

## RETAIL CLIENT AGREEMENT

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**Note:** The English version of this agreement is the governing version and shall prevail whenever there is any discrepancy between the English version and the other versions.

**This client agreement, together with any Schedule(s), and accompanying documents, as amended from time to time, (this "Agreement") sets out the terms of the contract between you and us. Please read it carefully and let us know as soon as possible if there is anything which you do not understand.**

### 1. INTERPRETATION

The following terms have the following meanings in the context of this Agreement as well as for the interpretation of all the informational documents, annexes and other documentation that is made available to you in the context of the opening of your account (such as internal policies, information on our Company etc.) :

**"Account"** means the account that you hold with us and is designated with a particular account number.

**"Applicable Regulations"** means:

- (i) the FMA - New Zealand's Financial Markets Authority Rules (as defined herein) or any other applicable rules of a relevant jurisdiction relating to the provision of financial services by **FIML** and to the supervision of such activities by a competent regulatory authority; and
- (ii) all other applicable laws, rules and regulations as in force from time to time.

**"Associate"** means an undertaking in the same group as us, a representative that we or an undertaking in the same group as us appoint, or any other person with whom we have a relationship that might reasonably be expected to give rise to a community of interest between us and them.

**"Base Currency"** means the currency in which each Account is maintained.

**"Business Day"** means a day which is not a Saturday or a Sunday and upon which banks are open for business in New Zealand.

**"Client Money Rules"** means the rules specified in the relevant legislation, laws and Resolutions and Circulars issued by the FMA.

**"Client" and/or "Customer"** means you, the counterparty of the Company agreeing to these terms and entering into this Agreement with the Company.

**"Company"** for the purposes of this Agreement means FORMAX INTERNATIONAL MARKET LIMITED, a company incorporated in New Zealand, registered on the New Zealand Financial Services Providers Register of New Zealand's Financial Markets Authority (also referred to as **"FIML"**, **"we"** or **"us"**).

**"Credit Support Provider"** means any person who has entered into any guarantee, hypothecation, agreement, margin or security agreement in our favor in respect of your obligations under this Agreement.

**"CRS"** is an abbreviation for Common Reporting Standard applied from 1 July 2017 to financial institutions in New Zealand, i.e. the OECD released Common global standard for automatic exchange of financial account information.

**"Electronic Services"** means any service provided by us, for example an Internet trading service offering clients access to information and trading facilities, via an internet service, a WAP service and/or an electronic order routing system.

**"Event of Default"** means any of the events of default as listed in cases (i) to (ix) of Clause 14 (Events of Default).

**"Execution"** means the completion of clients' orders by **FIML's** through the trading platform(s) it makes available to you from time to time, where **FIML** acts as an intermediary, fully hedging and/or Straight-Through-Processing (STP) such orders to its Liquidity Provider(s).

**"FATCA"** is an abbreviation for "Foreign Account Tax Compliance Act" of the United States of America. An inter-governmental agreement (IGA) between the New Zealand and the United States governments in June 2014 was followed by the Double Tax Agreements (United States of America - FATCA) Order 2014 and amendments to the Tax Administration Act 1994 and the Income Tax Act 2007. The result is that FATCA is in force in New Zealand.

**"FFI"** is an abbreviation for "Foreign Financial Institution", as such term is defined in the context of the FATCA framework.

**"FX Contract"** means a contract between two parties to exchange two currencies at an agreed exchange rate.

**"FMA"** is an abbreviation for "New Zealand Financial Markets Authority".

**"FMA Rules"** (i.e. New Zealand's Financial Markets Authority rules) means the Law which provides for the Provision of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and other related matters, the provisions of the Investment Firms Regulation on the Prevention and Suppression of Money Laundering Activities, and the

Resolutions, Circulars and all other regulations issued pursuant to these Laws and all guidance notes, administrative notices, newsletters and rules.

**“Liquidity Provider”** means a financial institution or third party that provides to **FIML** executable two-way quotes in respect of the financial instruments that are the object of your orders and transactions, in order for **FIML** to cover its clients’ positions by entering into the relevant trades.

**“Key Information Document”** or **“KID”**: means the document that **FIML** provides to you in accordance with with the FMA Regulation on key information documents for packaged retail and insurance-based investment products (PRIIPS);

**“New York Time”** or **“NYT”** means the time on any given day in the City of New York, New York (USA), whether such time be Eastern Standard Time or Eastern Daylight Savings Time (corresponding to UTC - 5 or UTC - 4 respectively). The current at any moment New York Time may be displayed on our website by configuring the relevant settings.

**“FIML Online Trading System”** or **“Trading Platform”** means the internet-based trading system available at **FIML**'s website offered and powered by Triple A Experts Investment Services S.A. that allows you to provide us with instructions and review your trading activity, through an electronic trading platform environment.

**“OTC”** means ‘over the counter’ and refers to transactions conducted otherwise than on an exchange.

**“Privacy Policy”** refers to **FIML**’s Privacy policy statement provided on **FIML**'s website, as this may be changed from time to time, which represents an inherent part of this Agreement and includes how **FIML** collects, processes, stores and protects your information.

**“Secured Obligations”** means the net obligation owed by you to us after the application of setoff under clause 12 (Margining Arrangements) in the paragraph entitled «Set-off on default».

**“System”** means all computer hardware and software, equipment, network facilities and other resources and facilities needed to enable you to use an Electronic Service.

**“Trading Desk”** means the selection of people physically operating the trading system.

**“Transaction”** means any transaction subject to this Agreement and includes a CFD, or forward contract of any kind, future, option or other derivative contract in relation to any commodity, financial instrument (including any security), currency, interest rate, index or any combination thereof and any other transaction or financial instrument for which we are authorized under FMA authorization from time to time which we both agree shall be a Transaction.

**"US Reportable Persons"** - In accordance to FATCA, a US Reportable persons is:

- (i) a US citizen (including dual citizen)
- (ii) a US resident alien for tax purposes
- (iii) a domestic partnership (iv) a domestic corporation
- (v) any estate other than a foreign estate (vi) any trust if:
  - a court within the United States is able to exercise primary supervision over the administration of the trust
  - one or more United States persons have the authority to control all substantial decisions of the trust (vii) any other person that is not a foreign (non US) person

## 2. INTRODUCTION

### 2.1. Scope of this Agreement

This Agreement sets out the basis on which we will provide services to you. This Agreement governs each Transaction entered into or outstanding between us on or after the execution of this Agreement. This Agreement is supplemented by the legal documentation provided to you before entering into the business relationship, and in particular our informative documents regarding **Investment Risks**, our **Best Execution Policy**, our **Conflicts of Interests Policy**, our arrangements for **Client Asset Protection**, our **Data Privacy Statement**, as well as the **Key Information Documents** for each product that may be the object of your transactions with us, as issued either by **FIML** or by the relevant product manufacturer.

### 2.2. Commencement

This Agreement supersedes any previous agreement between you and us on the same subject matter and takes effect when you indicate your acceptance via our website. This Agreement shall apply to all Transactions contemplated under this Agreement.

## 3. GENERAL

### 3.1. Information about us

We, FORMAX INTERNATIONAL MARKET LIMITED ("**FIML**") are authorized and supervised by New Zealand's Financial Markets Authority ("FMA"). Our registered office is located at Level 7, 203 Queen Street, CBD, Auckland, New Zealand. Our contact details are set out in Clause 19 (Miscellaneous) under the heading "Notices". FMA's office is situated at Level 5, Ernst & Young Building, 2 Takutai Square, Britomart, Auckland, New Zealand. **FIML** is active on CFD and FX Contracts for end clients. **FIML** uses and operates websites, trading platforms and brand names as indicated in its website (<https://international.aaafx.com>). **FIML** operates through these trading platforms which allow online trading.

### **3.2. Language**

This Agreement is supplied to you in English and we will continue to communicate with you in English for the duration of this Agreement. However, where possible, we will communicate with you in other languages in addition to English.

### **3.3. Communication with us**

You may communicate with us in writing (including fax), by email or other electronic means, or orally (including by telephone). Our contact details are set out in Clause 19 (Miscellaneous) under the heading "Notices". The language of communication shall be English, and you will receive documents and other information from us in English. However, where appropriate and for your convenience, we will endeavor to communicate with you in other languages. Our website contains further details about us and our services, and other information relevant to this Agreement. In the event of any conflict between the terms of this Agreement and our website this Agreement will prevail.

### **3.4. Capacity**

We act as an intermediary, by Straight-Through-Processing or hedging your orders to our Liquidity Provider(s), in a way to maintain (in our name) with the relevant Liquidity Provider(s) the same open positions as those that you maintain with us. You enter into this Agreement as principal and not as agent (or trustee) on behalf of someone else. We shall treat you as a **retail client** for the purposes of the Applicable Laws. You have the right to request a different client categorization, in order to be classified as a professional client. However, if you do request such different categorization, subject to the approval of your request by **FIML**, your protection may be reduced. In particular, under the categorization of Professional Client you will be deemed to have the necessary experience, knowledge and expertise with regards to the services and products in respect of which you will be classified as professional, a part of the pre-contractual information (i.e. regarding investment risks) may be less detailed than the information provided to retail clients, our best execution policy may be different to the one applicable for retail clients (i.e. prioritizing factors other than the price) and we may be able to agree with you to provide less detailed information regarding the costs of the services and transactions. In addition, limitations imposed by the capital market regulatory authorities as to the distribution and marketing of certain products or products with specific features to retail clients (such as limitations to the leverage offered to retail clients) will not be applicable to you if you are classified as a professional client.

### **3.5. Legal Age**

**FIML's** services and products provided by **FIML** are only available to individuals who are at least the legal age in their jurisdiction, provided that they are at least 18 years old and. You represent and warrant that if you are

an individual, you are at least 18 years old and of legal age in your jurisdiction to form a binding contract, and that all registration information you submit is accurate and truthful. The Company reserves the right to ask for proof of age from you and your account may be suspended until satisfactory proof of age is provided. **FIML** may, in its sole discretion, refuse to offer its products and services to any person or entity and change its eligibility criteria at any time.

### **3.6. Banned/Not permitted Jurisdictions**

The Company reserves the right and is entitled at any time, and upon its sole discretion, to restrict offering its services to certain jurisdictions and consider them as banned countries in terms of engagement with the potential clients. Currently the Company does not accept new clients and/or the opening of new accounts from Iran, Sudan, Syria, North Korea, Burma, Myanmar, Quebec of Canada, Puerto Rico, Guam, Northern Marianna islands, Virgin Islands, American Samoa, Belgium (as regards retail clients) and USA. The aforementioned list of countries is non-exhaustive and the updated list of banned countries, which can be found with the Company's customer support, is subject to alteration at any time the Company deems proper upon its sole discretion without any prior notice. The Customer hereby, confirms that by agreeing to this Agreement he is not residing in one of the countries mentioned on the aforementioned list and covenants to inform the Company should his situation alter in any way. The Company reserves the right to request any additional information deemed necessary in order to verify compliance with this clause.

### **3.7. General interpretation**

A reference in this Agreement to a "clause" or "Schedule" shall be construed as a reference to, respectively, a clause or Schedule of this Agreement, unless the context requires otherwise. References in this Agreement to any statute or statutory instrument or Applicable Regulations include any modification, amendment, extension or re-enactment thereof. A reference in this Agreement to "document" shall be construed to include any electronic document. The masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires. Words and phrases defined in the FMA Rules and the Applicable Regulations have the same meaning in this Agreement unless expressly defined in this Agreement.

### **3.8. Schedules**

The clauses contained in the Schedule(s) attached or referred to in this Agreement (as amended from time to time) shall apply and shall form integral part of this Agreement. We may from time to time send to you further Schedules in respect of Transactions. In the event of any conflict between the clauses of any Schedule and this Agreement, the clauses of the Schedule shall prevail. The fact that a clause is specifically included in

a Schedule in respect of one Transaction shall not preclude a similar clause being expressed or implied in relation to any other Transaction. You acknowledge having read, understood and agreed to the Schedules to this Agreement.

### **3.9. Headings**

Headings are for ease of reference only and do not form part of this Agreement.

## **4. REGULATION**

### **4.1. Subject to Applicable Regulations**

This Agreement and all Transactions are subject to Applicable Regulations so that:

- (i) nothing in this Agreement shall exclude or restrict any obligation which we have to you under Applicable Regulations;
- (ii) we may take or omit to take any action, as we consider appropriate to ensure compliance with any Applicable Regulations;
- (iv) all Applicable Regulations and whatever we do or fail to do in order to comply with them will be binding on you; and
- (v) such actions that we take or fail to take for the purpose of compliance with any Applicable Regulations shall not render us or any of our directors, officers, employees or agents liable.

### **4.2. Action by regulatory body**

If a regulatory body takes any action which affects a Transaction, then we may take any measure which we, in our reasonable discretion, consider desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any such measure shall be binding on you. If a regulatory body makes an enquiry in respect of any of your Transactions, you agree to cooperate with us and to promptly supply information requested in connection with the enquiry.

## **5. COSTS, PAYMENTS AND CHARGES**

### **5.1. Charges**

The Customer shall pay charges to FIML as agreed from time to time, any fees or other charges imposed by a clearing organization and interest on any amount due to FIML at the rates then charged by FIML (and which are available on request). In its capacity as an intermediary FIML acts may either charge Commissions, Brokerage or other Fees or retain the portion of the difference between the purchase and sale price it pays on or receives from your transactions (spread).

A copy of our current charges including the applicable fee structure, in accordance with FIML's pricing policy, is published on the website in the

“Spreads” section (<https://international.aaafx.com/spreads>). Any alteration to charges will be notified to you before the time of the change.

## **5.2. Additional costs**

You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.

## **5.3. Payments**

All payments to us under this Agreement shall be made in such currency as we may from time to time specify to the bank account designated by us for such purposes. All such payments shall be made by you without any deduction or withholding.

## **5.4. Remuneration and sharing of charges**

**FIML** may share charges with partners, affiliates, intermediary service providers and agents (collectively referred to as “Partners”) in connection with Transactions carried out in your Account. Partners may receive remuneration on the basis of a percentage of the spread, a fixed fee and/or based on any other method agreed with them, which may affect the costs associated with your Account, provided that such payment is permitted in accordance with the requirements of the Applicable Regulations. More information on the fees and/or commissions **FIML** pays to its partners will be provided to you from time to time, when such fees and commissions are related to the services provided to you under this Agreement, in accordance with the Applicable Regulations, prior to the provision of the services as well as during the provision of the services, on a yearly basis.

## **5.5. Rollovers, Interest**

**5.5.1.** A daily financing charge may apply to each FX/CFD open position at the closing of the Liquidity Providers' trading day as regards to that FX/CFD. If such financing charge is applicable, it will either be requested to be paid by Customer directly to **FIML** or it will be paid by **FIML** to Customer, depending on the type of FX/CFD and the nature of the position Customer holds. The method of calculation of the financing charge varies according to the type of FX/CFD to which it applies. Moreover, the amount of the financing charge will vary as it is linked to current interest rates (such as LIBOR). The financing charge will be credited or debited (as appropriate) to Customer's account at the end of the trading day. Examples for the calculation of this daily financing charge are available in our website at the “Spreads” section.

**5.5.2. FIML**, in line with its Liquidity Providers' offering, reserves the right to change the method of calculating the financing charge, the financing rates and/or the types of FX/CFDs to which the financing charge applies. For certain types of FX/CFDs, a commission is payable by Customer to

open and close FX/CFD positions. Such commission payable will be debited from Customer's account at the same time as **FIML**, through the selected Liquidity Provider, opens or closes the relevant FX/CFD. Changes in the applicable swap interest rate and calculations shall be at our own discretion and without notice. Clients need to always check our website for the current rates charged. Rates may change quickly due to market conditions (changes in interest rates, volatility, liquidity etc.) and due to various risk related matters that are at the firm's sole discretion.

**5.5.3.** Any open FX/CFD transaction held by Customer at the end of the trading day as determined by **FIML**, in line with its Liquidity Providers' offering or over the weekend, shall automatically be rolled over to the next business day so as to avoid an automatic close and physical settlement of the transaction. Customer acknowledges that when rolling over such transactions to the next business day, a premium may be either added or subtracted from Customer's account with respect to such transaction. The Trading Platform calculates overnight rollover at 17:00 NYT and the rollover charge/credit is debited or credited to and from the trading account. Examples illustrating the rollover mechanism, as well as further details on the mode of calculation of the interest, are available on the "Glossary" section of the website (<https://international.aaafx.com/glossary>).

## **5.6. CFD Expiration**

**5.6.1.** Depending on the underlying instrument, some categories of CFDs have an expiration date. In this respect you should be aware that upon expiration of such CFDs, the relevant positions shall be closed, and all pending orders referring to the expired CFD shall be cancelled. Relevant details regarding the kinds of CFDs that are subject to expiration as well as the details of the closure of such positions upon expiration are available in the "Glossary" section of the website (<https://international.aaafx.com/glossary>).

**5.6.2. FIML**, at its best effort, will inform customers about any projected expiration of instruments or through the website or, at its absolute option, by e-mail or popup message.

## **6. RIGHT TO CANCEL**

You have a right to cancel this Agreement for a period of fourteen (14) days commencing on the date on which this Agreement is concluded (the "Cancellation Period"). Should you wish to cancel this Agreement within the Cancellation Period, you should send notice in writing to the following address: FORMAX INTERNATIONAL MARKET LIMITED, Level 7, 203 Queen Street, CBD, Auckland, New Zealand, or electronically to the following email address: [customercare@aaafx.com](mailto:customercare@aaafx.com). Cancelling this Agreement within the Cancellation Period will not cancel any Transaction entered into by you during the Cancellation Period. If you fail to cancel this Agreement

within the Cancellation Period you will be bound by its terms but you may terminate this Agreement in accordance with Clause 17 (Termination without Default).

## **7. NON ADVISED SERVICES**

### **7.1. Execution only**

We deal on an execution only basis and do not advise on the merits of particular Transactions, or their taxation consequences.

### **7.2. Own judgement and suitability**

By entering into this Agreement and accepting its terms, you declare that the information you provided in the context of the relevant client's appropriateness questionnaire, regarding your experience and knowledge in the investment field in order for us to assess whether you are in a position to understand the risks involved in relation to investment services and financial instruments, is true and reflects your actual situation. Without prejudice to our foregoing obligations, in asking us to enter into any Transaction, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the relevant Transaction and that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks of any such Transaction. In the event that you have chosen or chose to ignore any warning relating to your ability to understand the risks involved in relation to any investment service or financial instrument or Transaction, we shall bear no liability whatsoever for any loss or damage resulting therefrom. You further represent that you have read and accepted the Risk Disclosure Statement and guidelines in relation to the financial instruments and the markets which are available on our website. In addition, you represent that you will read carefully the Key Information Document that we have provided or will provide to you for each financial instruments, before conducting any transaction with respect to the relevant financial instrument. We give you no warranty as to the suitability of the products traded under this Agreement to your individual investment profile and we assume no fiduciary duty in our relations with you other than in the context of what is explicitly contained in this paragraph. Additionally, we hereby inform you that we cannot guarantee the outcome of your transactions on the products offered through this platform and, therefore, will not accept claims based on such grounds.

### **7.3. Incidental information and investment research**

Where we do provide market commentary or other information:

- (i) this is incidental to your dealing relationship with us. It is provided solely to enable you to make your own investment decisions and does not amount to advice;
- (ii) where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on to any such person or category of persons;
- (iii) we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the tax consequences of any Transaction;
- (iv) you accept that prior to dispatch, we may have acted upon it ourselves or made use of the information on which it is based.

We do not make representations as to the time of receipt by you and cannot guarantee that you will receive such information at the same time as other clients. Any published research reports or recommendations may appear in one or more screen information service.

#### **7.4. Conflicts of interest policy**

Please refer to our conflicts of interest policy for further information on how we manage conflicts which would affect the impartiality of investment research we may provide to you. Upon request, we will provide you with any further details in that regard. When the measures taken by **FIML** to avoid or manage situations of conflicts of interest are not sufficient to ensure, with reasonable confidence, that the risk of damage to clients' interests will be prevented, **FIML** will disclose to you the specific conflict of interest and the steps taken to mitigate the risks associated thereto, with a durable medium, before providing the service affected by the situation of conflict.

### **8. CUSTOMER ACCOUNTS AND INITIAL DEPOSITS**

#### **8.1. Documents**

Before you can place an order, you must fill in the appropriateness questionnaire, read and accept this Agreement, including all the supplementary documents referred to in par. 2.1. above and all applicable addenda to this Agreement, you must deposit sufficient clear funds in your account and your customer registration form and all accompanying documents must be approved by **FIML**. Upon the approval of your registration, you will be notified by e-mail. **FIML** may, in its sole discretion, request that in addition to online acceptance of this Agreement, Customer must complete and submit any signed documents so required by **FIML**, including but not limited to this Agreement and the Risk Disclosure Statement. In order to check the available options for depositing funds as well as the minimum amount required to activate your account, please visit <https://international.aaafx.com/deposits>.

#### **8.2. Currency of Accounts**

You will be able to open your trading Account(s) in USD/EUR/GBP/AUD/CHF/JPY or any currency that may be offered by **FIML**. Account(s) balances will be calculated and reported to you in the currency in which Account(s) are maintained.

### **8.3. Joint Accounts**

The possibility to open joint accounts is not available through **FIML** and we shall not be under any obligation to accept any relevant request.

### **8.4. Islamic Accounts**

**8.4.1.** In the event of a customer who, due to its observance of Islamic religious beliefs, cannot receive or pay interest, such customer may elect to designate, in the manner provided by the Company as this may be altered from time to time, his/her trading account to be a swap-free account not charged with or entitled to, premiums and/or rollovers and/or interest ("Islamic Account"). The customer hereby confirms and/or accepts and/or declares that a request to render his/her account Islamic shall only be made due to the said Islamic religious beliefs and for no other reason whatsoever. The Company reserves the right to refuse accepting the request of a customer to designate his/her account as an Islamic Account, upon its sole and absolute discretion which shall be conclusive and undisputable upon the customer.

**8.4.2.** In the event that the Company suspects that a customer is abusing the rights conferred to him/her by the classification of the account as Islamic Account, the Company has the right, without prior notice, to proceed with one or more of the following:

- (i) The Company may add commission upon each and every one of the trades executed on the Islamic Account; and/or
- (ii) The Company may cancel the special rights and/or conditions conferred to the Account due to its classification as Islamic Account, recall the designation of the Account as Islamic Account and render it a normal trading Account; and/or
- (iii) The Company may restrict and/or prohibit the customer from hedging his/her positions; and/or
- (iv) The Company may, upon its sole discretion, close any open positions and reinstate them upon the then real market price. The customer hereby, acknowledges he/she shall bear all costs derived from the aforementioned action, including but not limited to, the cost on the change of the spread.

## **9. TRADING POLICIES AND PROCEDURES**

### **9.1. Placing of instructions**

**9.1.1.** You may give us instructions in electronic form through the **FIML** Online Trading System.

**9.1.2.** You may also give us orders through automated trading systems (also known as socialtrading, copy-trading etc.) that are or may in the

future be integrated with the Trading Platform, such as the “Zulutrade” automated trading Platform, provided that:

- we have informed you that we are willing to accept trading signals in your accounts from the relevant automated trading platform
- you have entered into the necessary agreements with the owners or administrator(s) of such automated trading platforms (including FIML when it is the administrator of the relevant automated trading platform), and you have accepted the applicable terms
- you have granted the relevant authorizations, as requested by our Company and/or the automated trading platform’s administrator in order for the latter to obtain access to your trading Account held with us.

In the event that you opt to use third party automated trading systems or platforms, you must be aware that such systems or platforms are neither developed nor provided by **FIML**, nor do they belong in any manner whatsoever to **FIML**. Therefore you accept that any services provided to you through such platforms are provided by the persons or entities owning and/or operating them and will be governed exclusively by the terms and agreements entered into between you and those persons or entities, the participation of **FIML** being limited to the reception and execution of your orders, as provided through the above systems or platforms.

**FIML** may enter into or maintain a cooperation agreement with any of the above third parties, in order to set out the terms under which we shall be able to accept trading signals in our customers’ accounts. In the context of such cooperation agreement we may agree to receive or pay fees from or to the owner or administrator of the automated trading platform, remunerating the provision of the necessary technology, services and support, as such payments will be disclosed to you from time to time.

## **9.2. Types of Orders Accepted**

Some of the types of orders accepted include, but are not limited to:

- (i) **Market Order** - Market order is an order to buy or sell a security at the current price. Execution of this order results in opening of a trade position. Securities are bought at ASK price and sold at BID price. Stop Loss and Take Profit orders (described below) can be attached to a market order. As the order is executed at market price, execution price may be different from the price indicated when entering the order due to a change in market price at the time of execution or due to insufficient liquidity.
- (ii) **Pending Order** - Pending order is an order to buy or sell a security at a pre-defined price in the future. This type of orders is used for opening of a trade position provided the future quotes reach the pre-defined level. There are four types of pending orders available in the platform:

- Buy Limit – buy provided the future "ASK" price is equal to the pre-defined value. The current price level is higher than the value of the placed order. Orders of this type are usually placed in anticipation of that the security price, having fallen to a certain level, will increase;
- Buy Stop – buy provided the future "ASK" price is equal to the pre-defined value. The current price level is lower than the value of the placed order. Orders of this type are usually placed in anticipation of that the security price, having reached a certain level, will keep on increasing;
- Sell Limit – sell provided the future "BID" price is equal to the pre-defined value. The current price level is lower than the value of the placed order. Orders of this type are usually placed in anticipation of that the security price, having increased to a certain level, will fall;
- Sell Stop – sell provided the future "BID" price is equal to the pre-defined value. The current price level is higher than the value of the placed order.

(iii) **Stop Loss** – This order is used for minimizing of losses if the security price has started to move in an unprofitable direction. If the price reaches this level, the position will be closed automatically. Such orders are always connected to an open position or pending order. The trading platform checks long positions with BID price for meeting of this order provisions (the order is always set below the current BID price), and it does with ASK price for short positions (the order is always set above the current ASK price). Please note that because of market gapping, the best available price that may be achieved could be materially different to the price set on the stop loss order and as such, stop loss orders are not guaranteed to take effect at the price for which they are set.

(iv) **Take Profit** - Take Profit order is intended for gaining the profit when the security price has reached a certain level. Execution of this order results in closing of the position. It is always connected to an open position or a pending order. The trading platform checks long positions with BID price for meeting of this order provisions (the order is always set above the current BID price), and it does with ASK price for short positions (the order is always set below the current ASK price). Please note that because of market gapping, the best available price that may be achieved could be materially different to the price set on the take profit order and as such, take profit orders are not guaranteed to take effect at the price for which they are set. Following submission of an order, it is your sole responsibility to remain available for order and fill confirmations, and other communications regarding your Account until all open orders are completed. Thereafter, you must monitor your Account frequently when you have open positions in the Account. Your order shall be valid in accordance with the type and time

of the given order, as specified. If the time of validity or expiration date/time of the order is not specified, it shall be valid for an indefinite period, until filled or cancelled by Customer and shall not be automatically cancelled at the end of the Business Day on which it was placed.

### **9.3. Terms of Acceptance for Orders**

It is your sole responsibility to clearly indicate the terms of an order when entered, whether it is a market order, pending order, stop loss order or any other type of order, including the relevant price and lot size. You acknowledge and agree that, despite our best efforts, the price at which execution occurs may be different to the price specified in your order. This may result from sudden price movements in the underlying assets that are beyond our control. **FIML** shall have no liability for failure to execute orders. **FIML** may, at its sole discretion, reject any order in whole or in part prior to execution, or to cancel any order, where your Account contains margin that is insufficient to support the entire order or where such order is illegal or otherwise improper.

### **9.4. Execution Policy**

In accordance with the Applicable Laws, we are required to have an execution policy and to provide our clients with appropriate information in relation to our execution policy. Where you place orders with us, the execution factors that we consider and their relative importance is as set out in the best execution policy disclosure that we have provided to you prior to entering into this agreement.

### **9.5. Authority**

We shall be entitled to act for you upon instructions given or purporting to be given by you or any person authorized on your behalf without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such instructions provided such instruction is accompanied by your correct Account number and password. If your Account is a joint account, you agree that we are authorized to act on the instructions of any one person in whose name the Account is held, without further inquiry. We shall have no responsibility for further inquiry into such apparent authority and no liability for the consequences of any actions taken or failed to be taken by us in reliance on any such instructions or on the apparent authority of any such persons.

### **9.6. Cancellation/withdrawal of instructions**

Non-market orders may be cancelled via the **FIML** Online Trading System but we can only cancel your instructions if you explicitly request so, provided that we have not acted up to the time of your request upon those instructions. Executed instructions may only be withdrawn or amended by you with our consent. **FIML** shall have no liability for any claims, losses,

damages, costs or expenses, including legal fees, arising directly or indirectly out of the failure of such order to be cancelled.

### **9.7. Right not to accept orders**

We may, but shall not be obliged to, accept instructions to enter into a Transaction. If we decline to enter into a proposed Transaction, we shall not be obliged to give a reason but we shall promptly notify you accordingly.

### **9.8. Control of orders prior to execution**

We have the right (but not the obligation) to set limits and/or parameters to control your ability to place orders at our absolute discretion. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our absolute discretion and may include (without limitation):

- (i) controls over maximum order amounts and maximum order sizes;
- (ii) controls over our total exposure to you;
- (iii) controls over prices at which orders may be submitted (to include (without limitation) controls over orders which are at a price which differs greatly from the market price at the time the order is submitted to the order book);
- (iv) controls over the Electronic Services (to include (without limitation) any verification procedures to ensure that any particular order or orders has come from you); and/or
- (v) any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.

### **9.9. Trade Adjustments**

**9.9.1.** Customers must be aware that transactions on CFDs and FX carry a high degree of risk. The amount of initial margin may be small relative to the value of the position so that transactions are 'leveraged' or 'geared'. A relatively small market movement may have a proportionately larger impact on the funds that the Customer has deposited or will have to deposit. This may work against as well as for the customer.

**9.9.2. FIML** reserves the right to widen its variable spreads, disable trading to any or all instruments, adjust leverage, change its rollover rates and/or increase the margin requirements under certain market conditions including, but not limited to, when the trading desk is closed, around fundamental announcements, as a result of changes in credit markets, at times of extreme market volatility or when one or more Liquidity Providers have taken one or more of the above measures and/or when **FIML** deems that such exposure is risky and that it is not possible for **FIML** to mitigate its risks.

## **9.10. Execution of orders**

We shall make all reasonable endeavors to execute any order you place, taking into consideration the relevant market conditions and our Liquidity Providers' Risk Management Policy. By accepting your orders we do not warrant that it will be possible to execute them, or that execution will be possible according to your instructions. If we encounter any material difficulty carrying out an order on your behalf, you will be notified, without undue delay.

## **9.11. Negative Balance Protection**

FX Contracts and CFDs, which are leveraged products, incur a high level of risk and can result in the loss of all of the client's invested capital. However, it should be noted that **FIML** operates on a 'negative balance protection' basis which means that the client cannot lose more than his/her overall invested capital (deposit), as long as FIML determines at its sole discretion and in good faith, that the occurrence of such negative balance is not due to any malicious or abusive behavior of the Customer and has not been intentionally caused by the Customer.

## **9.12. Confirmations and reports**

**9.12.1.** At the end of each trading day an e-mail notification shall be sent to the e-mail address that you have notified to us, informing you of the execution of the transactions carried out during the relevant trading day. This e-mail confirmation will include all relevant to the transactions details and will be in a format allowing you to save it in your computer/ mobile phone or print it. In addition the details of all Transactions that we execute on your behalf will be available via your online Account on the Trading Platform, which is updated online as each Transaction is executed.

**9.12.2.** In cases where the prevailing market represents prices different from the prices posted by **FIML** in line with its Liquidity Providers' offering, **FIML** will attempt, on a best efforts basis and in good faith, to execute market orders on or close to the prevailing market prices, provided this is possible also through its Liquidity Providers. This may or may not adversely affect customer's realized and unrealized gains and losses.

**9.12.3.** If we hold financial instruments or funds belonging to you under this Agreement, we shall inform you at least on a quarterly basis as regards the assets held on your behalf on the last business day of the calendar quarter ("Statement of Assets"). The Statement of Assets will be available to your online Account on the Trading Platform. In addition, we will inform you at least once a year of the total expenses incurred in the context of your transactions, by making available to your online Account on the Trading Platform the relevant statement. It is noted that you will be able to generate other account statements detailing your transaction activity, profit and loss statements, open positions, margin balances,

account credits and debits and other available information. In addition, we may send to you to the address that you have communicated to us, any of the reports and/or confirmations posted online, to the extent we deem that it is necessary to do so.

**9.12.4.** Confirmation of execution and statements of your Account(s), in the absence of manifest error, shall be deemed correct, conclusive and binding upon you if not objected to immediately by email if orders were placed through **FIML** Online Trading System or by telephone to the Trading Desk, within five Business Days of making such confirmations available to you via our website or we notify you of an error in the confirmation within the same period.

**9.12.5.** Where the initial value of each leveraged instrument held in your account depreciates by 10% and thereafter at multiples of 10%, we will notify you via e-mail no later than the end of the day in which the threshold is exceeded. The evaluation of the depreciation percentage regarding your positions may take place only once a day, at a specific time determined by FIML and with an evaluation method as determined from time to time by FIML.

### **9.13. Improper or Abusive Trading**

**9.13.1.** **FIML**'s objective is to provide the most efficient trading liquidity available at its Liquidity Providers' level, in the form of streaming, tradable prices for most of the financial instruments we offer on the trading platform. As a result of the highly automated nature of the delivery of these streaming, tradable prices, you acknowledge and accept that price variations are likely to occur from time to time in CFDs and FX products.

**9.13.2.** Should you execute trading strategies with the objective of exploiting such misquotation(s) or act in bad faith (commonly known as 'sniping'), **FIML** shall consider this as unacceptable behavior. Should **FIML** determine, at its sole discretion and in good faith, that you or any representative of yours trading on your behalf is taking advantage, benefiting, attempting to take advantage or to benefit of such misquotation(s) or that you are committing any other improper or abusive trading act such as for example:

- (i) fraud/illegal actions that led to the transaction;
- (ii) orders placed based on manipulated prices as a result of system errors or system malfunctions;
- (iii) arbitrage trading on prices offered by our platforms as a result of systems errors; and/or
- (iv) coordinated transactions by related parties in order to take advantage of systems errors and delays on systems updates,

Then **FIML** through its liquidity providers will have the right to:

- (i) adjust the price spreads available to you; and/or
- (ii) Restrict your access to streaming, instantly tradable quotes, including providing manual quotation only; and/or
- (iii) obtain from your account any historic trading profits that you have gained through such abuse of liquidity as determined by us at any time during our trading relationship; and/or
- (iv) reject an order or to cancel a trade; and/or
- (v) immediately terminate our trading relationship

#### **9.14. Prohibited Trading**

**9.14.1.** No employee and/or former employee who currently works or used to work on a full time or part time basis for **FIML** or any of its related entities shall, during the term of the employee and/or former employee's service to **FIML** or any of its related entities and after termination of service become a client of any brand of **FIML** (either directly or indirectly, alone or with partners, associates, affiliates or any other third party) without **FIML's** prior written approval. Should **FIML** consider that the employee and/or former employee is trading with any brand of **FIML** without the **FIML's** prior written approval personally and/or via a third party we shall consider all the trading to be abusive and/or improper trading. In such circumstances the employee and/or former employee's trading account(s) and all open positions shall be closed immediately and any funds held within the account may be withheld or confiscated.

**9.14.2.** No business associate or former business associate of **FIML** or any of its related entities shall, during the period of the agreement between the associate/former business associate and **FIML** and after termination of such agreement, become a client of any brand of **FIML** (either directly or indirectly, alone or with partners, associates, affiliates or any other third party) without **FIML's** prior written approval. Should **FIML** consider that the associate/former business associate is trading with any brand of **FIML** without **FIML's** prior written approval personally and/or via a third party we shall consider all the trading to be abusive and/or improper trading. In such circumstances the relevant associate/former business associate's trading account(s) and all open positions shall be closed immediately and any funds held within the account shall be confiscated.

#### **9.15. Disabling and Cancelling Deposits**

We have the right not to accept funds deposited by you and/or to cancel your deposits in the following circumstances:

- (i) if you fail to provide **FIML** with any documents it requests from you either for client identification purposes or for any other reason;
- (ii) if **FIML** suspects or has concerns that the submitted documents may be false or fake;
- (iii) if **FIML** suspects you are involved in illegal or fraudulent activity;
- (iv) if **FIML** is informed that your credit or debit card (or any other payment method used) has been lost or stolen;

- (v) where **FIML** considers that there is a chargeback risk; and/or
- (vi) when you deposit \$10,000 or more or if you make over 10 separate deposits to your trading Accounts and **FIML** is unable to verify your credit or debit card details or is unable to verify any other payment method used.

In case of cancelled deposits, and if there is not a confiscation of your funds by a supervisory authority on the grounds of money laundering suspicion or for any other legal infringement, your funds will be returned to the bank account that have been initially received.

### **9.16. Performance and settlement**

You will promptly deliver any instructions, money, or documents deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us.

### **9.17. Position limits**

We may require you, due to certain market conditions, to limit the number of open positions that you may have with us at any time. In case you will not follow our request, we may close any one or more Transactions in order to ensure that such position limits are maintained.

### **9.18. Withdrawals**

**9.18.1.** Without prejudice and subject to the terms of this Agreement, all Applicable Regulations and all conditions attaching to any relevant payments made to you under a bonus or rebate scheme operated by us, funds may be withdrawn by you from your Account provided that such funds are not being utilized for margin purposes or have otherwise become owing to us. Once your withdrawal request is approved, your withdrawal request will be processed by us and sent for execution to the same bank, credit card or other source from which the funds were debited or as we, in our absolute discretion determine, as soon as possible. Withdrawals will only be made at a source in your name. Note that some banks and credit card companies may take time to process payments especially in currencies where a correspondent bank is involved in the transaction.

**9.18.2.** Please note that a client's failure to complete the Company's due diligence procedure to the Company's satisfaction may affect the client's ability to withdraw his funds.

**9.18.3.** If you have a Joint Account, payments from your Joint Account will require a withdrawal request form which must be completed by all required Account holders and which must be submitted to us. Please refer to paragraph 8 – Customer Accounts and Initial Deposits, on Joint Accounts section for additional information.

**9.18.4.** If you request a withdrawal of monies from your Account and we cannot comply with it without closing some part of your open positions, we will not comply with the request until you have closed sufficient positions to allow you to make the withdrawal. In order to process your withdrawal request please ensure that the funds, namely the free margin, remaining on your account following your withdrawal is sufficient and in any case positive.

**9.19 Corporate Action's Account Adjustment Policy**

**9.19.1.** Stock splits, reverse stock splits, stock dividends and other stock related events ("Corporate Action") can have an impact on the share price and thus on the price of their CFDs. A Client who performs CFD Transaction has no ownership of the underlying instrument. However, in the event of a Corporate Action on the underlying asset of a CFD, the Company shall make the relevant adjustments in the Account to reflect the economic effect of the Corporate Action on the price of the CFD. This can be done through a cash adjustment and/or a position adjustment in the Account before or after the ex-date ("Effective Date"). In the case of a Corporate Action, and in an effort to maintain the same economic value of the relevant Transaction at the Account, the Company shall proceed with, among others, one or more of the following:

- (i) Freeze the financial instrument the underlying asset of which is subject to the split or reverse split so as not to be subject to any trading until the relevant adjustments will be made in the Account; and/or
- (ii) Freeze the Account until the relevant adjustments are performed; and/or
- (iii) Set the financial instrument, the underlying asset of which is subject to the split or reverse split on a close-only mode, in which case no new positions shall be opened.
- (iv) Make the relevant adjustments in the Account to restore the Account's Transactions in other financial instruments which were (post the Effective Date) or to be (prior to the Effective Date) affected by the Split. Such adjustments can be executed at the then current market prices which may be different than the prices the original Transaction was executed.

**9.19.2.** The abovementioned measurements shall get executed selectively or on several Accounts, pre or post the Effective Date, in timely fashion in an effort to disturb the activity in the Accounts to the minimum. The following are non-binding and non-exhaustive scenarios and examples made to illustrate the above-mentioned:

- (i) In case of a client holding a long position of financial instrument the underlying asset of which encountered a split, the Company may proceed with a positive adjustment to the Account. In case of a reverse split, a Client holding a long position shall face a negative adjustment to the Account.

- (ii) In case of a Client holding short position and the financial instrument, the underlying asset of which encountered a split, the Company may proceed with a negative adjustment to the Account. In case of a reverse split, a Client holding a short position shall face a positive adjustment to his account.

**9.19.3.** When the client holds either a long or short position and the financial instrument, it's the underlying asset of which encountered a split or reverse split, the Company may proceed with a position adjustment in order to make the necessary adjustment to the price of the financial instrument to reflect the economic effect of split or reverse split to the Account. In this case, the Company may close-out the position in the Account and reinstate the position under a new instrument with the adjusted price to reflect the effect of the split or reverse split.

## **9.20. Trading Platform Account Archiving**

If we do not record any activity in your Trading Platform Account during a continuous period of at least three (3) months and you have a zero account balance, your Trading Account and all its history may be archived on our trade server, in accordance with any further specifications announced on our website. In such case, you shall be able to keep using your Trading Platform Account or restore it, after contacting our support team.

## **9.21. Inactive and Dormant Account**

**9.21.1.** The Customer acknowledges and confirms that any trading account(s), held with **FIML** where the Customer has not: (i) placed a trade; (ii) opened or closed positions and/or

- (iii) made a deposit into the Customer's trading account; for a period of 90 days and more, shall be classified by **FIML** as an Inactive Account ("Inactive Account").

**9.21.2.** Where the Customer has and continues to: (i) place trades; (ii) open or close positions; and/or (iii) make a deposit into the Customers trading account; the account shall be classified by **FIML** as an Active Account ("Active Account").

**9.21.3.** The Customer further agrees that any Inactive Accounts, holding zero balance/equity, shall be turned to Dormant ("Dormant Account"). For re-activation of Dormant Accounts, the Customer must contact **FIML's** Customer Support Department and inform them of the Customer's wish to reactivate the Dormant Account. The Customer's Dormant Account will then be reactivated (subject to, if required, up-to-date Know Your Customer documentation provided to **FIML** by Customer) and become an Active Account. However where the Customer has not done the following with the Active Account: (i) place a trade; (ii) open or close positions; and/or (iii) make a deposit into the Customers trading account; for a period of 90 days and more, then this account it will once again become a

Dormant Account. Please also refer to the Bonus and Award Policy, clause 9.22.4 “Miscellaneous” for further implications on Inactive Accounts.

## **9.22. Bonus and Award Policy**

**9.22.1. FIML** may offer an Award to its new and existing customers as part of the Company’s promotional programs that may be effective from time to time. These Awards may be available in the context of limited time offers with respect to which a number of specific terms shall apply in reference to the relevant Customer account (“Account”), as announced from time to time by **FIML**. Prior to accepting any Award offer, you must consider the particular terms and conditions associated with the Award offered, as well as the content of our Bonus and Award Policy, as valid from time to time and as available on our website or upon request.

**9.22.2.** Customers are prohibited from opening multiple accounts with the Company for the sole purpose of enjoying more than one Award. Duplicate accounts may be closed without notice. In such cases the Company shall retain any Award rewarded to the Customer, any earnings will be forfeited and any amount deposited by the Customer to the Account will be returned to the Customer accordingly.

**9.22.3.** Awards are optional. The Customer may choose not to accept an Award. In these circumstances, the Customer will not be bound to the terms relating to Awards. Should the Customer mistakenly accept an Award, the Customer shall not trade in the Account and notify the Customer Support within 5 working days from mistakenly accepting the Award. In such circumstances, the Company will remove the Award from the Customer’s account and the Customer shall not be held to the Award terms.

### **9.22.4. Miscellaneous –**

- (i) Any improper or abusive trading, not in accordance with the Company’s Client Retail Agreement terms and conditions, will result in the Award being revoked or not awarded, and may also result to your Account being frozen.
- (ii) No delay or omission to exercise any right, power, or remedy accruing to any party upon any breach or default under this Agreement, shall be deemed a waiver of any other breach or default theretofore or thereafter occurring;
- (iii) If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and, to that extent, the provisions of this Agreement are intended to be and shall be deemed severable;
- (iv) Once a trading account is classified as Inactive Account all Bonuses and/or Awards may be removed without prior notice.

Please refer to section “Inactive and Dormant Accounts” for information on Inactive Accounts.

### **9.23. No transfers between accounts of different holders**

Transfers between accounts of different holders (customers) are not allowed.

### **9.24. Additional information**

We strongly encourage you to consult our website and, in particular its sections related to frequently asked questions, terms glossary and any other informative sections in order to find examples, illustrations and explanations of trading orders, calculation principles and other trading related issues.

## **10. ELECTRONIC TRADING TERMS**

### **10.1. Scope**

The clauses of this section 10 apply to your use of any Electronic Services.

### **10.2. Access and Trading Hours**

Once you have gone through the security procedures associated with an Electronic Service provided by us, you will get access to such service, unless agreed otherwise or stated on our website. All references to the hours of trading in our website are in Greenwich Mean Time (GMT) using 24-hour format. Our Electronic Services will normally be available continuously from 17:00 NYT Sunday until 17:00 NYT Friday, every week, excluding public holidays where the CFDs and FX market does not operate and cases where the market is closed due to illiquidity in the financial instruments. Please consult our website for more details on operating times for each financial instrument. We reserve the right to suspend or modify the operating hours on our own discretion and on such event our website will be updated without delay in order to inform you accordingly. In this respect the operating hours, as indicated on the websites operated by our company and to which you have trading rights are the applicable. We may change our security procedures at any time and we will inform you of any new procedures that apply to you as soon as possible.

### **10.3 Restrictions on services provided**

There may be restrictions on the number of Transactions that you can enter into on any one day and also in terms of the total value of those Transactions when using an Electronic Service. Please refer to our website for details of the limits imposed upon Transactions carried out through our Electronic Services.

### **10.4. Risk classification**

The Customer acknowledges and accepts that the Company applies a risk mitigation and management approach according to which certain settings

may apply and certain features may not be available upon the Customer's account.

#### **10.5. Access requirements**

You will be responsible for providing the System to enable you to use an Electronic Service.

#### **10.6. Virus detection**

You will be responsible for the installation and proper use of any virus detection/scanning program we require from time to time.

#### **10.7. Use of information, data and software**

In the event that you receive any data, information or software via an Electronic Service other than those that you are entitled to receive pursuant to this Agreement, you will immediately notify us and will not use, in any way whatsoever, such data, information or software.

#### **10.8. Maintaining standards**

When using an Electronic Service you must:

- (i) ensure that the System is maintained in good order and is suitable for use with such Electronic Service;
- (ii) run such tests and provide such information to us as we shall reasonably consider necessary to establish that the System satisfies the requirements notified by us to you from time to time;
- (iii) carry out virus checks on a regular basis;
- (iv) inform us immediately of any unauthorized access to an Electronic Service or any unauthorized Transaction or instruction which you know of or suspect and, if within your control, cause such unauthorized use to cease; and
- (v) not, at any time, leave the terminal from which you have accessed such Electronic Service or let anyone else use the terminal until you have logged off such Electronic Service.

#### **10.9. System defects**

In the event you become aware of a material defect, malfunction or virus in the System or in an Electronic Service, you will immediately notify us of such defect, malfunction or virus and cease all use of such Electronic Service until you have received permission from us to resume use.

#### **10.10. Intellectual Property**

All rights in patents, copyrights, design rights, trademarks and any other intellectual property rights (whether registered or unregistered) relating to

the Electronic Services remain vested in us or our licensors. You will not copy, interfere with, tamper with, alter, amend or modify the Electronic Services or any part or parts thereof unless expressly permitted by us in writing, reverse compile or disassemble the Electronic Services, nor purport to do any of the same or permit any of the same to be done, except in so far as such acts are expressly permitted by law. Any copies of the Electronic Services made in accordance with law are subject to the terms and conditions of this Agreement. You shall ensure that all the licensors trademarks and copyright and restricted rights notices are reproduced on these copies. You shall maintain an up-to-date written record of the number of copies of the Electronic Services made by you. If we so request, you shall as soon as reasonably practical, provide to us a statement of the number and whereabouts of copies of the Electronic Services.

### **10.11. Liability and Indemnity**

Without prejudice to any other terms of this Agreement, relating to the limitation of liability and provision of indemnities, the following clauses shall apply to our Electronic Services.

**10.11.1. System errors** : We shall have no liability to you for damage which you may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers. You acknowledge that access to Electronic Services may be limited or unavailable due to such system errors, and that we reserve the right upon notice to suspend access to Electronic Services for this reason.

**10.11.2. Delays** : Neither we nor any third party software provider accept any liability in respect of any delays, inaccuracies, errors or omissions in any data provided to you in connection with an Electronic Service. We do not accept any liability in respect of any delays, inaccuracies or errors in prices quoted to you if these delays, inaccuracies or errors are caused by third party service providers with which we may collaborate. We shall not be obliged to execute any order which has been identified that is based on errors caused by delays of the system to update prices provided by the system price feeder or the third party service providers. We do not accept any liability towards executed trades that have been based and have been the result of delays as described above.

**10.11.3. Viruses from an Electronic Service**: We shall have no liability to you (whether in contract or in tort, including negligence) in the event that any viruses, worms, software bombs or similar items are introduced into the System via an Electronic Service or any software provided by us to you in order to enable you to use the Electronic Service, provided that we have taken reasonable steps to prevent any such introduction.

**10.11.4. Viruses from your System:** You will ensure that no computer viruses, worms, software bombs or similar items are introduced into our computer system or network and will indemnify us on demand for any loss that we suffer arising as a result of any such introduction.

**10.11.5. Unauthorized use:** We shall not be liable for any loss, liability or cost whatsoever arising from any unauthorized use of the Electronic Service. You shall on demand indemnify, protect and hold us harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs resulting from or arising out of any act or omission by any person using an Electronic Service by using your designated passwords, whether or not you authorized such use.

**10.11.6. Markets:** We shall not be liable for any act taken by or on the instruction of an exchange, clearing house or regulatory body.

**10.11.7. Suspension or permanent withdrawal with notice:** We may suspend or permanently withdraw an Electronic Service, by giving you 24 hours written notice.

**10.11.8. Immediate suspension or permanent withdrawal:** We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently your ability to use any Electronic Service, or any part thereof, without notice, where we consider it necessary or advisable to do so, for example due to your non-compliance with the Applicable Regulations, breach of any provisions of this Agreement, on the occurrence of an Event of Default, network problems, failure of power supply, for maintenance, or to protect you when there has been a breach of security. In addition, the use of an Electronic Service may be terminated automatically, upon the termination (for whatever reason) of: (a) any license granted to us which relates to the Electronic Service; or (b) this Agreement.

**10.11.9. Effects of termination:** In the event of a termination of the use of an Electronic Service for any reason, upon request by us, you shall, at our option, return to us or destroy all hardware, software and documentation we have provided you in connection with such Electronic Service and any copies thereof.

## **11. CLIENT MONEY AND ASSETS**

### **11.1. Location of banks**

We will endeavor to hold client money on your behalf segregated at **FIML's** "client money" accounts in New Zealand and Australia. We may hold bank accounts in countries out of EU where the legal and regulatory regime applying to any such bank or person will be different from the legal and regulatory regime in New Zealand and Australia. In case that you choose these accounts for depositing your funds, we will not be liable for the insolvency, acts or omissions of any third party referred to in this

clause. In all cases we have notified (or will notify regarding new accounts) to the appointed credit institutions that the accounts in which we hold clients' money must be distinguished from accounts containing funds belonging to the us.

### **11.2. Client Money**

**FIML** transfers to the Liquidity Providers a part of the Client money received, in order to ensure the availability of any amount required to cover margin requirements without undue delay. We treat money received from you or held by us on your behalf in accordance with the requirements of the Client Money Rules.

### **11.3. Interest**

You acknowledge and confirm that you will not receive any interest on the balance of your Account.

### **11.4. Unclaimed client money**

You agree that we may cease to treat your money as client money if there has been no movement on your balance for six years. We shall write to you at your last known address informing you of our intention of no longer treating your balance as client money and giving you 28 days to make a claim. Otherwise, your balance will be transferred to a special bank account held for such cases.

### **11.5. Liability and Indemnity**

You agree that we shall not be liable for any default of any counterparty, bank, custodian or other entity which holds money on your behalf or with or through whom transactions are conducted. **FIML** will not be liable for loss suffered by you in connection to your funds held by us, unless such loss directly arises from our gross negligence, willful default or fraud.

### **11.6. Detailed information**

Detailed information on our arrangements established for the safeguard of clients' assets is provided through the document "**Client Assets Protection**".

## **12. MARGINING ARRANGEMENTS**

### **12.1. Contingent liability**

Where we effect or arrange a Transaction, you should note that, depending upon the nature of the Transaction, you may be liable to make further payments when the Transaction fails to be completed or upon the earlier settlement or closing out of your position. You may be required to make further variable payments by way of margin against the purchase price of the investment, instead of paying (or receiving) the whole purchase (or

sale) price immediately. The movement in the market price of your investment will affect the amount of margin payment you will be required to make. We will monitor your margin requirements on a daily basis and we will inform you as soon as it is reasonably practicable of the amount of any margin payment required under this clause.

### **12.2. Margin call**

You agree to pay us on demand such sums by way of margin as are required from time to time as we may in our discretion reasonably require for the purpose of protecting ourselves against loss or risk of loss on present, future or contemplated Transactions under this Agreement.

### **12.3. Failure to meet margin call - “stop out”**

Please note that in the event that you fail to meet a margin call, we may immediately close out the position. In particular, when your available cash (equity) held with the Company reaches a pre-specified percentage of the margin requirement, as specified on our website, we will have the right to automatically close all your open positions ("Stop Out"). In this respect, you must consult our website for further details on the Stop Out mechanism and the determination of the relevant margin percentage.

### **12.4. Form of margin**

Margin must be paid in cash in currency acceptable by us, as requested from time to time by **FIML**. Cash Margin paid to us is held as client money in accordance with the requirements of the Client Money Rules. Margin deposits shall be made by wire transfer, credit card, e-wallet or by such other means as **FIML** may direct.

### **12.5. Set-off on default**

If there is an Event of Default or this Agreement terminates, we shall set-off the balance of cash margin owed by us to you against your obligations (as reasonably valued by us). The net amount, if any, payable between us following such set-off, shall take into account the Liquidation Amount payable under Clause 15 (Netting).

### **12.6. Further assurance**

You agree to execute such further documents and to take such further steps as we may reasonably require to perfect our security interest over and obtain legal title to the Secured Obligations.

### **12.7. Negative pledge**

You undertake neither to create nor to have outstanding any security interest whatsoever over, nor to agree to assign or transfer, any of the cash margin transferred to us, except a lien routinely imposed on all securities in a clearing system in which such securities may be held.

## **12.8. General lien**

In addition and without prejudice to any rights to which we may be entitled under this Agreement or any Applicable Regulations, we shall have a general lien on all cash held by us or our Associates or our nominees on your behalf until the satisfaction of the Secured Obligations.

## **13. REPRESENTATIONS, WARRANTIES AND COVENANTS**

**13.1.** Representations and warranties You represent and warrant to us on the date this

Agreement comes into effect and as of the date of each Transaction that:

- (i) If you are a natural person, you are of legal age and you have full legal capacity to enter into this Agreement;
- (ii) if you are not a natural person:
  - a) you are duly organized, constituted and validly existing under the applicable laws of the jurisdiction in which you are constituted;
  - b) execution and delivery of this Agreement, all Transactions and the performance of all obligations contemplated under this Agreement have been duly authorized by you; and
  - c) each natural person executing and delivering this Agreement on your behalf, entering Transactions and the performance of all obligations contemplated under this Agreement have been duly authorized by you and have been disclosed to us providing all the necessary information and/or documentation.
- (iii) you have all necessary authority, powers, consents, licenses and authorizations and have taken all necessary action to enable you lawfully to enter into and perform this Agreement and such Transaction and to grant the security interests and powers referred to in this Agreement;
- (iv) the persons entering into this Agreement and each Transaction on your behalf have been duly authorized to do so and are disclosed to us giving details of the relationship with you by providing all necessary information and/or documentation;
- (v) this Agreement, each Transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound; (vi) no Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination of the above) an Event of Default (a "Potential Event of Default") has occurred and is continuing with respect to you or any Credit Support Provider;

- (vii) you act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Transaction and in case you wish to open, either in the present time or in the future, more than one accounts with **FIML** either as individual client (natural person) or as the beneficial owner of a corporate client (legal person) it is required to immediately disclose to us that you are the beneficial owner of the account(s) during the account opening procedure and to provide us with the necessary information and/or documentation regarding the relationship between the natural and/or legal person(s);
- (viii) any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect;
- (ix) you are willing and financially able to sustain a total loss of funds resulting from Transactions and trading in such Transactions is a suitable investment for you; and
- (x) except as otherwise agreed by us, you are the sole beneficial owner of all margin you transfer under this Agreement, free and clear of any security interest whatsoever other than a lien routinely imposed on all securities in a clearing system in which such securities may be held.

### **13.2. Covenants:**

You covenant to us that:

- (i) you will at all times obtain and comply, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licenses and authorizations referred to in this clause;
- (ii) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself or any Credit Support Provider;
- (iii) you will use all reasonable steps to comply with all Applicable Regulations in relation to this Agreement and any Transaction, so far as they are applicable to you or us;
- (iv) you will not send orders or otherwise take any action that could create a false impression of the demand or value for a financial instrument. Nor will you send orders which we have reason to believe are in breach of Applicable Regulations or by taking advantage of the account(s) you may maintain with **FIML** could be considered as system abusive orders, including but not limited to one's intention to benefit from delays in the prices, to trade at off-market prices and/or outside trading hours and to abuse the system for trading at manipulated prices; and

- (v) upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Regulations, including but not limited to CRS, FATCA, transaction reporting obligations, applicable AML legislation, which we will be able to communicate to the competent supervising authorities.
- (vi) you will not use **FIML**'s services, systems and/or facilities for abusive purposes aiming to defraud **FIML** and/or the authorities and you agree to comply with **FIML**'s instructions should such behavior be identified or suspected by **FIML**.

#### **14. EVENTS OF DEFAULT**

The following shall constitute Events of Default:

- (i) you fail to make any payment when due under this Agreement or to observe or perform any other provision of this Agreement and such failure continues for one Business Day after notice of non-performance has been given by us to you;
- (ii) you commence a voluntary case or other procedure seeking or proposing liquidation, reorganization, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, custodian or other similar official (each a "Custodian") of you or any substantial part of your assets, or if you take any corporate action to authorize any of the foregoing, and in the case of a reorganization, arrangement or composition, we do not consent to the proposals;
- (iii) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganization, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Custodian of you or any substantial part of your assets and such involuntary case or other procedure either:
  - a) has not been dismissed within five days of its institution or presentation; or
  - b) has been dismissed within such period but solely on the grounds of an insufficiency of assets to cover the costs of such case or other procedure;

- (iv) you die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you: or any indebtedness of yours is not paid on the due date therefore, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to this Agreement are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);
- (v) you or any Credit Support Provider (or any Custodian acting on behalf of either of you or a Credit Support Provider) disaffirms, disclaims or repudiates any obligation under this Agreement or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party ("Credit Support Provider"), or of you, in favor of us supporting any of your obligations under this Agreement (each a "Credit Support Document");
- (vi) any representation or warranty made or given or deemed made or given by you under this Agreement or any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (vii) any Credit Support Provider fails, or you yourself fail to comply with or perform any agreement or obligation to be complied with or performed by you or it in accordance with the applicable Credit Support Document;
- (viii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations under this Agreement, unless we have agreed in writing that this shall not be an Event of Default;
- (ix) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (x) any event referred to in Clauses 14.2 to Clause 14.4 of this Clause 14 (Events of Default) occurs in respect of any Credit Support Provider;
- (xi) we consider it necessary or desirable for our own protection, or any action is taken or event occurs which we consider might have a material adverse effect upon, your ability to perform any of your obligations under this Agreement;

- (xii) you fail or omit to disclose to us your capacity as the beneficial owner of more than one accounts you may maintain with us and/or your capacity to act as a money manager on behalf of any other client of us;
- (xiii) you take advantage of delays occurred in the prices and you place orders at outdated prices, you trade at off-market prices and/or outside trading hours, you manipulate the system to trade at prices not quoted to you by us and you perform any other action that constitutes improper trading; and/or
- (xiv) any event of default (however described) occurs in relation to you under any other agreement between us.

## **15. NETTING**

### **15.1. Rights on Default**

On the occurrence of an Event of Default, we may exercise our rights under this clause, except that in the case of the occurrence of any Event of Default specified in Clause 14(ii) or Clause 14 (iii) of the definition of Events of Default (each a “Bankruptcy Default”), the automatic termination provision of this clause shall apply.

### **15.2. Liquidation Date**

Subject to the following sub-clause, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a date (the “Liquidation Date”) for the termination and liquidation of Transactions in accordance with this clause.

### **15.3. Automatic termination**

The date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date, without the need for any notice by us and the provisions of the following sub-clause shall then apply.

### **15.4. Calculation of Liquidation Amount**

Upon the occurrence of a Liquidation Date:

- (i) neither of us shall be obliged to make any further payments or deliveries under any Transactions which would, but for this clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount (as defined below);
- (ii) we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of

each Transaction the total cost, loss or, as the case may be, gain, in each case expressed in the Base Currency specified by us in writing or, failing any such specification, the lawful currency of the United States (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position) as a result of the termination, pursuant to this Agreement, of each payment or delivery which would otherwise have been required to be made under such Transaction (assuming satisfaction of each applicable condition precedent and having due regard, if appropriate, to such market quotations published on, or official settlement prices set by the relevant exchange as may be available on, or immediately preceding, the date of calculation); and

(iii) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the "Liquidation Amount").

#### **15.5. Payer**

If the Liquidation Amount determined pursuant to this clause is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the Liquidation Amount, and by whom it is payable, immediately after the calculation of such amount.

#### **15.6. Other transactions**

Where termination and liquidation occurs in accordance with this clause, we shall also be entitled, at our discretion, to terminate and liquidate, in accordance with the provisions of this clause, any other transactions entered into between us, which are then outstanding.

#### **15.7. Payment**

The Liquidation Amount shall be paid in the Base Currency by the close of business on the Business Day following the completion of the termination and liquidation under this clause (converted as required by applicable law into any other currency, any costs of such conversion to be borne by you, and (if applicable) deducted from any payment to you).

#### **15.8. Base Currency**

For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as we shall reasonably select.

#### **15.9. Payments**

Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction for as long as an Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination hereunder, or any combination thereof) an Event of Default with respect to you has occurred and is continuing.

#### **15.10. Additional rights**

Our rights under this clause shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise).

#### **15.20. Application of netting to Transactions**

This clause applies to each Transaction entered into or outstanding between us on or after the date this Agreement takes effect.

#### **15.21. Single agreement**

This Agreement, the particular terms applicable to each Transaction entered into under this Agreement, and all amendments to any of them shall together constitute a single agreement between us. We both acknowledge that all Transactions entered into on or after the date this Agreement takes effect are entered into in reliance upon the fact that the Agreement and all such terms constitute a single agreement between us.

### **16. RIGHTS ON DEFAULT**

On an Event of Default or at any time after we have determined, in our absolute discretion, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, in addition to any rights under the Clause 15 (Netting) we shall be entitled, without prior notice to you:

- (i) Instead of returning to you investments equivalent to those credited to your account, to pay to you the fair market value of such investments at the time we exercise such right;
- (ii) to sell such of your investments as are in our possession or in the possession of any nominee or third party appointed under or pursuant to this Agreement, in each case as we may in our absolute discretion select or and upon such terms as we may in our absolute discretion think fit (without being responsible for any loss or diminution in price) in order to realize funds sufficient to cover any amount due by you hereunder;
- (iii) to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to

cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments; and/or

- (iv) to cancel and/or consider void any Transactions and profits or losses either realized or unrealized and/or to close out the account(s) you maintain with us pursuant to this Agreement, immediately and without prior notice.

## **17. TERMINATION WITHOUT DEFAULT**

**17.1.** Termination Unless required by Applicable Regulations, either party may terminate this Agreement (and the relationship between us) by giving ten (10) days written notice of termination to the other. We may terminate this Agreement immediately if you fail to observe or perform any provision of this Agreement or in the event of your insolvency. Upon terminating this Agreement:

- (i) all amounts payable by you to us will become immediately due and payable including (but without limitation):
  - a) all outstanding fees, charges and commissions;
  - b) any dealing expenses incurred by terminating this Agreement; and
  - c) any losses and expenses realized in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.
- (ii) **FIML** shall apply best execution rules in cases where you have not provided **FIML** with specific instructions regarding the closing of your positions.
- (iii) **FIML** shall return any funds remaining in your trading account to your bank account, specifically the account from which the funds were debited.

**17.2.** Existing rights Termination shall not affect then outstanding rights and obligations and Transactions which shall continue to be governed by this Agreement and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed.

## **18. EXCLUSIONS, LIMITATIONS AND INDEMNITY**

### **18.1. General Exclusion**

Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses, whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under this Agreement (including any Transaction or where we have declined to enter into a proposed Transaction) unless such loss is a reasonably foreseeable consequence or arises directly from our or their

respective gross negligence, willful default or fraud. In no circumstance, shall we have liability for losses suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with this Agreement, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in this Agreement will limit our liability for death or personal injury resulting from our negligence.

## **18.2. Tax implications**

Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.

## **18.3. Changes in the market**

**18.3.1.** Market orders are executed at the bid/ask prices offered by the liquidity providers. Pending orders such as stop loss, limit (take profit, entry limit to buy or to sell), entry stop to buy or to sell are executed at the market price requested by you and offered by **FIML** through its liquidity providers.

**18.3.2.** Please note, that in case of slippage in the market price, the order may be executed at a price materially different to the price indicated on the screen at the time of placing the order. In addition, any stop loss and/or take profit orders may not be possible to be placed until right after the execution of an order. We reserve the right, at our full discretion, not to execute the order, or to change the quoted price of the Transaction, or to offer you a new quote in case of technical failure of the trading platform or in case of fluctuations of the price of the financial instrument as offered in the market. In the event we offer you a new quote you have the right to either accept it or refuse and thus cancel the execution of the Transaction.

**18.3.3.** Without limitation to the above, we do not accept any liability on the effect of any delay or change in market conditions, including market price, caused on any Transaction.

## **18.4. Limitation of Liability**

**18.4.1.** We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organization, for any reason, to perform its obligations. Nothing in this Agreement will exclude or restrict any duty or liability we may have to you under Applicable Regulations, which may not be excluded or restricted thereunder.

**18.4.2. FIML** offers its clients the opportunity to use and/or benefit from third party services in any way they deem appropriate, accepting and carrying NO RESPONSIBILITY and NO LIABILITY as to the content provided by the third party nor as to the consequences of the use of the service. Clients use any of the third party service and/or the information provided by third party services for marketing and/or otherwise, upon their sole discretion and responsibility, undertaking all liability deriving from the use of the third party service. To that extend, clients are encouraged to seek advice and/or training prior to using the services or information provided making sure they fully understand the instruments, technical terms and descriptions provided. Please note that **FIML** is not in a position to provide such advice and/or training.

### **18.5. Responsibility for orders**

You will be responsible for all orders entered on your behalf via an Electronic Service and you will be fully liable to us for the settlement of any Transaction arising from it.

### **18.6. Entire Agreement**

You acknowledge that you have not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement. We will not be liable to you (in equity, contract or tort) for a representation that is not set out in this Agreement and that is not fraudulent.

### **18.7. Indemnity**

You shall pay to us such sums as we may from time to time require in or towards satisfaction of any debit balance on any of your accounts with us and, on a full indemnity basis, any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your accounts or any Transaction or as a result of any misrepresentation by you or any violation by you of your obligations under this Agreement (including any Transaction) or by the enforcement of our rights.

## **19. MISCELLANEOUS**

### **19.1. Amendments**

We have the right to amend the terms of this Agreement. If we make any material change to this Agreement, we will give at least ten business days written notice to you. Such amendment will become effective on the date specified in the notice. Unless otherwise agreed, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.

### **19.2. Notices**

Unless otherwise agreed, all notices, instructions and other communications to be given by us under this Agreement shall be given to the address or fax number provided by you to us. Likewise, all notices, instructions and other communications to be given by you under this Agreement shall be given to us in writing at the address shown below in par. 19.3.

### **19.3. Our Details**

Name: Formax International Markets Limited

Address: Level 7, 203 Queen Street, CBD, Auckland, New Zealand

Telephone No: 0064-9-6019665

Customer Support No: as indicated on the website:

<https://international.aaafx.com>

Email Address: [contact@formaxmarket.com](mailto:contact@formaxmarket.com)

Customer Support Email Address: [customercare@aaafx.com](mailto:customercare@aaafx.com)

You will notify us of any change of your address for the receipt of notices, instructions and other communications immediately.

### **19.4. Electronic Communications**

Subject to Applicable Regulations, any communication between us using electronic signatures and any communications via our website and/or Electronic Services shall be binding as if they were in writing. Orders or instructions given to you via e-mail or other electronic means will constitute evidence of the orders or instructions given.

### **19.5. Recording of calls**

For the purpose of protecting the mutual interests of the IF and the Client, as well as for the purpose of complying (and monitoring compliance with) the Applicable Regulations, we may record telephone conversations and you consent accordingly to the recording or transcription by any other means of your telephone communications with the our employees, including those that relate to the reception, transmission and execution of the Client's orders, even if those conversations or communications do not result in the conclusion of transactions or in the provision of Services. Such recording may take place without a prior warning message. The recording, as well as any faxes, e-mails or other written instructions and/or confirmations from you, may be used as evidence of their content or may be transmitted to the competent supervisory or judicial authorities by virtue of the Applicable Regulations and other applicable laws, in particular in the context of market abuse investigations. The relevant records are stored for a period of five years or, if requested by the competent supervisory authority, for a period up to seven years and you have the right to receive copies upon request.

### **19.6. Our records**

Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing nor are they documents produced by a computer. You will not rely on us to comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.

### **19.7. Your records**

You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of orders submitted and the time at which such orders are submitted. In particular, without limitation, you shall keep records of our statements, confirmations and transactions details as provided to you in accordance with this Agreement, as well as of all documentation and written communication provided in the same context.

### **19.8. Complaints procedure**

In accordance with the Applicable Laws, we are required to put in place internal procedures for handling complaints fairly and promptly. The Company only accepts complaints received in writing either by submitting the relevant complaints' form or by sending to the Company an email and/or letter. Please submit all supportive documentation that may assist the Company in its investigation along with the written complaint. We will send you a written acknowledgement of your complaint promptly following receipt, enclosing details of our complaints procedures, including when and how you may be able to refer your complaint to the Financial Services Complaints Ltd (FSCL, with member number 4333) or Financial Markets Authority of New Zealand which is the relevant supervising body we are reporting to. Please contact us if you would like further details regarding our complaints procedures.

### **19.10. Third Party Rights**

This Agreement shall be for the benefit of and binding upon us both and our respective successors and assigns. You shall not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer your rights or obligations under this Agreement or any interest in this Agreement, without our prior written consent, and any purported assignment, charge or transfer in violation of this clause shall be void. You agree that we may without further notice to you and subject to Applicable Regulations, transfer by whatever means we consider appropriate all or any of our rights, benefits, obligations, risks and/or interests under this Agreement to any person who may enter into a contract with us in

connection with such transfer and you agree that we may transfer to such person all information which we hold about you.

#### **19.11. Time of essence**

Time shall be of the essence in respect of all obligations of yours under this Agreement (including any Transaction).

#### **19.12. Rights and remedies**

The rights and remedies provided under this Agreement are cumulative and not exclusive of those provided by law. We shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by us to exercise or delay by us in exercising any of our rights under this Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.

#### **19.13. Set-off**

Without prejudice to any other rights to which we may be entitled, we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) owed by you to us against any amount (whether actual or contingent, present or future) owed by us to you. For these purposes, we may ascribe a commercially reasonable value to any amount which is contingent or which for any other reason is unascertained.

#### **19.14. Personal Data**

Your personal data, as disclosed to **FIML** from time to time will be stored, processed and disclosed to third parties for the purpose of providing the said services and complying with FIML's regulatory or other obligations, in accordance with our Privacy Policy, which has been notified to you by the document "**Data Privacy Statement**". In the course of providing you with the services contemplated under this Agreement, **FIML** may need to disclose some or all of the Customer's personal data, whether sensitive or otherwise, to its employee/s, associate/s, agent/s, sub-contractor/s, product provider/s and/or investment institution/s, (all of which shall be made subject to such confidentiality and data protection obligations as shall be considered necessary by **FIML** in order to comply with its obligations under this Agreement) for the purpose of providing the said services and/or to any regulatory or public authorities to comply with its regulatory or other obligations in terms of law, and for these purposes the Customer explicitly consents to the transfer of his/her personal data, whether sensitive or otherwise to other countries in accordance with the Data Protection Act and the regulations made thereunder. The Customer is hereby giving his explicit consent to the processing of personal data, whether sensitive or otherwise, as contemplated in and for the purposes

provided for in this Clause. You have a right of access and rectification of your personal data, as indicated in the “**Data Privacy Statement**”. Whilst **FIML** may request that you reconfirm your personal data from time to time, you must notify **FIML** immediately in writing if such data has changed.

### **19.15. Partial invalidity**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.

## **20. GOVERNING LAW AND JURISDICTION**

### **20.1. Governing law**

This Agreement shall be governed by and construed in accordance with the law of New Zealand.

### **20.2. Jurisdiction**

Each of the parties irrevocably:

- (i) agrees for our benefit that the courts of New Zealand shall have jurisdiction to settle any suit, action or other proceedings relating to this Agreement (“Proceedings”) and irrevocably submits to the jurisdiction of such courts (provided that this shall not prevent us from bringing an action in the courts of any other jurisdiction); and
- (ii) agrees that for any dispute occurred with clients from Poland, the courts of Poland shall have jurisdiction to settle any suit, action or other proceedings relating to this Agreement (“Proceedings”); and
- (iii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court and agrees not to claim that such Proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over it.

### **20.3. Waiver of immunity and consent to enforcement**

You irrevocably waive to the fullest extent permitted by applicable law, with respect to yourself and your revenue and assets (irrespective of their use or intended use) all immunity on the grounds of sovereignty or other similar grounds from suit; jurisdiction of any courts; relief by way of injunction, order for specific performance or for recovery of property; attachment of assets (whether before or after judgment); and execution or enforcement of any judgment to which you or your revenues or assets

might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agree that you will not claim any immunity in any Proceedings. You consent generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.

#### **20.4. Service of process**

If you are situated outside New Zealand, process by which any Proceedings in New Zealand are begun may be served on you by being delivered to the address in New Zealand nominated by you for this purpose. This does not affect our right to serve process in another manner permitted by law.

By accepting these terms you agree to be bound by their content and you acknowledge your acceptance of content of the informative documents provided to you by FIML, as referred to herein.