or with consent of the Individual or to persons described in clause 19.4 below.

**19.4** We or our Associates or Service Providers may disclose personal data to those who provide services to us or our Associates or our Service Providers or act as our or our Associates' or our Service Providers' agents, to any person to whom we or our Associates or our Service Providers transfers or proposes to transfer any of our or their rights or obligations under the Agreement and to licensed credit reference agencies or other organisations that help us or our Associates or our Service Providers 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. In addition, we may share personal data about an Individual with our Associates and

Service Providers for business purposes, such as servicing client accounts and informing clients about new products and services, as permitted by applicable law.

- 19.5** An Individual may have certain rights of access to some or all of the personal data we collect and hold about the Individual at the time of request, or to have inaccurate information corrected, under applicable data protection laws. If the Individual wishes to exercise such rights (solely at their own cost and expense), the Individual should contact us in writing, and you may be requested to provide further information to assist us in complying with such request.
- 19.6** We or our Associates or Service Providers may transfer data, including personal data to other countries, including countries outside the EEA which may not have data protection laws, for any of the purposes described in this clause 19. By accepting the Agreement, you consent to such transfers on behalf of the Individuals.
- 19.7** We or our Associates or a Service Provider may record or monitor telephone conversations between you and us or our Associates or a Service Provider for security, compliance with law, training purposes and to maintain and improve the quality of our services. Such telephone conversations may be used by us as evidence in the event of any dispute between us.
- 19.8** We may use cookies or IP address tracking devices on the Online Facility to administer the Online Facility, store password and usernames, to monitor visits to pages on the Online Facility on this and other occasions from your terminal, to personalise the Online Facility service to you and to track and facilitate browsing through the Online Facility. A cookie is a piece of data stored on your hard drive containing information about you relating to the use of the Online Facility. IP addresses may be linked to your personal data and by tracking these addresses, we would be obtaining such personal data. Access to the Online Facility is conditional on acceptance by you of any cookies and IP address tracking devices described in and for the purposes explained in this clause. By accepting the Agreement, you acknowledge that you understand the broad nature of cookies and IP address tracking devices and the purposes for which they will be used by us. Please refer to our cookie policy (which is available on the Online Facility) for more information.
- 19.9** You acknowledge and accept that any services provided through the Online Facility involve transmissions over the internet and that such transmissions are therefore subject to the internet's inherent risks. Whilst we acknowledge our responsibility to take reasonable security precautions, you also acknowledge and accept that, as with any network, you may also be exposed to unauthorised programs transmitted by third parties, electronic trespassing and/or the failure of information and data to reach their intended destinations and/or erroneous receipt or misdirection of such information. Although our, our Associates' and our Service Providers' privacy and security features are designed to reduce these risks, we cannot guarantee their elimination. You therefore acknowledge that no transmission via the Online Facility shall be guaranteed to be confidential and that we shall not be responsible or liable to you for any breach of confidence arising as a result of such event.
- 19.10** Any queries about the use of confidential or personal data by us should be referred to our Compliance Officer.

## 20 DEFAULT AND NETTING

**20.1** The following shall be construed as **Events of Default** if at any time:

- 20.1.1 you fail to comply fully and immediately with any obligation to make any payment to us or close any open position on the due settlement date or when required by us;
- 20.1.2 you default in any other obligation to us under the Agreement or in relation to any transaction or commit any breach of any other obligations under the Agreement including but not limited to satisfying any Margin call;
- 20.1.3 any representation or warranty made by you was or has become or subsequently would, if repeated at any time, be incorrect;
- 20.1.4 due to market fluctuations or for any other reason we shall at our absolute discretion consider that we hold insufficient Margin to meet your Liabilities;
- 20.1.5 we consider it necessary or desirable to prevent what we consider is or might be a violation by you of clause 5.13.1 above;
- 20.1.6 (where you are a corporate) you commence a voluntary case (or an involuntary case is commenced against you) or other procedure seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, custodian or other similar official of you or any substantial part of your assets; or if you take any corporate action to authorise any of the foregoing; and, in the case of a reorganisation, arrangement or composition, we do not consent to the proposals;
- 20.1.7 (where you are a corporate) you are dissolved, or, if your capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedures are commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration;
- 20.1.8 (where you are an individual) you (or if you are joint account holders if any of you) die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you; or any indebtedness of yours is not paid on the due date therefor, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings are commenced or any action is taken for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your property or assets (tangible and intangible); or
- 20.1.9 we reasonably anticipate that any of the foregoing may occur;

then we may exercise our rights under clause 20.2, except in the case of the occurrence of an Event of Default specified in clauses 20.1.6 or 20.1.8 (each a **Bankruptcy Event of Default**), in which case the provisions of clause 20.3 shall apply.

- 20.2** Subject to clause 20.3, we may on or at any time following the occurrence of an Event of Default, cancel any outstanding orders, terminate our services and liquidate all or any of your open positions (the **Liquidation Date**).
- 20.3** Should a Bankruptcy Event of Default occur we shall be deemed to have exercised our rights under clause 20.2 immediately before the time of the occurrence of the Bankruptcy Event of Default.
- 20.4** On the Liquidation Date and following it we shall (on, or as soon as reasonably practicable after, the Liquidation Date) close all your open positions and apply all monies held by us towards the costs of such closures.
- 20.5** If as a result of the actions taken by us pursuant to clause 20.4 your account is in credit, we shall pay such money to such account as you direct as soon as reasonably practicable. If there is insufficient money in your account to cover the actions undertaken by us under clause 20.4, the difference between the amount of money in your account and the cost of closing your open positions will be immediately due and payable to us.
- 20.6** Our rights under this clause 20 are in addition to, and not in limitation or exclusion of, any other rights which we may have under this Agreement or otherwise whether by agreement or operation of law. In particular and without prejudice to the provisions of clauses 20.2 to 20.5 (inclusive), we are authorised and entitled, without notification to you and at our absolute discretion, to take such action to protect our own position, including without limitation, one or more of the following actions (whether in whole or in part):
- 20.6.1 cancel all or any unexecuted orders;
  - 20.6.2 close out, perform, cancel or, if applicable, abandon any of your open positions or enter into offsetting positions;
  - 20.6.3 combine accounts, set-off between accounts or convert one currency into any other currency; or
  - 20.6.4 satisfy any obligation that you may have to us, either directly or by way of guarantee or suretyship, out of any of your monies in our custody or control.

## 21 INTELLECTUAL PROPERTY RIGHTS

- 21.1** The Online Facility may incorporate third party data, text, images, software, multi-media materials and other content (**Third Party Content**) and references to the term "Online Facility" shall be taken to include all materials, content and services made available from time to time on the Online Facility whether viewed on screen or downloaded to another computer including, without limitation, Third Party Content.
- 21.2** The Online Facility is protected by copyright, database rights and other intellectual property rights. You acknowledge that we and/or third parties retain all right, title and interest in and to the Online Facility. Use of the Online Facility does not confer any ownership rights in the Online Facility.
- 21.3** Except as otherwise specifically agreed in writing or to the extent necessary for you to view the Online Facility in accordance with the Agreement, you shall not:

- 21.3.1 copy the Online Facility in whole or in part (except to make backup copies solely for disaster recovery purposes);
- 21.3.2 display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, time-share, lend or transfer or in any way exploit the Online Facility in whole or in part;
- 21.3.3 embed the Online Facility into other products;
- 21.3.4 use the Online Facility in any file sharing arrangement;
- 21.3.5 create embedded links from any software program to the Online Facility;
- 21.3.6 remove or obscure any of our copyright notices or those of any of our Associates;
- 21.3.7 use any of our trademarks, service marks, domain names, logos, or other identifiers or those of any of our third party suppliers; or
- 21.3.8 save to the extent permitted by law, reverse engineer, decompile, disassemble, or access the source code of the Online Facility.

## 22 LINKS

The Online Facility may contain links to other websites which are not controlled by us or any of our Associates and contain material produced by independent third parties. The owners of such linked websites do not necessarily have any relationship, commercial or otherwise, with us. The existence of a link from the Online Facility to any third party website does not constitute a recommendation or other approval by us or any of our Associates or Service Providers of such website its content or any provider thereof. Any opinions or recommendations expressed on third party websites are those of the relevant provider and are not the opinions or recommendations of ours or any of our Associates. Neither we nor any of our Associates accepts any responsibility for content provided on any website that may be accessed through links on the Online Facility.

## 23 TERMINATION

- 23.1** You may request the repayment of cash and terminate the Agreement at any time, by notice in writing to us, provided that you do not have any open position(s) and do not have any outstanding liabilities to us. We may terminate the provision of our services to you upon notice in writing to you at any time. Termination shall not affect any open positions or transactions previously entered into and shall be without prejudice to any accrued or outstanding rights and obligations of either you or us.
- 23.2** Termination will not affect your or our accrued rights, indemnities, existing commitments or any other contractual provision intended to survive termination of the Agreement.
- 23.3** Termination will not affect the completion of transactions initiated prior to us receiving your notice of termination. In addition, you will pay any fees and charges incurred up to the date of termination and any additional expenses necessarily incurred by us (or a third party) in terminating the Agreement and any losses necessarily realised in settling or concluding outstanding transactions and transferring your funds back to you.

## 24 NOTICES

Subject to clause 6, notices and any other communications may be transmitted via the Online Facility, or via email or post, to such address as we or you may from time to time notify to each other in writing. All communications so sent, whether by posting on the Online Facility, mail, email, or otherwise, shall be deemed transmitted and received when posted on the Online Facility, published in the company news section of our website, deposited in the mail, or when received by a transmitting agent.

## 25 COMPLAINTS

If you have any complaint about our performance under the Agreement, you should direct that complaint to our client services department or to our Compliance Officer, who will investigate the nature of the complaint to try to resolve it. Details of our internal complaints policy are available on request. You may also have a right to complain directly to the Financial Ombudsman Service. The Financial Ombudsman Service can be contacted by telephone on 0800 023 4567 or you can find further details on their website [www.financial-ombudsman.org.uk/consumer/complaints.htm](http://www.financial-ombudsman.org.uk/consumer/complaints.htm).

In the event of a dispute, we may use Axicorp server log files, amongst other things, to help determine the outcome. The server log-file is the most reliable source of information in a case of any dispute. The server log-file has the absolute priority over other arguments including the client terminal log-file as the client terminal log-file does not register every stage of the execution of the customer's instructions and requests.

## 26 GENERAL

- 26.1** The provision of our services to you is subject to all applicable laws, regulations and other provisions or market practices to which we are subject (collectively **applicable laws or regulations**). If any conflict arises between the Agreement and any applicable laws or regulations, the latter shall prevail. We are not required to do anything or refrain from doing anything which would infringe any applicable laws or regulations and may do whatever we consider necessary to comply with them.
- 26.2** Outstanding rights and obligations (in particular relating to clauses 15, 20, 26 and 27) and transactions shall survive the termination of the Agreement, and shall continue to be governed by its provisions and the particular clauses agreed between us in relation to such transactions until all obligations have been fully performed.
- 26.3** If any provision of the Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of the Agreement which shall remain in full force and effect.
- 26.4** Any failure by us (whether continued or not) to insist upon strict compliance with any provision of the Agreement shall not constitute nor be deemed to constitute a waiver by us of any of our rights or remedies. The rights and remedies conferred upon us under this Agreement shall be cumulative and the exercise or waiver of any part thereof shall not preclude or inhibit the exercise of any other additional rights and remedies.
- 26.5** No action, regardless of form, arising out of or in connection the Agreement, or otherwise existing between the parties, may be brought by a party more than two years after the cause

of action is discovered. Discovery of action must be reported within two years of termination of this Agreement.

**26.6** The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement or to any agreement or document entered into pursuant to the Agreement and only the parties with explicit rights or obligations pursuant to the Agreement may enforce any term of and benefit from the Agreement.

**26.7** We are covered by the Financial Services Compensation Scheme (**FSCS**). If we are unable to meet our liabilities in respect of investment business, if you make a valid claim you may be entitled to redress from the FSCS in respect of the investments that we arrange or deal in for you. This depends on the type of business and circumstances of the claim. Most types of investment business are covered for 100% of the first £50,000 per person. Further information is available from us or from the Financial Services Compensation Scheme, 10th Floor, Beaufort House, 15 St Botolph Street, London EC3A 7QU. You should note that this scheme is normally available to retail clients and to some professional clients (as defined in the FCA Rules).

## 27 FORCE MAJEURE

(1) We may, in our reasonable opinion, determine that an emergency or an exceptional market condition exists (a 'Force Majeure Event'), in which case we will, in due course, inform the FCA and take reasonable steps to inform you. A Force Majeure Event will include, but is not limited to, the following:

(a) any act, event or occurrence (including without limitation any strike, riot or civil commotion, act of terrorism, war, industrial action, acts and regulations of any governmental or supra national bodies or authorities) that, in our opinion, prevents us from maintaining an orderly market in one or more of the Instruments in respect of which we ordinarily deal in Transactions;

(b) the suspension or closure of any market or the abandonment or failure of any event on which we base, or to which we in any way relate, our quote, or the imposition of limits or special or unusual terms on the trading in any such market or on any such event;

(c) the occurrence of an excessive movement in the level of any Transaction and/or the Underlying Market or our anticipation (acting reasonably) of the occurrence of such a movement;

(d) any breakdown or failure of transmission, communication or computer facilities, interruption of power supply, or electronic or communications equipment failure;

(e) failure of any relevant supplier, intermediate broker, agent or principal of ours, custodian, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations.

(2) If we determine that a Force Majeure Event exists, we may, at our absolute discretion, without notice and at any time, take one or more of the following steps:

(a) increase your Margin requirements;

(b) close all or any of your open Transactions at such Closing Level as we reasonably believe to be appropriate;

(c) suspend or modify the application of all or any of the Terms of this Agreement to the extent that the Force Majeure Event makes it impossible or impracticable for us to comply with the Term or Terms in question; or

(d) alter the Last Dealing Time for a particular Transaction.

## 28 GOVERNING LAW AND JURISDICTION

**28.1** The Agreement is governed by and shall be construed in accordance with the laws of England. Each party irrevocably submits to the exclusive jurisdiction of the English courts to settle any suit, action or other proceedings relating to the Agreement (**proceedings**). Nothing in the Agreement shall prevent us from bringing proceedings against you in any jurisdiction.

Each party irrevocably agrees to waive any objection which it may have at any time to the laying of venue of any proceedings brought in the English courts 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.