



**CLIENT AGREEMENT  
TERMS & CONDITIONS  
OF BUSINESS**



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## CLIENT AGREEMENT / TERMS AND CONDITIONS

### 1. Introduction

- 1.1 This Agreement sets out the terms and conditions which govern the relationship between Trading Point MENA Limited (also referred to as “**Trading Point MENA**”, the “**Firm**”, “**we**”, “**our**”, “**ourselves**” or “**us**”) and you (also referred to as the “**Client**”, “**you**”, “**yourself**” or “**your**”), regarding the Services we provide and your activity with us.
- 1.2 Trading Point MENA Limited is a private limited company incorporated in the Dubai International Financial Centre (“DIFC”) (Certificate of Registration No. 3273), authorised and regulated for providing financial Services by the Dubai Financial Services Authority (“DFSA”), licence No. F003484. The Firm has its registered office at Unit S402, Level 4, Emirates Financial Towers, Dubai International Financial Centre, Dubai, United Arab Emirates.
- 1.3 Trading Point MENA Limited is wholly owned by Trading Point Holdings Ltd, a holding company incorporated in Cyprus. Its registered office is at 12 Richardou & Verengarias street, Araouzos Castle Court, 3rd floor, P.C. 3042, Limassol, Cyprus.
- 1.4 You acknowledge that this Agreement is entered into in the DIFC and the place of performance of the parties’ obligations pursuant to this Agreement shall be the DIFC.
- 1.5 **For your benefit and protection, please ensure you take sufficient time to read the Agreement as well as any other additional documentation and information available to you via our website prior to opening an account and/or carrying out any activity with us. You should contact us for any further clarification or seek independent professional advice (if necessary).**

### 2. Scope of Agreement

- 2.1 This document sets out our terms of business and sets out the basis on which we will provide you with the Services, as further described in these terms and in clause 4.
- 2.2 These terms contain legally binding terms of business and so it is important that you take sufficient time to read them carefully prior to opening an account and/or carrying out any activity with us. If there is anything in these terms that you do not understand you should contact us as soon possible or take independent advice.
- 2.3 Note that if you place any orders with us, or otherwise use our Services, you will be deemed to have accepted our terms as set out in this Agreement.
- 2.4 Please note that there are other documents and information available on our website which provide more details about the Firm and the activities you envisage to carry on with us such as:
  - The “*Order Execution Policy*” that explains how trades are executed;
  - The “*Risk Disclosure Notice*” that summarises the key risks involved in investing in CFDs;
  - The “*Retail Foreign Exchange Risk Disclosure*” that summarises the associated risks related to Foreign Exchange (FX) trading;
  - The “*Conflicts of Interest Policy*” that explains how we handle any conflicts of interest in order to treat our Clients fairly;
  - The “*Client Categorisation Policy*” specifies how a client is being categorised in accordance with applicable legislation;
  - The “*Complaints Handling Procedure*” that sets out the procedure that needs to be followed in the event that a client wishes to complaint about the Firm and explains how your complaint will be handled;



- The “*Privacy Policy*” that explains how we process the data/information you provide to us.
- 2.5 This Agreement supersedes any previous agreement between you and us relating to the subject matter of this Agreement.
  - 2.6 This Agreement shall commence once we have informed you that your account has been validated/activated. This is, once we have completed our due diligence and our “Know-Your-Customer” requirements have been satisfied.
  - 2.7 Where you are either a “Professional Client” or a “Retail Client” or a “Market Counterparty”, you may also be required to provide us with certain consents before we can offer you the full range of our Services. We will bear no liability for any losses incurred due to delays in this process.
  - 2.8 Nothing in this Agreement will exclude or restrict any duty or liability owed by us to you under the regulatory system (as defined by the DFSA Rules) which may not be excluded or restricted thereunder or require you to indemnify or compensate us to an extent prohibited by the DFSA Rules.
  - 2.9 The Products and Services we offer carry a high level of risk, which could result in losses and therefore, are not suitable for everyone. Please review our Risk Disclosure, which outlines the associated risks with our Products and Services. You should ensure you fully understand such risks before entering into this Agreement.
  - 2.10 Before commencing any business relationship with us, you should read this Agreement carefully, any other relevant document available on our website and any other documents that we have supplied or in the future do supply to you.
  - 2.11 Nothing in this Agreement will exclude or restrict any duty or liability owed by us to you under legislation administered by the DFSA, which may not be excluded or restricted thereunder, or require you to indemnify or compensate us to any extent prohibited by the DFSA Rules
  - 2.12 If the Agreement is provided to you in any language other than English, then please note that it is for information only and that the governing language of this Agreement and of any dispute arising hereunder is English. If a foreign language version contradicts the English version of this Agreement, the English version will prevail.

### **3. Definitions and Construction**

- 3.1 Where provided in clause 3.2 or the context otherwise requires words and phrases defined in the DFSA Rules (as defined below), shall have the same meanings when used in this Agreement.
- 3.2 The following words and phrases shall have the following meanings:

**Account** - One or more trading accounts, which has a unique number, maintained by the Client for the purpose of trading financial instruments through our trading platforms;

**Agreement** - The terms of this agreement, as amended from time to time, together with the Client Application Form, and: (i) the Risk Disclosure, (ii) Order Execution Policy and any other relevant documentation, which are available on our website and as periodically amended by us;

**Affiliated Company** - Means, in respect of us, any company or entity (including any subsidiaries and/or holding companies) and each and any subsidiary of such holding company and/or any other entity from time to time controlling, controlled by or under common control with Trading Point MENA, being under common control either directly and/or indirectly and/or otherwise. For the avoidance of doubt, but without limitation, Trading Point of Financial Instruments UK Ltd, Trading Point of Financial



Instruments Ltd and Trading Point of Financial Instruments Pty Ltd are Affiliated Companies of Trading Point MENA;

**Applicable laws and regulations** - Means (a) the DFSA Rules; (b) rules of a relevant regulatory authority; (c) the rules of a relevant Exchange; and (d) all other applicable laws, rules and regulations as in force from time to time, as applicable to this Agreement, any Transaction, or our Online Trading Facility;

**Balance** – Means the funds available in an Account that may be used for trading financial instruments offered by the Firm;

**Base Currency** – Means the currency agreed between the parties, or failing such agreement, US dollars;

**Business Day** – Means Sunday to Thursday inclusive, excluding any public holidays or days that private institutions remain closed in accordance with an order of the Government of the Emirate of Dubai or of the Federal Government of the United Arab Emirates. Some orders received by us may require execution through, or transactions to be entered into with, an Affiliated Company of ours. Where this is the case and the day on which the order is passed or received is not a business day in the jurisdiction of the relevant Associated Company, execution of the order will be undertaken on that jurisdiction's next business day;

**Charges** – Means any transaction or account costs, fees or other charges notified to you from time to time;

**Client Application Form** - The Client Application Form, along with any required documentation to be completed and signed by you in accordance with this Agreement;

**Client Money** - Shall mean, in accordance with DFSA Rules, money of any currency that we receive or hold for you, or on your behalf, in the course of or in connection with, the business contemplated by this Agreement. It is calculated as money deposited by the Client in his/her Account, plus or minus any unrealised or realised profit or loss of an open position, plus or minus any amount that is due by the Client to the Firm and vice versa;

**Client Money Rules** - The Client Money provisions set out in the DFSA Rulebook, as may be updated from time to time, that relate to money received by us from Clients;

**Conflict of Interest Policy** - when used in this Agreement, unless the context otherwise requires, shall mean our prevailing policy regarding conflicts of interest, which is posted on our website and may be supplied separately on request; our Conflicts of Interest Policy is a policy only, it is not part of our Terms and Conditions of Business and is not intended to be contractually binding or impose or seek to impose any obligations on us which we would not otherwise have; we reserve the right to review and/or amend our Conflicts of Interest Policy at our sole discretion, whenever we deem fit or appropriate;

**Contracts for Differences (“CFDs”)** - CFDs, which are traded off-exchange (or Over-the-Counter ('OTC')), are agreements to exchange the difference in value of a particular instrument or currency between the time at which the agreement is entered into and the time at which it is closed. This allows the Clients to replicate the economic effect of trading in particular currencies or other instruments without requiring actual ownership of those assets. A full list of the CFDs on offer by us is available on our website;

**Currency** – Means and includes any unit of account;



**Derivatives** - Futures, options, CFDs and warrants;

**DFSA** – Means the Dubai Financial Services Authority or any organisation that will replace the DFSA or take over the conduct of its affairs;

**DFSA Rules** - The rules of the Dubai Financial Services Authority of the United Arab Emirates or any successor body;

**DIFC** – Means the Dubai International Financial Centre;

**Event of Default** - Has the meaning given in clause 30;

**Equity** - means the balance plus or minus any profit or loss that derives from any Open Positions in the Client's Account;

**Exchange** – Means any securities or futures exchanges, clearing house, self-regulatory organisations, alternative trading system, organised trading facility or multi-lateral trading facility as the context may require from time to time;

**Exchange Rate** – Means the rate (in relation to two currencies in respect of which you may wish to open a Foreign Exchange CFD) at which a single unit of the first currency that you state may be bought with or, as the case may be, sold in, units of the second currency that you state;

**Expiry Transaction** – Means a Transaction which has a set contract period, at the end of which the Expiry Transaction expires automatically;

**Foreign Exchange CFD or “CFD on Forex” or “FX CFD”** - is a form of CFD that gives you exposure to changes in value of an Exchange Rate, but unless you and we expressly agree separately in writing, it cannot result in the delivery of any Currency to or by you;

**Futures CFD** - is a form of CFD that gives exposure to changes in the value of a futures contract. It is not a futures contract traded on any Exchange and unless you and we expressly agree separately in writing, it cannot result in the delivery of any Instrument to or by you;

**Force Majeure Event** – has the meaning given to it in clause 24;

**Initial Margin** – has the meaning given to it in clause 13.4;

**Instruction(s)** - Means any request given or appearing to be given by you through our Online Trading Facility in relation to your Account. You authorise us to act upon such Instructions and, unless agreed otherwise with you, you will have no right to amend or revoke an Instruction once received by us. You will be responsible for the genuineness and accuracy, both as to content and form, of any Instruction received by us;

**Listed Company** – company whose securities are listed on a recognized Stock Exchange / regulated market.

**Losses** – Means any losses incurred, monies owed or debit balances to us in relation to an Account under this Agreement in which you may have an interest, and which exceed all amounts held by us in relation to that account and you must forthwith pay us whether demanded or not;

**Market Counterparty** – has the meaning given to it in the DFSA Rules;

**Market Maker** – Means a firm that provides on request buy and sell prices for an Instrument;



**Market Spread or “Spread”**- means the difference between the bid and ask prices for a transaction of equivalent size in an Instrument, or a related Instrument, in the underlying market;

**Margin** – Means the amount of funds you are required to pay us in order to open and maintain a Position;

**Market Order** - is an order instantly executed against a price that the Trading Point MENA has provided. It is an instruction to deal now in a specified size at the best available price for that size. You do not have any control over what price your Market Order will be filled at. When you place a Market Order with us you acknowledge that such Market Order allows us to execute your Transaction at a price that is worse than our quoted bid and offer price at the time you place the Market Order. A Market Order is triggered as soon as it is accepted by us;

**Manifest Error** – has the meaning given to it in clause 22;

**Matched-Principal** - Means the execution method where we are acting as principal in relation to all Client trades whilst simultaneously matching these trades with a counterparty;

**Obligations** – Means all your costs, expenses, losses, liabilities and other obligations owed to us to make payment or perform any other legally binding obligation whether arising under this Agreement or otherwise, and whether actual or contingent including but not limited to costs, expenses, losses, liabilities and other obligations incurred by us as a result of the performance by us of our duties or the exercise by us of our rights, powers and / or privileges hereunder;

**Online Trading Facility** - Shall mean, collectively and/or individually, as the context requires, all website(s), mobile and web applications, electronic trading platform(s), software and/or Services provided by us, from time to time under and/or pursuant to the Terms of this Agreement;

**Open Position** - Shall mean a Transaction which has not been closed in whole or in part under this Agreement;

**Order** - Shall mean an instruction to purchase or sell any of the investments and instruments which we offer, and/or any other products offered by us from time to time, at a price quoted by us as appropriately;

**Order Execution Policy** - When used in this Agreement, unless the context otherwise requires, shall mean our prevailing policy posted on our website regarding best execution when executing client Orders; our Order Execution Policy is part of our Terms and Conditions of Business, which is a contractually binding agreement between us and our Clients, and is incorporated herein by reference; it shall be applicable to all Transactions between us and our Clients, to the extent that it does not impose and/or does not seek to impose any obligations on us which we would not otherwise have;

**Professional Client** – has the meaning given to it in the DFSA Rules;

**Retail Client** - Shall mean a Client who is neither a Professional Client or a Market Counterparty, as defined in the DFSA Rules, which, for example, may include individuals;

**Roll-over** - Shall mean the interest added to or deducted from a Client’s account for rolling over open positions to the next day;

**Services** – Shall mean the Services more specifically referred to in clause 4 below;

**Spread** - means the difference between the bid and offer prices for a Transaction of equivalent size in an Instrument, or a related Instrument, in the Underlying Market;





**Target Market** - When used in this Agreement, unless the context otherwise requires, shall mean the defined target Client profile for which the Firm has determined each instrument to be appropriate based on such clients' needs, characteristics and objectives;

**Trading Platform** – Means the MetaTrader 5 trading platform, including platform for mobile devices and the web-based platform (i.e. webtrader);

**Transaction** - Shall mean a contract in an investment or instrument listed in this Agreement or any other contractual arrangement entered into between you and us;

**'Underlying Market'** means the Exchange and/or other similar body and/or liquidity pool on which an Instrument is traded or trading in that Instrument as the context requires.

- 3.3 References in this Agreement to statutes, the DFSA Rules and any other rules, regulations or laws shall be to the same, as these may be as modified, amended, restated or replaced periodically. References to clauses are to the clauses of this Agreement. Headings are included for convenience only and shall not affect the interpretation of this Agreement.
- 3.4 Nothing in this Agreement shall exclude any duty or liability which we have to you or vice versa under the DFSA Rules or any other relevant rules and regulations. In the event of a conflict between this Agreement and the DFSA Rules, the DFSA Rules would apply.
- 3.5 We reserve the right to periodically review and / or amend this Agreement, partly or completely and thereafter publish the latest version, on our website. Subsequent new versions of this Agreement will supersede all earlier versions. A paper copy of this Agreement, and any updated versions will be available upon request.

#### **4. Services**

4.1 We will provide you, on an execution-only basis, access to trading a number of instruments in the form of OTC Derivatives. We may provide the Services in relation to the following investments and instruments (which may be amended from time to time):

- OTC Derivatives in currencies, equity indices, precious metals, commodities, energies and stocks.

Please visit our website for a detailed description of the instruments we offer and the contract specifications.

- 4.2 We will only provide our Services on an execution-only basis. which means that you are solely responsible for the trading and we do not provide you with any advice or recommendations in relation to Services your investments decisions. (please see clauses 6 and 6 for more information).
- 4.3 We will act as a “matched-principal” at all times in relation to your trades with us and we will do so on a non-advised basis.
- 4.4 We do not provide you with any investment, legal, regulatory or other form of advice. You may wish to seek independent advice in relation to any business activities you propose to enter into under this Agreement and you are responsible to rely on your own judgement.
- 4.5 If you satisfy the DFSA definition of Professional Client or Market Counterparty, we may notify you that we will treat you as such;
- 4.6 You can request a different client categorisation from the one we have assigned to you. However, please be aware, we may reject your application or close your account (at our own discretion), if we believe that the categorisation you have requested is inappropriate. If you do request a different



categorisation and we agree, it may result in you losing the protection afforded by certain DFSA Rules. For more information please refer to our Client Categorisation Policy, which is available on our website [www.xm.com/mena](http://www.xm.com/mena);

- 4.7 It is your responsibility to ensure you inform us of any changes that could affect your classification as a Professional Client or Market Counterparty.
- 4.8 You understand that the product and Services, which apply at the time when you open or close a Position, will be those displayed on our website(s) and may be subject to updates from time to time
- 4.9 We will take the necessary steps to ensure we provide you with best execution in accordance with the DFSA Rules and our Order Execution Policy when we execute trades on your behalf. We have put these arrangements in place, to ensure we provide you with best execution, as per our Order Execution Policy. Unless you notify us to the contrary, you will be deemed to consent to our Order Execution Policy when this Agreement comes into effect. If you fail to provide us with your consent, we reserve the right to refuse our products and Services to you. At our sole discretion, we can amend our Order Execution Policy and if required. We may notify you of any material amendments by giving written notice or via our website.
- 4.10 We may, from time to time, offer a variety of accounts types, which have different features. Depending on your knowledge and experience and the type of trades you generally place with us, some of these account types may not be available to you. Therefore, at our sole discretion, we reserve the right to convert your account into a different account type. We will only take such action, if reasonably required, we deem to believe a different type of account is more appropriate for you or the risk appetite of the Firm changes in relation to offering that account type. We also reserve the right to change the features and eligibility criteria of all our accounts at any time. However, we will provide you with notification prior to any changes via on our website, email or any other relevant medium.
- 4.11 Provision of the Services will be subject to any limits or restrictions which you may specify in the Client Application Form, to the terms of this Agreement, and any statutory, regulatory, legal or market requirements.
- 4.12 We do not provide investment, financial, legal, tax or regulatory advice nor do we provide any other form of recommendation. You understand that you shall make your own assessment of any Transaction prior to entering into a trade, and you shall not rely on any opinion, material or analysis provided by us or any of our affiliates, employees, or other related parties as being advice or recommendation. If you are unsure whether you should proceed with this Agreement, you may wish to seek independent advice. You are responsible for the payment of any and all taxes that may arise in relation to your Transactions.
- 4.13 We do not offer investment research, and any material containing market analysis is considered marketing communication and should not be construed as advice, recommendation or research.
- 4.14 You understand that CFDs are derivative products, and therefore you will not be entitled to own any underlying instrument. You also understand that no physical delivery of any underlying asset shall occur.
- 4.15 You may trade during our normal trading hours for the specific financial instrument during which our platform generates prices and during which you may give instructions or place orders to trade a CFD on a financial instrument, as specified on our website from time to time. You will only be able to trade during these trading hours specified on our website for that financial instrument only. It should be noted that certain financial instruments have specific trading timeframes which can be found in on our website. You are responsible for regularly reviewing any contract specifications for further details prior to trading. You will be notified of any holidays (i.e. non-working days) either via email, through



our website, through your members area, or via any other means that we may from time to time employ.

- 4.16 If your Account comprises more than one Account with us, we will have the right without prejudice to any other right we may have to combine all or any such Accounts and set off any amount at any time owing from you to us or any Associate on any Account against any amount owing by us or any Associate of ours to you for any purpose.
- 4.17 We may at any time cease to offer any Services and/or remove products from our offering. If you have an open position relating to a service that is being terminated or in a product that is being removed, we will provide you with 30 days' prior written notice, where possible, that we intend to terminate a Service or remove a product, to allow you to close any Open Position that you may hold on such product or Service. Where notice is given, you should cancel any Orders and/or close any Open Positions in respect of such affected product or Service before the 30 days expires. If you do not do this, we will cancel any Orders and close any Open Positions after the 30 days has expired in the manner explained to you in the notice. There may be occasions where we cannot give you 30 days' notice, and where this is the case, we will give you as much notice as possible, but we may need to close out some of your Orders and/or Open Positions. Where we do this, we will not charge any Transaction fees and will do this in a way which takes into account our obligation to treat you fairly.
- 4.18 You understand that in order to provide you with our Services, we may enter into agreements with external service providers for any activity and/or operation we may conduct. We will do so in accordance with the applicable rules.
- 4.19 By becoming a client of Trading Point MENA, you do not obtain any rights in any intellectual property belonging to us. Our website, the software, Online Trading Facility, any data, information, documentation and/or creation shall be protected in accordance with the applicable laws and you shall have no right, neither at the time of entering into the Agreement, nor at any point of time in the future. All rights whether expressed or implied, and whether existing now or in the future are reserved.
- 4.20 You understand that you shall not copy, reproduce, duplicate, translate, assume ownership or otherwise of any rights belonging to Trading Point MENA.
- 4.21 Where you are in breach (or we have reasonable grounds to believe you may be in breach) of any term contained in the Agreement, we reserve the right to temporarily or permanently suspend your access to the Online Trading Facility, software, your Account(s), and/or terminate the Agreement, and/or take any other actions as we may see fit in the circumstances.

## **5. Risks Associated with the Services**

***Trade Responsibly: CFDs are derivative financial products that are traded on margin. Trading on margin carries a significant level of risk since leverage can magnify your profits as well as your losses. Thus, CFDs may not be suitable for you as you may lose all your invested capital. You should not risk more than you are prepared to lose. If you are unsure about trading, you may wish to seek independent advice first. Please also read carefully our Risk Disclosure notices for further details on the risks of trading CFDs.***

- 5.1 All investment is subject to risk and the degree of risk is a matter of judgement and cannot be accurately pre-determined.
- 5.2 Trading in derivatives is generally regarded as involving a high degree of risk compared with other common forms of investment such as recognised (regulated) collective investment schemes (regulated funds) and trading in listed debt and equity securities.



- 5.3 We give no warranty, representation or promise as to the performance or profitability of your Account with us or your investments or any part thereof. Past performance is not a guide to future performance.
- 5.4 The value of investments and the income derived from them can fall as well as rise and is not guaranteed. No investment guarantees any profit or freedom from loss.
- 5.5 We are not required to conduct any continuous monitoring related to the performance of the Transactions entered into by you. We cannot be held responsible for any Transactions that may develop differently from how you might have expected.
- 5.6 A further detailed explanation of the risks associated with using our Services and trading on the Trading Platform can be found in the Risk Disclosure Notice which is available on our website at: [www.xm.com/mena](http://www.xm.com/mena).

## **6. No Advice provided**

- 6.1 As stated in section 4 above, we only offer an execution only service. This means that we do not provide advice or any advisory service. Therefore, any investment decision is taken exclusively by you alone and, should you require any advisory Services, you must rely upon your own financial advisors.
- 6.2 You must refrain from asking us for investment advice relating or to make any statement of opinion to encourage you to trade a particular Financial Instrument, as we are not authorised to offer these services.
- 6.3 We may at our own discretion, provide information for any products and Services which you have enquired, particularly regarding procedures, risks attached, ways of minimising risk and any factual market information. However, we are not obligated to disclose such information to you and in the event of us supplying such information it will not constitute investment advice.
- 6.4 If an employee of the Firm makes a statement of opinion (whether in response to your request or otherwise) you agree that it will not constitute as investment advice.
- 6.5 Any explanation provided by us as to the terms of a Transaction or its performance characteristics does not amount to advice on whether or not you should make an investment or on the merits of making such an investment.

## **7. Capacity**

- 7.1 We will be your counterparty in respect of every Transaction. Further details as to how we will execute a trade are contained in clause 18 of these terms.
- 7.2 We will treat only you as our Client under this Agreement, and we have no obligation and accept no liability to any other person for whom you may be acting as an agent, intermediary or fiduciary (whether or not the existence or identity of such person has been disclosed to us), and your obligations to us shall not be diminished in any way by reason of your so acting.
- 7.3 If you wish to authorise anyone else to give instructions and trade on your Account on your behalf, you must notify us of this, and follow the procedures set out below:
  - Provide us with an original copy of a formal power of attorney in relation to that person, and authorising them to act on your behalf; and
  - Provide any other due diligence material that we may reasonably request.



- 7.4 We may, in our reasonable discretion, decline or revoke our consent and we shall not be obliged to inform you of the reason.
- 7.5 You will be responsible for any activity in your Account and we will have no duty to monitor trades performed by an authorised person.
- 7.6 Unless and until we are informed in writing that such authority has been withdrawn, any action taken by us in conforming to any instructions given under such authority will be binding on you. However, we reserve the right to void any such Transactions if we consider, acting reasonably, that such action is appropriate. We also reserve the right, at our reasonable discretion, to cease trading at any point with someone acting under a power of attorney.

## **8. Client Categorisation**

- 8.1 We shall treat you as Retail Client in accordance with the DFSA Rules, as amended from time to time, subject to you meeting the criteria to be treated as either a Professional Client or a Market Counterparty. You may request a different client categorisation from the one we have allocated to you, yet, we have the right to decline your application or close your account, if, in our sole discretion, we believe that the categorisation you have requested is not appropriate.
- 8.2 Where we have determined that you meet the criteria to be treated as a Professional Client or a Market Counterparty you may request to be re-categorised in order to be treated as a Retail Client, in writing. Should your circumstances change, you are responsible for notifying us of the changes without undue delay.
- 8.3 The client category will determine the level of protection afforded to you under the Applicable laws and regulations. A Retail Client is afforded with the highest regulatory protections available. We will notify you in writing about your entitlement of certain regulatory protection(s) prior to agreeing to a re-categorisation request. If we elect to treat you, or you request to be treated differently, then we will communicate to you a separate set of conditions.
- 8.4 We will review the Client Categorisation in accordance with the applicable rules and legislation and may amend it if required. You will be notified in writing in the event of any change which may affect you.
- 8.5 For further information, please ensure that you thoroughly read our Client Categorisation Policy, which can be found on our website.

## **9. Account Opening**

- 9.1 For us to ensure that the Services we offer are suitable for you, we will rely on the information you provide to us. The information you provide must be truthful, accurate and not misleading. Information provided in the Client Application Form in respect of your knowledge and experience must be provided and be wholly accurate (as is further detailed in clause 10 below). Based on the information provided by you, and in accordance with the applicable rules, as currently in place or amended from time to time, we will make an assessment of whether you have sufficient knowledge and/or experience to understand the risks associated with trading OTC derivatives. The acceptance of your Account will be subject to the outcome of this assessment. We may ask for additional information as evidence to further prove that the information you have provided is factual.
- 9.2 Following receipt of your "Client Application Form", we may use the information you have provided us to conduct any further enquiries about you as we may deem necessary or appropriate in the circumstances. This includes, but it is not limited to, verifying your identity information, obtaining references from third parties such as financial institutions or your employer. We may also conduct other searches with third-party information providers and databases (public or otherwise), including



credit searches which may appear on your credit history. You understand that we may conduct these enquiries at any stage of the relationship, and we expect you to assist us with any additional information we may require, as failure to do so may lead to termination of the relationship between you and us.

- 9.3 Where we accept your application to open an Account, we will confirm this to you by e-mail and we will provide you with details to access your Account, specifically your Account number and password (the '**Access Codes**'). Acceptance of you as a Client is a no guarantee that any further Account with us will be accepted.
- 9.4 If there is a change in your personal or other relevant circumstances detailed in the Client Application Form, you must immediately notify us of the change in writing.
- 9.5 We may periodically review your classification and/or the appropriateness of the Services for you (subject to complying with regulatory requirements) and reclassify you if necessary.
- 9.6 In providing the Services under this Agreement, we will not be subject to any additional duties which oblige us to accept responsibilities more extensive than those set out in this Agreement.

## **10. Appropriateness**

- 10.1 In offering our products/Services to you, we are required to assess whether these are appropriate for you and you are suitable to deal in the products/Services we provide (i.e., OTC derivatives) by requesting from you certain information and/or documentation, relating to your experience and knowledge of trading such products, which will help us assess whether you understand the risks associated with dealing in them.
- 10.2 Generally, we will ask you for this information during the Account opening procedure in the Client Application Form, but we may need to ask you for additional information in the future, for example (but not limited to), if you decide to deal in a new product type or sector.
- 10.3 If you do not provide sufficient information to allow us to carry out the appropriateness assessment, or do not provide any information at all, we will be unable to assess whether you have the necessary knowledge and experience to understand the risks involved, what is appropriate for you or is in your best interests, and you may not be allowed to use our Services.
- 10.4 If, on the basis of the information that you have supplied to us in relation to your knowledge and experience, we consider dealing in the particular instrument/product is not appropriate, we will warn you of this. Following this warning, if you still wish us to proceed with the Services, we may allow you to do so, at our sole discretion.
- 10.5 If in doing so, you should note that these products may be unsuitable for you and you may be exposing yourself to risks that fall outside your knowledge and experience and/or which you may not have the knowledge or experience to properly assess and/or control.

## **11. Payments and Deposits of Funds**

- 11.1 You may make payment due to us by use of an approved debit card, bank wire, or any other method specified by us. We may refuse to accept payment by a particular method and/or request that you use alternative method of payment.
- 11.2 We do not accept payment via credit cards.
- 11.3 Payments due (including Margin payments) will, unless otherwise agreed or specified by us, be required in pounds, euros or US dollars.



- 11.4 We do not accept payments from, or make payments to, any third parties. We do not accept payments or deposits in cash.
- 11.5 Any payment made to us will only be deemed to have been received when we receive cleared funds. You are responsible for ensuring that payments made to us are correctly identified, specifying your Account details and any other required information.
- 11.6 You are responsible for all third party electronic (or other) transfers or other bank fees in respect of payment as well as any fees or charges imposed by us.
- 11.7 In some circumstances, we may ask you to provide additional documentation in order to prove the origin of your deposit and your ownership of the destination bank account or debit card in order to protect you and us against fraud.
- 11.8 You must pay any amount payable in respect of any Transaction executed with or through us on the due date regardless of any right of equity, set-off or counterclaim which you may have or allege against any of us or any Associate of ours or other person connected with us.
- 11.9 Debit card payments may be submitted for processing as a single payment or two partial payments that together equal the agreed payment/deposit amount.
- 11.10 We reserve the right to impose deposit limits and deposit fees in our systems, at any time (e.g., in the event we detect any form of abuse, fraud, or any other form of deceitful or potentially fraudulent activity in the Client's Account(s)).
- 11.11 At our sole discretion, we determine whether to accept payments from you under this Agreement. We will ensure to follow our duties under laws regarding the prevention of fraud, countering terrorist financing, insolvency, money laundering and/or tax offences. Thus, we may at our absolute discretion having regard to the law, reject payments from you or a third party and return funds to source. In particular, we may not accept payments from a bank account if it is not evident to us that the bank account is in your name.
- 11.12 When you open a trade or deposit money into your account in a Currency, which is not in your Base Currency; it is your responsibility to ensure you are aware of the Currency that is designated as your Base Currency.
- 11.13 Some activities you conduct, will result in profit/loss being accrued in a Currency other than your Base Currency.
- 11.14 From time to time, we may provide information to you which presents your multicurrency balances in the equivalent value of your Base Currency. We will use the exchange rate at the date and time the information was produced. It must be noted; the balance on the account have not been physically converted and is for information purposes only.
- 11.15 Unless agreed by you, we will set your Account as default; to be set to immediate conversion of non-Base Currency balances standing on your Account to your Base Currency. This means that following a non-Base Currency position being closed, rolled over or expiring, the profits or losses from that trade will be automatically converted to your Base Currency and posted to your Account in that Base Currency. We will also, by default, automatically convert any non-Base Currency adjustments or charges to your Base Currency, before such adjustments or charges are booked on your Account and we will automatically convert any money received from you in a non-Base Currency into your Base Currency.
- 11.16 The conversions will be made in accordance to this Agreement and will be made at an exchange rate not more than +/-0.5% of the Inter-Day market rate at the time of the conversion.



- 11.17 At our sole discretion, we reserve the right to change the way in which we manage and/or convert your non-Base Currency balances at any time in the future by providing you with 10 business days prior notice.
- 11.18 We are not obligated to process any money to you, if that would reduce your Account balance, which could have an effect on your Margin payments on your open positions. If you do not make such a request, we are under no obligation to (but may), at our absolute discretion, remit such monies to you. All bank charges arising will, unless otherwise agreed, be debited from your account.
- 11.19 The manner in which we remit monies to you will be at our absolute discretion and our duties under the law regarding the prevention of fraud, countering terrorist financing, insolvency, money laundering and/or tax offences. We will remit money in the same method and to the same place from which it was received. However, in exceptional circumstances we may, at our absolute discretion, consider a suitable alternative.
- 11.20 Trading Point Mena will be responsible for providing the service to the Client, while Trading Point of Financial Instruments Limited, an affiliate company of Trading Point Mena, will be providing the card processing services for all card deposits.

## **12. Client Money**

- 12.1 Any money received by us in respect of your Account shall be treated as Client Money in accordance with the DFSA's Client Money Rules.
- 12.2 Any money you transfer to us or which is transferred to us on your behalf being Client Money will be held with a bank acting reasonably and in accordance with the DFSA Client Money Rules. Such funds may be held in Client segregated Account(s) within or outside the DIFC and/or within or outside the United Arab Emirates and the European Economic Area ("EEA"), separated from the Firm's own funds.
- 12.3 We shall store and maintain books and records of the Client Money held on your behalf. We will provide you with statements of the Client Money that we hold on your behalf in accordance with the Client Money Rules. You may request a statement at any time, however; we may charge an administration charge to cover our costs, subject to you agreeing.
- 12.4 Your money will be segregated from the Firm's own money in accordance with the requirements of the Client Money Rules and in the event of our insolvency, it will be excluded from our money, subject at all times to the relevant legislation and regulatory provisions.
- 12.5 Where monies are held outside of the DIFC or the UAE the legal and regulatory regime applying to any such bank or third party may be different from that of the UAE and in the event of the insolvency or any other equivalent failure of that bank or third party, your money may not be as effectively protected as if your money is held with an equivalent bank or third party in the UAE. In the event of insolvency, winding up or other distribution event that results in a distribution of Client's money, such distribution will be subject to DFSA's Client Money Distribution Rules.
- 12.6 We will not be liable for the solvency, acts or omissions of any bank or other third-party holding money. This means that all Client Money is treated as belonging to our Clients and under no circumstance we will use it to meet any of our obligations, at any time. Your money will be pooled with money belonging to other Clients in a segregated account, which shall act as an omnibus account. Therefore, no single Client will have a claim against a specific sum in a specific account in the event of insolvency. Any Client's claim shall be against the Money held in the segregated account. In general, Accounts held with financial institutions, including omnibus accounts, face various risks, including potentially being treated as one account in case the institution defaults.





Under such circumstances, the enforcement of the national deposit guarantee scheme may apply without consideration of the ultimate beneficial owners of an omnibus account.

- 12.7 Your money will be lodged in the selected currency of your Account unless, and at our reasonable discretion, we have no Client account denominated in that currency and it is unduly burdensome for us to open such an account. In such case we will convert your money at the prevailing spot exchange rate and hold it in one of the segregated Client accounts. Your money will be adjusted each day to an amount at least equal to the original currency amount, translated at the previous day's closing spot exchange rate.
- 12.8 You will not be entitled to interest on any Client Money held with us, unless we expressly agree otherwise with you in writing.
- 12.9 We may release any Client Money balances, for or on your behalf, from Client bank accounts where:
- a) There has been no movement on your balance for a period of at least six years (notwithstanding any payments or receipts of charges, interest or similar items); and
  - b) We are unable to trace you after taking reasonable steps to do so in accordance with the requirements of the Client Money Rules, provided that we:
    - i. Shall make and retain records of all balances released from your Client bank account; and
    - ii. Undertake to make good any valid claims against any released balances.
- 12.10 Where any Obligations owing to us from you are properly due and payable to us, we shall cease to treat as Client Money so much of the money held on your behalf as equals the amount of those Obligations in accordance with the Client Money Rules. You further agree that we may apply that money in or towards satisfaction of all or part of those Obligations due and payable to us.
- 12.11 In the event that your Account(s) and/or our business covered by these Terms is transferred to another person (including one of our Affiliated Companies) in whole or in part, whether by way of an assignment of these Terms or otherwise, you authorise us to transfer any Client Money relating to the business being transferred to that person or someone nominated by that person to the extent permitted by the Agreement and the Client Money Rules, subject to the following:
- a) Any Client Money transferred shall be transferred on terms which require the other person to return the transferred sums to you as soon as practicable following your request subject to any liabilities for payment you may have to the other person under your agreement with the other person; and
  - b) The sums transferred shall be held by the person to whom they are transferred in accordance with the Client Money Rules for you; or
  - c) If the sums transferred will not be held by the person to whom they are transferred in accordance with the Client Money Rules for you, we will exercise all due skill, care and diligence in assessing whether the person to whom the Client Money is transferred will apply adequate measures to protect such monies.
- 12.12 Where we intend to transfer your Client Money under the terms of this clause, we will give you not less than ten (10) Business Days written notice and following any transfer, we will write to you within (7) calendar days to advise you (A) that the transfer has taken place; (B) whether or not the sums will be held by the person to whom they have been transferred in accordance with the Client Money Rules and, if not, how the sums transferred will be held; (C) the extent to which the sums transferred will be protected under a compensation scheme, and (D) that you may opt to have the transferred sum returned to you by the transferee as soon as practicable at your request. If you do not want your Client Money transferred in accordance with the terms of this clause you are entitled to



terminate these Terms before the transfer takes place in accordance with the provisions of clause 46 (Termination) of these Terms in which event we will not transfer your Client Money as notified and we will return your monies to you subject to your rights and obligations under the Agreement.

- 12.13 You agree that when opening a position, we have the right to transfer ownership of the amount equivalent to the Required Margin from your Account to us, which we will keep as a security in the event of a repayment obligation by you. Any Required Margin transferred shall be considered as our debt due to you and not as Client Money, therefore it will be returned to you on completion of your trade(s), subject to any repayment obligation by you. Irrespective of the above, note that the Balance, Equity, and free Margin of your Account(s) shall remain unaffected and you should be able to normally continue with your activity with us.
- 12.14 We will carry out reconciliation of funds at the close of each Business Day, and we will proceed with any required transfer to or from the Segregated Account on the next Business Day, unless this is not possible for any reason.
- 12.15 We will exercise reasonable skill, care and diligence in the selection, appointment and periodic review of the financial institutions with which we will hold Client Money, in accordance with our regulatory obligations. To this end, we take into account the credit rating of the institution(s) prior to depositing any Client Money and take reasonable steps to periodically monitor their credit risk. We may use multiple institutions to ensure diversification and allocate internal percentage limits for each institution we decide to use.
- 12.16 You have the right to withdraw any part of the funds equal to the free Margin available in your Account(s), subject to any applicable restrictions regarding its operation, and any other right or limitation on such withdrawal. We reserve the right to reject a withdrawal request in instances where we have reasonable grounds to believe that said instruction is being placed to abuse our Negative Balance Protection Policy ('NBP').
- 12.17 Any transfers shall only be effective after our systems have made the relevant credit or debit of the funds to the relevant Account(s), and whilst we will make all reasonable efforts to ensure any transfers are made effective in a timely manner, we cannot guarantee how long this process may take. We will not be liable for any delays or other losses that may arise if, for instance, you provided us with wrong or incomplete information.
- 12.18 Any monies you transfer to us for the purposes of funding your Account shall be deposited in on the value date, net of any transfer fees or other charges imposed by the financial institution(s), or any intermediary involved in the process of sending or receiving the funds. We may, at our sole discretion and under no obligation, credit funds which are still in transfer before the value date to your Account. We shall not be held liable for any delay where the cause is outside of our control.
- 12.19 We reserve the right to request additional information and/or documentation in order to be satisfied that your dealings with us, including, but not limited to deposits and withdrawals are legitimate and/or for any other reason to comply with our regulatory obligations. You understand and accept that under such circumstances there may be a delay with processing the transaction, and/or the transaction may be rejected.
- 12.20 Further, where we are not satisfied as to the above and reject an incoming transaction, we reserve the right to return the funds to the sender net of any transfer fees or charges which we may incur. Any refund will be sent to the same source from where the funds were received. We will only deviate from this policy where we believe, at our sole discretion, that this is necessary.
- 12.21 Where we are required to do so by law and/or any applicable rules, we reserve the right to deduct any amount from your Account(s).



12.22 We reserve the right to set-off any liability of yours under this Agreement, whether present or future, liquidated or unliquidated. Where the liabilities to be set-off are expressed in different currencies, we may convert said liabilities at a market rate of exchange.

12.23 Where we net-off any amount due by deducting it from your Account(s), we will consider the obligation as satisfied and discharged. We reserve our rights on any obligation which cannot be considered satisfied.

### 13. Margin and Leverage

13.1 "**Margin**" is the amount of funds which you are required to deposit with us in order to enter into Transactions.

13.2 "**Margin Call**" is a request issued by us to increase the Margin deposited in your Account in order to secure the open positions/Transaction. Margin Call is triggered when your Account equity drops below 100% of the Margin required to maintain your open positions/Transaction. The Margin Call is a red-coloured warning notice in your platform, warning you that the equity in your trading account is not enough to support your open positions. At this point, you will not be able to open any new positions and you will have to either increase the 'equity' in your trading account by depositing additional funds and/or close some or all your open positions.

13.3 "**Stop-out**" is the situation where the Account's equity drops below the Margin level required to maintain open positions/Transactions or where the equity of a hedged Account enters into a negative territory and our trading platform starts to automatically close the open positions/Transactions (starting from the least profitable position/Transaction and until the Margin level requirement is met). For all Accounts the Stop-out level is 50% of the Margin required to maintain your open positions/Transaction.

13.4 As a condition of entering into a Transaction, you need to satisfy our Margin requirements. We may decline to open any Transaction if you do not have sufficient Margin in your Account at the time the relevant order is placed.

13.5 Our trading platform operates with an automated risk monitoring, Margin Call and Stop-out facility designed to monitor the overall utilization of your available collateral in support of our prevailing Margin requirements for the Transactions you are entering into.

13.6 You also have a continuing Margin obligation to us to ensure that, at all times during which you have open Transactions, you ensure that your account balance, taking into account all realised and/or unrealised profits and losses ("P&L") on your account, is equal to at least the Initial Margin that we require you to have paid to us for all of your open Transactions. If there is any shortfall between your account balance (taking into account P&L) and your total Initial Margin requirement, you will be required to deposit additional funds into your account. These funds will be due and payable to us for our own account, immediately on your account balance (taking into account P&L) falling below your Initial Margin requirement. If at any time your account balance is not sufficient to cover the Margin requirement on your open Transactions, you must immediately place additional funds on your account in order to fully cover the Margin required.

13.7 You must provide to us on demand such sums by way of Margin as we may in our reasonable discretion require. We may, in some circumstances, require higher margin depending on market conditions, market circumstances, total equity of all Accounts held with our Company, or due to the size and/or volume of your trading activity with our Company.

13.8 Different Margin requirements may apply to different Accounts and/or Financial Instruments traded, therefore; the initial margin for such activities would fluctuate depending on the contract size. Further



information on the different margin requirements, as amended from time to time, can be found on our website at: [www.xm.com/mena](http://www.xm.com/mena).

- 13.9 The Agreement does not limit or restrict our rights to seek further Margin from you, in relation to any Open Positions, at any time.
- 13.10 Failure to pay Margin when required will entitle us to close out some or all of your positions and/or call an Event of Default. This may result in you making a loss on your Transactions.
- 13.11 We are under no obligation to make a Margin Call or to close out any Transactions or take any other action in respect of positions opened or acquired on your instructions and in particular, no failure by you to pay Margin when demanded will require us to close out any such Transaction.
- 13.12 All Margin and other payments due by you to us pursuant to this Agreement shall be made in freely transferable funds in such currency and to such bank account(s) as we specify. If you are by law required to make any deduction or withholding in respect of taxes or otherwise, then you will be liable to pay such amount to us as will result in our receiving a net amount equal to the full amount which would have been received had no such deduction or withholding been required.
- 13.13 Any sums due to us from you pursuant to this Agreement may be deducted from your Margin balance on reasonable notice to you.
- 13.14 We may, in our reasonable discretion, change our Margin requirements at any time.
- 13.15 We may, in our reasonable discretion, temporarily require higher Margin (compared to the normal Margin requirements of the Client's account) for any specific or all financial instruments in the following cases of market disruption:
- Prior to and/or during Friday market closure.
  - Prior and/or during any other market closure for any specific or all financial instruments.
  - Prior and/or during to any major news announcements, such as, but not limited to, the Nonfarm Payroll announcement made by the United States Department of Labour.
  - Prior and/or during any anticipated abnormal market conditions and/or market disruptions.

The above temporary increases to the Margin requirements are only intended to affect new Orders placed following the implementation of the new Margin requirements and will not affect any Orders which have been placed prior to the implementation of the new Margin requirements.

- 13.16 The Firm may at any time and from time to time amend the leverage ratios (i.e., decrease the leverage ratios) in its sole discretion and without any notice on a case by case basis on all or any Accounts of the Client and based on any parameter it chooses, including applying different leverage ratios to different investments or times or in relation to external events such as government announcements or any news. Any change in the leverage ratio may take effect before or after an Order is completed. A decrease in the leverage ratio will affect your Margin Level, Margin Call Level, Stop-out Level and may trigger a Margin Call. We will not be liable to you for any loss arising from any change in the leverage ratios, even if that automatically causes any or all of your trading positions to be closed out or if your Account is treated differently from other clients' Accounts. Any monitoring by the Firm is for its compliance and risk management and you should not rely on the Firm to monitor your trading or the effect of any change in the leverage ratios applying to your Account.

**Negative Balance Protection:** Means the limit of a Client's aggregate liability, for all CFDs connected to a trading Account with the Company, to the funds in that Account. Trading in leveraged financial instruments involves significant risk on your invested capital. However, the Firm applies a Negative Balance Protection policy, on a per account basis, which aims to ensure that your



maximum losses from trading CFDs, including all related costs, are limited to the total funds in your trading account (i.e., no additional liability incurs). This should include any funds yet to be paid into your Account(s) due to net profits from the closure of open trades connected to your trading account.

Notwithstanding the above, any indication or suspicion, in the Firm's reasonable discretion, of any form of arbitrage performed in your trading account either solely or in connection with other clients of our company (including but not limited to risk-free profiting), abuse (including but not limited to participant's trading activity patterns that indicate that the participant solely aims to benefit financially without being genuinely interested in trading in the markets and/or taking market risk), internal hedging in coordination with other parties and abuse of our 'no negative balance', constitute a violation of these Terms and Conditions. In such cases, we reserve the right, among others, NOT to apply our Negative Balance Protection policy and transfer any or all funds you may have in a different trading account to set-off the obligations (e.g., negative balance) that have occurred to the other account used for any abusive acts.

#### **14. Trading Platform**

- 14.1 In order to use our trading platform, you will need to set up a user name and password from us. You will need to enter the password each time you wish to use the trading platform.
- 14.2 You are responsible for ensuring that you are able to access our software when you need to and, in the times, when it is available. Your responsibility extends to ensuring you have access to a reliable internet connection, and maintaining any devices used to this end. The software, which may have been developed by a third party, is provided 'as is'. We will ensure, but cannot guarantee, that the software supports data security protocols compatible with those used by the Firm. We also cannot guarantee that the software is free of any errors or deficiencies.
- 14.3 You will place trades and give other Instructions via our trading platform.
- 14.4 It is your obligation to keep your account numbers, usernames and passwords ("Access Credentials") strictly confidential and you must not disclose these to any third party without our written consent.
- 14.5 Where we do provide such consent, any instructions, orders or Transactions entered into by that third party will be treated by us as being entered into by you.
- 14.6 You authorise us to act on any Instruction given or appearing to be given by you using your Access Credentials and received by us in relation to our Online Trading Facility.
- 14.7 You acknowledge and agree that any instruction or communication transmitted via our trading platform by you or on your behalf is made entirely at your own risk.
- 14.8 You will immediately notify us if you become aware of the loss, theft or disclosure to any third party or unauthorised use of your account number(s), user name(s) or password(s).
- 14.9 There may be restrictions on the total value and/or number of trades that you can enter into on any one day and also in terms of the total value and/or number of those trades when using our trading platform.
- 14.10 The Trading Platform does not support negative prices of Financial Instruments. In the unlikely event of the price of any Financial Instrument reaching zero (0) or going below, the Trading platform will automatically start closing any open positions at the current market price.



- 14.11 We will endeavour to make the software and any other systems available when required by you, but we cannot guarantee their continuous availability at all times for the following reasons, including but not limited to:
- a) Failures and/or errors, including of technological nature such as failure with internet connectivity which may affect the access to the software, which either you or we rely on, and which are outside our reasonable control;
  - b) Suspension of service availability due to maintenance, repairs, updates, developments and other issues outside of our control. We will exercise reasonable efforts to carry out such activities outside normal trading hours. Where this is not possible, we will endeavour, within reason, to provide you with prior notice;
- 14.12 Under abnormal market conditions, CFDs may fluctuate rapidly to reflect unforeseeable events that cannot be controlled either by us or by you. Such circumstances may limit partially or fully your ability to trade.
- 14.13 We shall not be liable for any claims, losses, damage, costs or expenses, caused directly or indirectly, by any breakdown or failure of any transmission or communication system or computer facility belonging to us (including, but not limited to transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers), nor for any loss, expense, cost or liability suffered or incurred by you as a result of Instructions being given, or any other communications being made, via the Internet. You acknowledge that access to our trading platform may be limited or unavailable due to such system errors, and that we reserve the right upon notice to suspend access to our trading platform for this reason.
- 14.14 Unless otherwise indicated or agreed upon any prices shown on our trading platform are indicative at the time shown based on data that is subject to constant change. The execution price is that which is confirmed to you after your order is executed, although this price may in certain cases differ from the price appearing on the screen at the time the trade was placed. In the event that an erroneous price is used as the basis of any Transaction, we reserve the right, at our reasonable discretion, to amend or revoke the details of the trades in question.
- 14.15 Without prejudice to any other terms of this Agreement, the following clauses shall apply to the Services we provide via our Trading Platform:
- System errors: please see clause 14.9 and 14.10 14.12above;
  - Delays: Neither we nor any third-party software provider accepts any liability in respect of any delays, inaccuracies, errors or omissions in any data provided to you via our trading platform;
  - Viruses from our trading platform: We shall have no liability to you (whether in contract or in tort, including negligence) in the event that any viruses, worms, software bombs or similar items are introduced into your computer system(s) via our trading platform or any software provided by us to you in order to enable you to use our trading platform, provided that we have taken reasonable steps to prevent any such introduction.
- 14.16 Without prejudice to any other provisions of this Agreement, we shall be entitled, at our reasonable discretion, unilaterally and with immediate effect, to suspend or withdraw permanently your ability to access and/or use our trading platform, or any part thereof, where we consider it necessary or advisable to do so, for example due to:
- your non-compliance with any applicable laws, rules and/or regulations;
  - breach of any provisions of this Agreement;
  - on the occurrence of an Event of Default;



- network problems;
- failure of power supply;
- maintenance;
- to protect you when there has been a breach of security.

Where possible, we will provide you with notice in advance of any such suspension or withdrawal.

- 14.17 The Firm has no obligation to accept, or to subsequently execute or cancel, all or any part of a Transaction or any Instruction that you seek to execute or cancel through our Online Trading Facility. Without limitation of the foregoing, we have no responsibility for transmissions that are inaccurate or not received by us, and we may execute any Transaction on the terms actually received by us.
- 14.18 You acknowledge we have the right, unilaterally and with immediate effect, to suspend or terminate (at any time, with or without cause or prior notice) all or any part of our Online Trading Facility, or your access to our Online Trading Facility, to change the nature, composition or availability of any Online Trading Facility, or to change the limits we set on the trading you may conduct through our Online Trading Facility.
- 14.19 Where we grant you access to our Online Trading Facility we shall grant you, for the term of this Agreement, a personal, limited, non-exclusive, revocable, non-transferable and non-sub-licensable licence to use that Online Trading Facility pursuant to and in strict accordance with this Agreement. We may provide certain portions of our Online Trading Facility under licence from third parties, and you will comply with any additional restrictions on your usage that we may communicate to you from time to time, or that are otherwise the subject of an agreement between you and such licensors.
- 14.20 The Firm is providing the Online Trading Facility to you only for your personal use and only for the purposes, and subject to the terms, of this Agreement. You may not sell, lease, or provide, directly or indirectly, any Online Trading Facility or any portion of any Online Trading Facility to any third party except as permitted by this Agreement. You acknowledge that all proprietary rights in our Online Trading Facility are owned by us or by any applicable third party licensors or service providers engaged by us to provide an Online Trading Facility, and are protected under copyright, trademark and other intellectual property laws and other applicable law. You receive no copyright, intellectual property rights or other rights in or to any Online Trading Facility, except those specifically set out in this Agreement. You will protect and not violate those proprietary rights in our Online Trading Facility and honour and comply with our reasonable requests to protect our and our third party service providers' contractual, statutory and common law rights in our Online Trading Facility. If you become aware of any violation of our or our third party service providers' proprietary rights in any Online Trading Facility, you will notify us in writing immediately.
- 14.21 You will not use any automated software, algorithm or trading strategy other than those that we make available to you on our Online Trading Facility without our prior written consent. If we agree to allow you to use any such techniques, you agree that we may require you to comply with certain conditions in connection with your use of such techniques and that we may withdraw our consent at any time without prior notice to you.
- 14.22 In the event that you receive any data, information or software via an Online Trading Facility other than that which you are entitled to receive pursuant to this Agreement, you will immediately notify us and will not use, in any way whatsoever, such data, information or software.
- 14.23 With respect to any market data or other information that we or any third party service provider provide to you in connection with your use of our Online Trading Facility, you agree that: (a) we and any such provider are not responsible or liable if any such data or information is inaccurate or incomplete in any respect; (b) we and any such provider are not responsible or liable for any actions that you take or do not take based on such data or information; (c) you will use such data or information solely for the purposes set out in this Agreement; (d) such data or information is



proprietary to us and any such provider and you will not retransmit, redistribute, publish, disclose or display in whole or in part such data or information to third parties except as required by Applicable Laws and Regulations or as agreed between us; (e) you will use such data or information solely in compliance with the Applicable Laws and Regulations; (f) you will pay such market data fees and any applicable Taxes (if applicable, for direct market access for example) associated with your use of an Online Trading Facility or use of market data as we inform you from time to time; (g) you will notify us if you are not or are no longer a non-professional user for market data purposes (further details about the definition of non-professional user are available from one of our employees on request); (h) we may require that you provide us with information in relation to you and your use or intended use of market data; (i) we may monitor your use of our market data; (j) we may require you to comply with certain conditions in relation to your use of market data; and (k) we may at our absolute discretion remove your access to market data at any time.

- 14.24 In addition to the above, in respect of certain types of Exchange data that you elect to receive via an Online Trading Facility, you hereby agree to any terms and conditions relating to the redistribution and use of such data that we may provide to you from time to time.
- 14.25 Certain Exchanges require that their Exchange data will not be viewed or accessed by you on more than one system at any one time. You warrant and represent that you will comply with any restrictions that we apply in relation to your access of any Online Trading Facility and ability to view Exchange data from time to time.
- 14.26 We may make available to you an Online Trading Facility provided by third parties (e.g. MetaTrader) ("Third Party Electronic Trading Services"). It is your sole responsibility to understand and evaluate the functionality of any such Third Party Electronic Trading Services before agreeing to download or access them or enter into Transactions with us using any Third Party Electronic Trading Services. Contact one of our employees to find out if a service is a Third Party Electronic Trading Service.
- 14.27 The Firm does not control, endorse or vouch for the accuracy or completeness of any Third Party Electronic Trading Services or their suitability to you. Third Party Electronic Trading Services are provided to you on an 'as is' basis, without warranty or guarantee of any kind, express or implied, including but not limited to the warranties of merchantability and fitness for a particular purpose.
- 14.28 It is a condition of your use of any Third Party Electronic Trading Services that you agree to any reasonable conditions that we place on the use of such products and pay any Charges and any applicable Taxes that we notify you of.
- 14.29 You use any Third Party Electronic Trading Services at your own risk. In no event will we be held liable for any claim, damages or other liability, including loss of funds, indirect losses (such as loss of profits), data or service interruptions, whether in an action of contract, tort or otherwise, arising from, out of or in connection with the use, operation, performance and/or error or malfunction of any Third Party Electronic Trading Service and/or any services provided by any Third Party Electronic Trading Service provider other than as a result of our fraud, wilful default or negligence.

## **15. Trading**

- 15.1 We offer trading in various financial instruments, which may be amended by us from time to time. Contract specification in relation to such instruments is posted on our website.
- 15.2 We will only accept Instructions transmitted via the means approved by us (i.e., our Online Trading Facility) and under certain circumstances, as determined within reason by us, accept Instructions via telephone or in person, provided that we are satisfied of your identity and of the clarity of the instructions. Orders via telephone will be accepted only if in our official language (i.e., English). It should be noted that the Firm reserves the right to reject such verbal orders when it is not satisfied with the Client's identify or clarity of the orders. The Client accepts that at times of excessive





transaction flow there might be delay in connecting over the telephone, especially when there are important market announcements.

- 15.3 You may place orders with us by giving us Instructions using our trading platform. We will not accept instructions received via email, SMS or using any other method of communication.
- 15.4 Where information has not been transmitted to us via approved means, or where you have misinterpreted any Instruction and/or information, it is your responsibility to make the necessary amendments and we will bear no responsibility for any loss, be it financial or of opportunity in connection to said instruction. We bear no responsibility for any loss that arises as a result of delayed or unreceived communication sent by us to you.
- 15.5 Once you have placed a trade, this will constitute an Open Position, and will remain as such until closed by you or us (or in the case of certain instruments with an expiry and which do not roll-over, through an elapse of time).
- 15.6 You accept that we reserve the right to accept, either in part or in full, or reject, any instructions from you; and we may, in our sole discretion execute an instruction received from you without any further enquiry, unless we deem it necessary.
- 15.7 We may, at our discretion confirm any Instructions received from you via any durable medium or telephone.
- 15.8 We may enter into a "Market Order" and/or a "pending order" with you. Please refer to our Order Execution Policy for more information about such orders.
- 15.9 The "Spread", which is the difference between the price at which we buy and the price which we sell each particular instrument, varies between financial instruments and markets, and it is determined solely by us (in our reasonable discretion) and can be changed at any time.
- 15.10 Price quotes (from which we price the instruments that we offer) are provided by our liquidity providers and may be different from those of other sources.
- 15.11 All prices are subject to confirmation by us. Due to the nature and speed of price changes, the onscreen price you see may not be available when executing your trade and, therefore, you trade may be executed at the best available market price.
  - We may take any reasonable steps for any trades executed at prices resulting from Manifest Errors (as defined in clause 22 below), such as computer errors, misquotes or omissions, or at prices that are clearly at odds with the fair market prices. Acting reasonably and in good faith, we may take the following actions to trades based on a Manifest Error:
    - void the trade;
    - close the trade at the current market prices; or
    - amend opening and/or closing price of the trade, as if it would have been executed in the absence of the Manifest Error.
- 15.12 When trading with us you will not be entitled to delivery of any underlying financial instrument and will not be required to deliver any underlying financial instrument.
- 15.13 Under certain circumstances or when required by law, we may report any of your trades to any regulatory body.
- 15.14 We reserve the right to amend the product specifications and conditions, as available from our Website from time to time, when we deem necessary. You shall ensure to remain updated with regards to our product specifications and conditions, as well as any other information which may be



of your interest, and you shall take all necessary actions to safeguard your interest where you believe you may be affected in any way by any such amendments. You understand that you will continue to be bound by the Agreement in the event of any of these amendments taking place. However, nothing in this clause shall affect your right to terminate the Agreement, without any penalty whatsoever, subject to any existing obligations.

15.15 You are solely responsible for any third-party software that you may use when performing trades with us and it is your responsibility to ensure that this software is right for you. We will not be able to advise on the selection of third-party software and we shall not be responsible in any way for trades performed using any third-party software.

15.16 We will not be liable to you for any loss, costs, claim, or expense resulting from our actions aimed correcting a Manifest Error.

## **16. Mobile Services**

16.1 We may allow you to use our services and access our trading platform through a mobile device.

16.2 Our mobile services will allow you (amongst other things) to:

- a) Open and close Transactions on your Account;
- b) Place orders on your Account; and
- c) Access other information related to your Account, such as your running profit and loss and cash balance.

16.3 However, our mobile services may not allow the same functionality, access to information and services which are available when not using a mobile device.

16.4 We will assume that any Instruction transmitted via a mobile device using your Account details has been transacted by you or by an authorised person and is therefore at your risk. You must immediately inform us if you are aware or suspect that a third party has had access to your Account credentials or password or if you suspect that any person other than you or any authorised person is dealing on your Account.

16.5 Due to the nature of mobile devices we do not warrant that the operation of our mobile services will be uninterrupted or entirely error-free. For example, due to service connectivity or internet connection difficulties endemic with mobile applications the mobile service may, from time to time, be subject to error or failure, with results that include, but are not limited to, the following:

- a) An inability for you to place Trades or orders;
- b) The mobile services delivering inaccurate information including price and/or quote information;
- c) A failure of your mobile device to receive any messages from us;
- d) You erroneously believing that you have placed a Transaction or order when our records Show that we have not accepted a Transaction or order from you or you erroneously believing that a Transaction or order request initiated by you has not been accepted by us when our records indicate otherwise; or
- e) You take actions on the basis of erroneous information displayed through the mobile service.

16.6 If as a result of the error or failure of the mobile service our internal records are at variance with your mobile records or own recollection, the version of events supported by our records will prevail and any obligations on either party shall be assessed on the basis that our internal records are correct.

16.7 We will not be liable in any way for any loss or damage suffered by you through access to or use of the mobile service or through any failure by us (or a third party) to provide access to the mobile service or through any incompatibility of the mobile service with any mobile device.



- 16.8 We do not accept any liability for damage to your mobile device or for any loss of functionality that results from your use of the mobile service and we cannot guarantee that any downloads are free from viruses or for any problems you experience with your mobile device or any other software.
- 16.9 We are not liable for any charges incurred by you in the use of the mobile service, whether the charge is raised by your mobile supplier or by any other party.
- 16.10 These mobile service terms (detailed in this clause) may be amended at any time by us. We will give notice of any changes via the mobile service and we may not provide you with any other individual notification of any changes.
- 16.11 We have the right to terminate your access to the Mobile services on the provision of reasonable notice and at our reasonable discretion.

## **17. Withdrawal of Funds**

- 17.1 Where you have a positive balance in your Account, and you have no Open Positions, you may request a withdrawal, for any amount of the positive balance. Where, however, you have a positive balance in your Account, and you have Open Positions, any withdrawal request which would cause the Margin level to drop below the minimum level, as specified in our Online Trading Facility, will not be accepted. Margin Level requirements may be higher in cases as referenced in clause 13.15 so as to avoid any possible withdrawal request to cause the Margin Level in your Account to fall below the minimum required level, as specified in our Online Trading Facility.
- 17.2 To withdraw your funds, you must submit a withdrawal request in the Member's Area of our website. All funds will be returned to the same source from which they were originally deposited, unless it is impossible. If the funds cannot be returned to the source, you will be asked to submit details of an alternative payment method and we shall return the funds as requested in part or in full, net of any transfer fees, charges or other deductions incurred by us; the Firm may request supporting documentation prior to proceeding with such withdrawals.
- 17.3 In the case you have used a debit card to fund your Account, when we are processing a request for withdrawal, irrespective to the payment method you instruct us to use, we will always return the funds, up to the total amount deposited, to the debit card used for deposit. In addition, in the case you have made multiple debit card deposits, either using one debit card or multiple cards, when we are processing a request for withdrawal, we will always return funds, up to the total amount deposited, in the same manner we received your deposits starting from the most recent going backwards to older deposits.
- 17.4 Upon submitting a withdrawal request, the funds will be removed from your Account. You should ensure that you have sufficient funds to maintain appropriate Margin levels prior to requesting a withdrawal. If you wish to cancel your request, you may do so before a withdrawal request had been processed. If you cancel your request, funds will be returned to your trading Account and, therefore, may be used to meet Margin requirements or be included in the liquidation value of any trades you have open.
- 17.5 We reserve the right to suspend your Accounts (including any withdrawal payments) if any regulatory body has queried about Transactions in your Account. Your Accounts will remain suspended until we receive further instructions from the regulatory body.
- 17.6 In case of a withdrawal/refund, even in the case where payments were processed as partial payments, you will be refunded the whole amount that you are eligible to withdraw/be refunded.
- 17.7 We may, at our reasonable discretion, withhold, deduct, or refuse to make a payment (in whole or in part). In such an instance, we will notify you in writing and include reasons.



- 17.8 We reserve the right to impose withdrawal limits and withdrawal fees in our systems, at any time (e.g., in the event we detect any form of abuse, fraud, or any other form of deceitful or potentially fraudulent activity in the client's account(s).
- 17.9 Further, we reserve the right to decline any funding and/or withdrawal request where we believe that such request may lead to a breach of any legal and/or regulatory obligation. This includes instances where we are not satisfied with the documentation provided by you. In this case, we reserve the right to reverse the transaction in part or in full, net of any transfer fees, charges or other deductions incurred by us. You understand that there may be instances where we will be unable to provide you with an explanation as to why we cannot proceed with your request.
- 17.10 We will take reasonable steps to ensure keeping you informed about the progress of any funding and/or withdrawal request, specifically in relation to processing times and any required documentation that if not in place may result in delays. Further information about the processing times can be found on our website, however, this information is provided for indicative purposes only. You understand that there may be instances where we cannot guarantee these times because of events outside of our control.
- 17.11 Where you receive money from us by mistake, you agree to hold such amount of money in trust for the benefit of the Firm or the beneficial owner. In the event you use any funds sent to you by mistake, we will have a claim on those funds, together with any profit derived from the use of those funds, on behalf of the beneficial owner. In the same way, we shall not compensate you for any losses incurred by you as a result of you using the said funds. The claim for the full amount shall remain.

## **18. Best Execution**

- 18.1 We will take all reasonable care to provide you with best execution in accordance with the DFSA Rules and all trades we enter into with you will be executed in accordance with the terms of our Order Execution Policy (as amended or extended from time to time) full details of which are available on our Online Trading Facility ("Order Execution Policy"), a copy of which can be found on our website at: [www.xm.com/mena](http://www.xm.com/mena). Our Order Execution Policy is part of these Terms and Conditions and is incorporated herein by reference, shall be applicable to all trades entered into by and between you and us, to the extent that it does not impose and/or does not seek to impose any obligations on us which we would not otherwise have.
- 18.2 The trading you conduct on the trading platform is not conducted on an Exchange or a market. The prices we offer on the trading platform might not be the best prices available and we may offer different prices to different users, as set out in our Order Execution Policy.
- 18.3 We may make a profit should the market price go against you and you crystallise (close) a position, resulting in a loss.
- 18.4 Although we are the counterparty to each of your Transactions, we may (but are not required to) limit our risk by immediately hedging (offsetting) your Transactions with another Transaction that we enter into with another party.
- 18.5 We will take steps to obtain the best price available as per our Order Execution Policy. This Policy may be amended from time to time by giving you (in the case of material changes) not less than 10 calendar days' written notice unless otherwise required in order to comply with any applicable law, rules or regulations.
- 18.6 We will consider the continued placing of orders by you to constitute your continued consent to our Order Execution Policy in effect at that time. The Order Execution Policy forms part of this Agreement.



- 18.7 We may quote prices on our trading platform at which we are prepared to deal with our Clients and such prices may or may not replicate the prices quoted and traded by other companies and / or their customers.
- 18.8 The prices quoted by other parties, providers or companies, etc., may not be relied upon by you in respect of your Account with us. We reserve the right to decline any quote or refuse to be bound to any contract, including those arising from any manipulation of the quoting mechanism or our Services generally, notwithstanding our undertaking to provide a clear and fair service to you at all times.

## **19. Instructions / Security, Authenticity and Access**

- 19.1 You may place orders with us and give us electronic Instructions via our trading platform.
- 19.2 If you wish to authorise anyone else to give Instructions on your behalf, you must notify us and adhere to the procedures set out in clause 7 above.
- 19.3 We shall be entitled to rely and act upon any Instructions which we reasonably believe to be from you or from any other person authorised to act on your behalf which we have accepted in good faith.
- 19.4 We may acknowledge your Instructions by such means as we consider appropriate whether orally, by actual performance or otherwise.
- 19.5 If, under any circumstances, you reveal your Access Codes to any person, whether intentionally or unintentionally, we shall bear no responsibility for any loss that may arise, including, but not limited to financial loss and/or loss of opportunity due to your actions and/or omissions.
- 19.6 You are responsible for keeping any information regarding your dealings with us, private and confidential. We will bear no responsibility in the event that any person attains unauthorised access to any information regarding your dealings with us, where that information is:
- held by you;
  - being transmitted via electronic or any other means, by you to the Firm and/or any other party authorised by us;
  - being transmitted via electronic or any other means, by us to you and/or any authorised representative.
- 19.7 You must notify us as soon as possible if you become aware of your Access Codes or any other information regarding your dealings with us being used or becoming known by any person without your authorisation. You accept that we are unable to identify any instances where a person, other than yourself or your authorised representative (where applicable), is accessing our software with your credentials without your express consent.
- 19.8 Any Instruction sent by you shall only be deemed to have been received, and therefore be a valid Instruction, when we have confirmed to you either orally or electronically through the trading platform.
- 19.9 A valid instruction will not be a binding Transaction between us until an Instruction is accepted, executed, recorded and confirmed by us via the trading platform. Transmission of an order by itself shall not give rise to a binding Transaction between you and us.
- 19.10 Once given, trades and instructions are irrevocable, and Instructions may only be withdrawn or amended with our consent. We are under no obligation to reverse trades or instructions. A trade becomes effective when you receive an onscreen confirmation from us.



- 19.11 If we need clarification in relation to any of the Instructions you (or anyone acting on your behalf) have provided to us, or if we fail to receive the instructions during normal business hours, or in reasonably sufficient time for us to act on them, you acknowledge that there may be a reasonable delay in us acting on your Instructions.
- 19.12 You shall promptly (and in any event within any reasonable time limit imposed by us) give any Instructions we may reasonably request from you in respect of any Transactions or other matters in relation to which we have accepted your instructions to act. If you do not do so, we may in our reasonable, discretion take any steps at your cost which we consider appropriate for our or for your protection.
- 19.13 We may, in our reasonable discretion, refuse to accept or act in accordance with any Instructions, for example (but not limited to) where we consider there may have been an unauthorised use of your Account, or in order to comply with any applicable laws or regulations. If we decline an Instruction, we will take reasonable steps to notify you promptly of this but subject to this will not be liable for any failure to accept or act on such instructions.
- 19.14 We will not be obliged to effect any Transaction nor do anything else, or refrain from doing anything, which we, in our reasonable opinion, believe would breach any statute, law or regulation to which we are subject.
- 19.15 You acknowledge that we may at our discretion, decide to require your Instructions to be submitted via our Online Trading Facility.
- 19.16 We reserve the right to revoke your access and/or the access of any authorised representative to our Online Trading Facility at any time, where we deem necessary.

## **20. Netting Agreement**

- 20.1 All trades between you and us are entered into in reliance on the fact that this Agreement and all trades form a single agreement between the parties, and that we would not otherwise enter into any trades with you.
- 20.2 If we exercise our rights under this clause, all payment obligations will consolidate into a single obligation for us to pay a net sum to you, or for you to pay a net sum to us.
- 20.3 If the aggregate amount that is payable by one Party exceeds the aggregate amount that is payable by the other Party, then the Party by whom the larger aggregate amount is payable shall pay the excess to the other Party and the obligations to make payment of each party will be satisfied and discharged.
- 20.4 Where the Company identifies or determines, at its reasonable discretion, that you engaged in any form of arbitrage or abuse, either solely or in connection with other clients of our company (including but not limited to risk-free profiting), to solely benefit financially without being genuinely interested in trading in the markets and/or taking market risk), it may, at its sole discretion, exercise its rights under this Agreement, without Your authorization or prior notice, and close your Open positions and/or close your Account, combine and consolidate your Account with any or all other Accounts held in your name with the Company (including any Account that you hold with any Affiliated Company), and set-off against each of your Account's balance (including profit or losses on Open Positions).
- 20.5 If the client relationship is terminated, then the claims that the Parties have against each other shall be finally discharged by means of netting (closed). The value of any open positions shall be determined according to the principles set forth below and the final amount to be paid by one of the Parties shall be the net difference between the payment obligations of the Parties.



20.6 This netting agreement shall be binding on all Parties to this Agreement and on the estate and/or creditors of all Parties to the client relationship under this Agreement.

## **21. Reporting Transactions and Account Statements**

21.1 In accordance with the Applicable Laws and Regulations, we will provide information about each Transaction that we open or, as the case may be, close for you by providing you with a confirmation statement. Such statements will be sent to you via email and/or will be also available on our Online Trading Facility (i.e. trading platform) on or before the business day following the day on which the Transaction is opened or, as the case may be, closed.

21.2 You will be deemed to have acknowledged and agreed with the content of any confirmation statement and the details of each Transaction set out in any such statement that we make available to you unless you notify us to the contrary in writing within two business days of the date on which you are deemed to have received it.

21.3 Although we are not required to do so, we will endeavour to send out an electronic confirmation in respect of each Transaction as soon as reasonably practicable.

21.4 After executing a trade which closes out an Open Position, your confirmation will include a difference account, showing your profit or loss arising from the closing out which will be credited to or debited from your Account and due for immediate settlement.

21.5 Confirmations of Transactions are electronically transmitted or otherwise sent to you at your last known address, email address or fax number in our records will be deemed to have been received by you when sent to the relevant address.

21.6 Unless otherwise agreed we will send you a monthly statement of every account comprised in your Account which includes or may include uncovered Open Positions. Performance measurement will not be provided other than by special arrangement. The statement shall include details of the contents and value of your Account and Open Positions and such other information as may be agreed from time to time by us or as is required to be disclosed under the DFSA Rulebook.

21.7 Any confirmation, statement of Account, report or certificate issued by us in respect of any Transaction or other matter shall be conclusive and binding on you unless objection in writing is received by us within 10 Business Days of the actual or deemed delivery date.

21.8 Occasionally (whether due to human or technical errors), discrepancies may occur in our confirmations, statements of Account, reports or certificates. Provided that we advise you of such errors and / or discrepancies as soon as practical you will be bound by the relevant confirmation, statement of Account, report or certificate (as so corrected) irrespective of when the relevant error or discrepancy is discovered by us.

21.9 You will be deemed to have acknowledged and agreed with the content of any statement and the details of each Transaction set out in any Statement that we make available to you unless you notify us to the contrary in writing within two business days of the date from receiving your statement.

21.10 Our failure to provide you with a confirmation statement does not invalidate nor make voidable a Transaction that you and we have agreed and we have confirmed in accordance with this Agreement, provided however that in the event that you believe you have opened or closed a Transaction but we have not provided you with a confirmation statement in respect of that Transaction, any query in relation to the purported Transaction will not be entertained unless: (i) you notify us that you have not received such confirmation statement within two business days of the date on which you ought to have received the statement for the purported Transaction, and (ii) you



can provide accurate details of the time and date of the purported Transaction and supporting evidence, to our reasonable satisfaction, of the purported Transaction.

We may communicate with you by telephone, letter, email, text message or by posting a message on our Online Trading Facility and you consent to us telephoning you at any time whatsoever. We will use the address, phone or email address specified on your account opening form or such other address, phone or email address as you may subsequently notify to us or any email address allocated to you within our Online Trading Facility.

## **22. Manifest Errors**

- 22.1 A “Manifest Error” means a manifest or obvious misquote by us, or any market, exchange, price providing bank, information source, commentator or official on whom we reasonably rely, having regard to the market conditions at the time an Order is placed.
- 22.2 When determining whether a situation amounts to a Manifest Error, we may take into account all information in our possession including, without limitation, information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement.
- 22.3 We will, when making a determination as to whether a situation amounts to a Manifest Error, act fairly towards you but the fact that you may have entered into, or refrained from entering into, a corresponding financial commitment, contract or Transaction in reliance on an Order placed with us (or that you may have suffered or may suffer any loss of profit, consequential or indirect loss) shall not be taken into account by us in determining whether there has been a Manifest Error. We reserve the right, without prior notice, to:
- a) Amend the details of such a Transaction to reflect what we reasonably consider in our discretion, acting in good faith, to have been the correct or fair terms of such Transaction if the Manifest Error(s) had not occurred;
  - b) You do not promptly agree to any amendment made which we propose under this clause (which we will notify you of via the Trading Platform) we may void any Transaction resulting from or deriving from a Manifest Error, such that the result is the same as if it had never been made; and/or
  - c) Not take any action at all.
- 22.4 At our sole discretion, we reserve the right to either void from the outset or amend the terms of any Transaction containing or based on any error that we reasonably believe to be obvious or palpable manifest error, without your prior consent. Where we, at our own discretion, decide to choose to amend the terms of any Transaction which were as a result of Manifest Errors, the level(s) will be amended, as we reasonably believe would have been fair at the time the Transaction was entered into. In deciding whether an error is a manifest error, we will act reasonably and may take into account any relevant information including, without limitation, the state of the underlying market at the time of the error or any error in, or lack of clarity of, any information source or pronouncement upon which we base our quoted prices. Any financial commitment that you have entered into or refrained from entering into us, will not be taken into account in deciding whether or not there has been a Manifest Error.
- 22.5 We will not be liable to you for any loss, cost, claim, demand or expense that you suffer (including loss of profits or any indirect or consequential losses) resulting from a Manifest Error, including where the Manifest Error is made by any information source, commentator or official upon whom we reasonably rely, or from our decision to do anything under clause 22.3 above, except to the extent that it is caused by our own fraud, wilful default or gross negligence.





- 22.6 If a Manifest Error has occurred and we choose to exercise any of our rights under clause 22.3, and if you have received any monies from us in connection with the Manifest Error, those monies are due and payable to us with immediate effect, and you must return an equal sum to us without delay.
- 22.7 We reserve the right to refuse any trades placed by you that we judge to be clearly outside the prevailing market price such that they may be deemed non-market price transactions, whether due to Manifest Error or stale, incorrect or broken price feeds.

### **23. Market Abuse**

- 23.1 When we execute a Transaction for you, we may buy or sell on securities exchanges or directly from or to other financial institutions and/or hedge our exposure to you by opening the same positions with other institutions. This means that when you place Transactions with us, they can have an impact on the external market for that instrument in addition to the impact it might have on our price. This creates a possibility of market abuse and the purpose of this clause is to prevent such abuse. Your trades may also constitute financial instruments subject to local market abuse rules (both civil and criminal).
- 23.2 You represent and warrant that, at the time you enter into this Agreement, and every time you open a trade with us that:
- a) You will not and have not placed a trade that contravenes any law or regulation prohibiting insider dealing, market manipulation or any other form of market abuse or market misconduct; and
  - b) You will not and have not place a trade in connection with a placing, issue, distribution, an offer, takeover, merger, any corporate finance activity or any similar event.
  - c) It is strictly prohibited to place an Order that contravenes any primary or secondary legislation or other law against insider dealing or market manipulation. As per this Agreement, you agree that we may proceed on the basis that, when you open or close a trade or place an Order with us on a share price, we may treat you as dealing in an Investment or a related investment, as per the meaning set by DFSA within the DFSA Markets Rules (MKT) and DIFC Markets Law 2012.
- 23.3 You acknowledge that it would be improper and potentially illegal for you to trade if the sole purpose of such a Transaction was to manipulate prices in order to gain an unfair advantage, and you must not conduct any such Transactions.
- 23.4 In order to comply legal and regulatory obligations we may in our reasonable discretion, and without being under any obligation to inform you of our reason for doing so, treat all trades that violate this clause as void.
- 23.5 Further, we may also be entitled (and in some cases, required) to report to any relevant regulatory authority details of any transaction or instruction.
- 23.6 In the event that you place a Transaction or otherwise act in breach of this clause, in addition to any other rights we may have under this Agreement, we may:
- a) enforce the Transaction against you if it is a Transaction which results in you owing money to us; and/or
  - b) treat all of your Transactions as void if they are Transactions which result in us owing money to you;

unless and until you produce evidence within 30 days of our request which (in our reasonable discretion) satisfies us that you have not in fact committed any breach of this clause.



## **24. Force Majeure Event**

- 24.1 We may, in our reasonable opinion, determine that an emergency or an exceptional market condition exists (a "Force Majeure Event"), in which case we will, in due course, inform the DFSA and take reasonable steps to inform you. A Force Majeure Event will include, but is not limited to, the following:
- 24.2 Any breakdown or failure of any investment exchange and/or clearing house, or any settlement or clearing system, inability to communicate with market makers for whatever reason, failure of any computer dealing system, computer facility or trading software (whether belonging to us, you or one of our Affiliated Companies) or any other breakdown or failure of transmission or communication systems, equipment or facilities of whatever nature, between us and you or any other third-party whatsoever;
- 24.3 Excessive movement in the level of any Transaction and/or an underlying market or our anticipation of such movements;
- 24.4 The failure of any relevant supplier, intermediate broker, agent or principal of ours, custodian, sub-custodian, dealer, exchange, clearing house; unable to perform their obligations;
- 24.5 Any act of God, fire, war, civil commotion, labour dispute, terrorism, malicious damage, industrial acts, any Exceptional Market Event, or acts or regulations of any governmental, state, or supranational bodies or authorities which in our opinion prevent an orderly market in relation to your orders; or
- 24.6 Any other reason (whether or not similar in kind to any of the above) beyond our reasonable control preventing us from performing any or all of our obligations.
- 24.7 If we believe a Force Majeure Event exists, we may, at our absolute discretion, without notice and at any time. Decide to take one or more of the following actions:
- Increase your Margin requirements;
  - Close all or any of your open positions, at a level which we believe to be reasonable and appropriate;
  - Suspend or modify all or any of the terms within 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
  - Adjust the last dealing time for a particular position.

## **25. Prohibited Trading Techniques/Abusive Strategies**

- 25.1 We have, and will continue to develop, any tools necessary to identify fraudulent and/or unlawful access and use of our Trading Platform.
- 25.2 You shall not unlawfully access or attempt to gain access, reverse engineer or otherwise circumvent any security measures that we have applied to our Trading Platform and/or computer system(s).
- 25.3 It is prohibited to:
- a) Use any software which has as its purpose (as determined by us at our reasonable discretion) to apply any kind of artificial intelligence analysis to our Trading Platform and/or computer system(s) with an ultimate goal to gain unfair advantage and exploit our Trading Platform; and/or
  - b) Use any software in such a way which can cause serious negative impact on the performance of our servers and may prevent us from achieving the best possible result for our Clients as regards the execution of their Orders.



- 25.4 If, at our reasonable discretion, we were to determine that you are in breach of this clause, we reserve the right to take all action as we see fit, including, without limitation, unwinding any positions and withholding any profits made, blocking access to our Trading Platform and terminating your Account.
- 25.5 Under these circumstances, we reserve the right to seize any profits and/or revenues generated directly or indirectly by exercising any such prohibited trading activity and we shall be entitled to inform any interested third parties of your breach of this clause. Moreover, you acknowledge that once your Account has been terminated we may liquidate any outstanding contracts/positions you have with us.
- 25.6 We are under no obligation to contact you where we take any action in relation to your Account under this clause.

## **26. Arbitrage**

- 26.1 Internet, connectivity delays, and price feed errors sometimes create a situation where the price(s) displayed on our Trading Platform do(es) not accurately reflect the market rates.
- 26.2 The concept of using trading strategies aimed at exploiting errors in prices and/or concluding trades at off-market prices and/or by taking advantage of internet delays (commonly known as “arbitrage”, “sniping” or “scalping” hereinafter, collectively referred to as “Arbitrage”), cannot exist in an OTC market where the Client is buying or selling directly from the principal.
- 26.3 Accordingly, we reserve the right, at our reasonable discretion, not to permit the abusive exploitation of Arbitrage on our Trading Platform and/or in connection with our Services.
- 26.4 Any Transactions or contracts that rely on price latency Arbitrage opportunities may be revoked, at our reasonable discretion and without prior notice being required.
- 26.5 In addition, in those instances, we reserve the right, at our reasonable discretion and without prior notice being required:
  - a) To make the necessary corrections or adjustments on the Account(s) involved (including, without limitation, adjusting the price spreads available to you);
  - b) To restrict the Account(s) involved access to streaming, instantly tradable quotes (including, without limitation, providing manual quotations only and submitting any Orders to our prior approval);
  - c) To retrieves from the Account(s) involved any historic trading profits that we can document as having been gained through such abuse of liquidity at any time during the Client relationship;
  - d) To terminates our relationship with you and/or close all Accounts involved (including, without limitation all other Accounts held by the same Account holder with us) immediately by giving written notice; and/or
  - e) To informs any interested third parties.
- 26.6 Any indication or suspicion, in our reasonable discretion, of any form of Arbitrage (including, but not limited to, risk free profiting), abuse (including, but not limited to, participant's trading activity patterns that indicate that the participant solely aims to benefit financially without being genuinely interested in trading in the markets and/or taking market risk), internal hedging in coordination with other parties, abuse of our "no negative balance" policy, fraud, manipulation, cash-back Arbitrage or any other forms of deceitful or fraudulent activity, will constitute all Transactions carried and/or profits or losses garnered as invalid.
- 26.7 Please note that you will be strictly prohibited from opening any new trading Account(s) and trades with us. Nonetheless, in cases where you may successfully open an Account and trade with us due



to any technical and/or human error, we reserve every right to immediately close your Account upon identification, nullify any profit/loss generated and refund the original amount of deposit, excluding any deposit and withdrawal charges.

## **27. Corporate Events and Actions**

27.1 In the case where an Instrument becomes subject to a corporate event as set out below (sub-clause 27.2), the Company will carry out the appropriate actions to adjust your trading account for the effect of the event on your position, preserving the economic equivalent of the rights and obligations attached to your Transaction and/or Contract with the Company, on the ex-date of the event (i.e., the day the affected instrument's price will incorporate the effect of the event). Subject to this sub-clause, the Company shall take the following actions:

- a) Adjust the size and/or value and/or number of Orders as deemed appropriate, with the aim to preserve, to the greatest extent possible, the economic equivalent of your open positions;
- b) Endeavour to communicate the upcoming events and actions through any durable medium, including but not limited to the Company's website;
- c) Where you have a Pending Order or a Stop Loss and/or a Take Profit attached to your Orders, the Company aims to preserve, to the greatest extent possible, the equivalent of the rights and obligations of your Transaction and/or Contract immediately prior to the corporate event taking place;
- d) If a corporate event, such as a reverse stock split, results in share ownership below the minimum allowed by our systems, these positions will be rounded down to the nearest allowed trade size, with any value not captured by the position adjustment being reflected as a cash adjustment to your trading account.

Different actions may be followed by the Company in case you owned the underlying Instrument; however, the Company will endeavor to preserve economic equivalence to the greatest extent possible.

27.2 Subject to sub-clause 27.1, corporate events shall include the following:

- a) Distribution, by the issuer to the shareholders of the Underlying Instrument, of additional shares, other share capital, warrants or rights granting dividends that result in a dilutive effect on the market value;
- b) Stock splits and reverse stock splits that result in a change in the number of shares owned and the share price. A split is a corporate event whereby a firm multiplies the number of existing shares by a certain ratio, e.g. 1:2 (this indicates that every existing share will translate into two shares). In the 1:2 case, the shareholders' shares will double, but given the firm's market capitalization will remain unchanged, the stock price will halve, maintaining economic equivalence; It should be noted that under such an event your positions may be consolidated into a single entry on the terminal which will of course capture the effect of the corporate action on all your positions;
- c) Dividends; in case where an underlying instrument is granting dividends (equity index or stock), a cash adjustment will be made, equivalent to that paid to clients with an open position in the Underlying Instrument;
- d) Delisting/voiding of a tradable Instrument that will result in the closing of positions;
- e) Takeovers or mergers (including spinoffs), depending on their terms may result in a cash adjustment similar to that of dividends;
- f) Any other event of similar nature to the aforementioned events that may have a concentrating or dilutive effect on the market value of the Instrument.

## **28. Market Disruption**



28.1 Any of the following event will be deemed as market disruption:

- The underlying securities of the CFD is the subject of a takeover or the issuer of such security, derivative, market or exchange has entered into or is the subject of insolvency or liquidation proceedings; or
- Any event which disrupts the trading, or the relevant market or exchange including the suspension of or limitation of trading by reason of movements in price exceeding limits permitted by the relevant exchange, or of regulatory or other intervention, or otherwise, and/or any other event causing market disruption and which in any such case is a material disruption.

28.2 If market disruption occurs, we may in our sole reasonable discretion, with or without notice to you:

- Close any or all Open Positions and refuse to open new trades;
- Completely suspend trading in the market;
- Request payment of any Margin or other amount you owe us;
- Value Open Positions in the affected market at zero;
- Take any other appropriate actions and we will not liable to you for any loss arising from such actions; and
- Void any trades that have been executed at erroneous prices resulting from the disruption.

28.3 If trading is suspended we will attempt to inform you as soon as possible, and we will not be liable for any loss arising from the suspension of trading and delay in notifying you about the suspension.

28.4 In the event of a market disruption, an obligation for you to make any payment due to us will arise and become immediately due and payable.

## **29. Exceptional Events**

29.1 We shall not be in breach of this Agreement and shall not be liable or have responsibility of any kind for any claims, losses, damages, costs or expenses (including legal fees) incurred by you as a result (directly or indirectly) of any total or partial failure, interruption or delay in the performance of this Agreement occasioned by any Force Majeure Event.

29.2 You acknowledge and agree that we may in our reasonable opinion, determine that a Force Majeure Event exists or is about to occur; as the case may be, and we will inform you as soon as reasonably practicable (which may be via announcement on our website) if we so determine. We shall use commercially reasonable efforts to resume performance.

29.3 Upon the occurrence of a Force Majeure Event, you may be obliged to deposit further Margin, or we may be obliged to close certain positions at short notice in order to stop the Force Majeure Event causing you losses, or further losses, on your Account.

29.4 On the occurrence of a Force Majeure Event, all of our obligations under this Agreement shall be immediately suspended for the duration of such event. Additionally, if we determine that a Force Majeure Event exists, has occurred, or is about to occur then we may take one or more of the following steps (without prejudice to any other rights under this Agreement and at our sole reasonable discretion):

- Alter: (i) normal trading times and/or (ii) the Margin requirements;
- Amend or vary the terms of this Agreement and any Transaction contemplated by this Agreement insofar as it is impractical or impossible for us to comply with our obligations;
- Close any or all Open Positions, cancel instructions and Orders as we reasonably deem to be appropriate in the circumstances; and/or



- Take or omit all such other actions as we reasonably deem necessary or appropriate in the circumstances, having regard to you and your interests and positions, and the interests and positions or our other Clients, and neither we, nor any of our directors, officers, employees, agents or advisers will be liable for any failure, hindrance or delay in performing our obligations under this Agreement or for taking or omitting to take any action pursuant to this subparagraph.

29.5 On the occurrence of a Force Majeure Event, the Company's Negative Balance Protection policy shall apply.

### **30. Default**

30.1 The occurrence of each and any of the following events shall constitute an event of default ("**Event of Default**"):

- Behaviour which is covered under clauses regarding Market Abuse, Prohibited Trading Techniques/Abusive Strategies and Arbitrage, as outlined above;
- Your failure to perform any obligation due to us;
- Any Transaction(s) or any realised or unrealised losses on any Transactions or combination of Transactions opened by you results in you exceeding any credit or other limit placed on your dealings with us;
- You fail to comply fully and immediately with any Obligation to make any payment when due to or required by us (including any Obligation to pay Margin) and such failure continues 30 calendar days after we have given notice of non-performance;
- You fail to perform any other material Obligation owed to us (including any Transaction governed by this Agreement) and such failure continues 30 calendar days after we have given notice of non-performance;
- You die, or become incapacitated or of unsound mind;
- You are unable to pay your debts as they fall due (or where you are the trustee of a trust you are unable to pay your debts incurred in that capacity out of the assets of the trust), or you enter in to liquidation, bankruptcy or insolvency (compulsorily or voluntarily) as defined under any bankruptcy or insolvency law applicable to you, or a procedure is commenced against you seeking or proposing reorganisation, administration, liquidation, bankruptcy or any other similar procedure;
- You become subject to an administration order or have a receiver or similar appointed over all or any of your assets or become subject to any similar order or proceedings;
- Any declaration, covenant, representation or warranty made by you was or has become or subsequently would if repeated at any time be incorrect;
- If you have committed fraud or been deceitful in your dealings with us in relation to your account with us under this Agreement or another account with within our Affiliated companies;
- We, acting in our reasonable discretion, determine that there is or has been an adverse change in the creditworthiness of you or any party providing a guarantee and / or indemnity in respect any Obligation; or
- At any time, due to market fluctuations, or for any other reason, we shall in good faith but otherwise, in our reasonable discretion, consider it necessary for our own, or for your own, protection.

30.2 Upon or at any time following an Event of Default we may, on notice to you and without prejudice to any other rights under this Agreement or any Transaction, contract or law, take any and all actions that we consider to be necessary or desirable in the circumstances, including but not limited to the following:

- Terminate this Agreement immediately;



- Close any Open Positions or cancel any Orders on your Account;
- Require you to close any or all of your Open Positions by a date specified by us;
- Vary the Margin requirements applicable to you;
- Prohibit you from accessing or using your Account;
- Suspend or in any way limit or restrict your ability to place any Order, give any instruction or place any Transaction in relation to your Account;
- Liquidate, sell, close out, replace, reverse, hedge or off-set all or any Transactions, buy, borrow or lend, make appropriate deductions or credits, or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our reasonable discretion, we consider necessary or appropriate to cover, reduce, or eliminate, our loss under or in respect of any of your Transactions or other commitments or Obligations. In liquidating any long or short positions we may, at our sole reasonable discretion and without limitation, sell or purchase for the same contract month, prompt date or other relevant contractual maturity, or initiate new long or short positions in order to establish a spread or straddle with a view to protecting existing positions; and / or
- Sell, charge, deposit, deal with or otherwise dispose of any cash, securities or margin, upon such terms as we may in our reasonable discretion think fit without being responsible for any loss or diminution in price in order to realise funds sufficient to cover your Obligations and apply such proceeds in or towards satisfaction of your Obligations in such order and generally in such manner as we may, in our reasonable discretion, determine.

30.3 You will at all times remain liable for the payment of any and all outstanding Obligations and if the proceeds realised pursuant to this Agreement are insufficient for the discharge of all such Obligations, you will promptly pay on demand the deficit and all unpaid liabilities together with interest at a rate of 3% per annum above the base rate from time to time of Barclays Bank Plc whether before or after judgment compounded daily.

## **31. Complaints**

31.1 We take complaints very seriously and have established procedures in accordance with the DFSA Rules for complaints handling to ensure that complaints are dealt with fairly, promptly and in accordance with those DFSA Rules.

31.2 Our written complaints policy, which is prepared in accordance with the DFSA Rules, is available to you on our website.

31.3 If you would like to make a complaint about any of our Services, or if a dispute arises in connection to the Services provided, you should immediately contact your dedicated account manager in the first instance. Our complaints are dealt with by our Compliance Department, however; you may be able to refer the complaint to the DFSA for further investigation.

31.4 If you wish to make a further formal complaint, this should be made in writing to us at our stated address, marked for the attention of the Compliance Officer. You should provide all the relevant details related to your query or complaint. The other ways in which you can make a complaint are set out in our complaints policy.

31.5 Complaints need to be sent by email to the Compliance Department at [compliance.mena@xm.com](mailto:compliance.mena@xm.com).

31.6 Complaints communicated to the Compliance Department must be received from the registered email of the Client as soon as possible after the subject matter of the compliance arose.

31.7 For the detailed Complaints Handling Procedures please refer to the relevant document which is available at our website free of charge at: [www.xm.com/mena](http://www.xm.com/mena).



### 32. Conflicts of Interest

- 32.1 The Company is required to take all appropriate steps to identify, prevent or manage conflicts of interests. As part of its commitment to acting honestly, fairly, professionally and in the best interests of its clients and to complying with the DFSA rules, the Company maintains and implements a conflicts of interest policy ("**Conflicts of Interest Policy**"), which is available on request, and can also be found on our website at [www.xm.com/mena](http://www.xm.com/mena). The Conflicts of Interest Policy, as amended or extended from time to time, sets out all appropriate steps the Company takes to identify and prevent or manage conflicts of interest which may arise between the Company and its clients or between one client and another, that arise/may arise in the course of providing any investment and ancillary Services, or combinations thereof. Accordingly, this Policy sets out the necessary procedures, controls and practices in place to ensure that any conflicts of interest are identified and prevented or appropriately managed.
- 32.2 The Firm has in place organisational and administrative controls to manage any conflicts of interests which have been identified and this allows us to be reasonably confident that risks of damage to clients as a result of any conflict will be prevented. Where the measures taken to prevent conflicts of interest are not sufficient to ensure that risks of damage will be prevented, we shall clearly disclose, in a durable medium, the general nature and/or source of such conflicts.
- 32.3 For further information regarding our procedures on how we manage potential conflicts of interest, please read our "Conflicts of Interest Policy" which is available on our website.

### 33. Product Governance

- 33.1 The Firm is required, when developing and/or distributing financial instruments, to establish, implement and maintain procedures and measures to ensure that the manufacturing and/or distribution of financial instruments comply with the relevant product governance requirements, in a way that it is appropriate and proportionate taking into account the nature of the financial instrument, the investment service(s) and the needs of the Target Market of the product.
- 33.2 The Firm ensures that the design of the financial instrument, including its features, does not adversely affect its end Clients or does not lead to problems with market integrity by enabling the Company to mitigate and/or dispose of its own risks or its exposure to the underlying assets of the product, where the Company already holds the underlying assets on own account.

### 34. Charges

- 34.1 You will be charged a mark-up or mark-down which is the difference between the prices we receive from our liquidity providers and execution prices of your trades (this is commonly referred to as the "Spread"). You acknowledge that Spread can widen significantly in some circumstances, that it may not be the same size as in the details set out on our website regarding an Instrument, and that there is no limit on how large it may be. You acknowledge that when you close a Transaction, the Spread may be larger or smaller than the Spread when the Transaction was opened. For Transactions transacted when the Underlying Market is closed, the figures that we quote will reflect what we believe the market price in an Instrument is at that time. You acknowledge that such figures will be set by us at our reasonable discretion
- 34.2 Prior to entering into any Transaction with us via our Online Trading Facility, please ensure you have considered any and all applicable charges (e.g., spreads, swaps, etc.) which are available on our website. It is your responsibility to ask for further clarifications should you require so. Any applicable charges shall be instantly deducted from your Account(s).
- 34.3 We may charge roll-over fees, as detailed further below.





- 34.4 We reserve the right to change, from time to time, any of the charges applicable to your dealings with us. We will provide you with prior written notice where we deem the changes to be material, unless such change comes as a result of an unforeseen market circumstance, where we may notify you on or after the event. You will find the most up-to-date information about our charges on our website.
- 34.5 Charges will be recorded and indicated on confirmations and monthly statements.
- 34.6 Any charges paid by you may be shared with one or more third parties. Details of such arrangements are available on written request.
- 34.7 We make a monthly charge for Accounts which are deemed by us to be inactive. Please see clause 43 (Inactive Accounts) below.
- 34.8 You will be responsible for the payment of any commissions, transfer fees, registration fees, taxes, duties and other fiscal liabilities and all other liabilities and costs properly payable or incurred by us under this Agreement.
- 34.9 Where any costs, charges, expenses or commissions owing to us are overdue for payment by a period of seven days, we may deduct such sums from any monies held by us for you without prior warning.
- 34.10 We shall be entitled to payment, to be paid separately on notice to you, of any expenses, charges or penalties which are incurred by us caused by your non-performance of your Obligations under this Agreement, including any applicable reasonable administration fees.
- 34.11 For Roll-over fees (i.e., swaps), depending on the position held and the prevailing interest rates of the currency pair involved in a Transaction, your Account may be credited or debited with the respective amount. The operation is conducted at 23:59 (Server Time) and the resulting amount is automatically converted into your Balance Currency.
- 34.12 For some payment methods, there are Transaction fees. Where you engage in deposit and withdrawal activity without entering into any trading or betting activity with us, we reserve the right to impose any fees or charges with regards to specific payment methods as we deem necessary. These fees are available on our website.
- 34.13 If we receive any amounts in respect of your Obligations under this Agreement in a currency other than that in which the amount was payable, we may convert that sum into the currency in which it was payable and deduct the costs of doing so from that amount.
- 34.14 We reserve the right to change, from time to time, any of the charges applicable to your dealings with us. We will provide you with prior written notice where we deem the changes to be material, unless such change comes as a result of an unforeseen market circumstance, where we may notify you on or after the event. You will find the most up-to-date information about our charges on our Website.
- 34.15 In the event you are dissatisfied with any changes we may make to our charges, you may contact our Customer Support Department, and/or terminate the Agreement in accordance with the provisions contained herein.

### **35. Roll-overs and Dividends**

- 35.1 Rollover is the process of extending the settlement date of an open Position (i.e., date by which an executed trade must be settled). In margin trading, since there is no physical delivery, all open positions must be closed daily at end-of-day and re-opened on the following trading day; this pushes the settlement by one more trading day and is called rollover.



- 35.2 Some of the products which our Services relate to are considered open-ended contracts with no definitive close date. Such contracts will roll over each trading day until you instruct us to close the contract (and we accept, and act on, that instruction).
- 35.3 Rollover is agreed on through a swap contract which comes at a cost or at a gain for traders. We do not close and re-open positions, but will charge or credit a free in respect of each such Position and debit/credit your trading Account for Positions held open overnight, depending on the current short-term interbank rate (with added mark-up) (“Rollover Fee”).
- 35.4 Unless you close a rolling contract before 00:00 (server time), we will automatically roll over such open contracts on your Account to the following Business Day, and subsequently charge or credit your Account the relevant Roll-over fee in respect of each trade held overnight. Positions opened 00:00:01 (server time) are not subject to rollover until the next day, but if you open a position at 23:59:59 (server time), a rollover will take place at 00:00 (server time). For each position, open at 00:00 (server time) a credit or debit appears on your Account within 1 hour and will be directly applied to your Account’s equity.
- 35.5 The Roll-over fee:
- May be positive or negative, meaning that you will either owe money to us or receive money from us each night a relevant contract is rolled over;
  - Is calculated as the overnight interest rate differential between the two currencies on which the position is held depending on the position type and the current short-term interbank rate (with added mark-up);
  - Will vary between currency pairs;
  - Will be subject to contract quantity; and
  - Is subject to change from time to time (see clause 35.635.9 below).
- 35.6 Roll-overs are applied on every trading night. Although there is no Roll-over on Saturdays and Sundays when the markets are closed, banks still calculate interest on any position held over the weekend, and to level this time gap, we apply a 3-day Roll-over strategy. Particularly, for CFDs on currencies and precious metals night rollover/swaps are charged at a triple rate on Wednesdays, whilst for CFDs on cash indices, cash energies, and stocks a triple rate is charged on Fridays; please note that Rollover Fees/Swap rates are subject to change at our sole discretion.
- 35.7 The Firm does not offer automatic rollover for new contracts of financial instruments that have an expiration date.
- 35.8 We reserve the right to discontinue a rolling facility at any time, on 30 days' written notice to you, unless we are required by law, for any reason, to terminate it immediately (in which case, we will notify you as soon as is possible).
- 35.9 Roll-over fees/swap rates are posted on our website and are subject to change at our reasonable discretion.
- 35.10 We will apply dividend adjustments to your account if you have open trades on instruments that paid dividends to the holder. If you hold a long position, dividends will be credited to your Account and in the case of short position your account will be debited.

## **36. Taxation**

- 36.1 Investing in financial instruments may be subject to tax depending on the jurisdiction where you are a resident. However, this will depend on your personal circumstances. You should seek for independent tax advice if you are unsure on how this may affect you, as we do not provide any financial advice, including tax advice.



- 36.2 You understand that tax laws are subject to change, and in the event, they do, we reserve the right to debit from your Account any tax payment, including, but not limited to stamp duty, capital gains tax or other forms of tax which may be levied in relation to your Transactions with us.
- 36.3 You further understand that certain Transactions in certain financial instruments may carry a tax obligation under applicable legislation or other taxes or duties in any jurisdiction. Where there is such tax obligation we shall pass it on to you by debiting from your Account. You are aware that we have a right of set-off against any amounts in your trading account with respect to such tax deductions, and you hereby authorise us to withdraw amounts from your trading account with which to pay such taxes. You are aware that amounts that may be withdrawn by you from your Account are “gross amounts”, from which we may deduct such taxes, as the case may be, and that you shall have no claim towards us with regard to such deductions.
- 36.4 Should any change in the basis or scope of taxation occur at anytime which results in us having to withhold amounts on account of Taxes owed or payable by you in respect of any Applicable Laws and Regulations in respect of your transactions or your Account with us, we reserve the right to deduct the amount of any such payment(s) from your Account(s) or otherwise require you to pay or reimburse us for such payment(s).

### **37. Confidentiality and Data Protection**

- 37.1 You acknowledge that by entering into this Agreement and opening a trading account with us, you will be providing us with personal data within the meaning of the Data Protection Act Law DIFC Law No.1 2007, (the "**Data Protection Act Law**"), or any other similar applicable law/regulation as may be in force from time to time. The Firm also chooses to operate in accordance with the European Union General Data Protection Regulation (679/2016) (**GDPR**) so that there is consistency among the Trading Point Affiliated Companies. You provide your consent to us to process all such information for the purposes of complying with our legal obligations, performing our contractual obligations and administering the relationship between you and us. You acknowledge and agree that this may result in your personal information being sent outside the United Arab Emirates (“UAE”) or the European Economic Area (“EEA”). You consent to us processing and disclosing such information in accordance with this Agreement and our Privacy Policy as published on our website(s), as this may be updated from time to time.
- 37.2 As per the applicable Personal Data Protection Legislation, you have certain rights regarding the Personal Data we collect and hold about you at the time of request. Please refer to our Privacy Policy for more details in relation to these rights and how you may exercise them.
- 37.3 You acknowledge that 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:
- Assess and process your Application for the opening of a trading Account;
  - Carry out our contractual obligations under this Agreement;
  - Administer and carry out our everyday business activities and dealings with you in relation to your trading Account(s);
  - Compile statistical analysis of the pages of our Online Trading Facility visited;
  - Monitor and analyse our business;
  - Participate in fraud/crime and money laundering prevention, legal and regulatory compliance;
  - Market and develop other Products and Services;
  - Transfer any of our rights or obligations under these this Agreement; and
  - Process clients’ Personal Data for other related purposes.
- 37.4 If you choose to withhold Personal Data (other than special categories of personal data) requested in order for us to be able to provide our Services to you, as required by applicable laws and



regulations, we may not be able to process your application and/or provide you access to our Online Trading Facility.

- 37.5 We will not obtain or require disclosure of special categories of Personal Data (such as ethnic origin, religion or medical records) but if you choose to provide such 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.
- 37.6 You directly provide us with most of the Information we collect. You do this by filling out the electronic form(s) (including, without limitation, the Account Opening Application Form(s)) that we post on our Online Trading Facility and by voluntarily providing us with other required documents. Additionally, you provide us with Information by trading on our systems, by contacting us or by responding to a promotion; the information we indirectly collect may include logging your Internet Protocol (IP) address, software configuration, operating system and use of Cookies; Cookies are small files containing information that a Website uses to track its visitors which may be sent from us to your computer and sometimes back. Cookies ultimately help us improve your navigation and ease of use of our Online Trading Facility. We may set and access Cookies on your computer, enabling us to learn which advertisements and promotions bring users to our Online Trading Facility. We may use cookies in connection with any of our products and/or Services and to track your activities on our Online Trading Facility. Such information that we collect, and share would be anonymous and not personally identifiable.
- 37.7 We obtain, hold and use the information we collect from you in accordance with data protection and anti-money laundering legislation and only for the purposes for which this information is collected. You agree that we can rely on, hold and process your information for the purpose of performing our obligations under this Agreement, including verifying your identity as per our legal obligations, administering the relationship with you, managing your Account and contacting you from time to time, recovering amounts payable, considering any of your applications, carrying out risk assessment, complying with regulatory obligations, and undertaking product development and analysis.
- 37.8 Also, the information you provide us helps us to improve our Services to you, customize your browsing experience and inform you about additional products, Services or promotions that may be of interest to you. Should you ever deactivate your Account with us, we will keep your information on file, but only use it to comply with regulatory retention requirements and to contact you occasionally with the option to reactivate your account. Please note that you may opt-out/unsubscribe from receiving such communications by us, at any time, by clicking the “unsubscribe button” that can be found on each of our emails.
- 37.9 In order to provide Services to you, you acknowledge that it may be necessary for your information to be transferred to someone who provides a service to us in other countries, including some outside of the UAE or the EEA, and you consent to such transfer. To the extent we transfer your information outside the UAE or EEA, we will ensure that the transfer is lawful and that processors in third countries are obligated to comply with the applicable laws and regulations, apply protection standards and to provide appropriate safeguards in relation to the transfer of your data.
- 37.10 Your personal information may be processed by staff operating outside the UAE or the EEA who work for us or for one of our processors. Such staff may be, among others, engaged in the fulfilment of your requests, the processing of your payment details and the provision of support Services. By submitting your personal data, you agree to this transfer, storing and processing. The Firm will take all steps reasonably necessary to ensure that your data is treated securely and in accordance with its Privacy Policy which is available at [www.xm.com/mena](http://www.xm.com/mena).
- 37.11 Neither we nor any of our Affiliated Companies will disclose any Personal Data collected about you to third parties except: (i) to the extent that it is required to do so by under and/or pursuant to any



applicable laws, rules and/or regulations; (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 below. Also, we do not disclose or share Information about any of our clients (whether active or inactive) to any non-Affiliated third parties other than in the manner and to the entities set forth below:

**a. Sharing Information with our Affiliated Companies:** We may share personal information described above within our Affiliated Companies for business purposes, such as, but not limited to, servicing client's Accounts and informing Client's about new products and Services, or to aid in the trading activity of our Firm, its affiliates, or employees, and as permitted by applicable law. Our Affiliated Companies may include companies controlled or owned by us as well as companies that have an ownership interest in our Firm. The information we share with Affiliated Companies may include any of the information described above, such as your name, address, trading experience and account information. Our Affiliated Companies are committed to maintaining the privacy of your information to the same extent we do in accordance with the provisions set forth herein and in our Privacy Policy.

**b. Sharing Information with Third Parties:** We do not disclose your personal information to third parties, except as described herein. Third party disclosures made by us in accordance herewith may include sharing such information with Non-Affiliated companies that perform support Services for your Account or facilitate your Transactions with us, including those that provide professional, legal, or accounting advice to us or that are acting on behalf of us to investigate your credit standing. Non-Affiliated Companies that assist us in providing Services to you are required to maintain the confidentiality of such information to the extent they receive it and to use your personal information only in the course of providing such Services and only for the purposes that we dictate. We may also disclose your personal information to third parties to fulfil your instructions or pursuant to your express consent. We want you to know that we will not sell your personal information.

**c. Regulatory Disclosure:** Under limited circumstances, we may disclose your personal information to third parties as permitted by, or required to comply with, applicable laws, rules and/or regulations in the jurisdiction of which you are a citizen or a permanent resident, or, in the case of a legal entity is formed, incorporated, domiciliation and/or doing business, and/or of the jurisdiction in which we are organized and/or is performing the Services provided hereunder. For example, we may disclose personal information to cooperate with regulatory authorities and law enforcement agencies to comply with subpoenas or other official requests, and as necessary to protect our rights or property. Except as described herein, we will not use your personal information for any other purpose, unless we describe how such information will be used at the time you disclose it to us or we obtain your permission.

37.12 We, Our Affiliated Companies or a third party service provider may disclose Personal Data about you to those who provide Services to us, to any person to whom we, our Affiliated Companies or a third party service provider transfers or proposes to transfer any of our or its rights or obligations under these Terms, and to licensed credit reference agencies or other organizations that help us, our Affiliated Companies or third party service providers and others to make credit decisions and reduce the incidence of fraud or in the course of carrying out identity, fraud prevention or credit control checks.

37.13 You consent to us, or our agents acting on our behalf, carrying out such credit and identity checks, including money laundering checks, compliance regulatory reporting and fraud prevention checks, as we may reasonably consider necessary or desirable, including requesting a reference from your bank or any credit reference agency. You understand and agree that any third party referred to in this clause may share any information concerning you with us and other organizations involved in



credit reference, the prevention of fraud and/or crime and/or money laundering or for similar purposes or to recover debts involved.

- 37.14 By submitting the Online Account Application to us, you agree to be bound by the terms of our Privacy Policy as set out on our website, including authorising us to contact you by email, telephone or post to give you information about carefully selected products or Services offered by us, that are similar or related to products or Services provided or previously provided to you. You consent to us using your data for this purpose for the period you have an Account with us, and after you close the Account for a period of six (6) years. If you do not wish to receive such information, then you may click on the “unsubscribe” button on any of our emails.
- 37.15 Your telephone conversations, e-mails, internet conversations (chat), meetings and other communications with us, our Affiliated Companies and/or third-party service providers will be recorded/maintained by us for security purposes, compliance with the applicable laws and regulations, training purposes as well as to maintain and improve the quality of our Services. Any recordings shall be and shall remain our sole property and will be accepted by you as conclusive evidence of their content as recorded by us. You agree that we may deliver copies of transcripts of such recordings to any court, regulatory or government authority, including without limitation, in disputes which may arise between you and us. However, technical reasons may prevent us from recording a conversation, and recordings or transcripts made by us will be securely destroyed in accordance with our normal practice. Consequently, you should not rely on such recordings to be available.
- 37.16 We protect your information by using data security technology and using tools such as firewalls and data encryption. We use Secure Socket Layer ('SSL') encryption technology in order to protect certain Information that you submit. This type of technology protects you from having your Information intercepted by anyone other than us while it is being transmitted to us. We work hard to ensure that our Online Trading Facility is secure and that they meet industry standards. We also use other safeguards such as firewalls, authentication systems (e.g., passwords and personal identification numbers) and access control mechanisms to control unauthorized access to systems and data. We also require that you use your personal Access Codes (personal username and password) every time you access your account online. We restrict access to information at our offices so that only officers and/or employees who need to know the information have access to it.
- 37.17 Please note that we reserve the right to amend, revise, modify, and/or change our Privacy Policy at any time. Should we decide to make any changes to our Privacy Policy, such changes shall be incorporated into our revised Privacy Policy which shall be posted on our Online Trading Facility. We will use reasonable endeavours to contact you and notify you of any change to how we hold, process or disclose information, by posting a notice on our website or sending you an email to your last known email address. If you do not tell us, you object to this change in writing within 60 days of the notice and you continue to maintain the Account after the expiry of this period of notice then we will regard you as having agreed to it.
- 37.18 Should you have any questions regarding our Privacy Policy, please contact us at [dpo.mena@xm.com](mailto:dpo.mena@xm.com). Please ensure you include your full name and Account number in order to be able to verify your identity and process your request.
- 37.19 We may use ‘cookies’ or ‘IP address tracking devices’ to administer our Online Trading Facility, store password and usernames, to monitor visits to pages on our Online Trading Facility from your terminal to personalise our Online Trading Platform to you and to track and facilitate browsing through our Online Trading Facility. A ‘cookie’ is a piece of data stored on your hard drive containing information about you relating to the use of our Online Trading Facility. IP addresses may be linked to your Personal Data and by tracking these addresses, we would be obtaining such Personal Data. Access to our Online Trading Facility is conditional on acceptance by you of any ‘cookies’ and ‘IP address tracking devices’ described in and for the purposes explained in this clause. By accepting



these Terms, 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.

37.20 We shall be under no duty to disclose to you or in making any decision or taking any action in connection with the provision of the Services to take into account any information or other matters which come to our notice or the notice of any of our employees, officers, directors or agents:

- a) where this would, or we reasonably believe that it would be a breach of any duty of fidelity or confidence to any other person; or
- b) which comes to the notice of an employee, officer director or agent of ours, but does not come to the actual notice of the account executive or other individual providing you with the Service in question.

### **38. Representations, Warranties and Covenants**

38.1 In this Agreement, representations and warranties are personal statements, assurances or undertakings given by you to us, and on which we are allowed to rely when dealing with you.

38.2 You make the following representations and warranties at the time you enter this Agreement and every time you enter into a Transaction with us under this Agreement:

- You are of sound mind, and over 18 years of age;
- You, and/or any persons entering into these terms or performing any Transactions on your behalf, have all powers, consents, authority, licenses, and authorisations to:
  - i. Lawfully execute and deliver this Agreement, each Transaction and any other related documentation; and
  - ii. Perform your obligations under this Agreement and each Transaction and to place any Orders or instructions; and
  - iii. Have taken all necessary action to authorise such execution, delivery and performance;
- You are acting as principal in entering into this Agreement and each Transaction and are not acting as any other person's agent or representative;
- You are not an employee of a Listed Company;
- All information which you provide or have provided is true, accurate and not misleading in any respect;
- No Event of Default has occurred or is occurring with respect to you or any other credit support provider;
- All governmental, regulatory and other consents that are required to have been obtained by you in relation to this Agreement have been so obtained and are in full force and effect and all conditions of any such consents have been complied with;
- Your Obligations under this Agreement constitute your legal, valid and binding obligations, enforceable in accordance with their respective terms;
- You do, and will continue to, comply with all laws, rules, regulations and disclosure requirements of any relevant jurisdiction, exchange, market or regulatory authority which apply in respect of us, you or your investments from time to time;
- You are aware of, and have the capacity to evaluate and understand, the terms and conditions, and the risks, of your Transactions;
- Unless otherwise allowed under the terms of this Agreement, any money paid or provided to us by you shall, at all times:
  - i. Be free from any and all rights of a third party to withhold or retain it (such as a lien) or security rights over it (such as a mortgage or a charge) or any pledge or other right to make claims against it; and



- ii. Be beneficially owned by you and shall not be charged, assigned or otherwise disposed of, or any interest created in them.
  - You are willing and able to accept the terms and conditions of this Agreement and to assume (financially and otherwise) the risks of your Transactions; and
  - You are willing and financially able to sustain a total loss of funds resulting from your Transactions, in addition to any liability you may occur in excess of your funds, which may be significant.
- 38.3 A covenant is a promise to do something. You covenant to us that you will:
- Promptly and as soon as you become aware of such occurrence, notify us of the occurrence of any Event of Default or potential Event of Default;
  - Promptly give us (or procure to be given) such information and assistance as we may reasonably require to enable us to assist or achieve compliance with any of our obligations in relation to your Account or the Services, including any information which may be required for the purpose of complying with the Foreign Account Tax Compliance Act 2010 ("FATCA"), Common Reporting Standard or other applicable law or regulation; and
  - Promptly notify us of any changes to the details you have provided, including any change of address, or anticipated change in your financial circumstances or employment status which may affect the basis on which we conduct business with you.
- 38.4 You represent and agree that, if you are employee or contractor of a financial services firm or any other firm that has controls over the financial transactions in which its employees and contractors deal, you will give us proper notice of this and of any restrictions that apply to your dealings. In such case, we reserve the right to request for acknowledgement/confirmation letter from the Compliance Department of your firm regarding the trading accounts/transactions that are held/being carried out with our Company.
- 38.5 You further represent and agree that, if you are an employee of a Listed Company, you are prohibited from entering into this Agreement. In such case, we reserve the right, in our sole discretion, to impose any restrictions deem appropriate on your trading account(s), including the immediate termination of our business relationship, and thus, the close-out of any open Transactions and/or Contracts without prior notice and without being obliged to provide you with any explanation or justification.

### **39. Liability**

- 39.1 We shall not be liable for any breach of obligation or default of any counterparty, intermediate broker, bank, custodian, and sub- custodian, market or market operator, exchange, clearing house, depository or other third party with whom you do business.
- 39.2 We will not be liable for loss suffered by you in connection with the Services unless such loss directly arises from our negligence, wilful default, fraud or failure to perform our obligations under this Agreement with reasonable care and skill.
- 39.3 You will pay us on demand all commissions and other charges due to us, premiums on any option purchased on your instructions, such sums as we may at any time require in or towards satisfaction of any debit balance on your Account or any Account comprised therein, and the amount of any trading loss that may result from any Transaction hereunder, interest and service charges due to us on the Account and our reasonable costs and legal fees incurred in collecting any such amounts. All payments shall be made in same day (or immediately available) and freely transferable funds in such currency and to such bank as we may from time to time specify.





- 39.4 You acknowledge and agree that the Firm will not be held liable for any losses, liabilities, judgements, suits, actions, proceedings, claims, damages and/or costs suffered by you as a result from or arising out of any act or omission by any third-party obtaining access to your Account, by using your designated account number and/or password and/or Access Codes, whether or not you gave such third-party authorisation.
- 39.5 The Firm shall not be held liable for any default, omissions, errors or mistakes by any third party or Affiliated Company other than as a result of its own negligence, fraud or wilful default in relation to the appointment of that third party.
- 39.6 The Firm shall not be held liable for any information in relation to its Services which is provided by third parties, which may be inaccurate, has errors or if such third parties make omissions in the information they provide.

#### **40. Delegation and Use of Agents**

- 40.1 We may delegate any of our functions in respect of the Services to an Affiliated Company of ours and we will provide information about you and the Services to any such Affiliated Company. We will remain liable to you in the same way for all matters which we have delegated. We will act in good faith and with due diligence in our choice and use of such agents.

#### **41. Assignment and Third-Party Rights**

- 41.1 This Agreement is personal to you and shall not be capable of assignment by you or of being assigned or transferred by you in any way. The same applies also to:
- Any rights or interests you may hold in any Transaction effected; and
  - Any monies held for you.
- 41.2 We may at any time, on giving one month's notice in writing to you:
- Appoint any appropriate associate to perform any functions under this Agreement, or provide the Services in our place, but this shall not affect our liability to you; and/ or
  - Assign or transfer any of our rights and/or obligations under this Agreement to a third party. Where we do this, we will treat all Client Money held for you in accordance with the provisions set out herein (i.e., Client Money).
- 41.3 If you object to any assignment made by us in accordance with this clause, you may terminate this Agreement with immediate effect by providing us notice of this in writing. We will not charge you for the transfer of any Client Money we hold for you if you terminate under this clause.
- 41.4 You agree that we may in the future, where applicable, make payments to third parties that help initiate, conclude or maintain a business relationship between us (or our Affiliated Companies) and you, to enhance the Services offered. Details of any such arrangements will be made available on request. Please note that affiliate's and any other third-party payments or fees will only be made where we are satisfied that such payments do not impair our obligation to act in our customer's best interests.

#### **42. Amendments**

- 42.1 We may make amendments to this Agreement from time to time, for example, to comply with or reflect a change of applicable law or a decision by an ombudsman.
- 42.2 You will be deemed to have accepted and agreed to the amendment unless you notify us to the contrary within 10 business days of the date of our amendment notice.



- 42.3 Any amendment to this Agreement will come into effect on the date specified by us which will, in most cases, be at least 10 business days after you are deemed to have received notice of the amendment.
- 42.4 We will notify you via our Online Trading Facility of material changes to this Agreement. We will, in addition, inform you in writing of any proposed changes to this Agreement by sending you a copy (either by email or by post) of the proposed changes where possible (acting reasonably) at least 10 calendar days prior to the changes becoming effective.
- 42.5 The terms of this Agreement will always be available in an up to date form on our website. We will also re-send you a copy of this Agreement in writing on an annual basis.
- 42.6 If you do not agree to any amendment of this Agreement, you should notify us as soon as possible, and you may terminate this Agreement by sending notice to us. We will not charge you for transferring any money held under this Agreement to any third party if the Agreement is terminated under this clause. Where you tell us, you wish to terminate the Agreement in accordance with this clause and where, 10 calendar days has expired since you gave us notice to this effect, you still have open Accounts or Open Positions, we shall have the right to automatically close your Accounts or Open Positions without any further notice to you.
- 42.7 Any amendment will supersede any previous agreements and will apply to all Accounts and Open Positions.

### **43. Inactive Accounts**

- 43.1 In the event that there is no activity (trading/withdrawals/deposits/internal transfer) in all of your Accounts for a set period of at least 90 calendar days we will regard your Accounts to be inactive. Client Accounts shall be deemed as inactive from the last day of the 90 calendar days in which there has been no activity (trading/withdrawals/deposits/internal transfer) in any of the Accounts.
- 43.2 Inactive Accounts will be charged with a monthly maintenance fee of USD 10 (ten US Dollars) or the total balance in the Account if it is less than USD 10. Inactive Accounts that reached free balance will be then archived after a period of 90 calendar days in which there was no activity in them (i.e., trading/withdrawals/deposits/internal transfer). In the event your Account has been archived, you will no longer be able to access it, and if you choose to continue trading with us, you will be required to open a new Account.

### **44. Swap-Free Accounts**

- 44.1 We offer the possibility to open a Swap-free Accounts with us. Swap-free trading accounts are available only to those clients who cannot use swaps owing to their religious beliefs. Accordingly, in all instances where a request for a Swap-free Account is filed with us, we reserve the right to require an adequate justification for and/or proof of the necessity or need of any such conversion. Furthermore, we reserve the right to refuse the processing of any such request for any reason whatsoever, without being obliged to provide any explanation or justification.
- 44.2 While a client may file a request for a Swap-free trading account at any time, the filing of any such request entails that all of such client's other real trading Accounts with us will be converted into Swap-free trading accounts also, without any further notice being required. Conversion of a real trading Account to a Swap-free trading account is performed the relevant Department only upon the request and consent of those clients who complete and submit a request for a Swap-free Account. Upon the receipt of such a duly signed and executed request, we shall evaluate request and any ancillary documentation submitted to us and shall inform the client who requested the conversion by e-mail whether the request is accepted or not.



- 44.3 Clients are not allowed to use Swap-free Accounts to make profits from Swaps and may not request the payment of any Swap amounts that have been lost as a result of converting their real trading Account(s) into one or more Swap-free Account(s) for the period during which their real trading Account(s) has/have been converted into one or more Swap-free account(s).
- 44.4 We reserve the right to revoke the Swap-free status granted to any real trading Account at any time without being obliged to provide any explanation or justification. Furthermore, in the event that we detect any form of abuse, fraud, manipulation, cash-back arbitrage, carry trades, or other forms of deceitful or fraudulent activity in regard to any Swap-free Account of any client, we reserve the right, at any time, (a) with immediate effect, to revoke the Swap-free status from any and all real trading Accounts of such client that have been converted to a Swap-free trading Account; (b) to correct and recover any un-accrued Swaps and any related un-accrued interest expenses and/or costs pertaining to any and all of such client's Swap-free trading Accounts during the period for which such Accounts were converted into Swap-free trading Accounts; and/or (c), with immediate effect, to close all trading Accounts of such client with us, nullify all trades carried out in such client's trading Accounts with us and cancel and all profits or losses garnered in such client's trading Accounts with us.

#### **45. Swap-Free Instruments**

- 45.1 We, at our sole discretion, offer clients the possibility of trading swap-free on certain instruments (hereinafter "Swap-Free Instruments"), where applicable and according to the type of Trading Account selected.
- 45.2 The swap-free status of such instruments is offered by us to be used in good faith and clients are not allowed to use the conditions of such instruments to either make profits from Swaps or not pay Swaps. As such, clients may also not request the payment of any Swap amounts that have been lost as a result of trading on a Swap-Free Instrument.
- 45.3 We reserve the right, at our sole discretion, to revoke the Swap-free status of such instruments at any time without being obliged to provide explanation of justification. Furthermore, in the event that we detect or suspend any form of abuse, fraud, manipulation, improper use (including but not limited to carry trades or holding a large portion of overnight positions on Swap-Free Instruments that under other conditions would be subject to negative swap charges), cash-back arbitrage, or any other form of deceitful or fraudulent activity in regard to Swap-Free Instruments in any client's trading account, we reserve the right, at any time, (a) with immediate effect, to revoke the swap-free status of such instruments from any and all real trading Accounts of such client for as long as we deem appropriate, (b) to correct and recover any un-accrued Swaps and any related un-accrued interest expenses and/or costs pertaining to any and all of such client's Swap-Free trading; and/or (c), with immediate effect, to close all trading Accounts of such client with us, nullify all trades carried out in such client's trading Accounts with us and cancel all profits garnered in such client's trading Accounts with us.

#### **46. Joint Accounts**

- 46.1 This clause applies only where you consist of more than one person such as joint Account holders, trustees or personal representatives.
- 46.2 You shall all be considered Clients under this Agreement and shall all be jointly and severally liable for the Obligations and liabilities of all and any of you under this Agreement or in any other dealings between you and us.
- 46.3 Unless and until we receive written notice signed by all of you withdrawing or varying the position as stated so as to limit your authority to a specific named individual joint Account holder:



- each joint holder will have full authority on behalf of all the joint holders to deal with us as fully and completely as if it were the sole owner of the Account without any notice to the other joint holders. This includes any instruction to liquidate, close and/ or withdraw any balance from the Account;
- any of the joint holders may give us an effective and final discharge in respect of any of their Obligations under this Agreement; and
- any notice or communication given to one joint holder shall be deemed to be given to all, and unless otherwise agreed in writing, we may contact and deal with only one of you subject to any legal requirements to the contrary.

46.4 On the death of any of the joint Account holders:

- our Agreement will not terminate but remain binding on the other person(s) constituting our Client and we may treat such survivor(s) as the only person(s) party to this Agreement with us; and
- we will transfer the balance of your Account, and responsibility for any obligations connected with the Account, into the survivors' / survivor's name(s).

46.5 Where you are trustees of a trust or personal representative of an estate, you undertake to give us notice forthwith of any change in trustees or personal representatives.

46.6 Where you are trustees of a trust, you undertake to supply us with copies of any documents now existing (or hereafter executed) limiting, extending or varying the powers of the trustees or amending the objects of the trust and any other documents or information we may reasonably require in connection therewith.

46.7 Any joint Account holder may ask us to convert the Account into a sole Account, however, in such an instance:

- we will require authority in writing from all joint Account holders before doing so; and
- any person removed from the Account will continue to be liable for all obligations and liabilities under the Agreement relating only to the period before they were removed from the Account.

46.8 Notwithstanding the above, we may in our reasonable discretion:

- require joint instructions from some or all of the joint holders before taking any action under this Agreement; and
- if we receive instructions from a joint holder which, in our opinion, conflict or are inconsistent with other instructions, advise one or more joint holders of such conflict or inconsistency and / or take no action on any such instructions until we receive further instructions satisfactory to us.

## **47. Notices and Other Communications**

47.1 Without prejudice to the provisions of this Agreement relating to the giving of dealing and similar instructions, or any other express provision of this Agreement, any notification given to us under this Agreement shall be in writing and sent to our stated address (or such other address as may be notified by us to you). Such notice to us shall take effect upon its actual receipt by us.

47.2 All written communications by us to you under this Agreement may be sent to the last postal address notified to us by you. Such communications to you shall be deemed to have been received (in the case of a notice or other communication by hand) on the date of delivery, by post on the second Business Day after posting, and in the case of an email, on the date on which transmission is confirmed.



- 47.3 All written communications by you to us under this Agreement may be sent for the attention of the Compliance Officer and served by hand or sent by post to us at our stated address, or by email at [compliance.mena@xm.com](mailto:compliance.mena@xm.com).
- 47.4 We may record telephone and electronic communications with you without the use of a warning tone. A copy of such telephone recording or electronic communications will be available to you upon your request.
- 47.5 We are required by law to provide you with certain information about us, our services, our Transactions, our Commission, Spread, Charges and taxes along with copies of our Order Execution Policy and Conflicts of Interest Policy. You specifically consent to us providing you with this information by means of our website. Commission, Spread, Charges and taxes (if any) will be disclosed on our website under the relevant instrument's page. Our Order Execution Policy, Conflicts of Interest Policy, Privacy Policy and Risk Disclosure documents will be provided in the section of our website that allows you to apply for an account and will also be available on the relevant webpage of our website, at all times. Alternatively, details are available by calling one of our employees.
- 47.6 It is your responsibility to make sure that you read all notices posted on our website and on our Online Trading Facility from time to time in a timely manner.
- 47.7 You must ensure that at all times we are able to communicate with you by telephone, fax or e-mail. You are responsible for keeping your contact details up to date and notifying us of any changes as soon as possible. You acknowledge and accept that a failure or delay by you to receive any communication from us sent by email, text message or otherwise whether due to mechanical, software, computer, telecommunications or other electronic systems failure, does not in any way invalidate or otherwise prejudice that communication or any transaction to which it relates. If for any reason you are unable to communicate with us or you do not receive any information sent by us, we will not be responsible for any loss, damage, cost, or forgone profit resulting from failure to communicate with us or receive communication from us. You acknowledge the inherent risk that communications by electronic means may not reach their intended destination or may do so later than intended for reasons outside our control. You accept this risk and agree that a failure or delay by us to receive any offer or communication from you sent electronically, whether due to mechanical, software, computer, telecommunications or other electronic systems failure, does not in any way invalidate or otherwise prejudice that offer or communication or any transaction to which it relates. If, for any reason, we are unable to accept your offer electronically, we may, without obligation, provide you with further information advising you that your offer can be made by telephone as an alternative and we may endeavour to inform you of this.
- 47.8 You agree to receive documents or important announcements in relation to your trading Account or trading conditions via email, on our website or via other electronic form.
- 47.9 We may rely on any instructions, notices or requests or any person who is believed in good faith to be a person designated or authorised by you to give them.
- 47.10 You hereby acknowledge and accept that the Company hereby notifies you that, in order to ensure its compliance with the regulatory requirements, it will record all telephone conversations and electronic communications as well as any other conversations we have with you for quality monitoring, training and regulatory purposes (e.g., live chats, emails, face-to-face meetings, etc.).
- 47.11 A copy of the records mentioned herein above will be available, on request, for a period of six (6) years and, for a longer period of time where requested by the DFSA.
- 47.12 We record all incoming and outgoing telephone calls between you and us for quality monitoring, training and regulatory purposes. We will also record any other communication between you and



us, including chat messages and e-mails. We reserve the right to use these records where we deem it necessary, including, but not limited to dispute resolution situations. Voice and electronic communication recordings must be retained for a minimum of six months.

- 47.13 We may provide copies of such recordings to regulatory authorities upon their request in order to comply with our regulatory obligations without your consent.
- 47.14 You have the right to withdraw your consent in relation to the recording of telephone conversations and electronic communications by informing us in writing. However, as the latter is a regulatory requirement, in case you revoke your consent, we may be unable to provide our Services to you; thus, your access to our Online Trading Facility may be restricted or terminated.

#### **48. Termination**

- 48.1 Either party may terminate this Agreement at any time by written notice to the other which will take effect no later than 10 business days after actual receipt, unless a later date is specified in the notice
- 48.2 You may terminate the Agreement to take effect immediately, or on such date as may be specified in your notice. Where you do so, we will close out any or all of your Open Positions within 24 hours.
- 48.3 We may terminate the Agreement by giving not less than 30 calendar days' notice to you, unless there is an Event of Default under clause 30 in which case we may terminate this Agreement it immediately.
- 48.4 Termination shall be without prejudice to the completion of any Transaction(s) already initiated or in progress, and any or all Transaction(s) outstanding at the time of termination will be completed by us as soon as possible, and settlement and delivery made.
- 48.5 No penalty or other additional payment will become due from either you or us in respect of a termination (by either of us) under this clause, save that you will pay:
- a) Any outstanding fees, costs, charges, expenses and liabilities accrued or incurred under this Agreement (pro-rated where appropriate) and payable by you to the date of termination;
  - b) Any losses necessarily realised in settling or concluding outstanding Obligations; and
  - c) Any other outstanding Obligations due and payable by you.
- 48.6 Termination shall be without prejudice to and shall not affect any accrued rights, or outstanding Obligations which may already have arisen between us. Neither will it affect any contractual provision intended to survive termination (including, without limitation, rights existing in our favour on an Event of Default and any indemnity in our favour).
- 48.7 In addition to other rights of suspension included in express provisions elsewhere in this Agreement, we may suspend your account by giving five Business Days' written notice to you where we reasonably consider it necessary to do so taking into account your best interests or where required to do so in order to comply with any applicable law. Where we do this, we may prevent you from opening any new positions, but will not close any Open Positions unless otherwise allowed by this Agreement.
- 48.8 We may immediately terminate this Agreement, if a Force Majeure Event has occurred and has continued for a period of 5 Business Days or an Event of Default has occurred or is continuing.
- 48.9 Once this Agreement has been terminated, any outstanding commission, spread, charges and taxes that are due, need to be paid to us and after satisfaction of any such outstanding sums, we will proceed in closing your Account.

#### **49. Law and Jurisdiction**



49.1 This Agreement is governed by and shall be construed in accordance with the laws of the DIFC. Any dispute, difference, controversy or claim arising out of or in connection with this contract, including (but not limited to) any question regarding its existence, validity, interpretation, performance, discharge and applicable remedies, shall be subject to the exclusive jurisdiction of the DIFC Courts.

## **50. Severability**

50.1 If, at any time, any term or provision of this Agreement is or becomes (in whole or in part) invalid, illegal, or unenforceable to any extent and under the law of any jurisdiction, then such provision or part will not form part of this Agreement, but the remainder of this Agreement will remain valid, legal and will be enforceable to the fullest extent.

## **51. In the Event of Death**

51.1 In the event of your death, this Agreement will terminate immediately, unless there is a surviving joint Account holder, in which case it will continue in their sole name.

51.2 Any person(s) purporting to be your legal personal representative(s) or surviving joint Account holder must provide us with formal notice of your death in a form acceptable to us, which will in most instances be by way of production of an original death certificate.

51.3 We will then proceed to terminate this Agreement in accordance with the provisions which are applicable on an Event of Default.

51.4 In addition, we will exercise any applicable rights, including but not limited to, closing any and all Open Positions within the Account.

## **52. Intellectual Property**

52.1 All copyrights, trademarks, patents, service marks, trade names, software code, icons, logos, characters, layouts, trade secrets, buttons, colour scheme and graphics are protected by local and international intellectual property laws and treaties, including all copyright laws and regulations and remain vested in us or in our third-party service providers.

52.2 In relation to this clause, you acknowledge that you:

- Receive no copyright, intellectual property rights or other rights in or to our intellectual property assets, except for the right to access and use them in accordance with this Agreement;
- Will not violate our intellectual property or any third-party service providers' proprietary rights, and will honour and comply with our reasonable requests to protect our and each of our third-party service providers contractual, statutory and common law rights;
- Shall not, under any circumstances, remove any copyright notification from any of our intellectual property assets or unlawfully use any of our intellectual property assets; and
- Will not publish, distribute, or otherwise make any of our intellectual property assets available to third parties any information derived from or relating to our intellectual property assets, website(s), Services, and/or software provided.

## **53. Miscellaneous**

53.1 Each of the parties shall execute all deeds or documents (including any power of attorney) and do all such other things that may be required from time to time for the purpose of giving effect to this Agreement and the Transactions contemplated.



- 53.2 Nothing in this Agreement (or any of the arrangements contemplated by this Agreement) shall be deemed to create a partnership between the parties.
- 53.3 Each of the parties shall pay the costs and expenses incurred by it in connection with negotiating and entering into this Agreement.
- 53.4 The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights and remedies provided by law. No failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver of them, and no single or partial exercise of any right or remedy under this Agreement shall preclude or restrict any further exercise of such right or remedy.
- 53.5 Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.
- 53.6 All communications and any agreement between you and us under this Agreement, information, notices, requests and documents published on our website will be in the English language. Any translated version of the agreement and/or any other communicant, including our website, may be provided solely for convenience purposes or due to legal requirements in the event of dispute, the English version shall prevail.
- 53.7 Unless otherwise agreed by us in writing, a person who is not a party to this Agreement shall have no rights under Part 10 of DIFC Law No. 6 of 2004, or any similar legislation to enforce any terms of this Agreement except where such right or remedy may exist apart from that legislation.