



TRX
FUTURES
LIMITED

TERMS OF BUSINESS FOR PROFESSIONAL CUSTOMERS

These Terms of Business, together with any Schedule(s), and accompanying documents (including the cover letter and the account opening form), as amended from time to time, (this "Agreement") sets out the terms of the contract between you and us. It is, therefore, very much in your interests to read it carefully. Please let us know as soon as possible if there is anything, which you do not understand.

INTRODUCTION

1 GENERAL INFORMATION

- 1.1 *Information about us:*** We, TRX Futures Ltd, are regulated in the conduct of investment business in the United Kingdom by The Financial Services Authority ("FSA") at 5th Floor, Holland House, 1-4 Bury Street, London EC3A 5AW, the principal place of business.
- 1.2 *Our Capacity:*** We act as principal and not as agent on your behalf.
- 1.3 *Your Capacity:*** You act as principal and not as an agent (or trustee) on behalf of someone else. If you are not acting in a principal capacity, please let us know as we have supplemental terms that are suitable for use by agents or trustees.
- 1.4 *Your investment objective:*** We shall deal with you on the basis that your investment objective is as stated by you in your Profile form. Any amendment to your investment objective must be confirmed in writing.
- 1.5 *Your Client Classification:*** As a professional client, you acknowledge that we may assume that you have the necessary experience and knowledge in order to understand the risks involved in relation to any relevant investment service or transaction which we will carry out for you and as such we do not have to ensure that any such service or transaction is appropriate for you. In addition, you acknowledge that you have read and understood the risk disclosure and statements set out in Annex 1.

2 SCOPE AND APPLICATION

- 2.1 *Scope of this Agreement:*** This Agreement sets out the basis on which we will deal in and arrange deals in investments, enter into Transactions and provide such other services as agreed in writing from time to time. This Agreement governs each Transaction entered into or outstanding between us on or after the execution of this Agreement. Except as set out in the cover letter, then subject to Applicable Regulations and this Agreement (including the account application form), there shall be no restrictions on the Transactions in respect of which we may deal with you.
- 2.2 *Commencement:*** This Agreement shall apply to all Transactions contemplated under this Agreement. This Agreement supersedes any previous agreement between us on the same subject matter and takes effect when you signify your acceptance of this 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 (in equity, contract or tort, under the Misrepresentation Act 1967) for a representation other than a fraudulent misrepresentation, that is not set out in this Agreement.
- 2.3** We are obliged by the FSA Rules to comply with certain rules of conduct. However, we assume no greater responsibility or fiduciary duty, other than that imposed by the FSA Rules or the express terms of this Agreement.

3 APPLICABLE REGULATIONS AND EXCHANGE REQUIREMENTS

- 3.1 **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 latter 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.
- 3.2 **Exchange action:** If an Exchange (or intermediate broker or agent, acting at the direction of, or as a result of action taken by, an Exchange) 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.

4 CHARGES AND PAYMENTS

- 4.1 **Charges:** You will pay our charges as agreed with you from time to time. Any alteration to charges will be notified to you at or before the time of the change. Our charges will include any applicable value added tax, stamp duty, stamp duty reserve tax, industry levy, brokerage fees, transfer fees, registration fees and all other liabilities, charges, costs and expenses payable in connection with transactions effected on your behalf.
- 4.2 **Payments:** All payments to us under this Agreement shall be made in same day funds in such Currency as we may from time to time specify to the bank account designated by us for such purpose. All such payments shall be made by you without any deduction or withholding.
- 4.3 **Remuneration and sharing 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. Unless required by FSA rules, details of any such remuneration or sharing arrangements may not be set out to you but will be made available to you on request.
- 4.4 **Default interest:** If you fail to pay us any amount when it is due, we reserve the right to charge you interest (both before and after any judgement) on any such unpaid amount calculated at the rate as reasonably determined by us to be the cost of funding such overdue amount. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.
- 4.5 **Currency indemnity:** If we receive or recover any amount in respect of an obligation of yours in a Currency other than that in which such amount was payable, whether pursuant to a judgement of any court or otherwise, you shall indemnify us 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 was due.
- 4.6 **Payments and deliveries net:** Unless we expressly agree with you in writing (or give you written notice) to the contrary, all payments and deliveries between us shall be made on a net basis and we shall not be obliged to deliver or make payment to you or both (as the case may be) unless and until we have received from you the appropriate documents or cleared funds. You may notify us of any Designated Office of yours which you are unable to include in such netting arrangements. In respect of a payment or delivery obligation of yours relating to a Transaction entered into from such Designated Office it shall not constitute a breach of this Agreement if a payment or delivery is made by you in gross but the countervailing payment or delivery due from us to you is delayed. You acknowledge that it shall be a discharge of any payment or delivery obligation of ours for such payment or delivery to be made on a net basis notwithstanding a notification under this clause.
- 4.7 **Taxes:** You shall at all times be fully responsible for payment of all taxes due and for the making of all related claims whether for exemption from withholding taxes or otherwise, for filing any and/or tax returns and for providing any relevant tax authorities with all necessary information in relation to any investment business we carry on for or with you or any investments which we hold on your behalf.

5 MATERIAL INTEREST AND CONFIDENTIALITY

5.1 *Material interests:* Your attention is drawn to the fact that when we give you advice or deal with you or for you, we or an associate or some other person connected with us may have an interest, relationship or arrangement that is material.

5.2 WITHOUT LIMITING THE NATURE OF SUCH INTERESTS, EXAMPLES INCLUDE WHERE WE OR AN ASSOCIATE COULD BE:-

- a) dealing in the investment, a related investment or an asset underlying the investment, as principal for our (or its) own account or that of someone else. This could include selling to you or buying from you and also dealing with or using the services of an intermediate broker or other agent who may be an associate;
- b) matching (e.g. by way of a cross) your Transaction with that of another customer by acting on his behalf as well as yours;
- c) buying from you and selling immediately to another customer, or vice versa;
- d) holding a position (including a short position) in the investment concerned, a related investment or asset underlying the investment;
- e) quoting prices to the market in the investment, a related investment or asset underlying the investment;
- f) advising and providing other services to associates or other customers who may have interests in investments or underlying assets which conflict with your own.

5.3 YOU ACCEPT THAT WE AND OUR ASSOCIATES MAY HAVE INTERESTS WHICH CONFLICT WITH YOUR INTERESTS AND MAY OWE DUTIES WHICH CONFLICT WITH DUTIES WHICH WOULD OTHERWISE BE OWED TO YOU, AND CONSENT TO OUR ACTING IN ANY MANNER WHICH WE CONSIDER APPROPRIATE IN SUCH CASES.

- a) *No liability to disclose or account:* We will comply with Applicable Regulations binding on us, but we shall be under no further duty to disclose any interest to you, including any benefit, profit, commission or other remuneration made or received by reason of any Transaction or any matching transaction.

6 RESEARCH

- a) We or an associate company may from time to time send market commentary or published research reports to you. This market information and/or reports should not constitute personal recommendations under the FSA Rules. Where such 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 market information or research reports and cannot guarantee that you will receive such market information or research reports at the same time as other customers.
- b) Where we or an associate company do provide you with market information or a published research report, we give no representation, warranty or guarantee as to its accuracy or completeness. The decision to follow any research given by us shall remain with you, and you shall be solely responsible for all investment decisions and transactions entered into on your behalf.
- c) Any research provided to you under these Terms shall be based on projections at the time such research is provided, and should not be relied upon by you as a guarantee of any future performance.

7 CHINESE WALLS: WE MAINTAIN ARRANGEMENTS WHICH RESTRICT ACCESS BY OUR EMPLOYEES TO INFORMATION RELATING TO AREAS OF OUR BUSINESS (AND THAT OF ASSOCIATES) WITH WHICH, AND THE AFFAIRS OF CLIENTS WITH WHOM, THEY ARE NOT DIRECTLY CONCERNED. ACCORDINGLY:

- a) we will provide services to you from time to time under this Agreement on the basis of the information known to the particular employees who are at that time handling your affairs;
- b) neither we nor they will be required to have regard to or disclose to you or make use of any information known to those employees or to any other of our employees or agents or of any associate which belongs to or is confidential to another client or to us or any associate, or which is not known to those employees; and
- c) in exceptional circumstances, we may be unable to advise or deal with you in relation to particular investments without disclosing the reason for this.

8 PERSONAL DATA

- a) **Disclosure to others:** We will treat all information we hold about you as private and confidential even when you are no longer a customer. We will not disclose any information we hold about you to others except: (i) to the extent we are required to do so by any Applicable Regulations; (ii) where there is a duty to the public to disclose; (iii) where our interests require disclosure; or (iv) at your request or with your consent.
- b) **Our use of information:** You agree that we and other companies in our group may hold and process by computer or otherwise any information we hold about you and may use any of that information to administer and operate your account and to provide any service to you, to monitor and analyse the conduct of your account, to assess any credit limit or other credit decision (as well as the interest rate, fees and other charges to be applied to your account) and to enable us to carry out statistical and other analysis. You agree that we may disclose that information to other companies in our group for these purposes.
- c) **Disclosure of information:** We may also disclose information we hold about you to those who provide services to us or act as our agents, to any person to whom we transfer or propose to transfer any of our rights or duties under this Agreement and to licensed 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.
- d) **Access to information:** You may have a right of access to some or all of the information we hold about you, or to have inaccurate information corrected, under data protection law. If you wish to exercise either of these rights, please contact us in writing.
- e) **Transfer of information:** You agree that we may also transfer information we hold about you to any country, including countries outside the European Economic Area which may not have data protection laws, for any of the purposes described in this clause.

9 INSTRUCTIONS, BASIS AND EXECUTION OF YOUR ORDERS

- 9.1 Placing of instructions:** You may give us instructions orally (including by telephone), unless we tell you that instructions can only be given in a particular way. If any instructions are received by us by telephone, computer or other medium we may ask you to confirm such instructions in writing. We shall be authorised to follow instructions notwithstanding your failure to confirm them in writing.
- 9.2 Authority:** We shall be entitled to act for you upon instructions given or purporting to be given by you or any person authorised on your behalf without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such instructions.

- 9.3 *Dealing with your orders:*** In relation to transactions for the Account, we or any associated company shall have the right at any time to: (a) refuse to accept any orders; (b) accept any new orders only on such conditions as we deem appropriate for our or our associated companies' protection; or (c) execute your orders by way of electronic trade matching or order entry systems. We or any of our associated companies may at our or their absolute discretion refuse any instruction without giving reasons for the refusal and we shall not be responsible to either you or any third party for any economic or consequential loss incurred as a result of such a refusal.
On giving any order, you may request an indicative market price for your order. This price may vary between the indicative market price and execution. Orders will be binding on you when they have been executed, although you may instruct us to cancel unexecuted parts of the order prior to execution at no charge to you. However, you should understand that you shall bear the risk and costs of all orders which, for any reason, it is not possible or practicable for us to cancel.
- 9.4 *Order Execution:*** The FSA Rules require us, when executing orders on behalf of clients, to take all reasonable steps to obtain the best possible result for such clients taking into account various execution factors. Where applicable to our dealings with you, we meet this obligation by executing orders in accordance with our order execution policy. An outline of our order execution policy is set out in Annex 2 and you acknowledge that you consent to our order execution policy.
- 9.5 *Acting as principal:*** You acknowledge that in many cases we do not act on your behalf when executing your orders but rather as a dealer acting as principal and offering quotes for various products and that in such circumstances we will not owe the duty of "best execution" outlined in clause 7.1 above. Further detail about when we owe you a duty of best execution is outlined in the summary of our execution policy at Annex 2.
- 9.6 *Order execution by third parties:*** We may, in our absolute discretion, arrange for any transaction to be effected with or through the agency of an intermediate broker, who may be an associate of ours, and may not be in the United Kingdom. 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. In such circumstances we may receive a benefit, profit, commission or other remuneration from or share charges with such broker or agent. Where relevant we may be required to disclose such arrangements to you. In any event, details of such arrangements will be available on request. We will not be liable to account to you for any benefit, profit or commission or other remuneration made or received by reason of the transaction or connected with any transaction.
- 9.7 *Confirmations:*** Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within one Business Day of making such confirmation available to you via our web site, by email or of despatch to you or we notify you of an error in the confirmation within the same period.
- 9.8 *Performance and settlement:*** 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 an Exchange or with an intermediate broker.
- 9.9 *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.
- 9.10 *Market abuse and conduct:*** You shall observe the standard of behaviour reasonably expected of persons in your position in relation to any relevant Exchange and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position.

10 EXCHANGE TRADED FUTURES AND OPTIONS

Transactions: The clauses in this module apply, except to the extent in consistent with Applicable Regulations, to transactions in futures and options. In this module, "Transaction" means the transactions listed in sub-clauses (i)-(iv) of the definition of Transaction.

Matching trades: In respect of every Transaction made between us subject to the Rules of an Exchange, we shall, unless otherwise agreed in writing in relation to a particular Exchange, act as principal in any Transaction with you, and we shall have made (or arranged to have made through an intermediate broker who may be an associate) on a principal-to-principal basis a matching transaction on the market operated by the relevant Exchange or shall have accepted the designation of such a transaction.

Designation: In respect of every Transaction made between us designated to be cleared by another broker or dealer as specified by you:

if such broker or dealer accepts the designation, we shall (without prejudice to any claim we may have for commission or other payment) upon such acceptance cease to be a party to the Transaction and shall have no obligation to you for its performance;

if such other broker or dealer declines to accept the designation, we shall be entitled at our option either to confirm the Transaction with you or to liquidate it by such sale, purchase, disposal or other transaction or cancellation as we may in our discretion determine, whether on the relevant Exchange or by private contract or any other feasible method (including taking it over ourselves or transferring it to an associate); and any balance resulting from such liquidation shall be promptly settled between us but without prejudicing our rights under this Agreement or otherwise.

Allocation on delivery or exercise: Where the relevant Exchange or intermediate broker does not specify a particular transaction when making a delivery or exercising an option, we may allocate randomly or in a way which seems to us to be most equitable.

10.1 Transaction given up to us for clearing: Subject to the Rules of any relevant Exchange, this clause applies where there is a give-up agreement between you, us and a third party executing broker, and the reference number or mnemonic applicable to you is quoted by such executing broker when a Transaction is submitted to us for clearing. Where the executing broker is based overseas, only our services and not those of the executing broker, are regulated by the FSA. Notwithstanding any provision contained in the relevant give-up agreement, if we accept such Transaction for clearing, such Transaction shall be binding and conclusive on you immediately on its acceptance for clearing by us whether or not the details of such Transaction have not previously been confirmed to us by you. We shall not be liable to you for any losses, costs, expenses or damages arising from any discrepancy between details in your instructions to such executing broker and details of Transactions submitted to us for clearing. Any dispute relating to a Transaction given up or attempted to be given up to us for clearing shall be determined under applicable arbitration rules of the relevant Exchange.

10.2 Fees paid to executing broker: Subject to the Rules of any relevant Exchange, if a give-up agreement between you, us and a third party executing broker provides that the executing broker will invoice us directly for its commissions in relation to the execution of an order, then we shall be entitled to rely on the details specified in any invoice presented to us by such executing broker and, notwithstanding that the amounts specified in the invoice may be incorrect, you shall fully reimburse us for any sum paid to the executing broker in respect of that invoice. We shall have no liability to you for any losses, costs, expenses or damages incurred or suffered by you as a result of an incorrect amount being specified in an invoice.

10.3 Exercise of options: You understand that Exchanges have established exercise cut-off times for the tender of exercise instructions in relation to options and that options will become worthless in the event that you do not deliver instructions by such expiration time. You also acknowledge that we may establish exercise cut-off times which may be earlier than the exercise cut-off times established by the relevant Exchange, and you shall have no claims against us arising out of the fact that an option was not exercised, save in circumstances where the option was not exercised as a direct result of our negligent failure to inform you of our own exercise cut-off time in respect of the particular option.

10.4 *Correction of order:* You understand that Exchanges may from time to time sanction the making of contracts by us off-exchange in order to satisfy your order, where there has been an error in the execution of your order on-exchange. Where a better price (an improvement) can be obtained, we may seek to secure and offer that improvement to you. Where, in response to your order, we have bought or sold in accordance with the instruction in your order to buy or, as the case may be, to sell but have traded the wrong delivery/expiry month or wrong exercise price of the relevant contract, then we may in accordance with the Rules of any relevant Exchange offset any loss arising from that trade against any improvement achieved for you in the course of correctly satisfying your order, thus offering you only the net improvement, if any.

10.5 *Market intervention:* You understand that business on a market operated by an Exchange may from time to time be suspended or restricted or the market may from time to time be closed for a temporary period or for such longer period as may be determined in accordance with the rules of any relevant Exchange on the occurrence of one or more events which require such action to be taken in the interests of, maintaining a fair and orderly market. Any such action may result in our being unable, and through us, you being unable to enter into Transactions in accordance with the rules of the relevant Exchange. Furthermore we, and through us, you may from time to time be prevented from or hindered in entering into contracts in accordance with the rules of the relevant Exchange as a result of a failure of some or all market facilities. We shall have no liability to you for any losses, costs, expenses or damages incurred or suffered by you as a result of any of the circumstances or occurrences referred to above.

11 CLIENT MONEY

11.1 Under the FSA Rules we may be required to hold your money as client money for the purposes of the FSA's client money rules, as set out in Chapter 7 of the FSA's Client Assets Sourcebook (the "**Client Money Rules**"). Where we treat money received from you or held on your behalf as client money, we may only deal with such money in accordance with the Client Money Rules which, among other things, require us to hold client money in a segregated client bank account at an approved bank. Any cash margin or other monies we agree to take by way of outright transfer, will not be treated as client money. Where we do treat your money as client money we may: (a) hold client money in a general client bank account at an approved bank which may be a bank situated in a jurisdiction other than the UK (including in a jurisdiction outside of the European Economic Area (the "**EEA**")); and (b) pass client money to intermediate brokers, settlement agents or over-the-counter counterparties located in jurisdictions outside the UK (including in a jurisdiction outside of the EEA). You should note that the legal and regulatory regime applying to any such approved bank, intermediate broker, settlement agent or over-the-counter counterparty outside of the UK will be different from that of the UK and in the event of a default of such party your money may be treated differently from the position that would apply if the money were held in the UK. You should consider taking independent legal advice if you are concerned about the implications of this.

11.2 Unless otherwise agreed in writing, you will not receive interest on any cash balances which we hold for you.

12 MARGINING ARRANGEMENTS

12.1 Where we effect margined transactions for you, you must, immediately after being asked, provide us with such collateral or initial or subsequent margin in such currencies and in such amounts as we may, in our absolute discretion, require for the purpose of protecting ourselves against risk of loss on present, future or contemplated transactions under these Terms. We shall, in our absolute discretion, have the right to raise or lower such margin requirements.

12.2 Margin payments must be made in cash except where we agree to accept securities or other assets or guarantees acceptable to us and to the relevant exchange as alternatives to a cash deposit. All margin will be taken by way of outright transfer. As a result, we may when returning any margin back to you, return margin other than the original margin or the original type of margin.

12.3 We may, in our absolute discretion, agree to extend to you a credit line or a minimum call facility (MCF) against initial and variation margin requirements. You will be charged interest on any sums owed by you under this credit line or MCF at such rates as may be notified to you from time to time. If margin requirements for the Account exceed the credit line or MCF then we may in our absolute discretion require you to pay immediately upon demand all or part of the amount of the credit line or MCF as well as any additional margin requirements and may thereafter in our absolute discretion restore the availability of the credit line or MCF. We may, in our absolute discretion: (a) require you to provide security for any extension of credit; or (b) cancel or modify the credit line or MCF at any time; and (c) in relation to non-cash margin, apply such haircuts as we, in our absolute discretion, deem appropriate in the circumstances. Upon cancellation of any credit line or MCF you will be required to provide us with funds sufficient to discharge all accumulated principal and interest in cash.

12.4 If income is paid or distributed by the issuer of securities that are we have received from you as margin, we will credit you with a sum equal to (and in the same currency as) the amount paid by the issuer or, in the case of a distribution by way of additional securities, those additional securities. The amount so credited under this Clause 9.4 shall not include any amount:

(a) which is deducted or withheld in respect of tax by or on behalf of the issuer;

(b) which is required to be accounted for to the United Kingdom Inland Revenue; or

(c) which is or might be recovered by us or any other holder of the securities from any relevant taxation authority outside the United Kingdom in respect of the income in question,

and shall not exceed the lesser of:

(a) the actual amount initially received by us from the issuer (or which would have been received if we actually held such securities at the relevant date); or

(b) the amount which you would have initially received from the issuer in respect of the income if you had held the securities in question at the relevant date,

in either case, net, of an amount which is or, as the case may be, would have been held or deducted or withheld in respect of tax by or on behalf of the issuer.

13 WARRANT-BASED COMMODITIES

13.1 You covenant that you will deliver all commodities with full title guarantee. Without limitation, any transfer of a commodity pursuant to a transaction shall be free of any: right of retention, pledge, lien, other encumbrance or any other third party right including a warehouse's lien. You represent and covenant that there is no encumbrance, nor will you create or permit to exist any encumbrance in respect of any commodity which is in our possession or delivered to us by you under any transaction. You repeat this representation as of the time of entry into any transaction relating to any commodity.

13.2 Property in any Warrant-based Commodity shall pass at the time the Warrant is delivered. In any other case, unless otherwise agreed in writing, property shall pass upon delivery of the commodity. Notwithstanding the foregoing, in any transaction under which we sell a commodity to you, property in the commodity shall remain with us until we have received full payment for it. Unless otherwise agreed, any commodity to be delivered under a transaction shall be delivered in accordance with the requirements of applicable exchange rules or the market by reference to which such commodity is described. When we transfer a commodity to you all statutory and implied conditions and warranties as to title, correspondence to description, quality and fitness for purpose are excluded, to the extent permissible by law.

- 13.3** Any commodity which is required to be delivered physically by you to us will be delivered by you at your expense to such location as we may specify. Unless otherwise agreed in writing between us, any costs incurred by us in effecting physical delivery of any commodity (including, without limitation, costs in respect of collection, packaging, shipment, storage, warehousing or insurance) shall be borne by you. Delivery of any Warrant-based Commodity shall be effected by transfer / lodgement of Warrants. Where we hold Warrants in our physical possession for you, delivery by you to us shall be effected by our appropriating the requisite number and amount of Warrants. Delivery by us to you of any Warrant-based Commodity where we hold Warrants in our physical possession shall be effected by us immediately segregating the requisite number and amount of Warrants held by us, after which we shall hold them and the commodity to which they relate to your order. Where Warrants are capable of being held electronically, transfer of Warrants shall be effected by transfer to or from our and/or nominated electronic Account. If you do not have an electronic Account, and we hold your Warrants in our electronic Customer Account, transfer of appropriate Warrants from our Customer Account shall constitute delivery. In any other case where we hold your Warrants electronically, and subject to contrary written agreement between you and us, transfer to us shall be deemed to occur at 10am London time and/or otherwise agreed on the prompt date applicable to the transaction.
- 13.4** The risk in any commodity bought by you will pass to you on delivery. Where a commodity is in your possession before the property in it has passed to you, you agree fully to preserve, or procure the full preservation of, its condition and make good any damage or deterioration that may occur, or fully compensate us for any such damage or deterioration.
- 13.5** We may, from time to time, at your request but in our discretion, agree to hold on your behalf any commodity or documents of title to commodities which you have acquired from us and/or transferred to us pursuant to a transaction. Such commodity or documents will be segregated from any like commodity or documents in our ownership but otherwise will be subject to the same custody and insurance arrangements as our own property. We shall owe you no fiduciary duty in respect of any such commodity or documents. You will in due time pay rent and other charges applicable to any commodity represented by any Warrant held by us for you. We reserve the right to make a reasonable charge for this service.
- 13.6** Our liability to you in respect of any Warrant held by us for you is limited as follows: we shall have no liability for any damage, loss, expenses or liability of any nature which you may suffer as a result of any act or omission by us except to the extent of direct losses or expenses attributable to our fraud, wilful default or negligence. In the event of such direct losses or expenses our liability is limited to issuing an indemnity in respect of the market value of the Warrant at the time of discovery of the loss. Where you have Warrants which are in our physical possession and have authorised a person to collect Warrants from us, we shall not verify the identity of any person claiming to be so authorised, and we owe you no duties to operate any specific security procedures unless separately agreed in writing between you and us.
- 13.7** If you deposit commodities, documents of title to commodities, or other tangible assets with us as margin or otherwise, we reserve the right (but have no obligation) to insure them, to charge you and debit your Account with the costs of storage and insurance either periodically or when we return the assets to you, and to refuse withdrawal until such costs have been paid. If we collect, deliver or hold commodities or other tangible assets on your behalf, we do so at your risk.

14 REPRESENTATIONS, WARRANTIES AND COVENANTS

- 14.1** *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 have reached the age of 18 years or over and have full capacity to enter into this Agreement;
 - (b) you have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform this Agreement and such Transaction and to grant the security interests and powers referred to in this Agreement;
 - (c) the persons entering into this Agreement and each Transaction on your behalf have been duly authorised to do so;

- (d) this 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;
- (e) 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) and Event of Default (a "**Potential Event of Default**") has occurred and is continuing with respect to you or any Credit Support Provider;
- (f) you act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Transaction;
- (g) any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect;
- (h) you are willing and financially able to sustain a total loss of funds resulting from Transactions [and trading of such Transactions is a suitable investment vehicle for you];
- (i) except as otherwise agreed by us, you are the sole beneficial owner of all margin you transfer under this Agreement, free and clear of any security interest whatsoever other than a lien routinely imposed on all securities in a clearing system in which such securities may be held.

14.2 Covenants: You covenant to us that:

- (a) 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 this clause;
- (b) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself or any Credit Support Provider;
- (c) 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;
- (d) upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Regulations.

15 NETTING

15.1 Events of Default: If at any time:

- (a) you fail to make any payment when due under or to make or take delivery of any property when due under, or to observe or perform any other provision of this Agreement and such failure continues for two Business Days after we give you notice of non-performance;
- (b) you commence a voluntary case 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 (each a "Custodian") 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;
- (c) an involuntary case or other procedure is commenced against you 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 Custodian of you or any substantial part of your assets;

- (d) 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, 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 relating to this Agreement ("**Proceedings**") are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);
- (e) you or any Credit Support Provider (or any Custodian acting on behalf of either of you) disaffirm, disclaim or repudiate any obligation under this Agreement or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party ("**Credit Support Provider**"), or of you, in favour of us supporting any of your obligations under this Agreement (individually a "**Credit Support Document**");
- (f) any representation or warranty made or given or deemed made or given by you under this Agreement or any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (g) (i) any Credit Support Provider fails to comply with or perform any agreement or obligation to be complied with or performed by you or it in accordance with the applicable Credit Support Document; (ii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations under this Agreement, unless otherwise agreed in writing by us; (iii) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given or (iv) any event referred to in paragraphs (b) to (d) or (h) of sub-clause 1 of this clause occurs in respect of any Credit Support Provider;
- (h) 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; or
- (i) where you or your Credit Support Provider is a partnership, any of the events referred to in paragraphs (b) to (d) or (h) of sub-clause 1 of this clause occurs in respect of one or more of your or its partners;
- (j) we consider it necessary or desirable to prevent what we consider is or might be a violation of any Applicable Regulation or good standard of market practice; or
- (k) we consider it necessary or desirable for our own protection/any action is taken or event occurs which we consider might have a material adverse effect upon your ability to perform of your obligations under this Agreement; or
- (l) any Event of Default (however described) occurs under any other agreement between us;

then we may exercise our rights under sub-clause 2 of this clause, except that , if so specified by us in the Individually Agreed Terms Schedule attached to this Agreement or otherwise, in the case of the occurrence of any Event of Default specified in paragraphs (b) or (c) of sub-clause 1 of this clause (each a "**Bankruptcy Default**"), the provisions of sub-clause 3 of this clause shall apply.

15.2 Termination on notice: Subject to sub-clause 3 of this clause, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a day on which we will commence the termination and liquidation of Transactions or if such a termination and liquidation commences automatically, (the "**Liquidation Date**") for the termination and liquidation of Transactions in accordance with the provisions of sub-clause 4 of this clause.

15.3 Automatic termination: Unless we specify otherwise, the date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date ("**Automatic Termination**"), without the need for any notice by us and the provisions of sub-clause 4 of this clause shall then apply.

15.4 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 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 Transaction referred to in paragraph (a) of this sub-clause, its total cost, loss or, as the case may be, gain, in each case expressed in the Currency specified by us as such in the Individually Agreed Terms Schedule or otherwise in writing or, failing any such specification, the lawful Currency of the United Kingdom (the "**Base Currency**") (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 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 Exchange 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**").

- 15.5 Payer:** If the Liquidation Amount determined pursuant to sub-clause 4 of 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.
- 15.6 Other transactions:** Where termination and liquidation occurs in accordance with sub-clause 4 of this clause, we shall also be entitled, at our discretion, to terminate and liquidate, in accordance with the provisions of sub-clause 4 of this clause, any other transactions entered into between us which are then outstanding.
- 15.7 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 sub-clause 4 of 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 amount and bear interest, at the rate as reasonably determined by us to be the cost of funding such overdue amount. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.
- 15.8 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.
- 15.9 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 Transaction for as long as an Event of Default or a Potential Event of Default with respect to you has occurred and is continuing.
- 15.10 Additional rights:** Our rights under this clause shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise).
- 15.11 Application of netting to Transactions:** Subject to the Individually Agreed Terms Schedule, this clause applies to each Transaction entered into or outstanding between us on or after the date this Agreement takes effect.
- 15.12 Single agreement:** This Agreement, the particular terms applicable to each Transaction, and all amendments to any of them shall together constitute a single agreement between us. We both acknowledge that all 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.
- 15.13 Other agreements:** Subject to sub-clause 6 of this clause, 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.

15.14 *Closing out:* Unless otherwise agreed in writing between us, or the Rules of any relevant Exchange provide otherwise, if we enter into any Transaction with you in order to close out any existing Transaction between us then our respective obligations under both such Transactions shall automatically and immediately be terminated upon entering in to the second Transaction, except for any settlement payment due from one of us to the other in respect of such close-out.

16 **DEFAULT AND TERMINATION**

16.1 *Default:* On an Event of Default or at any time after we have determined, in our absolute discretion, that you have not performed (or may not be able or willing in the future to perform) any of your obligations to us, we shall be entitled without prior notice to you:

- (i) 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
- (ii) 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
- (iii) to 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; and/or
- (iv) to treat any or all Transactions then outstanding as having been repudiated by you, in which event our obligations under such Transaction or Transactions shall thereupon be cancelled and terminated.

16.2 *Termination:* Unless required by Applicable Regulations, either party may terminate this Agreement (and the relationship between us) by giving 10 days written notice of termination on 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.

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.

16.3 *Existing rights:* Termination shall not affect then outstanding rights and obligations (in particular relating to the Indemnities and Limitation of Liability Module and the Miscellaneous and Governing Law Module) 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.

17 EXCLUSIONS, LIMITATIONS AND INDEMNITY

- 17.1** *General exclusion:* Neither we nor our directors, officers, employees or agents shall be liable for any direct or indirect losses, damages, costs or expenses incurred or suffered by you under this Agreement (including any Transaction or where we have declined to enter into a proposed Transaction) unless arising directly from our or their respective gross negligence, wilful default or fraud. In no circumstances shall we have any liability for consequential or special damage. Nothing in this Agreement will limit our liability for death or personal injury resulting from our negligence.
- 17.2** *Regulatory liability:* We may take or omit to take any action we consider necessary or desirable to ensure compliance with any applicable law or regulation or the FSA Rules and any such action that we take (or, as the case may be, omit to take) will be binding on you. Action taken (or, as the case may be, omitted to be taken) by us for the purpose of compliance with any applicable law or regulations or the FSA Rules shall not render us or any of our directors, officers, employees or agents liable.
- 17.3** *Tax implications:* You acknowledge and confirm that you will not be relying on us to advise you or exercise any judgement on your behalf as to the tax consequences of any transaction we may enter into for you. Neither we nor any of our employees, officers, directors, appointed representatives or agents hold ourselves or themselves out as having any tax expertise whatsoever, nor do we or they accept any liability or responsibility for any kind of loss or damage incurred or suffered by you as a result of or in connection with the tax consequence of any transaction. If you are in doubt as to the tax consequences of any transaction you should obtain your own specialist advice. Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.
- 17.4** *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 effected.
- 17.5** *Force majeure:* 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, malfunction or failure of transmission, communication or computer facilities, industrial action, acts and regulations of any governmental or supra national bodies or authorities or the failure of any relevant intermediate broker, agent or principal of ourselves, custodian, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations.
- 17.6** *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 an Exchange 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.

18 MISCELLANEOUS

- 18.1** *Amendments:* We may amend this Agreement by not less than 10 business days written notice to you, except where it is impracticable in the circumstances. 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.
- 18.2** *Notices:* Unless otherwise agreed, all notices, instructions and other communications to be given by one of us to the other under this Agreement shall be given to the address or fax number and to the individual or department specified in the account opening form in respect of you and [in the Individually Agreed Terms Schedule in respect of us] and or by notice in writing by such party.
- (a) Any notice, instruction or other communication shall, be deemed to take effect in the case of fax, email, on dispatch and, in the case of airmail or first class pre-paid post, five Business Days after dispatch.

- (b) Each notice, instruction or other communication to you (except confirmations of trade, statements of account, and margin calls) shall be conclusive unless written notice of objection is received by us within five Business Days of the date on which such document was deemed to have been received.

You will notify us of any change of your address in accordance with this clause.

- 18.3 *Investor protection schemes:*** We are a member of the Financial Services Compensation Scheme in the United Kingdom. The maximum currently payable under the FSCS is £48,000. Further details of the scheme are available upon request.
- 18.4 *Complaints procedure:*** We have internal procedures for handling complaints fairly and promptly. You may submit a complaint to us, for example by letter, telephone, e-mail, or in person. We will send you a written acknowledgment of your complaint within five days of receipt enclosing details of our complaints procedure. Please contact us if you would like further details regarding our complaints procedures.
- 18.5 *Assignment:*** 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.
- 18.6 *Time of essence:*** Time shall be of the essence in respect of all obligations of yours under this Agreement (including any Transaction).
- 18.7 *Joint and several liability:*** If you are a partnership, or otherwise comprise more than one person, your liability under this Agreement shall be joint and several. In the event of the death, bankruptcy, winding-up or dissolution of any one or more of such persons, then (but without prejudice to the above or our rights in respect of such person and his successors) the obligations and rights of all other such persons under this Agreement shall continue in full force and effect.
- 18.8 *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.
- 18.9 *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) at any time owing between you and us.
- 18.10 *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.
- 18.11 *Electronic signatures:*** Subject to Applicable Regulations, any communication between us using electronic signatures shall be binding as if it were in writing.
- 18.12 *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.
- 18.13 *Electronic communications:*** You will accept orders or instructions given via e-mail or other electronic means as evidence of the orders or instructions given.

- 18.14** *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.
- 18.15** *Your records:* You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of orders submitted and the time at which such orders are submitted.
- 18.16** *Third Party Rights:* A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of this Agreement.
- 18.17** *Co-operation for proceedings:* If any action or proceeding is brought by or against us in relation to this Agreement or arising out of any act or omission by us required or permitted under this Agreement, you agree to co-operate with us to the fullest extent possible in the defence or prosecution of such action or proceeding.

19 GOVERNING LAW AND JURISDICTION

- 19.1** *Governing law:* A Transaction which is subject to the Rules of an Exchange 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 English law.
- 19.2** *Jurisdiction:* Each of the parties irrevocably
- (a) agrees for our benefit that the courts of England shall have jurisdiction to determine 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.

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 judgement) and (v) execution or enforcement of any judgement 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 judgement which may be made or given in such Proceedings.

- 19.3** *Service of process:* If you are situated outside England and Wales, process by which any Proceedings in England are begun may be served on you by being delivered to the address nominated by you for this purpose in the account opening form. This does not affect our right to serve process in another manner permitted by law.

20 INTERPRETATION

- 20.1** *Interpretation:* In this Agreement:

"**Affiliated Company**" means: (in relation to a person) an undertaking in the same group as that person.

"**Applicable Regulations**" means:

- (i) FSA Rules or any other rules of a relevant regulatory authority;

- (ii) the Rules of the relevant Exchange; and
- (iii) all other applicable laws, rules and regulations as in force from time to time,

as applicable to this Agreement;

"Associate" means: (in relation to a person ("A")):

- (i) an Affiliated Company of A;
- (ii) an appointed representative of A or of any Affiliated Company of A;
- (iii) any other person whose business or domestic relationship with A or his Associate might reasonably be expected to give rise to a community of interest between them which may involve a conflict of interest in dealings with third parties.

"Business Day" means a day (other than a Saturday or Sunday) on which:

- (i) in relation to a date for the payment of any sum denominated in (a) any Currency (other than Euro), banks generally are open for business in the principal financial centre of the country of such Currency; or (b) Euros, settlement of payments denominated in Euros is generally possible in London or any other financial centre in Europe selected by us in the Individually Agreed Terms Schedule; and
- (ii) in relation to a date for the delivery of any property, property of such type is capable of being delivered in satisfaction of obligations incurred in the market in which the obligation to deliver such first property was incurred; and
- (iii) for all other purposes, is not a bank holiday or public holiday in London;

"Currency" shall be construed so as to include any unit of account;

"Event of Default" means any of the events of default as listed in paragraphs (a) to (l) of sub-clause 1 of the Clause headed "Netting";

"Exchange" means, except in the LIFFE Schedule any of the following exchanges: LIFFE, Eurex, LME, ICE, OMLX, LSE, CBOT and CME;

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

"Transaction" means:

- (i) a contract made on an Exchange or pursuant to the Rules of an Exchange;
- (ii) a contract which is subject to the Rules of an Exchange; or
- (iii) a contract which would (but for its term to maturity only) be a contract made on, or subject to the Rules of an Exchange and which, at the appropriate time, is to be submitted for clearing as a contract made on, or subject to the Rules of an Exchange;

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;
- (v) any other transaction which we both agree, in the Individually Agreed Terms Schedule or otherwise, shall be a Transaction.

- 20.2** *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 or 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. References to persons include bodies corporate, unincorporated associations and partnerships/persons, firms, companies, corporations, governments, states or agencies of a state or any associations or partnerships (whether or not having separate legal personality) of two or more of the foregoing. The masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires. Words and phrases defined in the FSA's Rules have the same meaning in this Agreement unless expressly defined in this Agreement.
- 20.3** *Schedules:* The clauses contained in [the attached] Schedule(s) (as amended from time to time) shall apply. We may from time to time send to you further schedules in respect of Exchanges 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 Exchange or Transaction shall not preclude a similar clause being expressed or implied in relation to any other Exchange or Transaction. So far as applicable, paragraph 6 of Part 1 of the LIFFE Schedule shall be construed as also applying to and having effect in relation to all other Exchanges.
- 20.4** *Headings:* Headings are for ease of reference only and do not form part of this Agreement.

ANNEX 1

RISK DISCLOSURE STATEMENTS

A. RISK DISCLOSURE STATEMENT

This notice is provided to you for information. It cannot, however, disclose all of the risks and other significant aspects of derivatives products such as futures, options and contracts for differences. **You should not deal in derivatives unless you understand the nature of the contract you are entering into and the extent of your exposure to risk. You should also be satisfied that the contract is suitable for you in the light of your circumstances and financial position.** Certain strategies, such as a 'spread' position or a 'straddle', may be as risky as a simple 'long' or 'short' position.

Whilst derivative instruments can be utilised for the management of investment risk, some investments are unsuitable for many investors. Different instruments involve different levels of exposure to risk, and in deciding whether to trade in such instruments you should be aware of the following points.

(1) Futures

Transactions in futures involve the obligation to make, or to take, delivery of the underlying asset of the contract at a future date, or in some cases to settle your position with cash. **They carry a high degree of risk.** The 'gearing' or 'leverage' often obtainable in futures trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small market movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you. **Futures transactions have a contingent liability and you should be aware of the implications of this, in particular the margining requirements, which are set out in paragraph (6) below.**

(2) Options

There are many different types of options with different characteristics subject to different conditions:-

Buying options: Buying options involves less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. The maximum loss is limited to the premium, plus any commission or other transaction charges. However, if you buy a call option on a futures contract and you later exercise the option, you will acquire the future. This will expose you to the risks described under 'futures' and 'contingent liability transactions'.

Writing options: If you write an option, the risk involved is considerably greater than buying options. You may be liable for margin to maintain your position and a loss may be sustained well in excess of any premium received. By writing an option, you accept a legal obligation to purchase or sell the underlying asset if the option is exercised against you, however far the market price has moved away from the exercise price. If you already own the underlying asset which you have contracted to sell (known as 'covered call options') the risk is reduced. If you do not own the underlying asset (known as 'uncovered call options') the risk can be unlimited. **Only experienced persons should contemplate writing uncovered options, and then only after securing full details of the applicable conditions and potential risk exposure.**

Traditional options: A particular type of option called a 'traditional option' is written by certain London Stock Exchange firms under special exchange rules. These may involve greater risk than other options. Two-way prices are not usually quoted and there is no exchange market on which to close out an open position or to effect an equal and opposite transaction to reverse an open position. It may be difficult to assess its value or for the seller of such an option to manage his exposure to risk.

Certain options markets operate on a margined basis, under which buyers do not pay the full premium on their option at the time they purchase it. In this situation you may subsequently be called upon to pay margin on the option up to the level of your premium. If you fail to do so as required, your position may be closed out or liquidated in the same way as a futures position.

(3) **Contracts for differences**

Futures and options can also be referred to as a 'contract for differences'. These can be options and futures on the FTSE 100 index or any other index, as well as currency and interest rate swaps. However, unlike other futures and options, these contracts can only be settled in cash. Investing in a contract for differences carries the same risks as investing in a future or an option and you should be aware of these as set out in paragraphs (1) and (2) respectively. **Transactions in contracts for differences may also have a contingent liability and you should be aware of the implications of this as set out in paragraph (6) below.**

(4) **Off-exchange transactions**

It may not always be apparent whether or not a particular derivative is on- or off-exchange. While some off-exchange markets are highly liquid, transactions in off-exchange or 'non-transferable' derivatives may involve greater risk than investing in on-exchange derivatives because there is no exchange market on which to close out an open position. It may be impossible to liquidate an existing position, to assess the value of the position arising from an off-exchange transaction or to assess the exposure to risk. Bid and offer prices need not be quoted, and, even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

(5) **Foreign markets**

Foreign markets will involve different risks to UK markets. In some cases the risks will be greater. The potential for profit or loss from transactions on foreign On request, your broker must provide an explanation of the relevant risks and protections (if any), which will markets or in foreign denominated contracts will be affected by fluctuations in foreign exchange rates.

(6) **Contingent liability transactions**

Contingent liability transactions which are margined require you to make payments against the purchase price, instead of paying the whole purchase price liability transactions immediately. If you trade in futures, contracts for differences or sell options you may sustain a total loss of the margin you deposit with your broker to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be liable for any resulting deficit. Even if a transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered the contract. Contingent liability transactions which are not traded on or under the rules of a recognised or designated investment exchange may expose you to substantially greater risks.

(7) **Collateral**

If you deposit collateral as security with your broker, the way in which it will be treated will vary according to the type of transaction and where it is traded. There could be significant differences in the treatment of collateral depending on whether you are trading on a recognised or designated investment exchange, with the rules of that exchange (and associated clearing house) applying, or trading off-exchange. Deposited collateral may lose its identity as your property once dealings on your behalf are undertaken. Even if your dealings should ultimately prove profitable, you may not get back the same assets, which you deposited and may have to accept payment in cash. You should ascertain from your broker how your collateral will be dealt with.

(8) **Commission**

In the case of futures, when commission is charged as a percentage, it will normally be as a percentage of the total contract value, and not simply as a percentage of your initial payment.

(9) **Suspension of trading**

Under certain trading conditions it may be difficult or impossible to liquidate a position. This may occur, for example, at times of rapid price movement if the price rises or falls in one trading session to such an extent that under the rules of the relevant exchange trading is suspended or restricted. Placing a stop-loss order will not necessarily limit your losses to the intended amounts, because market conditions may make it impossible to execute such an order at the stipulated price.

(10) **Clearing house protections**

On many exchanges, the performance of a transaction by your broker (or the third party with whom he is dealing on your behalf) is 'guaranteed' by the exchange or its clearing house. However, this guarantee is unlikely in most circumstances to cover you, the Customer, and may not protect you if your broker or another party defaults on its obligations to you. There is no clearing house for traditional options, nor normally for off-exchange instruments which are not traded under the rules of a recognised or designated investment exchange.

(11) **Insolvency**

Your broker's insolvency or default, or that of any other brokers involved with your transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payment in cash.

ANNEX 1 (contd.)

B. ELECTRONIC TRADING DISCLOSURE STATEMENT

ELECTRONIC TRADING AND ORDER ROUTING SYSTEMS FIA DISCLOSURE STATEMENT

Electronic trading and order routing systems differ from traditional open outcry pit trading and manual order routing methods. Transactions using an electronic system are subject to the rules and regulations of the exchange(s) offering the system and/or listing the contract. Before you engage in transactions using an electronic system, you should carefully review the rules and regulations of the exchange(s) offering the system and/or listing contracts you intend to trade.

1. **Differences among Electronic Trading Systems:** Trading or routing orders through electronic systems varies widely among the different electronic systems. You should consult the rules and regulations of the exchange offering the electronic system and/or listing the contract traded or order routed to understand, among other things, in the case of trading systems, the system's order matching procedure, opening and closing procedures and prices, error trade policies, and trading limitations or requirements; and in the case of all systems, qualifications for access and grounds for termination and limitations on the types of orders that may be entered into the system. Each of these matters may present different risk factors with respect to trading on or using a particular system. Each system may also present risks related to system access, varying response times, and security. In the case of internet-based systems, there may be additional types of risks related to system access, varying response times and security, as well as risks related to service providers and the receipt and monitoring of electronic mail.
2. **Risks Associated with System Failure:** Trading through an electronic trading or order routing system exposes you to risks associated with system or component failure. In the event of system or component failure, it is possible that, for a certain time period, you may not be able to enter new orders, execute existing orders, or modify or cancel orders that were previously entered. System or component failure may also result in loss of orders or order priority.
3. **Simultaneous open outcry pit and Electronic Trading:** Some contracts offered on an electronic trading system may be traded electronically and through open outcry during the same trading hours. You should review the rules and regulations of the exchange offering the system and/or listing the contract to determine how orders that do not designate a particular process will be executed.
4. **Limitation of Liability:** Exchanges offering an electronic trading or order routing system and/or listing the contract may have adopted rules to limit their liability, the liability of FCMs, and software and communication system vendors and the amount of damages you may collect for system failure and delays. These limitations of liability provisions vary among the exchanges. You should consult the rules and regulations of the relevant exchange(s) in order to understand these liability limitations.

ANNEX 2

BEST EXECUTION POLICY AND ARRANGEMENTS

POLICY

The firm is committed to taking all reasonable steps to obtain best execution for all clients in particular but not exclusively with regard to price, transaction costs, speed and likelihood of execution.

The firm does not trade outside regulated investment exchanges nor does it participate in OTC business. All clients are professional traders and knowledgeable of markets and order processing.

It is implicitly understood that the firm's clients understand they have no right to the best possible result for each individual order. This does not negate the firm's clear and unequivocal obligation to apply their execution arrangement to each and every order with a view to obtaining the best possible result in accordance with execution policy.

All clients have been informed that we have a best execution policy and it is disclosed to them in its entirety on request. The best execution policy and arrangements are disclosed to all the firm's traders. Proprietary account holders sign a declaration that they have read and understood it on an annual basis.

ARRANGEMENTS

Processing of client orders depend upon the characteristics of such orders.

- Placed electronically by clients.

In cases where the firm has provided clients with a screen-trading facility, it is understood that the outsourced software provider fulfils the regulated exchange's requirements for electronic execution. The firm need take no further action to secure best execution.

- Orders placed verbally by client

Orders are placed immediately as individual orders and are never grouped with other client or house orders. An order trail is generated electronically for screen traded contracts. Order tickets are time stamped for both electronic and open-outcry markets. Tickets are stamped at the moment of receiving the order, placing the order and receiving and giving up the fills, or part fills. Telephone conversations are recorded.

- Orders placed to work "at best"

The firm will only refrain from placing orders immediately if the client expressly requests this.

- Aggregation of fills

As orders are placed immediately and individually, there is no aggregation of fills, either with other client or house accounts.

- Taking the other side of client orders

The firm may, on occasion, trade the other side of a client order on electronic exchanges. For example, if the client places a "buy order" in a 70bid / 75ask market, the firm may choose to sell to the client at 74. In such instances, the firm is acting as principal and is not obliged to arrange for a "best execution" in the sense of a price below 74. The firm is not obliged to inform the client that it is acting as principal at the time of trade, but informs the client generally, in the terms and conditions, that it may do so from time to time.

- Choice of venue

The markets where the firm executes orders are NYSE.LIFFE, ICE US, ICE Europe, CME and EUREX. As these exchanges do not trade the same contracts, there is no best execution issue in deciding where to trade. There is, however, a conflict on ICE US where commodity options may be traded electronically or via open outcry at the same time of day. Unless otherwise authorised by the client, the firm will take a view on the optimal venue for best execution at the time of receiving the order. The grounds for making this decision are based on total consideration of best execution for the client.

- Internal Monitoring

The compliance officer makes periodic checks that all traders adhere to the arrangements for best execution.

ANNEX 3

PROHIBITED PRACTICES

The Financial Services Authority's Code of Market Conduct affects everyone who participates in, or whose conduct affects, the UK's financial markets. It makes no difference whether or not the person is regulated by the FSA, or based in the UK or overseas, or whether they are professional or retail investors.

The aim of this paper is to assist clients and employees of TRX Futures Ltd to abide by the Code. It is prohibited to engage in, or to aid and abet third parties in the practices or behaviour set out below. For clarity, any reference to brokers does not apply solely to FSA approved persons but to anybody who may rightfully place orders for and/or administer more than one account.

1. **Price manipulation** or cornering of the Market.
2. Creating a '**wash transaction**', i.e. a misleading impression of activity occurring in the Market and/or causing an Exchange to report a misleading price level.
3. Creating an '**accommodation transaction**', i.e. entering into a trade or trades in an attempt to conceal a potential or actual trading abuse by him/herself or some other party.
4. **Front running**, i.e. deliberately trading or placing orders to trade, in the same direction (purchase or sale) as a client with a view to realising a profit pursuant to any price movement brought about by the client order.
5. **Re-assigning trades** rightfully due to a client to another account or vice versa with a view to allocating profit wrongfully to his/her own account or to some other third party. For avoidance of doubt, a broker may be deemed to be engaging in this practice if such trades are assigned to the other account in error for whatever reason where the situation is not subsequently remedied due to a failure to act on the part of the broker.
6. **Withdrawing or withholding a client's order**, in whole or in part, or taking advantage of a client order in any way for the benefit of a broker or any other firm or individual.
7. Creating '**compensation trades**', i.e. executing one or more trades, the principal rationale of which is to effect a monetary transfer between accounts in a concealed manner without creating or eliminating open interest or for no legitimate purpose.
8. **Order layering**, i.e. placing scale orders away from the market price in such size as to create a false impression of buying or selling interest if the sole intention is to encourage the price away from the trader's buying or selling orders.
9. **Performing an Exchange for Swap EFS**, unless in possession of documents proving the existence of an underlying swap transaction between the identical legal entities performing the EFS.
10. **Performing an Exchange for Physical EFP** (sometimes referred to as an Against Actual AA), unless in possession of documents proving the existence of an underlying physical transaction between the identical legal entities performing the EFP
11. **Insider dealing**, when an insider deals, or tries to deal, on the basis of information that should be, but has not been revealed to the market.
12. **Improperly disclosing** to another person information that should be, but has not been revealed to the market.
13. **Disseminating** information. that conveys a false or misleading impression about a commodity or financial instrument where the person doing this knows the information to be false or misleading.

To assure compliance with these rules and principles, TRX records and stores all communications made by telephone and by electronic mail and messenger (including private logins when used in the office) and carries out spot checks.

Please sign and return one copy.

Signed

Name

Date