



# **Terms of Business**

## **GILDENCREST CAPITAL LTD**

### **For Retail Clients**

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## **Gildencrest Capital Limited Terms of Business (Individual Account)**

These Terms of Business (the “**Terms**”, “**Customer Agreement**”) contain the terms and conditions governing your Account at Gildencrest Capital Limited, and all Transactions in this Account with Gildencrest Capital Limited. In these Terms, the undersigned client is referred to as “client” or “you”. Gildencrest Capital Limited may also be referred to as “**Gildencrest Capital**”, “**The Firm**”, “**we**”, “**us**” or “**our**”.

### **1. General Information**

1.1 *Information about us.* Gildencrest Capital Limited incorporated in England and Wales under company number 07604372. We are authorised and regulated by the UK Financial Conduct Authority (“FCA”) under the Financial Services and Markets Act 2000 and entered on the FCA’s Register of authorised persons with number 564741. The FCA may be contacted at 12 Endeavour Square, London, E20 1JN or by telephone on 0300 500 8082.

1.2 *Our services.* Our main business is to provide online brokerage on all major financial markets combined with integrated trading platforms and solutions. Trading some of the products on offer within our brokerage service carries a high level of risk and can result in losses. The Services described in this Agreement are not suitable for everyone and are designed for Clients who are knowledgeable and experienced in the financial services market and in the types of transactions described in these Terms. We provide execution-only brokerage services for Transactions in Contract for Differences (“CFDs”), with various underlying Reference Assets, Rolling Spot Forex. We also provide execution-only brokerage services for Cash Equity and Bonds and such other products within our FCA permissions as we may, in our sole discretion, determine from time to time.

You should read these Terms carefully, including the Conflict of Interest Policy, the Order Execution Policy and the Risk Disclosure and any other documents that we have supplied or will supply to you in the future.

You should not deal in the products or sign up to receive the Services described in these Terms unless you understand their nature and the extent of your exposure to risk. You should also be satisfied that the products and Services are suitable for you in the light of your circumstances and financial position. **An explanation of the risks associated with the types of the products offered by us is set out in the Annex 2 and you should ensure you fully understand such risks before accepting this Customer Agreement. If you are not experienced in the types of transactions described in these Terms or if you are unsure about any of the terms, you should seek advice from your independent financial adviser.**

These Terms and the Schedules and Annexes set out matters which we are required to disclose to you under the FCA Rules.

Please note that Transactions that require the provision of Margin Trades such as futures, FOREX, options and Contracts for Difference (CFD) may result in liability dependent on future uncertain events and give rise to the obligation for you to provide us with Margin. More details can be found in these Terms further below.

In order to provide investment services to you, we may provide an introduction or make arrangements with a view to you dealing with an overseas person who is not authorised to carry on investment business in the United Kingdom. The investment services undertaken on your behalf (or provided to you) by such

person are not covered by the rules and regulations governing the protection of investors in the United Kingdom. This means that you will not have the benefit of rights, including compensation arrangements, designed to protect investors under FCA Rules. Similar protections may, however, be provided in the jurisdiction within which the business is to be carried on.

- 1.3 *Our capacity.* In relation to any Transaction, we will effect such transactions as a matched principal broker unless it is expressly agreed, subject agreement being in the scope of our FCA permissions, which we shall act as agent for you with respect to a certain Transaction or Transactions within these Terms.
- 1.4 *Your capacity.* You shall, unless otherwise agreed in writing, relative to us, enter into Transactions as principal. If you act as agent, regardless of whether you identify the principal to us, we shall not be obliged to accept that principal as a client, and consequently we shall be entitled to consider you as principal in relation to any Transaction.
- 1.5 *Language of Communications.* You may communicate with us in English. All of our standard documents will be available in English. If a document is translated into another language this will be for convenience purposes only and the English version will prevail. We reserve the right to communicate with you using any Durable Medium, but we will normally contact you in writing or email in accordance with the Notices clause 28 below. You may communicate with us using email, fax, in writing or by telephoning us.
- 1.6 *Commencement.* These Terms supersede any previous agreement between us on the same subject matter and take effect when you signify your acceptance of these Terms by executing the Client Application Form. By executing the Client Application Form you confirm that you have read, understood and agree to be bound by these Terms with us.
- 1.7 *Withdrawal.* If you are an individual acting for purposes which are outside your business, trade or profession, you have a period of fourteen (14) calendar days from acceptance of these Terms to withdraw from these Terms without penalty and without giving any reason. This right of withdrawal shall not apply following any Transaction executed under these Terms which will thereafter remain binding upon you.
- 1.8 *Amendments.* These Terms, any Schedules and Annexes, the Information Notice, the Client Application Form and the terms of each Transaction may be amended or supplemented from time to time, and together constitute a single agreement between you and us and are collectively referred to as the Terms. We may vary these Terms at any time by giving you notification (by way of a Durable Medium) of the changes. Each amendment will become effective on the date specified in the notice in most cases, be at least 10 Business Days after you are deemed to have received notice of the amendment in accordance with Clause 26 (unless it is impractical in the circumstances to give 10 Business Days' notice). Any amended Terms will supersede any previous Terms between you and us and will be deemed accepted if and when you place an Order with us after the date on which the amendment becomes effective. Any amendment requested by you must be agreed in a formal amendment agreement by us. Unless expressly agreed otherwise, an amendment will not affect any outstanding Order or Transaction or any legal rights or obligations which may already have arisen. If you object to any change you must tell us within 10 Business Days of the date the notice is deemed to have been received by you. If you do not do so, you will be deemed to have accepted the change(s). If you do not wish to accept any amendment made by us you may by notice to us close any of your open Transactions and your Account in accordance with these

Terms. If you give us notice that you object, then the changes will not be binding on you, but we may close your Account as soon as reasonably practicable and/or restrict your activity to Transactions which will close out your open positions.

1.9 *Duty to you.* Nothing in these Terms purports to exclude or restrict any duty or liability owed by us to you under relevant laws or FCA Rules under which we are not permitted to exclude or restrict our liability. If there is any conflict between these Terms and the FCA Rules, the FCA Rules will prevail.

1.10 *Duties and responsibilities.* We assume no greater responsibility or fiduciary duty than that imposed by the FCA Rules or these Terms.

1.11 *Geographical Restrictions Disclaimer.* While Foreign Exchange, Cash Equity and other products are traded globally, CFDs are not. Certain countries do not allow their use and it is the responsibility of the individual to make sure that they comply with any local laws that are applicable to them, both in terms of actually holding an account and the relevant applicable tax laws. Specifically we do not allow residents of the USA or its citizens to hold an account with us. You undertake not to access any websites or trading platforms associated with Gildencrest Capital from the USA or any other country where it may be against the law of that country to trade in CFDs with a UK based company.

1.12 *Time of Essence.* Time will be of the essence in respect of all of your obligations under or in connection with these Terms and any Transaction. This means that specified times and dates in these Terms are vital and mandatory. Any delay, reasonable or not, may be grounds for terminating a Transaction(s) or these Terms.

## **2. Risk Acknowledgement**

2.1 Trading and investments in Leveraged as well as unleveraged contracts is:

- a) highly speculative;
- b) may involve an extreme degree of risk; and
- c) may be only for persons who, if they trade on Margin, can assume risk of loss in excess of their Margin deposit.

2.2 You acknowledge and agree that:

- d) Because of the low Margin normally required in Margin Trades, price changes in the underlying asset may result in significant losses, which losses may substantially exceed your investment and Margin deposit where negative balance protection will not apply;
- e) When you instruct us to enter into any Transaction, any profit or loss arising as a result of a change in the value of the asset or the underlying asset will be entirely at your own risk;
- f) You are willing and able, financially and otherwise, to assume the risk of trading in speculative investments;
- g) It is your responsibility to ensure that you continuously monitor your account at all times. We are not obliged to provide you with any alerts regarding failure to maintain Margin in your account;
- h) We will not keep you informed of the performance of your account unless otherwise obligated to under regulatory requirements and will not be held responsible for Transactions developing differently from what you might have expected;
- i) Guarantees of profit or immunity from loss are impossible in investment trading; and
- j) You have received no assurance otherwise and no guarantees of profit or similar representations of whatever nature from us, any entity of the Gildencrest Capital Group, any Introducing Broker

representatives thereof or any other entity with whom you have a Gildencrest Capital Account through.

### **3. Client Classification**

- 3.1 For the purposes of the services provided by us under these Terms we may treat you as a Retail Client, Professional Client or as an Eligible Counterparty ("**ECP**"), as applicable based on FCA Rules and our internal policies including Classification Policy.
- 3.2 Until you receive notification of re-categorisation from us, we will treat you as the type of categorisation you were at the time of request.
- 3.3 There are different levels of regulatory protection to each category of clients. In particular, Retail Clients are afforded the most regulatory protection pursuant of MiFID II and the FCA Rules. Professional Clients and ECPs are considered to be more experienced, knowledgeable and sophisticated and better able to assess their own risk and are therefore afforded fewer regulatory protections. However this does not mean that you will automatically be eligible to bring a claim under any investor compensation scheme or ombudsmen service available.
- 3.4 Before activating your Account we are required by FCA Rules to carry out an Appropriateness Assessment. We will do this by asking you to answer certain questions, contained in the Client Application Form so that we can assess your knowledge and experience of the relevant product or service.
- 3.5 When assessing your Client Categorisation and afterwards when dealing with you, we will rely on the truth, accuracy and completeness of the information provided by you, including the information provided on the Client Application Form. You expressly consent to us using and relying on all such information in making our assessment and in our dealings with you.
- 3.6 If there is a change in your personal circumstances you must notify us immediately of the change so that we can consider your categorisation.
- 3.7 We may review your Client Categorisation from time to time and if we become aware that you no longer fulfil the conditions set in regard to the categorisation you fall under or upon request or otherwise appropriate action will be taken to re-categorise you and you will be notified, until notification of re-categorisation you will be treated as the category you are classed as at the time of request.
- 3.8 You acknowledge that the Services that Gildencrest Capital offers you may depend on your Client Categorisation, and that all Services may therefore not be available to all types of Clients.
- 3.9 We reserve the right to choose whether or not to provide services under the requested classification following the outcome of a further Appropriateness Assessment.

These Terms of Business are applicable to Gildencrest's clients who are categorised as Retail Clients according to the Firm's Classification Policy.

### **4. Applicable Regulations and Market Requirements**

- 4.1 *Subject to Applicable Regulations.* These Terms and all Transactions are subject to Applicable Regulations.
- 4.2 *Market Liquidity Provider and Market Action.* If a Market or Liquidity Provider ("**LP**") (or an intermediate broker or agent, or Prime Broker ("**PB**") acting at the direction of, or as a result of action taken by, a

Market) takes any action which we determine affects or may affect a Transaction, then we may take any action which we may reasonably consider desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any such action taken by us will be binding on you.

- 4.3 You acknowledge that you are solely responsible for, and that we have no responsibility for, your compliance with any laws or Applicable Regulations to your use of the services provided by us under these Terms including, but not limited to, any laws, regulations or rules, in your or any other jurisdiction, relating to tax, foreign exchange and capital control, and for reporting or filing requirements that may apply as a result of your country of citizenship, domicile, residence or tax-paying status.

## **5. Services, Execution and Advice**

- 5.1 *Execution only and Services.* Gildencrest Capital does not provide the MiFID investment services of “investment advice” and “portfolio management”. We deal with you on an execution-only basis and will not make personal recommendations or advise on the merits or suitability of purchasing, selling or otherwise dealing in particular investments or executing particular Transactions, their legal, tax, accounting or other consequences or the composition of any account or any other rights or obligations attaching to such investments or Transactions. You should bear in mind that merely explaining the terms of a Transaction or Financial Instrument or its performance characteristics does not itself amount to advice on the merits of the investment.

### **Services:**

- (a) You acknowledge that the Services that Gildencrest Capital offers you may depend on the Client Categorisation, and that all Services may therefore not be available to all types of Clients.
- (b) We will treat you as our Client and will provide the Services to you and hold you responsible for your obligations under these Terms. This remains the case even if you notify us that you are acting as the Agent of an identified Principal, unless we agree in writing to treat that Principal as our Client, or you appoint an Agent to act on your behalf and complete a Power of Attorney.
- (c) Gildencrest Capital provides a variety of trading related Services. Unless otherwise specifically agreed in writing, all Services provided by Gildencrest Capital to Clients are subject to these Terms.
- (d) Gildencrest Capital provides execution-only services to the Client unless otherwise agreed. Gildencrest Capital accepts no obligation to provide individual advice, surveillance, information or recommendations in respect of any Instrument or Service. Any advice, information or recommendations are provided on a non-independent basis.
- (e) The decision about whether to proceed with an individual Transaction, and the details of that Transaction, lies solely with you. You should familiarise yourself with the specific features of your Transaction and consider the advantages and disadvantages before deciding to proceed with a Transaction.
- (f) We will not provide any advice to you on or in relation to any tax issues related to any Services. You should obtain independent advice with respect to the tax implications of any Services.
- (g) The nature and risks of Instruments relevant to the Services are generally described on Firm’s Websites.
- (h) The Services provided by Gildencrest Capital may involve:



- i. Transactions that require the provision of Margin;
  - ii. Short sales (i.e sales where one party to the Contract is obliged to deliver an asset which it does not possess);
  - iii. Transactions in instruments which are: traded on exchanges which are not recognised by the FCA or designated investment exchanges according to the FCA Rules; and/ or not traded on any stock or investment exchange; and/or not immediately and readily realisable. You and Gildencrest Capital will enter into any Contract as Principals where Gildencrest Capital at its discretion cover or hedge any Contracts with its Liquidity Providers, but you will have no recourse against any of Firm's Liquidity Providers.
- (i) Gildencrest Capital is entitled to consider you as Principal in relation to any Contract even if you, in its arrangements with any third party act as Agent on behalf of such third party, regardless of whether you have identified the arrangement and/or the third party to Gildencrest Capital.
  - (j) Notwithstanding any other provision of these Terms, in providing its Services, Gildencrest Capital is entitled to take any action considered necessary and reasonable to ensure compliance with the Market Rules, decisions by and agreements with Regulated Markets, other markets, Liquidity Providers or public authorities and/or applicable law.
  - (k) Orders may be placed as market orders to buy or sell as soon as possible at the price obtainable in the market, or on selected products as limit and stop orders to trade when the price reaches a predefined level. Limit orders to buy and Stop orders to sell must be placed below the current market price and Limit Orders to sell and Stop orders to buy must be placed above the current market price. If the bid price for sell orders or ask price for buy orders is reached, the order will be filled as soon as possible at the price obtainable in the market. Limit and Stop orders are executed consistently with our Order Execution Policy. We do not guarantee orders will be executed at the specified price or amount, unless explicitly stated by us for that specific order. For further information on order types please refer to the Order Execution Policy on our Website.
  - (l) If you enter into a market order on the Trading Platform outside of market hours, that market order will not be executed until the market re-opens.
  - (m) When carrying out OTC, options and futures Transactions, we act as Principal and therefore carry out Transactions in our own name. When carrying out exchange contracts (with the exception of options and futures Contracts) we will act as Agent on an undisclosed Principal basis, and therefore carry out Transactions on our own name but on your behalf and you will be directly responsible for the Transaction.
  - (n) When you place a trade the consideration for the Transaction as well as commission payable and all applicable Charges and Taxes to the trade will be your responsibility and will be taken from your account and held by us pending settlement.
  - (o) It is your responsibility to ensure that at all times there are sufficient cleared funds on your account to settle both the trades carried out alongside any Charges and Taxes associated with the trade.
  - (p) When there is a specified settlement/sale date, the proceeds will be credited to your account even if the action did not occur on that day.

- (q) A trade will be executed when Gildencrest Capital performs any Service that results in reception and transmission of orders, an execution of orders on behalf of Clients, dealings by you, making investment decisions or transfer of funds to or from accounts.

5.2 *Incidental information.* Where we do provide general trading recommendations, market commentary or other information:

- (a) 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 a personal recommendation or to advice;
- (b) we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the legal, tax or accountancy consequences of any Transaction; and
- (c) 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 contrary to that restriction.

5.3 You acknowledge and agree that you are capable of assessing the merits of and understand and accept the nature and risks of Transactions entered into under these Terms and that you do not rely on advice from us in relation to the merits of any such Transaction. We provide you with no warranty as to the suitability of the products traded under this Agreement and assume no fiduciary duty in our relations with you. In Annex 2 (General Risk Disclosure Notice for Complex Products) of this Agreement you are provided with a General Risk Disclosure Notice for complex Products (the "Risk Notice") in compliance with the FCA and European Securities and Market Authority ("ESMA") Rules. Your acceptance of these Terms of Business, will be treated as your informed acknowledgment that you have carefully read and are prepared to accept the risks outlined in the Risk Notice and, where trading CFDs, the particular risks of trading CFDs as highlighted in section 20 of these Terms. If there is anything you do not understand, it is recommended that you seek specialist independent financial and/ or legal advice, in particular, regarding the suitability of trading in complex financial instrument.

## 6. Introducing Brokers

6.1 If your Account was introduced to us by an introducing broker you acknowledge and agree that:

- (a) you authorised the introducing broker to introduce you to us and we assume no responsibility whatsoever for the terms of any agreement between you and the introducing broker;
- (b) a portion of the charges or Commission paid by you to us may be given by us to the introducing broker which will not increase the overall cost of services to you and that you can contact the introducing broker or us for further information in this respect; this will not interfere with our duty of best execution and our charges will be disclosed to you in your statements.
- (c) any advice given to you regarding your Account or your Transactions by an introducing broker is not given by or on behalf of Gildencrest Capital and we assume no responsibility whatsoever for any such advice; and
- (d) an introducing broker is an independent intermediary and does not act as our agent or act on our behalf in anyway.

## 7. Account Opening

7.1 You acknowledge and agree that **we are entitled to rely upon the information you provide** in the Client Application Form as true, accurate and complete without an obligation or duty upon us to undertake any further enquiry. Further it is your responsibility to promptly inform us in writing if at any time during your relationship with us you become aware of any information or circumstances which might reasonably indicate that the information you have provided forming the basis for our initial assessment has changed. For the avoidance of doubt, in the case of a joint Account, the foregoing in this clause 7 and these Terms shall apply in respect of any or both of you.

### **If you are a Joint Account holder:**

- (a) the liabilities of the Joint Account holder shall be against each Joint Account holder as an individual and by all Joint Account holders together;
- (b) we will treat the Joint Account holders as having ownership jointly to the instruments kept in the joint account and will thus not segregate the assets on the account among the Joint Account holders;
- (c) we may act upon instructions received from any Joint Account holder, or any person who appears to us to be such a Joint Account holder;
- (d) any notice or other communication provided by us to any Joint Account holder shall be deemed to have been provided to all Joint Account holders;
- (e) you accept that we are allowed to reveal all information about the joint account(s) to any Joint Account holder; and
- (f) our rights under Clause 25 will apply if an event described in Clause 25 is deemed to have occurred in respect of any Joint Account holder.

7.2 **An Account must be opened prior to entering into any Transaction with us.** No Orders can be placed until an Account has been opened and cleared Funds received. Without prejudice to the foregoing, if we permit you to place an order notwithstanding that an Account has not been opened, or cleared Funds received, this shall not limit your liability to us pursuant to this Agreement in respect of the Order placed. We may, at our absolute discretion, refuse to accept you as a client for whatever reason but will notify you of any such refusal, without giving any reasons, promptly following your application.

7.3 **Identity Verification and Other Checks:** you acknowledge and agree that we or agents acting on our behalf may disclose your personal data as per clause 29 for obtaining reports as part of an Account Opening Process. Upon reasonable request made in writing by you to us, you shall be allowed to review any records maintained by us relating to your credit standing (if any). In addition, you shall also be allowed and entitled to, solely at your own cost and expense, to a copy of such records

7.4 **To become the Firm's Client you need to meet the minimum criteria**

- a. You must be 18 years old or over;
- b. You must not be contravening any legislation in the country from where you are at the time;

- c. You must not be bankrupt or going through bankruptcy proceedings or subject to any legal regulations that may prevent you from adhering to these terms of business;
- d. Your personal details held with us are up to date and in order;
- e. Where you are employed by a regulated firm you have sought permission from your compliance officer and you authorise us to provide your compliance department with copies of your personal account dealings.

*Disclaimer:* If you do trade while contravening one of the above then you will still be held accountable and liable for all trades and their corresponding profits or losses. No side agreement made with any member of staff, either oral or written (including email) will take precedence over the Terms of Business unless signed by an authorised member of staff, which for the avoidance of doubt means a member of the Board of the Firm.

- 7.5 **Anti-Money Laundering (“AML”):** You represent, warrant and undertake that you are now and will be at all material times in the future in compliance with all Applicable Regulations concerning money laundering and any economic sanctions programmes applicable in the jurisdiction(s) in which you operate. Where we require it, if satisfactory evidence of identity has not been obtained by us within a reasonable time period, we reserve the right to cease to deal with you.
- 7.6 **Bribery Act 2010:** Gildencrest Capital is fully compliant with the UK Bribery Act 2010 and insists that all business partners, associates and clients do so as well.
- 7.7 **Account limits** with respect to the size of any Transactions that you may enter into or the amount of any loss or liability you may be exposed to, Negative balance (“NB”) protection on a per account basis (which means that the liability of a retail investor in respect of a CFD trading account is limited to payments already made into the account and any uncrystallised profits on open positions within the account) provides an overall guaranteed limit on your (retail client) losses. Gildencrest Capital is required to close out one or more of an investor’s positions on the best possible terms for the investor if the value of the margin in a CFD trading account falls below 50% of the total minimum initial margin required for all CFDs in the account. Margin close-out protection limits clients’ losses in normal trading circumstances.
- 7.8 **Account Size:**
  - a) We reserve the right to impose a maximum account size that we are willing to allow clients to hold with us. This may be set the same for each of the account types (FX, CFDs) or differently. You may hold more funds in your account than the account limit, but you will not be permitted to utilise those funds that are in excess of the account limit for the purpose of trading.
  - b) You may be notified of the account size on acceptance of your application for an account, and we reserve the right to change this amount at any time with no prior notice.
  - c) The account size limit does not affect the statutory protection afforded to you in the aforementioned Financial Services Compensation Scheme.
  - d) We may choose to set this limit in US dollars, Euros or Sterling and this will be applied to whatever base currency that your account is held.
  - e) If for any reason your open positions exceed the size that your account size permits due to an error or other reason, we reserve the right, without the obligation, to bring your account back to within its limit by closing some or all of your open positions.
  - f) Regardless of the maximum account size placed on your account, Negative balance (“NB”) protection on a per account basis provides an overall guaranteed limit on your (retail client) losses.

## **7.9 Demo Accounts:**

- a) Firm's Demo Accounts are free but available for a limited time. Entry to the demonstration (demo) platform will be disabled after 30 days. You are not trading with real money via your demo account.
- b) Any money you make or lose is fictitious and cannot be transferred to a real account, cashed in or redeemed in any way.
- c) The demo account is purely for practice and for demonstration purposes only, and contains a small selection of the markets that we offer.
- d) Profits or losses incurred while trading in a demo environment do not necessarily reflect what you may achieve when trading in a live environment.
- e) While Demo accounts are aimed to replicate live accounts, they may not always be totally the same, as varying factors in the live environment can affect matters.

## **8. Charges, Payments and Dealings**

### **8.1 Dealings between the Firm, and you the Client**

- a) You or any person granted Power of Attorney by you and notified to us in accordance with Clause 8.6 (b) (an Authorised Person) may provide us with verbal or written instructions concerning any Transaction or proposed Transaction or any other matter which shall include instructions provided via the internet or by email as described below. If you are a legal entity, you must notify us in writing of which individuals in that legal entity will be Authorised Persons, but these individuals are not required to be authorised using a Power of Attorney. We shall acknowledge receipt of the instructions verbally or in writing, as appropriate.
- b) You shall provide us with written notification of the persons to whom you have granted a Power of Attorney. If you at any time wish to revoke or amend a Power of Attorney or grant Power of Attorney to a different person in place of the existing Attorney, you shall inform us in writing immediately. We will be entitled to rely on your written notification without further enquiry as to whether the Power of Attorney has been granted, revoked or amended lawfully.
- c) Subject to the provision within the Power of Attorney, you authorise us to rely and act on any order, instruction or communication we receive from you or an Authorised Person without further enquiry as to the authenticity, genuineness, authority or identity of the person giving or claiming to give such instructions. You will be responsible for and bound by all obligations we enter into or assume on your behalf and you will be accountable to us for all losses, expenses, costs and liabilities we may suffer as a result of or in connection with such orders, instructions or communications.
- d) We may decide to refuse to accept any order or instruction from you, or any Authorised Person, provided that we inform you of our refusal as soon as reasonably practicable. We will endeavor but do not have to, provide you with a reason for any refusal unless provision of such notice would be unlawful.

- e) In order to give effect to any instructions received from you or any Authorised Person, we may instruct a Counterparty selected at our discretion and in any event shall do so where the Transaction is to be subject to the rules of an exchange or market of which we are not a member.
  - f) We shall not be responsible for losses resulting from the acts/omissions of any Counterparties except where such losses were caused by our fraud, gross negligence or willful default.
  - g) In addition to the terms listed on our Website (i.e. the Conflict of Interest Policy and the Order Execution Policy) and the terms stated in Clause 15 regarding the Trading Platform, the following terms apply to Contracts executed on the internet:
    - a. We may offer you realtime tradable prices. If there is any delayed transmission between you and us whereby the price offered by us has changed before an order from you is received or your order is based on the delayed price, you acknowledge that we shall be entitled to substitute the price on which the order is given to the prevailing real-time market price at the time we received your order as opposed to the delayed price as transmitted.
    - b. The Trading Platform may be available in several versions, which may be differentiated in various respects including, but not limited to the level of security applied, products and services available etc. We shall not be liable to you for any loss, expense, cost or liability sustained by you due to you using a version of the Trading Platform different from our latest updated version as long as we have made reasonable efforts to inform you of latest version of the Trading Platform.
    - c. You shall be responsible for all orders, and for the accuracy of all information, sent via the internet using your name, password or any other personal identification means implemented to identify you.
    - d. It is your responsibility to keep your password(s) secure and confidential. You must not share your password details with any other party unless that party has completed and returned the prescribed Power of Attorney to us. If you have told someone your password or log-in details, or suspect that someone may know your password or log-in details, please notify us immediately by calling us or emailing us.
    - e. If you are a legal entity or firm using the Trading Platform, you and any Authorised Person shall be liable to us for all Contracts and Transactions executed by use of your password.
  - h) The Settlement/Trade Confirmation forwarded by us or made available to you on the Trading Platform constitutes our sole confirmation of execution.
  - i) Any instruction sent via the Trading Platform shall only constitute a valid instruction and/or binding Contract between us and you when such instruction has been recorded as executed by us and confirmed by us to you through the Settlement/Trade Confirmation and/or an Account Statement. The mere transmission of an instruction by you shall not constitute a binding Contract.
- 8.2 **Charges.** You will pay our charges as agreed with you from time to time or we may deduct such charges from any funds held by us on your behalf ("**Charges and Costs**"). We reserve the right to change our fee structure and/or parameters at any time by notification posted on our website and without further notice to you. You can see all your charges and costs on your Gildencrest Capital Account Statement.

Our Charges and costs:

- (1) *Spread*: the difference between the buy and sell price (or bid and ask price). This cost is realised each time you open and close a position. Our raw spreads are variable. Plus, we put a mark-up on raw spreads, which are fixed. Since Gildencrest Capital is not a market maker, our spreads fluctuate related to the spreads we get from our liquidity providers. Gildencrest Capital is a STP-broker; the spread (minus our raw spreads) is our commission for executing your trade. In particular, logic and example of spread calculation on CFDs detailed in Key Product Information (“KPI”) Document for relevant product on our website under Products section.
  - (2) *Financing costs, or swap charges*: A swap is charged every day to your account for positions carried overnight. Sometimes swap are debited and sometimes credited, depending of your position being long or short as well as the relative interest rates of the countries of the currencies involved in the trade. The current swap fees can be referenced within the trading platform in the symbol specification section. As swap costs are charged overnight, the longer you hold your position, the larger it gets.
  - (3) *Currency conversion* is also a cost for the trades that are denominated in a currency other than the base currency of your account because any cash, realised profit and losses, adjustments, fees and charges that are denominated in a currency other than the base currency of your account, will be converted to the base currency of your account.
- 8.3 *Incidental Fees*. We may charge for incidental fees such as wire charges for deposits/withdrawals and returned cheque fees. We may charge monthly fees (for example, *data fees*) in any account on which there is no trading activity for at least thirty (30) calendar days.
- 8.4 *Remuneration and sharing fees*. We may receive remuneration from, or share fees with third parties in connection with Transactions carried out on your behalf. Details of such remuneration or sharing arrangements will be made available to you on written request.
- 8.5 You shall be obliged to pay to Gildencrest Capital the Commissions and Charges set out on our Website.
- 8.6 Gildencrest Capital will, when relevant and/or at least once a year, provide you with information about Commissions and Charges incurred by you, including information on the exact amounts on any commissions, charges and remuneration received or paid by Gildencrest Capital pursuant to Clauses 8.2, 8.3, 8.4 .
- 8.7 We may vary such commissions and charges without notice when the change is to your advantage, or the grounds for changes are due to external circumstances beyond our control. Such circumstances are:
- (a) changes in the relationship with our counterparties, which affect our cost structures;
  - (b) changes in commissions and charges from exchanges, clearing houses, information providers or other third party providers that are passed on to you by us; and/or
  - (c) if Gildencrest Capital cannot determine the exact amounts in advance precise and understandable information of the method that has been applied to the calculation of expected amounts of any commissions, charges, and remunerations that will be received or paid by Gildencrest Capital pursuant to Clause 8.6 in connection with the service.

- 8.8 We may vary such commissions and charges from time to time, by providing you with at least 10 Business Days' written notice of such variation and, where we deem it appropriate, the reasons for such variation.
- 8.9 In addition to such commissions and charges, you must also pay all applicable VAT, stamp duty, stamp duty reserve tax and any other taxes, levies or Transaction Costs.
- 8.10 Please note that there is the possibility that other taxes or costs may exist that are not paid through us or imposed by us. You will at all times be fully responsible for payment of all other taxes due, for making all claims, for filing any tax returns and for providing any relevant tax authorities with information in relation to the services we carry out for you or your money and investments.
- 8.11 We may share charges with our associates and other third parties or receive and retain payment from them in respect of Transactions carried out on your behalf. Details of any such payments or sharing arrangements will be made available to you before any such payments or sharing arrangements are made.
- 8.12 If you are required by law to deduct or withhold any sum for tax or other reasons, the amount owed to us will be increased, so that after you make such a tax deduction or withholding, we receive the same amount as if no such deduction or withholding had been made.
- 8.13 We may impose certain reasonable additional charges as set out from time to time in writing to you, which you shall have to pay in the event that you do not comply with your obligations under these Terms. These additional charges may include, without limitation, any reasonable legal costs we may incur as a result of your failure to comply with these Terms. There are no additional charges payable by you by virtue of the fact that these Terms are entered into via email, telephone or fax or other distance means.
- 8.14 The fees will be charged either as a fixed amount corresponding to payments effected, or as a percentage corresponding to the service performed. The methods of calculation can be combined. We reserve the right to introduce new fees, but we will notify you in good time before these are payable in accordance with Clause 28. Notices.
- 8.15 Unless specified otherwise in these Terms, all amounts due to us (or Agents used by us under these Terms) shall, at our discretion:
- (a) be deducted from any funds held by us for you; or
  - (b) be paid by you in accordance with the provisions of the relevant difference account, Settlement/Trade Confirmation or other advice.

## **9. Account Payments**

- 9.1 *Base currency.* You shall designate a base currency of your Account to be agreed in advance with us (the "Account Base Currency"). Any sums deposited in your Account, if in a Currency other than the Account Base Currency, may be converted to that Account Base Currency at the prevailing conversion rate as designated by us unless alternative instructions from you are accepted by us.
- 9.2 All payments from your Account will be made, unless otherwise agreed, in the Account Base Currency. We shall not be obliged to make any payment to you unless your cash balance remaining after making the payment would be sufficient to cover any Margin requirements and any unrealised losses in relation to



any open Transactions on your Accounts. You are responsible to monitor your margin requirement and ensure sufficient balance of your account to cover your margin requirement.

- 9.3 No instructions to pay a third party from your Account will be accepted by us unless otherwise agreed in writing by us.
- 9.4 You agree to make payments due to us under these Terms in accordance with the following terms:
- (a) all electronic or telegraphic transfer or other bank fees in respect of payments by you will be your sole responsibility;
  - (b) any payment made to us will only be treated as received when we receive cleared funds;
  - (c) if any payment is not received by us on the due date for payment then, without limitation of any other rights which we may have, we will be entitled to charge interest on the overdue amount (both before and after judgment) at a rate of 1% above LIBOR (London Inter-Bank Overnight Rate) per month from the date payment was due until the actual date of receipt by us; and
  - (d) you fully compensate or reimburse us against any costs or expenses (including all legal fees and expenses) which we may incur, either before or after the commencement of any legal action, to recover payments due.
- 9.5 You understand and accept that you must always inform us of the IBAN number and the BIC code of the receiving account when providing payment instructions. In the absence of the said information, we cannot be held liable for the completion of the transfer, nor for any delays or extra costs arising from the absence of the IBAN number and BIC code.
- 9.6 You acknowledge and accept that we shall not be responsible for any delays that occurred before the funds reach us from the remitting bank.
- 9.7 You acknowledge and accept that we shall not be responsible for any delays that occurred between the transfer of funds from us until the funds are booked on the account with the receiving bank.
- 9.8 You understand and accept that you are liable for any foreign costs arising from, any delays caused by and any errors made by the receiving financial institution or its intermediate financial institutions.
- 9.9 You acknowledge that Abnormal Trading Conditions may cause a delay in the booking of funds of up to 3 (three) Business Days from receipt of the funds.
- 9.10 You understand and accept that we must communicate information on the sender's name and account number to the financial institutions involved.
- 9.11 We, our correspondent banks and other banks forming the chain of payment must monitor the cash flow in correlation with terror lists, including the database to the European Union. Such monitoring may cause registration of payments to be delayed, stopped or frozen. We cannot be held liable for any losses arising from the obligation to monitor the cash flow.
- 9.12 *Interest and currency conversion.*
- (a) Save as otherwise agreed in writing, we shall not be liable to:

- (i) pay interest to you on any credit balance in any Account or on any other sum held by us;  
or
  - (ii) account to you for any interest received by us on such sums or in connection with any Contract;
- (b) We may convert:
- (i) any realised gains, losses, option premiums, commissions, interest charges and brokerage fees which arise in a currency other than your base currency (i.e. the currency in which your Account is denominated) to your base currency;
  - (ii) any cash currency deposit to another cash currency deposit for the purpose of purchasing an asset denominated in a currency other than your base currency; and
  - (iii) any monies held by us for you into such other currency as we consider necessary or desirable to cover your obligations and liabilities in that currency.

Whenever we conduct currency conversions, we will do so in the manner and at the rates we deem appropriate. We shall be entitled to add a markup to the exchange rates. The current markup rate is contained on our website and can be updated from time to time.

## 10. Managed Accounts

- 10.1 You may appoint a third-party to manage your Account or your Account trading strategy on your behalf ("**Account Manager**").
- 10.2 You represent and warrant that the Account Manager has all required regulatory consents, permissions, registrations or licenses that may be necessary to act in this capacity ("**Regulatory Consents**"). We shall be under no obligation to verify the authority of an Account Manager or that the Account Manager has the required Regulatory Consents. However in our sole and absolute discretion, we may require such evidence as we think fit to demonstrate that the Account Manager has authority to act on your behalf and has the Regulatory Consents required.
- 10.3 We reserve the right at any time and in our sole and absolute discretion, to require you to revoke your grant of authority to your Account Manager and take all actions on your account yourself. We may not specify our reasons for requiring you to trade your account.
- 10.4 You authorise us to accept all instructions given by the Account Manager whether orally or in writing, in relation to your Account and we shall not be obliged to make any enquiry of you or of any other person before acting on the instructions of an Account Manager. We may communicate with the Account Manager directly regarding the Account and you agree that communications made by us to the Account Manager are deemed to be received by you when received by the Account Manager. You further authorise us to disclose, or grant access, to the Account Manager all information we hold in relation to the Account, including personal information about you.
- 10.5 You acknowledge and accept that, in providing the Trading System to the Account Manager we have the right but not the obligation to set limits, controls, parameters and/or other controls on the Account Manager's authority to use or access to the Trading System. You nonetheless acknowledge that we have

no obligation or responsibility to you to put in place any such limits or controls on the Account Manager's trading and that you have full responsibility and liability for the Account Manager's actions. You accept that if we choose not to place any such limits or controls on the Account Manager's trading, or if such limits or controls fail for any reason, we will not exercise oversight or control over instructions given by the Account Manager and you accept full responsibility and liability for the Account Manager's actions in such circumstances.

- 10.6 You agree to indemnify us (fully compensate and reimburse) for any loss, damage or expense incurred as a result of:
- (a) our acting on instructions of the Account Manager outside the scope of the Account Manager's authority; or
  - (b) the Account Manager's breach of any term of their appointment.
- 10.7 You further ratify and accept full responsibility and liability for all instructions given to us by the Account Manager (and for all Transactions that may be entered into as a result) and will indemnify (fully compensate or reimburse) us and keep us indemnified against any loss, damage or expense incurred as a result of acting on such instructions. You further agree that this reimbursement shall extend to the loss, damage or expense incurred by us in reversing incorrect or erroneous instructions submitted by your Account Manager that result in a Transaction that must, for our protection, or for our other clients or for the reasons of market integrity, be reversed.
- 10.8 If you wish to revoke or amend an Account Manager's appointment or authorisation you must give written notice of such intention of which notice shall not be effective until two (2) Business Days after we receive it (unless we inform you that a shorter period will apply). You acknowledge that you will remain liable for all instructions given prior to the revocation/variation being effective, and that you will be responsible for any losses, which may arise on any Transactions that are open at such time.
- 10.9 Under no circumstances will we allow the Account Manager to transfer any or all of your money outside of your Account. Moreover, we will not accept an Account Manager's request to transfer money into your Account from any source outside of Gildencrest Capital.
- 10.10 Where you agree to compensate your Account Manager directly from your Account, you shall submit to us a compensation schedule in a form acceptable to us.
- 10.11 An Account Manager is not an employee, agent or representative of us and further an Account Manager does not have any power or authority to act on our behalf or to bind us in any way.
- 10.12 Unless otherwise agreed in writing between us and you, we may from time to time communicate with the Account Manager directly regarding your Account. You consent to this and agree that communications made by us to the Account Manager are deemed to be received by you at the same time at which they are received by the Account Manager.
- 10.13 We, acting in our sole and absolute discretion, may refuse to accept instructions from the Account Manager in relation to your Account on a one-off or ongoing basis. We may not specify our reasons for refusing instructions from the Account Manager.

## 11. Client Money

- 11.1 Any money received by us in respect of your Account with us shall be treated as “Client Money” in accordance with the then applicable FCA’s Client Money Rules except where you separately agree with us to transfer full ownership of money to us for, amongst other things, the purpose of securing or otherwise covering present or future, actual or contingent or prospective obligations, such as Margin, in which circumstances such money will not be regarded as Client Money. Title transfer collateral arrangements are not used by Gildencrest Capital for Margin Transactions for Retail Clients.
- 11.2 In relation to Client Money unless you notify us in writing or otherwise, we may hold Client Money in a Client Money bank account opened with an approved bank in the United Kingdom or an overseas jurisdiction. Your Client Money may therefore be held in an overseas jurisdiction and in such circumstances the legal and regulatory regime applying to the approved bank with which you bank account is opened is different from that of the United Kingdom.
- 11.3 We will request that the relevant bank provide the acknowledgement required by FCA’s Client Money Rules. We cannot hold or receive any Client Money in a Client Money bank account until this acknowledgment is received from the bank. By entering into these Terms you agree that we will not pay you interest on Client Money or any other unencumbered funds.
- 11.4 Unless you notify us in writing or otherwise, we may pass on Client Money or allow another person, such as an exchange, a clearing house or an intermediate broker, to hold or control Client Money where we transfer the Client Money (a) for the purposes of a Transaction for you through or with that person; or (b) to meet your obligations to provide collateral for a Transaction (e.g., an initial margin requirement for a derivative transaction).
- 11.5 You consent to us releasing any Client Money balances, for or on your behalf, from client bank accounts and for us to treat as Client Money any unclaimed Client Money balance and pay away to a registered charity of our choice where:
- (a) we have determined that there has been no movement on your balance for a period of six years (notwithstanding any payments or receipts of charges, interest or similar items); and
  - (b) we have (i) written to you at your last known address informing you of our intention of no longer treating that balance as Client Money, (ii) given you 28 days to make a claim, (iii) then written to you again via email or same address, (iv) after further twenty-eight (28) days, written to you at the first last known address, and if you have failed to respond to the three notices, provided we shall make and retain records of all balances released from your Client bank accounts; and undertake to make good any valid claims against any released balances.

## 12. Custody Assets and Corporate Actions

### 12.1. Custody Assets

- 12.1.1. Where we hold your Securities as custodian in accordance with the FCA Rules in respect of client assets we may employ third parties to act as a sub-custodian or an agent in respect of your Securities. We may open accounts with and deposit Securities with the sub-custodian. Where we appoint a sub-custodian we will use reasonable skill and care in selecting, using and monitoring them but we will not be liable for their acts or omissions, insolvency or dissolution other than as a result of our negligence, willful default or fraud.

- 12.1.2. Securities will be held by, and registered in the name of you, or a nominee controlled by us or a sub-custodian. Detailed records will be held of any of your funds a sub-custodian holds for your benefit and stating that they do not belong to Gildencrest Capital or any sub-custodian. Registration in the name of a nominee, custodian or sub-custodian may mean you lose incentives and shareholder benefits attaching to Securities and the protections envisaged under the FCA Rules in respect of client assets.
- 12.1.3. You authorise us to arrange for some of your Securities to be held outside of the UK. Where this is the case, Securities will be held by, and registered in the name of a third party or in our name where they will be subject to the settlement, legal and regulatory systems that apply in such jurisdictions and may be subject to different rights than those you would have in the UK under the FCA Rules in respect of client assets. Practices for the identification of Securities may also differ depending in which jurisdiction they are held.
- 12.1.4. Your Securities may be held in 'pooled accounts' with securities of other clients of Gildencrest Capital in one account, like with like. A number of different institutions may be used to spread the risk of default. Gildencrest Capital will maintain records of your interests in the Securities which have been pooled. Your right to specific Securities may not be identifiable. Where there is a default by us or our sub-custodian resulting in a shortfall, you may be required to share in that shortfall in proportion to the value of the Securities which Gildencrest Capital or our sub-custodian hold for you with other clients. This does not limit your rights against us or our sub-custodian in any way.
- 12.1.5. Where your Securities are held by a nominee or sub-custodian, independent to us, we cannot guarantee or accept any liability, that you would not lose your Securities if the nominee or subcustodian fails. In order to show that the Securities are not available to the creditors of that nominee or sub-custodian we will take sufficient steps to ensure that their records show that the Securities are yours and that the do not belong to us, the nominee or sub-custodian.
- 12.1.6. We shall not be obliged to account to you for any income received by us as a result of carrying out any of the activities described in this Clause 12.1.
- 12.1.7. Securities held or deposited with us cannot be put up as Security, in whole or in part for any of your obligations towards another third party without the written consent from us, such consent shall not to be unreasonably withheld.
- 12.1.8. Unless the terms applying to a particular type of Transaction specify otherwise, the collateral value of the Security that you provide will be valued by us on the basis that we reasonably determine to be appropriate. This valuation may reflect, amongst other things, our view as to the level of availability of the assets provided as Margin or the discount to the current market value of the Margin that we consider reflects its market risk.
- 12.1.9. We or the sub-custodian appointed shall be responsible for claiming and receiving all interest payments, income and other unless otherwise agreed, any dividends paid on Securities held on custody by us will be paid to you less any applicable default withholding tax and will be credited to your Account.
- 12.1.10. You authorise us and our sub-custodian to hold or transfer Securities to securities depositaries, clearing or settlement systems, account controllers or other relevant systems.

12.1.11. If there are unclaimed safe custody assets that have been left in your account for at least 12 years, and within the 12 years no instructions have been received from you with Gildencrest Capital taking all sufficient steps to contact you, the assets may be paid to a registered charity of Firm's choice.

12.1.12. In order to ensure protection of your Custody Securities, Gildencrest Capital exercises due skill, care and diligence in its selection, appointment and periodic review of External Custody Providers and its arrangements with External Custody Providers. Gildencrest Capital uses well reputed External Custody Providers with particular expertise in provision of custody services and takes into account relevant UK legislation on safekeeping of financial instruments. Firm's arrangements with External Custody Providers include covenants ensuring segregation and identification of Custody Securities. In addition, Gildencrest Capital is member of the Financial Services Compensation Scheme as described in Clause 28.14.

## **12.2. Corporate Actions**

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12.2.1. A rights issue is when an existing stockholder is offered a number of new shares proportional to their holding at a specified price for subscription by a specified date. These new shares may be renounceable (tradable) or non-renounceable.

12.2.2. If the Client is holding a stock for which there is a right issue the Client will receive the rights and have the opportunity to subscribe for new stocks, ignore the rights or sell the rights, if possible.

12.2.3. If a renounceable right could become worthless upon expiry, the client will be given a deadline by Gildencrest Capital for a deadline to give instructions regarding a Corporate Action. If the client does not give instruction, Gildencrest Capital can but is not required to, sell the rights (if possible) on behalf of the Client before the expiry of the rights. The proceeds from a sale of rights will be deducted the standard commission of the Account.

12.2.4. If the rights are non-renounceable, they will, if not exercised, be worthless at expiry.

12.2.5. Gildencrest Capital will notify the Client about conversions of convertible bonds held in custody with Gildencrest Capital, provided that Gildencrest Capital has been made aware of such conversions and can notify the Client within the stipulated deadlines. Such notification will be for information only and will not be a recommendation. Within the deadline set by Gildencrest Capital, the Client must inform Gildencrest Capital whether the Client wants to

12.2.5.1. convert the bonds into shares or

12.2.5.2. collect the proceeds from the bonds at maturity.

12.2.6. If Gildencrest Capital does not receive instructions from the Client within the deadline set by Firm, the convertible bonds will be allowed either to mature or to wait for a subsequent offer or conversion.

12.2.7. In case of other Corporate Actions, Gildencrest Capital will, to the extent required, seek to obtain instructions from the Client and will otherwise seek to handle such Corporate Actions in the best interest of the Client to the extent that time and operational procedures will allow. Gildencrest Capital will have no liability for anything done or not done in the discretion of Gildencrest Capital acting in good faith. Special local rules may apply to certain Corporate Actions.

- 12.2.8. The Client is made aware and acknowledges that in voluntary Corporate Action where the alternative to a cash settlement is the settlement in a security that is not supported by Firm, the Client will not have the option to choose, but will be given the cash settlement.
- 12.2.9. It is standard practice for depositary receipts to charge an annual administration fee per share depending on the issuing depositary bank. The intent of the fee is to cover costs for the banks that take on the operational processes necessary to issue and trade the depositary receipt line. Typically, the fee is deducted when dividend payments are made, however, in case the depositary receipts do not pay a dividend or did not include the custodial fee in their dividend events, the fee will be administered through fee-only events. The dividend fee is stipulated in the deposit agreement between the depositary bank and the company based upon industry standards. The fee per depositary receipt is not dependent on the total amount of dividend being paid, but the amount of securities held.
- 12.2.10. GILDENCREST CAPITAL may charge commission and fees related to Corporate Actions. The prevailing trading costs will be set out on our website or communicated to you directly.
- 12.2.11. Taxes and fees may also occur on Corporate Actions such as fee on a stock dividend or tax on a merger. When such taxes and fees occur Gildencrest Capital may debit the Client's Account accordingly.

### **13. Material Interests and Information Barriers**

- 13.1. *Material interests.* Your attention is drawn to the fact that when we deal for you, we or some other person connected with us may have another interest, relationship or arrangement that is material. We could not identify any material interests on our side as we are straight through processing ("STP") broker, known as matched principal.
- 13.2. You accept that we may have interests which conflict with your interests and may owe duties which conflict with duties which would otherwise be owed to you, and consent to our acting in any manner which we consider appropriate in such cases subject to Applicable Regulations.
- 13.3. *No liability to disclose or account.* We will comply with Applicable Regulations binding on us, but we shall be under no further duty to disclose any interest to you, including any benefit, profit, commission or other remuneration made or received by reason of any Transaction or any related transaction or position.
- 13.4. *Information Barriers.* Where necessary we maintain arrangements which restrict access by our employees to information relating to areas of our business with which, and the affairs of clients with whom, they are not directly concerned. Accordingly, we shall not be required to have regard to or disclose to you or make use of any information which belongs to or is confidential to another client or to us.

### **14. Conflict of Interests**

- 14.1. *Conflicts Policy.* We are required to have arrangements in place to manage conflicts of interest between us and you and between different clients. We operate in accordance with a conflicts of interest policy we have put in place for this purpose in which we have identified those situations in which there may be a conflict of interest, and in each case, the steps we have taken to manage that conflict. A summary of our conflicts policy ("Managing Conflicts of Interest Policy") is included in Annex 3 and the Policy is available on request.
- 14.2. We are under no obligation to disclose to you:

- 14.2.1. that we have a material interest in a particular Transaction for you, provided we have managed such conflicts in accordance with our Managing Conflicts of Interest Policy;
- 14.2.2. or take into consideration any fact, matter or finding which might involve a breach of confidence to any other person, or which comes to the notice of any of our directors, officers, employees or agents, where the individual(s) dealing with you have no actual notice of such fact, matter or finding; or
- 14.2.3. or account to you for any profit, commission or remuneration made or received from or by reasons of any Transactions or circumstances in which the we have a material interest or where in particular circumstances a conflict of interest may exist.
- 14.3. *Disclosure to you.* We shall not be obliged to disclose to you or take into consideration any fact, matter or finding which might involve a breach of duty or confidence to any other person, or which comes to the notice of any of our directors, officers, employees or agents but does not come to the actual notice of the individual or individuals dealing with you.
- 14.4. *No fiduciary duties.* The relationship between you and us is as described in these Terms. Neither that relationship, nor the services we provide nor any other matter, will give rise to any fiduciary or equitable duties on our part. As a result, we involved in doing business with or for you we may act as matched principal (STP-only) and we may do business with other clients and other investors on the same basis and/or as per the scope of our FCA permissions.
- 14.5. *Consent.* You accept that we may either (i) have interests which conflict with your interests, or (ii) owe duties which conflict with duties which would otherwise be owed to you, and in either case (i) or (ii) you consent to our acting in any manner which we consider appropriate in such cases subject to Applicable Regulations and our Conflicts of Interest Policy (Annex 3).

## 15. Trading Systems

- 15.1. *Access password.* When your Account is opened you will have access to the Trading Systems enabled by a password which shall be for your personal use only and which you shall keep secret and not disclose to any third party nor allow any third party to use or otherwise gain access to the Trading Systems in your name or on your Account. You are responsible for all information submitted through your access to the Trading Systems and in the event there is an erroneous entry of information for whatever reason you will be held responsible for all resultant financial obligations or liabilities. You shall notify us immediately and in writing in the event of (i) any loss or theft of part or all of your password; or (ii) any actual or suspected unauthorised use of your password; or (iii) any actual or suspected breach of security or confidentiality of the password.
- 15.2. *Authorised Persons.* You as the account holder are the only person authorised to trade or bet on your account. If you wish a third party to be able to trade or bet on your account then you must request that an 'authorised dealer' be added to your account via mail or email. This will allow someone else to trade on your account without having the full 'power of attorney' powers of control. This third party will not be able to make third party payments. You will still be liable for every trade or bet and for all monies owed.
- 15.3. Your right to use the Trading Systems and any financial data, market and business information provided on or through the Trading Systems ("Trading System Information") is limited to use for the purpose of receiving and viewing the Trading System Information for the transmission and execution of Orders and Transactions.



- 15.4. *Licence.* Trading Systems are owned by us or third parties that licence their use to us (“Licensors”). You acknowledge and agree that Trading Systems are the exclusive property of Gildencrest Capital and/or the Licensors, and that the Trading Systems Information is the exclusive property of Gildencrest Capital and/or the Licensors or such Licensor’s third party vendors or their suppliers, and we, the Licensor and such third party vendors and their suppliers retain all proprietary right, title, and interest, including, without limitation, copyright, in the Trading System Information. We grant you a personal, limited, revocable, non-exclusive, non-transferable licence to access and use the Trading System in accordance with these Terms. You shall not copy, license, sell, transfer, and/or make available the Trading System or Trading System Information to any other person. You shall not remove or alter any copyright notice or other proprietary or restrictive notice contained in the Trading System or Trading System Information. You acknowledge that all proprietary rights in the Trading Platform are owned by us or by any applicable third party service providers selected by us and are protected under copyright, trademark and other intellectual property laws and other applicable law.
- 15.5. *Modifications.* Certain Information on the Trading System may be provided by third parties. If any of the Trading System Information ceases to be furnished by any third party vendors in a manner which is compatible with the Trading System, we may remove as much Trading System Information as is affected, without advance notice, without incurring any liability to you, and without any change to any of your payment or other obligations. Further, we may modify, amend, alter, update, supplement or replace the Trading Systems software (which, among other things, determines the functionality and appearance of some or all of the Trading Systems features) from time to time, in whole or in part, without any notice (except for material changes to functionality as reasonably practicable), without incurring any liability to you, and without any change to any of your payment or other obligations. You acknowledge and agree that your use of the Trading Systems after any modification, amendment, alteration, update, supplement or replacement shall constitute your acceptance of such modification, amendment, alteration, update, supplement or replacement.
- 15.6. You will ensure that *no computer viruses*, worms or similar items are introduced through the Trading Systems to our computer systems and networks. You will be responsible for the installation and proper use of any virus detection software which we may require. We accept no liability for any computer virus or other malicious software that you may encounter through accessing our website or online trading applications.
- 15.7. *Limits.* We may at any time and in our absolute discretion impose and vary limits and conditions upon the placement of Orders using the Trading Systems including limits on size, order types and execution venues and conditions concerning collateral requirements.
- 15.8. *Market Data.* You undertake to use any market data or other information that we, any Exchange or any third party service provider provide to you in connection with your use of the Trading Platform solely for the purposes set out in these Terms. You agree not to provide access, redistribute or display the market data to any third party without our prior written consent.
- 15.9. *Order cancellation.* Where you have placed an order on the Trading Platform in error, you may request that the order be cancelled up until the time of execution. You acknowledge that we are under no obligation to cancel the order. A request for cancellation or an order can be made via the Trading Platform or by calling our customer services. An order shall not be considered to be cancelled until you have received written confirmation from us.
- 15.10. *Third Party Applications Disclaimer.*

15.10.1.1. It is accepted by the end user/you that you take sole responsibility for any third party applications that you may install either directly or indirectly on your Trading Systems and also the use of any software provided on MT4 or any other trading platform Gildencrest Capital uses when downloaded. These may include robotic trading tools, known as Expert Advisors (“EA”), which can be set up to automatically trade on a client’s account or indicators which allegedly show beneficial times to trade. It is your sole responsibility to do due diligence on the respective software and then decide if you are willing to take the risk of installing and using it on your account(s) with Firm. We and our third party suppliers make no warranties or representations of any kind, whether express or implied for the service it is providing.

We and our third party suppliers also disclaim any warranty of merchantability or fitness for any particular purpose and will not be responsible for any damages that may be suffered by you, including loss of funds, data, non-deliveries or service interruptions by any cause or errors or omissions by you. Your use of any information obtained by way of an EA is at your own risk, and we and our third party suppliers specifically deny any responsibility for the accuracy or quality of information obtained through its services. We and our third party suppliers do not represent or guarantee the speed or availability of end-to-end connections. We and our third party suppliers shall not be subject to any damages or liability for any errors, omissions or delays therein including unavailability. The licensed products and all components thereof are provided on an “as is” basis and are separate and distinct from the services provided under these Terms.

15.10.1.2. The client acknowledges that by using trade copier software of any description, for example an EA, Money Manager or social trading software, that they may experience worse fills than by not using it. This may not only be from dealing on a wider spread, which they would have agreed to by signing a Limited Power of Attorney, but also due to slippage and liquidity issues caused by dealing en masse and collectively dealing in a size larger than the Gildencrest Capital maximum or that can reasonably be expected to be executed at a given price.

## **16. Orders and Confirmations**

- 16.1. *Placing of instructions.* The manner in which you may place instructions or communicate Orders and any conditions that may apply are set out on our website and these provisions may be changed at any time without further notice to you.
- 16.2. We may in our sole discretion refuse to accept any Order from you but will notify you of any such refusal, without giving any reasons, promptly following receipt of your instructions. We may cancel any instructions previously given by you provided that we have not acted on your instructions. We reserve the right to limit the number of open positions that you may enter or maintain on your Account. We reserve the right, in our sole discretion, to refuse to accept any Order opening a new position or increasing an open position. Acceptance of your Order will be evidenced by Firm’s confirmation of that Order. The validity of any Order shall not, however, be affected by any failure or delay in such Order being confirmed. Acceptance of any Order does not constitute any acknowledgment agreement or representation that for a Margin Transaction your Initial Margin or Margin requirement in respect of the Order or your existing Order is satisfied.
- 16.3. If we need instruction from you, it must be promptly given. If you do not give such instructions promptly, it is at our reasonable discretion to take such steps which we consider necessary or desirable for our or your protection, at your cost. This provision will also apply where we have tried but are unable to obtain contact with you and it is necessary for us to receive your instructions as quickly as possible.

- 16.4. We will notify you, in accordance with the Notices Clause 28 below, of any Corporate Action which requires your instruction in relation to any Securities held by us on your behalf.
- 16.5. If you do not notify us of your intention to exercise an option or to act on Corporate Action which requires your instruction within the time stipulated by us, we may allow the option or Corporate Action to lapse or at our reasonable discretion, elect the treatment that provides you with a favourable outcome.
- 16.6. We will not inform you about any ordinary or extraordinary general meeting or any extraordinary information communicated by the issuer of any Securities held by us on your behalf. Unless otherwise specifically agreed, you will not be entitled to vote at any shareholders' annual general meetings.
- 16.7. Gildencrest Capital may from time to time be informed about class action litigation relating to Instruments that Gildencrest Capital holds or has held in custody on behalf of its Clients. Unless specifically agreed with Gildencrest Capital is not required to provide any information about class action litigation to you or to take any action on behalf of Clients in relation to class action litigation.
- 16.8. Gildencrest Capital will at least on a quarterly basis send to you a statement of any held Custody Securities pursuant to MiFID II Delegated Regulation Art 63. Upon your request, Gildencrest Capital shall provide such statements more frequently at a commercial cost.
- 16.9. We may, in our reasonable discretion, require confirmation from you if we receive instructions of reasonable requests in the following circumstances:
  - (a) We have received an instruction to close an Account;
  - (b) Money is to be sent to you; or
  - (c) We have received an instruction from you in relation to a Transaction that we consider to be unclear or unusual.
  - (d) Gildencrest Capital does not guarantee that you will be able to enter into Transactions on the Trading Platform to the extent that those Transactions are subject to Corporate Actions.
- 16.10. We will act according to instructions as soon as reasonably practicable given within a reasonable time and we will, as far as trading instructions are concerned, act consistently with our Order Execution Policy. If after instructions are received, we believe that it is not practicable to act upon such instructions within a reasonable time, we may defer acting upon those instructions until it is, practicable to do so.
- 16.11. If you purchase an exchange traded fund or any other instrument that has a Key Investor Information Document (KIID) or Key information Document (KID) we will require that you have read the relevant KIID or KID before you execute. By executing the transaction you will have represented that you have read the KIID/KID whether it by via email, PDF or by any other durable medium that is not paper.
- 16.12. Errors can occur in the pricing of Transactions from time to time. Notwithstanding the rights that you have under Market Rules, we reserve the right to void, or to amend the terms of, any Transaction that we reasonably believe, at our sole discretion, to contain or be based on an obvious or palpable error (**a Manifest Error**). In deciding whether an error is a Manifest Error we may take into account any relevant information including, the state of the underlying market at the time of the error and any error within, or lack of clarity of, any information source or pronouncement. In deciding whether or not there has been a Manifest Error,

we will make reasonable efforts to take into account any financial commitments that you have made or refrained from making in reliance on a Transaction.

- 16.13. In the absence of fraud, willful default or negligence on our part, we will not be liable to you for any losses following a Manifest Error. In the event that a Manifest Error is made by any information source, commentator or official on whom we reasonably rely, we will not be liable to you for any losses, except for our fraud, willful default or negligence.
- 16.14. Trading strategies aimed at exploiting errors in prices and/or concluding trades at off-market prices (commonly known as “sniping”) are not acceptable. If we can demonstrate that at the time of execution of the trade there were errors in prices, commissions, or in the Trading Platform, and provided we can reasonably demonstrate that you, based on your trading strategy or other behaviour, deliberately and/or systematically exploited or attempted to exploit such an error, we are entitled to take one or more of the following counter measures:
- (e) adjust the price spreads available to you;
  - (f) restrict your access to streaming, instantly tradable quotes, including by providing manual quotations only;
  - (g) reclaim from your account any historic trading profits that we can demonstrate have been gained through such abuse at any time; and/or
  - (h) terminate the account facility immediately by giving written notice.
- 16.15. We may also take any of the counter measures detailed in Clause 16.14 if we can reasonably demonstrate that you have entered into a trading strategy on the Trading Platform aimed at delaying or preventing any other person’s access to a Transaction on the Trading Platform.
- 16.16. You agree and acknowledge that we may record all telephone (landline and mobile) conversations, electronic communications, and meetings between you and us. Such recordings shall be and remains our sole property and will be accepted by you as conclusive evidence of the orders, instructions or conversations so recorded. You agree that we may deliver such recordings or copies of transcripts of such recordings to any court, regulatory or government authority.
- 16.17. Gildencrest Capital shall not provide, by telephone, investment services and activities to Clients who have not been notified in advance about the recording of their telephone communications or conversations, where such investment services and activities relate to the reception, transmission and execution of client orders.
- 16.18. If we are instructed to enter into a position opposite to one or more of your open positions, we will close out the opposite position in accordance with FIFO principles unless the position has Related Orders or as otherwise agreed.
- 16.19. You acknowledge that we may, in our absolute discretion, close directly opposite positions. This applies not only when the positions are held on the same account, but also when they are held on separate accounts or subaccounts.

- 16.20. If you operate several Accounts (or sub-accounts) and opposite positions are opened on different Accounts (or sub-accounts), if we do not take steps to close directly opposite positions, you acknowledge that all such positions may be rolled over on a continuous basis and thereby consequently incur a cost for such rollover. Such cost will be calculated in accordance with the Commissions and Charges discussed in Clause 8 and will be notified to you in writing in advance.
- 16.21. *Regulated Market.* You acknowledge and agree that by executing the Client Application Form that you have given us your prior express consent to execute all Orders and Transactions outside a regulated market or multi-lateral trading facility (as such terms are defined by FCA Rules.)
- 16.22. *Confirmation of Orders and Account Statements.* We may send you confirmations and Account statements electronically or provide you with online access to confirmations and Account statements stored on your Gildencrest Capital Limited website Account (“**Customer Panel**”). You must notify us in writing if you wish to receive confirmations in hard copy rather than electronically. Each confirmation will, in the absence of a Manifest Error (as defined in clause 18.1), be conclusive and binding on you, unless we receive any objection from you in writing within two Business Days of the date of the relevant confirmation or we notify you of an error in the confirmation within the same period.
- 16.23. *Intermediate brokers and other agents.* We may, at our sole and absolute discretion, arrange for any Transaction to be effected with or through the agency of an intermediate broker and may not be in the United Kingdom. Neither, we nor our respective directors, officers, employees or agents will be liable to you for any act or omission of an intermediate broker or agent. No responsibility will be accepted for intermediate brokers or agents selected by you.
- 16.24. *Order Execution Policy.* Your Orders will be handled in accordance with our Order Execution Policy (Annex 4) to which you expressly consent by entering into these Terms.

## **17. Market Obligations & Market Abuse**

- 17.1. *Market Abuse.* You shall not use the Trading Systems for Orders or Transactions for or in connection with any activity which may constitute a fraudulent or illegal purpose or market abuse or otherwise use of the Trading Systems in contravention of any Applicable Regulations. For the purposes of these Terms “Market Abuse” means behaviour in relation to investments which involves insider dealing, market manipulation or market distortion in breach of Applicable Regulations. You undertake to familiarise yourself and comply with any Applicable Regulations concerning the short sale of securities if you seek to execute a short sale transaction and you will ensure that your use of the Trading Systems will not result in a breach by us of any Applicable Regulations concerning the short sale of securities or any terms of these Terms concerning short sale orders or transactions.
- 17.2. If an order entry is made using the Trading Systems by mistake or does not reflect the intended transaction (an “erroneous order”) then you shall be responsible for amending or cancelling such Orders as necessary and for closing any resultant positions subject to our rights in these Terms.
- 17.3. We reserve the right to limit your use of the Trading Systems and apply pre-execution trading controls as may be appropriate to preserve compliance with Applicable Regulations or any other trading limits which may be notified to you.

17.4. Access to the Trading Systems is provided “as is”. We make no warranties (express or implied), representations, or guarantees as to merchantability, fitness for any particular purpose or otherwise with respect to the Trading Systems, their content, any documentation or any hardware or software provided by us. Technical difficulties could be encountered in connection with the Trading Systems. These difficulties could involve, among others, failures, delays, malfunction, software erosion or hardware damage, which difficulties could be the result of hardware, software or communication link inadequacies or other causes. Such difficulties could lead to possible economic and/or data loss. In no event will we or any of our employees be liable for any possible loss (including loss of profit or revenue whether direct or indirect), cost or damage including, without limitation, consequential, unforeseeable or special damages or expense which might occur as a result of or arising out of using, accessing, installing, maintaining, modifying, deactivating or attempting to access the Trading Systems or otherwise. We further reserve the right, in our reasonable discretion to unwind an executed Transaction or adjust the price of executed Transactions (including Transactions that have been confirmed or settled) to a fair market price if the Transaction was mispriced because of technical difficulties with the Trading Systems.

## **18. Manifest Errors, Price Errors and Changes in Conditions**

18.1. A “Manifest Error” means a manifest or obvious misquote by us, or any Market, Liquidity Provider (“LP”) or official price source on which we have relied in connection with any Transaction, having regard to the current market conditions or the actual availability of executable bids and offers in the market at the time an Order is placed as we may reasonably determine. When determining whether a situation amounts to a Manifest Error, we may take into account any information in our possession, including information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement. We will, when making a determination as to whether a situation amounts to a Manifest Error, act fairly towards you but the fact that you may have entered into, or refrained from entering into, a corresponding financial commitment, contract or Transaction in reliance on an Order placed with us (or that you have suffered or may suffer any loss) will not be taken into account by us in determining whether there has been a Manifest Error.

18.2. In respect of any Manifest Error, we may (but will not be obliged to):

18.2.1. amend the details of each affected Transaction to reflect what we may reasonably determine to be the correct or fair terms of such Transaction absent such Manifest Error; or

18.2.2. declare any or all affected Transactions void, in which case all such Transactions will be deemed not to have been entered into.

18.3. We will not be liable to you for any loss (including any loss of profits, income or opportunity) you or any other person may suffer or incur as a result of or in connection with any Manifest Error (including any Manifest Error by us) or our decision to maintain, amend or declare void any affected Transaction, except to the extent that such Manifest Error resulted from our own willful default or fraud, as determined by a competent court in a final, non-appealable judgment.

### *Price Errors*

18.4. If you make any payment which is subject to any currency fluctuations, withholding or deduction, you shall pay to Gildencrest Capital an additional amount to ensure that the total amount actually received by

Gildencrest Capital is equal to the full amount Gildencrest Capital would have received had no currency fluctuations, withholding or deduction been made.

- 18.5. Gildencrest Capital may offer real-time tradeable prices to you. Due to delayed transmission, the price offered by Gildencrest Capital may have changed before an order or instruction from the Client is received by Firm. Gildencrest Capital shall be entitled to change the price on which your order or instruction is executed to the market value at the time at which the order from you is received or executed.
- 18.6. Prices offered by Gildencrest Capital regarding the sale, purchase or exercise of Listed Derivatives reflect the price of the relevant Reference Derivative. Due to the period from your acceptance or instruction regarding a Listed Derivative until the execution of the relevant Reference Derivative on the Regulated Market by the Listed Derivative Counterparty, another third party (as the case may be), the price as listed on the Trading Platform is subject to change, in order for the Listed Derivative to reflect the price of the relevant Reference Derivative at the time of its execution or exercise (as applicable):
- (i) In the event that a price quoted by Gildencrest Capital or at which any Contract or other transaction is entered into (including where confirmed in a Settlement/Trade Confirmation) does not reflect the market price (e.g. due to market liquidity, announcements affecting the market, misfeeds from providers of prices, quotes from Liquidity Providers, or suspension of trading) (a Misquoted Price); or
  - (j) if an Exceptional Market Condition occurs or is likely to occur, Gildencrest Capital may in its sole discretion either:
    - i. refrain from executing, or cancel, any Contract or any purchase or sale of any Instrument which is, or purports to have been, entered into at the Misquoted Price; and
    - ii. execute the Contract or the sale or purchase of any Instrument at the Misquoted Price or the price which in Firm's reasonable opinion reflects the market price; or
    - iii. change any Contract or purchase or sale of any Instrument already executed to the price which in Firm's reasonable opinion reflects the Market Price.
- 18.7. If Gildencrest Capital can:
- (k) document the existence of errors in prices, Commissions and Charges, other commissions and/or in the Trading Platform at the time of the conclusion of the Contract or order; and
  - (l) render probable that, based on the Client's trading strategy or other behaviour, the Client deliberately and/or systematically has exploited or attempted to exploit such errors; then
  - (m) Gildencrest Capital is entitled to take one or more of the following countermeasures:
    - a) adjust the price spreads and/or liquidity available to the Client;
    - b) restrict the Client's access to streaming, instantly tradable quotes, including providing manual quotation only;
    - c) retrieve from the Client's Account any historic trading profits that have been gained through such behaviour at any time during the relationship between the Client and Firm; and/or

- d) terminate the relationship between the Client and Gildencrest Capital immediately by giving written notice.
- (n) If either the Regulated Market on which a Reference Derivative is traded, and/or the listed Derivative Counterparty takes any action which affects the Reference Derivative or the contract Firm's counterparty has entered into with the Listed Derivative Counterparty, then Gildencrest Capital may take any action with regard to the relevant Listed Derivative which Gildencrest Capital in its sole discretion considers desirable or appropriate to match the action taken by the Regulated Market and/or Listed Derivative Counterparty.

## **19. Abusive Arbitrage**

- 19.1. We do not permit the use on our Trading System of any form of systematic trading that has the object or effect of exploiting any price latency opportunities ("Abusive Arbitrage").
- 19.2. In respect of any Abusive Arbitrage, we may (but will not be obliged to) without prior notice:
  - 19.2.1. amend the details of each affected Transaction to reflect what we may reasonably determine to be the correct or fair terms of such Transaction absent such Abusive Arbitrage; or
  - 19.2.2. declare any or all affected Transactions void, in which case all such Transactions will be deemed not to have been entered into.

## **20. CFD Transactions**

- 20.1. With respect to any CFD Transactions (including Spot CFDs for Forex) or any futures or options Transactions you acknowledge and agree that unless otherwise agreed in a formal written instrument you will not be entitled to delivery of, or be required to deliver, any Reference Asset nor will you acquire any interest in any Reference Asset.
- 20.2. To close in whole or in part a CFD Transaction you must enter into a second reverse Transaction that is, a buy Transaction if the first Transaction was a sell Transaction or vice versa). Where there is more than one open Transaction with the same characteristics the Transaction opened earliest will be closed first. Additionally, should we permit "hedging" (an account being long and shorts in the same Transaction position in the same account) or close out by the client on a "special instruct" basis (client identifies position(s) to be closed out), the client will be responsible for closing open position(s) on a special instruct basis. Close-out and novation of opposing contracts policies and procedures are subject to change in our absolute discretion and will be notified to you when such change is made.
- 20.3. You acknowledge and agree that we will have the right to close any Transaction in our sole and absolute discretion without notice if the Reference Asset is a derivative Financial Instrument, or Commodity which may settle on expiry by a delivery other than in cash, a reasonable period prior to the expiry date as determined in the sole and absolute discretion of us. We will not be subject to any obligation to roll over a position in such a derivative Financial Instrument or Commodity.
- 20.4. The price of an Expiry Transaction will be (a) the last traded price at or prior to the close or the applicable official closing quotation or value in the relevant Reference Asset as reported by the relevant Market, errors and omissions excluded; plus or, as the case may be, minus (b) any Spread that we apply when such an Expiry Transaction is closed. Details of the Spread that we apply when a particular Expiry Transaction is closed are



available on request. You acknowledge that it is your responsibility to make yourself aware of the Last Dealing Time for any Expiry Transaction.

20.5. *Additional close-out rights.*

We may close any CFD Transaction (including Spot CFDs for Forex Transaction) in our sole and absolute discretion at any time without notice:

- 20.5.1. if it is a 'sell' CFD Transaction, and due to illiquidity in the relevant Reference Asset we are unable to borrow a sufficient quantity of such Reference Asset to settle any hedge position related to or in connection with the CFD Transaction;
- 20.5.2. if we are required, at any time, by a lender to return any Reference Asset borrowed by us which relates to the CFD Transaction and we are then unable to maintain a hedge position in respect of the CFD Transaction;
- 20.5.3. if at any time we are otherwise unable to establish or maintain a hedge position, or any other Hedging Disruption occurs, in respect of the CFD Transaction or the continuation of any such hedge is likely, in our reasonable judgment, to become more burdensome to us; or
- 20.5.4. pursuant to clauses 20.13, 22.4 or 27.8.

20.6. *Effects of Close-Out.* With respect to any CFD Transaction that is closed out:

- 20.6.1. no further payments or deliveries are required to be made on or after the Closing Date, except for settlement payments pursuant to sub-paragraph 20.6.2 below; and
- 20.6.2. any and all amounts payable by either party in settlement of such CFD Transaction are immediately due and payable.

Without prejudice to the provisions of sub-paragraphs 20.6.1 and 20.6.2 above, any and all obligations arising or existing between us as a result of the close-out of one or more CFD Transactions will be satisfied by the net settlement (whether by payment, set-off or otherwise) of all amounts due and payable between us, and the net amount determined to be payable by either party will be immediately due and payable.

20.7. *Calculations.* We will determine any closing price as soon as reasonably practicable after the Closing Date to reflect (without limitation):

- 20.7.1. the value, transferability, liquidity or volatility of the relevant Reference Asset;
- 20.7.2. the effect (or anticipated effect) of closing or terminating any hedge, contract or other trading position relating to the relevant CFD Transaction which we have or have had in place, or may reasonably have put in place, including the effect (or anticipated effect) of such event on the value, transferability, liquidity or volatility of such hedge, contract or other trading position;
- 20.7.3. any costs incurred (or anticipated to be incurred) by us in terminating, liquidating or reestablishing any hedge, contract or other trading position related to or in connection with the relevant CFD Transaction; and
- 20.7.4. any loss of bargain, cost of funding or other loss or gain suffered or incurred (or anticipated to be suffered or incurred) by us as a result of or in connection with the close-out of the relevant CFD Transaction.

- 20.8. *Hedging Disruption.* Notwithstanding anything to the contrary in these Terms, if we determine that a Hedging Disruption has occurred, or may occur, including a Hedging Disruption which is a result of any actual or imminent delay, disruption, suspension, or reduction in any payment or settlement in respect of any transaction or asset we deem necessary to hedge our CFD Transaction price risk, whether such Hedging Disruption arises directly or indirectly from the failure of a hedging counterparty to perform its obligations or otherwise, then you will be liable to us for any increased costs or expenses resulting from such Hedging Disruption (including any costs of unwinding, establishing or re-establishing a hedge) and we may upon notification of such costs to you deduct them from your Account or demand payment of such costs directly from you. If you fail to comply fully and by the required time with any such demand, this will constitute an Event of Default.
- 20.9. *Adjustments.* If any Reference Asset which is a Security is subject to possible adjustments as the result of any of the events set out in clause 20.10, we will determine what adjustment, if any, should be made to the Current Contract Value or Contract Quantity of any related CFD Transaction to account for the dilutive or concentrative effect of any such event to preserve the economic equivalent of such CFD Transaction prior to the relevant event or to reflect the effect of such event on such CFD Transaction. Any such adjustments will be effective as of a date determined by us.
- 20.10. *Adjustment Events.* The events to which clause 20.9 refers include the following:
- 20.10.1.a subdivision, consolidation or reclassification of shares, or a free distribution of shares to existing holders by way of bonus, capitalisation or similar issue;
  - 20.10.2.a distribution to existing shareholders of additional shares, other share capital or securities granting the right to payment of dividends or proceeds of liquidation of the issuer, or securities, rights or warrants granting the right to a distribution of shares or to purchase, subscribe, or receive shares, in any case for payment (in cash or otherwise) at less than the prevailing Market price per share; and
  - 20.10.3.any event analogous to any of the foregoing events or otherwise having a dilutive or concentrative effect on the Market value of the relevant Reference Asset.
- 20.11. *Merger Events and Take-Over Offers.* If there is a Merger Event or Take-Over Offer in respect of, or affecting, any relevant Reference Asset, then on or after the date of the Merger Event or at any time prior to the closing date of such Take-Over Offer we will:
- 20.11.1.make such adjustment to the exercise, settlement, payment or any other terms of any related CFD Transaction as we may determine is appropriate to account for the economic effect, if any, on the Reference Assets which is the subject of such Merger Event or Take-Over Offer (provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Underlying Financial Instrument or to such CFD Transaction, which may, but need not, be determined by reference to any adjustment made in respect of such Merger Event or Take-Over Offer by a Market to futures or options on the relevant Reference Asset traded on such Market; and
  - 20.11.2.determine the effective date of any such adjustment.
- 20.12. *Nationalisation and Insolvency.* If an issuer whose shares represent all or part of the Reference Asset for any CFD Transaction:

- 20.12.1. has its shares or all or substantially all of its assets nationalised or expropriated or such shares or assets are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality; or
- 20.12.2. becomes the subject of any voluntary or involuntary procedure seeking or proposing liquidation, re-organisation, an arrangement or composition or other similar relief under any Insolvency Law, then the day on which such event occurs or is declared will be the Closing Date for such CFD Transaction. The closing price for such CFD Transaction will be such price as is notified by us to you.
- 20.13. *No adjustment possible.* If we determine that no adjustment could be made under this clause 20 which would produce a commercially reasonable result, we will issue a Closing Notice to you in respect of each related CFD Transaction. The date of such notice will be the Closing Date. The closing price will be such price as is notified by us to you.

## 21. Market Suspensions and Delistings

- 21.1. *Market suspensions.* If at any time trading on any Market in any Reference Asset is suspended, we will calculate the value of each related CFD Transaction with reference to the last traded price before the time of suspension, or the closing price if no trading in such Reference Asset is undertaken during the Business Day on which a suspension occurs. If such a suspension continues for more than one Business Day, we have the right in our sole and absolute discretion to vary Margin requirements and rates. If such a suspension continues for five or more Business Days, we have the right to terminate each related CFD Transaction in our sole and absolute discretion at a closing price determined by us.
- 21.2. *Delisting.* If a Regulated Market on which an Reference Asset is principally traded announces that pursuant to the rules of such Market such Reference Asset has ceased (or will cease) to be listed, traded or publicly quoted on such market for any reason (other than a Merger Event or Take-Over Offer) and is not immediately re-listed, re-traded or re-quoted on a Market or quotation system located in the same country as such Market (or in the case of any Market within the European Union, in any Member State of the European Union), either the day on which such an event occurs, or (if earlier) the day on which such event is announced, will in our sole and absolute discretion be the Closing Date for each related CFD Transaction irrespective of whether a Closing Notice is issued. The closing price for each such CFD Transaction will be such price as notified by us to you.

## 22. Margin

- 22.1. *Margin Arrangements.* As a condition of entering into a Transaction, we may in our sole discretion require the deposit of funds or Collateral acceptable to us to secure your liability to us for any losses which may be incurred in respect of the Transaction ("**Initial Margin**"). Initial Margin is due and payable immediately as a condition to opening the relevant Transaction and we may decline to open any Transaction if you do not have sufficient available cash in your Account to satisfy the Initial Margin required for that Transaction at the time the relevant Order is placed. If there is an adverse movement in the price of a Transaction or Reference Asset or if we determine in our sole and absolute discretion that there is an increase in the risk of an adverse movement in the price of a Transaction or Reference Asset, we will require additional security from you in the form of cash deposits or other acceptable Collateral to supplement Initial Margin ("**Variation Margin**").
- 22.2. *Changes in Margin requirements.* Margin requirements may be set and varied without prior notice from time to time in our sole and absolute discretion in order to cover any realised or unrealised losses arising

from or in connection with Transactions, including subsequent variation of any Margin rates set at the time Transactions are opened.

- 22.3. *Form of Margin.* Margin must be provided by or on behalf of you in cash or other Collateral acceptable to us as determined by us in our sole and absolute discretion. You are obliged to maintain in your Account, at all times, sufficient funds to meet all Margin requirements. In addition, we will be entitled to treat any assets deposited with us by you from time to time (other than assets deposited for safe custody only) as Collateral against your Margin requirements. In all cases we will be entitled in our sole and absolute discretion to determine the value of any Collateral deposited with us. We are entitled to require payment of Margin of you (whether resident in the UK or in another jurisdiction) by telegraphic transfer or any other method of immediate/electronic funds transfer acceptable to us.
- 22.4. *Close-out.* In the event that there is insufficient Margin in your Account or in the event that the deposited Margin is not sufficient to meet the required Margin rates, as determined by us in accordance with clauses 22.1 and 22.2 of these Terms, and regardless of whether or not prior Margin Calls have been issued or not, we may in our sole discretion choose to close or terminate your Transaction and Account without notice to you immediately. This will not constitute an Event of Default. Without prejudice to the foregoing, any Transaction entered into by you or on your behalf which results in there being insufficient Margin to cover any actual or anticipated losses or liabilities in connection with your Account will constitute an Event of Default and we may in our discretion exercise our rights in clause 25 of these Terms, whether there has been a Margin Call or not. We may close your open CFD trade if you do not maintain the minimum margin that is required. This process may be automated. ESMA set the Margin close-out protection on an account basis at 50% of minimum required initial margin. Under this option, we are required to close out one or more of an investor's positions on the best possible terms for the investor if the value of the margin in a CFD trading account falls below 50% of the total minimum initial margin required for all CFDs in the account. Margin close-out protection limits clients' losses in normal trading circumstances
- 22.5. *Margin Calls.* We do not make Margin Calls in the ordinary course of business. We may from time to time and in our sole discretion call upon and request that you deposit additional Margin or Collateral to secure your obligations to us. Any Margin Call, without closing your Account or liquidating your positions, shall not be deemed precedent for future Margin Calls. We are also not obliged to make any Margin Call of you at all or within any specific time period, and any failure or delay on our part to make any Margin Call at any time will not operate as a waiver of any of our rights or remedies under or in connection with these Terms, whether in respect of such Margin Call or otherwise. We shall not be liable for any losses you may suffer as a result of any failure to respond to a Margin Call. We may in our sole discretion close or terminate your Transactions without notice to you immediately and decline to enter into any further Transactions with you if you fail to honour any Margin Call and this shall constitute an Event of Default and we may exercise our rights in clause 25 of these Terms.
- 22.6. We shall not be responsible or liable for any losses you may suffer as a result of your Account or any of your Transactions not being closed by us, except where it is our regulatory obligation, notwithstanding that you had insufficient margin in your Account to meet our Margin requirements.
- 22.7. If you have more than one Account we shall be entitled in our discretion (but shall not be obliged) to transfer and use available Margin, Collateral or other funds from one Account for the purposes of discharging Margin requirements or liabilities in one or more of your other Accounts even if such transfer may result in the closure of open positions in any Account from which Margin, Collateral or other funds are transferred.

- 22.8. *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 Margin transferred to us, except a lien routinely imposed on all Securities in a clearing system in which such Securities may be held.
- 22.9. *Power to charge.* You agree that we may, free of any adverse interest of yours or any other person, grant a security interest over Margin provided by you to cover any of our obligations to an intermediate broker or Market, including obligations owed by virtue of the positions held by us or another of our clients.
- 22.10. *General lien.* In addition and without prejudice to any rights to which we may be entitled under these Terms or any Applicable Regulations, we shall have a general lien on all property held by us or our nominees on your behalf until the satisfaction of the Secured Obligations.
- 22.11. Any action taken by us in connection with or pursuant to a CFD Contract or other Transaction by us at a time at which any Event of Default specified in clause 25 of these Terms has occurred (whether or not we have knowledge thereof) shall be entirely without prejudice to our right to refuse any further performance thereafter, and shall not in any circumstances be considered as a waiver of that right or as a waiver of any other rights of ours should any such Event of Default have occurred.
- 22.12. *Security interest.* As a continuing security for the performance of all your obligations (whether actual or contingent, present or future) to us pursuant to or in connection with these Terms (“Secured Obligations”) you grant to us, with full title guarantee, a first priority fixed charge over, and security interest in, all non-cash Margin and other collateral (collectively “Collateral”) now or in the future provided by you to us or to our order or under our direction or control or that of a Market standing to the credit of your Account or otherwise held by us on your behalf.
- 22.13. *Further assurance.* You agree to execute all further documents and to take such further steps as we may request from time to time to create, perfect, maintain or protect our charge and security interest referred to in clause 22.12, to be registered as owner of or obtain legal title to all Collateral, to secure further the Secured Obligations, or to enable us to exercise our rights or satisfy any Market requirement.
- 22.14. *Substitution.* You may not withdraw or substitute any property or asset subject to our charge and security interest referred to in clause 22.122 without our prior written consent.

## **23. Right of Set-Off and Netting**

- 23.1. We may at any time set off, without prior notice to you or any other requirement, any obligation (whether or not such obligation is matured or contingent, whether or not arising under these Terms or under or in connection with any other agreement, transaction or instrument, and regardless of the Currency, place of payment or booking office of the obligation) you may from time to time owe to us, as reasonably determined by us, against any obligation (whether or not such obligation is matured or contingent, whether or not arising under these Terms or under or in connection with any other agreement, transaction or instrument, and regardless of the Currency, place of payment or booking office of the obligation) we may then owe to you, as reasonably determined by us.
- 23.2. For the purpose of any cross-currency set-off, we may convert either obligation at the applicable market exchange rate selected by us on the relevant date.
- 23.3. If the amount of any obligation is unascertained, we may in good faith estimate that amount and set off in respect of the estimate, subject to us accounting to you when the amount of the obligation is ascertained.

23.4. Our rights under this clause 23 will be in addition to any other right of set-off or similar right we may have, whether as a matter of contract, under common law, or otherwise.

*Netting*

23.5. If an Event of Default occurs under Clause 25, then we may exercise our rights under Clause 23.9. If a Bankruptcy Default occurs at any time, the provisions of Clause 23.8 shall apply.

23.6. Subject to Clause 25, at any time after an Event of Default occurs, we may provide you with notice of a day (the Liquidation Date) for the termination and liquidation of Transactions in accordance with the provisions of this Clause.

23.7. Unless we tell you otherwise, the date on which any Bankruptcy Default occurs shall automatically be the Liquidation Date, without the need for us to provide you with any notice and the provisions of Clause 23.9 shall apply.

23.8. On the occurrence of a Liquidation Date:

- (i) neither you nor us shall be obliged to make any further payments or deliveries under any Transaction which would, if not for this Clause, have become due for performance on or after the Liquidation Date and these obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount (as defined below in sub-clause iii);
- (ii) we shall (on, or soon as reasonably practicable after, the Liquidation Date) determine for each Transaction referred to in Clause 23.9 i. above, the total cost, loss or gain as a result of the termination under these Terms of each payment or delivery that would otherwise have been required to be made under each Transaction. Sums determined under this sub-clause will be expressed in the currency that we specify in writing to you or, if we do not specify a currency, the Base Currency applicable to your account; and
- (iii) we shall treat each cost or loss to us as a positive amount and each gain by us as a negative amount and combine all of these amounts to produce a single, net positive or negative amount, expressed in the Base Currency applicable to your account (Liquidation Amount).

23.9. If the Liquidation Amount 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 this amount.

23.10. On the Liquidation Date, we shall also be entitled, at our reasonable discretion, to terminate and liquidate any other Transactions entered into between us that remain unsettled, in accordance with Clause 23.9.

23.11. The Liquidation Amount shall be paid in the Base Currency applicable to your account by the close of business on the Business Day following the notification of the Liquidation Amount (converted as required by applicable law into any other currency, any costs of such conversion to be borne by you, and (if applicable) deducted from any payment to you). Any Liquidation Amount not paid on the due date shall be treated as an unpaid amount and bear interest at the rate reasonably determined by us to be the cost of funding that unpaid amount. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.

- 23.12. For the purposes of any calculation under this clause, we may convert amounts denominated in any other currency into the Base Currency applicable to your Account at the current rate at the time of the calculation that we reasonably select.
- 23.13. Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction for as long as an Event of Default or a Potential Event of Default with respect to you has occurred and is continuing.
- 23.14. Our rights under this clause shall be in addition to, and will not act to limit or exclude, any other rights which we may have (whether by agreement, operation of law or otherwise).
- 23.15. This clause applies to each Transaction entered into or remaining unsettled between us on or after the date these Terms takes effect.
- 23.16. Subject to Clause 23.11, the provisions of this Clause shall not apply to any Transaction which is subject to liquidation and termination under another agreement. However, any sum resulting from a liquidation and termination under another agreement may be set off against the Liquidation Amount.
- 23.17. Unless otherwise agreed in writing between us, or the rules of any relevant exchange provide otherwise, if we enter into any Transaction with you in order to close out any existing Transaction between us then our respective obligations under both such Transactions shall automatically and immediately be terminated upon entering into the second Transaction, except for any settlement payment due from one of us to the other in respect of such close-out.

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

- 24.1. *Representations and warranties.* Representations and warranties are personal statements, assurances or undertakings given by you to us on which we rely when we deal with you. You represent and warrant to us on and as of the date these Terms comes into effect and on and as of each date on which any Transaction is outstanding, as follows:
- (o) if you are an individual that you are over 18 years old and you have full capacity to enter into these Terms, sound mind, legal age and legal competence;
  - (p) you are willing and financially able to sustain a total loss of all year funds paid to us as a result of engaging in Transactions;
  - (q) you are not a citizen and/or legal resident of the United States; and
  - (r) if you are not resident in the UK it is lawful under applicable laws of the jurisdiction of your residence to enter into these Terms and Transactions and that you have made all appropriate enquiries to ensure that this is the case.
  - (s) you have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you to lawfully enter into and perform your obligations under these Terms and such Transactions and to grant the security interests and powers referred to in these Terms;

- (t) the persons entering into these Terms and each Transaction made on your behalf have been duly authorised to do so;
- (u) these Terms, 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 law) and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound;
- (v) no Event of Default or any event which may become an Event of Default has occurred and is continuing with respect to you or any Authorised Person;
- (w) any information you provide or have provided to us in respect of your financial position, domicile or other matters is complete, accurate and not misleading in any material respect;
- (x) except as otherwise agreed by us, you are the sole beneficial owner of all Margin you transfer under these Terms, free and clear of any security interest whatsoever other than a right to withhold or dispose of assets routinely imposed on all securities in a clearing system in which such securities may be held.

24.2. *Covenants.* You covenant and agree with us, as follows:

- 24.2.1. you will at all times obtain and comply, and do all that is necessary to maintain in full force and effect, all necessary authority, powers, consents, licences and authorisations to (i) enable you to lawfully perform these Terms and each Transaction and (ii) without limiting the generality, interests and powers referred to in these Terms referred to in this clause;
- 24.2.2. you will promptly notify us of the occurrence of any Event of Default with respect to you;
- 24.2.3. you will promptly notify us if (i) you become aware of any detail supplied on your Client Application Form or any other information provided to us in respect of your financial position or other matters being inaccurate, incomplete or misleading when supplied or provided or (ii) any such detail or information subsequently becomes inaccurate, incomplete or misleading;
- 24.2.4. you will take all sufficient steps to comply with all Market Rules in relation to these Terms and any Transaction, so far as they are applicable;
- 24.2.5. you will not send orders or take any action that could create a false impression of the demand for or value of a financial instrument, or send orders which you have reason to believe are in breach of Market Rules. You shall observe the standard of behaviour reasonably expected of persons in your position and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position; and
- 24.2.6. upon demand, you will provide us with any information that we may reasonably require as evidence of your compliance with the matters referred to in this Clause or any Market Rules.

## 25. Events of Default

- 25.1. The provisions contained in this Clause 25 supplement any other rights that we have under these Terms We may, at any time and without notice to you, sell, apply, setoff and/or charge in any manner any or all



of your Security and/or the proceeds of any of the same of which we have custody or control, in order to discharge any or all of your obligations to us. Gildencrest Capital reserves all rights to handle close-outs in any way it sees fit, including in relation to Order Execution, fill quality, priority and pricing in relation to any Event of Default under these Terms or other agreement it might have with you. Each and any of the following shall constitute an Event of Default:

- (a) your failure to make any payment (including any payment of Margin) to us in accordance with these Terms;
- (b) your continued failure to perform any obligation to us one Business Day after we have given you notice of non-performance;
- (c) if we have reasonable grounds to believe the you failed to make any payment or that you are in material breach of any part of these Terms;
- (d) if we consider it necessary or desirable to prevent what is considered to be or might be a violation of any laws, applicable regulations or good standard of market practice;
- (e) if any representations or warranties given by you or any Authorised Person in these Terms, are or become untrue;
- (f) any action is taken or any event occurs, in each case which we believe might have an adverse effect upon your ability to perform any of your obligations under or in connection with these Terms or any Transaction;
- (g) we believe that doing so is otherwise necessary or desirable for our own protection, whether from the perspective of financial exposure, reputational risk, or otherwise or if any action is taken or event occurs which we consider might have a material adverse effect on your ability to perform any of your obligations under these Terms;
- (h) if you are unable to pay your debts as they fall due; you are bankrupt or insolvent as defined under any bankruptcy or insolvency law applicable to you; or if you disaffirm, disclaim or repudiate any obligation of you in favour of us under these Terms; the initiation by a third party of proceedings for your bankruptcy (if you are an individual) or for your winding-up or for the appointment of an administrator or receiver in respect of you or any of your assets (if you are a company) or (in both cases) if you make an arrangement or composition with your creditors or any other similar or analogous procedure is commenced in respect of you (a Bankruptcy Default);
- (i) you or if you are a Company, any of your subsidiaries are or become unable to pay your/their debts as and when they fall due;
- (j) if we or you are requested to close a Contract (or any part of a Contract) by any regulatory agency or authority;
- (k) if you are an individual, your death or your incapacity; or
- (l) any other circumstance where we reasonably believe that it is necessary or desirable to declare an Event of Default to protect ourselves or all or any of our other clients.
- (m) then, in each such case, we may (but we will not be obliged to) exercise any or all of our rights and remedies set out in clause 25.2.

- 25.2. Upon occurrence of an Event of Default we may by notice specify a date for the termination of any or all outstanding Transactions, except that the occurrence of an Event of Default of a type specified in subparagraph (k) or (h) of clause 25.1 will result in the automatic termination of all outstanding Transactions. If any or all outstanding Transactions are terminated pursuant to the preceding sentences, we will be entitled, without prior notice to you and without limitation of any other rights or remedies we may have under these Terms or otherwise, to take any or all of the following actions:
- (a) Immediately or by a specified date close or reverse any Open Positions or execute any Orders on your Account;
  - (b) prohibit you from accessing or using your Account;
  - (c) prohibit, suspend, limit or restrict your ability to place any Order, give any instruction or execute any Transaction in relation to your Account;
  - (d) vary the Margin Requirements;
  - (e) to sell or charge in any way any or all of your securities, assets and property which may from time to time be in our possession or control. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to these Terms or to any exercise by us to consolidate mortgages or our power of sale. We shall be entitled to apply the proceeds of sale or other disposal in paying the costs of such sale or other disposal and in or towards satisfaction of the Secured Obligations;
  - (f) terminate these Terms immediately without notice, or with notice with termination occurring on a specified date selected by us;
  - (g) exercise our right of set-off; net-off; and/or
  - (h) to pay to you the fair market value at the time we exercise such right, of any investments held by us, or our agents, instead of returning to you investments equivalent to those credited on your Account.
- 25.3. We will not lose any of our rights or remedies under or referenced in this clause 25 by reason of any failure or delay on our part in exercising them, and no such failure or delay will constitute a waiver of any such right or remedy. Under no circumstances will we be under any obligation to exercise any such right or remedy or, if we do exercise any such right or remedy, to do so at a time or in a manner that takes into account your interests or is otherwise beneficial to you.
- 25.4. Any action taken or not taken by us in connection with or pursuant to any Transaction at any time after the occurrence of any Event of Default (whether or not we have knowledge of such event) will be entirely without prejudice to our right to take or not take any similar action or to refuse to take any further action at any time thereafter, and does not in any circumstances constitute as a  
  
waiver of that right or any other rights or remedies of ours should any such Event of Default have occurred.
- 25.5. You agree to give us notice of any event of a type specified in clause 25.1. immediately upon becoming aware of its occurrence.

- 25.6. Notwithstanding anything in these Terms to the contrary, we will not be obliged to make any payment or delivery otherwise required to be made by us to you pursuant to or in connection with these Terms or any Transaction for as long as an Event of Default has occurred and is continuing.
- 25.7. You shall execute the documents and take any action as we may request in order to protect our rights under these Terms or under agreement you have entered into with us.
- 25.8. Our rights and remedies under or referenced in this clause 25 will be in addition to any other rights or remedies we may have, whether as a matter of contract, under common law, or otherwise.

## **26. Termination**

- 26.1. These Terms shall remain in full force and effect until terminated in accordance with this Clause 26. You may terminate these Terms at any time by giving at least 3 Business Days' prior written notice to us.
- 26.2. We may terminate these Terms at any time by giving at least 10 Business Days' prior written notice to you, except that we may terminate these Terms immediately if you fail to observe or perform any provision of these Terms, upon the occurrence of any Event of Default, or at any time at which you have no open Transactions in your Account. If we have serious grounds or valid reasons for doing so, we may however terminate the Terms with less than 10 Business Days' notice, including immediately.
- 26.3. Termination will be without prejudice to accrued rights and remedies and the existence and enforceability of any open Transaction, which will remain open until closed in accordance with these Terms. On termination, the parties undertake to complete all Contracts that are already entered into or under execution as soon as possible. Termination will be without prejudice to the completion of Transactions already initiated. All Transactions in progress will be executed in accordance with your instructions and these Terms shall continue to bind parties in relation to such Transactions.
- 26.4. At any time after termination of these Terms, we may, without notice, close out any of your open Transactions.
- 26.5. Upon termination of these Terms, any and all amounts payable by you to us will become immediately due and payable, including:
  - (a) all outstanding Commissions, fees and other charges;
  - (b) any losses incurred by us as a result of or in connection with such termination; and
  - (c) any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.
- 26.6. Any and all provisions that by their terms or nature are intended to apply after termination of these Terms will survive such termination, and each Transaction that is open at the time of termination will continue to be governed by these Terms.

## **27. Exclusions, Limitations and Reimbursement**

- 27.1. *General exclusion.* Notwithstanding anything in these Terms (other than clause 1.8) to the contrary, neither we nor any of our directors, officers, employees or agents (collectively, "Protected Persons"), will be liable for any Loss (including any incidental, indirect or consequential Loss), whether arising out of negligence,

breach of contract, misrepresentation or otherwise, incurred or suffered by you or any other person under or in connection with these Terms, any Transaction or any of our dealings with you (including any Order in respect of a Transaction not accepted by us), and irrespective of whether or not you or any other person have been informed of the possibility of such Loss, in each case except to the extent that such Loss arises directly from our own willful default or fraud, as determined by a competent court in a final, non-appealable judgment. Without limiting the generality of the foregoing, under no circumstances will any liability we may have to you extend to any loss of profits, loss of goodwill, loss of business opportunity or reputational damage. The foregoing will not, however, limit our liability for death or personal injury resulting from our negligence.

- 27.2. If at any time you are unable, for whatever reason, to communicate with us, we do not receive any communication sent by you, or you do not receive any communication sent by us under these Terms, we will not:
- 27.2.1. be responsible for any loss, damage or cost caused to you by any act, error delay or omission resulting therefrom where such loss, damage or cost is a result of your inability to open a Transaction; and
  - 27.2.2. except where your inability to communicate with us results from our fraud, willful default or negligence, be responsible for any loss, damage or cost caused to you by any act, error, omission or delay resulting therefrom including without limitation, where such loss, damage or cost is a result of you inability to close a Transaction.
- 27.3. You agree to reimburse and fully compensate us and any of our directors, officers, employees and agents from and against any and all liabilities, losses, damages, costs and expenses, including legal fees incurred as a result of your breach of these Terms or in connection with the provision of the services under these Terms to you provided that any such liabilities, losses, damages, costs and expenses have not arisen as a result of our negligence, fraud or willful default.
- 27.4. *Trading losses.* For the avoidance of doubt, in no circumstances will we or any other Protected Person be liable or responsible to you for any losses you may incur or suffer as a result of entering into Transactions other than Negative Balance protection on per account basis which will provide an overall guaranteed limit on retail client losses as of 1<sup>st</sup> Aug 2018; the liability of a retail investor in respect of a CFD trading account is limited to payments already made into the account and any uncrystallised profits on open positions within the account.
- 27.5. *Tax implications.* Without prejudice to any other disclaimer or limitation of liability contained in these Terms, neither we nor any other Protected Person will have any liability or responsibility for any adverse tax implications of any Transaction.
- 27.6. *Changes in the market.* Without prejudice to any other disclaimer or limitation of liability contained in these Terms, neither we nor any other Protected Person will have any liability or responsibility by reason of any delay in accepting any Order placed by you or executing any Transaction or any change in market conditions.
- 27.7. *Force Majeure.* We may, in our reasonable opinion, determine that an emergency or an exceptional market condition exists (a "Force Majeure Event"), in which case we will, in due course, inform the appropriate regulatory authority and take reasonable steps to inform you. A Force Majeure Event will include, but is not limited to, the following:

- 27.7.1. any act, event or occurrence (including without limitation any act of God, strike, riot or civil commotion, act or terrorism, war, industrial action, acts and regulations of any governmental or supra national bodies or authorities) that, in our opinion, prevents us from maintaining an orderly market in one or more of the Financial Instruments in respect of which we ordinarily deal in Transactions;
- 27.7.2. the suspension or closure of any market or the abandonment or failure of any event on which we base, or to which we in any way relate, our quote, or the imposition of limits or special or unusual terms on the trading in any such market or on any such event;
- 27.7.3. the occurrence of an excessive movement in the level of any Transaction and/or the market of an Reference Assets or our anticipation (acting reasonably) of the occurrence of such a movement;
- 27.7.4. any breakdown or failure of transmission, communication or computer facilities, interruption of power supply, or electronic or communications equipment failure; and
- 27.7.5. failure of any relevant supplier, intermediate broker, agent or principal of ours, custodian, subcustodian, dealer exchange, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations.
- 27.8. If we determine that a Force Majeure exists, we may, at our absolute discretion, without notice and at any time, take one or more of the following steps:
- 27.8.1. increase your Margin requirements;
- 27.8.2. close all or any of your open Transactions at such price as we reasonably believe to be appropriate;
- 27.8.3. suspend or modify the application of all or any of the provisions of these Terms to the extent that the Force Majeure Event makes it impossible or impracticable for us to comply with the provision or provisions in question; or
- 27.8.4. alter the Last Dealing Time for a particular Transaction.
- 27.9. *Reimbursement.* Without prejudice to our rights under clauses 27.1 and 27.2, you will pay to us such sums as we may from time to time require in any of your Accounts with us and fully reimburse or fully compensate any Losses, taxes, imposts and levies which we or any other Protected Person may incur or suffer in connection with or related to any of your Accounts or any Transaction or any matching Transaction on a Market or with an intermediate broker or as a result of any misrepresentation by you or any violation by you of any of your obligations under these Terms (including in connection with any Transaction) or the enforcement of any of our rights or remedies under or in connection with these Terms or any Transaction, subject to clause 27.4
- 27.10. *Claims from your customers.* To the extent that you place any Order or enter into any Transaction for the Account of any customer of yours, you will fully compensate or reimburse us and protect us (and all other Protected Persons) against any and all Losses resulting from or arising out of any claims made by any customer of yours against us or any other Protected Person.
- 27.11. *Indemnity.* To the extent permitted by law, you will indemnify, protect and hold us harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and/or costs resulting from or arising out of any act or omission by any person obtaining access to your account by using your designated user ID and/or password, whether or not you authorised such access.

27.12. *Liability.* You shall not be liable for un-authorized use of the Trading Platform occurring after you have informed us. This right to compensation shall survive any termination of this Agreement. You will pay us for any losses we may incur if you fail to perform any of your obligations under these Terms or a Transaction, or from your use of the Trading Platform. You acknowledge, recognise and accept that any market recommendation and any information communicated by Gildencrest Capital does not constitute an offer to buy or sell or the solicitation of an offer to buy or sell a Contract and that such recommendation and information, although based upon information from sources believed by Gildencrest Capital to be reliable, may be based solely on a broker's opinion and that such information may be incomplete and may be unverified and unverifiable. Gildencrest Capital makes no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy or completeness of any information or trading recommendation provided to you.

For the purposes of a separate EMIR agreement (if applicable to you), you accept that we will perform the obligations owed to you in accordance with our reasonable interpretation of EMIR. We shall not be liable for any losses, liabilities, damages, claims, costs or expenses resulting from the fact that such interpretation is incorrect.

In the event that a situation arises that is not covered under these Terms, we will resolve the matter on the basis of good faith and fairness and, where appropriate, by taking such action as is consistent with market practice and/or taking into account the treatment we may receive from a Counterparty or any relevant third party.

## **28. Miscellaneous**

28.1. *Electronic Communications and Notices.* Subject to Applicable Regulations, any communications between us using electronic signatures will be binding to the same extent as if they were in writing. By signing the Client Application Form you give your consent to the receipt of communications (including any notices provided for in these Terms) by electronic means, notwithstanding that certain communications would otherwise be required to be made using a durable medium under Applicable Regulations. Without limiting the generality of the foregoing, Orders placed or other instructions given by electronic means will constitute evidence of such Orders or instructions.

Any notice or other communication given under these Terms including Account Statements and Account Summaries must be in writing and in English and may be:

- (a) Made by electronic means, including email or if sent by us to the you by display on the Trading Platform;
- (b) delivered personally;
- (c) sent by prepaid recorded delivery or registered post, or registered airmail in the case of an address for service outside the United Kingdom; or
- (d) if delivered by hand, at the time of delivery;
- (e) if sent by prepaid recorded delivery or registered post, two clear Business Days after the date of posting (i.e. not including the day of posting itself);

- (f) if sent by registered airmail, five clear Business Days from the date of posting (i.e. not including the day of posting itself);
- (g) if sent by email, one hour after sending during business hours at its destination or, if not within business hours, at the opening of the next period of business hours, but subject to no “not sent” or “not received” message being received from the relevant email providers;
- (h) if posted on the Trading Platform when the message is placed on the Trading Platform;
- (i) For the purpose of this Clause 28 business hours means between 09:00 and 17:00 London time on a Business Day.

In respect of email, we are not responsible for any delay, alteration, redirection or any other modification the email may undergo after transmission from us. Similarly, in respect of messages on your account on the Trading Platform, it is your responsibility to ensure that your software and hardware setup does not prevent you receiving emails or accessing the Trading Platform.

- 28.2. *Intellectual Property and Confidentiality.* All copyright, trademark, trade secrets and other intellectual property rights in the Trading Systems shall remain at all times the sole and exclusive property of us and/or our third party service providers and you shall have no right or interest in the Trading Systems except for the right to access and use the Trading Systems as specified herein. You acknowledge that the Trading Systems are confidential and have been developed through the expenditure of substantial skill, time, effort and money. You will protect the confidentiality of Gildencrest Capital and/or our third party service providers by allowing access to the Trading Systems only by you and your agents on a need to access basis. You will not publish, distribute, or otherwise make available to third parties any information derived from or relating to the Trading Systems. You will not copy, modify, de-compile, reverse engineer, and make derivative works of the Trading Systems or in the manner in which it operates.
- 28.3. *Change of address.* You agree to immediately notify us in writing of any change of your address or other contact details.
- 28.4. *Third party rights.* A person who is not a party to these Terms has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of these Terms of Business.
- 28.5. *Assignment.* These Terms may not be transferred or assigned by you to another person for the benefit of and binding upon both of us and our respective successors and permitted assigns. We  
may transfer these Terms or any rights or obligations hereunder to any third party which acquires the business of Firm, without your consent.
- 28.6. *Rights and remedies.* The rights and remedies provided or referenced in these Terms are cumulative and not exclusive of any other rights or remedies we may have, whether as a matter of contract, under common law, or otherwise. We will be under no obligation to exercise any right or remedy at all or in a manner or at a time or in a manner that takes into account your interests or is otherwise beneficial to you. No failure or delay by us in exercising any of our rights or remedies under or in connection with these Terms or any Transaction will operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy will prevent further exercise of that right or remedy or the exercise of another right or remedy.

28.7. *Partial invalidity.* If, at any time, any provision of these Terms 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 these Terms nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

28.8. *Entire Terms of Business.* These Terms together with the Schedules and Annexes attached constitutes the entire agreement between the parties with respect to the subject matter of these Terms and supersedes all prior or contemporaneous oral or written communications, proposals, agreements and representations with respect to such subject matter.

For various investments, instruments and groups of Clients, we may provide additional business terms. You acknowledge, and accept that:

- (y) such business terms made available to you shall constitute an addition to these Terms; and
- (z) you should not undertake any Transaction unless you have carefully read the business terms applicable for such investment or instrument. If you do not understand any of the additional terms please call us on or email us at [customersupport@gildencrest.co.uk](mailto:customersupport@gildencrest.co.uk).

28.9. *Recording and monitoring of communications:* We may record and monitor any communications in relation to this Agreement, using monitoring devices or other technical and physical means. The recording and monitoring of communications may take place when deemed necessary for the purposes permitted by law and to ensure regulatory compliance. Telephone conversations and any other electronic communications may be recorded without use of a warning tone or notification to ensure that the material terms of a Transaction, and any other material information relating to a Transaction is promptly and accurately recorded. Such records will be our sole property and accepted by you as evidence of the orders or instructions given. We may use such recordings and other records as evidence in court or other proceedings.

28.10. *Our records.* Our records 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 Proceeding because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to comply with any of your recordkeeping obligations, notwithstanding the fact that records may be made available to you on request in our sole and absolute discretion.

28.11. *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.

28.12. *Co-operation for Proceedings.* You agree to co-operate with us to the full extent possible in the defence or prosecution of any Proceeding.

28.13. *Complaints.* If you have a reason to make a complaint, please write in the first instance to [compliance@gildencrest.co.uk](mailto:compliance@gildencrest.co.uk). Any complaint will be fully investigated, and a full resolution sought. Firm's complaints procedure is available upon request but will automatically be provided to you if a complaint is received. You have the rights to complain to the Financial Ombudsman Service when trading in a personal capacity. If you are unhappy or dissatisfied with our handling or findings in relation to a dispute or complaint you may refer the matter to the Financial Ombudsman Service for further investigation on +44 (0)800 023 4567 or write to: Financial Ombudsman Service, Exchange Tower, Harbour Exchange, London E14 9SR.



28.14. *Investor protection scheme.* You may be entitled to compensation from the Scheme if we cannot meet our obligations to you. This depends on the type of business and the circumstances of the claim. The Scheme is only available to certain types of claimants and claims. Payments under the Scheme in respect of investments are subject to a maximum payment to any eligible investor of 100% of the first GBP 85,000 of investment. The amounts of compensation may be changed from time to time and you should check your entitlement with the Scheme. Further information about compensation arrangements is available from the Scheme. Further details of the Scheme are available on request or at the Scheme's official website at [www.fscs.org.uk](http://www.fscs.org.uk).

You can contact the Scheme by calling their Helpline on +44 (0)800 678 1100, logging onto their website at [www.fscs.org.uk](http://www.fscs.org.uk) or writing to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY.

28.15. *Taxes.* You are responsible for all taxes (UK or foreign) that may arise as a result of or in connection with a Transaction, whether under current or changed law or practice. We shall have no responsibility for any of your tax liabilities, or for providing information or advice in respect of such liabilities and shall not be responsible for notifying you of a change in tax law or practice.

## 29. Data Protection and Disclosure of Information

29.1. Neither party shall disclose any information relating to the business, investments, finances or other matters of a confidential nature of the other party (the Confidential Information) of which it may in the course of its duties obtain possession of, and each party shall use all reasonable endeavors to prevent any such disclosure, except in circumstances as set out in this Clause 29.

29.2. **How we collect personal data:** We may collect personal data about you (and, where applicable, people connected to you business such as employees, contractors, officers, partners, beneficial owners and directors) in the onboarding process, including through completing due diligence, when administering transactions and carrying out reviews, when you contact us (including by telephone), when you use our website or applications, and from publicly available sources or third parties.

29.3. Where applicable, You acknowledge and warrant, when you, or anyone on your behalf provides us with any personal data relating to people connected to your business (such as employees, contractors, officers, partners, beneficial owners and directors), in connection with this Agreement, that this disclosure will only be made in compliance with Data Protection Laws. You further warrant that you have an appropriate legal basis for disclosing the personal data to us and for us to process the personal data as contemplated under this Agreement, and that any consents required have been obtained and are valid. You shall ensure that the herein referenced people are aware of their personal data disclosure, our identity and contact details, and the matters covered in this Section 29.

29.4. The personal **data we collect about you** may include:

- a) your full name and nationality/dual nationality;
- b) your contact details (for example, a postal address, email address and/ or telephone number);
- c) your date of birth and gender;
- d) your work contact information, and details of your job role;
- e) your financial details, including tax details;

- f) information relating to your trading activities, including trading statements, trading performance, trading experience and trading behaviour;
  - g) your photographic ID, such as a passport, national ID or driver's licence for client identification purpose;
  - h) any other information that you may disclose to us when you contact.
- 29.5. We treat all information we hold about you or your Account or Transactions **as confidential**, even when you are no longer a client. This information will **be securely** stored for the period of time as required by the law. **Retention of personal data:** We only collect your personal data for the specific purposes set out at Section 29.6 and retain your personal data only for as long as is necessary to these purposes, and for the purposes of legal and regulatory compliance.
- 29.6. For the purposes of the General Data Protection Regulation (Regulation (EU) 2016/679) or any successor law enacted in England and Wales ("Data Protection Laws") Gildencrest Capital is the controller of personal data collected in connection with providing the services.
- 29.7. **How we may use your personal data:** We may use your personal data for the purposes of:
- a) administering transactions and maintaining current and accurate information in relation to such transactions;
  - b) providing services and access to online platforms; contacting you, subject to Section 29.8 below;
  - c) compliance with applicable laws, including carrying out anti-money laundering checks and complying with reporting obligations;
  - d) creating statistical data in order to fulfil our legal and accounting requirements, to analyse our business, and to manage risks and internal business procedures;
  - e) introducing you to third party brokers with whom we have a mutual relationship;
  - f) defending and protecting our rights.
  - g) **Legal basis for processing your personal data:** For the purpose of the Data Protection Laws, the legal basis on which we process personal data are that the processing is necessary for our legitimate interest in administering our business.
- 29.8. **Disclosures of personal data:** The provisions of Clause 29.1 shall not apply to the following circumstances:
- (a) where disclosure of confidential information is required by law or if requested by any regulatory authority or exchange having control or jurisdiction over us; to regulators and governmental agencies, in any jurisdiction, where we are required to do so by Applicable Regulations;
  - (b) to investigate or prevent fraud or other illegal activity;
  - (c) to any third party in connection with the provision of Services to you by us;
  - (d) to any nominee, sub-custodian or intermediate brokers or settlement agents;
  - (e) for purposes ancillary to the provision of the Services or the administration of your Account, including, without limitation, for the purposes of credit or identification enquiries or assessments;

- (f) disclose information to anyone to whom we transfer or propose to transfer either our rights or duties under this Agreement; or to any third party as a result of any restructuring, sale or acquisition of any company within our group provided that any recipient uses your information for the same purposes as it was originally supplied to us and/ or used by us;
- (g) disclose information where there is a public duty to disclose or our interests require disclosure; or with your consent.

29.9. **Contacting you:** We may contact you by post, telephone, or by email using your personal data (contact details in particular) regarding your account and/ or announcements or updates to our products and services. If you do not wish your personal data to be used for these purposes, please give us written notice to that effect (to direct your email quicker please include the words “Data Protection” in the subject line of the email). If we will contact you for marketing purposes we will ask for your prior explicit consent.

29.10. **Your Personal Data rights:** You may be entitled to request access to personal data we hold about you, or to request that your personal data is erased, that its processing is restricted, or that any inaccurate personal data we hold about you is rectified. You may also have the right to object to the processing of your personal data and, in some circumstances, you may have the right to receive a copy of the personal data we hold about you in a machine-readable format. If you wish to make such a request, please give us written notice to that effect (to direct your email/mail quicker please include the words “Data Protection” in the subject line of the email/letter).

If you are an individual, we are obliged to supply to you, on request, a copy of the personal data which we hold about you (if any). We will charge a reasonable fee for administrative costs of complying with such a request if:

- (a) it is manifestly unfounded or excessive; or
- (b) you request further copies of data following a request.

You agree and acknowledge that copies of recordings as referred to in Clause 29.10 will be available on request for a period of five years and, where requested by a competent authority, for a period of up to seven years.

29.11. **The Information Commissioner’s Office:** You have the right to complain to the Information Commissioner’s Office if you believe that we have breached our obligations under the Data Protection Laws, or you are otherwise concerned about the way in which your personal data is handled. Please visit [www.ico.org.uk](http://www.ico.org.uk) for further information.

29.12. **International transfers of personal data:** The personal data that we collect from you may be transferred to, and stored at, a destination outside the EEA. Any such transfers of your personal data will take place in compliance with the Data Protection Laws and on the basis of appropriate and suitable safeguards. If you would like further information about the way in which we transfer your personal data, please give us written notice to that effect (to direct your email/mail quicker please include the words “Data Protection” in the subject line of the email/letter).

You acknowledge and accept that by agreeing to these Terms, you will be consenting to the transmittal of your personal data (and/or have obtained consent from individuals working on your behalf) outside the EEA.

You agree that we may pass information about you which you have provided to us to any entity of Gildencrest Capital Group and to external companies to help us to process and/or analyse this information as part of the provision of Services to you.

### 30. TCF (Treating Customers Fairly)

30.1. We continually monitor our policies, procedures and business conduct as we are committed to providing the best service we can to our clients. We adopt the highest standards expected of us under the 'Treating Customers Fairly' policy laid down by the FCA:

- a) We ensure all staff have the highest levels of training and product knowledge at all times.
- b) We ensure that clients are made aware of the risks associated with their trading or betting activity.
- c) We provide products that are clearly defined and easy to understand and trade.
- d) We constantly update our website with product and market information.
- e) We provide tutorials and literature to help inform and educate client.
- f) We ensure that all promotions are clear and not misleading.
- g) We have a clear and simple procedure in place for clients to follow in the event of a complaint.
- h) We actively encourage feedback to ensure that clients fully understand all areas of our service.

31. **Responsible Trading.** Gildencrest Capital wishes you to trade successfully, but we are fully aware that this does not always happen, and we actively encourage responsible trading. In those situations it is important that you are responsible in your actions to make sure you do not lose more money than you can afford to. **You should only ever speculate with money you can afford to lose and it is imperative that you have read and understood our Risk Warning notice.** We do not recommend borrowing money, spending more than you can afford or using money set aside for other purposes for trading or spread betting. If you do feel that you need help in this area then the following web sites may be useful to you. They are confidential and contain information, email addresses and help lines: [www.gamcare.org.uk](http://www.gamcare.org.uk); [www.gamblersanonymous.org.uk](http://www.gamblersanonymous.org.uk); [www.gambleaware.co.uk](http://www.gambleaware.co.uk); [www.gamblingtherapy.org](http://www.gamblingtherapy.org).

### 32. Dispute Resolution

32.1. *Governing law.* A Transaction which is subject to the Applicable Regulations of a Market shall be governed by the law applicable to it under those Applicable Regulations. Subject to the immediately preceding sentence, these Terms and all Transactions will be governed by and construed in accordance with English law.

32.2. *Jurisdiction.* Without prejudice to any rights you may have to refer a complaint to the FOS, as set out in clause 28.13 above, the Courts of England have exclusive jurisdiction to settle any dispute arising in connection with these Terms and for such purposes we and you irrevocably submit to the jurisdiction of the English courts.

32.3. In the event that you identify a Dispute, you will need to provide us with a written notice specifying the details of the Dispute. Such notice should be delivered for the attention of Customer Services and both parties will use reasonable efforts to resolve such Dispute within five (5) Business Days. In the event that the Dispute remains outstanding, the Dispute will be referred to our Compliance Department who will take such action as is necessary to ensure that such Dispute is resolved. If the Dispute remains outstanding after ten (10) Business Days, we shall refer the Dispute to our senior management.

32.4. In the event that we identify a Dispute, we shall provide you with a written notice specifying the details of the Dispute. You will inform us of the contact details of the person to whom the notice should be addressed. Both parties will use reasonable efforts to resolve such dispute within five (5) Business Days. In the event that the Dispute remains outstanding, you will refer the dispute to the relevant department in your organisation who will take such action as is necessary to ensure that such Dispute is resolved. If the Dispute remains outstanding after ten (10) Business Days, you will refer the Dispute to your senior management.

**These are our standard terms of business upon which we intend to rely. For your own benefit and protection, you should read these Terms carefully. If you do not understand any point, please ask for further information or seek independent legal or financial advice.**

### **Annex 1. Definitions**

1. In these Terms the following words and phrases have the following meanings:

Account	means your account(s) with Firm;;
Account Base Currency	has the meaning set out in clause 9.1;
Account Manager	has the meaning set out in clause 10.1;
Act	means the UK Financial Services and Markets Act 2000;
Applicable Regulations	means the FCA Rules or any other rules of a relevant regulatory authority or any other Applicable Regulations of a relevant Market and all other applicable laws, rules and regulations as in force from time to time;
Business Day	means a day (other than a Saturday or Sunday) on which banks generally are open for business in London;
CFD	means a contract for differences within the meaning of Article 85(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
Client Money	has the meaning as defined in clause 11.1;
Client Application Form	means the application and other forms supplied by us to open your Account;
Closing Date	means the date on which the close-out of an open Transaction is effective;
Collateral	has the meaning as set out in clause 22.12;
Charges and Costs	has the meaning set out in clause 8.2 and includes, charges or other remuneration in connection with a Transaction as disclosed and as notified to you from time to time;

Contract Quantity	means the number or volume of Reference Asset units to which a Transaction relates;
Currency	will be construed so as to include any unit of account;
Current Contract Value	means the Reference Asset Price per unit multiplied by the Contract Quantity from time to time;
Dispute	means any dispute between us, in respect of which you have provided us with a notice specifying the details of the dispute, or in respect of which we have provided you with such notice;
Elective Professional Client	has the meaning set out in the FCA Rules COBS3.5;
Eligible Counterparty	has the meaning set out in the FCA Rules COBS3.5;
Event of Default	means any of the events of default as listed in paragraphs 25.1 (a) to (l) of clause Error! Reference source not found.;
Expert Advisor	has the meaning set out in clause 15.10;
Expiry Date	means the expiry date and time of an open Transaction as determined by us;
Expiry Transaction	means a Transaction which had a set contract period at the end of which the Expiry Transaction expires automatically;
Financial Instrument	means an investment of the type set out within Articles 76 to 80 or 83 to 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 including a Rolling Spot Forex/FX CFD contract;
Force Majeure Event	has the meaning set out in clause 27.7;
FCA	means the Financial Conduct Authority or any successor organisation or authority for the time being responsible for the regulation of investment business in the UK;
FCA Rules	means the Rules of the FCA as in force from time to time;
FOS	Financial Ombudsman Service;
Hedging Disruption	means circumstances where we are unable, after using commercially reasonable (but no greater) efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction or asset it deems necessary to hedge any risk related to or in connection with the relevant Transaction or (ii) realise, recover or remit the proceeds of any such transaction or asset;

Initial Margin	has the meaning set out in clause 22.1;
Insolvency Law	means, with respect to any person, any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application in the event of insolvency) applicable to such person;
Insolvency Officer	means any trustee, receiver, liquidator, conservator, administrator, insolvency officer or other similar official appointed pursuant to an Insolvency Law;
Last Dealing Time	means the last day and (as the context requires) time before which a Transaction may be dealt in, as notified to you, or otherwise the last day and (as the context requires) time on which a Reference Asset may be dealt in on the relevant Market;
Licensors	has the meaning as set out in clause 15.4;
Liquidity Provider	means a bank or other financial institution that provides executable bid and offer prices in respect of the relevant Reference Asset on a continuous or regular basis;
Loss	means any loss, cost, claim, damages (whether compensatory, exemplary or punitive) or expenses, including fees and expenses of legal counsel;
Manifest Error	has the meaning as set out clause 18.1;
Margin	means Initial Margin and Variation Margin;
Margin Call	means a demand for such cash amounts or other assets by way of Margin as we may require for the purpose of protecting itself against loss or risk of loss on present, future or contemplated Transactions under these Terms;
Margin Transaction	means derivative Transaction for which we may require Margin as a condition of entering into the Transaction;
Market	means any market or multilateral trading facility subject to government or state regulation with established trading rules and trading hours including a Regulated Market and a Multilateral Trading Facility (MTF) as defined in Article 4 of the Markets in Financial Instruments Directive 2004/39/EC;
Market Abuse	has the meaning set out in the Act and as referred to in clause 17.1;

Merger Event	means in respect of any Reference Asset which is a Security: <ul style="list-style-type: none"><li>(a) any reclassification or change of the Reference Asset that results in a transfer of or an irrevocable commitment to transfer all outstanding Securities of the same class as the Reference Asset to another person, whether by consolidation, amalgamation, merger or binding share exchange of the issuer of the relevant Reference Asset with or into another person (other than a consolidation, amalgamation, merger or binding share exchange in which such issuer is the continuing person and which does not result in a reclassification or change of all outstanding Securities of the same class as the Reference Asset); or</li><li>(b) any consolidation, amalgamation or merger of, or binding exchange of shares in, the issuer of the Reference Asset or its subsidiaries with or into another person in which the issuer is the continuing person and which does not result in a reclassification or change of all outstanding Securities of the same class as the Reference Asset but results in the Securities outstanding (excluding Securities owned or controlled by such other person) immediately prior to such event collectively representing less than 50% of the outstanding Securities immediately following such event;</li></ul>
“MiFID II”	means (i) the Markets in Financial Instruments Directive 2014/65/EU and (ii) the Markets in Financial Instruments Regulation (EU) No. 600/2014, each as amended from time to time.
Multilateral Trading Facility	has the meaning set out in the FCA Rules;
Opening Contract Value	means in respect of any Transaction, the Contract Quantity multiplied by the Opening Price;
Opening Price	means in respect of any Transaction, the price of the Reference Asset specified in an Order acceptance of which gives rise to that Transaction;
Order	means a request to open or close a Transaction at a price quoted by us as appropriate;
Proceedings	means any suit, action or proceeding under or in connection with these Terms or any Transaction, or arising out of any act or omission required or permitted under or in connection with these Terms or any Transaction, in each case whether brought or commenced by either party or a third party;
Professional Client	has the meaning set out in the FCA Rules;
Protected Persons	has the meaning set out in clause 27.1;



Reference Asset	means property of any description or an index or other factor designated in a CFD or Margin Transaction to which reference is made to fluctuations in the value or price for the purpose of determining profits or losses under the CFD or Margin Transaction;
Regulated Market	has the meaning set out in the FCA Rules;
Regulatory Consents	has the meaning set out in clause 10.2;
Related Party	has the meaning set out in the FCA Rules;
Retail Client	has the meaning set out in the FCA Rules;
Risk Notice	means the Disclosure Notice provided at Annex 2;
Rolling Spot Forex/FX CFD Contract	means either of the following:  (a) a future, other than a future traded or expressed to be as traded on market, where the property to be sold under the contract is foreign exchange or sterling; or  (b) a CFD where the profit is to be secured or loss avoided by reference to fluctuations in foreign exchange and;  in either case where the contract is entered into for the purposes of speculation;
Scheme	has the meaning set out in clause 28.13;
Secured Obligation	has the meaning set out in clause 22.12;
Security	means investments of the type set out within Articles 76 to 80 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
Spread	means the difference between the lower and higher figures of a quoted two-way price for a Financial Instrument;
Take Over Offer	means with respect to any Transaction which relates to an equity Security, a takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any person that results in such person purchasing or otherwise obtaining, or having the right to purchase or otherwise obtain, by conversion or other means, 50% or more of the outstanding voting shares of the issuer of such equity Security;

Trading Systems	means the Gildencrest Capital Limited Online Trading System (Meta Trader 4, Unica) or any other electronic trading system through which a client may electronically send to us information including prices, bids, offers and executions, as such system may exist from time to time, including without limitation, any hardware, software and/or communications link furnished by us from time to time;
Trading System Information	has the meaning set out in clause 15.3;
Transaction	means a transaction in a Rolling Spot Forex Contract/ FX CFD or any other contractual arrangement entered into between you and us including any transaction liable to Margin, unless otherwise stated;
Value Date	the day that a currency or other product would be physically delivered (or payable) if we did not automatically roll over client positions at the end of each Business Day; and
Variation Margin	has the meaning set out in clause 22.1.

## **Annex 2. Risk Disclosure Notice**

This Notice is provided by Gildencrest Capital Limited (registered in England with number 0760437) whose registered office is Studio 11, 7th Floor, One Canada Square Canary Wharf, London E14 5AA (we) to you in compliance with the FCA Rules.

All words and expressions defined in the Terms of business shall, unless the context requires otherwise, have the same meaning in this Notice. The following statements are intended to make you aware of and disclose to you the nature and risk of certain investment types and trading strategies and potential for risk and loss that will arise in respect of trading on the financial markets.

**This Notice cannot disclose all the risks and other significant aspects of either the investment types such as warrants and derivative products including futures, options, and contracts for differences, or the different trading strategies. Before undertaking any trading you must familiarise yourself with the product that you propose to trade and the way in which the market operates. Please ensure that you read all the information on our Website that is relevant to the trading that you propose to undertake with us. You should not deal in these products unless you understand their nature and the extent of your exposure to risk. You should also be satisfied that the product is suitable for you in the light of your circumstances and financial position. Certain strategies, such as a “spread” position or a “straddle”, may be as risky as a simple “long” or “short” position.**

**In part 2 of this notice we further draw your attention to CFDs and Rolling Spot Forex/FX CFD Contract risks.**

### ***PART 1. GENERAL RISK DISCLOSURE NOTICE***

Although warrants and/or derivative instruments can be utilised for the management of investment risk, some of these products are unsuitable for many investors. Different instruments involve different levels of exposure to risk and in deciding whether to trade in such instruments you should be aware of the following points:

### **1. SECURITISED DERIVATIVES**

These instruments may give you a time-limited right or an absolute right to acquire or sell one or more types of investment, which is normally exercisable against someone other than the issuer of that investment. Or they may give you rights under a contract for difference, which allows for speculation on fluctuations in the value of the property of any description or an index, such as the FTSE 100 index. In both cases, the investment or property may be referred to as the “underlying instrument”.

These instruments often involve a high degree of gearing or leverage, so that a relatively small movement in the price of the underlying investment results in a much larger movement, unfavourable or favourable, in the price of the instrument. The price of these instruments can therefore be volatile.

These instruments have a limited life, and may (unless there is some form of guaranteed return to the amount you are investing in the product) expire worthless if the underlying instrument does not perform as expected.

You should only buy this product if you are prepared to sustain a total or substantial loss of the money you have invested plus any commission or other transaction charges.

You should consider carefully whether or not this product is suitable for you in light of your circumstances and financial position, and if in any doubt please seek professional advice.

### **2. FUTURES**

Transactions in futures involve the obligation to make, or to take, delivery of the underlying asset of the contract at a future date, or in some cases to settle the position with cash. They carry a high degree of risk. The gearing or leverage often obtainable in futures trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you. Futures transactions have a contingent liability, and you should be aware of the implications of this, in particular the Margining requirements, which are set out in paragraph 6 below.

### **3. OPTIONS**

There are many different types of options with different characteristics subject to the following conditions.

#### *Buying options:*

Buying options involves less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. The maximum loss is limited to the premium, plus any commission or other transaction charges. However, if you buy a call option on a futures contract and you later exercise the option, you will acquire the future. This will expose you to the risks described under “futures” and “contingent liability investment transactions”.

#### *Writing options:*

If you write an option, the risk involved is considerably greater than buying options. You may be liable for Margin to maintain your position and a loss may be sustained well in excess of the premium received. By writing an option, you accept a legal obligation to purchase or sell the underlying asset if the option is exercised against you, however far the market price has moved away from the exercise price. If you already own the underlying asset which you have contracted to sell (when the options will be known as “covered call options”) the risk is reduced. If you do not own the underlying asset (“uncovered call options”) the risk can be unlimited. Only experienced persons should contemplate writing uncovered options, and then only after securing full details of the applicable conditions and potential risk exposure.

*Traditional options:*

Certain London Stock Exchange member firms under special exchange rules write a particular type of option called a “traditional option”. These may involve greater risk than other options. Two-way prices are not usually quoted and there is no exchange market on which to close out an open position or to effect an equal and opposite transaction to reverse an open position. It may be difficult to assess its value or for the seller of such an option to manage his exposure to risk. Certain options markets operate on a Margined basis, under which buyers do not pay the full premium on their option at the time they purchase it. In this situation you may subsequently be called upon to pay Margin on the option up to the level of your premium. If you fail to do so as required, your position may be closed or liquidated in the same way as a futures position.

#### **4. OFF-EXCHANGE TRANSACTIONS IN DERIVATIVES**

It may not always be apparent whether or not a particular derivative is arranged on exchange or in an offexchange derivative transaction. We must make it clear to you if you are entering into an off-exchange derivative transaction.

While some off-exchange markets are highly liquid, transactions in off-exchange or non-transferable derivatives may involve greater risk than investing in on-exchange derivatives because there is no exchange market on which to close out an open position. It may be impossible to liquidate an existing position, to assess the value of the position arising from an off-exchange transaction or to assess the exposure to risk. Bid prices and offer prices need not be quoted, and, even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

#### **5. FOREIGN MARKETS**

Foreign markets will involve different risks from the UK markets. In some cases the risks will be greater. On request, we must provide an explanation of the relevant risks and protections (if any) which will operate in any foreign markets, including the extent to which we will accept liability for any default of a foreign firm through whom we deal. The potential for profit or loss from transactions on foreign markets or in foreign denominated contracts will be affected by fluctuations in foreign exchange rates.

#### **6. CONTINGENT LIABILITY INVESTMENT TRANSACTIONS**

Contingent liability investment transactions, which are Margined, require you to make a series of payments against the purchase price, instead of paying the whole purchase price immediately. If you trade in futures, contracts for differences or sell options, you may sustain a total loss of the Margin you deposit to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional Margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you may be responsible for the resulting deficit remaining on your account.

Even if a transaction is not Margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered the contract.

Save as specifically provided by the FCA, your firm may only carry out Margined or contingent liability transactions with or for you if they are traded on or under the rules of a recognised or designated investment exchange. Contingent liability investment transactions which are not so traded may expose you to substantially greater risks.

## **7. LIMITED LIABILITY TRANSACTIONS**

Before entering into a limited liability transaction, you should obtain from us or the firm with whom you are dealing a formal written statement confirming that the extent of your loss liability on each transaction will be limited to an amount agreed by you before you enter into the transaction.

The amount you can lose in limited liability transactions will be less than in other Margined transactions, which have no predetermined loss limit. Nevertheless, even though the extent of loss will be subject to the agreed limit, you may sustain the loss in a relatively short time. Your loss may be limited, but the risk of sustaining a total loss to the amount agreed is substantial.

## **8. COLLATERAL**

If you deposit collateral as security with us, the way in which it will be treated will vary according to the type of transaction and where it is traded. There could be significant differences in the treatment of your collateral depending on whether you are trading on a recognised or designated investment exchange, with the rules of that exchange (and the associated clearing house) applying, or trading off-exchange. Deposited collateral may lose its identity as your property once dealings on your behalf are undertaken. Even if your dealings should ultimately prove profitable, you may not get back the same assets which you deposited, and may have to accept payment in cash. You should ascertain from us how your collateral will be dealt with.

The use of non-cash collateral may not be acceptable in certain circumstances.

## **9. COMMISSIONS**

Before you begin to trade, you should obtain details of all commissions and other charges for which you will be liable. If any charges are not expressed in money terms (but, for example, as a percentage of contract value), you should obtain a clear and written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms. In the case of futures, when commission is charged as a percentage, it will normally be as a percentage of the total contract value, and not simply as a percentage of your initial payment.

## **10. SUSPENSIONS OF TRADING**

Under certain trading conditions it may be difficult or impossible to liquidate a position. This may occur, for example, at times of rapid price movement if the price rises or falls in one trading session to such an extent that under the rules of the relevant exchange trading is suspended or restricted. Placing a stop-loss order will not necessarily limit your losses to the intended amounts, because market conditions may make it impossible to execute such an order at the stipulated price.

## **11. CLEARING HOUSE PROTECTIONS**

On many exchanges, the performance of a transaction by us (or third party with whom he is dealing on your behalf) is guaranteed by the exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you and may not protect you if your firm or another party defaults on its obligations to you. On request, we must explain any

protection provided to you under the clearing guarantee applicable to any on-exchange derivatives in which you are dealing. There is no clearing house for traditional options, nor normally for off-exchange instruments which are not traded under the rules of a recognised or designated investment exchange.

## **12. INSOLVENCY**

Our insolvency or default, or that of any other brokers involved with your transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash. On request, we must provide an explanation of the extent to which it will accept liability for any insolvency of, or default by, other firms involved with your transactions.

## **13. PAST PERFORMANCE**

You should be aware that the price of the financial instruments that you are dealing with depends on fluctuations in the financial markets outside of our control and that past performance is no indicator of future performance.

## **14. NON-READILY REALISABLE INVESTMENTS**

We may arrange or enter into transactions in non-readily realisable investments. These are investments in which the market is limited or could become so. You may have difficulty selling this investment at a reasonable price and, in some circumstances, it may be difficult to sell it at any price. Do not invest in such investments unless you have carefully thought about whether you can afford it and whether it is right for you.

## **15. DEALING IN SECURITIES WHICH MAY BE SUBJECT TO STABILISATION**

This statement complies with the FCA Rules.

Our representatives, may from time to time carry out transactions on your behalf where the price may have been influenced by measures taken to stabilise it.

You should read the explanation below carefully. This is designed to help you judge whether you wish your funds to be invested at all in such securities and, if you do, whether you wish:

- a) to be consulted before we carry out any such transaction on your behalf. Or
- b) to authorise us to carry out any such transaction on your behalf without first having to consult you.

### *What is Stabilisation?*

Stabilisation enables the market price of a security to be maintained artificially during the period when a new issue of securities is sold to the public. Stabilisation may affect not only the price of the new issue but also the price of other securities relating to it. The FCA allows stabilisation in order to help counter the fact that, when a new issue comes onto the market for the first time, the price can sometimes drop for a time before buyers are found.

Stabilisation is being carried out by a 'stabilisation manager' (normally the firm chiefly responsible for bringing a new issue to market). As long as the stabilising manager follows a strict set of rules, he is entitled to buy back securities that were previously sold to investors or allotted to institutions, which have decided not to keep them. The effect of this may be to keep the price at a higher level than it would otherwise be during the period of stabilisation.

The Stabilisation rules:

- a) limit the period when a stabilising manager may stabilise a new issue;
- b) fix the price at which he may stabilise (in the case of shares and warrants but not bonds); and
- c) require him to disclose that he may be stabilising but not that he is actually doing so.

The fact that a new issue or a related security is being stabilised should not be taken as any indication of the level of interest from investors, or of the price at which they are prepared to buy the securities.

#### **16. LISTED SECURITIES WHERE GEARING IS INVOLVED**

In relation to listed securities where gearing is involved, the gearing strategy used by the issuer may result in movements in the price of the securities being more volatile than the movements in the price of the underlying investments. Your investment may be subject to sudden and large falls in value and you may get back nothing at all if there is a sufficiently large fall in your investment.

#### **17. TRADING FACILITIES**

Most openoutcry and electronic trading facilities are supported by computerbased component systems for the orderrouting, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary: you should ask the firm with which you deal for details in this respect.

#### **18. ELECTRONIC TRADING**

Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake Transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions, is not executed at all and a lack of capability to keep you informed continuously about your positions and fulfilment of the Margin Requirements.

### ***PART 2. INVESTMENT RISKS OF INVESTING IN COMPLEX FINANCIAL INSTRUMENTS.***

See also ESMA Standardised Risk Warning on our website at <https://www.gildencrest.co.uk/>, which include an up-to-date Gildencrest-specific loss percentage based on a calculation of the percentage of CFD trading accounts provided to retail clients by us that lost money. The calculation are performed every three months and cover the 12-month period preceding the date on which it is performed ('12-month calculation period').

See also ESMA Standardised Risk Warning on our website, which include an up-to-date Gildencrest-specific loss percentage based on a calculation of the percentage of CFD trading accounts provided to retail clients by us that lost money. The calculation are performed every three months and cover the 12-month period preceding the date on which it is performed ('12-month calculation period').

This notice is provided to you in compliance with FCA Rules. This notice does not disclose all of the risks and other significant aspects of derivatives products such as futures and options. **You should not deal in derivatives unless you understand the nature of the contract you are entering into and the extent of your exposure to risk. You should also be satisfied that the contract is suitable for you in the light of your circumstances and financial position.**

Different derivative instruments involve different levels of exposure to risk, and in deciding whether to trade in such instruments you should be aware of the following points:

- (a) *Contracts for Difference (CFD)* can be likened to futures which can be entered into in relation to Currency. However unlike other futures and options, these contracts can only be settled in cash. Investing in a CFD carries risks similar to investing in a future or an option and you should be aware of these. Transactions in CFD may also have a contingent liability and you should be aware of the implications of this as set out in paragraph (c) below.
- (b) *Investing in Rolling Spot Forex/ FX CFD* carries similar risks as investing in futures and you should be aware of these. Transactions in Rolling Spot Forex/ FX CFD may also have a contingent liability and you should be aware of the implications of this as set out in paragraph (d) below. In addition to standard industry disclosures contained in these Terms, you should be aware that **currency trading is some of the riskiest form of investment available in the financial markets and is only suitable for sophisticated individuals and institutions. Given the possibility of losing an entire investment, speculation in the foreign exchange market should only be conducted with risk capital funds that if lost will not significantly affect your personal or institution's financial wellbeing.**

If you have pursued only conservative forms of investment in the past, you may wish to study currency trading further before continuing an investment of this nature. **You must also realise that the limited risk in making investments in Rolling Spot Forex/FX CFDs, CFDs, futures and options means you could lose the entire option investment should the option expire worthless.** If you wish to continue with your investment, you acknowledge that the funds you have committed are purely risk capital and loss of your Investment will not jeopardise your style of living nor will it detract from your future retirement program. Additionally, you fully understand the nature and risks of currency investments and your obligations to others will not be neglected should you suffer investment losses.

- (c) *Foreign markets.* Foreign markets involve different risks from UK markets. In some cases risks will be greater. The potential for profit or loss from transactions on foreign markets or in foreign currency will be affected by fluctuations in foreign exchange rates. Such enhanced risks include the risks of political or economic policy changes in a foreign media, which may substantially and permanently alter the conditions, terms, marketability or price of a foreign currency.
- (d) *Risk reducing orders or strategies.* The placing of certain orders (e.g. "stop loss" or "stop limits" orders) that are intended to limit losses to certain amounts may not, always be effected because market conditions or technological limitations may make it impossible to execute such orders. Strategies using combinations of positions such as "spread" and "straddle" positions, may be just as risky as or even riskier than simple "long" or "short" positions.
- (e) *Prices.* The prices posted on the Trading System may not necessarily reflect the broader market. We will select closing prices to be used in determining Margin requirements and in periodically marking to market the positions in client accounts. Although we expect that these prices will be reasonably related to those available on what is known as the interbank market, prices we use may vary from those available to banks and other participants in the interbank market. Consequently, we may exercise considerable discretion in setting margin requirements and collecting margin funds.



- (f) *Weekend risk.* Various situations, developments or events may arise over a weekend (Friday 20.00 GMT - Sunday 18.00 GMT) when the currency markets generally close for trading, that may cause the currency markets to open at a significantly different price from where they closed on Friday afternoon. Our clients will not be able to use the Trading System to place or change orders over the weekend and at other times when the markets are generally closed. There is a substantial risk that stop-loss orders left to protect open positions held over the weekend will be executed at levels significantly worse than their specified price.
- (g) *Electronic trading.* Trading in OTC contracts through the Trading System may differ from trading on other electronic trading systems as well as from trading in a conventional or open market. Clients that trade on an electronic trading system are exposed to risks associated with the system including the failure of hardware and software and system down time, with respect to the Trading System, the individual client's systems, and the communications infrastructure (for example the internet) connecting the platform with clients.
- (h) *Contingent liability transactions,* which are margined, require you to make a series of payments against the purchase price, instead of paying the whole purchase price immediately. You may sustain a total loss of the Margin you deposit with us to establish or maintain position. If the market moves against you, you may be called upon to pay substantial additional Margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss. you however being a retail client will have NB protection on as per account basis and will not be liable for any resulting deficit. Even if the Transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered into the contract. Contingent liability transactions, which are not traded on or under the rules of a recognised or designated investment exchange, may expose you to substantially greater risks.
- (i) *Collateral.* If you deposit collateral as security, you should ascertain how your collateral will be dealt with. Deposited collateral may lose its identity as your property once dealings on your behalf are undertaken. Even if your dealings should ultimately prove profitable, you may not get back the same assets which you deposited and may have to accept payment in cash.
- (j) *Commissions.* Before you begin to trade, you should obtain details of all commissions and other charges for which you will be liable. If any charges are not expressed in money terms (but for example, as a dealing spread), you should obtain a clear written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms.
- (k) *Insolvency.* Any insolvency or default may lead to positions being liquidated or closed out without your consent. In certain circumstances you may not get back the actual assets which you lodged as collateral and you may have to accept any available payment in cash.
- (l) *You should* only engage in CFD, Rolling Spot Forex/ FX CFD, futures or options trading if you are prepared to accept a high degree of risk and in particular the risks outlined in this General Risk Disclosure Notice. You must be prepared to sustain the total loss of all amounts you may have deposited with us, for professional clients losses can exceed deposits on marginal/leveraged products.

**We intend to rely on this Information Notice. For your own benefit and protection, you should read this Information Notice carefully before agreeing to it. If you do not understand any point, please ask for further information or seek independent legal or financial advice. You hereby acknowledge and agree that you have read this Risk Warning Notice.**

### **Annex 3. Managing Conflicts of Interest Policy**

#### Introduction & Application

This document (the “**Conflicts of Interest Policy**”) identifies the potential conflicts of interest that may arise in Gildencrest Capital Limited (referred to as “Firm” or “we”) business and summarises the controls implemented by us to manage and where possible prevent any such conflicts of interest. Gildencrest Capital for these purposes includes its group companies, employees, branch offices, Rep Offices, Tied Agents and contractors or any person directly or indirectly linked to them by control.

Gildencrest Capital sets out to manage conflicts of interest fairly and has established a conflicts of interest policy, which consists of procedures and controls, which assist in identifying and appropriately dealing with conflicts of interest – which are actual, apparent and potential.

This policy applies to all Gildencrest Capital regulated activities and activities in connection with or for the purposes of such regulated activities, including those outsourced activities provided by a third party.

All employees are required to comply with the Conflicts of Interest Policy.

We may make a disclosure in order to ensure the fair treatment of clients and compliance with the rules and principles of the Financial Conduct Authority (“FCA”).

A conflict of interest is a situation whereby someone in a position of trust has competing professional or personal interests. Thus, competing interests may make it difficult for individuals to fulfil their duties impartially. Additionally, a “conflict” may exist even if no unethical or improper act results from it.

Furthermore, a “conflict of interest” can arise between Gildencrest Capital and its directors, employees, associated agents and any person directly or indirectly controlled by them and/or you as a client or between your interests and those of another client of ours.

#### **Identification of Potential or Actual Conflicts**

Gildencrest Capital will take reasonable steps in identifying, preventing and/or managing conflicts arising in relation to various areas of our business. We will identify conflicts where Firm:

- 1) Partakes in an interest in the outcome of a service provided to a client, or a transaction carried out on behalf of clients, which may be distinct from the client’s interest in that outcome.
- 2) Make a financial gain or avoid a financial loss, at the expense of a client.
- 3) Carry on the same business as a client, and;
- 4) Accept from a person an inducement in relation to a service provided to a client in the form of monies, goods or services, supplementary to the standard commission or fee paid by the client for the given service.

In the event we identify an actual or potential conflict of interest, we could take the following steps:

- 1) We may decline to act where there is a possible conflict or cease engaging in the activity leading to the conflict.
- 2) We may accept the conflict of interest, however we will take steps to protect your interests; or 3) We could disclose the conflict of interest, and/or obtain your consent to act.

### **Managing Conflicts**

Gildencrest Capital has in place procedures, which are designed to identify and manage conflicts of interests. These consist of a number of organisational and administrative arrangements to protect the interests of clients and minimise the potential for conflicts to arise. Additionally, Gildencrest Capital implements a number of methods to manage conflicts of interest and control the movement of confidential information. The following is a non-exhaustive list on how Gildencrest Capital manages and prevents conflicts:

- 1) Segregation of duties and supervision of persons engaged in different business activities, which includes procedures for ensuring appropriate communication between different business units.
- 2) The requirement for all external directorships and outside business interests to be declared.
- 3) Gifts and personal benefits procedures, including a gift register; which documents the solicitation, offering or receipt of certain benefits.
- 4) Procedures to ensure that improper inducements are not given or received and suitable inducements are disclosed appropriately, and;
- 5) Personal account dealing restrictions are applicable to all staff and their associates, regardless of position.

### **Disclosure**

We shall use all reasonable efforts to manage any conflict of interest, but if those efforts are not sufficient to ensure with reasonable confidence, that the risk of damage to your interest will be prevented, we shall, where appropriate, disclose the general nature and/or source of the conflict of interest in writing to you before undertaking business for you. When considering whether it is appropriate to disclose a conflict of interest to you, we shall take into account the status of a particular client and whether you are likely to understand the risks involved if you continue your relationship with us. Any disclosure shall contain sufficient information to allow you to make an informed decision.

### **Declining to Act**

In the event that we determine that we are unable to manage a conflict of interest using one or more of the methods described above, we may decline to act on your behalf.

### **Further Information**

We will review and update this Conflicts Policy as necessary. Questions regarding this policy should be addressed to the Compliance Officer by sending an email to [compliance@gildencrest.co.uk](mailto:compliance@gildencrest.co.uk) or alternatively contact our customer services at [customerservices@gildencrest.co.uk](mailto:customerservices@gildencrest.co.uk).

## **Annex 4. Order execution and Best Execution Policy**

### **1. Overview**

#### **1.1. Introduction**

This Information on Order Execution policy, commonly known as ‘Best Execution’ contains the most important and relevant elements of Gildencrest Capital Limited (“Gildencrest Capital” the “Firm”, we or us) Order Execution process and arrangements which enable clients to make a properly informed decision about the use of our execution services.

Gildencrest Capital applies Best Execution upon acceptance of a client order and when the client gives no specific instruction on the execution method. A client’s specific instruction on an order may prevent us from implementing Best Execution to obtain the best possible result for the execution of the order.

Best Execution will apply whenever we execute orders on behalf of retail clients. Gildencrest Capital will always act as principal (matched principal broker) when executing client orders and we do not guarantee that when executing a transaction that our price will be more favourable than one which might have been available elsewhere. This Policy forms an integral part of the account opening agreement between Gildencrest Capital and the Client and should be read in conjunction with Gildencrest Capital’s Standard Terms of Business which are detailed in your Customer Agreement and updated from time to time.

As a pre-requisite for the opening of an account with Gildencrest Capital the Client shall acknowledge and agree to the content of this Best Execution Policy. Moreover, the Client will be deemed to have given such consent whenever placing an Order with Gildencrest Capital.

#### **1.2. Purpose**

Directive 2014/65/EU on Markets in Financial Instruments Directive (“MiFID II”) and the rules of the Financial Conduct Authority (“FCA”) impose a best execution obligation on market participants, which means that market participant, like Gildencrest Capital, must take all sufficient steps to obtain the best possible results in executing orders for its clients. Market participants are also required to establish and implement an Order Execution policy, commonly known as ‘Best Execution’ as set out by the FCA in COBS 11.2.14R:

- (a) Gildencrest Capital is required to execute Orders from Clients in a prompt, fair and expeditious manner, relative to other Orders or the trading interests of Gildencrest Capital, and to comply with certain requirements in respect of the aggregation and allocation of Orders from Clients.
- (b) Gildencrest Capital is required to provide appropriate information to Clients on its MiFID II order execution policy.

The purpose of this document is to provide Clients with information on Gildencrest Capital’s MiFID II order execution policy and to obtain their consent to such policy.

### 1.3. Scope and Application of Best Execution Obligation

Gildencrest Capital is an Match Principal Broker known as a straight through processing broker (“STP-only”), authorised and regulated by the Financial Conduct Authority (“FCA”) under Firm Reference Number 7604372. Gildencrest Capital is ultimate provider of all prices to its clients and it is Gildencrest Capital with whom the client is dealing and contracting with.

Gildencrest Capital does not provide advisory services nor take responsibility to the suitability of specific client trades. Gildencrest Capital does not engage in proprietary trading.

Gildencrest Capital provides margin trading services in Forex Trading and Contracts for Difference (“CFDs”) and cash equity and bonds trading. From time to time Gildencrest Capital may introduce other financial products. It is Gildencrest Capital’s decision as to what markets to offer its clients and it does so not as a broker but as a principle and counterparty to each trade. As such, every CFD/symbol offered by Gildencrest Capital is quoted as a derivative of the underlying market and we are the only execution venue to which clients have access through us. (Gildencrest Capital sources prices on CFDs from number of its liquidity providers “LPs”). Gildencrest Capital executes trades for cash equity and bonds via its Prime Brokers (“PBs”).

According MiFID II Gildencrest Capital is required to take all sufficient steps to obtain, when executing orders on behalf of a client, the best possible result for their clients (“best execution”)– taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other relevant consideration .

Gildencrest Capital’s MiFID II order execution policy applies only to the provision of services by Gildencrest Capital to **Professional and Retail Clients** and in relation to **Financial Instruments** as defined by MiFID II.

(a) Gildencrest Capital’s MiFID II order execution policy also only applies where Gildencrest Capital:

- (i) receives and transmits client Orders; and/or
- (ii) executes Orders on a Client’s behalf.

(b) Gildencrest Capital will be executing Orders “on a Client’s behalf” where the Client legitimately relies on Gildencrest Capital to protect his or her interests in relation to the pricing or other execution factors.

In circumstances where we are unable to provide the best execution for some reason, we will notify you as soon as possible so that you are properly informed.

MiFID II requires firms authorised to execute client orders to implement procedures and arrangements which provide for the prompt, fair and expeditious execution of client orders, relative to other client orders or the trading interests of the firm. The Firm intends to provide you and other market participants with access to (where possible) tradable prices on a non-discriminatory basis. However, the diversity in those markets and instruments, and the kinds of orders that you may place, mean that different factors will have to be taken into account in relation to any particular transaction.

#### 1.4. Categorisation of Clients

The Firm deals with Retail Clients, Professional Clients and Eligible Counterparties as defined in MiFID II and by the FCA.

Because the Firm always intends to handle orders in an equitable and consistent manner, once a client is classified, for the purposes of a particular instrument, that client may not then elect to be re-classified for the purposes of one transaction of a type it customarily undertakes. However, a client may seek to be recategorised generally for all purposes, such determinations to be made in the Firm's sole discretion.

Exceptional circumstances may be taken into account at the time, with the consent of the Firm (the Firm may decline to provide a service should a reclassification be requested).

Gildencrest Capital executes Orders promptly and fairly. The Client is informed of any material difficulty relevant to the proper carrying out of his/her/its Order as soon as practically possible.

Notwithstanding the intentions expressed above, the Firm does not undertake to provide "best execution" if you are classified as an Eligible Counterparty you are not entitled to best execution under the UK Financial Conduct Authority ("FCA") or equivalent EU rules.

#### 1.5. Specific Instruction– limited scope of best execution

Whenever there is a **specific instruction** from you, we shall execute the order following the specific instruction and compliance with that specific instruction will be treated as **satisfaction of the best execution** obligation. The Client should take note that placing Orders with Specific Instructions may prevent Gildencrest Capital from obtaining best execution with respect to those aspects of the Order to which such Specific Instruction(s) relate(s).

In the absence of any Specific Instruction, Gildencrest Capital shall carry out the Order according to its Best Execution Policy.

#### **Event of Client Default or other liquidation event**

In an Event of Client Default, (e.g. insufficient margin), or other liquidation event Gildencrest Capital shall seek to immediately terminate, cancel and close-out all or part of any outstanding positions. Gildencrest Capital retains discretion as to how to handle the close-out, including with respect to order execution, fill quantity, aggregation, priority and pricing.

#### **Funds**

Funds are priced based on the value of their underlying Assets. Most funds will calculate and publish a price every working day referred to as the NAV (Net Asset value). There is no continuous pricing of fund units throughout the trading day but trades are executed at the next available NAV. This means that you will not know the exact number of units your investment will result in but you will per definition get the best possible price.

## 2. Best Execution Factors and Criteria

When executing a client order, we may take into account the following “**execution criteria**” for determining the relative importance of price, costs, speed, likelihood of execution and settlement, size and any other consideration relevant to order execution (the "execution factors"):

- the characteristics of the client including its classification as retail or professional;
- the characteristics of the client order;
- the characteristics of the financial instruments that are the subject of that order; and
- the characteristics of the execution venues to which that order can be directed.

Differences in market structure and the structure of financial instruments results in the satisfaction of our best execution obligations in different ways as further detailed below.

### “The Execution Factors”:

- **Price and costs of execution:** Gildencrest Capital takes the underlying market price of the derivative it is quoting and then applies an algorithm to this price to achieve its own market price. The underlying feed that Gildencrest Capital uses may be from one source such as Liquidity Provider or exchange or in the case of FX from several feeds. Where several feeds are used the best bid and offer combinations are used to maintain tight spreads. The automated system will seek out the best overall outcome for the transaction and this is likely to be the most important execution factor to our clients. The Firm employs a transparent cost structure with no hidden commissions or fees.
- **Speed of execution:** Through the use of an automated trading platform, orders will be executed promptly with only rare opportunities for price slippage to occur on some types of orders. Due to the nature of the platform, it is likely that speed of execution will be of high importance to our clients. We aim to update our prices as frequently as reasonably possible; however, our ability to do so may be limited by technological factors, including liquidity providers’ price feed, hardware, software and data communications links. We execute all trades at the prices communicated to us by liquidity providers and in accordance with our Standard Terms of Business. In certain circumstances due to speed of internet communications, market volatility or in the case of deliberate manipulation of our quoted prices your trade may be rejected by us or our LPs if the price at which you have attempted to trade is not representative of the “underlying market” price when received by the us/our LP.
- **Likelihood of execution;** In almost all circumstances, as long as you have sufficient margin available on your account for the trade and so long as the trade size requested is equal to or under the maximum size permissible, your trade will be executed at the level requested.
- **Size, of order & liquidity in the market:** A typical transaction consists of a currency or CFD trade. The platform will seek to provide you with the best outcome for your order considering the factors described above. All trades are subject to size considerations. If the requested trade size is larger than we are able to trade in the “underlying market” then it may be executed partially or the entire trade or order may be rejected at our discretion.

- Characteristics of the clients: Our client base will be comprised of a mixture of Retail Clients, Professional Clients and Eligible Counterparties. The Firm is aware that Retail Clients are afforded the highest protections and will place greater emphasis on any obligations owed to them. This Best Execution Policy applies to both our Retail and Professional Client categories.

Based on the above factors, we consider that price will be the most important factor.

### 2.1. The Role of Price

It is our general policy for Retail and Professional client transactions not to give execution factors other than price and costs (“Total Consideration”) precedence unless they are instrumental in delivering the best possible result in terms of total consideration to the client.

For Professional clients, however, in some circumstances, for some clients, orders, financial instruments or markets, Gildencrest Capital may appropriately determine that other execution factors are more important than price in obtaining the best possible execution result. In certain circumstances our determination of the relative importance of the execution factors may differ from retail clients including for example where the likelihood of execution may take precedence over price.

## 3. Execution Venues and Liquidity Providers

An “Execution Venue” is a regulated market (“RM”), multilateral trading facility (“MTF”), systematic internaliser or a market maker or liquidity provider, or an entity that performs a similar function in a third country. The selection of the Execution Venue has a direct impact on the best possible result the firm is able to obtain when executing Orders.

Based on its assessment of the Execution Factors and the Execution Criteria, Gildencrest Capital will select one or more venue(s) for the execution of the clients order. Venues used might include:

- a. Regulated Markets (RM)
- b. Multilateral Trading Facilities (MTF)
- c. Systematic Internalisers (SI)
- d. Liquidity provider.

Gildencrest Capital is your venue of execution. We do NOT act as a Market Maker with respect to your transactions. In all circumstances your order will be passed through to an LP.

The Firm has identified those venues on which the Firm will most regularly seek to execute your orders and which the Firm believes offer the best prospects for achieving the best possible results for you, taking into account the execution factors detailed below.

Gildencrest Capital has access to a number of exchanges and other execution venues through its Prime Brokers.



Gildencrest Capital's liquidity providers and venues list will be provided on your written request and also available in RTS28 report published on the website.

The Firm reserves the option to add additional venues/LPs in the future and this policy will be updated accordingly.

## **4. Receiving and Transmitting Orders**

### **4.1. Connected Parties and Third Party Brokers**

In certain markets and subject always to any specific instructions that may be given by our Clients, Gildencrest Capital may transmit an Order Gildencrest Capital receives to Connected Parties or Third Party Brokers, for execution. In doing so, Gildencrest Capital will comply with the considerations set out in this Policy.

- (a) Execution through Connected Parties can provide particular benefits, which can include increased certainty of execution, increased transparency, more effective communication and efficient resolution of issues for our Clients.
- (b) Gildencrest Capital keeps the performance of Connected Parties and Third Party Brokers under review including the formal evaluation of their performance to help ensure appropriate standards of execution which are consistent with our MiFID II order execution policy.

## **5. Order Handling and Execution**

Recognising that Clients execute FX transactions with Gildencrest Capital electronically, Gildencrest Capital's first priority has been to ensure that its electronic execution platform meets the requisite Best Execution standards.

### **5.1. Benchmarking & Monitoring**

(a) Best Execution price streams are benchmarked against external and internal reference prices to ensure that Best Execution is achieved on a consistent basis. Wherever possible, external reference prices from market venues and brokers are used to obtain the best comparison of Gildencrest Capital's price against externally available prices. External observed prices may be adjusted for comparison purposes to take into account known costs of executing on external venues, (for example price slippage factors according to trade size). Where the external data available is limited in scope or quality, internal data may be used as a reference, (for example executed prices of comparable trades).

(b) The results of benchmarking are reviewed by Gildencrest Capital's management on at least a monthly basis. In the event benchmarking activities identify that pricing needs to be adjusted in any area, appropriate corrective action is taken going forward.

### **5.2. Order Execution Risks**

#### **(a) Slippage**

We take reasonable steps so that execution of our quoted prices will obtain the best possible result for clients at the time the quote is provided. However fast moving markets may result in execution of a transaction at a price which has ceased to be the best market price.

#### **(b) Gapping/Volatility**

There may be significant market movement after a news announcement or economic event or between the close and re-opening of a market which will have a significant impact on the execution of a pending order. You should be aware of the following risks associated with volatile markets, especially at or near the close of the standard trading session:

An order may be executed at a substantially different price from the quoted bid or offer, or the last reported trade price at the time of order entry, or an order may be only partially executed or may be executed in several shapes at different prices; and Opening prices may differ significantly from the previous day's close.

**(c) Trading System or Internet Connectivity Execution Delays**

Delays in execution beyond our control may occur as a result of technical failures or malfunctions in connection with use of the Trading System or internet connectivity or processing speed for which we do not accept responsibility

**(d) Risk of dealing in volatile markets**

Clients should be aware of the following risks associated with volatile markets, especially at or near the open or close of the standard trading session:

- a. Execution at a substantially different price from the quoted bid or offer or the last reported price at the time of order entry, as well as partial executions or execution of large orders in several transactions at different prices.
- b. Delays in executing orders for financial instruments that Gildencrest Capital sends to external market makers and manually routed or manually executed orders.
- c. Opening prices that may differ substantially from the previous days close.
- d. Locked (the bid equals the offer) and crossed (the bid is higher than the offer) markets, halted markets, limit up (buys halted)/limit down (sales halted) which may prevent the execution of client orders.
  - i. Price volatility is one factor that can affect order execution. When there is a high volume of orders in the market, order imbalances and back logs can occur. This implies that more time is needed to execute the pending orders. Such delays are usually caused by the occurrence of different factors: a. the number and size of orders to be processed;
  - ii. The speed at which current quotations (or last-sale information) are provide to Gildencrest Capital and;
  - iii. The system capacity constraints applicable to the given exchange, as well as Gildencrest Capital and other firms.
- e. Gildencrest Capital is obligated to take necessary steps to keep an orderly market. Therefore Gildencrest Capital operates with "Compliance" order filters. Such Compliance order filters are also present at exchanges and other brokers that used by Gildencrest Capital to route the order to the designated market. The filters might result in orders with a large expected market impact to be paused or traded using an algorithm potentially causing slippage from the expected arrival price. Gildencrest Capital cannot be held liable for price slippage caused by acting to keep an orderly market.

### 5.3. Order Handling

A client order is passed through a number of business logic components before hitting the external execution engine. These components deliver all pertinent order details, including the type of order, price, and Time in Force.

Because of electronic execution, liquidity is delivered via continuous price streams which are regularly benchmarked against external and internal reference prices to ensure that the best prices are available on a consistent basis.

#### 5.4. Aggregation

We may combine your order or instruction with those of other clients as a single order. This will be where we reasonably believe that this is in the overall best interests of our clients and is unlikely to work overall to your disadvantage. However such aggregation may work to your disadvantage in relation to a particular order. For such transactions Gildencrest Capital ensures that no client is treated in a preferred manner.

#### 5.5. Fees and Costs

Gildencrest Capital charges for its services. These may vary depending on factors such as the service it is providing to the client; the manner in which they are used; and the pricing plan that the client has agreed to. Details of Gildencrest Capital's charges are available on its website. In normal circumstances, Gildencrest Capital charges mark ups on the raw spreads it receives from its liquidity providers and prime brokers, as per the Client's account group or type.

For the purpose of assessing whether it has achieved Best Execution, Gildencrest Capital will not take its standard charges that apply to a client's transactions irrespective of the venue at which they are executed into account. Gildencrest Capital will, however, take account of any charges levied by a third party or incorporated into its prices to reflect cost differentials of dealing at different execution venues.

The Firm does not charge different fees or costs depending on the venues used in order to ensure that costs are transparent and fully disclosed to you, the client. Further details are available upon request.

Additional costs that you should be aware of and which may be applied are:

- Transaction fees;
- Conversion of realized P/L to base currency.

#### 5.6. Other Fees Disclosure

We may rebate any introducer(s) of your account. Other charges shown on your account statement may also be rebated to your introducer. Further details are available on request. This should not interfere with our or their duty of best execution.

#### 5.7. Conflicts of Interest

The Firm recognises that conflicts may exist between the interests of the Firm and its clients. The platform on which orders are executed will display the best available price from a number of liquidity providers and clients, thereby reducing the scope for conflicts.

#### 5.8. Monitoring and Review

We will monitor the effectiveness of our order execution arrangements and this Policy and regularly assess whether or not the execution venues it accesses continue to provide the best possible results for orders it executes on behalf of clients.

Using a risk based approach we will review, at least annually or when a material change occurs, both our order execution arrangements and this Policy. Material changes to this Policy will be notified through our website and be available to actual and potential clients.

#### 5.9. No Fiduciary Relationship

The Firm's commitment to provide you with "best execution" does not mean that it owes you any fiduciary responsibilities over and above the specific regulatory obligations placed upon it or as may be otherwise contracted between the Firm and yourself.

You remain responsible for your own investment decisions and the Firm will not be responsible for any market trading loss you suffer as a result of those decisions.

#### 5.10. Client Consent to Execution Policy and Execution of Order: outside a Regulated Market or MTF

- (a) We are required to obtain your prior consent to our MiFID II order execution policy. You will be deemed to provide such consent when you place an Order with us on or after 3 January 2018.
- (b) For Financial Instruments admitted to trading on a Regulated Market, MTF or OTF, we are also required to obtain your prior express consent before we may execute an Order in such instruments outside of a Regulated Market, MTF or OTF. You will be deemed to provide such consent when you become Gildencrest Capital client and place an Order with us.

### **SCHEDULE 1: FINANCIAL INSTRUMENTS and SERVICES**

#### **1. Investment Services and Activities**

Pursuant to the Agreement, we will conduct/ provide the following MiFID II investment services and activities (the "Activities"):

- (a) execution of orders on behalf of client.

For the avoidance of doubt, we do not provide the investment service of portfolio management or investment advice.

#### **2. Regulated Activities**

Some of the regulated activities we conduct include the following:

- (a) Dealing in investments as principal (limitation: matched principal broker – unable to hold financial instruments for own account unless it meets the 'matched principal exemption conditions' in the FCA's glossary of defined expressions used in FCA's Handbook and rights to or interests in (both))

#### **3. Products**

Subject in each case to our relevant FCA permissions, we provide Activities in relation to the following products and any others as may from time to time be agreed:

- (a) Bonds
- (b) Cash Equities and Exchange Trade Products (ETF,ETC,ETN)
- (c) CFD Indices and CFD Commodities /Futures
- (d) Rolling Foreign Exchange Spot

## **SCHEDULE 2: BONDS**

### **1. Products in Scope:**

- 1.1. Purchase and sale of global Bonds.

### **2. Order Types Available:**

- 2.1. Gildencrest Capital's online trading works with one order type: Fill or Kill (market) order. Where market pricing may be outside of the indicative bid/offer price due to a lack of liquidity orders may be routed to market as aggressive limit orders. This will provide some protection from negative slippage but may introduce the risk that the order will not be filled if the market moves sharply.
- 2.2. Gildencrest Capital's offline trading, for specific bonds, allows the client to place an OTC limit order. In this case Gildencrest Capital works the limit order manually on a best effort basis, versus Gildencrest Capital's counterparties' liquidity and follows the rules for offline trading as described below.

### **3. Relevant Execution Factors:**

- 3.1. Gildencrest Capital trades as agent to bond trades with clients.
- 3.2. The ranking of execution factors for bonds is:
  - a. Price;
  - b. Expected impact of execution;
  - c. Likelihood of execution and settlement;
  - d. Order size and type;
  - e. Costs;
  - f. Speed;
  - g. Other factors.

### **4. Gildencrest Capital's selected venue:**

- 4.1. Orders are executed over the counter (OTC) against Gildencrest Capital's counterparties' Liquidity referred to as offline trading.
- 4.2. When executing client orders Gildencrest Capital may source liquidity from:
  - a. Other dealers in the market;
  - b. Regulated Trading venues.
- 4.3. Gildencrest Capital Offline Trading:

4.3.1. Execution is done bilGildencrest Capitally with Gildencrest Capital with many orders still negotiated over the Bloomberg chat. Due to the market structure, Bonds are still largely traded bilGildencrest Capitally using voice trading. Gildencrest Capital uses an agency model, where clients can trade on prices offered by where liquidity was sourced, on request from the client plus markup from Gildencrest Capital services.

## **5. Price Formation:**

### **5.1. Offline Trading:**

5.1.1. The market is characterised by indicative OTC prices. For bonds traded offline Gildencrest Capital splits all bonds into one of three baskets based on the relevant bond's liquidity;

5.1.2. For highly liquid bonds, Gildencrest Capital will offer a bid/offer price in line with prices shown in any attainable firm market (this includes public exchanges to which Gildencrest Capital has access via a prime broker, as well as OTC counterparts).

5.1.3. For bonds with lower liquidity, Gildencrest Capital will source a minimum of three separate indicative prices to gauge the best price based on the order size.

5.1.4. For highly illiquid bonds, Gildencrest Capital seeks to derive a mid-price based on all indicative pricing information available to it, and then quotes a bid/offer spread to the client factoring in a predefined additional spread.

## **SCHEDULE 3: CASH EQUITIES AND EXCHANGE TRADED PRODUCTS**

### **1. Products in Scope:**

1.1. Purchase and sale of cash equities and equity-like products, such as ETFs, ETCs and ETNs.

1.2. Not in Scope:

Transactions arising from the exercise of an option

### **2. Order Types available:**

#### **2.1. Market Order**

2.1.1. With a market order the client instructs a financial institution or trading counterparty to execute a trade of a certain size as promptly as possible at the prevailing market price. Financial institutions are required to execute market orders without regard to price changes. Therefore, if the market price moves significantly during the time it takes to fill a client's order, the order will most likely be exposed to the risk of execution at a price substantially different from the price when the order was entered. Certain exchanges do not support market orders. If the client places a market order in these markets, Gildencrest Capital will automatically translate the order to an aggressive limit order within a certain percentage limit "in the money". It is the client's own responsibility to check if the order is traded in the market after order entry. If the client experiences or suspects any errors with his/her order the client should contact Gildencrest Capital immediately. Orders may be traded using an algorithm potentially causing slippage from the expected arrival price. This is done by Gildencrest Capital counterparties or Gildencrest Capital

in an attempt to prevent large market impact and live up to our obligations to keep an orderly market. Gildencrest Capital cannot be held responsible for missing fills when using such algorithms to minimize market impact.

## **2.2. Limit Order**

2.2.1. With a limit order, the client sets the maximum purchase price, or minimum sale price, at which the trade is to be executed. As a limit order may be entered away from the current market price, it may not be executed immediately. A client that leaves a limit order must be aware that he/she is giving up the certainty of immediate execution in exchange for the expectation of getting an improved price in the future. Limit orders may be routed to an exchange without human intervention. Where a limit order is placed in a share admitted to trading on a regulated market, Gildencrest Capital shall not be obliged to publish that limit order if it cannot be immediately executed under prevailing market conditions.

## **2.3. Immediate or Cancel (IOC)**

2.3.1. An immediate or cancel order (IOC) is an order to buy or sell that must be executed immediately, and any portion of the order that cannot be immediately filled is cancelled. An IOC order may fill completely or partially, or it may not fill at all.

## **2.4. Stop Order:**

2.4.1. Different from a limit order, a stop order allows selling below the current market price or buying above the current market price if the stop price is reached or breached. A stop order is therefore a “sleeping” market order until the stop price is reached or breached.

## **2.5. Trailing Stop Order:**

2.5.1. The trailing stop order is a stop order as described above but the trailing stop price moves according to parameters set by the client. This way the trailing stop can be used to sell if the price drops more than a specified distance from the highest price traded or to buy if the price trades above a set level from the lowest traded price.

## **2.6. Stop Limit Order:**

2.6.1. A stop limit order is a variation of a stop order as described above with a lower (higher) limit price to suspend trading if the price falls (rises) too far before the order is filled restricting trading to a predefined price range.

## **2.7. Algorithmic Order:**

2.7.1. An Algorithmic Order is an order executed by an automated strategy according to specific parameters or conditions. Algorithmic Orders are intended to minimize the market impact created from placing larger orders or achieving a recognized trading benchmark such as VWAP etc. The orders can also be used to follow a volume participation or in general to achieve a better overall execution.

## **3. Relevant Execution Factors:**

3.1. Gildencrest Capital trades as agent with respect to cash equity trades with clients. Gildencrest Capital has access to a number of prime brokers that are able to check multiple different execution venues when trying

to execute a cash equity order. Not only does this allow Gildencrest Capital to potentially access better prices, it also gives access to additional liquidity, meaning that there is a greater likelihood of obtaining an execution. The ranking of execution factors for cash equities is:

- a. Price;
- b. Expected impact of execution;
- c. Likelihood of execution and settlement;
- d. Costs;
- e. Speed;
- f. Other Factors.

#### 4. Gildencrest Capital's selected venue:

4.1. Gildencrest Capital acts as agent for cash equities.

All orders in cash equities are executed on venue but via a Prime broker as Gildencrest Capital does not have direct venue membership.

#### 5. Price Formation:

5.1. Client orders are routed by trading system via a prime broker connection to the electronic order book of different venues. Prices are formed according to rules of the venue; Gildencrest Capital adds a mark-up.

### SCHEDULE 4: CFD INDICES and COMMODITIES

#### 1. Products in Scope:

1.1. CFD's based on stock indices.

#### 2. Order Types Available:

- (a) **Market Order** - Is an instruction to buy or sell at the next available market price. Please note that pursuant to market conditions there may be a difference between the price selected on the Trading System and the final execution price received. This difference may be less favourable or more favourable than the original quoted price and is a function of market liquidity.
- (b) **Limit Order** - Is an instruction to buy or sell at your specified price or better and may be used to either open or close a position. Please note that a limit order maybe triggered by the market trading through, or gapping over, your specified price. In the event that market conditions trigger a client's limit order for execution it may only execute at a price equal to or better than a client's specified rate. Limits order guarantees price but does not guarantee execution.
- (c) **A limit order to buy** at a price below the prevailing market price will be executed at a price equal to or less than the specified price.
- (d) **A limit order to sell** at a price above the prevailing market price will be executed at a price equal to or more than the specified price.
- (e) **Stop Order** - A stop order is an order to buy or sell at a specified price and may be used to open or close a position. Please note that a stop order may be triggered by the market trading through, or gapping over a specified price. In the event that market conditions trigger a stop order for execution it will become a market order upon



execution. This means that your final execution price may be less favourable or more favourable depending on market conditions. Stop orders guarantee execution but does not guarantee price.

- (f) **A stop order to buy** at a price above the prevailing market price will be executed at the next available market rate, which can be less favourable, or more favourable than your specified rate.
- (g) **A stop order to sell** at a price below the prevailing market price will be executed at the next available market rate, which can be less favourable, or more favourable than your specified rate.
- (h) **Trailing Stop Order** - A stop order applied to an open position wherein the trader specifies the distance between the stop order and current market price. Should the market continue to move in your favour the stop price will automatically update to maintain the specified stop distance from the current market price by adjusting your stop rate. However, should the market at any time move against you the stop price will remain fixed acting as a floor. At that time should the market trade through or gap past your specified stop rate your order will be submitted for execution as market order available for execution at the next available market price.
- (i) **Margin Call** - A Margin Call is a system-generated order that is triggered when your usable liquidation margin drops to zero or below. The order behaves like a Market At Best order when it is triggered. This order can be partially filled multiple times until either the full order amount is executed or your cancels any remaining amount. There is no price associated with this order, so the order will be executed at the best available market price.
- (j) **Limit Order Publication** (if unexecuted) If you give us a limit order in relation to shares admitted to trading on an EEA regulated market, we will be required to make public such limit orders to the extent they are not immediately executed under prevailing market conditions unless you consents to our exercising our discretion as to whether to make such limit orders public.

### 3. Relevant Execution Factors:

Gildencrest Capital trades as agent to CFD Index trades with clients. CFD Index prices are derived from the relevant underlying index price, taking into account the cost of carry. Gildencrest Capital charges mark ups on the raw spreads it receives from its liquidity providers as per the Client's account group or type. For CFD indices the ranking of applicable execution factors is:

- a. Price;
- b. Expected impact of execution;
- c. Costs
- d. Order size and type;
- e. Likelihood of execution and settlement;
- f. Speed;
- g. Other factors.

### 4. Liquidity Providers Selection Criteria

The following criteria are used when selecting liquidity providers:

- They operate in the markets in which the Firm operates, and in the currencies and financial instruments that they are able to support;
- Their geographical location and ability to provide real time access to markets;
- Time availability of prices – in many markets there are lulls and spikes in trading as negotiations align trading interests at different times and different parts of the curve; accordingly, the “last traded” price may not always be available or act as a reliable indicator of current price.

### 5. Price Formation:

CFD Index prices are Gildencrest Capital LPs' proprietary prices, which are derived from the relevant underlying Market.

Where the CFD Reference Asset is listed on a Market then the CFD quoted prices are derived from the market quoted price for the Reference Asset. For certain Reference Assets such as precious metals the quoted price may be derived from the exchange traded futures contract price for the relevant Reference Asset.

## **SCHEDULE 5: ROLLING FOREIGN EXCHANGE SPOT**

### **1. Products in Scope:**

- 1.1. Purchase and sale of rolling foreign exchange spot contracts.

### **2. Products not in Scope:**

- 2.1. Spot foreign exchange transactions undertaken with the intention of converting money from one currency to another – including transactions undertaken to facilitate settlement of other transactions.
- 2.2. Transactions undertaken to roll forward the value date of a client position which do not result in a change to the client's FX market exposure.

### **3. Order Types Available:**

- (a) **Market Order** - Is an instruction to buy or sell at the next available market price. Please note that pursuant to market conditions there may be a difference between the price selected on the Trading System and the final execution price received. This difference may be less favourable or more favourable than the original quoted price and is a function of market liquidity.
- (b) **Limit Order** - Is an instruction to buy or sell at your specified price or better and may be used to either open or close a position. Please note that a limit order may be triggered by the market trading through, or gapping over, your specified price. In the event that market conditions trigger a client's limit order for execution it may only execute at a price equal to or better than a client's specified rate. Limits order guarantees price but does not guarantee execution.
- (c) **A limit order to buy** at a price below the prevailing market price will be executed at a price equal to or less than the specified price.
- (d) **A limit order to sell** at a price above the prevailing market price will be executed at a price equal to or more than the specified price.
- (e) **Stop Order** - A stop order is an order to buy or sell at a specified price and may be used to open or close a position. Please note that a stop order may be triggered by the market trading through, or gapping over a specified price. In the event that market conditions trigger a stop order for execution it will become a market order upon execution. This means that your final execution price may be less favourable or more favourable depending on market conditions. Stop orders guarantee execution but does not guarantee price.
- (f) **A stop order to buy** at a price above the prevailing market price will be executed at the next available market rate, which can be less favourable, or more favourable than your specified rate.
- (g) **A stop order to sell** at a price below the prevailing market price will be executed at the next available market rate, which can be less favourable, or more favourable than your specified rate.
- (h) **Trailing Stop Order** - A stop order applied to an open position wherein the trader specifies the distance between the stop order and current market price. Should the market continue to move in your favour the stop price will automatically update to maintain the specified stop distance from the current market price by adjusting your stop

rate. However, should the market at any time move against you the stop price will remain fixed acting as a floor. At that time should the market trade through or gap past your specified stop rate your order will be submitted for execution as market order available for execution at the next available market price.

- (i) **Margin Call** - A Margin Call is a system-generated order that is triggered when your usable liquidation margin drops to zero or below. The order behaves like a Market At Best order when it is triggered. This order can be partially filled multiple times until either the full order amount is executed or you cancel any remaining amount. There is no price associated with this order, so the order will be executed at the best available market price.
- (j) **Limit Order Publication** (if unexecuted) If you give us a limit order in relation to shares admitted to trading on an EEA regulated market, we will be required to make public such limit orders to the extent they are not immediately executed under prevailing market conditions unless you consent to our exercising our discretion as to whether to make such limit orders public.

#### 4. **Relevant Execution Factors:**

- 4.1. Except for Limit orders, Gildencrest Capital will place the highest priority on total consideration (the combination of price and costs associated with dealing).
- 4.2. For Limit orders, where the client has stipulated a price that is not immediately available in the market, Gildencrest Capital will place the highest priority on execution at the client's specified price at the first possible opportunity. This means that Gildencrest Capital will prioritise speed and certainty of execution.

#### 5. **Liquidity Providers Selection Criteria:**

The following criteria are used when selecting liquidity providers:

- They operate in the markets in which the Firm operates, and in the currencies and financial instruments that they are able to support;
- Their geographical location and ability to provide real time access to markets;
- Time availability of prices – in many markets there are lulls and spikes in trading as negotiations align trading interests at different times and different parts of the curve; accordingly, the “last traded” price may not always be available or act as a reliable indicator of current price.

Rolling Spot Forex/FX CFD is traded over-the-counter ("OTC") and it is not a financial instrument which is traded on regulated markets or an exchange. We receive electronically real-time executable prices from liquidity providers.

In a volatile market the quoted price may have moved before the order instruction is received. Unless the price movement is significant in which case the order may be rejected, favourable price movements (price improvements), and adverse price movements, will be passed on to you.

#### 6. **Price Formation:**

- 6.1. Gildencrest Capital constantly monitors the prices available to it in the wider market. Its price for foreign exchange spot transactions is formed from the liquidity available in a given currency pair for buying or selling, to which its charges are added.

#### 7. **Gildencrest Capital Charges:**

- 7.1. Gildencrest Capital's charges may include the following some of which may be included in the net price at which the client trades:
- 7.2. Price Mark Up. Gildencrest Capital's final transaction price may be inclusive of Mark Up that may impact the execution of any order linked to or triggered at a specified price level. This Mark Up will not form part of the price for best execution comparison purposes.
- 7.3. Spread. The difference between the bid (sell) price and the offer (buy) price. Spread is dependent on many different factors, including but not limited to, the underlying liquidity and volatility, time of day and notional trade size.
- 7.4. Commission. The fee charged for the service of carrying out the transaction, subject to a minimum fee on small notional trade sizes.

## 8. **Direct Markets Access:**

- 8.1. Clients may ask Gildencrest Capital to provide them with direct access to the market. Gildencrest Capital will treat this as a Specific Instruction from the client and will accordingly consider whether it is able to do this and on what terms.
- 8.2. Where Gildencrest Capital provides clients with direct market access, Gildencrest Capital will select one or more execution venues that it believes will provide the best outcomes for that client's transactions. This may be a different selection of venues than it otherwise uses for execution of similar transactions. This may result in a different outcome for the client's transactions.

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