

# **Terms and Conditions**

(NON-US RESIDENTS ONLY)

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## **PART 1. INTRODUCTION**

1.1. The Terms & Conditions (the “Terms”) are offered to you by Capital Com (UK) Limited (“we”, “us”, “CAPITAL.COM”, “the Company” as appropriate), a company authorised and regulated by the Financial Conduct Authority (the “FCA”) (FRN: 793714), with its registered office at 4<sup>th</sup> Floor 64-65 Vincent Square, London, United Kingdom, SW1P 2NU.

1.2. If you are a visitor of our Website, our Privacy Policy and Cookies Policy shall apply. You agree that if you are a visitor you will not be able to place orders on the CAPITAL.COM Online Trading Platform, until you have applied to become our Client and provided we accept you as our Client. The Terms apply to both Retail and Professional Clients.

1.3. The Terms set out the basis on which we will enter into Transactions with you and govern each Transaction entered into or outstanding between you and us on or after these Terms come into effect.

The Terms supersede any previous agreement between you and us on the same subject matter and takes effect when you indicate your acceptance via our Website or mobile app. These Terms shall apply to all Transactions contemplated under these Terms. Subject to the Terms, the Company will provide you the services as per the content of our authorization which includes the provision of certain regulated products and services as shown below:

- Safeguarding and administration of assets (without arranging)
  - Arranging (bringing about) deals in investments
  - Dealing in investments as agent
  - Dealing in investments as principal
  - Making arrangements with a view to transactions in investments
- 1 The aforesaid services may only be provided to Retail and Professional Clients in respect to the following financial instruments Contracts for Differences (excluding a spread bet and, a rolling spot forex contract and a binary bet)
  - 2 Rights to or interests in investments (Contractually Based Investments)
  - 3 Rights to or interests in investments (Security)
  - 4 Share
  - 5 Spread Bet

1.4. Our Electronic Services, as defined below, involve trading CFDs and/or spread bets and carry a high level of risk and can result in you losing all of your invested capital. Our CFD trading and/or spread bets trading is not suitable for everyone. An explanation of some of the risks associated with our products is set out in the Risk

Disclosure Statement and you should ensure that you fully understand such risks before entering into any Transactions with us.

1.5. If you are accepted as our Client, these Terms together with the provisions of the Risk Disclosure Statement, the Order Execution Policy, the Privacy Policy, the Conflicts of Interest Policy, the Client Categorisation Policy, the Complaints Handling Process, the Leverage and Margin Policy, the Key Information Document (“KID”) and the Investor Compensation Fund Policy (as all are amended from time to time), which can be found on our Website and mobile app, constitute a legally binding contract between us and also include important information which we are required as a FCA regulated Firm to provide to our Clients under the Applicable Regulations. You should read all of those terms carefully and any other documents that we have supplied or in the future do supply to you.

1.6. The Terms supersede any previous agreement between you and us on the same subject matter and takes effect when you indicate your acceptance via our Website or mobile app. These Terms shall apply to all Transactions contemplated under these Terms.

1.7. Nothing in these Terms will exclude or restrict any duty or liability owed by us to you under the Applicable Regulations and if there is any conflict between these Terms and the Applicable Laws and Regulations, the Applicable Laws and Regulations will prevail.

1.8. These are our standard Terms which we intend to rely on to govern our relationship with you. For your own benefit and protection you should read the Terms carefully before agreeing to them. If you do not understand any point in any of the documents making up the Terms please ask for further information at the [“Contact Us”](#) page on our Website. This page is also available through the “Help” menu on our mobile app.

1.9. By accepting and agreeing to these Terms, you agree that the provision of information through electronic means such as the Company’s website or your verified email (“durable mediums”), due to the nature of the relationship established between the Company and the Client is acceptable. The provision of information by means of electronic communication is treated as appropriate since the client has regular access to the internet. The provision by the Client of an e-mail address for the purposes of the carrying on of that business is considered as sufficient evidence. Through the following terms and conditions, the Client is provided with the specific addresses where the relevant information is accessible on a continued basis. The Company will ensure that the website will be always kept up to date.

1.10. CAPITAL.COM enters into a business relationship only with clients who reside in authorised countries.

**IMPORTANT NOTE:** If you do not fully understand the provisions of the Terms as well as any other information outlined in the Regulatory Package which will govern the business relationship between CAPITAL.COM and the client, please contact us at [support@capital.com](mailto:support@capital.com).

By accepting the Terms available at our website, you agree and consent to the policies specified herein and the opening of your trading account. The Terms have fully legal effect as if it was personally signed by the client and apply to all transactions contemplated under the Terms.

## **PART 2. DEFINITIONS**

2.1. In the Terms the following terminologies are defined. It is noted that the list is not exhaustive and additional terms are defined in our website under the “Financial Dictionary” Section.

2.1.1. “Account” means the account you hold with us and designated with a particular account number used for the purposes of trading at any trading platform used by the Company either online or through the mobile application.

2.1.2. “Applicable Laws and Regulations” means:

- a. Rules of the Financial Conduct Authority (“FCA”) or any other rules of a relevant regulatory authority such as the Conduct of Business Sourcebook (COBS), Client Assets (CASS) etc.;
- b. All other applicable laws, rules and regulations as in force from time to time;
- c. Rules, regulation, directives and guidelines issued from the European Securities and Market Authority (ESMA”);
- d. The Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data;
- e. The Money Laundering and the prevention of financial crime Regulations;
- f. Any other applicable laws and regulations of the England and Wales and any other relevant jurisdiction to which CAPITAL.COM is directly or indirectly subject to.

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

2.1.4. “Base Currency” means either the official currency of the United States of America (the USD), or the official currency of the Eurozone (the EUR), or the official currency of the United Kingdom (the GBP) or the official currency of the Republic of Poland, or any other currency that may designated by the Company as a Base Currency from time to time.

2.1.5. “Business Day” shall mean any day other than a Saturday or Sunday where the banks are open for general commercial business in London, United Kingdom;

2.1.6. “Business Hours” means [09:00 – 06:00] during business day mentioned above. CAPITAL.COM reserves the right to suspend or modify the Business Hours at its own discretion and clients will be informed accordingly through a durable medium.

2.1.7. “Client Money Rules” means the rules specified in - The Financial Conduct Authority (“FCA”) Client Asset Sourcebook (“CASS”) in the FCA handbook.

2.1.8. “Client” means a retail or Professional client, acting as the counterparty of the Company and having agreed to these Terms with the Company as well as the other documentation referred to point 1.5 of the Terms.

2.1.9. “Contract for Differences” or “CFD” means the financial instrument specified in paragraph (9) of Part III of Third Appendix of the Law.

2.1.10. “Electronic Services” means a service provided by us, for example an Internet trading service offering clients access to information and trading facilities, via an internet service.

2.1.11. “Event of Default” means any of the events of default listed in Part 13 (“Events of Default”).

2.1.12. “Execution” means the completion of a client order on the CAPITAL.COM Online Trading Platform, where the Company acts as a principal to the Client’s Transaction.

2.1.13. FATCA means the US Foreign Account Tax Compliance Act.

2.1.12. Forex Company means CJSC “Capital Com Bel”, a company duly incorporated on the territory of Republic of Belarus with registered address at: 36-1 Internatsionalnaya str., office 823, 220030 Minsk, Belarus.

2.1.14. “FCA” means the Financial Conduct Authority

2.1.15. “FCA Rules” means the Law, Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Directives, Circulars and all other regulations issued pursuant to these laws and all relevant guidance notes, administrative notices, newsletters and rules published by FCA, including COBS, CASS and PROD.

2.1.16. “Over-the-counter” or “OTC” means and refers to Transactions conducted outside a trading venue (i.e. off- exchange).

2.1.17. “Law” means the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (‘MiFI regulations’), SI 2017/701.

2.1.18. “CAPITAL.COM Trading Desk” means the trading desk operated by us at our premises.

2.1.19. “CAPITAL.COM Online Trading Platform” means the Internet-based trading platform available at our Website and by means of our mobile app that allows us to provide Electronic Services to you.

2.1.20. “Secured Obligations” means the net obligation owed by you to us after the application of set-off under Part 11 (“Margining Arrangements”) in Clause 11.5 entitled “Set-off on Default”.

2.1.21. “Spread Bets” means a leveraged financial instrument which allows clients to speculate on the movement of the price of the market of the underlying asset. When the client decides to open and/or close a Spread Bet, the difference between the Company’s bid and ask prices is referred to as the Spread and consists of the Market Spread and the Spread Charge which is being paid by the client.

The client is not charged with any additional commissions on the Spread Bets like when trading in CFDs, excluding the rollover financing fee. Further information on the costs and charges associated with Spread Bets trading are available in Part 6 of the Agreement, onto our Website and the trading platform. A breakdown of such costs and charges are available on request.

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

2.1.23. “TIN” (including “functional equivalent”) means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering the tax laws of such jurisdiction. Further details of acceptable TINs can be found at the following link:

<http://www.oecd.org/tax/transparency/automaticexchangeofinformation.htm>

Some jurisdictions do not issue a TIN. However, these jurisdictions often utilize some other high integrity number with an equivalent level of identification (a “functional equivalent”). Examples of that type of number include, for individuals, a social security / insurance number, personal identification / service code and resident registration number

2.1.24. “Transaction” means any transaction on CFDs and/or Spread Bets across a range of underlying asset classes, including, but not limited to, rolling spot forex, equities, commodities and indices, carried out subject to these Terms and for which we are authorised under our FCA license.

2.1.25. “Politically Exposed Person” or “PEP” means a natural person who is or has been entrusted with prominent public functions during the last twelve (12) months, as well as immediate family members and close associates of such a person. The prominent public functions include:

- heads of state, heads of government, ministers and deputy or assistant ministers;
- members of parliaments;
- members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
- members of courts of auditors or of the boards of central banks; ambassadors, chargés d’affaires and high-ranking officers in the armed forces;
- members of the administrative, management or supervisory bodies of state-owned enterprises.
- directors, deputy directors and members of the board or equivalent function of an international organisation.

2.1.26. “MiFID II” means the Markets in Financial Instruments Directive (2014/65/EC) of 15 May 2014.

2.1.27. “MIFIR” means the Regulation (EU) No 600/2014 of the European Parliament and of the Council of the 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

2.1.28. “PRIIPs” means the Regulation (EU) No 1286/2014 of the European Parliament and the Council of 26 November 2014 on Key Information Documents for packages retail and insurance-based investment products.

## **PART 3. GENERAL OBLIGATIONS**

### **3.1. Information about Us**

3.1.1. Our registered office is at 4<sup>th</sup> Floor 64-65 Vincent Square, London, United Kingdom, SW1P 2NU. Our contact details are set out in Part 18 (“Miscellaneous”) under the heading “Notices”.

3.1.2. CAPITAL.COM is an execution-only matched principal broker for CFDs and spread bets. The Company licenses the website <https://capital.com/> (the “Website”) and the CAPITAL.COM Online Trading Platform which enable the provision of the Electronic Services to our Clients. You will open each CFDs and/or Spread Bet with us a principal. This means that unless we have otherwise agreed in writing, the person will be treated as client and you will be responsible for performing your obligations

under each CFD and/or Spread Bet opened by you. Dealings with the clients are carried out by us on an execution-only basis.

### **3.2. Language**

These Terms are supplied to you in English and we will continue to communicate with you in English for the duration of these Terms. We will have the discretion to communicate with you in other languages in addition to English.

### **3.3. Communication with Us**

3.3.1. You may communicate with us by e-mail or through the [“Contact Us”](#) section of our Website or the mobile app. Our contact details are set out in Part 18 (“Miscellaneous”) under the heading “Notices”.

3.3.2. Our Website and mobile app contain further details about us and our Electronic Services, and other information relevant to these Terms. In the event of any conflict between these Terms and our Website or mobile app these Terms will prevail.

3.3.3. It is noted that CAPITAL.COM records all correspondence with you and monitors and maintains records of all emails or chats or calls between the Company and the client. In addition, the Trading Platform maintains records of all transactions placed by you. CAPITAL.COM will maintain all records from the beginning of the establishment of the business relationship for a minimum of 5 years, and if requested by the competent authority this period will be extended to 7 years.

### **3.4. Client Categorisation**

This section shall be read in conjunction with the Company’s Client Categorization Policy which is uploaded onto our website and is available [here](#).

3.4.1. We act as a principal and not as an agent on your behalf and you enter these Terms as a principal and not as agent (or trustee) on behalf of someone else.

3.4.2 As per the provisions of the FCA Rules, the Company will deal with the Client according to the type of categorisation/classification on which the Client will be treated either as a Retail, Professional or Eligible Counterparty in accordance with the information provided during the account opening procedure. The Company will notify its clients, and existing clients for their categorization as a retail Client, professional Client or an eligible counterparty. For more information please see our [Client Categorisation Policy](#).

3.4.3. CAPITAL.COM recognizes that Clients should be in general allowed to request to be placed into a different category other than retail as per the provision of the Client Categorization Policy. The Company will examine the clients’ request, which shall be made in writing, for such a re-categorization and notify the client accordingly if such request will be approved or not.



3.4.4. If such re-categorization is of material importance to you and prevents you from using our Electronic Services, you may terminate your arrangements with the Company under these Terms.

3.4.5. Your protection as a retail client under the FCA Rules and other Applicable Regulations includes, but is not limited to:

- a. our obligation to provide appropriate information to you before providing the Electronic Services;
- b. the restriction on the payment or receipt by us of any inducements;
- c. our obligation to ensure that all information we provide to you is fair, clear and not misleading;
- d. the requirement that you receive from us adequate reports on the Electronic Services provided to you;
- e. a retail client will be given more information/disclosures with regards to the Company, its services and any investments, its costs, commissions, fees and charges and the safeguarding of clients' funds and financial instruments. Clients who are classified as professionals or eligible counterparties will be provided with the relevant requirements to the extent agreed between the Company and the respective clients;
- f. CAPITAL.COM will request the Client to provide information regarding his/her knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the Company to assess whether the investment service or product envisaged is appropriate for the Client. In case the Company considers, on the basis of the information received, that the product or service is not appropriate for the Client, the Company will alert the Client accordingly;
- g. when executing orders CAPITAL.COM will take all sufficient steps to achieve what is called "best execution" of the Client's orders that is to obtain the best possible result for their Client as defined in the Company's Order Execution Policy. The Order Execution Policy is provided on our Website, or by e-mail on request. Unless you notify us to the contrary, you will be deemed to consent to our Order Execution Policy when these Terms come into effect. If you do not consent, we reserve the right to refuse to provide our Electronic Services to you;
- h. CAPITAL.COM will inform its Clients of material difficulties relevant to the proper carrying out of their order(s) promptly upon becoming aware of such difficulties;
- i. CAPITAL.COM will provide Clients with full and explicit information on the execution of the relevant Client orders;
- j. CAPITAL.COM will make adequate arrangements for financial instruments held on behalf of a Client to prevent their use by the Company for its own account

by depositing them with a third party in manner that would make them identifiable from the Company's financial instruments held with that third party (if any) and identifiable from the financial instruments held by that third party as well;

- j. CAPITAL.COM will make adequate arrangements for Margin Close-Out Protection. The standardized margin close-out rule has been set at 50% of the total initial margin. The threshold has been set out in ESMA's mitigation measures to ensure an adequate common minimum level of protection for retail investors. A margin close-out rule is imposed on a gradual basis;
- k. Clients may be entitled to compensation under the Financial Services Compensation Fund scheme;
- l. CAPITAL.COM will make adequate arrangements to prevent the use of Client funds for its own account by depositing them entirely into segregated bank accounts.

3.4.6. You acknowledge and accept that you have read and accepted the "Client Categorisation Policy", that is provided during the registration process and which is uploaded on the Company's official website.

3.4.7. The Company reserves the right to revoke or change its Client Categorisation Policy at any time as this will be displayed in the Company's website. In such a case, you will be requested to re-consent to the updated version of the Client Categorisation Policy.

### **3.5. Availability of the Electronic Services**

3.5.1. The Electronic Services of CAPITAL.COM are only available to retail and/or professional clients who:

- a. For individuals who are at least eighteen (18) years old and at least the legal age in his/her respective jurisdiction;
- b. are domiciled or located in a country where the distribution or use of CFDs and/or Spread Bets would not be contrary to local Laws or Regulations. It is your responsibility to ascertain the terms of, and comply with any local Laws or Regulations to which you are subject;
- c. are not domiciled or located in the United States of America. Furthermore, the use of the CAPITAL.COM Online Trading Platform is prohibited from anywhere in the United States of America;
- d. have provided the Company with the information required to build their economic profile;
- e. at the Company's request have provided information and documentation necessary to establish the source of funds deposited with the Company;

- f. are not a PEP and do not have any relationship (for example relative or business associate) with a person who holds or held in the last twelve (12) months a prominent public position. You must notify the Company as soon as possible if at any stage during the course of these Terms you become a PEP; and/or
- g. are not employees, directors, associates, agents, affiliates, relatives, or otherwise connected to the Company or any of its Associates.

3.5.2. The use of and access to the CAPITAL.COM Online Trading Platform may not be permitted or may be blocked in some jurisdictions. It is your responsibility to verify that you are permitted to use and access the CAPITAL.COM Online Trading Platform according to the jurisdiction of your domicile or any country in which you may be located. Should you try to access the CAPITAL.COM Online Trading Platform from a country other than your country of your domicile it is possible that access will not be permitted and you will be unable to access the CAPITAL.COM Online Trading Platform and therefore open any positions or close any existing positions.

3.5.3. The CAPITAL.COM Online Trading Platform and the Company's Electronic Services are not intended for distribution or public offer to Clients domiciled or located in Belgium ("Belgian Clients"). It is the responsibility of Belgian Clients, to ascertain the terms of, and comply with any local law or regulation to which they may be subject to as residents of Belgium.

3.5.4. We will currently not onboard a Client that would in our best opinion qualify as a Belgian Client due to the place of his/her domicile, residency, location and etc.

3.5.5. The Company may, in its sole discretion, refuse to offer its Electronic Services to any person and change its eligibility criteria at any time.

### **3.6. General Interpretation**

3.6.1. A reference in these Terms to a "Clause" or "Schedule" or "Part" shall be construed as a reference to, respectively, a Clause or Schedule or Part of these Terms, unless the context requires otherwise.

3.6.2. References in these Terms to any statute or statutory instrument or Applicable Regulations include any modification, amendment, extension or re-enactment thereof.

3.6.3. A reference in these Terms to a "document" shall be construed to include any electronic document. Similarly, reference in these Terms to "persons" may include any individual, firm, company, corporation, trust etc.

3.6.4. The masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires.

3.6.5. Words and phrases defined in the FCA Rules and the Applicable Regulations have the same meaning in these Terms unless expressly defined in these Terms.

3.6.6 A reference to the term “in writing” includes the provision of text electronically via a durable medium as defined above.

### **3.7. Schedules**

3.7.1. The provisions contained in the attached Schedule(s) (if any) shall apply. We may from time to time send to you further Schedules in respect of the Transactions. In the event of any conflict between the provisions of any Schedule and these Terms, the provisions of the Schedule shall prevail.

3.7.2. You acknowledge having read, understood and agreed to the Schedules to these Terms (if any).

### **3.8. Headings**

Headings are for ease of reference only and do not form a part of these Terms.

### **3.9. Product Governance**

Under the requirements imposed by the FCA in relation to Product Governance we have determined the target market for each of the Financial Instruments offered by CAPITAL.COM. As part of the account opening procedure, you acknowledge that you should provide the necessary information to enable us to determine whether you fall within the identified target market of clients. Such information aims to evaluate whether your needs, characteristics and objectives are in line with the characteristics and risks of the complex products offered by CAPITAL.COM.

If you provide us with incorrect or incomplete information required under Product Governance regime, you will adversely affect our ability to carry out correctly our obligation and thus, you may be allowed to enter into Transactions in Financial Instruments that should not be marketed and offered to you.

### **3.10. Key Information Document**

The Key Information Document (“KID”) is the document prepared by CAPITAL.COM for the packaged retail and insurance-based investment products (“PRIIPs”) manufactured and sold by the Company to Retails Clients. In accordance with the requirements of PRIIPs, the purpose of the KID is to provide you with overview information on the Company, applicable laws and regulations, the services offered as well as the nature and risks involved in the trading of spot forex and CFDs.

As the KID constitutes an overview of the risks involved, it is provided to you only for the purpose of helping you to understand the nature, costs, risk and rewards of the relevant products and to help you to compare it with other products, it should be used

for information purposes. This Agreement comprises the primary legal agreement between you and the Company for the services we provide to you as described herein.

The KIDs for CFDs and Spread Bets are available on our website [here](#).

### **3.11. Transaction Reporting**

In accordance with the Markets in Financial Instruments Regulation (MiFIR), Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, CAPITAL.COM is obliged to report transactions on financial instruments that are admitted for Trading on a Trading Venue (“ToTV”) or for which a request for admission to trading has been made, financial instruments where the underlying is a financial instrument ToTV; and financial instruments where the underlying is an index or a basket composed of financial instruments ToTV.

In this respect, we are irrevocably authorized to report all of your reportable transactions to the FCA. For the purposes of facilitating Transaction Reporting, you should provide us, among others, with the following supporting documentation, in an acceptable by us format:

**Natural Person:** Depending on the country of your residence, you should provide us with such supporting documentation as required by the Annex II of the Delegated Regulation (EU) 2017/590 regarding national client identifiers for natural persons to be used in transaction reports, including but not limited to the passport number or identity card number or concatenation (CONCAT) number.

**Legal Person:** You should provide us with the Legal Entity Identifier (“LEI”), the 20-digit, alphanumeric code that enables clear and unique identification of legal entities participating in financial transactions. It is emphasized that CAPITAL.COM will not be in a position to provide a service triggering the obligation for us to submit a transaction report for a transaction entered into on your behalf, prior obtaining the LEI from your side. Failure to renew your LEI on an annual basis will result to the termination of this Agreement in accordance with the provisions of clause 16.

You should also provide us with any additional information and/or supporting documentation may be requested from time to time, required under MiFIR or any other applicable Laws and Regulations, in order to comply with our reporting obligation.

In case of refusal or failure to provide us with the required information and/or supporting documentation, we have the absolute right to refuse you to trade with us and to suspend your Account or terminate this Agreement in accordance with the provisions of Part 16.

### **3.12. Appropriateness Assessment:**

As you have been categorised as Retail Client, we are required by the applicable laws and regulations to obtain sufficient information for the purposes of assessing the appropriateness of the Financial Instruments offered by the Company. The information to be collected as part of your appropriateness assessment includes the following:

- a. The type of service, transaction and financial instrument with which the Client is familiar;
- b. The nature of the Client's transactions in financial instruments and the period over which they have been carried out;
- c. The level of education, and profession of the Client or potential Client.

The purpose of the collection of information in regard to the assessment of appropriateness, is to enable us to assess your knowledge and experience in the trading of complex instruments and leveraged products. The relevant information is collected during the account opening procedure and before any Transactions are carried out. The Company shall not encourage a Client or potential Client not to provide information required for the purposes assessing the appropriateness.

If according with our assessment of appropriateness scoring, we will consider that complex and leveraged products we offer are not appropriate for you, you should carefully consider our warning. If you wish to proceed with Transactions, irrespective of the results of our appropriateness assessment, you should acknowledge our warning.

You hereby represent and warrant that you understand the purpose of the assessment of appropriateness that we undertake. If you provide us with incorrect or incomplete information about the assessment of appropriateness, you will adversely affect our ability to carry out correctly our obligation.

## **PART 4. APPLICABLE LAWS AND REGULATIONS**

### **4.1. Subject to the Applicable Laws and Regulations**

4.1.1. These Terms and all Transactions are subject to the Applicable Laws and Regulations so that:

- a. nothing in these Terms shall exclude or restrict any obligation which we have to you under the Applicable Laws and Regulations;
- b. we may take or omit to take any action we consider necessary to ensure compliance with any Applicable Laws and Regulations;
- c. all Applicable Laws and Regulations and whatever we do or fail to do in order to comply with them will be binding on you; and

d. such actions that we take or fail to take for the purpose of compliance with any Applicable Laws and Regulations shall not render us or any of our directors, officers, employees or agents liable.

## **4.2. Action by a Regulatory Body**

4.2.1. If the FCA, or any other regulatory body takes any action which affects a Transaction, then we may take any action which we, in our reasonable discretion, consider desirable to respond to such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on you.

4.2.2. If the FCA, or any other regulatory body makes an enquiry in respect of any of your Transactions, you agree to co-operate with us and to promptly supply information requested in connection with the enquiry.

## **4.3. Obligations regarding Financial Account Holder's tax residency**

4.3.1. **OECD Common Reporting Standard (CRS)**; Regulations based on the CRS require collecting and reporting of certain information about a Financial Account Holder's tax residency. If the Financial Account Holder's tax residence is located outside the country, where the Financial Institution (FI) maintaining the account is located, the Company may be legally obliged to pass on financial information provided with respect to your account to the local tax authorities and they may exchange these information with tax authorities of another jurisdiction/s pursuant to intergovernmental agreements to exchange financial account information.

4.3.2. **Foreign Account Tax Compliance Act (FATCA)**; We are required by the Applicable Laws and Regulations (including without limitation, FATCA) to confirm and to verify the identity of each Client who registers in our system and opens an Account with us. Therefore, you will be prompted to provide us with information when you register with us, including: (1) your name, (2) your address, (3) your date of birth, (4) your phone number and any other personally identifiable information that we may ask for from time to time such as a copy of your passport, a proof of addresses or other identifying documents or information, and the countries of which you are a tax resident, and confirm whether you are a US citizen or your place of birth is in the United States of America or any other proof of your current location or domicile. You shall notify CAPITAL.COM in writing within 30 days of any material change in the information previously provided to us.

## **PART 5. PAYMENTS COST, CHARGES, METHODS, DEPOSITS AND INDUCEMENTS**

### **5.1. Charges**

Spreads, fees and other charges are payable by you as a Client of the Company. A copy of our current charges is published on the Website and the mobile app. Any alteration to charges will be notified to you in advance of the relevant change.

The Company reserves the right to modify, from time to time, the size, the amounts and the percentage rates of its fees providing the Client with a respective notification of such charges accordingly.

Further information in respect to costs and charges are provided in an aggregated form on the Company's website (expressed in both as a cash amount and as a percentage). The Company is in a position to provide you with an itemized breakdown of costs and charges in your personal account on our platform.

In addition, a copy of our current charges is published in the KID and the mobile app. Any alteration to charges will be notified to you in advance of the relevant change, as specified above.

## **5.2. Spreads**

Prices quoted to the Client will include a spread, mark-up or mark-down when compared to prices that the Company may receive or expect to receive if it were to cover your transactions with, for example, a trade in forex interbank market. The spread is dynamic and may factor in the liquidity in the external markets and the competitor pricing. Further details in regards to the spread applicable for each financial instrument are specified below:

Only a spread (the difference between the lower and the higher price of a given CFD and Spread Bet) is applied for the trading part of the Electronic Services, and no other charges or commissions are paid by the Clients in this part. The spread is dynamic and may factor in the liquidity in the external markets and the competitor pricing. Our spreads are set at our absolute discretion and any changes are effective immediately. CAPITAL.COM reserves the right to mark up the spreads.

The Client agrees that the Spread charged to you as well as the Market Spread are subject to changes at any time and therefore when you close your position in CFDs and/or Spread Bets may be greater or smaller than the spread quoted when you will open the position.

## **5.3. No Commissions or Fees for Deposits or Withdrawals**

5.3.1. No fees are charged by the Company for deposits to or withdrawals from the Account.

## **5.4. Payment Methods**

The following payment methods can be used: bank cards and bank transfers, payments via electronic or online payment solutions, such as iDeal, Trustly, Multibanko, Przelewy24, Sofort, Qiwi, WebMoney, Skrill, Neteller, AstropayTEF, 2c2p.



Additional limitations and restrictions apply subject to region, and/or currency, and/or amount of payment. The Company reserves the right to amend the list of payment methods without notification of its clients.

## **5.5. Minimum Deposits**

5.5.1. The Company reserves the right to change from time to time the minimum amount of money that can be deposited to your Account at a time (the “Minimum Deposit”). The amount that is currently constituting the Minimum Deposit shall be shown to you during the depositing process. In average the Minimum Deposit constitutes from 20 to 100 EUR or same amounts in USD/GBP, or from 80 to 400 PLN respectively, depending on the account base currency.

5.5.2. For deposits processed via bank transfers, the Company shall only accept deposits that are equal to 250 GBP (or the equivalent in the Base Currency of the Client’s Account) (the “Minimum Bank Transfer Deposit”) or deposits that are greater than the Minimum Bank Transfer Deposit. In case the Client deposits an amount less than the Minimum Bank Transfer Deposit the Company has the discretion to decline such deposit and process its return, with all relevant bank charges deducted from the amount returned.

## **5.6. Prepaid Cards**

5.5.1. Anonymous prepaid cards involve a higher risk for money laundering and terrorist financing activities. As such, the Company has established procedures in order to mitigate such risk arising from the use of anonymous prepaid cards. In particular, the Company shall not accept deposits originating from anonymous prepaid cards issued outside the European Union. In this respect, when such a deposit method is identified by the Company, the deposited funds are immediately returned to the Client.

## **5.7. Conversion into base currency**

Investing in financial instruments with an underlying asset(s) in a currency other than your base currency entails a currency risk as the financial instrument is settled in a currency other than your base currency and hence the value of your return may be affected by its conversion into the base currency.

For the purposes of any calculation (unless expressly stated otherwise), we convert amounts denominated in any other currency into the Base Currency at the prevailing rate at the time of the calculation as shown on our platform.

However, the Company reserves the right to add a mark-up on the conversion rates in relation to the prevailing market conditions.

## **5.8. Additional Costs**

You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us. It is your sole responsibility to bear these additional costs. You may pay us, or reimburse us for any taxes applicable, currently or in the future, to trading in Spread Bets and/or CFDs, pursuant to this Agreement.

### **5.9. Ex-post disclosure**

The Company will provide the Clients with an itemized breakdown of costs and charges in their personal account on our platform.

### **5.10. Currency of the Payments**

All payments to us under these Terms shall be made in the Base Currency of the Client's relevant Account.

### **5.11. No Third-Party Payments**

You can deposit only your money to your Account. It means that it should be easily traceable that the deposited funds come from you. In case of a doubt, we reserve the right to ask for a documentary confirmation of the ownership of the incoming funds.

No third-party payments will be accepted. If third-party deposit is identified or if in case of a doubt you are unable to provide the documentary prove of funds ownership – the deposited amount deducted by the amount of transaction fees will be returned to the same account from which it was received.

In case the card was fraudulently used, the legal owner of the card shall apply to the Company for reimbursement of the full fraudulently transferred amount including transaction fees.

The Company will not process any Account withdrawals made to third parties. Withdrawals will be made to the same account from which the incoming funds were received. If it is not possible you are obliged to provide us with the documentary prove of ownership of the account to which you are requesting withdrawal.

### **5.12. Overnight Premiums**

If you hold a position open overnight, an overnight premium is subtracted from your Account. The size of overnight premium is specified for each instrument on our Website and on the mobile app.

### **5.13. Inducements**

Generally, CAPITAL.COM is obliged to act honestly, fairly and professionally in accordance with the best interest of you. In this respect, under inducement rules, the Company will not pay to or accept from any party (other you) any fee or commission in connection with the provision of an investment service or an ancillary service unless

these payments and/or benefit meet the requirements mentioned below. Similarly, CAPITAL.COM will not provide to or receive from any party (other than you) any non-monetary benefit in connection the provision of investment service or an ancillary service.

By way of derogation of the above, in case where the fee, commission or non-monetary benefit was designed to enhance the quality of the relevant service to the client and does not impair compliance with our duty to act honestly, fairly and professionally for your best interest, CAPITAL.COM may pay, provide, accept or receive a fee, commission or non-monetary benefit. In such a case, CAPITAL.COM will clearly disclose to you. The information to be disclosed include inter alia, the existence, nature and amount of the payment or benefit, whether the Company accepts minor non-monetary benefits, ongoing inducements, the methodology of calculation of such amounts if not known from the beginning.

The only inducements paid by the Company to third parties relate to the third parties introducing Clients to the Company. The terms of payment are disclosed on the website of the Company: <https://affiliates.capital.com/>.

With respect to the provision of inducement rules, i.e. ensuring that inducements do not impair the Company's duty to act honestly, fairly and professionally in accordance with the best interest of its Clients, the Company at all times provides the following:

1. The Company does not treat any differently Clients onboarding through affiliates in relation to their execution of their orders;
2. The Client does not incur any additional costs when onboarding through an affiliate, as inducements paid to the affiliate are paid directly by the Company;
3. The Company ensures that no conflicts of interest arise from the method of inducement of affiliates since the terms of payment do not relate to the introduced Clients' deposited amount nor the volume of transactions undertaken. Affiliates are paid depending on the number of Clients introduced only.

#### **5.14. Dividends**

Adjustments will be made to the Client's Accounts due to dividend payments related to the underlying equity. Such adjustment will be calculated by the Company basing on the size of the dividend, the size of Client's position, taxation and whether it is a buy or a sell trade. If the Client holds a long Position, the Company will adjust such Client's Account in Client's favor by the dividend multiplied by the long quantity as adjusted, if necessary, for taxation. If the Client holds a short Position, the Company will adjust such Client's Account in Company's favor by the dividend multiplied by the short quantity as adjusted, if necessary, for taxation.

A dividend adjustment is applied when an underlying share passes its ex-dividend date (including the ex-date of any special dividend) in the underlying stock market.

However, as the Company is dependent upon notification from an external third party under no circumstances the Company shall be kept liable for the consequences of any delayed adjustments.

## **PART 6. EXECUTION OF CLIENTS' TRANSACTIONS**

### **6.1. Execution Only-No provision of Investment Advice**

We deal on an execution only basis and do not advise on the merits of particular Transactions, or their taxation consequences as each tax treatment depends on the individual circumstances of each client.

### **6.2. Own Judgement and Suitability**

Without prejudice to our foregoing obligations, in asking us to enter into any Transaction, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the Transaction. You represent that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks of any Transaction and that you have read and have accepted the Risk Disclosure Statement. We give you no warranty as to the suitability of the products traded under these Terms and assume no fiduciary duty in our relations with you.

### **6.3. Incidental Information**

Where we do provide generic 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 advice;
- b. where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on to any such person or category of persons;
- c. we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the tax consequences of any Transaction;
- d. you accept that prior to dispatch, we may have acted upon it ourselves or made use of the information on which it is based. We do not make representations as to the time of receipt by you and cannot guarantee that you will receive such information at the same time as other Clients. Any published research reports or recommendations may appear in one or more screen information service.

## **6.4. Conflicts of Interest Policy**

6.4.1. Under Applicable Laws and Regulations, the Company is required to have arrangements in place to manage conflicts of interest between the Company and its clients and between other clients. The Company will make all reasonable efforts to avoid conflicts of interest when they cannot be avoided the Company shall ensure that you are treated fairly and at the highest level of integrity and that their interests are protected at all times.

6.4.2. You acknowledge that we provide our Electronic Services to a broad range of Clients and have numerous counterparties and circumstances may arise in which we, our Associates, or any relevant person may have a material interest in a Transaction with or for you or where a conflict of interest may arise between your interests and those of other clients or counterparties or of ourselves.

6.4.2 The examples of material interests mentioned above could result to conflicts of interest when we may arrange for the transaction in CFD and/or Spread Bet with you or on your behalf in connection with the Associates or any relevant person;

6.4.3. CAPITAL.COM has implemented sufficient controls and procedures for the management of conflicts of interest. Nevertheless, in case where the controls established by the Company are not sufficient to manage such conflicts related either to the Client or the Company, CAPITAL.COM will disclose the conflicts of interest before proceeding with further business with the client.

6.4.4. Please refer to our Conflicts of Interest Policy for further information on how we manage conflicts. Upon request, we will provide you with any further details in that regard.

## **PART 7. AML AND CLIENT ACCOUNT OPENING PROCEDURES**

### **7.1. Account Opening**

7.1.1. Before you can place an order with the Company, you must read and accept these Terms, the trading policies as outlined in Part 8 below, and all applicable Schedules (if any). You must also deposit sufficient funds in your Account and your client registration form and all accompanying documents must be approved and verified by the Company.

7.1.2. The Company has established a Customer's Acceptance Policy in order to perform accurate and complete risk assessment when accepting clients.

### **7.2. Documents**

7.2.1. When accepting a new client, the Company is required to have satisfactory evidence of a clients' identity, economic profile and financial background, in order to provide an effective service. The Company requires all clients to enter into an

agreement with the Company by completing the account opening documentation which is tailored to extracting this information.

7.2.2. The documents required for the verification of your identity to approve the registration of your Account, may be provided to the Company before the establishment of a business relationship. Provided that the verification is completed as soon as practicable after contact is first established, the verification of the customer, any person purporting to act on behalf of the customer and the customer's beneficial owner, may be completed during the establishment of a business relationship if:

(a) this is necessary not to interrupt the normal conduct of business; and

(b) there is little risk of money laundering and terrorist financing.

7.2.3. Upon the provision of all requested documentation, the Company will assess and verify the provided documentation and, if everything is in line with the Company's procedures and AML legislative requirements, an approval of your registration as a Client will be sent to you by e-mail to the address you have provided during the registration of the Account.

7.2.4. In case, the documents requested during your registration are not provided, the Company shall proceed with the suspension of your Account and any other Electronic Services related to your Account will also be terminated.

7.2.5. Upon the approval of your registration, you will be notified by e-mail to the address you have provided during the registration of the Account.

7.2.6 The Company, may, in its sole discretion, at any time during the business relationship with the Company, and on reasonable grounds, request that in addition to online acceptance of these Terms, Client must complete and submit any signed documents so required by the Company, including but not limited to these Terms and the Risk Disclosure Statement.

### **7.3. Currency of the Accounts**

You will be able to open your trading Account(s) in one of the Base Currencies offered by the Company. Account(s) balances will be calculated and reported to you in the Base Currency in which Account(s) are maintained.

## **PART 8. TRADING POLICIES AND PROCEDURES/ORDERS**

### **8.1. Placing Orders**

You may give us instructions in electronic form through the Website or the mobile app. In these Terms "instructions" and "orders" in CFDs and/or Spread Bets have the same meaning.

Transactions in Spread Bets will automatically roll over to the next date for the relevant underlying market unless the client opts out of this in respect of a specific Spread Bet or in respect of all Spread Bets on the trading account.

## 8.2. Types of Orders Accepted

8.2.1. An order is an offer to open or close a transaction if our price moves to, or beyond, a level specified by you. Our approach is to place orders solely as a principal and not as an agent on your behalf; we are the sole counterparty to your trades and the sole execution venue for your orders. A CFD and/or Spread Bet Will be opened or closed when your request has been received and accepted by us. Our acceptance of an offer to open or close a Spread Bet. Will be evidence by our confirmation which is available in the Trading Platform.

The CAPITAL.COM Online Trading Platform supports the following types of orders:

a. A **Market Order** is an instruction to buy or sell a CFD immediately in a specified size at the best available market price for that size. When you place a Market Order with us you acknowledge that such Market Order allows us to execute your order at a price that is worse than our quoted bid/offer price at the time you place it. This order type does not allow any control over the price it will be filled at. Market Orders can be placed only during the trading hours of the underlying asset. Where there is insufficient liquidity available for the specified size your Market Order will be partially filled while the remaining quantity will be cancelled by the system. A Market Order can have Take Profit/ Stop Loss Orders attached.

b. A **Limit Order** is an instruction to buy a CFD at no more than a specific price, or to sell it at no less than a specific price (called 'or better' for either direction). This gives you a control over the price at which the Limit Order is executed, however this Limit Order may never be executed (or filled). A Limit Order can be used to either open or close a position. Limit Orders show on the order book at the price you specified and will be matched or filled when your price is reached and provided there is sufficient liquidity available. Where there is insufficient liquidity available your Limit Order will be partially filled with the remaining quantity staying on the order book until it is matched fully or cancelled. Once a Limit Order is triggered it will be executed at a level that is the same or better than the level specified by you. Limit Orders can have Take Profit and Stop Loss orders attached.

c. A Working order is a general term for opening either a Stop or Limit Order.

d. A Stop Market Order is an instruction to execute a trade when a price level (the Stop Market Level) is reached that is equal to or worse than the current best price (a Stop Market Order). When the Stop Market level is reached, the Stop Market Order will trigger and a Market Order will be sent to execute the trade at the best price available at the time the Order is placed for the quantity you wish to buy or sell. Your execution price may be better or worse than the Stop Market Level you set depending on the liquidity available and the size of your Order. Stop Market Orders can only be placed during the Trading Hours of an Instrument. Stop Market Orders can be

cancelled at any time, even when the market is closed. In order to amend a Stop Market Order, you would need to cancel the existing one and place a new Stop Market Order provided the market conditions allow that. Stop Market Orders can be used to open or close a trade and can be Good For Day (GFD) or Good Til Cancelled (GTC). This means that for "GFD" Stop Market Orders, any portion of the Stop Market Order which has not been executed during the trading day in which the Order was placed is automatically cancelled at the end of that trading day. It may be the case that your Stop Market Order could be partially executed if there is insufficient liquidity to cover all of your Order at the time your Stop Market Order is triggered. A "GTC" Stop Market Order would remain a working order until you choose to cancel it, if it is cancelled because you are on a margin call, or your Order is filled and becomes a position. Take Profit and Stop Loss Orders attached to Stop Market Orders will be set at a specified level away from the worst execution price received (e.g. 50 points away from the highest Offer price for a Long Market Order). Your Take Profit and Stop Loss Orders will not be set at a level relative to the volume weighted average opening price of your Order.

e. A **Take Profit** is an order that can be attached to working orders, market orders or open positions, to close a position at a price that is better than the current price. This order type is primarily used to lock in profits from a position. If the market has moved to the opposite direction of a position, it is possible to set up a Take Profit at a price that is better than the current price but worse than the opening price. Thus, it is possible to limit losses with a Take Profit order. Where a Take Profit Order is attached to a working order it will be a contingent order that would become active once all or part of your opening order has been executed giving rise to a position being opened on your Account. The Take Profit Orders will be filled at that the predefined price. If a Take Profit Order is partially executed because there is insufficient liquidity at the price you specify, the remaining part of your order will be active until your price level is reached again and more liquidity is available. A Take Profit Order will remain active until it is executed or removed, or the open position is closed.

f. A **Stop Loss** is an order that can be attached to working orders, market orders or open positions, to close a position at a price that is worse than the current price. This order type is primarily used to limit the potential losses you can incur from an open position. If the market has moved to the direction of a position, it is possible to set up a Stop Loss at a price that is worse than the current but better than the opening price. Thus, it is possible to lock profits with a Stop Loss order. If the Stop Loss level is reached, the Stop Loss Order is executed as a Market Order at the best price available for the quantity you wish to buy or sell. A Stop Loss Order will remain active until it is executed, or removed, or the open position is closed. If a Stop Loss Order is partially executed because there is insufficient liquidity, the remaining part of your order will be active until your price level is reached again and more liquidity is available.

g. Stop losses on long positions will trigger when the Ask Price reaches the desired Stop Loss Price and they will execute at the Prevailing Bid Price. Stop losses on short positions will trigger when the Bid Price reaches the desired Stop Loss Price and they



will execute at the Prevailing Ask Price. We do not guarantee that a Stop Loss Order will be filled at the price specified.

h. A Guaranteed Stop Loss Order is an order that can be attached to working orders, market orders or open positions, to close a position at an exact price determined by you that is worse than the current price. This order type is used to limit the losses you can incur from an open position. If the market has moved to the direction of a position, it is possible to set up a Guaranteed Stop Loss at a price that is worse than the current but better than the opening price. Thus, it is possible to lock profits with Guaranteed Stop Loss order. When accepting your Guaranteed Stop Loss Order we guarantee that when our bid or offer quote goes beyond the price specified by you, we will close your position at exactly the price specified. An open position can be closed at your initiative before reaching the Guaranteed Stop Loss Order level. As we guarantee your close out price, there is a fee charged when the Guaranteed Stop Loss Order is triggered and executed (see cl. 5.12 Guaranteed Stop Loss Order Fee (GSL Fee)).

8.2.2. Limit Orders and Stop Loss Orders for equity CFDs and/or Spread Bets are executed based on the preceding ex-dividend prices and if not fully executed before the occurrence of the forthcoming Corporate Event, entitling the Client to a dividend for the equity CFD position(s) he/she currently holds, the Client's relevant CFD position(s) will be closed by the Company prior to that Corporate Event at the then prevailing market price. Similarly, the Company will ask the Client to close any affected pending Limit Orders and Stop Loss Orders before the forthcoming Corporate Event or will do so on its own.

8.2.3. Limit Orders and Stop Loss Orders applied to equity CFDs based on cum-dividend prices will be valid for the ex-dividend price (and vice versa) unless specifically cancelled by the client.

8.2.4. We may introduce new types of orders from time to time by posting a relevant alert and updating the current information on our platform.

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

8.3.1. It is your sole responsibility to clearly indicate the terms of an order when entered, whether it is a Market Order, Limit Order, Take Profit, Stop Loss or any other type of order, including the relevant price and lot size.

8.3.2. You acknowledge and agree that, despite our best efforts, the price at which execution occurs may be materially different to the price specified in your order. This may result from sudden price movements in the underlying assets that are beyond our control.

8.3.3. The Company shall have no liability for failure to execute orders.

8.3.4. The Company shall have the right, but not the obligation, to reject any order in whole or in part prior to execution, or to cancel any order, where your Account contains

margin that is insufficient to support the entire order or where such order is illegal or otherwise improper.

8.3.5. The Company reserves the right to decline any offer to open or close a Spread Bet with a Stake greater than the Standard Size. Our quotation for a Spread Bet with a Stake up to or in excess of the Standard Size is not guaranteed to be within any specific percentage of any Underlying Market or related market quotation and our acceptance of your offer may be subject to special conditions and requirements that we will advise to you at the time we accept your offer. We will inform you of the Standard Size for a particular underlying asset upon request. Where you offer to place or close a Bet at a stake that is larger than the Standard Size, rather than accepting your offer as a whole, we have the right to accept your offer as a series of smaller Spread Bet, each Spread Bet having a different offer/bid price.

#### **8.4. Execution Policy**

8.4.1. If there are no specific instructions from the Client on how to execute the order, we will consider several execution factors to ensure that we manage the order on terms most favourable to our Client. These execution factors include:

- a. price;
- b. speed;
- c. likelihood of execution and settlement;
- d. costs;
- e. size and nature of the order;
- f. any other considerations relevant to the execution of the order.

8.4.2. It is emphasized that the specific instructions as mentioned above, prevent the Company from taking the steps that it has designed and implemented in order to ensure the best possible result for the execution of those Orders in respect to the elements covered by those instructions.

8.4.2. We do not consider the above list exhaustive and the order in which the above factors are presented shall not be taken as an indication of their priority.

8.4.3. The best possible result for our retail Clients will be determined in terms of the total consideration (unless the objective of the execution of the order dictates otherwise), represented primarily by the price of the financial instrument and the costs related to the execution such as spread and overnight premium. The costs related to the executions include the expenses incurred by the Client which are directly related to the execution of his/her order.

8.4.4. The other execution factors of speed, likelihood of execution, size, nature or any other relevant consideration will, in most cases, be secondary to the price and costs considerations, unless they would deliver the best possible result for the Client in terms of total consideration.

## **8.5. Cancellation/Withdrawal of Instructions**

8.5.1. Non-market orders may be cancelled via the CAPITAL.COM Online Trading Platform but we can only cancel your instructions if you explicitly request so, provided that we have not acted up to the time of your request upon those instructions.

8.5.2. Executed instructions may only be withdrawn or amended by you with our consent.

8.5.3. The Company shall have no liability for any claims, losses, damages, costs or expenses, including legal fees, arising directly or indirectly out of the failure of such order to be cancelled.

## **8.6. Right not to Accept Orders**

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

## **8.7. Control of Orders Prior to Execution**

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

a. controls over maximum or minimum order amounts and maximum or minimum order sizes;

b. controls over our total exposure to you;

c. controls over prices at which orders may be submitted (to include, without limitation, controls over orders which are at a price which differs greatly from the market price at the time the order is submitted to the order book);

d. controls over the Electronic Services (to include, without limitation, any verification procedures to ensure that any particular order or orders has come from you); and/or

e. any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.

## **8.8. Trade Adjustments**

8.8.1. Clients must be aware that CFD transactions carry a high degree of risk. The amount of initial margin may be relatively small with regard to the value of the instrument so that transactions are 'leveraged' or 'geared'. A relatively small market movement may have a proportionately larger impact on the funds that the Client has deposited or will have to deposit. This may work against as well as for the Client.

8.8.2. The Company exclusively reserves the right to widen its variable spreads, adjust leverage and/or increase the margin requirements without notice under certain market conditions including, but not limited to, when the CAPITAL. COM Trading desk is closed, around fundamental announcements, as a result of changes in credit markets and/or at times of extreme market volatility.

8.8.3. In such circumstances, the Client agrees to indemnify the Company for any and all losses that may occur due the widening of spreads and the adjustment of leverage.

## **8.9. Execution of Orders**

We shall use our sufficient steps to execute any order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. If we encounter any material difficulty relevant to the proper carrying out of an order on your behalf we shall notify you promptly.

Your transactions will be handled in accordance with our Order Execution Policy and Conflict of Interests Policy, both available separately on our Website and we will take all sufficient steps to achieve best execution. The actions taken by the Company for the purposes of ensuring best execution, are available within the Company's Order Execution Policy. In respect of Retail Clients, the best possible result is determined in terms of the total consideration. The Company shall apply best execution rules in cases where you have not provided the Company with specific instructions.

## **8.10. Confirmations**

8.10.1 When the Company has carried out an order on behalf of a client it shall, in respect of that order: (a) promptly provide the client, in a durable medium, with the essential information concerning the execution of that order; (b) send a notice to the client in a durable medium confirming execution of the order as soon as possible and no later than the first business day following execution or, where the confirmation is received by the investment firm from a third party, no later than the first business day following receipt of the confirmation from the third party.

8.10.2. Confirmations for all Transactions that we have executed on your behalf on that trading day will be available on the mobile app, which are updated online as each Transaction is executed. The Trading Platform also includes details of the clients' cash position and margin level.

8.10.3. Confirmation of execution and statements of your Account(s), in the absence of manifest error, shall be deemed correct, conclusive and binding upon you if not

objected to within three days by e-mail if orders were placed through the CAPITAL.COM Online Trading Platform.

8.10.4. In cases where the prevailing market represents prices different from the prices posted online by the Company on the Website and the mobile app, the Company will attempt, on a best efforts basis and in good faith, to execute Market Orders on or close to the prevailing market prices. This may or may not adversely affect Client's realized and unrealized gains and losses.

### **8.11. Improper or Abusive Trading**

8.11.1. The Company's objective is to provide the most efficient trading liquidity available in the form of streaming, tradable prices for most of the financial instruments we offer on the CAPITAL.COM Online Trading Platform. As a result of the highly automated nature of the delivery of these streaming, tradable prices, you acknowledge and accept that price misquotations are likely to occur from time to time.

8.11.2. Should you execute transactions falling within the definition of Market Abuse or execute trading strategies with the objective of exploiting such misquotation(s) or act in bad faith, the Company shall consider this as unacceptable behavior.

8.11.3. Should the Company determine, at its sole discretion and in good faith, that you are taking advantage, benefitting, attempting to take advantage or to benefit of such misquotation(s) or that you are committing any other improper or abusive trading act such as for example:

- a. fraud/illegal actions that led to the transaction;
- b. orders placed based on manipulated prices as a result of system errors or system malfunctions;
- c. arbitrage trading on prices offered by our platforms as a result of systems errors; and/or
- d. coordinated transactions by related parties in order to take advantage of systems errors and delays on systems updates; and/or
- e. orders placed with the use of inside information (i.e. abusive exploitation of privileged confidential information, the misuse of information or directors trading shares of their own companies);

then the Company will have the right to:

- i. adjust the price spreads available to you; and/or
- ii. restrict your access to streaming, instantly tradable quotes, including providing manual quotation only; and/or

iii. obtain from your Account any historic trading profits that you have gained through such abuse of liquidity as determined by us at any time during our trading relationship; and/or

iv. reject an order or to cancel a trade; and/or

v. immediately terminate our trading relationship.

## **8.12. Prohibited Trading**

8.12.1. No employee and/or former employee who currently works or used to work on a full time or part time basis for the Company or any of its related entities shall, during the term of the employee's and/or former employee's service to the Company or any of its related entities and after termination of service become a Client of any brand of the Company (either directly or indirectly, alone or with partners, associates, affiliates or any other third party) without the Company's prior written approval.

8.12.2. Should the Company consider that the employee and/or former employee is trading with any brand of the Company without the Company's prior written approval personally and/or via a third party we shall consider all the trading to be abusive and/or improper trading. In such circumstances, the employee and/or former employee's Account(s) and all open positions shall be closed immediately and any funds held within the Account shall be confiscated.

8.12.3. No business associate or former business associate of the Company or any of its related entities shall, during the period of the agreement between the associate/former business associate and the Company and after termination of such agreement, become a Client of any brand of the Company (either directly or indirectly, alone or with partners, associates, affiliates or any other third party) without the Company's prior written approval.

8.12.4. Should the Company consider that the associate/former business associate is trading with any brand of the Company without the Company's prior written approval personally and/or via a third party we shall consider all the trading to be abusive and/or improper trading. In such circumstances, the relevant associate/former business associate's Account(s) and all open positions shall be closed immediately and any funds held within the Account shall be confiscated.

## **8.13. Disabling and Cancelling Deposits**

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

a. if you fail to provide the Company with any documents it requests from you either for client identification purposes or for any other reason;

- b. if the Company suspects or has concerns that the submitted documents may be false or fake;
- c. if the Company suspects you are involved in illegal or fraudulent activity;
- d. if the Company is informed that your credit or debit card (or any other payment method used) has been lost or stolen;
- e. if the Company identifies that the funds deposited were received by a third party;
- f. where the Company considers that there is a chargeback risk; and/or
- g. when you deposit ten thousand (10 000) USD or more (or an equivalent of the same in one of our Base Currencies) or if you make over ten (10) separate deposits to your Accounts and the Company is unable to verify your credit or debit card details or is unable to verify any other payment method used.

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

#### **8.14. Performance and Settlement of transactions**

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

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

Following execution of the order, we will send you an electronic confirmation in respect of that Transaction as soon as reasonably practicable, and in any event within the time required by the relevant laws and regulations.

#### **Consent**

You consent to receive all Account information, Trade Confirmations and Account Statements through the internet, which is considered as durable medium. If you no longer wish to receive such information through electronic means, you must notify us and revoke this consent in writing. However, if you revoke your consent, your access to our Trading Platform may be restricted or terminated, at our sole discretion.

#### **8.15. Position Limits and Position Close-outs**

We may require you to limit the number of open positions which you may have with us at any time and we may in our sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained.

We may require you to close any of your positions which you may have with us and which may be or have been affected by Corporate actions or product termination due to low/no liquidity, no price provider or other relevant reasons, or we may in our sole discretion close out any of such positions at last available prices.

## **8.16. Withdrawals**

Without prejudice and subject to these Terms and all Applicable Laws and Regulations funds may be withdrawn by you from your Account once your withdrawal request is processed and approved, provided that such funds are not being utilized for margin purposes or have otherwise become owing to us, and there is a remaining positive balance on your Account.

We will process your request to withdraw funds on the same day that the request was received, or the next working day if your request is received outside of our normal business hours.

Your withdrawal request will be processed by us and sent to the same bank, credit card or other source for execution owned by you. No Account withdrawals to third parties will be processed by the Company.

If you request a withdrawal of funds from your Account and we cannot comply with it without closing some part of your open positions, we will not comply with the request until sufficient positions are closed and we have established that you have a positive balance on your Account to make the withdrawal.

## **8.17. Inactive and Dormant Account**

8.17.1. The Client acknowledges and confirms that any Account(s), held by him/her with the Company where the Client has neither opened nor closed positions for a period of ninety (90) days and more, shall be classified by the Company as an Inactive Account ("Inactive Account").

8.17.2. Any Account that is not an Inactive Account shall be classified by the Company as an active Account ("Active Account").

8.17.3. The Client agrees that any Inactive Accounts, holding zero balance/equity, shall become dormant ("Dormant Account"). For the re-activation of Dormant Accounts, the Client must contact the Company and inform of the Client's wish to reactivate the Dormant Account. The Client's Dormant Account will then be reactivated (subject to, if required, up-to-date Know Your Client documentation provided to the Company by the Client) and become an Active Account.



8.17.4. Where the Client has not done the following with the Active Account reactivated from a Dormant Account:

- a. place an order;
- b. open or close positions; and/or
- c. make a deposit into the Client's Account;

for a period of ninety (90) days and more, this Active Account will once again become a Dormant Account.

### **8.18. Negative Balance Protection**

It is possible for adverse market movements to result in the loss of more than your Account balance, so that it becomes negative. If this is the case, we will bear the negative consequences of such adverse events and any of your losses will be limited to your then current Account balance. It is noted that the negative balance protection applies on an account basis and therefore the maximum loss for the clients on an account basis never exceeds the clients' available funds in the specific account.

For the benefit of the Company's clients, the Company has implemented a "no negative balance" protection program, on an account basis, whereby the Client cannot lose more than his/her investment.

### **8.19. Corporate Events**

8.19.1. The Client has no rights or obligations in respect of the underlying instruments or assets relating to his/her CFD. Specifically, in case of an equity CFD you will not receive any voting rights. However, the underlying instrument can be affected by various Corporate Events. A "Corporate Event" is any action or event, whether temporary or otherwise, in relation to an underlying asset(s) of the CFD, or in relation to the issuer of an underlying asset(s) of the CFD, which would have an effect on the value, legal characteristics or ability to trade the underlying asset(s) or the CFD based on or referencing such underlying asset(s), including: distributions or the grant of entitlements to existing holders of rights in the underlying asset(s), dividend payments, the granting of rights to purchase, subscribe or receive any underlying asset(s) (whether for free, on preferential payment terms or otherwise) or cash, placings, rights issues, bonus/scrip issues, capitalization issues and similar issues, mergers or takeovers relating to the issuer of the underlying asset(s), sub-divisions, splits, reductions (including share buy-backs), consolidations, reclassifications, restructurings, cancellation or suspension of listing of the underlying asset(s) or the issuer of the underlying asset(s), and any action or event analogous to any of the foregoing or otherwise that may have a diluting or concentrative effect on the value of the underlying asset(s) of the CFD.

8.19.2. In case a Corporate Event will occur while the Client is holding an open CFD position or has a pending order affected by such event, we will endeavor to notify the

Client in advance of such Corporate Event, accomplished or yet to occur, as soon as it is reasonably practicable, and ask him/her to close the relevant position(s) and cancel the affected pending orders before that Corporate Event occurs, but we reserve the right to close the relevant position(s) at the last available price and cancel the affected pending orders without prior notification, at our sole discretion. If the Client fails to do so, we will close any Client CFD position(s) to be affected by the forthcoming Corporate Event at the then prevailing market prices and suspend any affected orders of the Client before that Corporate Event takes place. Closing of Client's CFD position(s) affected by a Corporate Event will not take place in case of dividend payments related to underlying equities. In this case adjustments will be made to the Client's Account, such adjustment will be calculated by the Company based on the size of the dividend, the size of Client's position, taxation and whether it is a buy or a sell trade. For more details please see paragraph 5.14.

## **PART 9. ELECTRONIC TRADING TERMS**

### **9.1. Access and Trading Hours**

9.1.1. Once you have gone through the security procedures associated with an Electronic Service provided by us, you will get access to such Electronic Service, unless agreed otherwise or stated on our Website or mobile app.

9.1.2. All references to the Company's hours of trading on our website are in Coordinated Universal Time (UTC) are using a 24-hour format.

9.1.3. Our Electronic Services will normally be available from 00:00 UTC Monday until 22:00 UTC Friday, every week, excluding public holidays, periods where the markets for the underlying assets of the CFDs and/or Spread Bets do not operate and cases where the markets are closed due to illiquidity in the financial instruments.

9.1.4. You may request a quote to open a Transaction or to close all or any part of a Transaction at any time during our normal hours of trading for the CFD and/or Spread Bet in respect of which you wish to open or close the Transaction.

9.1.5. Outside those hours, we will be under no obligation to, but may, at our absolute discretion, provide a quote and accept and act on your offer to open or close a Transaction in respect to CFDs and/or Spread Bets. The client will be notified for certain underlying markets in respect of which CAPITAL.COM is not in position to provide a quote to open a Transaction, restrictions of the amount for which quote will be provided, or any other conditions that apply to the quotes provided.

9.1.6. Please consult our Website or mobile app for more details on operating times for each CFD and/or Spread Bet. We reserve the right to suspend or modify the operating hours on our own discretion and in such event our Website and mobile app will be updated without delay in order to inform you accordingly. In this respect the

operating hours, as indicated on the Website and the mobile app are the applicable ones.

9.1.7. We may change our security procedures at any time and we will inform you of any new procedures that apply to you as soon as possible through our Website or mobile app.

## **9.2. Restrictions on Electronic Services Provided**

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

## **9.3. Access Requirements**

You will be responsible for having hardware equipment forming part of the System to enable you to use an Electronic Service.

## **9.4. Virus Detection**

You will be responsible for the installation and proper use of any virus detection/scanning program that shall reasonably keep your systems virus-free.

## **9.5. Use of Information, Data and Software**

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

## **9.6. Maintaining Standards**

When using an Electronic Service you must:

a. ensure that the System is maintained in good order and is suitable for use with such Electronic Service;

b. run such tests and provide such information to us as we shall reasonably consider necessary to establish that the System satisfies the requirements notified by us to you from time to time;

c. carry out virus checks on a regular basis;

d. inform us immediately of any unauthorised access to an Electronic Service or any unauthorised Transaction or instruction which you know of or suspect of and, if within your control, cause such unauthorised use to cease; and

e. not at any time leave the terminal from which you have accessed such Electronic Service or let anyone else use the terminal until you have logged off such Electronic Service.

## **9.7. System Defects**

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

## **9.8. Intellectual Property**

9.8.1. All rights in patents, copyrights, design rights, trade marks and any other intellectual property rights (whether registered or unregistered) relating to the Electronic Services remain vested in us or our licensors.

9.8.2. You will not copy, interfere with, tamper with, alter, amend or modify the software comprising the System of the Electronic Services or any part or parts thereof unless expressly permitted by us in writing, reverse compile or disassemble the software comprising the System of the Electronic Services, nor purport to do any of the same or permit any of the same to be done, except in so far as such acts are expressly permitted by law.

9.8.3. Any copies of the software comprising the System of the Electronic Services made in accordance with law are subject to these Terms. You shall ensure that all the licensors trademark, copyright and restricted rights notices are reproduced on these copies. You shall maintain an up-to-date written record of the number of copies of the software comprising the System of the Electronic Services made by you. If we so request, you shall as soon as reasonably practical, provide to us a statement of the number and whereabouts of copies of the software comprising the System of the Electronic Services.

## **9.9. Liability**

Without prejudice to any other of provisions of these Terms, relating to the limitation of liability, the following clauses shall apply to our Electronic Services.

### **9.9.1. System Errors**

9.9.1.1. We shall have no liability to you for damage which you may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers.

9.9.1.2. You acknowledge that access to Electronic Services may be limited or unavailable due to such system errors, and that we reserve the right upon notice to suspend access to Electronic Services for this reason.

#### 9.9.2. Delays

Neither we nor any third party software provider accepts any liability in respect of any delays, inaccuracies, errors or omissions in any data provided to you in connection with an Electronic Service.

9.9.2.1. We do not accept any liability in respect of any delays, inaccuracies or errors in prices quoted to you if these delays, inaccuracies or errors are caused by third party service providers with which we may collaborate.

9.9.2.2. We shall not be obliged to execute any instruction which has been identified that is based on errors caused by delays of the system to update prices provided by the system price feeder or the third party service providers.

9.9.2.3. We do not accept any liability towards executed trades that have been based and have been the result of delays as described above.

#### 9.9.3. Viruses from Electronic Services

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

#### 9.9.4. Viruses from your System

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

#### 9.9.5. Unauthorised Use

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

### **9.10. Markets**

We shall not be liable for any act taken by or on the instruction of an exchange or regulatory body.

### **9.11. Suspension or Permanent Withdrawal with Notice**

We may suspend or permanently withdraw an Electronic Service, by giving you 24 hours written notice.

### **9.12. Immediate Suspension or Permanent Withdrawal Without Notice**

9.12.1. We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently your ability to use any Electronic Service, or any part thereof, without notice, where we consider it necessary or advisable to do so, for example due to your non-compliance with the Applicable Regulations, breach of any provisions of this Agreement, on the occurrence of an Event of Default, Event of Force Majeure, network problems, failure of power supply, for maintenance, or to protect you when there has been a breach of security.

9.12.2. In addition, the use of an Electronic Service may be terminated automatically, upon:

- a. the termination, renunciation, revocation, withdrawal or suspension of any license granted to us which relates to the Electronic Service; and/or
- b. the termination of these Terms.

### **9.13. Effects of Termination**

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

## **PART 10. CLIENT MONEY**

### **10.1. Client Money**

We treat all funds received from you or held by us on your behalf (“Client Money”) in accordance with the requirements of the Client Money Rules.

As per the provisions of this Agreement funds belonging to the Client that will be used for trading purposes will be kept in an account with a credit institution used to accept funds which the Company will specify from time to time and will be held segregated from the Company’s own funds.

### **10.2. Interest**

You, the Client, acknowledge and confirm that no interest will be received on the balance of your Account.

### **10.3. Overseas Banks**

10.3.1. We may hold Client Money on your behalf within the European Economic Area. The funds will be kept in bank accounts denominated as client funds and clearly segregated from the Company's own funds.

10.3.2. Client Money deposited may be kept in one or more omnibus accounts with any authorised credit institution used to accept funds which the Company will specify from time to time and will be held in the Company's name.

10.3.3. We will not be liable for the insolvency, acts or omissions of any third party referred to in this Part.

10.3.4 The Company may transfer Clients funds to the Forex Company according to the Clients consent and acceptance of the terms and conditions. By accepting the terms and conditions the client acknowledges and agrees with the fact that the Company is subject to specific regulation and supervision regarding the safekeeping of financial instruments and funds held for clients and that the Forex Company is subject to local specific regulation and supervision.

10.3.5 In accordance with part 10.3.4 of these terms and conditions the Company may transfer Clients funds to the Forex Company according to the Clients consent and acceptance of the terms and conditions. This transfer will only be executed after it has been initiated by the Client.

### **10.4. Due Care, Skill and Diligence**

10.4.1. We deposit financial instruments held on behalf of our Clients in an account and/or accounts opened with a third party, provided that we have exercised all due care, skill and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of financial instruments.

10.4.2. With regards to the deposit of Clients Money, we exercise all due care, skill and diligence in the selection, appointment and periodic review of the credit institution, bank or money market fund where the funds are placed and the arrangement for the holding of those funds.

10.4.3. It shall be noted that we take into account the expertise and reputation of the third party as well as the legal requirements or market practices related to the holding of those financial instruments that could adversely affect our Clients' rights.

### **10.5. Payment Service Providers**

10.5.1. The Company may keep merchant accounts in its name with payment services providers (hereinafter “PSP”) used to settle payment transactions of its Clients. However, for the avoidance of doubt, it is noted that such merchant accounts are not used for safekeeping of Client Money but only to effect settlements of their payment transactions.

10.5.2. Your Client Money is being processed through accounts maintained in the following PSPs: “ECOMMPAY LIMITED”, an authorized payment institution regulated by the UK Financial Conduct Authority; “SafeCharge Limited” an electronic money institution authorized and regulated by the Central Bank of Cyprus ; “WorldPay(UK) Limited”, “WorldPay Limited” and “WorldPay AP Limited”, authorised payment institutions regulated by the UK Financial Conduct Authority.

10.5.3. Whilst we remain responsible for the handling of Client Money, in certain circumstances certain payment methods may not be available to the Company. In such circumstance CAPITAL.COM may operationally handle customer payments using alternative methods, always in accordance with the relevant safeguarding and anti-money laundering requirements provided by the Applicable Regulations.

10.5.4. We will not be liable for the insolvency, acts or omissions of any PSP referred to in this Part.

## **10.6. Denomination of Client Funds Accounts and Segregation from the Company’s Own Funds**

We shall take all necessary measures in order to ensure that any of the Clients’ financial instruments deposited with a third party are identifiable separately from the financial instruments belonging to the Company and from the financial instruments belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection.

## **10.7. Diversification of Risks**

We shall ensure, where deemed necessary, the diversification of the Clients’ financial instruments and funds, for example the maintenance of accounts with several third parties.

## **10.8. Omnibus Account Risk**

10.8.1. The Company may hold client funds in omnibus accounts within third party financial and credit institutions. In this respect, the Client is warned that there is a risk of loss emanating from the use of omnibus accounts in financial or credit institutions. In such case it may not be possible to distinguish if the particular Client funds are held by a certain financial or credit institution. Omnibus accounts may also hold other types of risks including legal, liquidation risk, haircut risk, third party risk and etc.

10.8.2. In the event of insolvency or any other analogous proceedings in relation to a financial or credit institution where client funds are held, the Company (on behalf of



the Client) and/or the Client may only have an unsecured claim against the financial or credit institution, and the Client will be exposed to the risk that the money received by the Company from the financial or credit institution, is insufficient to satisfy the claims of the Client with claims in respect of the Account. The Company does not accept any liability or responsibility for any resulting losses so in the unlikely event of default the proportionate loss shall affect all of the Company's Clients' monies held in omnibus accounts with the financial or credit institution. To mitigate this risk the client funds are being held in few reputable financial or credit institutions and constant exposure monitoring is taking place.

### **10.9. Unclaimed Client Money**

You agree that we may cease to treat your money as Client Money if there has been no movement on your balance for six (6) consecutive years. We shall write to you at your last known address informing you of our intention of no longer treating your balance as Client Money and giving you twenty-eight (28) Business Days to make a claim.

### **10.10. Liability and Indemnity**

10.10.1. You agree that we shall not be liable for any default of any counterparty, bank, or other third party which holds money on your behalf.

10.10.2. The Company will not be liable for loss suffered by you in connection to your funds held by us, unless such loss directly arises from our gross negligence, willful default or fraud.

## **PART 11. MARGINING ARRANGEMENTS**

### **11.1. Contingent Liability**

11.1.1. When we effect a Transaction, you should note that, depending upon the nature of the Transaction, you may be liable to make further payments when the Transaction fails to be completed or upon the earlier settlement or closing out of your position.

11.1.2. The Client shall provide and maintain Margin in accordance with the terms of this Agreement to secure clients' obligations to the Company. The Company must maintain at all times the minimum margin requirements for the Open Positions in Clients' Account.

11.1.3. You may be required to make further variable payments by way of margin against the purchase price of the CFD, instead of paying (or receiving) the whole purchase (or sale) price immediately.

11.1.4. The movement in the market price of the CFD will affect the amount of margin payment you will be required to make.

11.1.5. We will constantly monitor your margin requirements and we will inform you as soon as it is reasonably practicable of the amount of any margin payment required under this Part.

## **11.2. Margin Call**

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

## **11.3. Failure to Meet Margin Call**

In the event that you fail to meet a margin call, we may immediately close out any of the relevant positions, as well as any pending orders that may negatively affect your margin balance once executed. For more details please refer to the Leverage and Margin Policy on our website, being an integral part of these Terms and Conditions.

## **11.4. Form of Margin**

Margin must be paid in cash in a Base Currency of your Account. A cash Margin paid to us is held as Client Money in accordance with the requirements of the Client Money Rules. Margin deposits shall be made by wire transfer, credit card or by such other means as the Company may direct.

## **11.5. Set-off on Default**

If there is an Event of Default or these Terms are terminated, we shall set-off the balance of the cash margin owed by us to you against your obligations (as reasonably valued by us). The net amount, if any, payable between us following such set-off, shall take into account the Liquidation Amount payable under Part 14 ("Netting").

## **11.6. Further Assurance**

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

## **11.7. Negative Pledge**

You undertake neither to create nor to have outstanding any security interest whatsoever over, nor to agree to assign or transfer, any of the cash margin transferred to us.

## **11.8. General Lien**

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

## **PART 12. REPRESENTATIONS, WARRANTIES AND COVENANTS**

### **12.1. Representations & Warranties**

12.1.1. You represent and warrant to us on the date these Terms come into effect and as of the date of each Transaction that:

- a. you are at least eighteen (18) years old and of legal age in your respective jurisdiction to form a binding contract, such as these Terms, as well as open a Transaction and perform your obligations thereunder;
- b. any information which you provide or have provided to us in respect of your financial position, domicile, location or other matters in your application form and at any time thereafter is true and accurate in all respects;
- c. you have obtained all governmental or other authorisations and consents required by you in connection with these Terms and in connection with opening or closing Transactions and such authorisations and consents are in full force and effect and all of their conditions have been and will be complied with;
- d. the execution, delivery and performance of these Terms and each Transaction will not violate any law, ordinance, or any other rule applicable to you in the jurisdiction in which you are domiciled or located in or are a resident of, or any agreement by which you are bound or by which any of your assets are affected;
- e. you will not send funds to your Account(s) from, or request that funds be sent from your Account(s) to a third party;
- f. if you are an employee or a contractor of a financial services firm or any other firm that has controls over the financial transactions in which its employees and contractors deal, you will give us proper notice of this and of any restrictions that apply to your dealing;
- g. you will not use our bid and offer prices for any purpose other than for your own trading purposes, and you agree not to redistribute our bid and offer prices to any other person whether such redistribution be for commercial or other purposes;

h. you will use the Electronic Services offered by us pursuant to these Terms in good faith and, to this end, you will not use any electronic device, software, algorithm, or any trading strategy ('Device') that aims to manipulate or take unfair advantage of the way in which we construct, provide or convey our bid or offer prices. You agree that using a Device whereby in your dealings with us you are not subject to any downside market risk will be evidence that you are taking unfair advantage of us;

i. no Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination of the above) an Event of Default ("Potential Event of Default") has occurred and is continuing with respect to you;

j. you act as principal and sole beneficial owner (but not as trustee) in entering into these Terms and each Transaction and in case you wish to open, either in the present time or in the future, more than one Account with the Company it is required to immediately disclose to us that you are the beneficial owner of the existing Account(s) during the account opening procedure and to provide us with the necessary information and/or documentation;

k. you confirm that you are the lawful owner the debit or credit card used during registration for the Account with the Company, or the lawful owner of any other payment method used to open an Account with us;

l. you are willing and financially able to sustain a total loss of funds resulting from Transactions and trading in such Transactions is a suitable investment for you; and

m. 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.

12.1.2. Any breach by you of a representation or warranty given under these Terms renders any Transaction voidable from the outset, or grants us the right to close any of such Transactions at then prevailing prices, or to suspend and/or block your account without notice at our sole discretion.

## **12.2. Covenants**

12.2.1. You covenant to us that:

a. you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself;

b. you will use all reasonable steps to comply with all Applicable Regulations in relation to these Terms and any Transaction, so far as they are applicable to you or us;

c. you will not send orders or otherwise take any action that could create a false impression of the demand or value for a financial instrument. Nor will you send orders which we have reason to believe are in breach of Applicable Regulations or by taking

advantage of your Account(s) that could be considered as system abusive orders, including but not limited to one's intention to benefit from delays in the prices, to trade at off-market prices and to abuse the system for trading at manipulated prices; and

d. upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this Clause or to comply with any Applicable Regulations.

e. you will undertake to advise the Company within 30 days of any change in circumstances which affects provided information or causes the information contained herein to become incorrect or incomplete, and to provide the Company with suitably updated information within 60 days of such a change.

f. all statements made by you and any information provided by you, are correct and complete.

## **PART 13. EVENTS OF DEFAULT**

### **13.1. The following shall constitute Events of Default:**

- a. you fail to make any payment when due under these Terms or to observe or perform any other provision of these Terms after notice of non-performance has been given by us to you;
- b. you fail to perform any obligation due to us;
- c. you have already been given one (1) Business Day notice of non-performance by the Company and you still fail to perform any of the provisions of these Terms;
- d. where any Transaction or combination of Transactions or any realized or unrealized losses on any Transactions or combination of Transactions opened by you results in your exceeding any credit or other limit placed on your dealings;
- e. your death or your incapacity;
- f. the initiation by a third party of proceedings for your bankruptcy (if applicable) or if you make an arrangement or composition with your creditors or any other similar or analogous procedure is commenced in respect of you;
- g. where any representation or warranty made by you in these Terms is or becomes untrue;
- h. you fail or omit to disclose to us your capacity as the beneficial owner of more than one Account you may maintain with us;

- i. you take advantage of delays occurred in the prices and you place orders at outdated prices, you trade at off-market prices, you manipulate the system to trade at prices not quoted to you by us and you perform any other action that constitutes improper trading;
- j. any event of default (however described) occurs in relation to you under any other agreement between us; and/or
- k. any other circumstance where we reasonably believe that it is necessary or desirable to take any action to protect ourselves or all or any of our other Clients.

## **PART 14. NETTING**

### **14.1. Rights on Default**

On the occurrence of an Event of Default, we may exercise our rights under this Part, except that in the case of the occurrence of an Event of Default specified in Clause 13.1 (e) (a “Bankruptcy Default”), the automatic termination provision of this Clause shall apply.

### **14.2. Liquidation Date**

Subject to the following Clause 14.3, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a date (the “Liquidation Date”) for the termination and liquidation of Transactions in accordance with this Part.

### **14.3. Automatic Termination**

The date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date, without the need for any notice by us and the provisions of the following Clause 14.4 shall then apply.

### **14.4. Calculation of the Liquidation Amount**

#### **14.4.1. Upon the occurrence of the Liquidation Date:**

- a. neither of us shall be obliged to make any further payments or deliveries under any Transactions which would, but for this Part, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of Liquidation Amount (as defined below);
- b. we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Transaction a total cost, loss or, as the case may be, gain, in each case expressed in the Base

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

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

#### **14.5. Payer**

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

#### **14.6. Other Transactions**

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

#### **14.7. Payment of Liquidation Amount**

The Liquidation Amount shall be paid in the Base Currency of your Account by the close of business on the Business Day following the completion of the termination and liquidation under this Part (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 average rate at which overnight deposits in the Base Currency of such payment are offered by major banks in the London interbank market as of 11.00 am (London time) (or, if no such rate is available, at such reasonable rate as we may select) plus one (1%) per annum for each day for which such amount remains unpaid.

#### **14.8. Payments**

Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction for as long as an Event of Default or any event which may become (with

the passage of time, the giving of notice, the making of any determination hereunder, or any combination thereof) an Event of Default with respect to you has occurred and is continuing.

#### **14.9. Additional Rights**

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

#### **14.10. Application of Netting to the Transactions**

This Part applies to each Transaction entered into or outstanding between us on or after the date these Terms takes effect.

#### **14.11. Single Agreement**

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

### **PART 15. RIGHTS ON DEFAULT**

#### **15.1. Default**

On an Event of Default or at any time after we have determined, in our absolute discretion, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, in addition to any rights under Part 14 (“Netting”) we shall be entitled, without prior notice to you:

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



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

- d. to cancel and/or consider void any Transactions and profits or losses either realised or unrealised and/or to close out the account(s) you maintain with us pursuant to these Terms, immediately and without prior notice.

## **PART 16. TERMINATION WITHOUT DEFAULT & CANCELLATION**

### **16.1. Termination & Cancellation**

Rights of the Clients to request the termination/cancellation of their business relationship with the Company:

16.1.1. You have a right to cancel these Terms for a period of fourteen (14) days commencing on the date on which you have accepted these Terms (the “Cancellation Period”).

16.1.2. Should you wish to cancel these Terms within the Cancellation Period, you should send notice in writing to the contact details are set out in Part 18 (“Miscellaneous”) under the heading “Notices” or electronically through the [“Contact Us”](#) section of our Website or the mobile app. Cancelling these Terms within the Cancellation Period will not cancel any Transaction entered into by you during the Cancellation Period. If you fail to cancel these Terms within the Cancellation Period you will be bound by its terms but you may terminate these Terms in accordance with Clause 16.1.3 (“Termination Without Default”).

16.1.3. Unless required by Applicable Regulations, a party may terminate these Terms (and the relationship between us) for its own convenience in the absence of an Event of Default on that party’s side by giving in prior ten (10) days written notice of termination to the other part.

16.1.4. Upon terminating these Terms:

a. all amounts payable by you to us will become immediately due and payable including (but without limitation):

i. all outstanding fees, charges and commissions;

ii. any dealing expenses incurred by terminating these Terms; and

iii. any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.

b. The Company shall apply best execution rules in cases where you have not provided the Company with specific instructions regarding the closing of your positions.

c. The Company shall return any client funds remaining in your Account to your bank account, specifically to the account from which the funds were debited. Your funds may be returned to another bank account to which you are the beneficiary in exceptional circumstances and as long as you provide us with the required documents to verify, that the account belongs to you.

## **16.2. Existing rights**

Termination shall not affect the outstanding rights and obligations and Transactions which shall continue to be governed by these Terms and the Parts agreed between us in relation to such Transactions until all obligations have been fully performed.

16.3. The Company may terminate the Agreement immediately without giving any notice.

16.4. The termination of the Agreement shall not in any case affect the rights which have arisen existing commitments or any contractual provision which was intended to remain in force after the termination and in the case of termination, the Client shall pay:

- Any pending fee of the Company and any other amount payable to the Company;
- Any charge and additional expenses incurred or to be incurred by the Company as result of the termination of the Agreement;
- Any damages which arose during the arrangement or settlement of pending obligations.

## **PART 17. EXCLUSIONS, LIMITATIONS AND INDEMNITY**

### **17.1. General Exclusion**

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

17.1.2. In no circumstance, shall we have liability for losses suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or

loss of business opportunity arising under or in connection with these Terms, whether arising out of negligence, breach of contract, misrepresentation or otherwise.

17.1.3. Nothing in these Terms will limit our liability for death or personal injury resulting from our negligence.

## **17.2. Tax Implications**

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

## **17.3. Changes in the Market**

17.3.1. Market Orders are executed at the bid/ask prices offered through us. Pending orders are executed at the then market price requested by you and offered through us. We reserve the right, at our full discretion, not to execute the order, or to change the quoted price of the Transaction in case of technical failure of the CAPITAL.COM Online Trading Platform or in case of extraordinary or abnormal fluctuations of the price of the financial instrument as offered in the market.

17.3.2. Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular Transaction is affected.

## **17.4. Events of Force Majeure, Limitation of Liability & Manifest Error**

17.4.1. We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant exchange, other regulatory or self-regulatory organisation, vendor or service provider of ours for any reason, to perform its obligations ("Events of Force Majeure").

17.4.2. Nothing in these Terms will exclude or restrict any duty or liability we may have to you under Applicable Regulations, which may not be excluded or restricted thereunder.

### **17.4.3. Manifest Error**

17.4.3.1. We reserve the right to unilaterally either void from the outset or amend retroactively the conditions of any Transaction that contained or was based on any error that we reasonably believe to be obvious or palpable (a 'Manifest Error').

17.4.3.2. If, in our discretion, we choose to amend the conditions of any Transaction with a Manifest Error, the amendments will reflect the conditions that we reasonably believe would have been fair at the time the Transaction was entered into.

17.4.3.3. In deciding whether an error is a Manifest Error we shall act reasonably and we may take into account any relevant market practice and/or any relevant information including, without limitation, the state of the relevant underlying market(s) at the time of the alleged Manifest Error, or any connected error in, or lack of clarity of any information source or pronouncement upon which we base our quoted prices or form other trading conditions.

17.4.3.4. Any financial commitment that you have entered into or refrained from entering into in reliance on a Transaction with us that was voided from the outset or amended retroactively as provided for in this Clause will not be taken into account in deciding whether or not there has been a Manifest Error

17.4.3.5. In the absence of fraud, willful misconduct or gross negligence on our part, we will not be liable to you for any losses, costs, claims, demands or expenses of any sort following or related (either directly or remotely) to a Manifest Error (including, where the Manifest Error is caused by any information source, commentator or official on whom we reasonably rely).

17.4.3.6. If a Manifest Error has occurred and we choose to exercise our right to void from the outset the affected the Transaction and you have already received any monies from us in connection to the affected Transaction, you agree that those monies become immediately due and payable to us and you shall be liable to return the initial amount received to us immediately.

17.4.3.7. If a Manifest Error has occurred and we choose to exercise our right to amend retroactively the conditions of the affected the Transaction and you have already received any monies from us in connection to the Transaction with the Manifest Error, you agree that those monies become immediately due and payable to us and you shall be liable to return the initial amount received to us immediately. If based on the results of the retroactive application of the fair conditions as provided for in Clauses 17.4.3.2 – 17.4.3.4 above, the Company shall owe you any monies, such monies shall be transferred to your Account in a timely manner. Similarly, if as a result of the retroactive application of such fair conditions, you shall owe the Company any monies, such money should be transferred by you to the Company in a timely manner.

17.4.3.8. The Company shall notify you regarding the Manifest Error and the way the Company shall proceed to rectify it within 5 (five) Business Days after it has established the existence of such Manifest Error.

17.4.3.9. In case of a Manifest Error, the Company may take any appropriate measures necessary to rectify the consequences of such Manifest Error, which may include, among other things, the suspension, freezing or immediate closing of any of the Client's positions.

## **17.5. Responsibility for Orders**

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

## **17.6. No Other Representations**

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

## **17.7. Indemnity**

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

## **PART 18. MISCELLANEOUS**

### **18.1. Amendments**

18.1.1. Shall the Company introduce any material amendments to the present Terms, you will be notified accordingly by means of the app and/or by e-mail of such material amendments. You will be given 48 hours from the moment the notice has been dispatched ("48 Hours") by the Company to decide on whether you would want to proceed under the new Terms. Upon the expiration of these 48 Hours you shall be deemed to have provided consent to the application of the new Terms.

18.1.2. If you disagree with the application of the new Terms you must get in touch with the Company by utilizing the e-mail stated in Clause 18.2 ("Notices") below prior to the expiration of the 48 Hours, clearly state that you no longer wish to be a Client of the Company and discontinue your use of the Services.

18.1.3. If you send us such notice of disagreement mentioned in Clause 18.1.2 above you will not be allowed to open any new positions from the moment we receive such notice and you will be prompted to close any of your outstanding positions prior to the expiration of the 48 Hours. If you fail to do so, we will have the discretion to automatically close all of your positions upon the expiration of the 48 Hours. We will process the termination of your Account and any relevant issues as provided for herein and the Applicable Regulations.

### **18.2. Notices**

18.2.1. Unless otherwise agreed, all notices, instructions and other communications to be given by us under these Terms shall be given to the contact details provided by you to us. Likewise, all notices, instructions and other communications to be given by you under these Terms shall be given to us in writing at the address below:

Name: Capital Com (UK) Limited

Address: 4th Floor 64-66 Vincent Square, London, United Kingdom, SW1P 2NU Email  
Address: [support@capital.com](mailto:support@capital.com)

You shall notify us within a reasonable period of time of any change of your information for the receipt of notices, instructions and other communications immediately.

### **18.3. Electronic Communications**

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

The Company will also keep records of orders placed by clients through channels other than the Companies' electronic platform, provided that such communications are made in a durable medium (e.g. mails, fax, emails, chats, internet communications, mobile app etc.). In case of relevant face-to-face conversations with the Client, the content of such will be recorded by using written minutes or notes.

### **18.4. Our Records**

1. Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our Electronic Services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing nor are they documents produced by a computer.
2. You will not rely on us to comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.
3. The records will be retained in a medium that allows the storage of information in a way accessible for future reference by the competent authority, and in such a form and manner that the following conditions are met:
  - i. the competent authority is able to access them readily and to reconstitute each key stage of the processing of each transaction;
  - ii. it is possible for any corrections or other amendments, and the contents of the records prior to such corrections or amendments, to be easily ascertained;
  - iii. it is not possible for the records otherwise to be manipulated or altered;
  - iv. it allows IT or any other efficient exploitation when the analysis of the data cannot be easily carried out due to the volume and the nature of the data; and
  - v. the firm's arrangements comply with the record keeping requirements irrespective of the technology used.

## **18.5. Your Records**

You agree to keep adequate records in accordance with the Applicable Laws and Regulations to demonstrate the nature of orders submitted and the time at which such orders are submitted. You can access your statements online at any time via our Website or mobile app. You may request to receive your statement monthly or quarterly via email, by providing such a request to the support department.

## **18.6. Confidential Information**

18.6.1. The Company does not have any obligation to disclose to the Client any information or take into consideration any information either when making any decision or when it proceeds to any act on behalf of the Client, unless otherwise agreed and stated in this Agreement and where this is imposed by the relevant Laws and Regulations and directives in force.

The Company has the right, without informing the Client beforehand, to disclose such details of the Client's transactions or such other information as it may deem necessary in order to comply with any requirements of any person entitled to require such a disclosure by Law.

The Company will handle all of Client's personal data according to the relevant Laws and Regulations for the protection of Personal Data.

18.6.2. For more information please refer to the Company's Privacy Policy.

## **18.7. Financial Services Compensation Scheme**

18.7.1. We participate in the Financial Services Compensation Scheme for clients of Investment Firms regulated by the FCA. You will be entitled to compensation under the Financial Services Compensation Scheme where we are unable to meet our duties and obligations arising from your claim. Whether you are able to claim depends on the type of business and your personal circumstances

18.7.2. Any compensation provided to you by the Financial Services Compensation Scheme shall not exceed fifty thousand (50,000) GBP and applies to your aggregate claims against us. The client may request further information concerning the conditions governing compensation and the formalities which must be completed to obtain such compensation. Further information about compensation arrangements is available from the FSCS. The FSCS may be contacted by writing to Financial Services Compensation Scheme, 10th Floor, Beaufort House, 15 St Botolph Street, London, EC3A 7QU, or by emailing them at the email address provided on the FSCS web site at [www.fscs.org.uk](http://www.fscs.org.uk).

## **18.8. Complaints Procedure**

18.8.1. We are obliged to put in place internal procedures for handling complaints fairly and promptly. In the event you are dissatisfied about the Electronic Services provided to you by the Company you can submit the claim through the “Complaints Procedure” section of our Website. You must provide the following information to assist us in dealing with your complaint:

- Your Trading Account Number;
- Cause of your complaint (please indicate one of the causes as follows: execution of orders, quality or lack of information provided, terms of contract/fees/charges, general admin/customer services, issues in relation to withdrawal of funds, other);
- Details of the person or department of the company to whom you think the complaint should be directed.

18.8.2. To resolve your complaint we will take the following steps:

18.8.2.1. We will confirm, within five (5) Business Days, receipt of your complaint and provide you with your Unique Reference Number. You should use said reference number in all future contact with us, the Financial Ombudsman Service and/or FCA regarding your complaint.

18.8.2.2. After thorough investigation, we will reply to your complaint within two (2) months, informing you about the outcome of our investigation, the actions that will be taken to resolve the matter, where appropriate, and offering you a solution. In the event that we are unable to respond within two (2) months, due to the complexity of the complaint, we will inform you of the reasons for the delay and indicate the period of time within which it is possible to complete our investigation. This period of time will not usually exceed three (3) months from the submission of the complaint.

18.8.2.3. In the event that our final decision does not fully satisfy you, you may refer your complaint to the Financial Ombudsman Service. The Financial Ombudsman Service is an independent service for settling disputes for finance business and their clients. Details for the Financial Ombudsman Service will be provided on our final response as well as the details on how to file a complaint with the FCA.

## **18.9. Transfers & Assignment**

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



#### **18.10. Time is of Essence**

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

#### **18.11. Rights and Remedies**

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

#### **18.12. Set-off**

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

#### **18.13. 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 shall in any way be affected or impaired.

#### **18.14. Data Protection**

The Company and its related entities are responsible for the protection of the privacy and the safeguarding of your personal and financial information.

The Client's personal data are safely stored in the Company's electronic systems and are treated as confidential. The Company will not disclose any of the Client's personal data to a third party that is not an affiliate, partner, or an associate related to the provision of services to the Client, unless required to do so by an official government regulatory authority of a competent jurisdiction. The Company will not hold any information about its Clients' debit or credit cards, or any payment method used by a Client to make his/her deposit not required by the Applicable Laws and Regulations, and will at all times be in compliance with the undertaken cardholder data security standards. For more information please refer to our Privacy Policy.

### **18.15. Conversion into the Base Currency**

For the purposes of any calculation hereunder (unless expressly stated otherwise), we may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as we shall reasonably select. For CFDs and/or Spread Bets traded in a currency other than the Account's Base Currency we will use the mid price rate at the time of the trade being closed with a 0.3% charge. This would be automatically converted to your Account's Base Currency when the position is closed and you would then have no further currency exposure for that position.

## **PART 19. GOVERNING LAW AND JURISDICTION**

### **19.1. Governing Law**

The interpretation, construction, effect and enforceability of these Terms shall be governed by the laws of England and Wales. You as the Client agree that all Transactions carried out on the CAPITAL.COM Online Trading Platform are governed by the laws of England and Wales regardless of the location of the Client.

### **19.2. Jurisdiction**

The Parties to these Terms submit to the exclusive jurisdiction of the courts of England and Wales to settle any suit, action or other proceedings related to these Terms ("Proceedings").

### **19.3. Waiver of Immunity and Consent to Enforcement**

You irrevocably waive to the fullest extent permitted by applicable law, with respect to yourself and your revenue and assets (irrespective of their use or intended use) all immunity on the grounds of sovereignty or other similar grounds from suit; jurisdiction of any courts; relief by way of injunction, order for specific performance or for recovery of property; attachment of assets (whether before or after judgment); and execution or enforcement of any judgment to which you or your revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agree that you will not claim any immunity in any Proceedings. You consent generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.

## **PART 20: LEVERAGE ARRANGEMENTS**

20.1. Trading on CFDs is a form of Leveraged Trading and is highly speculative, complex and involves a significant risk of loss and is not suitable for all investors. CFDs are among the riskiest types of investments and can result in large losses.

20.2. The European Securities and Markets Authority (ESMA) has formally adopted new measures on the provision of contracts for differences (CFDs). ESMA has adopted these measures in the official languages of the EU and they will remain in force for a period of three months from the date of application.

The measures have been published in the Official Journal of the European Union. They started to apply from 1 August 2018 for CFDs. Leverage limits on the opening of a position by a retail Client from 30:1 to 2:1, which vary according to the volatility of the underlying and as shown below:

- 30:1 for major currency pairs;
- 20:1 for non-major currency pairs, gold and major indices;
- 10:1 for commodities other than gold and non-major equity indices;
- 5:1 for individual equities and other reference values;
- 2:1 for cryptocurrencies;

If ESMA decides not to prolong the measures the Company will implement the leverage levels as before the implementation of the measures.

## **PART 21. DESCRIPTION AND ACKNOWLEDGMENT OF RISKS**

The Company shall provide you in good time before the provision of investment services or ancillary services with a general description of the nature and risks of financial instruments, taking into account, in particular, the Client's categorisation as either a retail Client, professional Client or eligible counterparty. That description shall explain the nature of the specific type of instrument concerned, the functioning and performance of the financial instrument in different market conditions, including both positive and negative conditions, as well as the risks particular to that specific type of instrument in sufficient detail to enable the Client to take investment decisions on an informed basis.

The description of risk referred above will include, where relevant to the specific type of instrument concerned and the status and level of knowledge of the Client, the following elements:

- i. The risks associated with that type of financial instrument including an explanation of leverage and its effects and the risk of losing the entire investment including the risks associated with insolvency of the issuer or related events, such as bail in;
- ii. The volatility of the price of such instruments and any limitations on the available market for such instruments;
- iii. Information on impediments or restrictions for disinvestment, for example as may be the case for illiquid financial instruments or financial instruments with a fixed investment term, including an illustration of the possible exit methods and consequences of any exit, possible constraints and the estimated timeframe for the sale of the financial instrument before recovering the initial cost of the transaction in that type of financial instruments;
- iv. The fact that an investor might assume, as a result of transactions in such instruments, financial commitments and other additional obligations, including contingent liabilities, additional to the cost of acquiring the instruments;
- v. Any margin requirements or similar obligations, applicable to instruments of that type.

For more information please refer to the Company's [KID](#) and [Risk Disclosure Statement](#).

## **PART 22: PILLAR III**

Following the implementation of the EU Regulation 575/2013 the Company is required to disclose information relating to its capital as well as the risks that the Company is exposed to. The Company's policy is to meet all required Pillar III disclosure requirements as detailed in the Capital Requirements Regulation (CRR). This report is published on the Company's website [here](#).

## **PART 23: RECORD KEEPING**

23.1. Following the provisions of MiFID II, the Company keeps records regarding all services, activities and transactions it undertakes. The Client acknowledges that as per the Article 16(7) of MiFID II the Company will keep records of internal telephone conversations and electronic communications that are intended to result in transactions or relate to the reception and transmission of orders and execution of orders on behalf of clients.

23.2. Further, the Company will also keep records of all services and activities provided and transactions undertaken by the Company as well as records related to its business and internal organization which shall be sufficient to enable the FCA to exercise its supervisory functions and to take steps to ensure the Company's compliance with its obligations under the Law.

23.3. The Company shall keep records of the content and timing of instructions received from you. A record of the allocation decisions taken for each operation shall be kept providing for a complete audit trail between the movements registered in clients' accounts and in the instructions received by the investment firm. In particular, the final allocation made to each investment client shall be clearly justified and recorded. The complete audit trail of the material steps in the underwriting and placing process shall be made available to competent authorities upon request.

23.4. You have the right to request and receive records of telephone and electronic communications that related to reception, transmission and execution of clients' orders. Such records will be kept by the Company for a period of five to six (5-6) years from the end of business relationship with you according to the relevant regulations (please refer to section 6 of our Privacy Policy for more details). Without limiting the foregoing, the Company is required to comply based on the Intergovernmental Agreement between Cyprus and United States and has taken all reasonable steps to be considered in compliance with FATCA. The Client acknowledges and accepts that the Company is required to disclose information in relation to any US reportable persons to the relevant authorities, as per the reporting requirements of FATCA. The client may contact the Company for additional information and/or clarifications prior to the signing of this Agreement.

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