

20. Payments of Profits and Losses

- 20.1** We retain the obligation to:
- hold any amount You owe us in respect of the Account e.g. realised losses, Initial Margin and Variation Margin;
 - any other amounts You owe us under these Terms;
 - any and all amounts on Your Account pending receipt by us of the originals of any Account opening documentation (including in relation to money laundering regulations), if You only supplied us with copies when we opened Your Account;
 - any amount You owe us in relation to any other Account You have with us or on any other grounds.
- 20.2** The following applies to all payments by You to XTB LIMITED: -
- all payments must be made in Your Base Currency. If You pay us in any other currency, we can charge You the cost of conversion into that Base Currency;
 - You will only be credited for the net amount received after all deductions, (i.e. bank charges and any other costs of transfer);
 - we do not accept cheques;
 - we do not accept payments in cash;
 - in the case of payment of Variation Margin, we only accept payment by bank transfer.
- 20.3** XTB Limited do not permit the payment to clients of unrealised profits and in no circumstances will such unrealised profits be made available for any form of payment including electronic withdrawal.

21. Administrative Provisions

- 21.1** We will report all dealings to You via:
- the Trading Platform which will contain full details of all the matters relating to Your Account so that You can check the status of Trades and Orders;
 - we will provide You with a confirmation of each Trade in a daily summary on request.
- 21.2** It is Your responsibility to regularly access the Trading Platform to check on all dealings. If You think a mistake has been made (i.e. a Trade has been recorded that You think is not yours), contact us immediately, either by e-mail using ukservice@xtb.co.uk or by telephoning our Customer Services team. The sooner we are made aware of a potential problem, the easier we will be able to investigate. If You delay in reporting issues, it may make it problematic to resolve issues.
- 21.3** You agree that periodical reports and/or confirmations related to Our services including but not limited to confirmations related to Your orders, financial instruments and funds held by us for You will be provided on a durable medium other than paper, on or through the Website.

22. Client re-categorisation

- 22.1** Re-categorisation will only be initiated if we comply with the Regulatory System. This involves obtaining Your written consent or entering into a written agreement with You, if required. We will give You at least 14 days' written notice of any re-classification unless we are required by law or regulation to give less.
- 22.2** You may request a different client categorisation at any time.

23. Specifications and rules

- 23.1** Particular Markets will have specifications and rules that apply to that Market. We retain the right to vary any of those specifications at our discretion with or without giving You notice. No change will apply to any Trade or Order current prior to the date on which the change is to become effective.

24. Interest

- 24.1** It is not XTB Limited policy to pay interest on any of Your funds that we may hold and by signing this Agreement You acknowledge that You are waiving any entitlement to interest on any funds that we may hold for You from time to time.

25. Netting

25.1 All Trades between You and XTB Limited will be entered into in consideration of each other and constitute a single contract between You and us. XTB Limited reserves the right in its sole discretion at any time and from time to time and with or without notice to You to combine and consolidate or to set off against each other in or towards satisfaction of liabilities, all balances of whatever nature in respect of any account in which You have a part, or management function, or oversight interest.

25.2 This includes for the avoidance of doubt, but are not necessarily limited to, Your open Trades and any other right or liability mentioned in this Agreement or arising as between XTB Limited and You, and whether XTB Limited exercises its rights hereof or not, and whether any such balance be actual, contingent, primary, collateral, several or joint and the resultant balance would represent the single obligation payable by the obliged party.

25.3 In the event of default, bankruptcy, liquidation or similar circumstances resulting in the termination of this agreement, the parties agree that there shall be a single obligation in the base currency of the customer's foremost XTB Limited Account to pay a net sum of cash in respect of all aforesaid balances. Any such balance in Your favour shall be held by You as security for all balances in XTB Limited favour.

26. Currency

26.1 We will convert into Your Base Currency –

- any profit, loss or other liability;
- any money owed by us to You, or You to us;
- any money paid by You to us.

26.2 Please note that for the purpose of calculating Your Cash and all other relevant matters we will convert any relevant currencies into Your Base Currency.

26.3 If You pay us in any currency other than Your Base Currency, we will charge You any costs we incur in converting currency into to Your Base Currency.

27. Compliance with law

27.1 If any provision (or part of a provision) of these Terms is rendered invalid, illegal or unenforceable in any respect under the law in any jurisdiction, the validity, legality and enforceability of the remaining provisions under the law of that jurisdiction, and the validity, legality and enforceability of those provisions and any other provisions under the law of any other jurisdiction, shall remain in full force and effect.

28. Market Disruption

28.1 Market disruption is caused by exceptional, unusual or emergency market conditions which may prevent XTB Limited from performing any or all of its obligations. In the event of Market Disruption which is outside our control, we can:

- close any open Trades;
- cancel or execute any Orders;
- adjust the XTB Limited Price or size of any open Trades;
- adjust the agreed execution price or size of any Orders;
- suspend trading and alter trading times;
- refuse all Trades and Orders;
- vary Initial Margin requirements, IM factors, minimum and maximum trade sizes and XTB Limited Prices;
- immediately require payment of all amounts You owe us such as Variation Margin;
- void any trade, in cases where the XTB Limited Price is based on the price of an Underlying Instrument and Trades relevant to the XTB Limited Price are cancelled by a relevant regulatory body, exchange or other third party;
- do or omit to do anything, if we think it reasonable to protect ourselves and our Clients as a whole.

28.2 We are within our rights to do anything listed in 29.1, with or without giving You notice, but if we exercise without giving You notice we will notify You, as soon as reasonably practicable, that we have done so.

28.3 In the case of an event outside our control, You may not be able to access the Software, nor the Trading Platform or [Website](#) and You may not be able to contact us by telephone.

29. Force Majeure Events

- 29.1** We may, in our reasonable opinion, determine that an emergency or an exceptional market condition exists (a "Force Majeure Event"). A Force Majeure event is any event which prevents XTB Limited from making orderly markets in any contract normally quoted by XTB Limited for the purposes of making Trades. In such 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:
- the suspension or closure of any market or the 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;
 - the occurrence of an excessive movement in the level of any Trade and the Underlying Market or our anticipation (acting reasonably) of the occurrence of such a movement;
 - any breakdown or failure of transmission, communication or computer facilities, interruption of power supply or electronic or communications equipment failure;
 - 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.

- 29.2** 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:
- increase Your Margin requirements;
 - close all or any of Your open Trades at such closing level as we reasonably believe to be appropriate;
 - 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
 - alter the trading time for a particular Trade.

30. Errors

- 30.1** In order to be valid, a contract note, or any other form of Trade confirmation, must accurately reflect the relevant Trade struck via the Trading Platform. Erroneous contract notes or Trade confirmations will not affect the validity of the Trade that was struck and will not entitle the client to enforce whatever is inaccurately recorded in the contract note or Trade confirmation.

- 30.2** XTB Limited reserves the right to refuse, void or amend any Trade involving or deriving from a Manifest Error. Any amendment of such a Trade shall reflect what XTB Limited considers in its sole discretion, acting in good faith and in line with the Best Execution Policy, to be the correct or fair details of such a Trade absent such Manifest Error.

- 30.3** The term "Manifest Error" applies to any error, omission or misquote, (including any misquote by the dealer) which by fault of either XTB Limited or any third party is manifest when taking into account the Market conditions and available Reference Institution quote or quotes that prevailed at the time. This may include, wrong price, Market or any error or lack of clarity of any information, source, commentator, official result or pronunciation.

- 30.4** In the event of a Manifest Error, XTB Limited may take into account all information in its possession including information concerning the expertise of the Client and the Market conditions that prevailed at the time of such error. When making a determination as to whether a situation amounts to a Manifest Error, XTB Limited will act fairly towards the Client and the Client must equally not gain any unfair advantage by such Manifest Error. The fact that a Client may have entered into, or refrained from entering into, a corresponding financial commitment, contract or trade in reliance on a Trade placed with XTB Limited is deemed irrelevant as a factor and shall not be taken into account by XTB Limited in determining whether a situation amounts to a Manifest Error.

31. Corporate Action

- 31.1** Where a Corporate Action takes place we are entitled to:

- change XTB Limited Prices;
- change our Spreads;
- change IM factors;
- change minimum and maximum Trade sizes;
- suspend the acceptance of or refuse to accept Trades or Orders for any affected Market.

- 31.2** We can exercise the above rights with or without notice depending on the nature of the Corporate Action concerned. If we exercise before we have given notice, we will inform You as soon as reasonably practicable that we have done so.

- 31.3** In addition, if a Corporate Action occurs we can do any of the following in relation to a Trade or Order You have placed that is directly or indirectly affected by the Corporate Action and that was in place prior to the relevant Corporate Action: -
- change the opening XTB Limited Price of the Trade;
 - change the agreed execution price of the Order;
 - close any open Trade and cancel any Order;
 - open a new Trade or Order in the relevant Market. This might be necessary in the case of a rights issue, if You have a short position in the relevant Market;
 - make an appropriate credit or debit to Your Account.
- 31.4** The following terms and conditions shall apply when particular corporate events occur in respect of a Client's position on a given Equity CFD, ETF CFD or a CFD based on the Cash Instrument:
- dividends: on the ex-date (the first day without a right to the dividend) each Client holding a long position on a relevant Equity CFD or ETF CFD will be credited with the amount equal to dividend and each Client holding a short position will be debited with the amount equal to dividend. Dividends are calculated in respect of the number of Equity CFDs or ETF CFDs (equivalent to number of Underlying Instruments) held in the relevant Account. Credits and debits associated with dividend settlement shall be made through crediting or debiting the relevant Trading Account; on the day before the first day without a right to the dividend (ex-date) Open Positions on a CFD based on the Cash Instrument will be credited or debited with the amount equal to the dividend adjusted according to the weight in the Cash Instrument and the relevant Trading Account and Trading Account register will be adjusted accordingly;
 - stock splits, reverse stock splits, rights issues and spinoff: the amount of Equity CFDs, ETF CFDs or equivalent of funds registered on the relevant Trading Account will be adjusted or particular Trading Account registers will be adjusted on the day when split or reverse split takes place, first day of Underlying Instrument's quotation without the right to dividend or rights or on the spinoff day accordingly;
 - the right to vote, offering rights or similar rights connected with Underlying Instrument: The Client opening a position on an Equity CFD or ETF CFD cannot exercise the above-mentioned rights.
 - other corporate actions: XTB will strive to reflect any other corporate actions onto Clients' Equity CFD or ETF CFD positions, or Client's particular Account so that a position in Equity CFD or ETF CFD reflects economic aspects of having a position in the Underlying Instruments;
 - corporate actions which result in the cancellation of limit Orders or stop Orders on the Underlying Exchange: In such cases XTB will cancel all limit Orders and stop Orders on a given Financial Instrument, and at the same time XTB shall inform the Client when such circumstances occur.
- 31.5** In the case of adjustments to index CFD Trades, the rate of adjustment will be determined by XTB Limited.
- 31.6** We may terminate or vary the dividend adjustment subject to changes in law, the Regulatory System, rates of tax and in particular the withholding tax requirements of the relevant tax authority.
- 31.7** We reserve the right not to credit or debit any amounts in respect of a dividend adjustment, if the amount concerned is equal to or less than £1.00.
- 31.8** Under some circumstances transactions or orders on the Underlying Exchange being the basis of determining of Financial Instrument's Price may be cancelled or withdrawn. In such case, XTB shall have the right to withdraw from the relevant Transaction with the Client. In such case, declaration of withdrawal from the Transaction will be documented and delivered to the Client within two days following the day after the day the cancellation or withdrawal from the Underlying Instrument transaction on the Underlying Exchange took place.
- 31.9** In the case of technical events, that are beyond XTB's control, Reference Institutions may refuse to place an order on the Underlying Exchange or withdraw already placed order from Underlying Exchange that result from a Client Order on a given Equity CFD or ETF CFD. In this case XTB will cancel the Client's Order and place the Order having the same parameters again, at the same time XTB shall make appropriate records on Client's Account and inform the Client when such circumstances occur.
- 31.10** In some cases of limit Orders or stop Orders on Equity CFDs or ETF CFDs XTB may block the applicable Margin at the moment of placing the Order or the Instruction.
- 31.11** If the Underlying Instrument for the Equity CFD or the ETF CFD is being delisted from the Underlying Exchange, XTB shall have the right to close position opened on such a Equity CFD or ETF CFD on the last trading day, or after delisting of Underlying Instrument, and at the same time XTB shall inform the Client if such circumstances occur.

- 31.12** When trading Equity CFDs or ETF CFDs, Clients acknowledge that trading in some Underlying Instruments may be temporarily suspended or put on hold. In such cases Clients may not be able to trade or place the Orders or the Instructions concerning such Equity CFDs or ETF CFDs and their Orders or Instructions may be cancelled.
- 31.13** In some cases, Underlying Instruments for Client's short position in Equity CFDs or ETF CFDs may be recalled by the lending counterparty. In such cases XTb will have to close Client's short position in Equity CFDs or ETF CFDs, in order to close the short position on counterparty account. Such cases may occur if the exchange short selling rules change or a financial authority applies special conditions for short selling, lending counterparty will withdraw the possibility of short selling on a given Underlying Instrument or given Underlying Instrument becomes hard to borrow due to low liquidity, high lending costs or due to other circumstances that are beyond XTb's control.
- 31.14** XTb shall not be liable for damages caused by situations described in clauses 32.8 – 32.13. In such cases XTb shall proceed in accordance with the Orders' Execution Policy as to gain the best results for the Client.
- 31.15** In case of taking a short position on part of Equity CFDs or ETF CFDs, XTb may incur additional borrowing costs for a Client, related to the borrowing of the Underlying Instrument. The amount of this related cost is beyond control of XTb. The aforementioned costs shall be collected from the Client at the end of Trading Day and shown in Trading Account as swap points and may significantly influence the costs charged for a short position on Equity CFDs or ETF CFDs. The cost is taken into account while calculating swap points value of the Financial Instrument. The cost will be indicated in the Specification Tables, however, may be changed with immediate effect depending on borrowing costs of the Underlying Instrument.

32. Client Money

- 32.1** You are hereby informed that if You are categorized by us as a Retail Client the FCA Client Money Rules will apply to You.
- 32.2** All monies belonging to Clients are held in a separate client account that is identified as a trust account. All clients' money is segregated from the funds belonging to XTb Limited.
- 32.3** **In the event of XTb Limited insolvency** You may make a compensation claim to the Financial Services Compensation Scheme (FSCS). Full details of the scheme can be found on the FSCS web site at www.fscs.org.uk.
- 32.4** You agree that we may cease to treat Your money as client money if there has been no movement on Your balance for six years. We shall write to You at Your last known address informing You of our intention of no longer treating Your balance as client money.

33. Complaints and Disputes

- 33.1** We have a complaints handling procedure listed on the Website. We can also supply a copy on request.
- 33.2** You should raise complaints and disputes as soon as You become aware of them, ideally within 4 Business Days of the date of the relevant Trade or other matter.
- 33.3** If You have a complaint or dispute, You must refer this in writing to us. If our Customer Services team does not deal with the matter to Your satisfaction, You can refer to it to our compliance officer.
- 33.4** Retail Clients may also refer matters to The Financial Ombudsman Service, Exchange Tower London E14 9SR. Clients who are not Retail Clients do not have this right.
- 33.5** You can access information and rules relating to the Financial Ombudsman Service on www.financial-ombudsman.org.uk. You can access information and rules relating to the FCA (in particular COBS) on www.fca.org.uk.

34. Representations and Warranties

- 34.1** You make the following representations and warranties to us when You submit Your Application Form, enter into the Terms and each time You place a Trade or Order, or given any other instructions: -
- that You are acting in person or (if You are not a natural person) by someone duly authorised to act for You;

- that all the information You have provided to us, both in Your Application Form and otherwise, is true accurate and complete in all material respects;
- that You signed Your Application Form or (if You are not a natural person) someone signed it who was duly authorised to do so;
- that You agree to the Terms, all Notices and Policies, in particular Risk Warning Notice and the Best Execution Policy;
- that the Terms bind You;
- that You act as principal.

35. Regulatory Requirements

- 35.1 You are responsible for compliance with all laws and regulatory rules (whether English or elsewhere) in relation to Your trades, including those of the FCA, The Panel on Takeovers and Mergers and any other relevant regulatory body.

36. Market Abuse

- 36.1 XTB Limited will frequently hedge its liability to You by opening simultaneous positions with other institutions. A consequence of XTB Limited doing so is that if Your Trades or Orders relate to Underlying Instruments, Your Trades or Orders can through our hedging exert a distorting influence on the Underlying, in addition to any impact on XTB Limited Prices. This creates a possibility of market abuse and the function of this clause is to prevent such abuse and to enable us to take appropriate action.

- 36.2 You represent and warrant to us and agree that each such representation and warranty is deemed repeated each time You open and close a Trade and each time You place and cancel an Order that: -

- You will not place and have not placed any Trade and/or Order with us or otherwise (when You deal with us) behaved nor will You behave in a manner that would amount to market abuse and/or market manipulation by You. For the purpose of assessing whether You have done so, You may be deemed to have dealt directly in the Underlying to which Your trade and/or Order relates. For Your information, market abuse means as specified by **s118 FSMA 2000** and the Market Abuse Directive. Further information can be obtained from the FCA website at www.fca.org.uk.
- You will not place and have not placed a Trade and/or Order that contravenes any primary or secondary legislation or other law or regulatory rules including in relation to insider dealing. For the purposes of this clause You agree that we may proceed on the basis that when You open or close a Trade and/or place an Order with us relating to a share/equity You may be treated as if You were dealing in securities within the meaning of Part V of the Criminal Justice Act 1993.

- 36.3 In the event that You breach any of the representations or warranties stated in clause above, or we have grounds for suspecting that You have done so, we may in our absolute discretion (and with or without giving notice to You) and without being under any obligation to inform You of our reason for doing so, close that Trade and/or Order and any other Trades and/or Orders that You may have open at that time and also in our absolute discretion:-

- enforce the Trade(s) against You if it is a trade under which You have made losses; and
- treat Your Trade(s) closed under this clause as void if under which You have made profits, unless and until You produce evidence that You in fact have not committed the breaches. If You do not produce such evidence within the period of six months from the date of closure, all such Trades will be finally null and void as between us. Trades closed under this clause will be closed at the XTB Limited Price.

- 36.4 We are entitled to report to any relevant regulatory authority any Trade, Order or other instruction undertaken by You which may constitute a breach by You of this clause.

- 36.5 The exercise by XTB Limited of any of its rights under this clause in respect of any Trade and/or Order shall not affect any other right of XTB Limited (under the Terms or at law) whether in respect of that Trade and/or Order or any other Trade and/or Order.

37. Data Protection

- 37.1 For the purpose of the Data Protection Act 2018 (**DPA**) we are the data controller in relation to Your Data. For further information as to how we control your data and your rights in relation to your data please refer to our privacy policy. XTB collects and stores personal data in accordance with the applicable law, in particular data protection and anti-money laundering regulations.

- 37.2 You agree that we can:-

- use and rely on Your Data when dealing with You; and
 - our associated companies can store and process Your Data in any way whatsoever, including in manual and electronic form (for example on our/their computers and data bases).
- 37.3** You consent to the transfer of Your Data outside the UK and EU. We will only do this in order to perform the contract between us and to supply services to You or for administrative or marketing purposes. In addition, we will ensure that the person to whom we transfer your Data will treat it with the same level of confidentiality and security as if we were dealing with it.
- 37.4** You agree to us and/or our associated companies using, analysing, dealing with and assessing Your Data as permitted by law and to: -
- identify You when You contact us;
 - consider and process any applications made by You;
 - establish and manage Your Account and to administer services provided to You;
 - recover debts;
 - review Your on-going needs;
 - comply with all applicable laws and regulations including the Regulatory System;
 - undertake market research and to review and develop our products and services;
 - keep You informed of our products and services and the products and services of our associated companies unless You tell us otherwise in accordance with clause;
 - run competitions or other promotional activities;
 - process and deal with any complaints made by You about us;
 - verify the accuracy of information supplied by You;
 - deal with and/or in connection with regulatory reporting, fraud and crime prevention and detection, financial risk assessment, money laundering checks and compliance (including for example, making enquiries at fraud prevention agencies, making enquiries of other providers of , CFD and/or Rolling Spot Forex services, undertaking searches at the electoral register and with credit reference agencies, performing credit and identity checks, obtaining bankers' references and making any other enquiries as reasonably thought fit); and
 - respond to enquiries made by other persons (including other providers of, CFD and/or Rolling Spot Forex services) in relation to the matters referred to in the above bullet point.
- 37.5** Please note that third party agencies (for example fraud prevention, credit reference agencies and other providers of CFD and/or Rolling Spot Forex services) may maintain records of any enquiry and information given to them. They may share Your Data (and the results of any searches) with us, our associated companies and other organisations to, amongst other things, recover or retrace debts and for credit, fraud, crime prevention and money laundering purposes.
- 37.6** We may disclose Your Data as permitted by law and as follows:
- if You are a joint applicant, to the other applicant;
 - to our associated companies;
 - to any regulator of our business, including the FCA;
 - to Your employer, whether Your employer is authorised or exempt under the FSMA, including sending contract notes and statements to Your employer's compliance officer;
 - to introducing brokers or our other business partners.
 - to our service providers and/or the service providers of our associated companies who provide us/our associated companies with administrative, financial, legal, insurance or other services (including any data processors that we/our associated companies engage) on the understanding that they will keep Your Data confidential;
 - to anyone to whom we transfer all or any of our rights and/or obligations in relation to You;
 - to comply with legal obligations;
 - to protect our rights, property, safety, customers or others. This includes exchanging information (including Your Data) with other companies and organisations for the purposes of fraud protection and credit risk reduction;
- 37.7** We will use Your Data to keep You informed of our products and services by letter, telephone (including text messages), electronically (including e-mail) or otherwise. Our associated companies will also be able to contact You in these ways about their products and services. You consent to the use of Your Data in this way unless You tell us that You do not wish us or our associated companies to use Your Data in this manner. In order to do so, please contact us.
- 37.8** The Website and the Trading Platform may from time to time contain links to and from the websites of our partner networks, advertisers and associated companies. If You follow a link to any of these websites, please note that these websites have their own privacy policies and that we do not accept any responsibility or liability for these policies. Please check these policies before You submit Your Data to these websites.

- 37.9** The DPA gives You the right to access Your Data. Any access request may be subject to a fee permitted by the DPA.
- 37.10** You must notify us of any inaccuracies in any information we hold in relation to You. In addition You should inform us if any of Your personal details change, so that we can keep our records up to date.
- 37.11** We may use cookies in relation to the Website and/or our Trading Platform. A cookie is, a message (in electronic form) given to Your hardware or web browser by the Website and/or Trading Platform. Cookies enable us, for example, to do the following in relation to the Website and/or the Trading Platform: identify users, identify advertising sources (i.e. how You came to contact us) and to identify You (if relevant) as the sales lead of a particular sales person of ours.
- 37.12** You have the ability to accept or decline cookies by modifying the setting of Your web browser. However, if You disable cookies, You may not be able to use all interactive features of the Website and/or the Trading Platform.
- 37.13** Without limiting the foregoing, XTB Limited, a regulated U.K. Investment Firm by the Financial Conduct Authority (FCA), is required to comply based on the Intergovernmental Agreement between the U.K. and the United States and has taken all reasonable steps to be considered in Compliance with FATCA and UK FATCA. The client acknowledges and accepts that XTB Limited, as a Foreign Financial Institution (hereafter "FFI"), is required to disclose information in relation to any US reportable persons to the relevant authorities, as per the reporting requirements of FATCA. The client may contact XTB Limited for additional information and/or clarifications prior to the signing of this Agreement. The UK has also entered into a similar agreement, UK FATCA, with the Crown Dependencies and Overseas Territories in relation to offshore accounts held by UK Residents, the client also acknowledges and accepts that XTB Limited is required to disclose information in relation to any reportable persons to the relevant authorities, as per the reporting requirements of UK FATCA.

38. Software

- 38.1** We hereby grant You a non-exclusive and non-transferable licence to use the Software for as long as Your Account is open. We are entitled to disable Your use of the Software as soon as Your Account has been closed. The licence granted will terminate as soon as Your Account is closed.
- 38.2** You shall not: -
- copy, alter, adapt, create derivative work, decompile, disassemble, modify, reverse engineer or make error corrections to the Software, or any part of it, or permit, authorise or otherwise encourage any third party to do so. No licence is granted in respect of and You do not have the right to obtain or use any source code for the Software;
 - rent, lease, sub-licence, sell, assign, pledge, transfer or otherwise dispose of in whole or in part the Software and/or the licence granted to You in respect of the Software or otherwise provide or make available the Software (in whole or in part) in any form whatsoever to any person not authorised by us;
 - allow the Software to be combined with, or to become incorporated or integrated in, any other program, software or hardware;
 - delete, obscure or tamper with copyright or other proprietary notices we, any associated company and/or any third party provider may have put on the Software;
 - use the Software in any manner not permitted by this Agreement;
 - load or transmit through the Software any computer virus or anything designated to interrupt and disrupt the proper operation of the Software.
- 38.3** We can suspend use of the Software, or access to the Trading Platform and/or the Website, to carry out maintenance, upgrades, developments or the like for any other good reason. We will endeavour to give You notice, but this may not always be practicable, for example in the case of an emergency.
- 38.4** It is Your responsibility to:-
- install and keep up to date virus-checking software for Your hardware and software systems;
 - ensure that Your information technology is compatible with ours;
 - ensure that any hardware, software or communication link You may use is sufficient and appropriate.

39. Alteration of Terms

- 39.1** In addition to the rights we have reserved elsewhere in the Terms to make changes, we may from time to time alter or replace the Terms in whole or in part by providing at least 10 Business Days written notice to You.

- 39.2** The changes: -
- will apply (including to all open Trades and unfilled Orders) as at and after the effective date of the change;
 - will not apply if You give us notice in writing that You object to the changes, within 10 Business Days of the date we give You notice of the proposed change. However, in this case You will be required to close Your Account as soon as reasonably practicable and You will only be permitted to trade and/or place Orders in order to do so.

40. Communications

- 40.1** These Terms will be supplied to You in English and we will communicate with You in English.
- 40.2** You can only open and close Trades, place and cancel Orders and otherwise give instructions in relation to Your trades by the Trading Platform.
- 40.3** When we refer to serving a notice (including a written notice) on You under these Terms, it can be carried out by any of the methods referred to in clauses 41.5 and 41.6, unless specifically specified elsewhere in this Agreement.
- 40.4** We can use any of these methods to make a Variation Margin Call or other request for payment. If more than one method is used, the notice will be regarded as served at the earliest time referred to in these clauses.
- 40.5** We must send notices to You to Your last known home or e-mail address, place of work, fax, telephone or pager number.
- 40.6** We can both serve notices on each other under these Terms by any of the following methods:
- verbally by telephone.
 - post to Your home address by XTB Limited or to our offices from You. The letter is seen as being served 2 business days after the sent date.
 - e-mail (provided no “not sent” or “not received” message is received from the relevant email providers). The email is served once it has been successfully sent to the recipient.
 - published on [the Website](#) 24 hours after publication.
 - sent via the Trading Platform (1 hour after sending).
- 40.7** We are entitled to record all our telephone conversations with You and You specifically agree to this. We also maintain a log of all Your dealings with us via the Trading Platform or any other electronic medium. All these recordings and logs will be our property and we may use them in the case of a dispute. We will also keep a copy of Your Application Form and the Terms. A copy of the recording of a conversation with You and/or other correspondence with You may be provided to You at Your request within 5 years from the date of the conversation or exchange of other correspondence.

41. Termination

- 41.1** These Terms came into force on the day we allocate You an Account number or Login. The Terms continue after that time (with no minimum duration) subject to: -
- termination as provided in these Terms;
 - cancellation by You giving us written notice of cancellation (and closure of Your Account within 14 days of the date we allocate You an Account number or Login (You should send that notice to our Customer Services. If You do not cancel, the Terms will continue but You still have a separate and independent right to terminate as mentioned below;
 - by You giving us a written notice to close Your Account;
 - by us giving You not less than 5 days’ written notice that we will close Your Account.
- 41.2** If any notice is given to cancel or terminate these Terms or to close Your Account, You will only be able to deal insofar as necessary to close Your Account. In particular You will not be able to place any new, Trades or Orders nor to give any other instruction, except insofar as necessary to close a Trade or to cancel an Order in place before the notice of cancellation or termination was given. For example, You will not be entitled to place a closing bet/Trade or any Order in such a size that would result in a new bet/trade being opened.
- 41.3** Cancellation or termination of these Terms and the closure of Your Account will not affect: -

- any rights, obligations or liabilities that have arisen on or prior to cancellation, termination or closure including in relation to any open or closed, Trades or Orders. This means, in particular, that we will both continue to be liable to pay each other amounts payable;
- any provision of these Terms which expressly or by implication is intended to survive cancellation, termination or closure – for example to deal with closing or Trades or to calculate amounts payable

42. Limitation and Liability

42.1 Nothing in these Terms will exclude or limit: -

- our liability to pay You amounts we owe You under these Terms
- our liability to You for our fraud, fraudulent misinterpretation, wilful default or negligence;
- any liability or duty we have to You under the Regulatory System, unless we are permitted to do so by the Regulatory System and have expressly excluded or limited such liability or duty in accordance with the Regulatory System.

42.2 we shall not be liable to You for any losses, costs, claims, damages or expenses which are not reasonably foreseeable. We are not liable for the following whether or not reasonably foreseeable:-

- loss of profit;
- loss of opportunity (for example in relation to subsequent Market movements);
- loss of goodwill or reputation.

42.3 We shall not be liable to You for any losses, costs, claims, damages or expenses which are reasonably foreseeable as a result of:-

- the exercise of any of our rights under the Terms, law and/or the Regulatory System;
- an event outside our control;
- Manifest Error;
- a Corporate Action;
- an Insolvency Event or a Market Disruption Event;
- the acts, omissions or negligence of any third party or any third party software including, but not limited to, expert advisors, signal providers, social trading platforms, and virtual private networks.
- any Trades You make or refrain from making with any other person;
- the Website, the Trading Platform and/or the Software being inaccessible and/or unusable in whole or in part (including You being unable to place a Trade or Order or give any other instructions) for any reason including by reason of an Event Outside Our Control and/or by reason of any maintenance upgrades developments or the like, provided that we have (in the case of an Event Outside Our Control where reasonably practicable and maintenance upgrades developments or the like) used our reasonable endeavours to make the same accessible and usable within a timescale that is reasonable in the circumstances;
- You being unable to communicate with us for any reason, for example due to failure of internet, telephone or any other communication system;
- the unauthorised access by any person to the Trading Platform or the corruption of data sent to or by us or any unauthorised access to or dealings on Your Account (by the Trading Platform, or otherwise).

42.4 If the limitations and exclusions in this clause are not acceptable to You, You should not deal with us and should close any Account You may have opened.

43. Waiver

43.1 If You or we delay in exercising or fail to exercise any right or remedy, that will not be a waiver of that right or remedy. Also it will not prevent any future exercise of that right or remedy.

43.2 No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that right or remedy.

43.3 A waiver or consent only applies in the circumstances for which it was given and does not prevent the party who gave that waiver or consent from subsequently requiring compliance with any provision it has waived or in respect of which it consented to non-compliance.

43.4 If You or we waive a particular breach, that will not be a waiver of any other breach and will not affect any other Terms.

43.5 We can in particular waive or relax any of the obligations You owe to us, for example in relation to minimum and maximum stake/trade sizes, Initial Margin and Variation Margin. However, if we do this we can subsequently require full compliance with the relevant obligation.



43.6 If either of us agrees any release, postponement or settlement of any liability of the other owed to it, that will not affect or prejudice any of the other liabilities owed to it or its other rights.

44. Cumulative Rights

44.1 XTB Limited has absolute discretion in the exercise of its rights. No right or remedy under these Terms excludes any other right or remedy at law or otherwise.

45. Whole Agreement

45.1 This Agreement sets out all the Terms that have been agreed between us in relation to Your Account.

45.2 Nothing (apart from the Terms) is part of the Agreement between us unless we have specifically agreed in writing that it is binding between us.

45.3 All other terms, conditions and warranties implied by statute or common law are excluded to the fullest extent permitted by law.

46. Law and Jurisdiction

46.1 This Agreement shall be governed by and construed in accordance with the laws of England.

46.2 Except for the right of XTB Limited, the courts of the United Kingdom will have exclusive jurisdiction over any claim or matter arising under or in connection with these Terms and the legal relationships established by this Agreement. Nothing in this clause shall limit the right of XTB Limited to take proceedings against the Client in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdictions.

46.3 You irrevocably consent to any process in any legal action or proceedings arising out of or in connection with these Terms being served on You by post in accordance with clause 41. Nothing in these Terms will affect the right of either party to serve process in any other manner permitted by law.

47. Regulation of XTB Limited

47.1 XTB Limited's main business is the provision of Rolling Spot Forex and CFD products and services.