



ETX CAPITAL  
CUSTOMER TERMS & CONDITIONS

October 2021

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## 1 INFORMATION

- 1.1 In this Agreement “we”, “us” “our”, “ours” and “ourselves” refer to Monecor (London) Limited, as appropriate. Monecor (London) Limited is a company incorporated in England and Wales with company number 00851820 and is authorised and regulated by the Financial Conduct Authority (“FCA”) with firm number 124721, , and the South African Financial Sector Conduct Authority under license number 50246.
- 1.2 Unless you are notified otherwise by us, our contact details are:  
Address: Finwell House  
26 Finsbury Square  
London EC2A 1DS  
UNITED KINGDOM  
Email: [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com)  
Telephone number: +44(0)20 7392 1494

## 2 THE AGREEMENT

- 2.1 The agreement between us relating to your trading with us (“**this Agreement**”) consists of:
- the completed account application form;
  - the terms and conditions of business set out in this document;
  - our Privacy Policy; and
  - any other document we may provide to you and expressly state that it forms part of the agreement between us.
- 2.2 Certain words and expressions appearing in this Agreement have been given particular meanings. Where capitalised words are not defined in the relevant clause, the definitions set out in clause 33 (Interpretation) shall apply.
- 2.3 This Agreement governs the relationship between us and our client (“**you**”, “**your**” or “**yourself**”, as appropriate) with respect to trading. Please read these terms and conditions of business carefully and we draw your attention to:
- clause 3 (Your Trading Account);
  - clause 9 (Trading);
  - clause 13 (Margin Requirements); and
  - clause 22 (Indemnity and Liability).
- A copy of our terms and conditions of business, as amended from time to time, can be found on our website.
- 2.4 You agree to be legally bound by this Agreement if you: (i) check the ‘Do you agree to our Terms & Conditions?’ box on our website, or (ii) sign the account opening documentation or (iii) Trade on your Trading Account(s). For the avoidance of doubt this Agreement as may be amended from time to time applies to all your Trading Accounts without any separate agreement.

- 2.5 From time to time we may offer new Services or Products to you (where such Services or Products are permitted to be provided to you pursuant to applicable law) and any such additional Services or Products will, in the absence of a separate agreement between you and us, be subject to this Agreement as may be amended from time to time.
- 2.6 If there is any conflict between this Agreement and the Financial Services and Markets Act 2000 as amended (“**the Act**”) or Applicable Regulations, the Act and Applicable Regulations will prevail. Nothing in this Agreement will exclude or restrict any duty or liability owed by us to you under the Act or Applicable Regulations under which we are not permitted to exclude or restrict.
- 2.7 This Agreement constitutes the entire agreement between you and us with respect to the subject matter of these terms and conditions of business and replaces all prior or contemporaneous oral or written communications, proposals, agreements or representations with respect to such subject matter. You acknowledge and accept that in entering into this Agreement and in effecting each Trade you are not entitled to rely, and have placed no reliance, on any representation, warranty, recommendation, advice or other statement other than as set out in this Agreement. In accordance with our regulatory obligations, additional documentation may be required from you at any time for reviews.
- 2.8 This Agreement will be effective on the day on which we acknowledge acceptance of your application. If you are an individual acting for purposes which are outside your business, trade, or profession, you have a period of fourteen (14) calendar days from acceptance of this Agreement to cancel this Agreement without penalty and without giving any reason. This right to cancel shall not apply following any Trade executed under this Agreement which will be binding upon you.
- 2.9 Time will be of the essence in respect of your obligations under or in connection with this Agreement and any Trade. This means that times and dates specified in this Agreement or specified by us in relation to the performance of obligations under this Agreement are vital and mandatory. Any delay, reasonable or not, may be grounds for terminating any Trade or this Agreement.

## 3 YOUR TRADING ACCOUNT

- 3.1 We must complete all know your customer (“**KYC**”) checks and accept you as a client before you are entitled to use the Services. We may refuse your application for any reason, and we are not obliged to provide you with any reason for doing so. We may obtain personal data from a third-party agent for the purposes of KYC and processing your application including the results of checks with

- credit reference and fraud prevention agencies (who may keep a record of the search) and other financial organisations.
- 3.2 If you open a Trading Account with one or more other persons ("**Joint Trading Account**"), you shall be jointly and severally liable for trading losses, fees or charges arising on that Joint Trading Account. Among other things, this means that any monies owed on the Joint Trading Account shall be payable in full by you or any one of the other Joint Trading Account holders and **we will have no obligation** to collect from any particular named holder. Additionally, we may (unless we have expressly agreed otherwise in writing) take instructions to trade from and/or pay any portion of the balance to you, or another named holder of the Joint Trading Account without prior notice to you, and we may give any notices or communications to either you or another named holder of the Joint Trading Account. Upon the death of a named holder of the Joint Trading Account we may provide notices to and take instructions from another named holder.
- 3.3 We accept no responsibility for any unauthorised use of your Trading Account and/or your password except as a result of our negligence, our wilful default, or our fraud. You must keep your password secure and confidential. You acknowledge and agree that we can rely on your username/account number and password to identify you and that you will not disclose these details to any person who is not duly authorised to act on your behalf. You are responsible for all activity under your login and password. At no time will our employees ask you for your password, and under no circumstances should you divulge it. If you become aware or suspect that your password has been unlawfully obtained by a third party, you must inform us immediately.
- 3.4 If you were introduced to us by a third party (excluding an appointed representative of ours) you acknowledge and agree that:
- (a) you duly authorised the third party to introduce you to us and that we assume no responsibility whatsoever for the terms and conditions of any agreement between you and the third party or the lack thereof or any representation or conduct of the third party;
  - (b) a portion of the revenues generated from your Trades or of the charges paid by you to us may be given to the third party where such payments enhance the quality of our service to you and do not impair the obligation of ETX Capital to act in your best interests and in accordance with applicable FCA Rules. Further information of such payments shall be disclosed in compliance with FCA Rules or upon a written request made by you to us.
- You can contact the third party or ETX Capital for further information on charges;
- (c) any advice given to you regarding your Trading Account or your Trades by a third party is not given by us or on our behalf and we assume no responsibility or financial liability whatsoever for any such advice; and
  - (d) the third party is an independent intermediary and does not act as an agent of ETX Capital.
- ## TRADING ACCOUNT SUSPENSION
- 3.5 You acknowledge and accept we reserve the right to suspend your Trading Account if we determine it is dormant.
- 3.6 You agree it is reasonable for us to determine your Trading Account is dormant when:
- (a) there are no open or pending Trades; and
  - (b) there have been no Trades on your Trading Account for a consecutive period of six (6) months.
- 3.7 Where reasonably practicable, we will give you advance written notice in accordance with clause 24 (Communications and Notices) of the suspension of your Trading Account. **In the event your Trading Account is suspended, and you wish it to be reactivated, please contact our support team at: [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).** There is no charge for reactivating a dormant account.
- ## 4 BASIS OF TRADING
- 4.1 We are the counterparty to all Trades executed using the Services. All Trades are on a principal-to-principal basis, i.e., directly between you and us, and we will inform you in accordance with clause 24 (Communications and Notices) of this Agreement if we deal with you in any other capacity, i.e., if we are dealing with you as agent or acting on your behalf generally or with respect to any Trade or class of Trades. Trades are performed by us on the receipt of instructions from you and on an 'execution-only' basis.
- 4.2 You acknowledge and agree that you are capable of assessing the merits of and understand and accept the nature and risks of Trades entered into under this Agreement, and that you do not and will not rely on advice from us in relation to the merits of any Trade.
- 4.3 Spread bets and CFDs are complex financial instruments and come with a high risk of losing money rapidly due to leverage. **We publish a risk warning stating the percentage of retail investor accounts losing money when spread betting or trading CFDs with us and this is available on our website.** You should consider whether you understand how spread bets or CFDs work and

- whether you can afford to take the high risk of losing your money.
- 4.4 Upon checking the 'Do you agree to our Terms & Conditions?' box on our website or otherwise submitting the account opening documentation, and each time you open or close out a Trade or place an Order (see also your warranties at clause 17 (Market Conduct and Other Regulatory Requirements)), you represent and warrant on a continuing basis to us, that such representation and warranty shall survive the completion of any Trade, that:
- (a) you enter into this Agreement and any Trades pursuant to it on your own behalf as principal and not as agent (or trustee) for any other party;
  - (b) no Act of Insolvency has occurred in relation to you;
  - (c) you have all requisite legal, corporate and/or regulatory authority to enter into this Agreement and any Trades made pursuant to this Agreement and any person affirming acceptance of this Agreement on your behalf has been and is duly authorised to do so;
  - (d) if an individual, you are 18 years of age or older;
  - (e) all information you supply to us during the application process and otherwise from time to time is complete, true, current and accurate, it is your responsibility to inform ETX Capital without undue delay of any changes to the information you have supplied to us;
  - (f) you are not contravening any legislation in the country from which you are placing your Trades;
  - (g) in making any Order you have been solely responsible for making your own independent appraisal and investigations into the risks of a Trade; *and*
  - (h) you have sufficient knowledge, market sophistication and experience, or have received sufficient professional advice to enable you, to make your own evaluation of the merits and risks of any Trade you place with ETX Capital.
- 4.5 You may be categorised as a Retail Client, Professional Client or an Eligible Counterparty. If we categorise you as a Professional Client or Eligible Counterparty you may lose the protection of certain FCA Rules, which we will inform you of.
- 4.6 To the extent that you are a Professional Client or Eligible Counterparty we are under no obligation to satisfy ourselves as to the appropriateness of any Trade, to monitor or advise upon its performance or, subject to FCA Rules, to make Margin Calls or to close out Trades. Any information supplied by or on our behalf should not (and will not be deemed to) be taken to constitute advice to you on the appropriateness, risks, merits or disadvantages of any specific Trade. We do not advise on the merits of transactions or their tax consequences. You accept that it is your responsibility to invest responsibly and as necessary seek suitable independent financial advice before you trade.
- 4.7 In certain circumstances we will re-categorise you and, in that event, will explain clearly why we are doing this and the effect this may have regarding your rights, in writing. You may also ask us to re-categorise you. However, if we consider that re-categorisation is inappropriate for you, you will not be re-categorised. We reserve the right to refuse to re-categorise you.
- 4.8 We reserve the right to conduct an appropriateness assessment of your expertise and understanding of the risks associated with the financial product you have elected to Trade at any time and may, at our absolute discretion reject or cancel an Order from you.
- 4.9 Separately to our relationship with you (which is governed by this Agreement) we may be instructed by companies who are listed or quoted on regulated markets to assist them with fundraising efforts. In this context we may, subject to complying with all relevant FCA Rules, approach you to ascertain your interest in participating in any such fundraising activity. If we do contact you, we will explain to you that we will not, in relation to your potential involvement with the relevant fundraising be acting on your behalf or providing any investment service to you and that we will instead be acting solely for the company seeking additional funds. Importantly, in this context you will not receive any protections available under this Agreement or under the FCA Rules because we will not, in this context, be treating you as our client.
- ## 5 OUR CHARGES
- 5.1 When you enter into a Trade with us you will be charged a mark-up or mark-down (the difference between the price at which we take a principal position and the Trade execution price with you). We may agree a fixed mark-up or mark-down (commission). The mark-up/mark-down or commission that will be charged depends on the circumstances of each Trade. Details of the mark-up/mark-down or commissions can be found on our website or can be requested by contacting [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).
- 5.2 Please be aware that we may apply dividend or other adjustments to your Trade as set out in clause

- 16 (Corporate Actions, Dividends and Other Situations).
- 5.3 Trades that are held after the close of the relevant Underlying Market are generally subject to a funding or finance charge or may be subject to a refund as appropriate which is incurred on each day that the relevant Trade is open and is levied as part of our end-of-day process. For markets other than FX, the charge or refund is calculated based on the total equivalent market value of each Trade held overnight and we will then charge or pay interest on this market value for each day the Trade is held open overnight. There will be a financing charge on FX Trades remaining open at 20:00 (London time) on any trading day that is made up of an administration charge and the relevant Tomorrow Next (Tom Next) charge we are charged by our liquidity provider.
- 5.4 When you open a Short Trade with us, we reserve the right to pass on to you any borrowing charges incurred by us, plus a reasonable mark-up when hedging our exposure to you under that Short Trade. If you do not pay any such charges, or if we are (or become) unable to borrow the relevant Underlying Market (and we give you notice to that effect), we may, at our absolute discretion, take one or more of the following steps:
- close your Short Trade at such price as we reasonably believe to be appropriate; or
  - increase your Initial Margin Requirement.
- 5.5 You acknowledge and accept that the steps in clause 5.4 may result in you incurring a loss on the Short Trade and that you fully indemnify us against any fine, penalty, liability or other similar charge imposed on us for any reason by any Exchange, market maker, broker, agent or Competent Regulatory Authority that relates in any way to opening or closing your Short Trade or any related transaction by us to hedge your Short Trade.
- 5.6 An Underlying Market may either not be borrowable from the outset, or our brokers or agents may recall the Underlying Market that we borrowed to hedge our exposure to your Short Trade. For the avoidance of doubt, your indemnity of us, as set out in clause 5.5, extends to any such stock recall or 'buy-in' costs imposed by any Exchange, market maker, broker, agent or central clearing party in relation to your Short Trade.
- 5.7 We will report to you on our costs and charges from time to time as required by Applicable Law and Applicable Regulation or on written request by you.
- 5.8 If you deposit money to your Trading Account(s) or make Trades in a currency other than your Base Currency you should note the following:
- If you make a Trade in a currency other than your Base Currency, it is possible to realise a profit or loss in that currency. As a result, you may find that you have multiple balances in different currencies.
  - The realised profit or loss from each Trade will automatically be converted to your Base Currency and posted to your Trading Account(s) in that Base Currency. We will also convert any non-Base Currency adjustments or charges to your Base Currency before such adjustments/charges are booked on your Trading Account, and we will convert any money received from you in a non-Base Currency into your Base Currency.
- 5.9 If you instruct us in writing to fund Margin from funds denominated in a currency other than the Base Currency, we will be authorised to convert those funds for Margin at a rate of exchange reasonably determined by us.
- 5.10 If you have requested to opt-out of sub-clause 5.8(b) and we have agreed that sub-clause 5.8(b) does not apply to one or more of your Trading Accounts, positive or negative trading balances and/or money standing to your credit in a non-Base Currency will be posted to your Trading Account and we will conduct recurring balance sweeps (for example on a daily, weekly or monthly basis) that will convert all non-Base Currency balances standing on your Trading Account to your Base Currency. Please note that depending on your account type, some of the sweep frequencies might not be available to you.
- 5.11 When we consider it reasonably necessary, or when instructed by you, we may convert positive and negative balances and/or money standing to your credit in a non-Base Currency into your Base currency, when there is no open Trade on your Trading Account.
- 5.12 Any currency conversion will be determined at the relevant exchange rate we make publicly available on our website at that time. We will not be liable to you for any exchange rate loss suffered by you as a result of a currency conversion done at your instruction.
- 5.13 From time to time (example: in a monthly statement), we may provide information to you which presents your multicurrency balances in your Base Currency. This information is presented for illustration purposes only using the applicable prevailing exchange rate at that time and the balances will not have been converted to your Base Currency.
- CURRENCY CONVERSION**
- 5.8 If you deposit money to your Trading Account(s) or make Trades in a currency other than your Base Currency you should note the following:
- If you make a Trade in a currency other than your Base Currency, it is possible to realise a profit or loss in that currency. As a result, you may find that you have multiple balances in different currencies.
  - The realised profit or loss from each Trade will automatically be converted to your Base Currency and posted to your Trading Account(s) in that Base Currency. We will also convert any non-Base Currency adjustments or charges to your Base Currency before such adjustments/charges are booked on your Trading Account, and we will convert any money received from you in a non-Base Currency into your Base Currency.
- OTHER CHARGES**
- 5.14 We may charge you when processing a deposit or withdrawal of funds (example: when using a credit card). Details relating to such charges are on our website or can be requested by contacting [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com). Your bank or

another relevant third party may levy additional charges in connection with the deposit and/or withdrawal of funds.

- 5.15 You acknowledge that other taxes or costs may exist that are not paid through, or imposed by, us. You are responsible for any such additional taxes or costs.
- 5.16 There may also be circumstances where we pass on additional charges (examples: borrowing costs or stamp duty or other taxes) which we might incur when hedging your Trade in an Underlying Market in a non-UK security.
- 5.17 **We reserve the right to charge interest, accrued on a daily basis, at a rate of four percentage points (4%) above the prevailing base rate of The Bank of Scotland plc (or other financial institution selected by us in our absolute discretion) in respect of any debit balance, unpaid Margin or other sums overdue to us under this Agreement.**
- 5.18 You acknowledge and agree that any sums due to us in accordance with the terms of this Agreement may be set-off (deducted) from your Trading Account(s) or any linked account. The right of set-off means that we can combine an account that is in debit with another account that is in credit, in effect using funds from one account to pay your debt in another account. Where reasonably practicable we will give you advance written notice of our intention to exercise our right of set-off.
- 5.19 You will be always responsible for the payment of all taxes due and for providing any relevant tax authority with information relating to your dealings with us. Where we are required by law to provide information to a tax authority this provision of information will be governed by our Privacy Policy available on our website.
- 5.20 Please note that you must pay, or reimburse, us for any taxes or levies including stamp duty, stamp duty reserve tax, financial transaction taxes and/or other applicable taxes or levies applicable, now or in the future, to your Bets payable by you pursuant to the relevant laws and regulations. We also reserve the right to require you to pay, or reimburse, us for stamp duty in the event of a change in the basis of stamp duty rates or law.

## 6 YOUR MONEY

- 6.1 If you have been categorised as a Retail Client (or if you have been categorised as a Professional Client or an Eligible Counterparty and we have agreed to segregate your funds) the following shall apply:
  - (a) When you transfer money to us or money is paid to us on your behalf or is credited by us to your Trading Account, such money will be held in a segregated client money bank

account at one or more approved financial institutions in accordance with the Client Money Rules.

- (b) We may hold client money in a client money bank account located outside the UK. The legal and regulatory regime applying to any such bank will be different from that of the UK and in the event of the insolvency or any other equivalent failure of that bank, your money may be treated differently from the treatment which would apply if the money was held with a bank in the UK.
  - (c) We will exercise all reasonable due skill, care and diligence in the selection of any third-party holding money under paragraphs (a) and (b). We shall not be liable for the solvency, acts or omissions of any bank or other third-party holding money under paragraphs (a) or (b), except as a result of our negligence, fraud or wilful default.
- 6.2 Unless you notify us in writing or otherwise, we may pass on Client Money or allow another person, such as an exchange, a clearing house, or an intermediate broker, to hold or control Client Money where we transfer the Client Money:
    - (a) for the purposes of a Trade for you through or with that person; or
    - (b) to meet your obligations to provide collateral for a Trade (e.g., an Initial Margin Requirement for a derivative transaction).
  - 6.3 You agree that we may discontinue treating any money held on your behalf as Client Money and release such money from the client money bank account if you have not traded in the previous six (6) years and we have not been able to contact you after making reasonable efforts. Any such money will remain owing to you, and we undertake to retain records of all such amounts.
  - 6.4 If you have been categorised as a Professional Client, we may agree with you that you do not require money which is transferred by you to us to be held in accordance with the Client Money Rules. Any such agreement must be in our agreed form and signed by you and may be provided to us by post or by scanned copy sent to us by email. Following such an agreement, we will treat any transfer of money by you to us as a transfer of full ownership of money to us for the purpose of securing or covering your present, future, actual, contingent or prospective obligations, and we will not hold such money in accordance with the Client Money Rules. Because title of the money has passed to us, you will no longer have a proprietary claim over money transferred to us and we can deal with it in our own right, and you will rank as a general creditor of ours. By placing money with us under a

title transfer agreement, you agree that all money you place on your account is done so in anticipation of a Trade and therefore has the purpose of securing or covering your present, future, actual, contingent or prospective obligations to us. You should not place any money with us that is not for the purpose of securing or covering your present, future, actual, contingent, or prospective obligations to us.

- 6.5 If you have been categorised as an Eligible Counterparty you agree that we may without separate written agreement treat money which is transferred by you to us as a transfer of full ownership of money to us for the purpose of securing or covering your present, future, actual, contingent, or prospective obligations to us and that such money will not be held in accordance with the Client Money Rules.
- 6.6 You acknowledge and agree that you waive any entitlement (under the Client Money Rules or otherwise) to receive interest on any money that we hold for you.
- 6.7 Any client money unclaimed by you on a Trading Account which has been dormant for at least six (6) years may be paid away to a registered charity of our choice. Any such payments will only be made where permitted by law. Before making any such payments we will take reasonable steps to return the balance to you.
- 6.8 You agree that we may transfer client money to a third party as part of a transfer of all or part of our business in accordance with the Client Money Rules. Any sums transferred will be held in accordance with the Client Money Rules or, where this is not the case, we will exercise all due skill, care, and diligence in assessing whether adequate measures are in place to protect such sums.
- 6.9 We may hold client money in a qualifying money market fund in accordance with Applicable Regulation. Where we do so such money will not be held as client money but will be held as safe custody assets in accordance with Applicable Regulation. By accepting this Agreement, you explicitly consent that your client money may be held in such a fund unless you notify us otherwise in writing. Upon receipt of such notice from you, we will take steps to remove your money from any money market fund as soon as reasonably practicable, subject to any restrictions that apply to the withdrawal of money from the relevant fund.

#### PAYMENT AND WITHDRAWAL OF FUNDS

- 6.10 Where you transfer funds to us, your monies will normally be cleared through a payment service provider within one to three (1-3) Business Days. However, your Trading Account will be credited immediately. In the unlikely event that a payment

service provider does not meet its obligations, for example, if it becomes insolvent or a cheque or other payment method is dishonoured, rejected, or bounced then any monies advanced to you will be reclaimed by us, including where this may require liquidation of open Trades. You will also be obliged to reimburse ETX Capital for any losses, costs and interest arising from the failure to meet required payment obligations.

- 6.11 We may refuse to accept payment by a particular method and if so, we may require you to use alternative methods of payment.
- 6.12 We do not accept cash or payments from, or make any payments to, third parties or other client accounts unless agreed in writing in advance. Any such agreement will be at our discretion and under such terms as we may require from time to time. Funds deposited by way of transfer of monies between client accounts can only be carried out, with all due care, after signed written authority has been received from the paying client.
- 6.13 The lesser of (i) your Cash Balance, (ii) your Liquidation Value, or (iii) Trade Funds Available, will be paid to you according to your instructions, unless we are prevented from doing so by law. Please note that in some circumstances it may be necessary for you to provide additional documentation to prove the origin of your deposit and your ownership of the destination bank account or card to protect you and us against fraud. As stated in clause 5.18 (Other Charges) above, any sums due to us in accordance with the terms of this Agreement may be set-off from your Trading Account(s). As such, any payment made under this clause will be subject to the prior deduction of any sums due to us in accordance with the terms of this Agreement.
- 6.14 To make a withdrawal, you must submit a request either via our trading platforms, in writing or by email or as displayed on the 'Withdraw Funds' page on our website. Where possible all funds will be returned to the same account, or source, from which they were originally deposited. Charges may apply; please see our website for up-to-date information on the applicable charges.
- 6.15 We will make reasonable efforts to give effect to your withdrawal instructions. Please note that while the funds remain in your Trading Account(s) they may impact upon your Maintenance Margin. You should ensure that you have sufficient funds in your Trading Account to always meet any Margin requirements.
- 6.16 Notwithstanding anything to the contrary in this Agreement, if there is a Force Majeure Event, a Disruption Event or we determine that a Hedging Disruption has occurred, or may occur, (including a Hedging Disruption which is a result of any actual or imminent delay, disruption, suspension, or

reduction in any payment or settlement in respect of any transaction or asset we deem necessary to hedge our Trade price risk, whether such Hedging Disruption arises directly or indirectly from the failure of a hedging counterparty to perform its obligations or otherwise), then in these circumstances we shall not be obliged to make payments to you to the extent our ability to do so is restricted by these events and you will be liable to us for any increased costs or expenses resulting from any such Hedging Disruption (including any costs of unwinding, establishing or re-establishing a hedge) and we may upon notification of such costs to you deduct them from your Trading Account(s) or demand payment of such costs directly from you.

6.17 If you have a negative Cash Balance on your Trading Account(s), the full amount of such balance is due and payable to us immediately. If you are categorised as a Retail Client and if at any time you have a negative Cash Balance on your Trading Account(s), we will waive our right to claim the deficit and will set the account balance to zero if required by the relevant laws and regulations. Please note that this may take some days to happen.

## 7 ELECTRONIC SERVICES

7.1 Where an Electronic Service involves you placing Orders with or giving instructions which are to be carried out by us then unless we agree otherwise you acknowledge that:

- (a) where an instruction has been given, it shall be irrevocable, and we shall be under no obligation to take any steps to reverse it unless so required by law;
- (b) an Order will not be effective until you receive an onscreen confirmation of receipt thereof from us; and
- (c) there are inherent risks in using electronic communications such that the systems may fail, or they may not be secure and communications may be intercepted by unauthorised parties or may not reach their intended destination or may do so much later than intended for reasons outside our control.

7.2 We will use commercially reasonable efforts to ensure that our Electronic Service can be accessed by you for use in accordance with this Agreement. Subject to us giving no undertaking, representation, or warranty that any Electronic Service will be available or accessible to you at all times.

7.3 **You understand that there is no trading system free from the risk of loss. We do not imply or guarantee that you will make a profit. You should not Trade with us unless you understand the trading system you are using and the extent**

**of your exposure to risk. If you are unsure about your use of a trading system you should not trade. If you require any further information in relation to one of our trading systems, please let us know immediately by contacting [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).**

7.4 We may, at our discretion, suspend any Electronic Service with or without notice for any reason, including but not limited to carrying out routine maintenance, repair, or development. We will not be liable if access to any Electronic Service is prevented or interrupted or otherwise unavailable due to a Force Majeure Event and/or because of any suspension pursuant to this Agreement, except as a result of our wilful default, fraud or negligence. **We give no warranty regarding the whole or any part of our trading platforms, website or any systems or network links or any other means of communication or their suitability for any equipment and device used by you for any particular purpose, except as a result of our wilful default, fraud or negligence. We will have no liability to you in relation to any loss or consequential or otherwise, cost or damage that you suffer as a result of any delay or defect in or failure of the whole or any part of our trading platforms, website or any systems or network links or any other means of communication. We will have no liability to you, whether in contract or in tort (including negligence) if any computer viruses, worms, software bombs or similar items are introduced into your computer hardware or software via websites, if we have taken reasonable steps to prevent any such introduction.**

7.5 Unless telephone trading services are offered and agreed by us, you must ordinarily trade online via our website or mobile trading platforms. If you cannot close an open Trade due to technical difficulties with the trading platform, you may close such Trade by telephone (see clause 7.11 (System Failure) below).

7.6 You are responsible for ensuring that your information technology system is compatible with ours and meets our minimum system requirements. The minimum system requirements are as set out on our website and updated from time to time.

7.7 Unless otherwise indicated or agreed, any prices shown via any Electronic Service are indicative at the time shown and based on data which is subject to constant change. The execution price is that price which is confirmed to you at the time of execution.

7.8 If an order entry is made using the Electronic Services by mistake or does not reflect the intended transaction (an 'erroneous order') then you shall be responsible for amending or cancelling such orders

as necessary and for closing any resultant positions subject to our rights in this Agreement.

- 7.9 We reserve the right, unilaterally and with immediate effect (at any time, with or without cause or prior notice), to limit your use of the Electronic Services, to change the nature, composition or availability of any Electronic Services, to apply pre-execution trading controls, to set any other trading limits to any Electronic Services, or to suspend your Trading Account. In the absence of wilful misconduct or fraud by us we will not be liable to you for any Losses claim, demand or expense incurred to you in connection with us exercising our rights under this clause 7.9.
- 7.10 Certain Electronic Services information may be provided by third parties. If any of the Electronic Services information ceases to be furnished by any third-party vendors in a manner which is compatible with the Electronic Services, we may remove as much Electronic Services information as is affected, without advance notice, without incurring any liability to you, and without any change to any of your payment or other obligations. Further, we may modify, amend, alter, update, supplement or replace the Electronic Services software (which, among other things, determines the functionality and appearance of some or all the Electronic Services features) from time to time, in whole or in part, without any notice (except for material changes to functionality as reasonably practicable), without incurring any liability to you, and without any change to any of your payment or other obligations. You acknowledge and agree that your use of the Electronic Services after any modification, amendment, alteration, update, supplement, or replacement shall constitute your acceptance of such modification, amendment, alteration, update, supplement or replacement.

## SYSTEM FAILURE

- 7.11 If, despite our numerous safeguards, any trading platform or related system failure should occur that makes trading impractical, all new trading will be suspended. All open Trades will remain open until the close of the relevant Underlying Market; however, while systems are down, no Stop Loss Order or Limit Order may be executed. We are not responsible for any additional trading loss suffered due to a Stop Loss Order or a Limit Order not being duly executed because of a systems failure, except as a result of our wilful default or fraud. You remain liable for any open Trades until confirmation is issued that they have been closed. In the event of a system failure, you may close Trades via telephone. Please note that during periods of high volatility in Underlying Markets we may experience unusually high telephone call volumes and where Electronic

Services or telephony is interrupted you may not be able to get through. In such circumstances we will use commercially reasonable efforts to answer your call as quickly as possible but will not be liable to you for any trading loss due to delay, except as a result of our fraud or wilful default.

## 8 TELEPHONE TRADING

- 8.1 You may use telephone trading services if:
- (a) we invite you to use telephone trading services offered by us during trading hours of the relevant Underlying Market provided you meet certain requirements as determined by us; or
  - (b) you require the telephone service as an alternative form of communication where your normal other form of communication (example: via our trading platform) is unavailable.
- 8.2 The commission quoted via the telephone service may in certain circumstances differ from that which is displayed on our trading platform.
- 8.3 We will not accept any instructions in relation to a Trade where such instructions are received solely in the form of messages left on our answerphone or voicemail facilities. Where you instruct us by telephone in accordance with the terms of this Agreement, you must only do so by talking directly to one of our authorised staff members via one of our recorded landlines.
- 8.4 We reserve the right not to provide a two-way price to you on the Products we offer you.
- 8.5 Without prejudice to any other term of this Agreement, the provisions of clause 13 (Margin) and clause 9.3 will apply to Trades made via the telephone trading service.
- 8.6 Although Trades may be placed over the telephone as provided under this clause 8, it is your responsibility to monitor and manage such telephone Trades and your Trading Account(s) via the trading platform.
- 8.7 Execution of an Order will only be confirmed by telephone and/or email if this is specifically requested.

## 9 TRADING

- 9.1 The provisions of this clause 9, in addition to all other provisions of this Agreement, will apply to each Trade placed by you with us. You are trading on the price of a financial instrument (example: a share) and will not be entitled to the delivery of, or be required to deliver, the underlying financial instrument, nor will you be entitled to ownership or any other interest unless otherwise agreed by us in writing.

- 9.2 You may place Trades via the trading platform or in accordance with clause 8 (Telephone Trading), by telephone. We accept no liability for instructions sent to ETX Capital electronically (example: by SMS, email, Bloomberg or other instant messaging services) and are under no obligation to act on such instructions unless you have obtained prior written permission from us.
- 9.3 Any Order which is provided to us by means other than via the trading platform (i.e., by telephone, email, Bloomberg, or other instant messaging service) will not be deemed accepted by us until you have received verbal or written confirmation by one of our representatives that your Order has been worked in the market.
- 9.4 When trading on the ETX Capital Platform you may not hold opposing Trades (or positions) in the same Product, in the same account, for the same expiry date. For example, you may not open one (1) 'buy' Trade and then open one (1) 'sell' Trade in the same Underlying Market. Should you seek to do so, depending on the platform, the earlier Trade may be automatically closed and a profit or loss may be realised.
- 9.5 You acknowledge that we can accept and execute Orders only if actually received or generated and then on a 'not held' basis (i.e., we shall not be held responsible for the execution of the Order at the price indicated or otherwise).
- 9.6 Each Trade opened by you will be binding on you, notwithstanding that by opening the Trade you may not have had the Initial Margin Requirement in your Trading Account or have exceeded any credit or other limit applicable to you in respect of your dealing with us.
- 9.7 You acknowledge and agree that Trades are speculative instruments, and you will not enter into any Trades with us in connection with any Corporate Finance-style Activity or which, if we were to choose to hedge our exposure to you in respect of any such Trade in whole or part would constitute a corporate finance activity.
- 9.8 If you are a legal entity, our Trades with you may need to be reported under the European Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (648/2012) (also known as EMIR) or under EMIR as it is transposed into UK Law by the European Union (Withdrawal) Act 2018, also known as UK EMIR. If they are required to be reported, we will generate the unique trade identifier in relation to each relevant Transaction. For this information, please contact [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).
- 9.9 To the extent you are a MiFID investment firm and are required to do so, we will not transaction report on your behalf unless otherwise agreed.

## MARKET DATA

- 9.10 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 the Electronic Services, (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 Regulations, (e) you will use such data or information solely in compliance with Applicable Regulations, and (f) you will pay such market data costs (if applicable) associated with your use of the Electronic Services as we inform you from time to time. In respect of exchange data that you elect to receive via the Electronic Service, you hereby agree to any terms and conditions relating to the redistribution and use of such data as set out on our website on the exchange permissions page.

## TRADE-THROUGH CHARTS

- 9.11 As part of our ETX Capital Platform offering we provide you with a charting tool "Trade-through Charts" whereby you can perform various trading functions including opening and closing Trades. We will use reasonable efforts to ensure an acceptable service; however, in using Trade-through Charts you accept that the price data displayed may be delayed and that we do not guarantee the accuracy or completeness of the data, either current or historical, and that we do not guarantee that the service will be uninterrupted or error-free.
- 9.12 You acknowledge and agree that in the event of any discrepancy between the data (pricing or otherwise) displayed in Trade-through Charts and the data displayed on the ETX Capital Platform, the data in the ETX Capital Platform will prevail.
- 9.13 It is a condition of your use of Trade-through Charts that you agree to any reasonable conditions that we place on its use.

## ROBOTIC TRADING TOOLS

- 9.14 You take sole responsibility for any third-party applications that you use in conjunction with your Trading Account(s).
- 9.15 It is your sole responsibility to conduct due diligence on the respective software programs you use and determine for yourself whether the software is right for you. If you are unable to make that determination yourself, you should seek

independent advice from a professional advisor. We will not be able to give you any advice on the selection or use of any interface or other third-party software or hardware. If you decide to install or use an Expert Advisor, Script, or Indicator you do so at your own risk. We shall not be responsible in any way whatsoever in respect of decisions, Orders, Trades or signals generated by the use of Robotic Trading Tools, your use of such tools or any resulting trading loss.

- 9.16 Please note that a Robotic Trading Tool may generate a high number of trades and at times leverage your Trading Account to the maximum possible exposure to a Market given your available funds. It is your sole responsibility to monitor these Orders and Trades and to always maintain sufficient Trade Funds Available in your Trading Account.
- 9.17 If a Robotic Trading Tool is creating high volumes of Trades, pending Orders or Order amendments that we believe is impacting on the performance of our servers and systems then we may, in our sole discretion, disable the Robotic Trading Tool function of your Trading Account. In normal circumstances we will use reasonable efforts to notify you of our intention to suspend your Trading Account. Additionally, please see our Overloading Policy at clause 12.11 Orders) below.
- 9.18 We will enable the Robotic Trading Tool function as a default for your Trading Account; however, we reserve the right, in our sole discretion, to restrict, ban or otherwise prohibit the use of any particular Robotic Trading Tool or to disable your Trading Account for all Robotic Trading Tools.

## MARKETS

- 9.19 We offer Trades in a variety of financial contracts of all kinds, including, but not limited to, single shares, single share indices, index futures, bond indices and futures, commodities, foreign exchange rates, foreign exchange futures, and options on any of these instruments.
- 9.20 Where required by Applicable Law, we will provide you with certain disclosure documents, including a **"Key Investor Information Document"** (also known as a "KIID") as updated from time to time. A KIID is a two-page, fact-sheet style, document that includes important information about our Products. The contents of these disclosure documents, including any KIID(s), do not form part of our Agreement with you. Rather, they are aimed at providing a transparent and succinct overview of our Products before you invest.
- 9.21 We list on our website via the 'Legal' link information about our Products and will provide you from time to time with KIIDs for each type of Product, please take some time to familiarise yourself with these documents before placing Trades. The KIIDs include

information on the Expiry Date, margin requirement and the hours of trading. **Please read the contents of the KIID and online information thoroughly before you submit your first Trade of that type. If you are unsure about any of the content of the KIID or online information you should not trade. If you require any further information in relation to the KIID or online information, please immediately contact us at [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).**

## OUR PRICES

- 9.22 We maintain a Bid Offer Spread between the price at which we buy and the price at which we sell in each market upon which the relevant contracts are based. The Bid Offer Spread varies between markets and can be changed by us at any time. The Bid Offer Spread and the prices are determined solely by us at our complete discretion.
- 9.23 Prices quoted by us are derived by reference to the price of the Underlying Market which is quoted by an Exchange, a liquidity provider or other third-party market maker that we have selected at our discretion. The prices quoted by us may be different than the price of an Underlying Market as quoted by other parties.
- 9.24 Prices quoted are subject to confirmation by us. We will exercise all due care and skill in the preparation of the on-screen price but, due to the nature and speed of movements in the Underlying Market, the price indicated may not necessarily be the exact price available to open or close a Trade. We will not be liable for any Losses or costs which you may incur as a result of not being able to open or close a Trade at a particular on-screen price due to, but not limited to, Negative Slippage, except as a result of our fraud or wilful default.
- 9.25 Due to the potential for computer or other errors, we may take any reasonable step as set out in clause 9.25 below for any Trades executed at prices which are the result of any error, omission or misquote (whether by us or any third party) which is manifest or palpable, including a misquote by us taking into account the current market and currently advertised prices (examples: the wrong price or market or any error or lack of clarity of any information, source or commentator), or is otherwise clearly at odds with the fair market price ("**Manifest Error**").
- 9.26 If a Trade is based on a Manifest Error, we may, acting reasonably and in good faith:
- void the Trade (i.e., treat the Trade as if the Trade had never taken place);
  - close the Trade on the basis of our then current prices; or
  - amend the Trade, so that it is as it would have been if the Order were to have been

- executed in the absence of the Manifest Error.
- 9.27 We can exercise the above rights even if you have entered (or refrained from entering) into arrangements with third parties relating to the relevant Trade and even if you may suffer a trading loss as a result. In the absence of wilful misconduct or fraud by us we will not be liable to you for any Losses, cost, claim, demand, or expense following a Manifest Error.
- 9.28 If a Manifest Error has occurred and we choose to exercise our rights under clause 9.25 above, and if you have received any amount from us in connection with the Manifest Error, you agree that such amount is due and payable to us and you agree to return such amount in full to us without delay.

## CLOSING A TRADE

- 9.29 Depending on the products, trades may only be closed during our normal trading hours. When a Trade is closed, any trading loss will be debited (deducted) from your Cash Balance and any profits will be credited (added) to your Cash Balance.
- 9.30 Trades can generally be closed out by you at any time during the relevant opening hours of the Market and, where applicable, before the Expiry Date and time of the relevant Trade on the price quoted from time to time by us.
- 9.31 Without prejudice to any other rights that we may have under this Agreement, if your Trade has not been closed by the relevant Expiry Date, we may close (settle) it at the applicable official quotation or value or, if there is no formal Underlying Market, at such other relevant price, taking into account any Bid Offer Spread applied by us in such circumstances.
- 9.32 Any funds shown as Liquidation Value in your Trading Account at closure will, on your request, be returned to you in accordance with clause 6 (Your Money).

## ROLLING OVER AND EXPIRY OF TRADES

- 9.33 You may make a telephone request to us up to thirty (30) minutes before the Expiry Date of an open Trade to extend the period of that Trade ("**Roll Over**"). On making a request for a Roll Over, any attached Orders to the Expiring Trade will not automatically roll over to the newly rolled Trade. You must specify a new Order if required. We reserve the right to reject any such request made by you to Roll Over an open Trade and will not be obligated to give you a reason for the rejection. You will be informed of such rejection by telephone or in writing.
- 9.34 If we accept a request to Roll Over an open Trade:
- (a) the original Trade will be closed at our current price; and

- (b) a new Trade is immediately placed in the market underlying the first Trade at our relevant current price offered for the new Trade.
- 9.35 We have the right to charge you in accordance with clause 5 (Our Charges) for any expenses or costs (including third party expenses and costs) incurred in connection with processing a request made by you to Roll Over an open Trade. Weekend Roll Over will incur charges of three (3) days. If you do not close an Expiring Trade, it will be closed automatically upon its Expiry Date, unless a request for a Roll Over has been accepted by ETX Capital.
- 9.36 In exceptional circumstances we may require an Expiring Trade to Roll Over (example: where we are unable to close out our related hedging trade). We retain the right to charge you for the Roll Over.
- 9.37 In the case of futures contracts, all transactions will be automatically rolled over into the next period unless you opt out of this by contacting us at [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com). We also retain the ability to terminate any futures contract where it deems that the terms of such contract have been breached.

## NON-EXPIRING TRADES

- 9.38 Non-Expiring Trades may be closed by us where we deem it necessary (examples: in a Force Majeure Event or where the cost of financing the Trade has used more than your Trade Funds Available). When Trades are closed by us, the price will be at the full commission quoted by us at that time or at a price that in our opinion fairly reflects the price at that time.
- 9.39 These Trades will remain open so long as you have funding available to support the minimum Margin for each Market. We reserve the right to move Stop Loss Order prices on any open Trade so that you remain in a positive available funds position. Should you be unable to support any Trade due to the ongoing cost of the daily financing charge (and the constraints of the minimum margin) we reserve the right to close part or all of any Trade sufficient to bring you into a positive available funds position.
- 9.40 Any Order attached to such a Trade remains attached to the Trade until the expiry of the Order, closure of the Trade or cancellation of the Order. All other terms and conditions of this Agreement apply to Non-Expiring Trades.

## 10 MARKET DISRUPTION

- 10.1 For the purposes of this Agreement, a "**Disruption Event**" is the occurrence of any of the following circumstances or events:
- (a) the Underlying Market related to the Market you are trading in or the Exchange on which

- the Underlying Market trades, whether directly or indirectly (example: on a future of or option on such Underlying Market), is the subject of a takeover offer or a merger offer; or the issuer of such Underlying Market or operator of Exchange has entered into or is the subject of insolvency or liquidation proceedings (or any Act of Insolvency has occurred in relation to such issuer or operator); or
- (b) any event which disrupts the trading of the underlying security or trading on the 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 early closure of the Exchange or otherwise, and/or any other event causing market disruption, and which is a material disruption.
- 10.2 If we in our sole and absolute discretion determine that a Disruption Event has occurred on any day on which an Exchange is scheduled to be open for its regular trading session, then such day shall be a **"Disrupted Day"**.
- 10.3 If a Disrupted Day occurs, we may in our absolute discretion, with or without notice to you, (and without prejudice to any other rights and remedies we may otherwise have under this Agreement or at law) take the following steps with respect to Trades that are affected by the Disruption Event:
- (a) suspend trading in the Market;
  - (b) close any or all open Trades, refuse to place any Trades, cancel any Orders and fill any Orders in each case at such price as we may consider in good faith to be appropriate in all the circumstances;
  - (c) in the event of suspension of, or another Disruption Event relating to, the Underlying Market, we reserve the right to, but are not obligated to, value the relevant Trade at zero (0);
  - (d) suspend or modify the application of any terms of this Agreement to the extent that it is impossible or not reasonably practicable for us to comply with them;
  - (e) immediately require payment of any Maintenance Margin and/or any other amounts owed by you to us; or
  - (f) take or omit to take all such other actions as we deem appropriate in the circumstances, and we will not be liable to you for any Losses arising for any reason, except as a result of our negligence, wilful default or fraud.
- 10.4 If trading is suspended or any of the Services are otherwise partly or fully unavailable, we will seek to inform you as soon as practicable and generally through notification on our website.
- 10.5 Any Trade closed by us pursuant to clause 10.3 will be closed on the basis of our current price for the relevant Market.
- 10.6 We will not be liable for any Loss suffered by you as a result of the suspension of trading or any Service (or any delay in notifying you) as described in this clause 10, except as a result of our fraud or wilful default.
- ## 11 IMPROPER ACTIVITY
- 11.1 You agree and undertake to use our Services in good faith by observing recognised standards of market conduct. This means you will not take unfair advantage of our Services by trading in an abusive manner (for example, by using any electronic device, software, algorithm, server or any dealing strategy that aims to manipulate or take unfair advantage of our Services, exploiting a fault, loophole or error in our software, system, ETX Capital Platform, by collusion, using a trading strategy designed to return profits by taking advantage of internet latencies, delayed prices or through high volumes of transactions targeting tick fluctuations rather than movements reflecting the correct underlying prices, or by any other means).
- 11.2 Any improper activity under clause 11.1 is considered a breach of this Agreement. We may, acting reasonably and in good faith and in our sole discretion:
- (a) immediately terminate all of your Trading Accounts and your access to our servers;
  - (b) void any Trade (i.e., treat the Trade as if the Trade had never taken place) which was part of any improper activity;
  - (c) close any Trade on the basis of our then current prices which was part of any improper activity;
  - (d) amend any Trade, so that it is as it would have been if the Order was executed in the absence of the improper activity.
- 11.3 We can exercise the above rights even if you have entered (or refrained from entering) into arrangements with third parties relating to the relevant Trade and even if you may suffer a trading loss as a result.
- 11.4 We reserve the right, in our sole discretion, to change your underlying liquidity feed to another provider to protect against improper activity. Such a change may result in variable spreads being applied to markets you trade. If the liquidity feed is changed, we shall have no requirement to notify you or give you prior warning of the change. We shall not be

obligated to change the liquidity feed and may take any other action permitted by Applicable Laws.

## 12 ORDERS

- 12.1 We offer a range of different Orders to open and close Trades. We do not act on your behalf but as a counterparty and we will take all reasonable steps to obtain, when executing, the best possible results for you. Order execution may vary depending on the trading platform. For more information on execution of orders please refer to our Order Execution Policy available on our website. **If you do not understand the features of an Order, you should not proceed. If you require any further information about the features of an Order or have any questions, please contact us immediately at [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).**
- 12.2 We may, at our absolute discretion, accept or reject an Order from you. We may cancel any Order previously given by you provided that we have not acted on your Order. Acceptance of an Order does not commit us to execute the Order. We will not be obligated to execute an Order if, at the time the Order would otherwise be executable, there is insufficient Trade Funds Available in your Trading Account.
- 12.3 For the avoidance of doubt, we may refuse your Order without providing a reason for this decision and shall not be held liable for any Losses, consequential or otherwise, cost or damage to you or any other third party. All Orders undertaken by ETX Capital will be dependent on but not limited to market conditions, liquidity, unambiguous instructions and compliance with our internal policies, procedures and Applicable Law. There may be commercial or regulatory risks involved in certain transactions or any other reason as identified by us to refuse an Order.
- 12.4 Once an Order is triggered, (i.e., your specified price is reached or breached), we will attempt to fill your Order within a reasonable time and at the next price available to you in that Market. For the avoidance of doubt, your Order is triggered by our price during our Market hours, and not the Underlying Market and its opening hours. Once an Order is triggered, you may not cancel or amend the Order unless we expressly agree to such cancellation or amendment.
- 12.5 If your Order is a Stop Loss Order then the price, we fill your Order at may be the same, or worse than the price you specified in your Stop Loss Order. If your Order is a Limit Order then the price, we fill your Order at may be the same, or better, than the price you specify. However, any better priced fills are at our sole discretion, and we will use reasonable endeavours to pass this benefit on to you. In respect of an FX Trade, you will not benefit from any better price fills if there is price slippage in your favour.
- 12.6 If your Order is a Guaranteed Stop, we guarantee that the price at which we fill your Order will be the same as the price you specified in the Guaranteed Stop. In addition to the commission or Bid Offer Spread that you pay in respect of each Guaranteed Stop, you will be required to pay a Guaranteed Stop premium as set by us, in our absolute discretion. This premium will be communicated to you before you set your Guaranteed Stop price. Where you have opened a Trade with a Guaranteed Stop you may only amend the Guaranteed Stop price with our consent (which may be withheld) and upon payment of additional Guaranteed Stop premium and any additional Margin that may be required. Where you have previously opened a Trade and not set a Guaranteed Stop and subsequently wish to do so, we may, at our absolute discretion agree to do so and you will be liable to pay the Guaranteed Stop premium. Additionally, we reserve the right, acting reasonably, to cancel or amend any Guaranteed Stop order and if cancelled will refund any premium paid.
- 12.7 In determining whether your Guaranteed Stop price has been met or exceeded, we (at our absolute discretion) may disregard any pre-market, post-market, intraday auction periods or any other period that in our opinion may give rise to short-term price spikes or other distortions.
- 12.8 You accept that there are some manual elements to our Order execution and although we seek to execute all Orders in a timely manner in accordance with our Order Execution Policy there may be times and circumstances beyond our control that may result in your Order not being filled promptly (example: there may be an abnormally high number of simultaneous Orders triggered on our system).
- 12.9 Each Market normally has a minimum price range between our current quote and the price of any Orders that are being created, and we reserve the right not to accept any Orders which are less than this minimum price range.
- 12.10 There may be circumstances, such as a Corporate Action on a particular share or index, where your Order becomes unreasonable to act on. In such circumstances we have the right to cancel or amend your Order and we shall not be liable to you as a result of such action, except as a result of our negligence, fraud or wilful default.
- 12.11 **Overloading Policy** – If we identify high volumes of pending or Market Orders are being placed on your Trading Account(s) and that you have insufficient funds in your Trading Account(s) to cover the margin required if those Orders were executed, we reserve the right to immediately suspend trading on all your Trading Accounts as we consider this to be improper

activity. We will make reasonable efforts to notify you of our intention to suspend your Trading Account(s) but will not be liable to you for failing to do so, except as a result of our negligence, fraud or wilful default. If we, in our sole discretion, determine that this improper activity has been intentional we reserve the right to immediately terminate all your Trading Accounts.

## 13 MARGIN REQUIREMENTS

- 13.1 The Initial Margin Requirement shall be paid by you before you open each Trade, and we reserve the right to reject any Order or Trade where the Initial Margin Requirement has not been received by us. **You acknowledge that the amount of Initial Margin Requirement does not indicate or in any way limit your potential trading loss.**
- 13.2 Once a Trade has been opened you may be required to post additional amounts called Maintenance Margin during the term of the Trade. **It is your responsibility to ensure that all necessary Margin payments are made promptly.**
- 13.3 Depending on the trading platform a Stop Loss Order may be automatically placed on a Trade if your Trading Account does not have sufficient Trade Funds Available for the Initial Margin Requirement of that Trade (**Note:** This Order will not be a Guaranteed Stop). If this occurs, you will receive the details of any Stop Loss Order placed in your online Trade confirmation details. You will be able to change the price of this Order or cancel this Order as long as your Trading Account continues to have positive Trade Funds Available. If you attempt to place an Order for any Trade which requires a Stop Loss Order, and do not have sufficient Trade Funds Available to allow the necessary Stop Loss Order to be placed, your attempted Trade will be rejected.
- 13.4 In our sole discretion we may increase or decrease the amount of Initial Margin Requirement or other Margin we require from you on your open Trades. We will make reasonable efforts to notify you of any such increase in Initial Margin or other Margin rates. Examples of such circumstances include, but are not limited to:
- (a) a change in the conditions of the Underlying Market such as volatility or illiquidity in the financial markets more generally; or
  - (b) a change in your circumstances as communicated by you to ETX Capital which we believe is relevant to your financial means.
- 13.5 In calculating any Margin required from you we may, at our discretion, have regard to your Trades (positions) held with us which may result in a reduction in the amount of Margin required of you.

- 13.6 We will only accept money (in the methods described in clause 6 (Your Money) or as otherwise notified to you) and we will not, under any circumstances, accept any securities or any other assets as payment of Margin.

## MARGIN CALL AND CREDIT

- 13.7 **It is your responsibility to ensure that you are always aware of the status of your Trading Account(s) and monitor your Trades to ensure you have sufficient Trade Funds Available on your Trading Account(s) to maintain your Trades or continue trading.**
- 13.8 If your Trade Funds Available balance is below zero (0) or we reasonably believe that a fall below zero is imminent regardless of whether or not prior Margin Calls have been issued, we may in our sole discretion close or terminate open Trade(s) on your Trading Account without notice to you immediately. Where you receive a Margin Call you must provide Maintenance Margin immediately to bring your Trade Funds Available balance to zero (0) or above unless we expressly agree with you otherwise (example: if we reduce or waive all or any part of an Initial Margin Requirement or Maintenance Margin. **Note:** Any such waiver or reduction must be agreed in writing by us and, unless expressly stated otherwise, will only apply to the specified Margin Call and may be revoked by us upon notice to you. Any such agreement does not limit or restrict our rights to seek further Margin from you in respect of a Trade at any time thereafter.)
- 13.9 We accept no obligation to make Margin Calls within any specific time period or at all and any Margin Call made when your Trade Funds Available balance is below zero, without closing your Trading Account or liquidating your positions, shall not be deemed a precedent or representation with respect to any practice for making future Margin Calls. Any failure or delay on our part to make any Margin Call at any time will not operate as a waiver of any of our rights or remedies under or in connection with this Agreement, whether in respect of such Margin Call or otherwise.
- 13.10 Notwithstanding the foregoing we may inform you of a Margin Call orally, electronically or in writing. **You must notify us immediately of any short- or long-term changes to your contact details to ensure you can be notified of any Margin Call.**
- 13.11 We are entitled to request funds to cover a Margin Call at any time. A Margin Call will be deemed to have been made by us if we have used reasonable efforts to make contact using the contact details you have provided but have been unable to do so within the time period we stipulate in our sole discretion. Please be aware that we may require the deposit of Margin funds within a matter of minutes depending

- on the circumstances (including, but not limited to, the Market and/or size of your Trade).
- 13.12 If you do not have sufficient Trade Funds Available or a Margin Call is not met by you (in the form of cleared funds in Pounds Sterling or any other currency that we have agreed to receive) in accordance with this clause 13, depending on the trading platform we may in our discretion:
- close out any or all (in whole or in part) of your open Trades;
  - exercise our rights of set off and netting under this Agreement; or
  - close all of your Trading Accounts and not open any further Trades for you.
- 13.13 Once the Margin Call has been satisfied - whether by the closure of one or more Trades or by the deposit of funds and you wish to open additional Trades, the Initial Margin Requirement for any new trade must be covered in full.
- 13.14 We will not be liable for any Losses suffered as a result of exercising our rights under this clause 13, except as a result of our negligence, fraud or wilful default. Any funds that you deposit or are required to deposit by way of Margin do not limit your liability to us under this Agreement or otherwise under law.
- 13.15 Details of any credit arrangement that we may make available to you will be subject to such terms, conditions and limits as may be agreed with you in writing. We reserve the right to alter any credit arrangements agreed with you at any time. You acknowledge that when you deal with us on credit, neither any limit set on your Trading Account nor any amount of Margin you have paid puts any limit on your potential loss in respect of a Trade. You acknowledge and agree that your financial liability to us may exceed the level of any credit or other limit placed on your Trading Account.
- 13.16 Where margin close-out rules are imposed by the relevant laws and regulations, we will apply the relevant rules. Information can be obtained from our customer service.

## 14 NETTING POSITIONS

- 14.1 All Trades and transactions between you and us in respect of your Trading Account(s) are entered into in reliance on the fact that this Agreement and all Trades and transactions form a single agreement between the parties, and that we would not otherwise enter into any Trades and transactions with you.
- 14.2 If we have exercised our rights under this Agreement to close your open Trades and/or to close your Trading Account, we may:
- combine and consolidate your Trading Account with any or all other Trading Accounts held in your name with us, even if

- any of those Trading Accounts have been closed; and
- set-off against each other the amounts referred to in sub-clauses (i) and (ii) below:
  - your Trade Funds Available (if a credit balance), profits on open Trades and any sums due to you from us of whatever nature and whenever payable; and
  - your Trade Funds Available (if a debit balance), any outstanding Margin Call, losses on open Trades and any losses or other sums due to us from you of whatever nature and whenever payable.

14.3 You may require us to exercise the provisions of this clause 14 if all your Trades have been closed.

14.4 If we exercise any of our rights under this clause 14, all payment obligations will be consolidated into one obligation for you to pay a net sum to us (as we may direct), or for us to pay a net sum to you.

## 15 OPTIONS

### GENERALLY

- 15.1 We quote option prices on individual shares, stock indices, commodities, and interest rates. In trading on options, you are trading on the future value of the option. Your option Trades may be cash settled and the underlying option may be exercised by or against you in delivery of the underlying security.
- 15.2 We reserve the right to vary Margin requirements for option Trades at our sole discretion. We will use reasonable efforts to notify you of any such increase in required Margin for your open Trades.
- 15.3 If there is a dividend payable within the life of the option and this dividend forms part of its Intrinsic Value, we reserve the right to quote the price of the option Trade after making an allowance for the deduction of the dividend. If there is a change in the dividend or the dividend date in circumstances where we have bought as a hedge and have exercised the relevant underlying option, you will indemnify us for any loss thereby incurred and we may debit your Trade Funds Available accordingly.
- 15.4 You should be aware of the special expiration schedules on index and equity options. Trades on options which are not closed by you and are allowed to expire will be closed at the following:

Type of option	Details	Closing arrangements on expiry
Index option	UK 100	Cash settled
	Germany 30	Cash settled
	SP 500	Assigned into future
	EuroStoxx	Assigned into future

	France 40	Cash settled
	Nasdaq	Cash settled
Equity option	Call option	If you buy the option, you will be long on the stock
		If you sell the option, you will be short on the stock
	Put option	If you buy the option, you will be short on the stock
		If you sell the option, you will be long on the stock

- 15.5 Holders of equity options that are in the money on expiry will be assigned the stock in question.
- 15.6 We will only offer monthly options (and not weekly options). We will typically offer equity and index options but may offer other types of options on request (on a case-by-case basis, and at our absolute discretion).
- 15.7 We will take note of any adjustments made by NYSE LIFFE or any other relevant Exchange.
- 15.8 For further information on option contract details, hours of trading, settlement times and rules on dividends please see our website.

## 16 CORPORATE ACTIONS, DIVIDENDS AND OTHER SITUATIONS

- 16.1 For the purposes of this clause 16 and subclause 22.5 (Indemnity and Liability) below, "**Underlying Market**" shall include for these purposes (i) our interest or position in the Underlying Market if we choose to hedge (whether in whole or in part) our exposure to you in respect of your Trade or Order and also (ii) the Underlying Market generally.
- 16.2 If a Corporate Action takes place that affects or may enable others to affect an Underlying Market in respect of any Trades or Orders you have in the Market and consequently our Market, we may make a fair and appropriate retrospective adjustment to any open Trades or Orders you have in the Market, which we consider, acting reasonably and in good faith, reflects as close as possible the economic impact of the Corporate Action itself or actions taken by others in consequence of that Corporate Action, as if you were a holder of any of our interest or position at 16.1(i) (example: closing and opening new Trades and/or making adjustments to your Trading Account).
- 16.3 For the purposes of this clause 16 and subclause 22.5 (Indemnity and Liability) below, "**Corporate Action**" shall include but not be limited to any mandatory or voluntary corporate action,

assimilation, acquisition, bankruptcy, bonus issue, bonus rights, cash or other dividend, class action, conversion, delisting, de-merger, dilution, exercise of warrants, general announcement, initial public offering, liquidation, mandatory exchange, mandatory conversion, merger, open offer, par value change, 'poison pill', rights issue, scheme of arrangement, scrip dividend, scrip issue, special dividend, spin-off, stock dividend, stock split, other event, redemption, return of capital, reverse stock split, takeover, cash stock option, merger with elections, spin-off with elections, AGM/EGM – proxy voting on shareholders meetings, buy-back programme/repurchase offer, dividend reinvestment plan, Dutch auction, odd lot tender, rights auction, rights issue, subscription offer, takeover, tender offer or, voluntary exchange or voluntary optional conversion.

- 16.4 In the event that a Corporate Action provides the holder of the Underlying Market with a choice (example: to choose between receiving shares or cash) we will, where practicable, give that choice to you but will not be liable for any Loss should we make the choice in the absence of instruction from you, except as a result of our negligence, fraud, or wilful default.
- 16.5 We will make any relevant adjustments to your Trades with respect to a Corporate Action as soon as reasonably practical for us to do so.
- 16.6 We will not transfer voting rights relating to an Underlying Market to you or otherwise allow you to influence the exercise of voting rights held by or on behalf of us.
- 16.7 Some of our prices do not take into account any dividend events that may take place on that market (examples: a Financial Spread Bet or CFD on an individual share). If a dividend event takes place on such a Market, and you have an open Trade in that Market on the ex-dividend date, we will make an adjustment to your Trading Account to appropriately reflect the dividend event. If you have a Long Trade, then a credit will be made to your Trading Account. If you have a Short Trade, then a debit will be taken from your Trading Account. Any dividend adjustment we make may reflect the dividend adjustment made to our hedged position by our hedging partners.
- 16.8 Some Markets we make contain a dividend element which is forecasted by us. In the event that the declared dividend is unusually large, small, or cancelled or the ex-dividend date differs from our forecasted ex-dividend date we reserve the right to make an adjustment to the opening price of a Trade to reflect such differences, provided any such adjustment must be fair and reasonable.
- 16.9 If you have a Guaranteed Stop on a Trade in an Underlying Market that becomes subject to a

dividend adjustment, we reserve the right to amend the Guaranteed Stop price by the size of the dividend adjustment.

- 16.10 If an Underlying Market becomes suspended, we reserve the right to margin all associated Trades at one hundred percent (100%) and value the market appropriately. This may mean your Trade being either valued at zero (0) or at the last price held in our Market at the time of the suspension.
- 16.11 If an Underlying Market becomes delisted, we reserve the right to close all Trades associated with that Market at zero (0).
- 16.12 In the event that (i) a situation arises in relation to your Trade or Order, and/or (ii) if we choose to hedge (whether whole or in part) our exposure to you in respect of your Trade or Order in the Underlying Market (as defined in clause 16.1 above), in respect of that Trade or Order, that is in either case not covered under this Agreement then we may in our discretion resolve the matter acting in good faith and where appropriate by taking such action and making such adjustments as are consistent with market practice and/or paying due regard to the treatment we receive from the exchange, the market, market maker, broker or agent in relation to hedging our exposure to your Trade or Order or otherwise.

## 17 MARKET CONDUCT AND OTHER REGULATORY REQUIREMENTS

- 17.1 We may hedge our exposure to you by opening analogous positions with other institutions. The result is that, when you Trade with us, such Trades or Orders can, through our hedging, exert a distorting influence on the Underlying Market in addition to the impact that it might have on our prices.
- 17.2 In addition to your representations and warranties in clause 4.4 (Basis of Trading), each time you open or close a Trade, you represent and warrant to us that:
- (a) you will not place and have not placed a Trade or Order with us relating to a particular Underlying Market if to do so would result in:
    - (i) you, or others with whom you are or may reasonably be regarded as, acting in concert; and/or
    - (ii) if and to the extent that we choose to hedge (whether in part or whole) our exposure to you in respect of the Trade or Order, us having an exposure to that Underlying Market which is equal to or exceeds the amount of a declarable interest in the relevant company. For this purpose, the level of a declarable interest will be the

prevailing level at the material time, set by law, rule or regulation or by the Exchange(s) upon which the Underlying Market is listed;

- (b) you will not place and have not placed a Trade or Order with us in connection with a placing, issue, distribution or other analogous event, or an offer, takeover, merger or other analogous event in which you are involved or otherwise interested including any Trade which, if we chose to hedge (whether in part or in whole) our exposure to you in relation to that Trade, would involve us in any such placing, issue, distribution or other analogous event, or an offer, takeover, merger or other analogous event in which you are involved or otherwise interested;
- (c) where you have an economic interest in the underlying instrument of a Trade you must disclose your interest where required by the relevant laws and regulations;
- (d) you will not place and have not placed a Trade or Order that contravenes any law, rule or regulation against insider dealing or market abuse including any Trade or Order which, if we choose to hedge (in part or whole) our exposure to you in relation to that Trade or Order, would constitute or involve us in any contravention of any law, rule etc. or regulation against insider dealing or market abuse. For the purposes of this clause 17 you agree that we may proceed on the basis that, when you open or close a Trade or Order with us in a Market, you may be treated as dealing in securities within the meaning of Part V of the Criminal Justice Act 1993, the European Union Market Abuse Regulation (EU) No 596/2014 of 16 April 2014 on market abuse as it is transposed into UK Law by the European Union (Withdrawal) Act 2018 ("**MAR**") and/or the Financial Services and Markets Act 2000 and/or any other law, rule or regulation against insider dealing or market abuse; and
- (e) you will not otherwise place and have not placed a Trade in circumstances which may be considered to constitute insider dealing or market abuse including any Trade which, if we choose to hedge (whether in part or in whole) our exposure to you in relation to that Trade, may be considered to constitute market abuse.

- 17.3 You undertake to familiarise yourself and comply with any Applicable Regulations concerning the short sale of securities if you seek to execute a CFD or Financial Spread Bet Trade with a short securities position which we may hedge with a short sale of securities you will ensure that your use of the Electronic Service will not result in a breach by us of any Applicable Regulations concerning the short sale of securities.
- 17.4 It is your responsibility to ensure that any Trades you place from outside the United Kingdom do not breach any overseas regulations that may be applicable to you.
- 17.5 We may report or disclose any Trade or other transaction undertaken by you to any relevant Competent Regulatory Authority as may be required by law or best practice.
- 17.6 To complying with legal and regulatory obligations we may in our absolute discretion, and without being under any obligation to inform you of our reason for doing so, close any Trades that you may have open and may, if we so elect, treat all Trades closed under this clause 17 as void.

## 18 CONFLICTS OF INTEREST

- 18.1 We are required under the FCA Rules to take all appropriate steps to prevent conflicts of interest from adversely affecting the interests of our clients. We take all appropriate steps to identify and manage conflicts of interest between us and people connected to us and our clients, or between one client and another, that arise in the course of us providing the Services. For further information please refer to our Conflicts of Interest Policy on our website.
- 18.2 We are required by law to take all appropriate steps to identify conflicts of interests between ourselves and our clients, or between one client and another, that arise in the course of providing investment services. Where we do not consider that the arrangements under our Conflicts of Interest Policy are sufficient to manage any particular conflict, then we may seek your express consent to act by informing you of the nature of the conflict and any steps taken to mitigate the risk arising from such conflict. As a last resort we may decide that the only way to appropriately manage the conflict is by declining to act for the parties concerned.
- 18.3 You acknowledge and agree that we are not under any obligation to account to you for any profit, commission or remuneration made or received from or by reason of transactions or circumstances in which we have a material interest or where in particular circumstances an undisclosed or disclosed conflict of interest may exist. You acknowledge that you are aware of the possibility that the conflicts of interest disclosed in this term may arise.

## 19 FORCE MAJEURE EVENTS

- 19.1 If we are prevented, hindered or delayed from performing any of our obligations under this Agreement by a Force Majeure Event, then our obligations under this Agreement will be suspended for so long as the Force Majeure Event continues and to the extent that we are so prevented, hindered or delayed. We will not be deemed to be in breach of this Agreement or otherwise be liable to you by reason of any delay or failure in performance of any of the obligations under this Agreement to the extent that the delay or failure is caused by a Force Majeure Event, and time for performance will be extended accordingly.
- 19.2 A **Force Majeure Event means:**
- acts of God, war, hostilities, riot, fire, explosion, accident, pandemic, flood, sabotage, power supply interruption, failure of communications equipment, lock-out or injunction, compliance with governmental laws (domestic or foreign), regulations or orders or breakage or failure of machinery;
  - the suspension or closure of any market or the abandonment or failure of any event on which we base our quotes or to which our quotes may relate or the imposition of limits or special or unusual terms on trading in any such market or on any such event; or
  - the occurrence of excessive movement in the price of, or loss in the liquidity of, any of our indices or Products and/or any corresponding market, or our reasonable anticipation of such, or any other cause whether or not of the class or kind referred to above which affects performance of this Agreement arising from or attributable to acts, events, omissions, or accidents beyond our reasonable control. See also clause 10.1 (Market Disruption) as to Market Disruption.
- 19.3 We may in our absolute discretion take all or any of the actions referred to in clause 10.3 (Market Disruption) upon the occurrence of a Force Majeure Event.

## 20 QUERIES, COMPLAINTS OR DISPUTES

- 20.1 If you wish to query any aspect of a Trade you should notify us as soon as you become aware of the issue. We reserve the right to suspend trading in your Trading Account(s) while a dispute is being investigated and resolved.

- 20.2 If you wish to make a complaint, or a dispute arises between us in connection with the performance of any Services, you should contact [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com) or your account relationship manager. To assist us in resolving your complaint or dispute quickly we recommend that you notify us of your complaint promptly and in writing, with full details of the relevant complaint or dispute.
- 20.3 We will follow our Complaints Procedure in accordance with FCA Rules and if you are unhappy with the decision reached by our Compliance Officer you are entitled to refer your complaint directly to the Financial Ombudsman Service. Information on the Financial Ombudsman Service, including how to make a complaint, eligibility criteria and the procedures involved, is available from the Financial Ombudsman Service website at: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk) or by contacting them at: The Financial Ombudsman Service, Exchange Tower, London, E14 9SR.
- 20.4 As an FCA authorised and regulated firm, we are covered by the protected investment business scheme operated by the Financial Services Compensation Scheme (FSCS). This scheme may in certain circumstances pay compensation to clients if they are eligible and we were unable or are likely to be unable to meet our liabilities to clients including if the firm were to become insolvent. Compensation may be available to eligible investors in respect of protected claims. Further information is available on the FSCS website at: [www.fscs.org.uk](http://www.fscs.org.uk) or by contacting them at: Financial Services Compensation Scheme, 10th Floor, Beaufort House, 15 St Botolph Street, London EC3A 7QU.
- 20.5 During the investigation of complaints and disputes, we will review and rely upon our books and records, in the absence of Manifest Error. However, we recommend that you keep your own records of your Trades (including times, amounts and Markets) to assist with any subsequent enquiries.
- 21 EVENTS OF DEFAULT AND CLOSURE OF ACCOUNTS**
- 21.1 If any Event of Default occurs, we may immediately take all or any of the following actions:
- (a) require immediate payment of any amounts you owe us;
  - (b) close all or any of your open Trades;
  - (c) if the Base Currency of your Trading Account is a currency other than Pound Sterling, convert any balance to Pound Sterling;
  - (d) cancel any of your Orders and open Trades;
  - (e) suspend all of your Trading Accounts and refuse to execute any Trades or Orders;
  - (f) exercise our rights of set-off; and/or
  - (g) terminate this Agreement.
- 21.2 Without limiting any right to terminate this Agreement at any time, we may suspend or close all of your Trading Accounts amend, close-out or reverse any Trade we have entered into with you and/or withhold funds or other assets in all of your Trading Accounts in the following circumstances:
- (a) you fail to pay Maintenance Margin or any other amount owed to us on time;
  - (b) any information supplied by you during the application process or at any other time is found or believed to be misleading or false;
  - (c) you enter into any Trade in contravention of clause 11 (Improper Activity) or where we have reasonable grounds for suspecting that your Trade is in breach of clause 11;
  - (d) you enter into any Trade in contravention of clause 17 (Market Conduct and Other Regulatory Requirements) or where we have reasonable grounds for suspecting that your Trade has been entered into a breach of clause 17;
  - (e) we have reasonable grounds for suspecting the activity on your Trading Account may have involved market abuse, money laundering or any criminal activity;
  - (f) we have not received within ten (10) calendar days of a written request all information which we reasonably require in connection with this Agreement;
  - (g) we have a reason to believe that there has been a breach in your Trading Account security or that there is a threat to your Trading Account security;
  - (h) your trading or account activity is of such a size or style that we no longer wish to deal with you;
  - (i) where any regulatory body has queried transactions on your Trading Accounts for whatever reason and pending receipt of guidance or instructions from that body or other resolution;
  - (j) we have reasonable grounds for suspecting that you are taking unfair advantage of our Services or are otherwise acting in an unfair manner (for example, by using any electronic device, software, algorithm, server or any dealing strategy that aims to manipulate or take unfair advantage of our Services, exploiting a fault, loophole or error in our software, system, ETX Capital Platform, by collusion, or by any other means);

- (k) we are in an ongoing dispute with you and decide that we are unable to continue to provide Services to you;
  - (l) entering into this Agreement with you is against the relevant laws and regulations; or
  - (m) you are abusive to our staff.
- 21.3 Upon giving you notice of our intention to close your Trading Account(s) pursuant to clause 21.2 above, you will not be permitted to open any new Trades and you will only be entitled to make Trades or otherwise deal as a client insofar as necessary to close all open Trades. We may close any Trades remaining open ten (10) Business Days after the date on which we give you notice.

## 22 INDEMNITY AND LIABILITY

- 22.1 Nothing in this Agreement shall limit or exclude our liability to you in respect of:
- (a) your death or personal injury caused by our negligence; or
  - (b) Loss caused by fraud or fraudulent misrepresentation.
- 22.2 As provided in clause 22.1 we have no liability to you for any Losses, costs, damages, liabilities or expenses suffered relating to this Agreement or any trading activities undertaken by you using the Services, except where caused directly by the wilful default, fraud or breach of this Agreement by us or our employees, agents or sub-contractors.
- 22.3 Unless prohibited from excluding liability by law, we will not be liable to you for incidental, special, punitive or consequential damages caused by any act or omission of ours under this Agreement. This limitation will include claims relating to loss of business, loss of profits, loss of opportunity, failure to avoid loss, loss of goodwill or reputation or the corruption or loss of data.
- 22.4 Without prejudice to any other limitation of our liability contained elsewhere in this Agreement, the maximum amount of our liability in respect of any Loss that you may suffer in relation to any one Trade will be the amount equal to the Margin you placed with respect to that Trade.
- 22.5 You will be responsible to Monecor (London) Limited, its principals, officers, directors, employees, agents, successor and/or assignees, for all Losses, claims, proceedings and expenses (including but not limited to legal expenses and experts' fees) arising (whether directly or indirectly) out of or in connection with (i) any failure by you to perform any of your obligations under this Agreement, (ii) any false information or declaration made to us or to any third party, (iii) your placing any Trade or Order in breach of clause 17 (Market Conduct and Other Regulatory Requirements), including whether those arising from or in connection with our hedging (in

part or whole) our exposure to you in respect of such a Trade or Order, (iv) your placing any Trade or Order with us which otherwise breaches any regulatory or legal requirements, including those arising from or in connection with our hedging (whether in whole or in part) our exposure to you in respect of such a Trade or Order, (v) any Corporate Action (as defined in clause 16.1(Corporate Actions, Dividends and Other Situations) above) taking place or affecting or which may enable others to affect an Underlying Market (as defined in clause 16.1) in respect of any Trade or Order you have in the Market, or (vi) any act or omission or fraud by you or an Authorised Person or by any person obtaining access to your trading account by using your designated account number, user name or password, whether or not you authorised such access.

## 23 AMENDMENTS, WAIVERS AND RIGHTS

- 23.1 We may, from time to time, amend or vary these terms for the following reasons:
- (a) to comply with or reflect a change of Applicable Law, Applicable Regulation or decision by a Competent Regulatory Authority;
  - (b) to make them clearer, more favourable to you or to correct a mistake or oversight (provided that any correction would not be detrimental to your rights);
  - (c) to provide for the introduction of new, or the amendment of existing systems, Services, procedures, processes, changes in technology and products (provided that any change would not be detrimental to your rights);
  - (d) to reflect legitimate increases or reductions in the cost of providing Services; or
  - (e) to remove an existing service, provided that we have given you notice of its removal in accordance with clause 24 (Communications and Notices).
- 23.2 We will notify you of any proposed change to the terms by sending you a written copy of the proposed changes at least ten (10) business days prior to the changes coming into effect unless such amendment or variation is required sooner as a result of a change of Applicable Regulation.
- 23.3 If you wish to terminate the agreement as a result of changes we propose to make to these terms, you may do so in accordance with clause 32 (Termination) by sending written notice to us within the period set out in the amendment notice after which the changes will become effective.

- 23.4 If you do object to the amendment or variation, the amendment or variation will not be binding on you, but your Trading Account(s) will be suspended, and you will be required to close your Trading Account(s) as soon as is reasonably practicable.
- 23.5 Any amendment or variation will supersede any previous agreement between us on the same subject matter. Any such amendment or variation will apply to all open Trades and all Orders as at and after the effective date of the relevant amendment or variation.
- 23.6 No delay in the exercise or non-exercise by either party of any right, power or remedy provided by law or under or in connection with this Agreement (example: in respect of a Margin Call) will impair such right, power or remedy or operate as a waiver or release of that right. Any waiver or release must be specifically granted in writing, signed by the party granting it.
- 23.7 The rights and remedies of each party under this Agreement are cumulative and not exclusive of any rights or remedies of that party under the general law. Each party may exercise each of its rights as often as it thinks necessary.
- 23.8 We do not require the consent of any Associate or Associated Company of ours to amend, vary, modify, suspend, cancel, or terminate any provision of this Agreement.
- 24 COMMUNICATIONS AND NOTICES**
- 24.1 We will generally communicate with you via email or through the trading platform but, if it is more appropriate to do so, we will communicate with you by letter, telephone, social media, or SMS. We will communicate with you in writing where the Agreement or Applicable Law requires us to. You agree and consent to us communicating with you in this manner.
- 24.2 If you are required to communicate with us in writing by the Agreement, please contact us at [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com), via a message through the trading platform or by sending us a letter.
- 24.3 All communications between you and us will be in English.
- 24.4 **It is your responsibility to keep your contact details up to date and notify us immediately of any changes in writing.** If at any time you are unable, for whatever reason, to communicate with us or you do not receive any communication sent by us under this Agreement we will not:
- (a) be responsible for any loss, damage or cost caused to you by any act, error, delay or omission resulting therefrom where such loss, damage or cost is a result of your inability to open a Trade; and
  - (b) except where your inability to instruct us or communicate with us results from our fraud, wilful default or negligence, be responsible for any other loss, damage or cost incurred by or cause to you by any act, error, omission or delay resulting therefrom including without limitation, where such loss, damage or cost is a result of your inability to close a Trade.
- 24.5 You acknowledge and agree that any communication transmitted by you or on your behalf is made at your risk and you authorise us to rely and act on, and treat as fully authorised and binding upon you, any communication (whether or not in writing) that we reasonably believe to have been made or transmitted by you or on your behalf by any agent or intermediary whom we reasonably believe to have been duly authorised by you.
- 24.6 Subject to Applicable Regulations, any communications between us using electronic signatures will be binding to the same extent as if they were in writing. By agreeing to these terms and conditions you give your consent to the receipt of communications by electronic means, notwithstanding that certain communications would otherwise be required to be made using a durable medium under Applicable Regulations. Without limiting the generality of the foregoing, orders placed, or other instructions given by electronic means will constitute evidence of such orders or instructions. If you no longer wish to communicate in this way, you must revoke your consent in writing.
- 24.7 You hereby agree and consent to all telephone communications made by or to you or on behalf of you with us being recorded. These recordings will be our sole property and may be used for training purposes, to confirm instructions, as evidence in the event of a dispute or as may be required by a Competent Regulatory Authority. We will retain telephone call recordings as required by the applicable FCA Rules.
- 24.8 We will generally not accept any instructions from you unless it is orally by a designated telephone line or electronically via our trading platform (or any other forms that may be agreed by us in advance).
- 24.9 You agree and consent to the receipt of documents in electronic form via email, our website or other electronic means.
- 24.10 From time to time we may provide information to you which presents your multicurrency balances in the equivalent value of your Base Currency, using rates prevailing at the time the information is produced. However, unless we have converted the non-Base Currencies pursuant to clause 5.8 (Currency Conversion). Please note that the balances may not in fact have been converted to

your Base Currency and the presentation of the information in your Base Currency is for demonstrative purposes only.

## CONFIRMATIONS

24.11 Confirmation of your Trade will appear electronically on your Trading Account, and by email depending on your email preferences by the end of the next business day following completion. You can change these preferences via your Trading Account or by contacting us. You must notify us if you are expecting a confirmation and no confirmation is shown on the trading platform. You will receive account statements via email in a frequency chosen by you. You should check that any Trade confirmation and any account statement contain the correct details of the Trade(s) to which it relates. You will be deemed to have acknowledged and agreed with the content of any Trade confirmation and account statement that we make available to you, unless you have notified us to the contrary in writing within two (2) Business Days of the date on which you are deemed to have received it in accordance with clause 24.13. If you wish to dispute any of the details, you must notify us within two (2) Business Days and the matter will then be dealt with in accordance with clause 20 (Queries, Complaints or Disputes). If you have not received such a Trade confirmation and you think that you should have, it is your responsibility to tell us about your enquiry, otherwise you are deemed to have received it in accordance with clause 24.13 below. We urge you to retain a printed copy of all Trade confirmations for record keeping purposes.

24.12 If a Trade confirmation or an account statement contains an error or is otherwise inaccurate, this will not affect the validity of the relevant underlying Trade that has been executed; however, a Trade confirmation or an account statement for a Trade on an incorrect price is not binding on us. See clauses 9.21 to 9.26 (Our Prices).

## NOTICES

24.13 All communications relating to this Agreement, whether correspondence, documents, written notices, confirmations and statements or otherwise will be sent to you in accordance with the latest contact details provided by you. All communications will be deemed properly made:

- (a) if sent by first class post to the address last notified by you to us, upon delivery;
- (b) if hand delivered to the address last notified by you to us, at the time of being deposited at that address;
- (c) if sent by fax or text, as soon as it has been transmitted to the fax or mobile number last notified by you to us;

- (d) if sent by email, as soon as it is transmitted to the last email address provided by you to us; or
- (e) if posted on our ETX Capital Platform(s), as soon as it has been posted.

24.14 In the event of a conflict between any provision of the English version of this Agreement and a non-English language version the English language version shall prevail.

24.15 Where we are able and it is commercially reasonable to do so, we will endeavour to provide you with documentation and communications in your choice of language; however, we reserve the right to communicate with you in English so long as this Agreement is in effect.

24.16 You acknowledge and agree that we may call upon you by telephone at a reasonable hour or otherwise communicate with you without express invitation.

## 25 DATA PROTECTION

25.1 You acknowledge that you will be providing personal information to us within the meaning of the Data Protection Act 2018 or the retained EU law version of the General Data Protection Regulation (679/2016) or any other applicable data protection or privacy laws and regulations when making an application to become a client and opening or closing Trades. You acknowledge that we and consent to us and our Associated Companies processing your personal information for the purposes of establishing and administering your Trading Account(s) in respect of the Services and otherwise in accordance with and as explained in the Privacy Policy. We collect, process and disclose personal data to fulfil our contractual obligations to our customers, market participants, distributors, trading platforms, suppliers, professional advisors, credit reporting agencies among others. Please refer to our Privacy Policy on our website for further details on how we process your personal data.

25.2 You agree and consent that where it is necessary for the provision of the Services to you, we may transfer your information to Associated Companies and/or persons who provide services to us, including where those persons may be outside the UK. You understand that our processing and disclosing of such information will be carried out in accordance with this Agreement and our Privacy Policy as published on our website, as may be updated from time to time.

25.3 You agree and consent to us sharing your personal information as may be required by law or any Competent Regulatory Authority.

25.4 You hereby authorise us, or our agents acting on our behalf, to carry out such KYC, credit and identity checks as we may deem necessary or desirable in

relation to the Services. You acknowledge that this may result in your personal information being sent to our agents who may be within or outside the UK. You understand that we will be permitted, if so required, to furnish relevant information concerning your Trading Account(s) to any person who we believe to be seeking a reference or credit reference in good faith. The information we share may affect your ability to obtain credit. Any processing of information obtained in accordance with such checks will be carried out in accordance with the Privacy Policy.

- 25.5 Telephone communications and conversations between you and us will be recorded and kept in accordance with our legal and regulatory obligations. We will retain customer records that we deem to be required for statutory and regulatory purposes relating to your Trading Accounts.
- 25.6 If you have been introduced to us by a third party, you acknowledge and agree to our exchanging your information with that person to the extent necessary for us to fulfil our obligations under any agreement we may have with that person. Such disclosure may result in our sharing financial and personal information about you including your application details, your Trading Account status, and your trading activity in accordance with the Privacy Policy. Should you no longer wish us to disclose information to such persons please notify us in writing.
- 25.7 In the event that we are (a) subject to negotiations for the sale of our business (whole or party of), or (b) sold to a third party or undergo a re-organisation, any of your personal information which we hold may be disclosed to such party or its advisors as part of any due diligence process for the purpose of analysing any proposed sale or re-organisation or may be transferred to that re-organised entity or third party and used for the same purposes under this Agreement.

## 26 INTELLECTUAL PROPERTY

- 26.1 For the purposes of this Agreement “**Intellectual Property Rights**” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other Intellectual Property Rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or

equivalent rights or forms of protection in any part of the world.

- 26.2 All Intellectual Property Rights in or arising out of or in connection with the Products, Services, Electronic Services or our website or any other thing supplied by us to you shall, to the extent not owned by a third party, be owned by us.
- 26.3 You acknowledge and agree that, in respect of any third-party Intellectual Property Rights in the Products, Services, Electronic Services or our website or any other thing supplied by us to you, your use of any such Intellectual Property Rights is conditional on our obtaining a written license from the relevant licensor on such terms as will entitle us to license such rights to you.
- 26.4 You acknowledge and agree that you must not supply any Electronic Service or our website (or any part of them) to anyone nor may you copy the Products, Services, Electronic Services or website.
- 26.5 We may from time-to-time supply material to you in connection with our Products, Services, Electronic Services, or our website. You must not obscure, tamper with or otherwise destroy any copyright or other proprietary notices on any material we supply to you or disclose, publish or otherwise make available such material to third parties. You must only use any material we supply to you in connection with the operation of your Trading Account, and upon the closure of your Trading Account you must return any such material to us.
- 26.6 Anything we supply to you is supplied on a non-exclusive basis and we reserve the right to cease such supply and terminate your usage of any Products, Services, Electronic Services, our website or any other thing we supply to you.

## 27 APPLICABLE LAW AND JURISDICTION

- 27.1 This Agreement will be construed strictly in accordance with the laws of England and Wales.
- 27.2 The parties irrevocably agree to be subject to the exclusive jurisdiction of the English Courts located in London to settle any disputes (including non-contractual disputes or claims) which may arise in connection with this Agreement, save that we may, at our sole discretion (or where required by Applicable Regulations), commence and pursue proceedings in any other jurisdiction and you hereby waive any objection to our so doing on the grounds of venue or forum.

## 28 ASSIGNMENT

- 28.1 You may not assign or transfer any of your rights or obligations under this Agreement without our prior written consent.
- 28.2 We may assign and transfer all or any of our rights and obligations under this Agreement to an

Associated Company upon notice to you, without any obligation to obtain consent from you. Any such transfer or assignment shall be subject to the assignee undertaking in writing to be bound by and perform our obligations under this Agreement.

28.3 We may at any time assign or transfer any of our rights and obligations under this Agreement or delegate all or any of the functions under this Agreement to a third party, provided that we have given you at least ten (10) Business Days written notice to you to that effect. Where we do this, we will treat all Client Money held for you in accordance with clause 6 (Your Money).

28.4 If you object to any assignment, we may make under this clause 28, you may terminate this Agreement with immediate effect by providing us with notice of this in writing. We will not make a charge for transferring any investments we hold for you if you terminate under this clause 28.

## 29 AUTHORISED PERSONS

29.1 If you wish to authorise a third party (for example, a money manager) to make Orders or place Trades on your behalf in connection with your Trading Account(s) (an **“Authorised Person”**), you may do so provided that you have notified us in writing in a form satisfactory to us and we have provided our written consent. We may require you to formalise the appointment of an Authorised Person by executing, as a deed, a power of attorney. We reserve the right to restrict the scope of the power of attorney, or withhold our consent (or, if previously given, revoke our consent on reasonable notice) and shall not be obligated to provide you with reasons. If you permit any third party to make Orders or place Trades on your behalf without our consent, it will be deemed a security breach on your Trading Account, and we may invoke our rights under clause 21.2 (Events of Default and Closure of Accounts).

29.2 You will be liable for all acts or omissions on the part of any Authorised Person. We will have no duty to monitor the Trades, Orders or other acts or omissions or to establish the authority of any such Authorised Person.

29.3 You will be responsible for any trading carried out on your behalf, whether it has been placed by you or by such Authorised Person. We may act on any instructions we believe in good faith are received from an Authorised Person.

29.4 The provision of funds by a third party, and their acceptance by us, in respect of trading on your Trading Account in no way relieves you of your obligations or affects your liability to us under this Agreement.

29.5 For the avoidance of doubt, we may close your open Trades and all your Trading Accounts upon notice of

your death. Your estate will remain liable for any sums owed to us. We may (but, prior to any grant of representation, are not bound to) act on the instructions of your personal representative(s).

## 30 RIGHTS OF THIRD PARTIES

The parties do not intend any term of this Agreement to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 except that any Associate or Associated Company of ours is entitled to enforce the terms of this Agreement pursuant to that legislation.

## 31 SEVERABILITY

If any part of any provision of this Agreement is invalid or unenforceable, then the remainder of such provision and all other provisions of this Agreement will remain valid and enforceable.

## 32 TERMINATION

32.1 This Agreement may be terminated:

- (a) immediately by us pursuant to clause 21 (Events of Default and Closure of Accounts), or at any time at which you have no open Trades in your Trading Account;
- (b) upon ten (10) calendar days' notice to you in writing; or
- (c) by you upon giving us ten (10) calendar days' notice in writing

32.2 Upon such notice being given, any open Trades will continue until they are closed or expire in accordance with this Agreement. The service of any termination notice will not affect any obligation or liability that may have already arisen in connection with any open Trades or otherwise under this Agreement.

32.3 For greater certainty, the following provisions will continue in full force and effect following termination of this Agreement: clauses 20 (Queries, Complaints or Disputes), 22 (Indemnity and Liability), 24 (Communications and Notices), 25 (Data Protection), 26 (Intellectual Property), 27 (Applicable Law and Jurisdiction), 28 (Assignment), 30 (Rights of Third Parties), 31 (Severability) and 33 (Interpretation).

32.4 This Agreement has no minimum duration. Since the Trades that you may place are subject to market fluctuations, we are not required to provide you with a cancellation right.

## 33 INTERPRETATION

33.1 The headings are included for convenience only and will not affect the interpretation or construction of this Agreement.

33.2 Unless the context requires otherwise, any reference to:

- (a) a clause, sub-clause, paragraph or term is a reference to a clause, sub-clause, paragraph or term of this Agreement;
- (b) a party or the parties, is to a party or to the parties (as the case may be) to this Agreement;
- (c) a statute or statutory provision includes any consolidation or re-enactment, modification or replacement of the same, any statute or statutory provision of which it is a consolidation, re-enactment, modification or replacement and any subordinate legislation in force under any of the same from time to time and includes all instruments or orders made under such enactment;
- (d) a person includes a firm, corporation and unincorporated associations, trust, government, state or agency of state, or any association or partnership or joint venture (whether or not having a separate legal personality);
- (e) a time of day is to the time in London, United Kingdom unless specified otherwise; and
- (f) a document is a reference to that document as varied, supplemented or replaced from time to time.

33.3 Any words following the terms **including, include, example, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

33.4 General words will not be given a restrictive interpretation by reason of this being preceded or followed by words indicating a particular class of acts, matters or things.

33.5 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

33.6 The following words and expressions shall have, unless otherwise specified, the following meanings:

**Act** is defined in clause 2.6.

**Act of Insolvency** means, in relation to a party:

- (a) its making a general assignment for the benefit of, or entering into an arrangement or composition with, creditors; or
- (b) its stating in writing that it is unable to pay its debts as they become due; or
- (c) its seeking, consenting to or acquiescing to the appointment of any trustee or analogous

officer of it or any material part of its property; or

- (d) the presentation or filing of a petition in respect of it in any court or before any agency alleging or for the bankruptcy or insolvency of such party (or any analogous proceeding) or seeking any arrangement, composition, readjustment or similar relief under any present or future statute, law or regulation, such petition not having been stayed or dismissed within thirty (30) days of its filing (except in the case of a petition for winding-up or any analogous proceeding in respect of which no such thirty (30) day period shall apply); or
- (e) the convening of any meeting of its creditors for the purpose of considering a voluntary arrangement.

**Agreement** is defined in clause 2.1.

**Applicable Regulation** means as appropriate: (a) the FCA Rules; (b) rules of a relevant regulatory or other governmental 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 or the Products and Services.

**Associate** has the meaning given to it in the FCA Rules.

**Associated Company** means any holding company or subsidiary company (as defined in the Companies Act 2006) and/or any subsidiary company of any such holding company or its subsidiaries.

**Authorised Person** means any person authorised to make Orders or place Trades on your behalf under clause 28.

**Base Currency** means, subject to our agreement, the currency in which you choose to have your Trading Account denominated.

**Bid Offer Spread** means the difference between the price at which a contract can be bought and sold at a point in time.

**Business Day** means a day (not being a Saturday or Sunday) when banks are open in London for the transaction of general banking business.

**Cash Balance** means the balance of your Trading Account including all debits/credits and the profit/loss from closed Trades.

**CFD** or a Contract for Differences is an agreement to exchange the difference in value of a financial instrument between the time at which the contract is opened and the time at which the contract is closed.

**Client Money Rules** refers to the rules as set out in chapter 7 of Client Assets (CASS) of the FCA's Handbook of Rules and Guidance.

**Competent Regulatory Authority** means any court, governmental body or regulatory authority having authority over your Trade.

**Complaints Procedure** means our written policy governing complaints regarding any aspect of the Services as published on our website from time to time or can be requested by contacting [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).

**Conflicts of Interest Policy** is available on our website or by request.

**Corporate Action** means, except as varied at clause 16.1 in relation to clauses 16.1 and 22.5, any event initiated by a corporation which impacts its shareholders. (e.g., stock splits, consolidations, mergers and spinoffs).

**Corporate Finance-style Activity** means activities including, but not limited to, mergers and acquisitions, disposals, takeovers, and similar activities.

**Customer Profile** means the customer profile with individual login details of a client such as username and password which gives a client access to all of his/her Trading Accounts.

**Disrupted Day** is defined in clause 10.2.

**Disruption Event** is defined in clause 10.1.

**Electronic Service** means any electronic service including, without limitation, an ETX Capital Platform, Trade-through Charts, MT4, direct market access, order routing or information service that we grant you access to or make available to you either directly or through a third-party service provider.

**Eligible Counterparty** means a client categorised as a *per se* eligible counterparty or an elective eligible counterparty in accordance with chapter 3.6 of the FCA's s Conduct of Business Sourcebook (COBS).

**ETX Capital Platform** means a trading platform offered by us in effect from time to time but excludes any trading platforms created by MetaQuotes Software Corp.

**Event of Default** means

- (a) an Act of Insolvency occurs in relation to you;
- (b) you are an individual and you die or become of unsound mind;
- (c) you act in breach of any of your obligations under this Agreement;
- (d) any representation or warranty made by you under this Agreement and/or any information provided to us in connection with this Agreement is or becomes untrue or misleading;
- (e) any amount due to us is not paid in accordance with this Agreement; or
- (f) at any time and for any periods deemed reasonable by us where you are not contactable, or you do not respond to any notice or correspondence from us.

**Exchange** means any securities or futures exchange, clearing house, self-regulatory organisation, alternative trading system or multi-lateral trading facility as the context may require.

**Expert Advisor** means an automated trading system used in conjunction with a trading platform. Expert Advisors are commonly known as trading robots.

**Expiration** in reference to and option means the date and time at which the option expires and all rights or obligations relating to the option cease.

**Expiring Trade** means a trade that expires at a determined point in the future.

**Expiry Date** means the last date and time that trading in a contract can occur. After this date all open Trades will be closed (settled) by us.

**FCA** means the Financial Conduct Authority, the regulator for the UK's financial services industry, and its agents or any successor body or bodies, which can be contacted at 12 Endeavour Square,

London E20 1JN or through its website: [www.fca.org.uk](http://www.fca.org.uk).

**FCA Rules** means the rules of the FCA as from time to time varied amended or substituted by the FCA and as set out in of the FCA's Handbook of Rules and Guidance. For further information please visit the FCA website at [www.fca.org.uk](http://www.fca.org.uk) or <https://www.handbook.fca.org.uk/handbook>.

**Financial Spread Bet** means a bet on the difference between the opening and closing prices of a contract. The opening and closing price of a contract is determined by reference to the price of the Underlying Market. A Financial Spread Bet is a legally enforceable contract by virtue of section 412 of the Act. **Financial Spread Betting is only available to persons resident in the United Kingdom.**

**Force Majeure Event** is defined in clause 19.2.

**FX** means foreign exchange.

**Guaranteed Stop** means a Stop Loss Order that we guarantee will not be exceeded by market slippage. More information is available on our website or can be requested by contacting [customer.service@etxcapital.com](mailto:customer.service@etxcapital.com).

**Hedging Disruption** means circumstances where we are unable, after using commercially reasonable (but no greater) efforts, to:

- (a) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction or asset it deems necessary to hedge any risk related to or in connection with the relevant Trade; or
- (b) realise, recover or remit the proceeds of any such transaction or asset.

**Indicator** means a technical analysis object imposed onto a chart which is used to forecast the future price movement of the relevant market. Typically, there are two types of indicators: trend indicators and oscillators.

**Initial Margin Requirement** means the minimum sum required to be deposited in order for you to open a Trade.

**Intellectual Property Rights** has the meaning given to it in clause 26.1.

**Intrinsic Value** for a call option occurs when the price of the Market is higher than the Strike Price.

Conversely a put option has intrinsic value if the Strike Price is higher than the Market price. In both cases the amount of the intrinsic value is calculated by deducting the Strike Price from the Market price.

**Joint Trading Account** has the meaning given to it in clause 3.2.

**Limit Order** means an instruction to deal in a particular Market if our price in that Market becomes more favourable to you.

**Liquidation Value** means the sum of your Cash Balance and the profit/loss from your open Trades.

**Losses** in respect of any matter, event or circumstance includes all demands, claims, actions, proceedings, damages, payments, trading losses, costs, expenses, or other liabilities, and any consequential, indirect or special loss, including, but not limited to loss of business, loss related to reputational damage, loss of revenue, loss of anticipated savings and loss of opportunity.

**Maintenance Margin** means the amount of funds required to maintain an open Trade.

**Manifest Error** is defined in clause 9.25.

**Margin** means Initial Margin Requirement and/or Maintenance Margin and is sometimes referred to as 'variation margin'.

**Margin Call** means a request or deemed request for funds to bring your Trade Funds Available to zero (0) or above.

**Market** means a unique set of Products based on the price movement of an Underlying Market.

**Market Order** means an Order at the price of the current prevailing Market price.

**Negative Slippage** means slippage which leads to an execution price that is worse than the price requested by the client.

**Non-Expiring Trade** means a Trade that has no expiry date. These Trades remain open each night with an applicable financing charge applied to your Trading Account.

**Order** means an instruction to open or close a Trade at a price, the same as, or higher or lower

than the current Market price and includes: an initial Order, a Limit Order, a Stop Loss Order, Trailing Stop, Guaranteed Stop and a Market Order.

**Order Execution Policy** means the document that describes the reasonable steps that we will take to ensure that, when executing Order, we treat you fairly and in accordance with the FCA Rules.

**Positive Slippage** means slippage which leads to an execution price that is better than the price requested by the client.

**Privacy Policy** means the privacy statement posted on our website as amended from time to time.

**Product** means each type of financial contract we make available under this Agreement (example: our UK 100 Daily Rolling contract is one of our UK100 index contracts within the Market group of UK Indices) and includes CFDs and Financial Spread Bets.

**Professional Client** means a client categorised as a *per se* professional client or an elective professional client in accordance with COBS 3.5.1 R.

**Retail Client** means a client categorised as neither a Professional Client nor an Eligible Counterparty in accordance with COBS 3.4.1 R.

**Robotic Trading Tools** include, but are not limited to, tools commonly known as Expert Advisors, Scripts and Indicators.

**Roll Over** is defined in clause 9.32.

**Services** mean the services offered by us to you in respect of CFD trading and/or Financial Spread Betting as specified on our website and governed by this Agreement.

**Script** means a program written which is solely used to perform a single action and then stops once that action has been executed. A script differs from an Expert Advisor because a script can only be executed on request, whereas an Expert Advisor will function on its own accord once activated.

**Slippage** means that the specific price requested by a client is not available when an order is

presented for execution so the order is executed as close as practical to the client's requested price which may lead to Positive Slippage or Negative Slippage.

**Stop Loss Order** means an instruction to deal in a particular Market if our price in that Market becomes less favourable to you. These orders are commonly used to provide some risk protection but are not guaranteed. Please see the definition of Guaranteed Stop.

**Strike Price** means the fixed price at which the holder of an option is entitled to buy or sell.

**Trade** means any transaction entered into under this Agreement (including Financial Spread Bets and trades in CFDs).

**Trade Funds Available** means the amount of money in your Trading Account that is free to be used for satisfying Margin requirements.

**Trading Account** means an account for any of the trading platforms offered by us which a client can access through individual login details such as username and password for that specific account or the Customer Profile, depending on the underlying technology system.

**Trailing Stop** means a Stop Loss Order where you have elected to have the level of your stop price follow the movement in the price of the Underlying Market.

**Underlying Market** means, except as varied at clause 16.1 in relation to clauses 16.1, 16.10 and 22.5, the relevant financial instrument, index, currency, or other instrument, whose price or value provides the basis for us to establish the price we quote you for a Market.

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October 2021