

## Liquidity Solution General Terms and Conditions

of:

X-Trade Brokers DM S.A. is a company with its registered office in Warsaw at Ogrodowa 58, 00-876 Warsaw, entered into register of entrepreneurs conducted by the District Court for the Capital City of Warsaw, XII Commercial Division, in the National Court Register under number 217580 and is authorized and regulated by Polish Financial Supervision Authority "KNF" to offer financial services hereinafter called ("**Liquidity Provider**" or "**we**", "**us**" or "**our**").

### 1 INTRODUCTION

- 1.1 These general terms and conditions ("**Terms**") are to be read in conjunction with the Application Form (as defined below) and any schedules, annexes or accompanying documents (together the "**Agreement**").
- 1.2 The Client will be classified as an Eligible Counterparty as opposed to other categories of Clients (each as defined below).
- 1.3 This Agreement supersedes all previous agreements and arrangements (whether written or oral) between LIQUIDITY PROVIDER and the Client.
- 1.4 It is important for the Client to read the Agreement thoroughly and should contact LIQUIDITY PROVIDER directly if they have any queries or require further clarification. Unless the Client raises a specific issue, the Agreement will be regarded as setting out all the relevant terms concerning the Services and any Trades (each as defined below) that are entered into pursuant to this Agreement will be legally binding and enforceable.
- 1.5 By signing the Application Form, the Client shall be deemed to have accepted the offer of the terms of herein Agreement.
- 1.6 LIQUIDITY PROVIDER implemented the policy of preventing conflict of interest in order to recognize whether the circumstances which may give rise to conflict of interest situations occur. The policy envisages procedures to be followed and measures to be taken in order to manage the conflict of interest situations. By accepting herein Liquidity Solution General Terms and Conditions, you hereby declare, that you have read, understood and accepted "Information concerning conflicts of interest management general rules at X-Trade Brokers Dom Maklerski S.A." available at Liquidity Provider Website.

### 2 INTERPRETATION

- 2.1 In this Agreement:

<b>Account</b>	means the Client's account on the Trading Platform;
<b>Application Form</b>	means the application form requesting an Account which is submitted to LIQUIDITY PROVIDER by the Client;
<b>Automatic Termination</b>	has the meaning set out in clause 20.2;
<b>Base Currency</b>	means currency for each Client's Account as agreed by the parties from time to time;
<b>Bid Price</b>	has the meaning set out in clause 7.1;
<b>Business Day</b>	means a day (other than a Saturday or Sunday) on which banks are generally open in London;
<b>Cash Account</b>	has the meaning set out in clause 5.1;
<b>CFD</b>	means a contract for difference;
<b>Client</b>	means the Eligible Counterparty that is a party to this Agreement;
<b>Confirmation</b>	has the meaning set out in clause 9.1;
<b>Eligible Counterparty</b>	has the meaning given in the MIFID Directive as implemented to applicable law;

<b>Event of Default</b>	has the meaning set out in clause 19.1;
<b>Equity</b>	means the balance of the Client's Account provided that in establishing the balance at any particular moment in time, all open positions of that Client will be deemed closed and the balance adjusted accordingly;
<b>Financial Instruments</b>	means CFDs, spot forex, options and such other financial instruments as defined in the applicable law and available for Trades through the Trading Platform in accordance with this Agreement;
<b>Force Majeure</b>	has the meaning set out in clause 30;
<b>KNF</b>	Polish Financial Supervision Authority;
<b>Identified Account</b>	means the bank account agreed from time to time between the parties from which LIQUIDITY PROVIDER will accept funds and to which LIQUIDITY PROVIDER will pay sums due to the Client;
<b>Initial Margin</b>	has the meaning set out in clause 12.1;
<b>Insolvency Officer</b>	has the meaning set out in clause 19.1.7;
<b>Liquidation Amount</b>	has the meaning set out in clause 20.3.3;
<b>Liquidation Date</b>	has the meaning set out in clause 20.1;
<b>Liquidity Provider Website</b>	<a href="http://www.xtradebrokers.com/documents/">www.xtradebrokers.com/documents/</a>
<b>Losses</b>	has the meaning set out in clause 15.1;
<b>Margin</b>	has the meaning set out in clause 12.2;
<b>Margin Call</b>	means a request for the payment of Margin as referred to in clause 12.5;
<b>Margin Requirement</b>	means the amount of Margin required to open and maintain a Margined Transaction;
<b>Offer Price</b>	has the meaning set out in clause 7.1;
<b>Option Premium</b>	has the meaning set out in paragraph 12 of Part 2 of Schedule 2;
<b>Order</b>	has the meaning set out in clause 8.1;
<b>OTC Counterparty</b>	means an over-the-counter (i.e. not on-exchange) counterparty;
<b>Price</b>	means a Bid Price or Offer Price (as appropriate);
<b>Professional Client</b>	has the meaning given in MIFID Directive as implemented to applicable law;
<b>Retail Client</b>	has the meaning given in MIFID Directive as implemented to applicable law;
<b>Secured Obligations</b>	has the meaning set out in clause 13.1;
<b>Service Provider</b>	has the meaning set out in clause 6.5;
<b>Services</b>	has the meaning set out in clause 3.1;
<b>Settlement Account</b>	means the settlement account of LIQUIDITY PROVIDER as identified by LIQUIDITY PROVIDER to the Client from time to time in accordance with this Agreement;
<b>Spread</b>	means the difference between the Offer Price and the Bid Price for the relevant Financial Instrument;
<b>Third Party Content</b>	has the meaning set out in clause 21.1;
<b>Trades</b>	means a trade placed by LIQUIDITY PROVIDER pursuant to an Order;
<b>Trading Hours</b>	means hours specified by LIQUIDITY PROVIDER in which LIQUIDITY PROVIDER is available for trading;
<b>Trading Platform</b>	means the secured password-protected on-line account reviewing facility platform provided by LIQUIDITY PROVIDER;
<b>Transaction</b>	means a transaction executed in accordance with this Agreement;
<b>Underlying Instrument</b>	means the equity security, currency, commodity or other point of reference underlying a Transaction; and
<b>Variation Margin</b>	has the meaning set out in clause 12.2;

2.2 In this Agreement:

2.2.1 unless the contrary intention appears, a reference to a clause, subclause or schedule is a reference to a clause, subclause or schedule of or to this Agreement. The schedules are incorporated into and form part of this Agreement;

- 2.2.2 the headings do not affect its interpretation;
- 2.2.3 any reference to a **person** includes a body corporate, unincorporated association of persons (including a partnership), government, state, agency, organisation and any other entity whether or not having separate legal personality, and an individual, estate and personal representative;
- 2.2.4 any reference importing a gender includes the other genders; and
- 2.2.5 any reference to a document is to that document as amended, varied or novated from time to time otherwise than in breach of this Agreement or that document.
- 2.3 In this Agreement, any reference, express or implied to an enactment (which includes any legislation in any jurisdiction) includes:
  - 2.3.1 that enactment as amended, extended or applied by or under any other enactment (before, on or after execution of this Agreement);
  - 2.3.2 any enactment which that enactment re-enacts (with or without modification); and
  - 2.3.3 any subordinate legislation made (before, on or after execution of this Agreement) under that enactment, including (where applicable) that enactment as amended, extended or applied as described in sub-clause 2.3.1 above, or under any enactment which it re-enacts as described in sub-clause 2.3.2 above,
- 2.4 A reference in this Agreement to any Polish legal term for any action, remedy, method of form of judicial proceeding, legal document, court or any other legal concept or matter will be deemed to include a reference to the corresponding or most similar legal term in any jurisdiction other than Poland, to the extent that such jurisdiction is relevant to the transactions contemplated by this Agreement.

### **3 SERVICES**

- 3.1 We will provide execution-only dealing services to you in relation to transactions in Financial Instruments and such additional services as we may agree from time to time (the "**Services**").
- 3.2 We will not (i) advise you on the merits or suitability of any Transaction or (ii) manage or monitor your investments.
- 3.3 Our execution of an Order does not in any way imply any approval or recommendation of the associated Transaction. We are not required to explain to you any risks that may arise because of a particular Transaction.
- 3.4 The counterparty to your Transactions will be LIQUIDITY PROVIDER. You will enter into each Transaction with us as principal and not as agent on behalf of someone else unless otherwise agreed in writing by us. We shall be responsible to you alone and shall have no duties or obligations to your underlying customers (if any).
- 3.5 LIQUIDITY PROVIDER will not, unless otherwise agreed with you, act in a fiduciary capacity or provide any personal recommendation to you in respect of, nor provide any advice to you on the merits of any transaction. Accordingly, you should make your own assessment of any transaction that you are considering in the light of your own objectives and circumstances, including without limitation the possible risks and benefits of entering into that transaction. You should not rely on any information, proposal or other communication from LIQUIDITY PROVIDER as being a recommendation or advice in relation to that transaction. Our service is restricted to executing transactions at the quoted prices at your request. When executing transactions we will not be executing orders on your behalf and accordingly we will not be subject to any obligation to take reasonable steps to obtain the best possible result for you.
- 3.6 You acknowledge that (i) any market information or third party recommendations communicated to you by or through us or any affiliate, is not based on any assessment of your financial position or investment objectives and does not constitute advice or an offer to sell or the solicitation of an offer to buy any rolling spot foreign exchange contract, (ii) such information or recommendations, although based upon information obtained from sources believed by us to be reliable, may be based solely or partly on a third party's opinion and that such information may be incomplete and may be unverified, and (iii) we make no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy or completeness of any information or recommendations furnished to you. You acknowledge that we make no representations concerning the tax implications or treatment of transactions entered into by you.
- 3.7 You hereby confirm that You have been acquainted with and that You are familiar with:

- 3.7.1. the specifications, function and procedures of the Trading Platform.
- 3.7.2. the Orders available through the Trading Platform for particular Financial Instruments;
- 3.7.3. process for the placement and execution of Orders,
- 3.7.4. the types of corporate actions and manner in which such corporate actions are dealt with by LIQUIDITY PROVIDER; and
- 3.7.5. the manner in which Your Account will operate and function.

#### **4 CLIENT CLASSIFICATION**

- 4.1 The applicable law requires classification of Clients in order to determine the level of regulatory protection required. When you enter into this Agreement, you will be classified as a Eligible Counterparty for the purposes of the Agreement.
- 4.2 You agree and acknowledge that you are responsible for keeping us informed about any change that could affect your classification as above.
- 4.3 Subject to clause 4.4:
- 4.3.1 you are entitled to request that we re-categorise you as either a Retail Client or Professional Client (which attract a higher degree of regulatory protection) at any time provided that we may decline such request at our sole and absolute discretion; and/or
- 4.3.2 we are entitled to re-categorise you provided that we explain clearly why we are doing this and the effect this will have on your rights.
- 4.4 In the event of a re-categorisation of your classification pursuant to clause 4.3, LIQUIDITY PROVIDER will not be obliged to provide the Services until a new agreement has been entered into between the Client and LIQUIDITY PROVIDER which incorporates the additional protections required by the applicable law in respect to other categories of clients as defined above.

#### **5 CLIENT MONEY**

- 5.1 LIQUIDITY PROVIDER shall use a bank account in accordance with Schedule 1 to this Agreement (the "**Cash Account**") which shall be used for the purposes of conducting business between you and LIQUIDITY PROVIDER.
- 5.2 Title in and ownership of a portion or all of the money you deposit with LIQUIDITY PROVIDER (including any Margin) shall be transferred to LIQUIDITY PROVIDER to the extent it represents an amount necessary to secure your open positions or cover your actual or future contingent or prospective obligations (which will be calculated daily in LIQUIDITY PROVIDER' sole and absolute discretion based on your daily open positions and trading and which may be greater than the Margin required to maintain your open positions, as market conditions may dictate) such that you will not have a proprietary claim over that portion or any of your money deposited and LIQUIDITY PROVIDER can deal with it on its own right. In the event of our insolvency you will have no rights or claim in relation to this money. We will transfer an equivalent amount of money back to you where, in our reasonable discretion, we consider that it is no longer necessary for us to retain the money you have paid to us. In determining the amount of money you will be required to pay to us pursuant to this clause and whether it is necessary to retain such money, we may apply such a methodology (including your trading history, judgments as to the future movement of markets and value) as we consider appropriate, consistent with this Agreement and applicable law and regulations.
- 5.3 You acknowledge and agree that a portion or all the money held by LIQUIDITY PROVIDER pursuant to Clause 5.2:
  - 5.3.1 may not be segregated from the money of LIQUIDITY PROVIDER;
  - 5.3.2 may be used by LIQUIDITY PROVIDER in the course of its own business; and
  - 5.3.3 without prejudice to clause 5.2, you will rank only as a general creditor of LIQUIDITY PROVIDER.
- 5.4 Pursuant to Clause 5.2, we may need to pass money received from you to a third party (e.g. a market or intermediate broker, OTC counterparty or clearing house) to hold or control in order to effect a Transaction through or with that person or to satisfy your obligation to provide collateral (e.g. Margin) in respect of a Transaction. We have no responsibility for any acts or omissions of any third party to whom we pass money received from you. The third party to whom we pass money may hold it in an

omnibus account and it may not be possible to separate it from our money, or the third party's money. In the event of the insolvency or any other analogous proceedings in relation to that third party, we will only have an unsecured claim against the third party on behalf of you and our other clients, and you will be exposed to the risk that the money received by us from the third party is insufficient to satisfy the claims of you and all other clients with claims in respect of the relevant account.

## 6 ON-LINE ACCESS

- 6.1 At your request, we shall promptly provide you with a username and password to access and utilise the Trading Platform (the "**Access Code**").
- 6.2 In requesting and receiving the Access Code, you acknowledge and undertake that:
- 6.2.1 you are responsible for the confidentiality and use of your Access Code;
  - 6.2.2 you will not disclose your Access Code to persons other than your authorized representatives for any purpose whatsoever without our prior written consent;
  - 6.2.3 we may rely on all instructions, Orders and other communications entered using your Access Code, and you will be bound by any Transaction entered into and shall be liable for all Losses incurred in reliance on such instructions, Orders and other communications; and
  - 6.2.4 you will notify us immediately upon becoming aware of the loss, theft or disclosure to any third party or of any unauthorized use of your Access Code.
- 6.3 The Client shall indemnify and hold harmless LIQUIDITY PROVIDER from any Losses it may incur as a result of executing a Transaction for the Client based on an Order submitted to the Trading Platform if such Order is accompanied by that Client's Access Code regardless of who actually placed that Order.
- 6.4 If we believe that your Access Code is being used without your knowledge and/or unauthorized persons, we may without prior notice suspend your rights to use the Trading Platform. Further, if we believe that you have supplied your Access Code to other persons in breach of clause 6.2.2 above, then we may terminate this Agreement immediately or take such other action as we determine appropriate in our sole and absolute discretion.
- 6.5 You shall be solely responsible for providing and maintaining any equipment and software and for making all appropriate arrangements with any telecommunications suppliers or, where access to the Trading Platform is provided through a third party server, any such third party, necessary in order to obtain access to the Trading Platform. Neither LIQUIDITY PROVIDER nor any company maintaining, operating, owning, licensing, or providing services to LIQUIDITY PROVIDER in connection with, the Trading Platform (a "**Service Provider**") makes any representation or warranty as to the suitability or otherwise of any such equipment, software or arrangements.
- 6.6 You will not use, or allow the use of, the Trading Platform (i) in contravention of any laws, regulations or rules of any regulatory authorities to which you or we are subject; (ii) in any way (including without limitation posting information on the Trading Platform where this facility is available) that is defamatory, obscene, abusive, indecent or menacing or that infringes any intellectual property rights or breaches obligations of confidence or that is otherwise illegal or unlawful; (iii) to introduce a software virus or other disruptive program or do any act that would cause the Trading Platform to become unavailable for use by others; (iv) to solicit or encourage other Internet websites to frame or hypertext link direct to the Trading Platform without the prior written consent of LIQUIDITY PROVIDER; or (v) in any way that is not authorized by LIQUIDITY PROVIDER or in breach of this Agreement or other agreement with LIQUIDITY PROVIDER.
- 6.7 The Trading Platform is not a futures exchange or a securities exchange.
- 6.8 Due to trade safety considerations of all Clients, in the event that if the Client substantially burdens the exchange systems by generating significant number of requests to the exchange server, LIQUIDITY PROVIDER reserves the right to temporarily disconnect the Client's Account. In the event that a Client's Account is disconnected, LIQUIDITY PROVIDER will promptly contact the Client and explain the reasons for such disconnection but in no event shall LIQUIDITY PROVIDER be held liable for any Losses incurred by the Client as a result of such disconnection.
- 6.9 The Trading Platform is provided "as is" and neither we nor any of our Service Providers makes any representations or warranties of any kind whatsoever regarding (i) the availability, currency, accuracy or completeness of the Trading Platform, (ii) the accuracy or reliability of the results (including loss of

data) to be obtained by you or anyone else from the use of the Trading Platform, (iii) any third party content accessible on or through the Trading Platform and (iv) fitness for purpose or other warranties which may arise by statute, course of dealing, custom or market practice.

## 7 PRICES AND OPEN POSITIONS

- 7.1 For each Financial Instrument subject to a potential Transaction, LIQUIDITY PROVIDER will provide you with a bid price ("**Bid Price**") and an offer price ("**Offer Price**").
- 7.2 Current Prices can be obtained through the Trading Platform or by telephone during Trading Hours.
- 7.3 The Prices are based on prices received from various market participants and may or may not be marked up or marked down at LIQUIDITY PROVIDER's absolute discretion. LIQUIDITY PROVIDER reserves the right to add and vary the Spread at its absolute discretion and is entitled to change or withdraw a Price at any time up until the time at which your Order in respect of a certain Price has been accepted.
- 7.4 Once provided, a Price shall expire on the earlier of (i) its expiration time and (ii) the time, if any, at which it is otherwise withdrawn by LIQUIDITY PROVIDER (whether or not that Price is replaced by a new Price). A Price may not be used in an Order after it has expired. The Trading Platform will indicate when a Price has expired by providing a new Price in respect to the same Financial Instrument or by other means which indicates the Price is no longer available. In the case of dealing over the telephone, LIQUIDITY PROVIDER will notify the Client during the relevant telephone call that a Price has changed or has otherwise expired.
- 7.5 From time to time indicative prices may be provided for guidance purposes only and such indicative prices cannot be used for trading.
- 7.6 Each Price shall be available for use in an Order subject to a maximum principal amount as determined by us from time to time (the "**Maximum Amount**").
- 7.7 The Client acknowledges that the Prices and Maximum Amounts provided pursuant to this Agreement may differ from prices and maximum amounts provided by us to other clients and be withdrawn or changed without notice.
- 7.8 We may, in our sole and absolute discretion and without prior notice to you, immediately cease to provide Prices in some or all currency pairs and for some or all value dates.
- 7.9 Internet connectivity delays and price feed errors sometimes create a situation where the prices displayed on the Trading Platform do not accurately reflect the market rates. We do not permit the practice of latency arbitrage or taking advantage of these internet delays. Transactions that rely on price latency arbitrage opportunities may be revoked. We reserve the right to make the necessary corrections or adjustments on the account involved in our sole and absolute discretion.

## 8 ORDERS AND TRANSACTIONS

- 8.1 Subject to clause 8.2, unless otherwise agreed by us, all orders with respect to a Transaction (an "**Order**") must be given to us electronically through the Trading Platform. By signing this Agreement the Client hereby authorises LIQUIDITY PROVIDER to execute Transactions on the basis of Orders placed via Trading Platform.
- 8.2 An Order may be given by telephone if, and only if, the parties previously agreed in writing that Orders may be given by telephone. Any such Orders will be made in accordance with paragraph 1 of Schedule 2 (Trading with LIQUIDITY PROVIDER).
- 8.3 An Order shall not be valid unless it is:
  - 8.3.1 placed during Trading Hours;
  - 8.3.2 actually received by LIQUIDITY PROVIDER;
  - 8.3.3 in accordance with all applicable terms of this Agreement; and
  - 8.3.4 in a form capable of being executed.

Any Orders which do not comply with this clause 8.3 shall be deemed rejected by us.

- 8.4 Upon receipt of a valid Order, we shall be entitled to act on your behalf to execute the Order given or purported to be given by you or any other person on your behalf without further inquiry as to the genuineness, authority or identity of any such person giving or purporting to give such Order.
- 8.5 Execution of an Order by us shall constitute a binding agreement by you and us to a Transaction subject to the terms of the Order and this Agreement.
- 8.6 Subject to clause 8.7 we may (i) refuse to accept any Orders from you and (ii) cancel any Orders previously given by you which have yet to be executed in the event that:
- 8.6.1 the level of Margin is insufficient to execute the Transaction;
  - 8.6.2 the nominal value of the Transaction is greater than the Maximum Amount;
  - 8.6.3 LIQUIDITY PROVIDER cannot determine the market price of the Financial Instrument due to a lack of market data;
  - 8.6.4 the market experiences extraordinary fluctuations of the price of the Underlying Instrument;
  - 8.6.5 the execution would take place immediately prior to the publication of economic data or the result of a social or political event;
  - 8.6.6 there is a Force Majeure; or
  - 8.6.7 there are any other circumstances in which LIQUIDITY PROVIDER in its sole and absolute discretion considers it inappropriate to execute such Order.
- 8.7 In the event that we refuse to accept an Order from you, we will use all reasonable endeavours to notify you of such refusal promptly upon receipt of the relevant Order.
- 8.8 You hereby acknowledge that we may combine your Orders with Orders for our own account or the account of our affiliates or with those of other clients. We will only aggregate such Orders in the event that we reasonably believe that the aggregation would not result in an overall disadvantage for you and our other clients.
- 8.9 We may fill your Orders for a portion of the principal amount specified in the Order and in such event, the unfilled portion of such Order shall remain in effect until withdrawn, cancelled or executed.
- 8.10 All Orders will be executed in accordance with Part 2 of Schedule 2 (Trading with LIQUIDITY PROVIDER).

## **9 CONFIRMATIONS**

- 9.1 Following the execution of an Order for your Account, we will confirm the Transaction by electronic receipt and/or reflecting the same on the Trading Platform (a "**Confirmation**") provided that failure to do so will not affect the validity of the Transaction. Confirmations shall be deemed to be conclusive and binding on you if not objected to immediately upon receipt with such objection confirmed in writing within one (1) Business Day after dispatch.
- 9.2 We will post details of your account activity on-line on the Trading Platform and you will be able to generate daily, monthly and annual reports of Account activity as well as a report of each Transaction. Such details will be available for a minimum of twenty-four hours after the relevant activity takes place on your Account.
- 9.3 Posting of Account information on the Trading Platform will be deemed delivery of Confirmations and Account statements.

## **10 SETTLEMENT DATE, ROLLOVER AND OFFSET INSTRUCTIONS**

- 10.1 We will automatically rollover all open positions on your Account on the end of each Business Day. You will be responsible for any debit or credits to your account subject to current market rates. We may charge you a fee in respect of each such position that is rolled over.
- 10.2 In the absence of timely instructions from you, we are authorized to rollover or offset all or any portion of the currency positions in your Accounts or to make or receive delivery on your behalf upon such terms and by such methods deemed reasonable by us in our sole and absolute discretion.
- 10.3 For the avoidance of doubt, we will not arrange delivery of currencies or other Underlying Instruments.

## 11 PRICE FLUCTUATIONS

- 11.1 If you enter into a Transaction:
- 11.1.1 any profit or loss arising from fluctuations in the price or value of the Underlying Instrument affecting price or the value of the Financial Instrument will be entirely at your account and risk;
  - 11.1.2 all initial and subsequent deposits for Margin purposes shall be made in the Base Currency of your Cash Account, in such amounts as we may in our sole and absolute discretion require;
  - 11.1.3 we are authorized to convert funds in your Account which are for Margin into and from such foreign currency at a rate of exchange determined by us on the basis of the then prevailing money market rates. In such circumstances, we will not be liable to you for any loss suffered by you or any third party as a result of such action (although, we will use reasonable endeavours to only convert such funds as may reasonably be required to cover the position in respect of the relevant transaction).
- 11.2 If we receive or recover any amount in respect of any of your obligations in a currency other than that in which such amount was payable, whether pursuant to a judgment of any court or otherwise, you will indemnify us and hold us harmless from and against any Losses suffered by us as a result of receiving such amount in a currency other than the currency in which it was due.

## 12 MARGIN

- 12.1 As a condition to entering into a Margined Transaction, we may, at our sole and absolute discretion, require the deposit of funds or other collateral acceptable to us as security for payment of any Losses incurred by you in respect of the Transaction (the "**Initial Margin**"). The Initial Margin means the amount expressed in Base Currency which is the product of: (1) a nominal value of a net open position on a given Financial Instrument on a particular Account at the time that a Transaction is opened, and (2) a margin rate expressed in percent for a given Financial Instrument. The Initial Margin will be due and payable as a condition to opening the relevant Margined Transaction and we may decline to open any Margined Transaction if you do not have sufficient available cash in your Cash Account to satisfy the Initial Margin required for that Transaction at the time the relevant Order is placed.
- 12.2 Margin Requirements may be set and varied without prior notice at our sole and absolute discretion including without limitation subsequent variation of any margin rates set at the time that a Margined Transaction is opened (the "**Variation Margin**" together with Initial Margin, the "**Margin**").
- 12.3 The Margin shall be provided by or on behalf of you in cash or as collateral in a form acceptable to us as determined at our sole and absolute discretion. We may require payment of Margin by you via immediate electronic funds transfer or any other method acceptable to us. Only funds received net of any bank charges, which relate to the transfer, will be credited as paid. We shall be entitled to treat any assets deposited with us by you from time to time (other than assets deposited for safe custody only) as collateral against your Margin Requirements. In all cases we shall be entitled to determine the value of any collateral deposited with us at our sole and absolute discretion.
- 12.4 You must maintain in your Cash Account sufficient funds to meet all Margin Requirements at all times. You must inform us immediately if you cannot, or believe you will not be able to, meet a Margin payment when due.
- 12.5 If, at any time, there is insufficient Margin in your Cash Account or if the deposited Margin is insufficient to meet your Margin Requirements, we may, in our sole and absolute discretion, choose to close or terminate the relevant Margined Transaction(s) with immediate effect and without notice to you provided that, in the event of such termination by us, the failure to maintain sufficient Margin under this clause 12.5 will not constitute an Event of Default. In the event that we elect not to close or terminate your Margined Transaction, we may, but are not obliged to make a call of Margin (a "**Margin Call**") in accordance with clause 12.8 below.
- 12.6 Without prejudice to the foregoing, any Transaction entered into by you or on your behalf that results in there being insufficient Margin to cover any actual or anticipated losses or liabilities in connection with your account will constitute an Event of Default and we may in our sole and absolute discretion exercise our rights in clause 19 below, whether there has been a Margin Call or not.
- 12.7 If the Equity in relation to your Account in the Trading Platform is equal or lower than the current Margin, LIQUIDITY PROVIDER is entitled, but not obliged, to close any or all, in whole or in part, of the

Client's open positions on the basis of current market price (or next available), to exercise its rights of combination consolidation and set off hereunder, to close Client's Account and not accept any further Orders from Client in each case with or without notice to Client. The balance of the settlement of a Client's Transactions closed in such manner shall be accordingly credited or debited from the Client's particular Cash Account.

- 12.8 Notwithstanding the fact that we are not obliged to make Margin Calls prior to liquidating your Margined Transactions pursuant to clauses 12.5 to 12.7, in the event that you fail to maintain sufficient funds to meet the Margin Requirements, a Margin Call may be made at any time by telephone, telephone answering machine message, voice mail, letter, fax, e-mail or any other means of electronic communication (details of which you have provided to LIQUIDITY PROVIDER from time to time) including via the Trading Platform.
- 12.9 It is your responsibility to notify us immediately of any change in your contact details and provide alternative contact details to ensure Margin Calls can be made if you will not be contactable at your usual contact details provided, e.g. when you are travelling or on holiday. Nonetheless, we shall not be liable for any failure by us to contact you or attempt to contact you.
- 12.10 In the event that we decide to make a Margin Call, the terms and conditions of the Margin Call will be detailed in the Margin Call (including the time by which the payment of additional Margin must be made) and we reserve the right to change the terms and conditions of any Margin Call based on market conditions, without prior notice to you. Any Margin Call made shall be without prejudice to our rights to liquidate your Margined Transactions pursuant to clauses 12.5 to 12.7 above.
- 12.11 Any failure to pay the required Margin within the time period specified in the Margin Call shall constitute an Event of Default and, in addition to our rights under clause 19 below, we may immediately close or terminate your Margined Transactions without notice to and decline to enter into any further Margined Transactions with you.
- 12.12 Notwithstanding the time period specified in the Margin Call, we may be obliged to close your Margined Transaction(s) if a Margin Call remains unsatisfied for more than twenty four (24) hours.

### **13 SECURITY**

- 13.1 As a continuing security for the performance of all your obligations (whether actual or contingent, present or future) to us under or pursuant to this Agreement ("**Secured Obligations**") you grant to us, with full title guarantee, a first fixed security interest in:
  - 13.1.1 all non-cash collateral, and
  - 13.1.2 all funds, securities, commodities, currencies and other property,
    - now or in the future provided by you to us or to our order or under our direction or control or otherwise standing to the credit of your account under this Agreement or otherwise held by us or our affiliated companies or our nominees on your behalf.
- 13.2 You hereby undertake to:
  - 13.2.1 execute such further documents and to take such further steps as we may reasonably require to perfect our security interest over, be registered as owner of or obtain legal title to the non-cash collateral, secure further the Secured Obligations, enable us to exercise our rights, or to satisfy any market requirement;
  - 13.2.2 not withdraw or substitute any property subject to our security interest without our consent, which we may grant or withhold in our sole and absolute discretion; and
  - 13.2.3 neither to create nor to have outstanding any security interest whatsoever over, nor to agree to assign or transfer, any of the non-cash collateral transferred to us, except a lien routinely imposed on all securities in a clearing system in which such securities may be held.
- 13.3 We may, free of any adverse interest of yours or any other person, grant a security interest over any non-cash collateral provided by you to cover any of our obligations to an intermediate broker, market or exchange, including obligations owed by virtue of the positions held by us or another of our customers.

- 13.4 You hereby also grant to us the right to pledge, re-pledge, hypothecate, invest or loan, either separately or with the property of other customers, to ourselves as broker or to others, any funds, securities, commodities, currencies and other property belonging to you which is held by us as Margin or security.
- 13.5 All funds, securities, commodities, currencies, non-cash collateral and other property belonging to you that we or our affiliates may at any time be holding for you (either individually, jointly with another, or as a guarantor of the account of any other person) or that may at any time be in our or its possession or control or carried on our or its books for any purpose, including safekeeping, are to be held by us as security and subject to a general lien and right of set-off for any of your liabilities to us under this Agreement whether or not we have made advances in connection with such funds, securities, commodities, currencies or other property, and irrespective of the number of accounts you may have with us. We may, in our sole and absolute discretion and without notice to you, apply and/or transfer any or all funds or other property belonging to you between any of your accounts with us.

#### **14 FEES AND CHARGES**

- 14.1 You shall pay to us such charges as are prevailing at the time the Services are provided as notified from time to time by LIQUIDITY PROVIDER. These charges include, but are not limited to, charges in respect of automatic rollover of your positions and transfer fees if you instruct us to transfer open positions, moneys and/or property relating to your account to another institution.
- 14.2 We shall notify you of any change in the fees and/or charges before the time of the change.
- 14.3 We may pay or receive fees, commissions, or non-monetary benefits to or from our affiliates or other third parties in connection with the Services. In particular we may pay a fee or commission to any third party who introduces your business to us. We are not required to provide a separate disclosure of the essential arrangements related to any such fee or commission.
- 14.4 All fees and charges are due and payable immediately. Any sums due to us pursuant to this Agreement may be deducted by us from the proceeds of any Transaction or debited from your account with us. In the event of late payment by you, overdue amounts shall bear interest at three per cent (3%) per year over the LIBOR rate on a monthly basis.
- 14.5 In addition to the charges as described above, other taxes and costs may exist that are not imposed by, and cannot be paid via, LIQUIDITY PROVIDER.
- 14.6 All payments made by the Client to LIQUIDITY PROVIDER under this Agreement for any fees due hereunder will be exclusive of any sales, use, service, value added or withholding taxes, or any other levy, tariff, duty or tax of any kind whatsoever imposed by any governmental authority with respect to the services rendered or expenses incurred by LIQUIDITY PROVIDER hereunder (other than a tax imposed upon LIQUIDITY PROVIDER' income). Client shall pay, within fifteen (15) days of receipt of the applicable LIQUIDITY PROVIDER invoice(s), any such tax whenever such tax is imposed by a governmental authority.
- 14.7 Client shall pay all expenses, including legal fees and disbursements, reasonably incurred by LIQUIDITY PROVIDER in endeavouring to collect any amounts payable hereunder that are not paid when due.

#### **15 LIABILITY AND INDEMNITY**

- 15.1 You shall fully indemnify and hold us, our affiliates, our Service Providers, and any of our or their directors, officers, employees and agents harmless from and against any and all liabilities, losses, damages, costs and expenses, including legal fees and costs ("**Losses**"), incurred by us in connection with the provision of our Services (including, for the avoidance of doubt, any fines which may be imposed upon us as a result of late settlement of any transaction and any costs incurred in enforcing our rights or defending any action or claim brought by a third party).
- 15.2 Neither we, our affiliates, nor any of our or their directors, officers, employees and agents shall be liable for any Losses (including direct, indirect or consequential loss or loss of profits) suffered by you or any third party in connection with the provision of the Services except to the extent that such Losses results directly from our or their fraud, negligence or wilful default.
- 15.3 Without limitation, we shall not be liable or have responsibility of any kind for any Losses caused, directly or indirectly, by any events, actions or omissions beyond our control including, without limitation, Losses resulting, directly or indirectly, from any delays or inaccuracies in the transmission of

orders and/or information due to a breakdown in, delay or failure of any transmission, communication or computing facilities.

- 15.4 Should quoting, execution or other errors occur, which may include, but are not limited to, a dealer's mistype of a quote, a quote or trade that is not representative of fair market prices, an erroneous price quote from a trader, such as but not limited to a wrong big figure quote or an erroneous quote due to failure of hardware, software or communication lines or systems and/or inaccurate data feeds provided by us or third-party vendors, we will not be liable for the resulting errors in account balances or trading losses. The foregoing list is not meant to be exhaustive. In the event of a quoting or execution error, we reserve the right to make corrections or adjustments in consultation with you, including but not limited to cancelling, correcting or withdrawing from the Transaction or Order on the account involved within 14 Business Days from the day the error occurred. We will use reasonable endeavours to communicate and consult with you any such intended corrections and/or adjustments promptly after learning of quoting or execution errors causing such corrections and/or adjustments.
- 15.5 We shall have no obligation to contact you to advise upon appropriate action in light of changes in market conditions or otherwise. The derivative market is highly speculative and volatile. Following execution of any Transaction, you are solely responsible for making and maintaining contact with us for the purpose of monitoring the position and ensuring that any further instructions are given on a timely basis. We shall not be responsible for any Losses caused directly, indirectly, actually or alleged as a result of any inability or failure by you to do so.
- 15.6 No action, regardless of form, arising out of or in connection this Agreement, or otherwise existing between the parties, may be brought by a party more than two (2) years after the cause of action is discovered. Discovery of action must be reported to the other party within two (2) years of termination of this Agreement.
- 15.7 Nothing in this Agreement limits or excludes any liability for fraud.

**16 REPRESENTATIONS AND WARRANTIES**

- 16.1 You hereby warrant and represent that:
  - 16.1.1 any funds, securities, commodities, currencies and other property that you transfer to us as security under this Agreement are free from any lien, security interest or other encumbrance other than the lien created under this Agreement;
  - 16.1.2 you are an entity duly organized, validly existing and in good standing under the laws of its state or country of organization, and are qualified to do business in such other jurisdictions as the nature of its business activities and properties therein may require;
  - 16.1.3 you have the power to execute and deliver this Agreement and to perform your obligations under it and have taken all action necessary to authorise such execution and delivery and the performance of such obligations;
  - 16.1.4 this Agreement constitutes legal, valid and binding obligations of you in accordance with its terms; and
  - 16.1.5 the execution and delivery by you of this Agreement and the performance of your obligations under it do not and will not conflict with or constitute a default under any provision of:
    - 16.1.5.1 any agreement or instrument to which you are a party; or
    - 16.1.5.2 your constitutional documents; or
    - 16.1.5.3 any law, lien, lease, order, judgment, award, injunction, decree, ordinance or regulation or any other restriction of any kind or character by which you are bound;
  - 16.1.6 all authorisations, forms and notices or filings with any governmental or other authority that are necessary to enable you to execute, deliver and perform your obligations under this Agreement have been obtained or made (as the case may be) and are in full force and effect and all conditions of each such authorisation have been complied with;
  - 16.1.7 no person other than you has or will have an interest in your Cash Account(s) and Account(s); and
  - 16.1.8 the information disclosed to us in the Application Form (including any financial information) is true, accurate and complete in all material respects.
- 16.2 The Client acknowledges that LIQUIDITY PROVIDER does not provide any service or product that may be used to avoid or circumvent any laws, rules, or regulation in any country or territory. LIQUIDITY PROVIDER will not be held responsible if any of its customers do so. Furthermore, LIQUIDITY

PROVIDER will not be responsible for any levies, fines, or enforcement actions resulting from these infringements.

- 16.3 The Client acknowledges that it is his sole responsibility to ensure he is conducting business legally and appropriately and that it is his duty to hire proper legal, compliance and other professional counsel if and where it is required.

**17 CONFIDENTIALITY AND DATA PROTECTION**

- 17.1 The data controller for the purposes of data protection legislation is LIQUIDITY PROVIDER. Any queries about the use of personal data by us should be referred to our sales or customer support departments.

- 17.2 We may collect, use and disclose personal data about you, including personal data you may voluntarily disclose to us in any manner, so that we can (i) carry out our obligations under this Agreement; (ii) carry out our everyday business activities and dealings with you; (iii) compile statistical analysis of the pages of the Trading Platform visited; (iv) monitor and analyze our business; (v) participate in crime prevention, legal and regulatory compliance; (vi) market and develop other products and services; (vii) transfer any of our rights or obligations under this Agreement; and (viii) process client's personal data for other related purposes. If you choose to withhold personal data requested (except for sensitive personnel data), we will not be able to give you access to this Trading Platform.

- 17.3 We will not obtain or require disclosure of sensitive personal data (such as ethnic origin, religion or medical records) but if you choose to provide such sensitive personal data, we may assume such sensitive data is provided with your consent for processing for the purposes for which such personal data was provided, unless otherwise notified by you to us in writing.

- 17.4 Neither LIQUIDITY PROVIDER nor any Service Provider will disclose any personal data it collects about you to third parties except: (i) to the extent that it is required to do so by any applicable law or regulation; (ii) where there is a duty to the public to disclose; (iii) where our legitimate business interests require disclosure; or (iv) at your request or with your consent or to persons described in clause 17.5 below.

- 17.5 LIQUIDITY PROVIDER or a Service Provider may disclose personal data about you to those who provide services to us or a Service Provider or act as our or a Service Provider's agents, to any person to whom we or a Service Provider transfers or proposes to transfer any of its rights or obligations under this Agreement and to licensed credit reference agencies or other organizations that help us or a Service Provider and others (i) act lawfully, (ii) make credit decisions, (iii) reduce the incidence of fraud or (iv) in the course of carrying out identity, fraud prevention or credit control checks. In addition, we may share personal data about you with our affiliates for business purposes, such as servicing client accounts and informing clients about new products and services, as permitted by applicable law. Our affiliates are companies controlled or owned by us or companies under common control with us, and include financial service companies such as dealers, brokers, futures commission merchants and advisors.

- 17.6 You have certain rights of access to some or all of the personal data we collect and hold about you at the time of request, or to have inaccurate information corrected, under applicable data protection laws. If you wish to exercise such rights, you should contact us in writing, and may be requested to provide further information to assist us in complying with such request.

- 17.7 LIQUIDITY PROVIDER and Service Providers will transfer data, including personal data and data on your trading activity, collected and held about you to the United States and may also transfer such data to any other country, including countries outside the European Economic Area that may not have data protection laws, for any of the purposes described in this clause 17 and you hereby consent to such transfer.

- 17.8 We or a Service Provider may record or monitor telephone conversations and email correspondence between you and us for security, compliance with the law, training purposes and to maintain and improve the quality of our services.

- 17.9 We may use cookies or IP address tracking devices on the Trading Platform to administer the Trading Platform, store password and usernames, to monitor visits to pages on the Trading Platform, to personalize the Trading Platform service to you and to track and facilitate browsing through the Trading Platform. A cookie is a piece of data stored on your computer containing information about you relating

to the use of the Trading Platform. IP addresses may be linked to your personal data and by tracking these addresses, we would be obtaining personal data. Access to the Trading Platform is conditional on acceptance by you of any cookies and IP address tracking devices described in and for the purposes explained in this Section 18. You acknowledge that you understand the broad nature of cookies and IP address tracking devices and the purposes for which they will be used by us.

- 17.10 You acknowledge and accept that any services provided through this Trading Platform involve transmissions over the internet and that such transmissions are therefore subject to the internet's inherent risks. Although we take reasonable security precautions, you also acknowledge and accept that, as with any network, you may also be exposed to unauthorized programs transmitted by third parties, electronic trespassing and/or the failure of information and data to reach their intended destinations and/or erroneous receipt or misdirection of such information. Although our and our suppliers' privacy and security features are designed to reduce these risks, we cannot guarantee their elimination. Thus, no transmission via the Trading Platform shall be guaranteed to be confidential. We shall not be liable for any breach of confidence arising as a result of such event.
- 17.11 Neither party shall, without the prior written consent of the other, use or disclose any information relating to the business, investments, finances or other matters of a confidential nature of the other party except to the extent that such use or disclosure is to an affiliate or is required by law or any regulatory authority or is desirable for the purposes of, or to enable the disclosing party to properly perform its obligations under this Agreement.

**18 SECURE CONSENT DISCLOSURE**

- 18.1 In order to verify your identity and creditworthiness, we may use information from your application to perform a credit check with one or more credit agencies.
- 18.2 You authorise us and our agents to verify your identity and creditworthiness and in connection therewith, to contact such banks, financial institutions and credit agencies as we shall deem appropriate to verify such information. You further authorize us to investigate any current and past investment activity, and in connection therewith, to contact such futures commission merchants, exchanges, broker/dealers, banks, and compliance data centres as we shall deem appropriate. Upon reasonable request made in writing by you to us, we will allow you to review (and at your expense, copy) any records maintained by us relating to your credit standing.
- 18.3 Within not more than 30 Business Days of the receipt of your Application Form, you will receive an email with an update on the status of your Account. If we are unable to verify your identity, the email will include details on how to complete your application.

**19 EVENT OF DEFAULT**

- 19.1 An "Event of Default" shall occur if at any time:
  - 19.1.1 you fail to comply fully and immediately with any obligation to make any payment or to make or take delivery of any property when due to or required by us;
  - 19.1.2 you default in any other obligation or commit any breach of any other obligations under this Agreement or a Transaction, including but not limited to, any Margin Call;
  - 19.1.3 any representation or warranty made by you was or has become or subsequently would be, if repeated at any time, incorrect;
  - 19.1.4 due to market fluctuations or for any other reason we shall in our sole and absolute discretion consider that we hold insufficient Margin or determine that any security held by us to protect one or more of your Account(s) is inadequate regardless of current market quotations;
  - 19.1.5 we, acting in our sole and absolute discretion, determine that there is or has been an adverse change in the creditworthiness of any party providing a guarantee and/or indemnity in respect of your obligations under this Agreement;
  - 19.1.6 we consider it necessary or desirable to prevent what we consider is or might be a violation of any applicable laws or regulations or good standard of market practice;
  - 19.1.7 you commence a voluntary arrangement or other procedure seeking or proposing liquidation, reorganization, 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 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 an "**Insolvency Officer**") of you or any substantial part of your assets; or if you take any action to authorize any of the foregoing;
- 19.1.8 an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganization, 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 other law with potential application to you, if insolvent) or seeking the appointment of an Insolvency Officer of you or any substantial part of your assets; or
- 19.1.9 you are dissolved, or, if your capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedures are commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration.

## **20 CONSEQUENCES OF DEFAULT**

- 20.1 Subject to clause 20.2 below, 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 (the "**Liquidation Date**").
- 20.2 Unless we specify otherwise, the date of the occurrence of any Event of Default shall automatically constitute a Liquidation Date without the need for any notice by us ("**Automatic Termination**") and the provisions of clause 20.3 shall then apply.
- 20.3 Upon the occurrence of a Liquidation Date:
- 20.3.1 we shall not be obliged to make any further payments or deliveries under any Transactions that would, but for this clause 20, 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;
- 20.3.2 we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Transaction or group of Transactions referred to in clause 20.3.1 above, its total cost, loss or, as the case may be, gain, in each case expressed in 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 such Transaction, including losses and costs (or gains) in respect of any payment or delivery required to be made under such Transaction (assuming satisfaction of each applicable condition precedent) on or before the Liquidation Date and not made; and
- 20.3.3 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**").
- 20.4 If the Liquidation Amount determined pursuant to clause 20.3 above is a positive amount, you shall pay to us an amount equal to the Liquidation Amount and if it is a negative amount, we shall pay to you an amount equal to the Liquidation Amount. We shall notify you of the Liquidation Amount, and by whom it is payable, promptly after the calculation of such amount.
- 20.5 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 clause 20.3 above (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 of one tenth of a percent (0.1%) per day or as otherwise may be reasonably determined by us to be the cost of funding such overdue amount (or such lesser amount as may be permitted by applicable law). Interest will accrue on a daily basis and will be due and payable by you as a separate debt.
- 20.6 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.
- 20.7 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.

- 20.8 Our rights under this clause 20 are in addition to, and not in limitation or exclusion of, any other rights that we may have under this Agreement or otherwise whether by agreement or operation of law. In particular and without prejudice to the provisions of clauses 20.1 to 20.7 above, we are authorized and entitled, without notification to you and in our sole and absolute discretion to take such action as we deem necessary, expedient or desirable, to protect our own position, including without limitation, one or more of the following actions (whether in whole or in part):
- 20.8.1 exercise our power to sell all or any part of the Margin and apply the proceeds of sale or other disposal in paying the costs of such sale or other disposal and in or towards satisfaction of any Secured Obligations;
  - 20.8.2 close out or give instructions to close out all or any of your open positions;
  - 20.8.3 perform, cancel or if applicable abandon any of your open positions;
  - 20.8.4 borrow, buy, sell, mortgage, charge or otherwise dispose of any or all investments, monies or other assets that you may have requested us to enter into or hold with or for you or other property of any type held or carried for you (whether entered into or held as security for your obligations to us hereunder or otherwise) or purchase or borrow any or all investments or other assets;
  - 20.8.5 satisfy any obligation that you may have to us, either directly or by way of guarantee or indemnification, out of any of your investments, monies or other assets in our custody or control; and
  - 20.8.6 cancel any or all outstanding orders or contracts or any other commitments made with or for you.
- 20.9 Any of the above actions in clause 20.8 may be taken without making a Margin Call, and regardless of whether the relevant investments or Transactions that we may have executed or arranged with, or for you, are solely yours or held jointly with others. In liquidating any long or short positions we may, at our sole and absolute discretion, sell or purchase in the same contract month or initiate new long or short positions in order to establish a spread or straddle that in our sole and absolute judgment is necessary or advisable to protect existing positions on your account. In all cases, a prior demand by us, or notice of the time and place of a sale or purchase, shall not constitute a waiver of our rights to sell or buy without demand or notice as herewith provided. You will at all times be liable for the payment of any debit balance on your account and you will be liable for any deficiency remaining on your account in the event of the liquidation thereof in whole or in part by you or us. If the proceeds realized pursuant to this authorization are insufficient for the payment of all liabilities due to us from you, you will promptly pay on demand the deficit and all unpaid liabilities together with overdue interest.
- 20.10 Any action taken by us in connection with or pursuant to any Transaction (in particular any Margined Transactions) by us at a time at which any Event of Default has occurred (whether or not we have knowledge thereof) shall be entirely without prejudice to our right to refuse any further performance thereafter, and shall not in any circumstances be considered as a waiver of that right or as a waiver of any other rights of ours should any such Event of Default have occurred.

## 21 INTELLECTUAL PROPERTY RIGHTS

- 21.1 The Trading Platform may incorporate third party data, text, images, software, multi-media materials and other content ("**Third Party Content**") and references to the term "Trading Platform" shall be taken to include all materials, content and services made available from time to time on the Trading Platform whether viewed on screen or downloaded to another computer, including without limitation Third Party Content.
- 21.2 The Trading Platform is protected by copyright, database rights and other intellectual property rights. We and/or third parties retain all right, title and interest in and to the Trading Platform. Use of the Trading Platform does not confer any ownership rights in the Trading Platform.
- 21.3 Except as otherwise specifically agreed in writing or to the extent necessary for you to view the Trading Platform in accordance with this Agreement, you shall not: (i) copy the Trading Platform in whole or in part (except to make backup copies solely for disaster recovery purposes); (ii) display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, time-share, lend or transfer or in any way exploit the Trading Platform in whole or in part; (iii) embed the Trading Platform into other products; (iv) create function calls or other embedded links from any software program to the Trading Platform; (v) remove or obscure any copyright notice of LIQUIDITY PROVIDER or any of its suppliers; (vi) use any trademarks, service marks, domain names, logos, or other identifiers of LIQUIDITY PROVIDER or any of its third party suppliers or (vii) except to the extent permitted under by law, reverse engineer, decompile, disassemble, or access the source code of the Trading Platform.

## 22 LINKS

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

### **23 TERMINATION; NON-DISPARAGEMENT; SURVIVAL**

- 23.1 Either party may terminate this Agreement by giving prior written notice to the other party of not less than 3 months.
- 23.2 During the term of this Agreement and following termination thereof, you shall not initiate or make any statements or take actions that could reasonably be construed as critical or disparaging of LIQUIDITY PROVIDER or its affiliates, or your experience arising out of your relationship with LIQUIDITY PROVIDER. Violation of this clause 23.2 shall result in immediate termination for cause. Termination shall not affect any transactions previously entered into and shall be without prejudice to any accrued rights and obligations of either you or us.
- 23.3 All provisions of this Agreement relating to risks, your liabilities and obligations, warranty disclaimers, limitations of liabilities, indemnification, confidentiality and data protection, netting, intellectual property rights, notices, non- disparagement shall survive the termination of this Agreement for any reason.

### **24 NOTICES AND ELECTRONIC COMMUNICATIONS**

- 24.1 You hereby consent and agree that communications between us may be and ordinarily will be made via electronic media (including through the Trading Platform). If you no longer wish to communicate via electronic media, you must revoke this consent in writing. If you do not wish to communicate via electronic media at all, you must inform us of your wishes prior to agreeing to the terms of this Agreement. Communications sent through the Trading Platform or by electronic media shall be treated as satisfying any legal requirement that a communication should be signed and in writing, to the extent permitted by applicable law.
- 24.2 Reports, statements, notices and any other communications may be transmitted to you via email, other electronic delivery methods, or postal service, to such address as you may from time to time notify in writing to us. All communications so sent, whether by mail, messenger, email, or otherwise, shall be deemed transmitted by us when deposited in the mail, or when received by a transmitting agent, and deemed delivered to you personally, whether actually received by you or not.
- 24.3 Other than Orders or instructions relating to Transactions which are implemented through the Trading Platform or telephone in accordance with this Agreement, all notices must be sent to our sales and client services department as follows:

**Address: X-Trade Brokers DM S.A. ul. Ogrodowa 58, 00-876 Warszawa, Building A, VIIth floor;**  
**E-mail: ibd@xtb.com**

### **25 COMPLAINTS**

- 25.1 If you have any complaint about our performance under this Agreement, you should direct that complaint to our sales and client services department who will investigate the nature of the complaint to try to resolve it.

### **26 GENERAL**

- 26.1 The provision of our services to you is subject to all applicable laws, regulations to which we are subject. If any conflict arises between this Agreement and any such laws and regulations, the latter shall prevail. We are not required to do anything or refrain from doing anything that would infringe such laws and regulations and may do whatever we consider necessary to comply with them.
- 26.2 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement, which shall remain in full force and effect.
- 26.3 Our rights under this Agreement:
- 26.3.1 may be exercised as often as necessary;
- 26.3.2 except as otherwise expressly provided in this Agreement, are cumulative and not exclusive of rights and remedies provided by law; and
- 26.3.3 may be waived only in writing and specifically,
- and any delay in exercising or incomplete or non-exercise of any such right is not a waiver of that right.
- 26.4 Without the prior written consent of LIQUIDITY PROVIDER, you may not assign, transfer or sublicense your rights, duties, or obligations under this Agreement, whether by operation of law, merger or otherwise, to any person or entity, in whole or in part. Any attempt to do so without first obtaining such prior written consent shall be void and of no force and effect.
- 26.5 LIQUIDITY PROVIDER and its affiliates provide services in respect of a wide range of investment related activities to many different clients, some of which we or another LIQUIDITY PROVIDER affiliated entity may have an interest, relationship or arrangement that is material in relation to a transaction effected with or for you (or the investment that is the subject of the transaction) or that could give rise to a conflict of interest.
- 26.6 We shall not be obliged to disclose to you or take into consideration any fact, matter or finding that might involve a breach of duty or confidence to any other person, or that comes to the notice of any of our directors, officers, employees or agents but does not come to the actual notice of the individual or individuals dealing with you.
- 26.7 You are responsible for compliance with all applicable laws and regulatory rules (whether English or elsewhere and including any other relevant regulatory body) in relation to your Trades.
- 26.8 LIQUIDITY PROVIDER has the right to amend the Liquidity Solution General Terms and Conditions by notifying You at least 1 month before the date in which the amendments come into force. The content of the amended Liquidity Solution General Terms and Conditions be will available in LIQUIDITY PROVIDER's office and on Liquidity Provider's Website.
- 26.9 Amendments made pursuant to clause 26.8 shall be binding from the day of coming into force and shall apply to each open Transaction and to all Your dealings with the Liquidity Provider.
- 26.10 If you do not accept amendments to the Liquidity Solution General Terms and Conditions you shall have the right to terminate the Agreement and close any or all of the Accounts with immediate effect.

**27 GOVERNING LAW; JURISDICTION**

- 27.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Poland and the Client irrevocably submits to the exclusive jurisdiction of the courts of Poland. Nothing in this Agreement shall prevent us from bringing proceedings against you in any jurisdiction.
- 27.2 Each party irrevocably waives any objection to the courts of Poland on the grounds that they are inconvenient or an inappropriate forum to settle any such dispute.
- 27.3 Each party waives its right to a trial by jury in connection with any such action or judicial proceeding.
- 27.4 The language of all parts of this Agreement and the Transactions associated with it is English and notices to be given in connection with this Agreement must be in English.

**28 CONSENT TO ELECTRONIC SIGNATURE**

28.1 By electronically signing this Agreement and related documents, you acknowledge receipt of these and related documents contained in our electronic account package and you agree to be bound by their terms and conditions therein. In addition, by signing our Agreement and related documents, you are consenting to our maintaining and receiving electronic records of your trades and accounts.

**29 MARKET ABUSE**

29.1 LIQUIDITY PROVIDER will frequently hedge its liability to you by opening simultaneous positions with other institutions. A consequence of LIQUIDITY PROVIDER 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 Instrument, in addition to any impact on the 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.

29.2 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: -

29.2.1 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 Instrument to which your Trade and/or Order relates; and

29.2.2 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 relating to a share/equity you may be treated as if you were dealing in securities.

29.3 In the event that you breach any of the representations or warranties stated above, or we have grounds for suspecting that you have done so, we may in our sole and 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 sole and absolute discretion:-

29.3.1 enforce the Trade(s) against you if it is a Trade under which you have made losses; and

29.3.2 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 terminated. Trades closed under herein clause will be closed at the relevant Price published on the Trading Platform.

29.4 We are entitled to report to any relevant regulatory authority any Trade, Order or other instruction given by you which may constitute a breach under this clause 29.

29.5 The exercise by LIQUIDITY PROVIDER of any of its rights under this clause 29 in respect of any Trade and/or Order shall not affect any other rights of LIQUIDITY PROVIDER (under this Agreement or at law) whether in respect of that Trade and/or Order or any other Trade and/or Order.

**30 FORCE MAJEURE**

30.1 No party shall be liable for any default or delay in the performance of its obligations under this Agreement (including but not limited to breach) if and to the extent such default or delay is caused, directly or indirectly, by circumstances beyond a party's reasonable control, including but not limited to fire, flood, epidemic, power failure, earthquake, elements of nature or acts of God, act of governmental body or military authority, wars, riots, civil disorders, labour disputes, blockades, embargoes, terrorist activities, civil insurrection, rebellions or revolutions or any other similar cause beyond the reasonable control of such party (a "**Force Majeure**"), except to the extent that the non-performing party is at fault in failing to prevent or causing such default or delay, and provided that such default or delay cannot, by commercially reasonable efforts of the non-performing party, be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means.

**SCHEDULE 1  
CLIENT CASH ACCOUNT**

- 1) XTB shall open one or more Cash Accounts for the purpose of settling Transactions executed in accordance with this Agreement.
- 2) Each Cash Account shall be opened upon receipt of the agreed funds from the Client in the Settlement Account at the amount not less than the minimum amount specified by XTB at the date of the Agreement.
- 3) The Cash Account shall be maintained in the Base Currency and so, where necessary Transactions recorded on the Client's Cash Account shall be converted into the Base Currency.
- 4) The following activities, without limitation, will be recorded on the Cash Account:
  - a) payments and withdrawals of Client's funds;
  - b) profits and losses arising from closed Transactions settled within Trading Platform;
  - c) charges in respect of settled amounts of swap points, commissions and fees payable to XTB;
  - d) credits and debits in respect to giving, increasing, decreasing or withholding the Maximum Amount;
  - e) credits and debits in respect to reclassification of funds to and from other Cash Accounts;
  - f) other charges arising from the Agreement; and
  - g) additional charges related to short selling of Underlying Instruments, in cases when the Underlying Instrument is hard to borrow.
- 5) Additional payments into the Cash Account shall be made first into the Settlement Account.
- 6) XTB shall notify the Client about each change of details of the Settlement Account by no later than one (1) Business Day prior to such change.
- 7) When making a payment into the Settlement Account the Client shall provide the following information:
  - a) name of the Cash Account holder;
  - b) payment title; and
  - c) Client's identification number .
- 8) Funds paid into the Cash Account may be used in the following order:
  - a) to cover commissions and fees payable to XTB;
  - b) to cover a negative balance on the Cash Account;
  - c) to settle losses on closed Transactions; and
  - d) to be used as the Margin.
- 9) XTB shall execute Client's instructions regarding the funds held on its Cash Account solely in order to:
  - a) settle the results of Transactions;
  - b) reclassify funds to and from other Cash Accounts;
  - c) cover commissions and fees payable to XTB; and
  - d) transfer funds to the Client's Identified Account.
- 10) A transfer of funds from the Client's Cash Account may be executed only to the Client's Identified Account.
- 11) XTB shall refuse to execute instructions to withdraw funds from the Client's Cash Account if:
  - a) the bank account number on the withdrawal instruction is inconsistent with the Identified Account;
  - b) the amount of funds on the withdrawal instruction exceeds the balance of funds available according to the Trading Platform less the Margin; or
  - c) funds have been blocked or seized in accordance with applicable laws.
- 12) XTB is not obliged to pay any interest on the funds gathered on the Cash Account and Client hereby waives any rights to such interest.

**SCHEDULE 2**  
**Trading with LIQUIDITY PROVIDER**

Part 1

**Telephone Trading**

Terms and conditions of placing Orders by telephone

1. Subject to prior written agreement between the parties, in order to place a telephone Order the Client will need to provide the following information to an authorised LIQUIDITY PROVIDER employee:
  - a. Client's forename, surname or name;
  - b. Client's Access Code
  - c. Account No.; and
  - d. any other information contained in the Corporate Account Application Form that is requested by an authorised LIQUIDITY PROVIDER employee.
2. LIQUIDITY PROVIDER shall not be liable for executing an Order pursuant to a telephone instruction of the Client or his proxy, if such Order was accepted in compliance with this Agreement. In particular, the Client may not claim that the transaction was executed by a third party if LIQUIDITY PROVIDER correctly identified the Client in accordance with paragraph 1 above.

Part 2

**Execution of Orders**

General conditions for executing Orders

1. An Order to execute a Transaction on Financial Instruments placed through the Trading Platform will be concluded by LIQUIDITY PROVIDER executing a market or instant order for the relevant Financial Instrument in accordance with the Order.
2. When executing Orders, LIQUIDITY PROVIDER shall use reasonable endeavours to ensure that the Orders are executed immediately after they are placed by the Client and at the price shown in the Order.
3. Until the moment of execution of an Order by LIQUIDITY PROVIDER, the Client has the right to modify or even cancel the Order placed on the Trading Platform (or by telephone where applicable) provided that LIQUIDITY PROVIDER shall not be liable for any loss suffered by the Client if LIQUIDITY PROVIDER fails to modify or amend an Order after it has been placed with LIQUIDITY PROVIDER for execution. Please notify us as soon as reasonably practicable if you become aware of any errors or inaccuracies in your Orders.

Execution of Orders for Margined Transactions

4. Opening of a position in respect to a Margined Transaction shall mean a creation of property rights and obligations relating to a purchase or sale of a Financial Instrument.
5. When opening a position LIQUIDITY PROVIDER shall block the amount of the Margin payable as a collateral for a settlement of that open position at the time of its closing.
6. The relevant Order shall be executed only when the Trading Platform shows that the Client has sufficient funds on its Cash Account to establish the Margin.
7. If at the moment the execution of the Order, the Client's funds turn out to be insufficient to execute the transaction, the Order shall be rejected.

Execution of Orders for closing a position

8. Closing a position shall mean a determination of rights or obligations arising from a previously opened position.
9. A position shall be closed by LIQUIDITY PROVIDER executing an Order to reverse the Transaction or by closing a position mode.
10. An open position on Financial Instruments shall be closed without Client's consent after 365 days (the "**Expiry Date**") from the date of opening the position unless:
  - a. the Client places an Order to close the position by a reverse Transaction or uses a close transaction mode; or
  - b. LIQUIDITY PROVIDER exercises the right to close a Client's Transaction in accordance with this Agreement, before the Expiry Date.
11. In some cases Underlying Instruments for a Client's short position may get recalled by the lending

counterparty. In such cases LIQUIDITY PROVIDER will have to close the Client's short position and at the same time repurchase the Underlying Instrument. This could apply if the exchange short selling rules change or a financial authority applies special conditions for short selling. LIQUIDITY PROVIDER bears no responsibility for damages caused in cases of such occurrences.

Option Financial Instruments

12. The Client shall pay to LIQUIDITY PROVIDER an option premium for a purchase of an option Financial Instrument in the amount specified by LIQUIDITY PROVIDER on the date of purchasing the option Financial Instrument (the "**Option Premium**"). The Client's Cash Account shall be debited by an amount equal to the Option Premium. LIQUIDITY PROVIDER shall refuse to execute the Order if no sufficient funds are available for the purchase and the Option Premium.
13. In the case of a sale of an option Financial Instrument by the Client, the Client shall receive from LIQUIDITY PROVIDER an amount equal to the Option Premium specified by LIQUIDITY PROVIDER on the date of sale of the option Financial Instrument. LIQUIDITY PROVIDER shall refuse to execute the Order if no sufficient funds are available for a Margin.
14. Until the option expiry date, the Client shall have the right to resell to LIQUIDITY PROVIDER a previously purchased option Financial Instrument or to repurchase from LIQUIDITY PROVIDER a previously sold option Financial Instrument.
15. If the Client accepts the repurchase or sale price of a previously purchased or sold option Financial Instrument, its Cash Account shall be credited with the repurchase amount or debited with the sale amount and all the Client's rights and obligations attached to the option Financial Instrument shall expire accordingly. The Client's Cash Account shall be credited or debited on the date of a repurchase or sale of the option Financial Instrument.
16. Option Financial Instruments will be settled in the moment of their expiration or in the moment of closing a Transaction in the Trading Platform (as appropriate).

Corporate Actions and other events

17. The following terms and conditions shall apply when particular events occur in respect of a Client's position on some Financial Instruments:
  - a. *dividends*: on ex-date each Client holding a long position on relevant financial instrument will be credited with net dividend (after-tax dividend) and each Client holding a short position will be debited with gross dividend. Dividends are calculated in respect of the number of Financial Instrument's (equivalent to number of Underlying Instruments) held in the account. Credits and debits associated with dividend settlement will be made through crediting or debiting Client's Account.
  - b. *stock splits, reverse stock splits, stock dividends, pre-emptive rights and rights to stocks*: the amount of Financial Instrument's on Client's Account or Cash Account (as appropriate) will be adjusted on the ex-date accordingly;
  - c. *voting*: Client holding a position on a Financial Instrument is not entitled to voting rights, offer rights or other similar rights arising from the Underlying Instrument; and
  - d. *other corporate actions*: LIQUIDITY PROVIDER will use reasonable endeavours to reflect any other corporate actions onto the Clients' Financial Instrument positions or that Client's Cash Account so that, as far as practicable, a position in the Financial Instrument reflects all economic aspects of having a position in Underlying Instruments.
18. Under some circumstances Transactions, Prices or Orders on Underlying Instruments constituting a basis for determination of a Financial Instrument's price may be corrected, cancelled or withdrawn on the underlying market or by/with underlying broker. In that case LIQUIDITY PROVIDER in consultation with you shall have the right to cancel, correct or withdraw from the relevant Transaction or Order of the Client not later than within 14 Business Days from the day of cancelling or withdrawing the Transaction, Order or Price. Any such case will be documented and presented to the Client within two Business Days after the cancellation or withdrawal of the Underlying Instrument.
19. If an Underlying Instrument for a Financial Instrument is being delisted on an the underlying exchange and at the time of delisting there are still open positions in relevant Financial Instruments, LIQUIDITY PROVIDER shall have the right to close such positions without prior notification of the Client. However LIQUIDITY PROVIDER will use reasonable endeavours to inform the Clients if such conditions occur.
20. When trading Financial Instrument, Clients should be aware 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 Orders on Financial Instrument and Orders may be cancelled.
21. LIQUIDITY PROVIDER bears no responsibility for damages caused by situations described above and case will proceed in accordance with the Agreement.