

# Terms and Conditions

This client agreement, together with any Schedule(s) and accompanying documents, as amended from time to time (hereafter the “Agreement”) sets out the terms of the contract between you and us. By signing this agreement, it is assured that you understand and agree with the terms of this agreement

## INTRODUCTION – ABOUT US

Xchange Capital Ltd (hereafter the “Company”), is an Investment Firm that provides investment and ancillary services on a global level as these are defined throughout this Agreement, through its electronic system over the Internet (hereafter the “Trading Platform”).

Xchange Capital Limited is regulated by the Financial Services Commission (VFSC) of the Republic of Vanuatu. Category 1: international Company with dealers in securities license No. 14684.

The Company will provide investment services (hereafter the “services”) strictly under the terms and conditions defined throughout the Agreement. The terms and conditions may be amended from time to time after a proper notification has been given to the counterparty (hereafter the “Client”), by the web site of the Company.

The Client has read and accepted all the information presented in the Company’s website which is available to the public. It is noted that the Company may operate other websites apart from the main website mentioned above and which may contain information concerning the Company, its services and the legal framework to which the Company is bounded, in different languages other than the English language.

## COMMUNICATION WITH US

You may communicate with us in writing (including fax), by email or other electronic means, or orally (including by telephone). 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. By accepting and agreeing to the Terms and Conditions of this Agreement and further opening an account with the Company, the Client accepts the following terms and conditions.

### 1. DEFINITIONS – INTEPRETATION

“Account” means the personal trading account the Client maintains with the Company and designated with a particular account number.

“Access Codes” means the username and password given by the Company to the Client for accessing the Company’s electronic systems.

“Agreement” means these Terms and Conditions for the Services offered by the Company.

“Balance” means the sum held on behalf of the Client on its Client Account within any period of time.

“Business Day” means a day which is not a Saturday or a Sunday or any other holiday to be announced by the Company on its website.

“Contract Specifications” means all necessary trading information concerning payout ratios, expiration time, etc., as determined in the Company’s main website.

“Execution” means the execution of clients’ orders on the Company’s trading platform, where the Company acts as a Principal to Clients’ transactions.

“Financial Instruments” means any of the financial instruments offered by the Company. The financial instruments offered to Clients are only binary options.

“Open Position” means a position in a binary option which has not yet expired.

“Operating (Trading) Time of the Company” means period of time within a business week, where the trading terminal of the Company provides the opportunity of trading operations. The Company reserves the right to alter this period of time as fit, upon notification to the Client via written notice, e-mail or display on the website.

“Order” means the request / instruction given by the Client to the Company to Open or Close a Position in the Client’s Account.

“Services” means the investment services which will be provided by the Company to the clients and are governed by this Agreement as these are described in Paragraph 2 of this Agreement.

“Transaction” means any type of transaction subject to this Agreement effected in the Client’s trading account(s) including but not limited to Deposit, Withdrawal, Open Trades and Closed Trades.

In this Agreement, all the words that denote only the singular number will also comprise the plural, wherever the aforementioned definitions apply and vice versa, and the words that denote natural persons will comprise legal persons and vice versa. Words denoting any gender include all the genders and whenever reference is made to the terms “Paragraphs”, “Sections” and “Appendices” it concerns paragraphs, sections and appendices of this Agreement.

The headings of the Sections are only used for facilitating the reference and they do not affect their interpretation. References to any law or regulation will be considered to comprise references to that law or regulation as this can be altered or replaced from time to time or, similarly, to be extended, re-enacted or amended.

## **2. CANCELLATION OF THIS AGREEMENT**

You have the right to cancel this Agreement for a Period of thirty (30) days commencing on the date on which this Agreement is signed. Should you require to cancel this Agreement within the above mentioned period, you should send notice via email to [support@xcmoption.com](mailto:support@xcmoption.com). Cancelling this Agreement in accordance with the terms of this paragraph, does not imply that you will cancel any transaction that has been carried out during that period.

### **3. PROVISION OF SERVICES**

- 3.1.** It shall be clarified and noted that the Company deals on an execution-only basis and do not advice on the merits of particular Transactions, or their taxation consequences.
- 3.2.** The Client assumes all responsibility in relation to any investment strategy, transaction or investment, tax costs, and for any consequences brought by from any transaction that the Client performs and the Company shall not be held responsible nor the Client shall rely on the Company for the aforementioned.
- 3.3.** The Company will act in the capacity of a principal and not as an agent on Client's behalf and in this respect the Client enters into this Agreement as a principal and not as an agent on behalf of another person either legal or natural.
- 3.4.** The Company's operating hours are from 24:00 GMT on Sunday to 24:00 GMT on Friday, excluding holidays which will be announced through the Company's website. The Company reserves the right to suspend or modify the operating hours on its own discretion and on such event its website will be updated without delay in order for the Client to be informed accordingly.
- 3.5.** The Company has the right to refuse the provision of any investment and/or ancillary service to the Client, at any time, without being obliged to inform the Client of the reasons why in order to protect the lawful interests of both the Client and the Company.

### **4. GUARANTEES ON BEHALF OF THE CLIENT**

- 4.1.** The Client states, confirms and guarantees that any money handed to the Company for any purpose, belong exclusively to the Client and are free of any lien, charge, pledge or any other burden. Further, whatever money is handed over to the Company by the Client is not in any manner whatsoever directly or indirectly proceeds of any illegal act or omission or product of any criminal activity.
- 4.2.** The Client acts for himself and not as a representative or a trustee of any third person, unless he has produced, to the satisfaction of the Company, a document and/or powers of attorney enabling him to act as representative and/or trustee of any third person.
- 4.3.** The Client agrees and understands that in the event that the Company has such proofs that are adequate to indicate that certain amounts, as classified in Paragraphs 4.1 and 4.2 of this Section, received by the Client are proceeds from illegal acts or products of any criminal activity and/or belonging to a third party, the Company reserves the right to refund these amounts to the sender, either this being the Client or a beneficial owner. Furthermore, the Client also agrees and understands that the Company may reverse any transactions performed in the Client's Trading Account and may terminate this agreement. The Company reserves the right to take any legal action against the Client to cover and indemnify itself upon such an event and may claim any damages caused to the Company by the Client as a result of such an event.
- 4.4.** The Client declares that he/she is over 18 (eighteen) years old, in case of natural person, or that it has full legal capacity, in case of legal person, to enter into this Agreement.
- 4.5.** The Client understands and accepts that all transactions in relation to trade in any of the Financial Instruments, will be performed only through the Trading Platform provided by the Company and the Financial Instruments are not transferable to any other Trading Platform whatsoever.

**4.6.** The Client guarantees the authenticity and validity of any document handed over by the Client to the Company.

## **5. ELECTRONIC TRADING**

**5.1.** Upon accepting and signing this Agreement, the Client is entitled to apply for Access Codes to gain online access to the Company's electronic systems and/or trading platforms, thereby being able to place orders for transactions to either buy any Financial Instrument available from the Company. Further, the Client will be able to trade on the Company's Trading Platform with and through the Company with the use of a Personal Computer, Smartphone or any other similar device that is connected to the internet. In this respect, the Client understands that the Company can, at its absolute discretion, terminate the Client's access to the Company's systems in order to protect both the Company's and clients' interests and to ensure the systems' effectiveness and efficiency.

**5.2.** The Client agrees that he/she will keep the Access Codes in a safe place chosen in his/her discretion and will not reveal them to any other person. The Client will not proceed and avoid proceeding in any action that could probably allow the irregular or unauthorized access or use of the Trading Platform.

**5.3.** The Client agrees not to attempt to abuse the Trading Platform in an attempt to make illegal profits or to attempt to profit by taking advantage of the server latency, or applying practices such as price manipulation, lag trading, time manipulation.

**5.4.** The Client will make every effort possible to keep the Access Codes secret and known only to him and will be liable of any Orders received by the Company through his trading Account under his Access Codes. Further, any Orders received by the Company will be considered as received from the Client. In cases where a third person is assigned as an authorized representative to act on behalf of the Client, the Client will be responsible for all Orders given through and under the representative's Account Password.

**5.5.** The Client is responsible to monitor his/her Account and to notify the Company immediately if it comes to his/her attention that his/her Access Codes are lost or being used by an unauthorized third party. Also, the Client agrees to immediately notify the Company should he become aware of any failure by the Client to receive a message indicating the reception and/or execution of an Order, the accurate confirmation of an execution, any information for Client's Account balances, positions or transactions history as well as in case the Client receives confirmation of an Order that he/she did not place.

**5.6.** The Client acknowledges that the Company may choose not to take action based on Orders transmitted to the Company using electronic means other than those Orders transmitted to the Company using the predetermined electronic means such as the Trading Platform, and the Company shall have no liability towards the Client for failing to take action based on such Orders.

**5.7.** The Client agrees to use software programs developed by third parties including but not limited to the generality of those mentioned above, browser software that supports Data Security Protocols compatible with protocols used by the Company. Moreover, the Client agrees to follow the access procedure (Login) of the Company that supports such protocols.

- 5.8.** The Company will not be held responsible in the event of an unauthorized access from third persons to information including, but not limited to, electronic addresses and/or personal data, through the exchange of these data between the Client and the Company and/or any other party using the Internet or other network or electronic mean available.
- 5.9.** The Company is not responsible for any power cuts or failures that prevent the use of the system and/or the Trading Platform and cannot be responsible for not fulfilling any obligations under this Agreement because of network connection or electricity failures.
- 5.10.** The Company shall have no liability for any potential damage the Client may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, viruses, system errors, delays in execution, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers. The Client acknowledges that access to electronic systems / trading platforms may be limited or unavailable due to such system errors, and that the Company reserves its right upon notifying the Client to suspend access to electronic systems / trading platforms for this reason.
- 5.11.** The Company has the right, unilaterally and with immediate effect, to suspend or withdraw permanently Client's ability to use any Electronic Service, or any part thereof, without notice, where the Company consider it necessary or advisable to do so, for example due to Client's 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 the Client 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 any license granted to the Company which relates to the Electronic Service; or this Agreement. The use of an Electronic Service may be terminated immediately if an Electronic Service is withdrawn by any Market or the Company is required to withdraw the facility to comply with Applicable Regulations.

## **6. ORDERS – INSTRUCTIONS AND BASIS OF DEALINGS**

### **6.1. Reception and Execution of Transactions**

- 6.1.1.** Once the Client's instructions or Orders are received by the Company, they cannot be revoked, except with the Company's written consent which may be given at the Company's sole and absolute discretion. The Company reserves its right not to accept Client's Orders, in its absolute discretion, and in such a case the Company shall not be obliged to give a reason but it shall promptly notify the Client accordingly.
- 6.1.2.** The transaction (opening or closing a position) is executed at the payout ratio offered to the Client. The Client chooses the position he/she wishes to take and makes a request to receive a transaction confirmation by the Company. The transaction is executed at the prices the Client can see on the screen. The Company uses its reasonable endeavors to execute any order promptly, but in accepting the Client's orders the Company does not represents or warrants that it will be possible to execute such order or that execution will be possible according to the Client's instructions. In case the Company encounters any material difficulty in carrying out an order on Client's behalf, for example in case the market is closed and other market conditions, the Company shall promptly notify the Client.

**6.1.3.** The following binary options products are available to the Client through the Trading Platform:

- Standard Binary Options
- One click Trade
- 60 Seconds Binary Options
- Long Term Binary Options

**6.1.4.** Orders can be placed, executed, changed or removed only within the operating (trading) time and shall remain effective until expiration. The Client's Order shall be valid and in accordance with the type and time of the given Order, as specified.

**6.1.5.** The Company may require the Client to limit the number of open positions which the Client may have with the Company at any time and the Company may in its sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained. The position limits will be notified in advance to the Client either through the Company's website or trading platforms.

**6.1.6.** The Company has the right to set control limits in relation to Client's orders at its own and absolute discretion. Such limits may be amended, removed or added and may include without limitation:

- a) controls over maximum order amount and size;
- b) controls over the Company's total exposure to the Client;
- c) controls over prices at which orders may be placed;
- d) controls over the electronic systems and/or trading platforms to verify for example the Client's identity during the receipt of the order; or
- e) Any other limits, parameters or controls which the Company may deem required to be implemented in accordance with Applicable Regulations.

## **6.2. Confirmations**

At the end of each trading day, confirmations for all Transactions that have been executed in the Client's Trading Account on that trading day will be available via Client's online Account through the Trading Platform. It is Client's responsibility to notify the Company if any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on the Client, unless the Client places his/her objection in writing within five (5) Business Days. The Client might request to receive the Account statement monthly or quarterly via email, by providing such a request to the client support department, but the Company is not obliged to provide the Client with the paper Account statement. The Account statement is provided at the expense of the client.

## **6.3. Authorization of third person to give instructions on behalf of a Client**

**6.3.1.** The Client has the right to authorize a third person to give instructions and/or Orders to the Company or to handle any other matters related to this Agreement, provided that the Client has notified the Company in writing that such a right shall be exercised by a third party and that this person is approved by the Company and fulfils all of Company's conditions to allow this.

**6.3.2.** In case the Client has authorized a third person as mentioned in Section 6.3.1 above, it is agreed that in the event that the Client wishes to terminate the authorization, it is the Client's full responsibility to notify the Company of such decision in writing. In any other case, the Company will assume that the

authorization is still ongoing and will continue accepting instructions and/or Orders given by the authorized person on behalf of the Client.

## **7. PRICING**

**7.1.** The Company acts as market maker in relation to Transactions. The Company will quote prices at which it is prepared to deal with the Client. Save where:

- The Company exercises any of its rights to close out a Transaction; or
- a Transaction closes automatically,

It is Client's responsibility to decide whether or not he/she wishes to deal at the price quoted by the Company. Company's prices are determined by the Company in the manner set out in the enclosed terms.

**7.2.** Each price shall be effective and may be used in a dealing instruction prior to the earlier of its expiration time and the time, if any, at which it is otherwise withdrawn by the Company. A price may not be used in a dealing instruction after such time. Each price shall be available for use in a dealing instruction for a transaction with a principal amount not to exceed a maximum determined by the Company. The Client acknowledges that these prices and maximum amounts may differ from prices and maximum amounts provided to other customers of the Company and may be withdrawn or changed without notice. The Company may in its sole discretion and without prior notice to the Client immediately cease the provision of prices in some or all binary options and for some or all value dates at any time.

## **8. REFUSAL TO EXECUTE ORDERS**

**8.1.** The Company has the right, at any time and for any reason and without giving any notice and/or explanation, to refuse, at its discretion, to execute any Order, including without limitation in the following cases:

- a) If the Company has adequate reasons to suspect that the execution of an Order is part of an attempt to manipulate the market, trading on inside information, relates to money laundering activities or if it can potentially affect in any manner the reliability, efficiency, or smooth operation of the Trading Platform.
- b) If the Client does not have sufficient available funds deposited with the Company or in his bank account to pay the purchase price of an Order along with the respective fees and commissions necessary to carry out the transaction in the Trading Platform. In the event that the Company does refuse to execute an order, such refusal will not affect any obligation which the Client may have towards the Company or any right which the Company may have against the Client or his assets.

**8.2.** The Client declares that he/she shall not knowingly give any Order or instruction to the Company that might instigate the Company taking action in accordance with Paragraph 8.1 above.

## **9. CANCELLATION OF TRANSACTIONS**

The Company has the right to cancel a transaction if it has adequate reasons / evidence to believe that one of the following has incurred:

- a) Fraud / illegal actions led to the transaction,

- b) Orders placed on prices that have been displayed as a result of system errors or systems malfunctions either of those of the Company or of its third party service providers.
- c) The Company has not acted upon Client's instructions.
- d) The Transaction has been performed in violation to the provisions of this Agreement.
- e) The Company reserves the right to cancel executed trades if the trade cancellation feature is abused. A percentage of 33% of the executed trades is an acceptable rate for the usage of the cancel feature. A rate of cancellation higher than 33% of the executed trades will be considered as an abuse of the cancellation feature. The company offers clients the ability to cancel trades within 3 seconds from opening a position, if they find that the position opened by error.

## **10. SETTLEMENT OF TRANSACTIONS**

**10.1.** The Company shall proceed to a settlement of all transactions upon execution of such transactions.

**10.2.** Further to the provisions of paragraph 6.2 of this Agreement, a statement of Account will be provided by the Company via the Trading platform to the Client on a monthly basis, within three (3) working days from the end of the previous month. In case no transactions were concluded in the past month, the Client will not receive a statement of Account. Any confirmation or proof for any act or statement of Account or certification issued by the Company in relation to any transaction or other matter shall be final and binding on the Client, unless the Client has any objection in relation to such statement of Account or certification and the said objection is communicated in writing and received by the Company within five (5) working days from the receipt or the deemed date of receipt of any statement of Account or certification.

**10.3.** In the case where the Client is able to have an online statement for his Account on a continuous basis, then the Company is considered as having fulfilled its obligations under Paragraph 10.2 and any objections of the Client shall be valid only if received by the Company in writing within two (2) working days from the transaction under objection.

## **11. CLIENTS MONEY**

**11.1.** Funds belonging to the Client that will be used for trading purposes will be kept in an account with any bank or financial institution used to accept funds which the Company will specify from time to time and will be held in the Client's name and/or the Company's name. It is understood that the Company may hold funds on behalf of the Client in a bank established outside the European Union. The legal and regulatory regime applying to any such bank might be different from the legal and regulatory regime in the European Union and in the event of the insolvency or any other analogous events in relation to that bank, Client's funds may be treated differently from the treatment which would apply if the funds were held with a bank in an account in the European Union.

The Company shall take the necessary steps to ensure that any Client funds deposited with a third party are identifiable separately from the funds belonging to the Company and the funds belonging to the third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection.

It is required that the Company exercises all due skill, care and diligence in the selection and periodic review of the credit institution, bank or money market fund and of the arrangements for the holding and

safekeeping of those funds and take into account the market reputation of such institutions and any legal or regulatory requirements or market practices that could adversely affect the Client's rights.

- 11.2.** Upon signing the Agreement, the Client authorizes the Company to make any deposits and withdrawals from the Bank Account on his behalf including, without prejudice to the generality of the above, withdrawals for the settlement of all transactions undertaken under the Agreement and all amounts which are payable by or on behalf of the Client to the Company or any other person.
- 11.3.** It is commonly understood that any amount payable by the Company to the Client, shall be paid directly to the Client to a bank account the beneficial owner of which is the Client.
- 11.4.** The Company retains a right of set off and may, at its discretion, from time to time, by giving a notice to the Client via e-mail, set-off any amounts held on behalf and/or to the credit of the Client against the Client's obligation to the Company. Unless otherwise agreed in writing by the Company and the Client, this Agreement shall not give rise to rights of credit facilities.
- 11.5.** The Client has the right to withdraw the funds which are not used for open positions covering, free from any obligations from his Account without closing the said Account.
- 11.6.** The Company reserves the right to decline a withdrawal request if the request is not in accordance with certain conditions mentioned in this Agreement or delay the processing of the request if not satisfied on full documentation of the Client.
- 11.7.** It is within the Client's terms that any incurring bank fees will be paid by him/her in case of funds withdrawals from his trading account to his/her designated bank account. The Client is fully responsible for the payments details that he has provided to the Company and the Company accepts no responsibility if the Client has provided false or inaccurate bank details.
- 11.8.** The Client agrees that any amounts sent by the Client in the Bank Accounts, will be deposited to the Client's trading account at the value date of the payment received and net of any charges / fees charged by the Bank Account providers or any other intermediary involved in such transaction process. In order for the Company to accept any deposits by the Client, the identification of the sender must be verified and ensure that the person depositing the funds is the Client. If these conditions are not met, the Company reserves the right to refund the net amount deposited via the method used by the depositor.
- 11.9.** Withdrawals should be made using the same method used by the Client to fund his/her trading account and to the same remitter. The Company reserves the right to decline a withdrawal with specific payment method and to suggest another payment method where the Client needs to complete a new withdrawal request. In the event that the Company is not fully satisfied with the documentation provided in relation to a withdrawal request, the Company can request for additional documentation and if the request is not satisfied, the Company can reverse the withdrawal request and deposit the funds back to the Client's trading account.
- 11.10.** In the event that any amount received in the Bank Accounts is reversed by the Bank Account provider at any time and for any reason, the Company will immediately reverse the affected deposit from the Client's trading account and further reserves the right to reverse any other type of transactions effected after the date of the affected deposit. It is understood that these actions may result in a negative balance in all or any of the Client's trading account(s).

**11.11.** The Client agrees to waive any of his/her rights to receive any interest earned in the money held in the Bank Account where Client's funds are kept.

## **12. COMPANY'S FEES**

**12.1.** The Company is entitled to receive fees from the Client for its Services provided as described in the Agreement as well as compensation for the expenses it will incur for the obligations it will undertake during the provision of the said services. The Company reserves the right to modify, from time to time the size, the amounts and the percentage rates of its fees providing the Client with a respective notification of such changes accordingly. Notification is made via the Company's website.

**12.2.** In case of any value added tax or any other tax obligations that arise in relation to a transaction performed on behalf of the Client or any other action performed under this agreement for the Client, the amount incurred is fully payable by the Client and in this respect the Client must pay the Company immediately when so requested and the Company is fully entitled to debit the account of the Client with the outstanding amount to be settled (excluding taxes payable by the Company in relation to Company's income or profits).

**12.3.** By accepting the terms and conditions specified in this agreement, the Client has read and understood and accepted the information uploaded and found on the Company's main website and is publicly available for all Clients, in which all related commission, costs and financing fees are explained. The Company may amend from time to time at its own discretion all such commission, costs and financing fees. All information relating to the aforementioned amendments will be available on the main website which the Client must review and check for changes during the period that he is dealing with the Company and especially before placing any orders with the Company. The Client is deemed to have seen, reviewed and considered the Company's commission, costs and financing fees and any changes that the company may make thereto from time to time.

## **13. COMPANY LIABILITY AND INDEMNITY**

**13.1.** It shall be noted that the Company will perform transactions in good faith and with proper due diligence but shall not be held liable for any omission, deliberate omission or fraud by any person, firm or company from whom the Company receives instructions for the execution of the Client's Orders and/or from which transactions are carried out on behalf of the Client.

**13.2.** The Company will not be held liable for any lost opportunities by the Client that have resulted in either losses or reduction (or increase) in the value of the Client's Financial Instruments.

**13.3.** In case the Company incurs any claims, losses, damage, liability or expenses that arise throughout the provision of the Services and all related operations that are performed as a mean for these Services to be performed to the Client as these are agreed in this Agreement or in relation to the potential disposal of the Client's Financial Instruments, the Client is fully liable for these losses/expenses/liabilities/claims whereas the Company bears absolutely no responsibility and it is therefore the Client's responsibility to indemnify the Company for the aforementioned.

- 13.4.** The Company shall not be held liable for any damage caused to the Client as a result of any omission, negligence, deliberate omission or fraud by the bank where the Bank Account is maintained.
- 13.5.** The Company shall not be held liable for the loss of Financial Instruments and funds of the Client in cases where the Client's assets are kept by a third party such as a bank, or for an act, which was carried out based on inaccurate information at its disposal prior to being informed by the Client, of any change in the said information.
- 13.6.** The Company makes every effort to ensure that the Banks and institutions to which the Client's funds and/or Financial Instruments are deposited are of good standing and reputation. However, the Company shall not be held liable in the event of a loss resulting from deterioration of the financial standing of a bank or institution, or for an event such as a liquidation, receivership or any other event that causes the Bank or institution of a failure and therefore leads to a loss of all or part of the funds deposited.
- 13.7.** Without prejudice to any other terms of this Agreement, the Company will not be liable for:
- a)** Systems errors (Company's or service providers)
  - b)** Delays
  - c)** Viruses
  - d)** Unauthorized use
  - e)** For any act taken by or on the instruction of a Market, clearing house or regulatory body.
- 13.8.** The Company shall not be liable to the Client for any partial or non-performance of its obligations hereunder by reason of any cause beyond reasonable control of the Company, 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 the Company's custodian, sub-custodian, dealer, Market, clearing house or regulatory or self-regulatory organization, for any reason, to perform its obligations.
- 13.9.** Neither Company nor its 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 the Client under this Agreement (including any Transaction or where the Company has declined to enter into a proposed Transaction). In no circumstance, shall the Company have liability for losses suffered by the Client 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.
- 13.10.** The Client shall pay to the Company such sums as it may from time to time require in or towards satisfaction of any debit balance on any of Client's accounts with the Company and, on a full indemnity basis, any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which the Company may incur or be subjected to with respect to any of the Client's accounts or any Transaction or with an intermediate broker or as a result of any misrepresentation by the Client or any violation by the Client of his obligations under this Agreement (including any Transaction) or by the enforcement of the Company's rights.
- 13.11.** The Client acknowledges that he/she has not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement. The Company will not be liable to the Client for a representation that is not set out in this Agreement and that is not fraudulent.

#### **14. DURATION OF THE AGREEMENT AND AMENDMENT THEREOF**

- 14.1.** This Agreement shall take effect upon the first deposit in the Client's Account, provided that the Company has sent the Client written confirmation for his acceptance and the Client has either accepted in writing or digitally this Agreement. It shall be valid for an indefinite time period until its termination from either the Company or the Client or both.
- 14.2.** The Agreement may be amended on the following cases:
- a) Unilaterally by the Company if such amendment is necessary following an amendment of the law. In such case, the Company shall notify the Client of the said amendment either in writing or per electronic mail or through its main webpage and the Client's consent shall not be required for any such amendment.
  - b) In cases where the amendment of the Agreement is not required by any change in the legal framework, the Company shall notify the Client of the relevant amendment either in writing or through its main webpage. If objections arise, the Client may terminate the Agreement within five (5) days from the notification by sending a registered letter and on the condition that all pending transactions on behalf of the Client shall be completed. Upon expiry of the above deadline without the Client having raised any objection, it shall be considered that the Client consents and/or accepts the content of the amendment.

#### **15. TERMINATION**

- 15.1.** The Client has the right to terminate the Agreement by giving the Company at least thirty (30) days written notice, specifying the date of termination in such, on the condition that in the case of such termination, all Client's Open Positions shall be closed by the date of termination.
- 15.2.** The Company may terminate the Agreement by giving the Client a five (5) days written notice, specifying the date of termination therein.
- 15.3.** The Company may terminate the Agreement immediately without giving any notice in the following cases:
- a) Death of the Client;
  - b) In case of a decision of bankruptcy or winding up of the Client is taken through a meeting or through the submission of an application for the aforementioned;
  - c) The Client violates any provision of the Agreement and in the Company's opinion the Agreement cannot be implemented;
  - d) The Client involves the Company directly or indirectly in any type of fraud;
  - e) An Event of Default as defined in Section 17 of this Agreement occurs.
- 15.4.** The termination of the Agreement shall not in any case affect the rights which have arisen, existing commitments or any contractual provision which was intended to remain in force after the termination and in the case of termination, the Client shall pay:
- a) Any pending fee of the Company and any other amount payable to the Company;
  - b) Any charge and additional expenses incurred or to be incurred by the Company as a result of the termination of the Agreement;
  - c) Any damages which arose during the arrangement or settlement of pending obligations.

## 16. EVENTS OF DEFAULT AND RIGHTS ON DEFAULT

**16.1.** The following shall constitute “Events of Default” on the occurrence of which the Company shall be authorized to exercise its rights in accordance with Paragraph 16.2 below:

- a) the failure of the Client to make any payment when due under this Agreement.
- b) the failure of the Client 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 provided to the Client by the Company.
- c) the commencement by a third party of procedures seeking the Client’s bankruptcy (in case of natural person) or the Client’s insolvency or other similar voluntary case of liquidation (in case of legal person) under the applicable laws or any other similar proceedings which are analogous to those pre-mentioned in relation to the Client.
- d) the Client takes advantage of delays occurred in the prices and places Orders at outdated prices, trades at off-market prices and/or outside operating hours and performs any other action that constitutes improper trading.
- e) the Client dies or becomes of unsound mind (if natural person).
- f) any representation or warranty made or given or deemed made or given by the Client under this Agreement 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.
- g) any other situation where the Company reasonably considers it necessary or desirable for its own protection or any action is taken or event occurs which the Company considers that might have a material adverse effect upon the Client’s ability to perform any of its obligations under this Agreement.

**16.2.** On the occurrence of an Event of Default the Company shall be entitled to take, in its absolute discretion, any of the following actions at any time and without giving prior notice to the Client:

- a) instead of returning to the Client investments equivalent to those credited to the Client’s account, to pay to the Client the fair market value of such investments at the time the Company exercise such right, and/or
- b) to sell such of the Client’s investments as are in the Company’s possession or in the possession of any nominee or third party appointed under or pursuant to this Agreement, in each case as the Company may in its absolute discretion select or/and upon such terms as the Company may in its 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 the Client hereunder, and/or
- c) to close out, replace or reverse any Transaction, buy, 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 the Company’s sole discretion, the Company consider necessary or appropriate to cover, reduce or eliminate its loss or liability under or in respect of any of Client’s contracts, positions or commitments, and/or
- d) to treat any or all Transactions then outstanding as having been repudiated by the Client, in which event the Company’s obligations under such Transaction or Transactions shall thereupon be cancelled and terminated.

## 17. ACKNOWLEDGEMENT OF RISKS

The Client is aware and acknowledges that there is a great risk of incurring losses and damages of some or all of the initial investment as a result of the investment activity (purchase and/or sale of Financial Instruments) through the Company and the Company's Trading Platform and accepts that he/she is willing to undertake this risk upon entering into this business relationship.

## **18. TRADING BENEFITS POLICY**

### **Terms and Conditions**

- 18.1.** All trading benefit insertions (deposits) are final and at the sole discretion of the Company.
- 18.2.** All trading benefits can be removed (withdrawn) at any time at the absolute discretion of the Company.
- 18.3.** Trading Benefits are non-cash and non-redeemable. This means that the actual bonus itself can never be withdrawn; only used for trading purposes (as a form of leverage).
- 18.4.** Trading Accounts that include Trading Benefits in addition to Client Funds, rank the Client Funds first and then the Trading Benefits when opening a position. This means that any positions opened from the trading account will first use client funds and only when client's funds are zero, Trading Benefits will be used.
- 18.5.** By accepting a Trading Benefit, you are agreeing to the Withdrawal Restrictions below

### **Withdrawal Restrictions**

- 18.6.** A withdrawal request may only be processed if all KYC documents of the client are in place and still valid.
- 18.7.** Under no circumstances, as explained in 3 above can one withdraw the amount of any Trading Benefit.
- 18.8.** Profit generated by using a trading benefit cannot be withdrawn, until it meets a minimum trading volume equivalent to 30 times the trading benefit value. For example, if a trading benefit of €100 is received, a total valid trading volume of €3000 must be achieved before being eligible to withdraw any profits made on the account.
- 18.9.** Withdrawal of funds from a trading account before completing the trading benefit conditions described in 6c will immediately nullify the trading benefit and any profits made using the Trading Benefit. i.e. the following shall apply:
  - Trading Benefit is removed from the account
  - Profits made using the trading benefit are removed from the account
  - The balance is withdrawable on client demand
- 18.10.** Any indication of fraud, manipulation, cash-back arbitrage, or other forms of deceitful or fraudulent activity based on the provision of the trading benefit will nullify the account and any or all profits or losses generated. The decision whether a customer is abusing and/or manipulating the company's trading platform and/or its trading benefit policy is at the Company's sole and exclusive discretion and this is final.

- 18.11.** The Company reserves its right to revoke or change its Trading Benefit Policy at any time as this will be displayed in the Company's website.
- 18.12.** A trading benefit must be claimed within seven (7) working days from the date of deposit.
- 18.13.** The trading benefit must be used within a period of 60 days or as defined in the details of any other special offer.
- 18.14.** Warning: You need to be cautious when using your Trading Benefit as this may result in losing your initial Capital. Trading in options involves a high level of risk and you should be ready for any losses. If not confident enough seek independent advice before trading.
- 18.15.** Xchange Capital Ltd does not recommend accepting a trading benefit unless you know how to make it work in your advantage as leverage.

## **19. CONFIDENTIAL INFORMATION**

- 19.1.** The Company does not have any obligation to disclose to the Client any information or take into consideration any information either when making any decision or when it proceeds to any act on behalf of the Client, unless otherwise agreed and stated in this Agreement and where this is imposed by the relevant Laws and Regulations and directives in force.
- 19.2.** The Company has the right, without informing the Client beforehand, to disclose such details of the Client's transactions or such other information as it may deem necessary in order to comply with any requirements of any person entitled to require such a disclosure by Law.
- 19.3.** The Company will handle all of Client's personal data according to the relevant Laws and Regulations for the protection of Personal Data.
- 19.4.** Client has read and accepted the terms of the "PRIVACY POLICY" that the Company has adopted as this policy is mentioned in detail in the Company's main website public and available to all Clients.

## **20. NOTICES**

- 20.1.** Unless the contrary is specifically provided, any notice, instructions, authorizations, requests or other communications to be given to the Company by the Client under the Agreement shall be in writing and shall be sent to the Company's mailing address as indicated in Section 2 of this Agreement or to any other address which the Company may from time to time specify to the Client for this purpose and shall take effect only when actually received by the Company, provided they do not violate and are not contrary to any term of this Agreement.
- 20.2.** The Company reserves the right to specify any other way of communication with the Client.
- 20.3.** The Agreement is personal to the Client who does not have the right to assign or transfer any of his rights and/or obligations hereunder.

## **21. RECORDING OF TELEPHONE CALLS**

The Client acknowledges that the Company might record telephone conversations between the Client and the Company. Such records will be the Company's sole property.

## **22. COMPLAINTS PROCEDURE**

The Company is obliged to put in place internal procedures for handling complaints fairly and promptly. The Client may submit a complaint to the Company, for example by letter, telephone or email. The Company will send the client a written acknowledgement of its complaint promptly following receipt, enclosing details of the Company's complaints handling procedures. The Client is advised to contact the Company if he/she would like further details regarding its complaints handling procedures.

## **23. GENERAL PROVISIONS**

- 23.1.** The Client acknowledges that no representations were made to him/her by or on behalf of the Company which have in any way incited or persuaded him/her to enter into the Agreement.
- 23.2.** In case of joint-trading Accounts for two or more persons who will jointly be considered as Company's Client, the Client's obligations under the Agreement shall be joined and several and any reference in the Agreement to the Client shall be construed, where appropriate, as reference to one or more of these persons. Any warning or other notice given to one of the persons which form the Client shall be deemed to have been given to all the persons who form the Client. Any Order given by one of the persons who form the Client shall be deemed to have been given by all the persons who form the Client.
- 23.3.** In case any provision of the Agreement is or becomes, at any time, illegal void or non-enforceable in any respect, in accordance with a law of Vanuatu, the legality, validity or enforceability of the remaining provisions of the Agreement or the legality, validity or enforceability of this provision in accordance with the law and/or regulation of any other jurisdiction, shall not be affected.
- 23.4.** The Company shall be entitled to take or omit to take any measures which it considers desirable in view of compliance with the Laws and Regulations in force at the time. Any such measures as may be taken and all the Laws and Regulations in force shall be binding for the Client.
- 23.5.** The Client shall take all reasonably necessary measures (including, without prejudice to the generality of the above, the execution of all necessary documents) so that the Company may duly fulfill its obligations under the Agreement.

## **24. GOVERNING LAW AND JURISDICTION**

- 24.1.** Governing Law: A Transaction which is subject to the Rules of a Market shall be governed by the law applicable to it under those Rules. Subject thereto, this Agreement shall be governed by and construed in accordance with Vanuatu's Law. Parties agree that providing of services is settled at the Vanuatu.
- 24.2.** Jurisdiction: Subject to Applicable Regulations, each of the parties irrevocably:

- 24.2.1.** Agrees for our benefit that the courts of Vanuatu 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);
  - 24.2.2.** 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.
- 24.3.** 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:
- 24.3.1.** Suit;
  - 24.3.2.** Jurisdiction of any courts;
  - 24.3.3.** Relief by way of injunction, order for specific performance or for recovery of property;
  - 24.3.4.** Attachment of assets (whether before or after judgment);
  - 24.3.5.** 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 if 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.

The location of detailed information regarding the execution and conditions for the investment transactions in Financial Instruments conducted by the Company and other information regarding the activity of the Company are accessible and addressed to any natural persons and legal entities at the Company’s website over the Internet.