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**BYFX**Global  
AN SBI GROUP MEMBER COMPANY

## **BYFX Global Co., Ltd**

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**LEVERAGED FOREIGN EXCHANGE / LEVERAGED GOLD/SILVER BULLION/  
CONTRACT FOR DIFFERENCE TRADING**

**TERMS OF BUSINESS**

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**THESE TERMS OF BUSINESS (“TERMS”) (INCLUDING THE SUPPLEMENTAL DOCUMENTS) (TOGETHER, THE “ACCOUNT AGREEMENT”) SET OUT THE BASIS ON WHICH BYFX GLOBAL CO., LTD (“BYFX GLOBAL”, “US”, “WE”, “OUR”) WILL PROVIDE SERVICES IN RELATION TO TRADING LEVERAGED FOREIGN EXCHANGE (“LFX”) OR LEVERAGED GOLD/SILVER BULLION (“PRECIOUS METALS”) OR CONTRACT FOR DIFFERENCE TRADING CONTRACT (“CFD”) TO THE PERSON(S) NAMED IN THE ACCOUNT APPLICATION FORM FOR OPENING A LFX/PRECIOUS METALS/CFD TRADING ACCOUNT (“CLIENT”, “YOU”, “YOURSELF”).**

**THE ACCOUNT AGREEMENT CONSTITUTES A LEGALLY BINDING CONTRACT BETWEEN YOU AND BYFX GLOBAL WHICH YOU ACCEPT FOR YOURSELF AND ON BEHALF OF ANY PRINCIPAL OR PRINCIPALS ON WHOSE BEHALF YOU ARE ACTING AS AGENT BY GIVING US INSTRUCTIONS TO DEAL OR ACCEPTING SERVICES FROM US. THE ACCOUNT AGREEMENT SHALL COME INTO FORCE ON THE DATE THAT WE APPROVE THE SIGNED ACCOUNT APPLICATION FROM YOU.**

**PLEASE READ THESE TERMS CAREFULLY.**

BYFX Global is licensed and regulated in Cayman Island by the Cayman Islands Monetary Authority (CIMA) to conduct securities investment business as a Market Maker and is subject to the Securities Investments Business Law (SIBL) and its subsidiary legislation, as well as the rules, codes and guidelines of the SIBL currently in force as maybe amended from time to time. BYFX Global’s License number is 1458866 whose corporate address is 4th Floor, Harbour Place, 103 South Church Street, P.O. Box 10240, Grand Cayman KY1-1002, Cayman Islands

BYFX Global will notify you if there is any material change in name, address, registration status with the SIBL, Services, Systems, Margin Call Policy (including margin requirements), Schedule of Fee (if any) or stated fee items.

The following documents (“**Supplemental Documents**”), as may be amended from time to time and published on our Website, are incorporated by reference to these Terms and form part of your contractual relationship with us:

- 1- [Account Application Form]
- 2- [Risk Disclosure Policy]
- 3- [Personal Information Collection Statement]
- 4- [CRS Overview]

**For your own protection, you should read and fully understand the Account Agreement prior to submitting your Account Application Form to BYFX Global. If you do not understand anything in the Account Agreement, you should contact BYFX Global to ask for further information or seek independent professional advice before you open an Account, place any Order or enter into any Transaction with BYFX Global.**

**You should not sign the Account Application Form for opening a LFX/PRECIOUS METALS/CFD Trading Account if you are unsure as to the effects of the Account Agreement or the nature of the risks involved. If you complete, sign and submit the Account Application Form for Opening a LFX/PRECIOUS METALS/CFD Trading Account to BYFX Global, then you are acknowledging to BYFX Global that you have read, received and understood the Account Agreement in its entirety and that you understand and agree that your relationship with BYFX Global will be governed by the Account Agreement. If there are any unauthorised alterations or deletions to these Terms, such alterations and deletions shall not be binding on BYFX Global. By your continued use of the Website and System, you are deemed to be bound by the Account Agreement.**

## Acknowledgement

1.1. You acknowledge and understand that trading and investing in leveraged products:

- (a) is highly speculative and volatile, and involves a high degree of risk; and
- (b) is appropriate only for persons who can assume the risk of loss in excess of their initial and subsequent deposits.

1.2. You acknowledge, understand and agree the terms for Offshore Service Provision and legal restriction over jurisdictions that:

- (a) the products and services contained in the BYFX Global Co., Ltd (“BYFX Global”) registration agreement and website are not suitable for all persons. In any events due to the nationality, place of residence or other reasons constituting the situation as foreign financial service providers doing business in such jurisdiction, in compliance with that laws and regulations, BYFX Global could not promote or persuade locals to register or access this website. The products and services mentioned in this website or registration agreement are not available to such persons. It is the responsibility of the user to be aware of all applicable laws and regulations before confirming registration or access;
- (b) BYFX Global is regulated and authorized by the Cayman Islands Monetary Authority (“CIMA”). The registration agreement and information contained in the website, especially with regard to the financial products and services provided by BYFX Global, might be perceived as a public offering of financial products or promotion to residents of the country concerned by other national regulatory authorities outside the Cayman Island. Before confirming registration or access, it is your obligation to make sure that you take the initiative to register or visit this website, instead of being lobbied by BYFX Global; and
- (c) by signing the registration agreement, you hereby confirm that you are actively registering or visiting this website, and not being lobbied by BYFX Global.

1.3. You acknowledge, understand and agree that:

- (a) if you trade in LFX/PRECIOUS METALS/CFD, because of the low Margin normally required to trade in margined transactions, price changes in the underlying asset may result in significant losses, which may substantially exceed your investment and Margin deposit;
- (b) when you direct us to enter into a Transaction, any profit or Loss arising as a result of a fluctuation in the value of the asset or the underlying asset will be entirely for your Account and risk;
- (c) you are relying solely on your own independent judgement and decision in entering into or refraining from entering into any Transaction, and you are not relying on any information provided by any person from BYFX Global;
- (d) we do not conduct any manual or automated monitoring on the performance of your Transactions. Hence, we will not monitor the result of your Transactions and cannot be held responsible for any Transactions that may develop differently from what you may have presupposed. You are solely responsible for monitoring your Transactions in light of prevailing market conditions and ensuring that any further Orders are given on a timely basis;
- (e) guarantees of profit or safety from Loss are impossible in investment trading. Even low risk investment strategies contain an element of uncertainty. You agree that you have not received such guarantees or similar representations from us or any of our employees or representatives, from any Service Provider or any other entity or person with whom you deal with in connection with your Account;
- (f) BYFX Global does not control, does not endorse, and is not liable for the accuracy or completeness of any information, recommendation or advice provided or given by any

Service Provider or any other entity or person with whom you deal with in connection with your Account; and

- (g) we give no guarantee that (i) unsecured email sent by or to you will be received without having been falsified or on time or that they will reach the correctly entered addressee; (ii) any email showing us as the sender actually comes from us (and, in the case of doubt, you must consult us by telephone or in person).

## **2. Dealing as Principal or Agent**

- 2.1. In relation to any Transaction, we will affect such Transaction as Principal unless it is expressly agreed that we will act as agent for you with respect to a certain Transaction or service within the Account Agreement or otherwise.
- 2.2. Unless otherwise agreed in writing, you will enter into Transactions as Principal. If you act as agent, you shall provide to us the name (and such other information as we may require) of the ultimate beneficiary on whose behalf you are acting as agent. We shall not be obliged to accept the person on whose behalf you are acting as agent as a Client, and consequently, you agree that we shall be entitled to consider you as Principal in relation to any Transaction notwithstanding your notice of acting as agent.

### 3. Products and Services

- 3.1. We may provide any of the Services to you upon confirmation by us to you of the availability of such Service. You acknowledge and agree that we may impose additional terms for the provision of a particular Service or Account in the Appendices, Account Application Form and/or such other documentation as we may determine.
- 3.2. Depending on our assessment of you, there may be restrictions on (1) Transactions which you may engage in or (2) the manner in which your Transactions may be executed.
- 3.3. You agree that even though you and we have entered into the Account Agreement, we may refrain from providing any Services:
  - (a) until all of our internal procedures for establishing Accounts have been completed and the necessary internal approvals have been obtained;
  - (b) if we believe that providing such Services might result in either you or us are contravening any Applicable Law; or
  - (c) if you are in breach of any of your obligations as set out in the Account Agreement or any other agreement you may have entered with any member of BYFX Global.
- 3.4. Subject to Applicable Law, we may provide you with Services. You also authorise us to use Service Providers in our provision of such Services without your further consent and on such terms as we may determine and without diminution of our rights. In respect of Transactions with or through Service Providers, you may be subject to the business terms and conditions of such persons and in case of conflict with the terms of the Account Agreement, the Account Agreement shall prevail. We will use due care in the selection of Service Providers, but we will not be liable for the acts, omissions or default of any Service Provider, or any Loss incurred by you in connection with the use or appointment of any Service Provider, in connection with the Services.
- 3.5. For the avoidance of doubt, even though we may have accepted your Orders and provided Services to you, we may, at any time, cease to offer any Services and/or remove any product from our then prevailing offering regardless of whether you suffer Losses. Specifically, we may, from time to time, discontinue or deactivate a System or novate your Account from one System to another System ("**New System**") if, in our reasonable opinion, the New System would provide you with similar, additional or more competitive products and Services including pricing and execution facilities, fees, commissions and spreads.
- 3.6. In such instances, if you have an Open Position under a Service or in a product that is being removed, deactivated or terminated, we will provide you with reasonable notice either verbal or written, where possible, that we intend to terminate a Service or remove a product. We aim to provide you with at least thirty (30) calendar days' notice to close any Open Position that you may hold on such affected product or service. However, where in our reasonable opinion it is necessary or fair to do so or it is impracticable to give you (30) calendar days' prior notice, we reserve the right to provide a shorter notice period. Where notice is given, you undertake to cancel any Orders and/or close any Open Positions in respect of such affected product or Service before the time specified in our notice. Your failure to do this will result in BYFX Global cancelling all Orders and closing all Open Positions in respect of the affected Service or product at the time and, if applicable in accordance with the manner specified in the notice or the last price available on the date the product or Service ceases to be offered.
- 3.7. You and we acknowledge that neither:
  - (a) the relationship between you and us; nor
  - (b) the Services to be provided under the Account Agreement; nor
  - (c) any other matter,

gives rise to any fiduciary or equitable duties on our part in favour of you.

- 3.8. You are solely responsible for compliance with all notification, reporting, disclosure and other relevant requirements in connection with your interests in LFX/PRECIOUS METALS/CFD.
- 3.9. We may offer different types of Account to you. You may request us to open an Account, which we may accept or reject in our sole and absolute discretion. Margin Requirement, Leverage and manners by which your Transactions are executed may vary by types of Account. We reserve the right, in our sole and absolute discretion, to transfer your Account from an Account type to another Account type for any reason or no reason whatsoever, whether or not criteria associated with other Account types are published, and will endeavour (but we shall have no obligation) to provide you with notice of any such move before or after the change takes place.

#### **4. Incidental Services – Market Information and Commentary**

- 4.1. We may, from time to time, provide you with general trading information, market commentary, or other data, facts or information as a courtesy to you. Where we provide you with aforementioned information, market commentary, data or facts, these activities are incidental to our relationship with you and are provided solely to enable you to make independent investment decisions. We do not provide investment advice or recommendations. Hence, if you discuss any product or the performance of any product with any person from BYFX Global, you agree that such person is only providing you with information relating to that product and is not providing you with investment advice nor making a recommendation to buy or sell that product.
- 4.2. You further acknowledge and agree that:
  - (a) we shall deal with you on an execution-only basis;
  - (b) we will not make personal recommendations or advise on the merits or perils of a particular Transaction (including the purchasing, selling, or otherwise dealing in particular investments or executing particular Transactions), their taxation consequences or the composition of any Account or any other rights or obligations attaching to such investments or Transactions. Where we, our directors, officers, employees or agents have provided you with an explanation of the terms of a Transaction or its performance characteristics, such explanation does not itself amount to advice or recommendation on the merits of the investment. We make no representation, warranty or guarantee as to the accuracy or completeness of any market or other information furnished to you or as to the legal, tax or accountancy consequences of your Transaction;
  - (c) the information is being provided as general market commentary or compilation of market information. It may reflect the opinion of the person generating such information. However, it does not reflect our opinion and does not constitute an offer or solicitation from us to you;
  - (d) the information does not amount to a general or personal recommendation or advice;
  - (e) any market or other information communicated to you by us: (i) are wholly incidental to the conduct of our business and to your dealing relationship with us; (ii) are provided solely by us as a courtesy to you in order for you to make your own investment decisions; and (iii) do not constitute personal recommendation or advice by us to you;
  - (f) the information or market commentary may be inaccurate or incomplete, may not have been verified and may be changed without notice to you;
  - (g) where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction;

- (h) you are solely responsible for making the decision whether to place any Order or effect any Transaction, including the timing, quantity and price of such Transaction; and
  - (i) where you have taken the information provided by us into consideration when making your investment decisions, you represent that you have not relied on such information exclusively but have conducted your own independent research and made your decision as to the suitability of any Transaction to your investment objectives and financial situation without placing reliance on the information provided by us.
- 4.3. We may provide you with educational tutorials on any Services and/or Systems which we make available to you. These activities are incidental to our relationship with you and are provided solely as a courtesy to assist you in understanding:
- (a) the markets and the risks associated with investing in the markets;
  - (b) the Services and the functionalities of the Systems, as well as the risks associated with the use of the Services and/or the Systems.

## **5. Account Opening**

- 5.1. An Account must be opened prior to making any Order or entering into any Transaction. No Orders can be placed until an Account has been opened and either cleared funds received or Margin credited to the Account by virtue of the Credit Facility that we provide you. Without prejudice to the foregoing, if we permit you to place an Order notwithstanding that an Account has not been opened, or cleared funds received, this shall not limit your liability to us pursuant to the Account Agreement in respect of the Order placed or any resulting Transaction.
- 5.2. Subject to completion of our account opening procedures, an Account may be opened when you sign the Account Application Form and other documents we require. You agree to:
- (a) provide all documents required under the Account Application Form, including certified copies of all such documents as we may reasonably request;
  - (b) do such things as may be necessary or desirable for the opening and maintenance of the Account(s); and
  - (c) ratify or confirm anything done or to be done by us or any Service Provider in the exercise of your rights and powers under the Account Agreement.
- 5.3. We may, at our sole and absolute discretion, refuse to accept you as a Client for whatever reason but will notify you of any such refusal, without giving any reasons, promptly following your application.
- 5.4. You confirm that:
- (a) the Account(s) is operated solely for your account and benefit, and for the sole purpose of enabling you to conduct LFX/PRECIOUS METALS/CFD trading on an electronic trading platform, and not for the benefit of any other person; or
  - (b) you have disclosed to us in writing the name of the person(s) for whose benefit your Account(s) is being operated.

You agree that you are not related to or associated with any employees of BYFX Global. If, after the date on which the Account Agreement becomes effective, you become related to or associated with any employees of BYFX Global, you will promptly notify us in writing of the existence and nature of such association.

- 5.5. To assess your creditworthiness, manage credit risk and to prevent fraud (and other criminal activities), you acknowledge and agree that we may:
- (a) make periodic searches and enquiries about you and any related party at credit reference agencies; and
  - (b) disclose information to organisations involved in fraud or money laundering prevention, including the Financial Intelligence Unit.
- 5.6. Any limits for your Account (including any Margin Requirements, Leverage and Credit Facilities and trade limit) will be notified to you. Limits will be set and varied from time to time with regard to your credit status and, where applicable, the amount of funds deposited by you with us and we may, in our sole and absolute discretion, apply a limit to:
- (a) the size of any Transaction or series of Transactions that you may enter into; and
  - (b) the amount of any Loss or Liability to which you may be exposed.
- 5.7. Account limits do not limit or represent your Liability for Losses to us, and the funds you may have from time to time placed on deposit with us as Margin or otherwise do not represent any limit upon your financial liability to us.

## **6. Access and Use of the System and/or Secure Access Website**

- 6.1. We will provide you with Authenticators which will grant you secure access to, and use of, the System and the secure Website. You will need to provide the Authenticators each time you wish to use the System.
- 6.2. You acknowledge that the Authenticators do not result in any form of security or encryption other than as an initial verification of identity at the time of logging on to the System. You accept all risks of interception, corruption or loss in transit of any Order you send by electronic means and we are entitled to rely upon such Orders received by us.
- 6.3. In relation to the Authenticators, you acknowledge and undertake that:
- (a) you will keep the Authenticators confidential. You will use adequate security procedures to ensure the security of the Authenticators and to prevent unauthorised access to and use of the Services;
  - (b) the Authenticators will be used only in connection with the System and you will not, nor will you permit a third party to, disassemble, decode, alter, copy, amend, develop or commercially exploit the Authenticators and/or the System;
  - (c) you will follow any guidelines for the use of and access to the Authenticators, the System as may be notified to you by us either orally or in writing. If you need to deviate your use of the Authenticators and/or the System from any such guidelines, you will discuss and agree any alternative use directly with us;
  - (d) you will ensure that all Authorised Persons have been given suitable and requisite training in the use of the Authenticators and/or the System and you will make available to Authorised Persons any user guide or training material as may be provided by us. If we decide to provide any training or assistance (including, for example, providing a user guide or access to a simulated market), such training or assistance will be provided at your sole risk and we will bear no liability in the event that you suffer any Loss or Liability whatsoever arising out of such training;
  - (e) you assume full responsibility for any and all use, unauthorised use or misuse of the Service by you, or any Authorised Persons, or by any other person using your Authenticators, and



you acknowledge and agree that any breach by such person of any of your obligations hereunder shall constitute a breach of such obligations by you;

- (f) other than with respect to Authorised Persons or with our prior written consent, you will not disclose your Authenticators to any person for any purpose whatsoever;
  - (g) you will immediately notify us if you become aware of, or have reasonable grounds to suspect, the loss, theft or disclosure to any third party or of any unauthorised use of your Authenticators; and
  - (h) we may rely on all Orders and other communications entered using the Authenticators and you agree to be bound by any message or instruction affected via the Service (including, without limitation, the execution of transactions and/or the instruction to change your Authenticators) through the use of your Authenticators, regardless of whether or not (i) the person communicating such message or instruction was properly authorised by you or (ii) the instruction was made in error, except where such person's receipt of your Authenticators was due to our gross negligence, fraud or wilful misconduct.
- 6.4. If we have reasonable grounds to believe that unauthorised persons are using your Authenticators without your knowledge, we may, without prior notice, suspend your rights to use the System. Further, if we believe that you have supplied your Authenticators to other persons in breach of Clause 6.3, we may terminate the Account Agreement forthwith. We may also suspend or temporarily or permanently withdraw any or all part of the System if we are unable to provide access through electronic means due to any defect in or failure of network, communication or computer systems owned or operated by us or you or any Service Provider.
- 6.5. You agree that neither you nor any other personnel (including any Authorised Persons) will attempt to gain access to our System for any purpose or by any means except as expressly authorized under the Account Agreement.
- 6.6. You understand that if you have lost or forgotten your Authenticators, you must provide us with such evidence of your identity as we may require in order for us to provide you with new Authenticators.
- 6.7. You agree that it is your responsibility to provide, at your own expense, all equipment necessary for you to access and use the Service, including, but not limited to, computers, computer systems, servers, peripheral equipment, operating systems, applications, communications software, anti-virus software, internet access, telecommunications equipment and other equipment and software including any updates thereof. You are solely responsible for any Loss incurred as a result of errors made by, or the failure of, such equipment that you use to access the Service.
- 6.8. In using our System, you will ensure that Authorised Persons do not perform any act(s) in violation of any Applicable Law.
- 6.9. We grant you a non-exclusive, non-sublicensable, and non-transferable licence to access and use the System. Access to the System is provided "as is". We make no warranties, express or implied representations or guarantees as to the merchantability and/or fitness for any particular purpose or otherwise with respect to the System, their content, any documentation or any hardware or software provided. Technical difficulties could be encountered in connection with the System. These difficulties could involve, among others, Disruptions, which may cause Orders not to be transmitted, received or executed as a result of such Disruptions, which could be the result of hardware, software or communication link inadequacies or other causes. Such difficulties could lead to losses in Orders or Transactions, economic and/or data loss.
- 6.10. Neither we or any of our directors, officers, employees, agents and contractors warrant that the Authenticators and/or System will be uninterrupted or error-free nor do any of them make any warranty as to the results that may be obtained from the use of the Authenticators and/or System or as to the timeliness, sequence, accuracy, completeness, reliability or content of any information, the Authenticators and/or System or any Transaction provided through or with respect of the Authenticators and/or the System.

- 6.11. We will use commercially reasonable efforts to, in a timely manner, (a) inform you of the causes or possible causes of such Disruptions and how your Orders will be handled, and (b) rectify such Disruption. If you are unable to place an Order through the System, you should contact a Client Services Officer.
- 6.12. In no event will any member of BYFX Global be liable for any possible Loss which might occur as a result of or arising out of using, accessing, installing, maintaining, modifying, de-activating, or attempting to access either the System or otherwise.
- 6.13. [Market data and other information made available to you through the Authenticators and/or System may be obtained by us from third parties. While we believe such market data or information to be reliable, neither we nor such third parties guarantee the accuracy, completeness or timeliness of any such market data or information. You acknowledge that we are not responsible for the content of any third-party website to which you connect using a hypertext link (if any) contained within the System or Websites.]

## **7. Trading with Us**

- 7.1. All Orders and Transactions will be affected in accordance with, and will be subject to, Applicable Law and the Account Agreement. All actions taken by us in accordance with Applicable Law and the Account Agreement will be binding on you.
- 7.2. You authorise us to accept, act on and rely on any Order. All Orders are irrevocable unless we agree otherwise. Any Transaction affected by us on the basis of your Orders will be binding on you whether made with or without your authority, knowledge or consent. You must immediately notify us if you become aware that there are Transactions in the Account(s) in respect of which you did not give any Orders.
- 7.3. You must give us Orders via the System. Specifically, you agree and acknowledge that:
  - (a) Orders sent via the System shall only be deemed to have been received and shall only then constitute a valid Order when such Order has been recorded by us and confirmed by us to you through the System;
  - (b) if any Order is received by us by computer or other medium, we may ask you to confirm such Order in writing. We shall be authorised to follow the Order notwithstanding your failure to confirm them in writing;
  - (c) you authorise us to act (without further enquiry) on any Order given or appearing to be given by you and received by us;
  - (d) in relation to electronic communications, the Internet and other electronic communications may not be secure, reliable or timely. You acknowledge that any Order sent by you through the Internet or other electronic means may be intercepted, copied, adapted or imitated by third parties;
  - (e) we will quote prices and accept Orders via the System only during the trading hours which are available on our Website;
  - (f) You cannot give Orders via telephone by directly talking with a Client Service Officer. No messages may be left, and no Orders may be given using an answering machine or facsimile.
- 7.4. In the case of companies, you may advise us of the identity of any Authorised Person giving notices, communications and Orders to us on your behalf. Any such notice shall be in writing and shall set out the names and specimen signatures of Authorised Persons. Any such authority may

be revoked by notice in writing. Such revocation shall only be effective upon the written confirmation by us of our receipt of such notice.

- 7.5. Subject to this Clause 7, you authorise us to rely on Orders given to us and to act for you upon Orders given or purportedly given to us by you or any Authorised Person (including persons who we reasonably believe to be acting with authority on your behalf) without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such Orders. For the avoidance of doubt, it is solely your responsibility to ensure that any of your employees or any Authorised Person has the authority to do so. If you request us to cancel your Order, we shall only be able to do so if we have not already acted on those Orders. Orders may only be withdrawn or amended by you with our consent.
- 7.6. We may, at our sole and absolute discretion, refuse to accept any Order from you, without giving any reasons or notice to you. Additionally, we may refuse to execute any Order with or without reason or notice and we may cancel, amend or vary any Order previously given by you provided that we have not acted upon your Order (and subject always to Manifest Errors and Abusive Trading Strategies). Acceptance of any Order does not constitute any agreement or representation that we will execute the Order. A valid contract will only be formed when you receive a trade confirmation from us, or the System shows that an Order has been executed (whichever is earlier). No failure on the part of us to execute any Order given by you for the entry into any Transaction shall give rise to any claim by you against us.
- 7.7. You agree that we may take the opposite position to your Order either for our own Account or for the account of others.
- 7.8. Unless we decide otherwise or you give us specific and precise Orders to the contrary, Orders are valid for the day on which the relevant Orders are received by us and will lapse on the market close of the relevant exchange(s) or market(s) on that day. If the relevant exchange or market is closed at the time of our receipt of the Orders, the Order will be treated as an Order received for execution on, and will remain valid for the duration of, the next Business Day.
- 7.9. Where required by any regulatory authority, we have the right to cancel, amend or vary the terms of any trade which fail to meet the requirements of any regulatory authority. We also have the right to amend the terms of an Order for bona fide performance reasons with notice to you before or as soon as reasonably practicable after such amendment.
- 7.10. You acknowledge that, where required by any other regulatory authority, we will provide all relevant information concerning Orders transmitted and/or executed via the System. You further acknowledge and agree that you will co-operate fully and promptly with all our requests for the provision of any other information in your possession, custody or control which we may need to produce to any regulatory authority.
- 7.11. Subject to Applicable Laws and market requirements, we may in our absolute discretion determine the priority in the execution of your Orders, having due regard to the sequence in which such Orders were received, and you shall not have any claim of priority to another client in relation to the execution of any Order received by us.
- 7.12. We may require confirmation from you of any Order if:
  - (a) we consider that such confirmation is desirable or that an Order is ambiguous; or
  - (b) the Order is to close your Account.
- 7.13. We have the right, but not the obligation, to set limits and/or parameters to control your ability to place Orders at our sole and absolute discretion. Such limits may constitute our confidential intellectual property and we reserve the right not to disclose certain limits and/or parameters to you. Where any such limits and/or parameters are notified to you, you undertake to comply with those limits and/or parameters. Further, you will maintain adequate arrangements to monitor Orders entered through the Systems. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our sole and absolute discretion and may include, without limitation:

- (a) controls over maximum Order amounts and maximum Order sizes;
- (b) controls over our total exposure to you;
- (c) controls over prices at which Orders may be submitted (which 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 System);
- (d) controls over the System (which include, without limitation, any verification procedures intended to ensure that any particular Order has come from you); or
- (e) any other limits, parameters or controls which may be required to be implemented in accordance with Applicable Law.

7.14. We have the right to accept or reject any Orders on the Systems. You acknowledge that you will receive electronic notification from us when an Order has been received by the Systems or rejected therefrom and also a notification of the execution of the Order.

7.15. Responsibility for Trade Errors

- (a) You acknowledge that any Order submitted to the System is at your sole risk and will be irrevocable unless we otherwise consent.
- (b) You accept continuing responsibility for Order(s) submitted, notwithstanding that such Order(s) may have been submitted erroneously or by an unauthorised user, or that its data is inaccurate or incomplete when submitted to the System, or you subsequently determine for whatever reason that the Order should not have been submitted. You will reimburse us for any Loss caused to us or any of our Affiliates due to such trade error.
- (c) If you are aware that an incorrect Order has been sent via the System or if you become aware of any other unauthorised use of the System, you should immediately notify us. A request to cancel an Order will not be effective until you receive an acknowledgement from us that the Order has been cancelled, and you will be responsible for any Orders executed prior to your receipt of such acknowledgement.

7.16. You undertake to notify BYFX Global promptly, via e-mail at [cs@byfx.com](mailto:cs@byfx.com), of any:

- (a) failure to receive a trade confirmation that an Order initiated by you through the System has been received and/or executed;
- (b) failure to receive or inability to access confirmations or statements where such are made available by the System;
- (c) receipt of confirmation of an Order which you did not place.

Any Loss resulting from your failure to notify us shall be for your Account.

## 8. Trading Confirmation and Account Statements

8.1. Subject to Applicable Law, we will provide you with daily Account Statements in electronic form through the System (where available). Such Account Statements will generally include confirmations of Transactions (including trade numbers), your end of day trading balance and the profits and losses in your Account (realised and unrealised) and any other information as required by Applicable Law. We reserve the right to modify the format and content of Account Statements from time to time without prior notice to you.

- 8.2. Subject to Applicable Law, we will also provide you with periodic reports such as monthly Account Statements (in electronic form) concerning the content and value of your Account in such frequency as we may determine. You can also generate daily and monthly reports of your Account through the System (where available). We highly recommend that you review your daily and monthly Account Statements as soon as they are available in order to keep apprised of the trading activities in your Account.
- 8.3. The transmission of Account Statements and other materials by electronic means is not safe. We accept no responsibility for defects in information received by you in using our System, nor for the failure of any such information to reach you, nor for the consequences of such defect or failure, where the causes are beyond our control.
- 8.4. Account Statements and confirmations of Transactions shall, in the absence of Manifest Error, Abusive Trading Strategies or grossly obvious inaccuracies, be deemed correct, conclusive and legally binding on you, unless we receive from you an objection in writing within two (2) Business Days of the Transaction appearing in the System. Communications mailed, electronically transmitted or otherwise sent to you at the address specified in our records will be deemed to have been received by you when sent to the relevant address and you waive all claims resulting from your failure to receive such communications. For this purpose, we will have ten (10) Business Days to update our records after we receive written notice from you of a different address. Your failure to receive or to electronically access an Account Statement shall not relieve you of the obligation to object as set forth herein.
- 8.5. Written objections shall be directed to BYFX Global by e-mail at [cs@byfx.com](mailto:cs@byfx.com) shall be deemed received only if actually delivered, return receipt requested, or other electronic means.
- 8.6. If there is a systems failure (whether resulting from a fault with our System, your system or with the server or otherwise), you may not receive communications sent by our System or they may be delayed, and we may not be aware of this. Notwithstanding the foregoing, any such communication will be deemed correct, conclusive and binding on you if you do not notify us within two (2) Business Days of your non-receipt.
- 8.7. You acknowledge and accept that the posting of confirmations of Transactions through the System will be deemed delivery of trading confirmations and Account Statements by us to you.
- 8.8. If a dispute arises between you and us relating to the existence or terms of any Transaction, we may at any time without prior notice to or any further authority from you take whatever action that we consider appropriate in relation to such disputed Transaction. We will notify you (orally or in writing) as soon as is practically possible of any action we have taken but any failure by us to give such notice will not prejudice the validity of such action.
- 8.9. You consent to have Account information and Account Statements delivered to you electronically. However, we may at any time, whether or not we provide you with notice of the same, cease to send you all or any communications under the Account Agreement by electronic means and make such communications to you by post or fax. You may revoke this consent at any time by written notice to us however such revocation may result in us not being able to provide you with Services.
- 8.10. Risks specifically associated with accessing Account Statements through the **System**:
  - (a) Inappropriate computer equipment and software, internet access, and a specific email address provided and designated by you;
  - (b) Internet and email services may be subject to certain IT risks and disruption;
  - (c) You may incur additional costs;
  - (d) Email will be your only notice that Account Statements have been posted on the System, and you should check your designated email address regularly for such notice;

- (e) Revocation of consent to the provision of Account Statements by access through the System will be subject to giving such advance notice by you as we may reasonably require; and
- (f) You may be required to pay a reasonable charge for obtaining a hard copy of any Account Statements that is no longer available for access and downloading through the System.

## **9. Fees and Charges, and Other Costs**

- 9.1. We will charge you Fees and Charges in accordance with our Schedule of Fees, if applicable, as amended, or which are required by Applicable Law. We endeavour to include a comprehensive list of such Fees and Charges on our Website which will be updated regularly.
- 9.2. Without prejudice to Clause 9.1, you will pay or reimburse us, within such period as we may notify you, all Fees and Charges payable to us.
- 9.3. You will be obliged to pay to us the Fees and Charges set out in the Schedule of Fees and other Fees and Charges reasonably incurred arising out of the Account and/or Services. We may deduct from all monies held in the Account(s) (including, without limitation, any interest accrued on such monies) such amounts as are necessary to settle or partially settle all outstanding liabilities you owe to us (including any Fees and Charges referred to in Clauses 9.1 and 9.2).
- 9.4. All amounts due or payable by you will be payable promptly in freely transferable, cleared and immediately available funds in the currency in which it is due (unless otherwise required by us), without deduction (whether in respect of set-off, counterclaim, taxation or otherwise). If you are required by any Applicable Law to make such deduction, you will pay us the full amount owed to us net of such deduction.
- 9.5. You must pay interest on all overdue balances in the Account(s) (including interest arising after a judgement debt is obtained against you) at such rates and on such terms as we may determine and notify you. Such interest will be calculated on a daily basis assuming a 365-day year and payable on the last day of each calendar month or on demand.
- 9.6. We will also be entitled to demand that you pay the following expenses with or without notice:
  - (a) all extraordinary disbursements resulting from the client relationship (e.g. telephone, telefax, courier, and postal expenses in cases where you request hardcopy confirmations, Account Statements etc. which we could have delivered in electronic form);
  - (b) any of our expenses caused by your non-performance of your obligations under the Account Agreement, including a fee reasonably determined by us in relation to forwarding of reminders, legal assistance, etc; and
  - (c) any other administration fees in connection with your trading activity.
- 9.7. The expenses will be charged either as a fixed amount corresponding to payments affected, or as a percentage or hourly rate corresponding to the service performed in-house. The methods of calculation may be combined. We reserve the right to introduce new expenses.
- 9.8. If we receive or recover any Fees and Charges in respect of your obligations under the Account Agreement in a currency other than that in which the amount was payable, whether pursuant to a judgement of any court or otherwise, you will indemnify us and hold us harmless from and against any cost (including costs of conversion) and Loss suffered by us as a result of receiving such amount in a currency other than the currency in which it was due.
- 9.9. You may be charged a dormancy account fee every calendar year if there is no client-initiated activity in the twelve (12) months preceding the charge date. The dormancy account fee will be

equal to the lesser of USD 30 or the remaining balance in your Account. If you are assessed and charged dormancy account fee and your Account's balance becomes zero (0) and maintains zero (0) balance for six (6) consecutive months, your Account will automatically be closed.

## **10. Operating your Account: Base Currency, Deposits, Payments and Withdrawals**

10.1. You agree to comply with the following when making payments to us under the Account Agreement:

- (a) all payments to us (including deposits) are to be made in immediately available funds and to such account as is designated by us;
- (b) all payments to us (including deposits) are to be made in a currency which is a Base Currency, unless we otherwise agree in writing or we request that you make a payment to us in a currency other than a Base Currency;
- (c) all payment to us must be made without set-off or counterclaim and without deduction. If you are compelled to withhold or make any deduction, you shall pay additional amounts to ensure receipt by us of the full amount which we would have received but for such withholding or deduction. If you fail to meet your obligations you agree that you are accountable for any resulting expenses and Loss suffered by us;
- (d) you may make any payment to us (including deposits) by crossed cheque, bank wire, or any other method specified by us;
- (e) we do not accept payments or deposits in the form of cash except under exceptional circumstances and subject always to compliance with Applicable Law;
- (f) you are responsible for all third party electronic, telegraphic transfer or other bank fees in respect of payment as well as any fees or charges imposed by us, which may be based on the elected payment method;
- (g) if any payment is not received by us on the date such payment is due, then (without limitation of any other rights we may have) we will be entitled to charge interest on the overdue amount (both before and after judgement) at an interest rate of [The London Inter-bank Offered Rate ("LIBOR") + 4%] from the date payment was due until the actual date of payment. For this purpose, we will determine LIBOR, in our sole and absolute discretion, in accordance with prevailing money market conditions;
- (h) any payment made to us will only be deemed to have been received when we receive cleared funds; and
- (i) you bear the responsibility to ensure that payments made to us are correctly designated in all respects including, without limitation, your Account details where required by us.

10.2. You may request a withdrawal or transfer of funds from your Account where the balance of your Account is positive. We may at our sole and absolute discretion withhold, deduct or refuse to make a payment (in whole or in part) where:

- (a) you have Open Positions on the Account showing a Loss;
- (b) the requested payment would reduce your Account balance to less than the amount required to meet your Margin Requirement in respect of your Open Positions;
- (c) we reasonably consider that funds may be required to meet any current or future Margin Requirement on Open Positions due to underlying market conditions;
- (d) you have any actual or contingent liability to BYFX Global or any Service Provider;

- (e) we reasonably determine that there is an unresolved dispute between us and you relating to the Account Agreement or any other agreement between us;
  - (f) you instruct us to pay a third party from your Account; or
  - (g) we reasonably consider that making such payment would cause us to breach or otherwise infringe any Applicable Law.
- 10.3. Unless otherwise agreed in writing by us and subject always to compliance with Applicable Law, all payments from your Account shall be made in the form of a crossed cheque naming you or bank wire transfer. We do not make payments in cash.
- 10.4. Where we offer Accounts in more than one Base Currency, you will be asked to designate a Base Currency for each Account.
- (a) All payments into your Account will be converted from the currency in which they are received into the Base Currency of the Account in which they are deposited. The terms of this Clause will also apply where we make any payment to your Account in a currency other than the Base Currency of the Account receiving the deposit.
  - (b) All payments from your Account will be made in the Base Currency of that Account unless we agree in writing that such payment should be made in a different currency. The terms of this Clause will also apply where any interest, costs, commissions or other charges to be debited from your Account are in a currency other than the Base Currency of the Account. Where we agree to make a payment in a currency other than the Base Currency of the Account, we will convert the relevant payment amount from the Base Currency to the agreed currency for payment.
  - (c) Whenever we conduct currency conversions, we will do so at such rate of exchange we obtain from our bankers. You agree that we will be entitled to add a mark-up to the exchange rates.
- 10.5. You understand and agree that where a Transaction is affected in a currency other than the Base Currency, any profit or loss arising as a result of a fluctuation in the applicable exchange rate will be entirely for your Account.
- 10.6. All Margin payments shall be made in Base Currency in such amounts as we in our sole discretion may require.
- 10.7. Unless we provide you with written notice to the contrary, all payments and deliveries by us to you will be made on a net basis. We will not be obliged to deliver or make any payment to you unless and until you provide us with any required documents or cleared funds.

## **11. Payments Relating to your Trading Activities**

- 11.1. You will be responsible for the due performance of obligations under each Transaction that is executed for the Account whether by Margin or otherwise whether demanded or not.
- 11.2. Unless otherwise agreed by us in writing, you undertake to make the appropriate payments or have the necessary Margin available in your Account in connection with your trading activities on or before the date you place an Order with or through us.
- 11.3. You agree that you will confirm all payments made to us by providing details of such payments as required by us (whether wire transfer details or SWIFT or otherwise).

## **12. Security Interest, Collateral and Right of Use**

- 12.1. As a continuing security for the performance of all of your Secured Obligations, you agree to charge, by way of first fixed charge in favour of us, with full title guarantee and free from any adverse interest whatsoever ("**Security Interest**") all cash, funds, and/or other assets or collateral



(including any Margin delivered to us or as directed by us) to the credit of your Account(s) with BYFX Global (“**Security Assets**”).

- 12.2. You agree to execute all documents and to take such further steps as we may reasonably require you to perfect our Security Interest over the Security Assets. The Security Interest will remain in full force and effect by way of continuing security and will not be affected in any way by any settlement of your Account or other matter whatsoever and will be in addition to any other security, guarantee or indemnity now or hereafter held by us.
- 12.3. At your request, we may permit you to dispose of or otherwise deal with any of the Security Assets. You may not otherwise dispose, withdraw, substitute or otherwise deal with any of the Security Assets. If at any time we consent to such disposition, withdrawal, substitution or dealing, that consent will in no way constitute a waiver of our right to refuse to give our consent to any other request.
- 12.4. Any action taken by us in connection with or pursuant to a Transaction at a time at which any Event of Default specified in Clause 18 of these Terms has occurred (whether or not we have knowledge thereof) will be entirely without prejudice to our right to refuse further performance thereafter, and will not in any circumstances be considered as a waiver of that right or as a waiver of any other right that we may have should such an Event of Default have occurred.
- 12.5. All Security Assets held for or on your behalf, whether held by us or to our order through a third party, at any time and for any purpose (including for safe custody) shall be subject to a general lien in our favour and held as security for the performance of your Secured Obligations. We shall also have the rights to the extent as permitted by Applicable Law to sell or otherwise realise such Security Assets, and to utilise the proceeds to offset and discharge all or part of your Secured Obligations, regardless of whether any other person is interested in or we have made advances in connection with such Security Assets.

### **13. Netting and Set-off**

- 13.1. It is agreed between us that all transactions between you and us, whether under the Account Agreement or any other agreement, shall be mutual dealings and part of a single, indivisible, contractual and business relationship notwithstanding that the relevant transactions may be governed by different documentation.
- 13.2. Without prejudice to our right to require payment from you in accordance with the Account Agreement, we will have the right at any time to set off any Losses incurred by us in connection with your Account or your trading activities against:
  - (a) any Account (including any joint account, corporate account or other account which you may hold with us) in which you may have a financial interest; or
  - (b) any funds, monies or investment of any kind which we may owe you whether under the Account Agreement or under any other contractual arrangements which you may have with us.
- 13.3. You must pay such sums as necessary to set off any Loss or debit balance that exceeds the amounts held in your Account, whether we demand for such payment or not. You also authorise us to set off sums held by us for or to your credit in a joint account against Losses incurred by such joint account. You further authorise us to set off any Losses incurred in respect of, or any debit balances in, any account held by you against any credit on your Account (including a joint account) with us.
- 13.4. In addition to any lien, right of set-off or other right which we may have, we will be entitled to set-off the indemnity given under the Account Agreement or any such commission, charge, fee or monies owing to us in respect of the Services rendered against any of the Accounts, whether in Cayman Islands or elsewhere, notwithstanding that the credit balances on such Account(s) and your liabilities may not be expressed in the same currency.

13.5. If an obligation cannot be reasonably ascertained, we may in good faith estimate that obligation and set-off in respect of that estimate.

#### **14. Tax and Accounting**

14.1. We will not provide you with any tax or accounting advice relating to any Services. You are advised to obtain individual and independent counsel from your financial advisor, auditor or legal counsel with respect to tax and accounting implications of the Services.

14.2. You are responsible for the management of your affairs for tax and accounting purposes and for the payment of all taxes that may arise in relation to your Transactions.

#### **15. Conflicts of Interest**

15.1. We will provide the Services on a non-exclusive basis. You acknowledge and agree that we are entitled to provide Services in a nature similar or identical to those provided in respect of the Services to others.

15.2. You agree and understand that we may have an interest, relationship or arrangement that is material in relation to any Transaction affected with or through us under the Account Agreement. The following are examples of such material interests and conflicts of interest:

- (a) we may deal with you as Principal for our own account;
- (b) we may deal with you as agent for both you and for another person (whether or not affiliated or connected with us);
- (c) we may match any of your Orders with the order of any other person (whether or not affiliated or connected with us) receiving, in some cases, a second commission from such other person;
- (d) we may make a market in similar types of LFX/PRECIOUS METALS/CFD that are held, purchased or sold for your Account; and
- (e) we may execute Transactions at a price which is different from the price at which your Order was placed.

15.3. We will take reasonable steps to identify and manage conflicts of interest between our clients and us as well as conflicts of interest between clients that arise in the course of our provision of Services.

15.4. Where we have a material interest in a particular Transaction with or for you, we will disclose such material interest or conflict to you before dealing in such Transaction and execute such Transaction on arm's length terms, consistent with best execution standards and at commission rates no higher than customary institutional rates.

15.5. We will not be liable to account to you for any profit, commission or remuneration made or received from or by reason of transactions described in Clause 15.4 or to disclose the same or the identity of any other client or counterparty involved in such transactions, nor will our fees, unless otherwise provided, be abated.

15.6. We may aggregate Orders on your behalf with those of other clients. We will promptly allocate such orders in a fair and equitable manner in accordance with the requirements of SIBL. You acknowledge and agree that such aggregation may operate to your advantage or disadvantage.

#### **16. Suitability and Appropriateness**

- 16.1. We will provide you with execution only services under the Account Agreement. We will execute Transactions and Orders based on your request without further involvement from us. We will not provide you with any recommendation or advice in respect of any products or Services offered by us.
- 16.2. You understand and agree that we will rely on your statement in the Account Application Form as well as on the representations and covenants made by you under Clause 17 to assess the suitability of a LFX/PRECIOUS METALS/CFD product to you. However, when giving Orders to us, you must rely upon your own judgement. We highly recommend that you seek independent advice from a qualified investment adviser if you have any doubt.

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

- 17.1. Representations and warranties are personal statements, assurances or undertakings given by you to us which we rely on when dealing with you. You make the following representations and warranties at the time you enter into the Account Agreement and on a continuing basis particularly every time you enter into a Transaction or give us an Order:
- (a) where you are a natural person, you are of sound mind, and over 18 years old;
  - (b) you are qualified as a “professional client” and/or “market counterparty” as defined under the SIBL and agree to be treated as such;
  - (c) you have all necessary authority, powers, consents, licenses, approvals and authorisations, and have taken all necessary action to enable you, lawfully, to enter into and perform the Account Agreement, Orders and Transactions, to grant the Security Interests and powers referred to in the Account Agreement, to instruct us to execute or arrange any such Orders or Transactions and to perform all your obligations herein;
  - (d) you are knowledgeable of and experienced in the risks of entering into the Transactions in which you engage and are capable of evaluating the merits and risks of such Transactions;
  - (e) you are willing and financially able to sustain a total loss of all funds deposited with us for trading purposes in connection with the Services as well as any other, and possibly additional, funds resulting from Transactions;
  - (f) you have made your own independent decisions to enter into the Account Agreement and each Transaction and as to whether the Account Agreement and each Transaction is appropriate for you based upon your own judgement and advice from such advisers as you deem necessary;
  - (g) the persons entering into the Account Agreement and each Transaction or placing each Order on your behalf are duly authorised to do so;
  - (h) you retain full responsibility for making all investment and trading decisions. You are not relying on any communication (in writing or orally) from BYFX Global or its employees or representatives as investment advice or as a recommendation to enter into the Account Agreement or any Transaction, it being understood that information and explanations related to the terms and conditions of the Account Agreement or a Transaction will not be considered to be investment advice or a recommendation;
  - (i) the Account Agreement as well as each Transaction and the obligations created under them are binding upon you and enforceable against you and currently do not and in the future will not violate the terms of any regulation, order, charge or agreement by which you are bound;
  - (j) execution, delivery and performance of the Account Agreement and any other contracts by which you are bound pursuant to the Account Agreement does not violate or conflict with any laws or regulations applicable to you and your use of the Services will comply with all Applicable Laws, and the Account Agreement;

- (k) except where we have agreed otherwise in writing, you act as Principal and are not acting as any other person's agent or representative regardless of whether you are authorized to direct trades for another Account;
- (l) any information that you have provided or will provide (including such information as we may reasonably request in writing concerning you and your use of the Services) is complete, accurate and not misleading in any respect;
- (m) any information which you provide or have provided to us in respect of your financial position or other matters is accurate and not misleading in any material respect, and you will promptly notify us of any changes to the information given;
- (n) you have consistent and uninterrupted access to internet service and any e-mail address provided to us;
- (o) funds, investments or other assets supplied by you for any purpose shall, subject to the Account Agreement, at all times be free from any charge, lien, pledge or encumbrance and shall be beneficially owned by you, unless otherwise allowed by the Account Agreement;
- (p) no Event of Default or potential Event of Default with respect to you has occurred and is continuing, and no such event or circumstance will occur as a result of entering into or performing obligations under the Account Agreement;
- (q) you are solely responsible for ascertaining whether any Transaction entered into under the Account Agreement is lawful under the applicable laws of the jurisdiction where you hold residency;
- (r) you are now and will remain at all times in compliance with all applicable legislation relating to anti-money laundering and agree to provide us with proof of such compliance upon our request. We are required to follow anti-money laundering legislation in connection with you and your Account and, if satisfactory evidence of identity has not been received by us within a reasonable time period, we reserve the right to suspend or terminate your Account;
- (s) you are now and will remain at all times in compliance with all applicable legislation relating to anti-corruption;
- (t) you understand the risks described in Appendix 1 and you are willing and able, financially and otherwise, to assume the risks of trading in LFX/PRECIOUS METALS/CFD, and that the Loss of your Account balance and any resulting negative balance will not change your lifestyle;
- (u) the Authorised Persons are fully aware of, and will comply at all times with, all applicable terms of the Account Agreement, and the markets in which they transact and the financial instruments they trade via our System;
- (v) the Authorised Persons are authorised to access and use the System on your behalf and that in using the System, the Authorised Persons will at all times be acting within the scope of their authority; and
- (w) at all times when using our System, the Authorised Persons have the appropriate qualifications for your jurisdiction, and if requested by us, you will provide a copy of such qualifications and you agree to immediately inform us of any revocation or loss of any such qualifications.

17.2. You confirm that we shall have authority to take such action as we reasonably consider to be necessary under the Account Agreement and all such action will be undertaken by us as your agent and you agree to ratify and confirm everything properly done by us in the proper performance in good faith of our duties under the Account Agreement.

- 17.3. You undertake to perform such acts, sign and execute all such agreements or documents whatsoever as may be required by us for the performance or implementation of the Account Agreement or any part thereof.
- 17.4. A covenant is a promise to affirmatively do something. You covenant to us, on a continuing basis, that for the duration of the Account Agreement and/or for as long as you have an Account with us:
- (a) upon our request, you will promptly provide us with such information as is necessary for us to perform our obligations under Applicable Law;
  - (b) you will take all reasonable steps to comply with all laws and regulations applicable to you;
  - (c) you will promptly notify us of any change to the details supplied by you during the account opening process, including in particular any change of address, any such occasions where you move to another territory or country, and any change or anticipated change in your financial circumstances or employment status (including redundancy and/or unemployment) which may affect the basis on which we do business with you;
  - (d) upon demand, you will provide us with all information, and access to your books and records (including, without limitation, your electronic records), which we may reasonably require, including, without limitation, such information or documents as are deemed necessary by us to comply with our anti-money laundering programs and related responsibilities;
  - (e) you will ensure that all relevant investments or any documents of title and/or transfer forms and/or any relevant payments are delivered, paid or transferred to us or to whomever we may direct in sufficient time on or before entering into Transactions;
  - (f) you will at all times obtain, comply and do all that is necessary to maintain in full force and effect all authority, powers, consents, licenses and authorisations referred to in this Clause 17;
  - (g) you will promptly notify us of the occurrence of any Event of Default or potential Event of Default with respect to you or any member of your group; and
  - (h) nor will you create or permit to be outstanding any mortgage, pledge, lien, hypothecation, security interest or other charge or encumbrance, or any other interest having the same economic effect over or in respect of funds, investments or other assets supplied by you for any purpose.
- 17.5. You must promptly notify us if any representation, warranty or covenant ceases to be true, accurate or complete in any material respect.

## **18. Default and Default Remedies**

- 18.1. The following events (and each event separately) will constitute an Event of Default:
- (a) if we have reasonable grounds to believe that you failed to make any payment to us or that you are in material breach of any of your obligations to us whether under the Account Agreement or under any other agreement;
  - (b) if you fail to make any payment or any delivery to us when due;
  - (c) where you are a natural person, if you die or become of unsound mind;
  - (d) an Act of Insolvency occurring in respect of you or any of your affiliate(s). For the purpose of this Clause only, affiliates means, any entity controlled, directly or indirectly, by you or that directly or indirectly controls you. Whereby controlling means ownership of a majority of the voting power of either you or the entity you are controlling;

- (e) if you are unable to pay your debts as they fall due or are bankrupt or insolvent as defined under any bankruptcy or insolvency law applicable to you;
  - (f) we consider, in our sole and absolute discretion, that your creditworthiness is materially weaker, immediately following any of the following designated events: (a) you consolidate or amalgamate with, or merge with or into, or transfer all or substantially all your assets (or any substantial part of the assets comprising the business conducted by you) to, or reorganise, reincorporate or reconstitute into or as, another person; (b) any person or group of persons (whether in one or more related transactions) acquires a beneficial ownership in your business; or (c) any person or group of persons (whether in one or more related transactions) is granted directly or indirectly through contractual arrangements a substantial influence over your business;
  - (g) occurrence of any event which we reasonably consider it necessary for our own protection, and any event which we reasonably consider could result in the continuation of these Terms causing a violation of any laws, applicable regulations, or good standard of market practice;
  - (h) any representations or warranties made by you being incorrect, untrue or ceasing to be true in any material respect when made or repeated or deemed to have been made or repeated or any undertaking made by you where such undertaking fails to be met;
  - (i) any consent, authorisation or board resolution required by you (being a corporation or a partnership) to enter into the Account Agreement being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
  - (j) an admission by you that you are unable to, or intend not to, perform any of your obligations under the Account Agreement; or
  - (k) the occurrence of an event of default, termination event or other similar event (howsoever described) under any agreement between you and us.
- 18.2. Upon the occurrence of an Event of Default, we may, in our sole and absolute discretion (without being obliged to do so), take all or any of the following actions with or without notice:
- (a) require you to close, or we may liquidate, any or all of your Open Positions by a specified date and a specified price selected by us;
  - (b) cancel any Orders on a date specified by us;
  - (c) prohibit and prevent you from accessing or using your Account;
  - (d) suspend or in any way limit or restrict your ability to place any Order, give any instruction or effectuate any Transaction in relation to your Account;
  - (e) vary your Margin Requirements;
  - (f) reverse any Transactions (as if they had never been entered into in the first place) and the effect of such Transactions on your Account;
  - (g) sell, charge or otherwise realise any or all of your Security Assets in such manner, at such time and to such person as we think fit and to apply the proceeds of sale in or towards discharge of your Liabilities and Secured Obligations, or call on any guarantee;
  - (h) make appropriate deductions or credits on your Accounts with us;
  - (i) terminate the Account Agreement immediately with or without notice with termination occurring on a specified date selected by us;
  - (j) exercise our right of set-off; and/or

- (k) pay to you the fair market value, at the time we exercise our above rights, of any investments held by us instead of returning to your investments equivalent to those credited on your Account.
- 18.3. Where we terminate or liquidate an Open Position in accordance with Clause 18.2, we will determine the amount that will be due (either to you or from you) as a result of such termination or liquidation. Where such amount is due from you, such amount shall be immediately due and payable to us and form part of your Liabilities. Where applicable, we will act in accordance with our Margin Call Policy.
- 18.4. You authorise us to take any or all of the actions described in Clause 18.2 above at any time and without notice to you and acknowledge that we will not be responsible for any consequences if we take such actions. You undertake that you will execute any documents and take any action as we may request in order to protect our rights under the Account Agreement or under any agreement you may have entered into with us.
- 18.5. For all purposes, including any legal proceedings, a certificate by any of our officers as to the Liabilities for the time being due to us or incurred by you shall be conclusive in absence of Manifest Error.

## 19. Force Majeure

- 19.1. We will not be liable for any Losses resulting from any failure or delay in performing our obligations under the Account Agreement and any failure or delay in performing our obligations will not constitute a breach of the Account Agreement, if and to the extent that such failure to perform was, directly or indirectly, caused by a Force Majeure Event.
- 19.2. Upon the occurrence of a Force Majeure Event, we will use commercially reasonable efforts to provide the Services. We may, at our sole and absolute discretion, and if practically possible, give you written notice that a Force Majeure Event has occurred. Upon occurrence of a Force Majeure Event, all of our obligations under the Account Agreement will be immediately suspended for the duration of such Force Majeure Event. Additionally, you agree that given the circumstance we may take any one or more of the following steps:
  - (a) alter normal trading hours;
  - (b) alter the Margin Requirements;
  - (c) unilaterally amend or vary the Account Agreement and any Transaction contemplated by the Account Agreement, insofar as it is impractical or impossible for us to comply with our obligations;
  - (d) close any or all Open Positions, cancel Orders as we deem to be appropriate in the circumstances; and/or
  - (e) take or omit to take all such other actions as we deem to be reasonably appropriate in the circumstances having regard to your positions and the positions of our other clients.

## 20. Manifest Errors

- 20.1. A "**Manifest Error**" means a manifest or obvious misquote by us, or any market, exchange, price providing bank or financial institutions, information source, commentator or official on whom we reasonably rely which is not indicative of fair market value at the time and an Order is placed or a Transaction is affected. A Manifest Error could include, inaccurate third party or liquidity provider data or pricing, a mistype of a quote, an erroneous quote or misquote provided by a Client Services Officer or a System due to the failure of any software, hardware, given by electronic means. When determining whether a situation amounts to a Manifest Error, we may take into

consideration all information in our possession including, without limitation, information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement.

- 20.2. We will, when making a determination as to whether a situation amounts to a Manifest Error, act fairly towards you but the fact that you may have entered into, or refrained from entering into, a corresponding financial commitment, contract or Transaction in reliance on an Order placed with us (or that you have suffered or may suffer any loss of profit, consequential or indirect loss) will not be taken into account by us in determining whether there has been a Manifest Error. We reserve the right, without prior notice, to:
- (a) amend the details of relevant Transactions to reflect a price determined by us in our sole and absolute discretion to be the correct or fair terms of such Transaction as if there were no such Manifest Errors;
  - (b) if you do not promptly agree to any amendment made under Clause 20.2, we may void from its inception any Transaction resulting from or deriving from a Manifest Error or close or liquidate the Transaction or any Open Position resulting from such Transaction; and/or
  - (c) refrain from taking and refuse to take any action at all to amend the details of such a Transaction or to void, terminate, close or liquidate such Transaction.
- 20.3. We will not be liable to you for any Losses resulting from a Manifest Error or any action which we take or refrain from taking in relation to a Transaction notwithstanding any Manifest Error, except to the extent caused by our gross negligence, fraud or wilful misconduct.

## **21. Abusive Trading Strategies**

- 21.1. Abusive Trading Strategies may or may not be caused by the person benefiting from them. Abusive Trading Strategies are generally used by persons who are experts in trading. They include, without limitation, practices such as attacking the System in order to create and abuse price latency opportunities, internet or System connectivity, trading products which are clearly misquoted (arbitrage).
- 21.2. You represent and warrant to us at the time you enter into the Account Agreement and every time you enter into a Transaction or give us any Order that you will not use Abusive Trading Strategies on the System. You agree that we may, at our sole and absolute discretion, revoke Transactions resulting from Abusive Trading Strategies without prior notice to you and regardless of whether such revocation would result in Losses in your Account or would cause you to breach your Margin Requirements. We reserve the right to take all necessary steps including making corrections or adjustments on your Account without prior notice, including, without limitation, modifying, adjusting, correcting, rejecting, terminating or voiding, at any time, any Transaction placed through the System which involves Abusive Trading Strategies. In addition, where such circumstances exist, you understand and agree that we will not remit payments to or process withdrawal requests from you until the appropriate actions are taken to our satisfaction. Any dispute arising from such quoting or execution errors will be resolved by us in our sole and absolute discretion.
- 21.3. When determining whether a situation amounts to an Abusive Trading Strategy, we may take into consideration all information in our possession including, without limitation, information concerning relevant market conditions and errors in the System.
- 21.4. Accounts that rely on Abusive Trading Strategies may at our sole and absolute discretion be subject to intervention by us and our approval of any Orders.
- 21.5. We will not be liable to you for any Loss you may suffer (including loss of profits or any indirect or consequential losses) resulting from any action we take or refrain from taking in relation to addressing your Abusive Trading Strategies or Transactions resulting from your Abusive Trading Strategies, except to the extent caused by our gross negligence, fraud or wilful misconduct.



## **22. Market Abuse**

- 22.1. When we execute a Transaction on your behalf, we may buy or sell directly from or to other financial institutions units in the relevant product. The result is that when you enter into Transactions with us, your Transactions can have an impact on the external market for that product in addition to the impact it might have on our price. This creates a possibility of market abuse and the purpose of this Clause is to prevent such abuse.
- 22.2. You represent and warrant to us at the time you enter into the Account Agreement and every time you enter into a Transaction or give us any Order that you will not place and have not placed a Transaction that contravenes any law or regulation prohibiting market manipulation or any other form of market abuse or market misconduct. You will act in accordance with all Applicable Laws.
- 22.3. In the event that you place any Transaction or otherwise act in breach of the representations and warranties given in this Clause or any other Clause of these Terms or we have reasonable grounds for believing that you have done so, we may, in addition to any rights we may have under these Terms:
- (a) enforce the Transaction(s) against you if it is a Transaction(s) which results in Liabilities; and/or
  - (b) treat all your Transactions as void if they are Transactions which result in us owing funds to you, unless and until you produce conclusive evidence to our satisfaction within thirty (30) calendar days of our request that you have not in fact committed any breach of warranty, representation or undertaking under the Account Agreement.
- 22.4. We are entitled (and in some cases required) to report to any relevant regulatory authority details of any Transaction or Order which would be deemed to constitute market abuse. You may also be required to make appropriate disclosures and you undertake that you will do so where so required.

## **23. Exclusions, Limitations of Liability and Indemnity**

- 23.1. Nothing in the Account Agreement shall exclude or restrict any duty or liability owed by us to you under Applicable Law. Apart from the foregoing, neither we, nor any third party shall be liable for any Losses whether arising out of our gross negligence, fraud or wilful misconduct, incurred or suffered by you or your directors, officers, employees in connection with your trading activities under the Account Agreement (including any Transaction or where we have declined to enter into a proposed Transaction) unless such Losses arise directly from our gross negligence, fraud or wilful misconduct.
- 23.2. Without limitation, we will not be responsible or liable:
- (a) for the performance or profitability of your Account or any part thereof;
  - (b) for any Loss that you suffer in an event where any computer viruses, software bombs, or similar items are introduced into your computer hardware or software via the System;
  - (c) for any actions we may take pursuant to our rights under the Account Agreement;
  - (d) for any Losses of any kind arising out of, or in connection with, the placement of Orders or the execution of Transactions;
  - (e) for any act or omission of an intermediate broker or agent;
  - (f) for any adverse tax implications of any Transaction whatsoever;

- (g) by reason of any delay or change in market conditions before any particular Order is executed; and
  - (h) for communication failures (including telecommunication network failures), distortions or delays whether in connection with the System, your Account or otherwise.
- 23.3. You agree to reimburse, indemnify and hold us harmless for any and all Losses arising out of any act or omission on your part, the part of any persons authorised by you or any persons who we reasonably believe to be acting with authority on your behalf, including the Authorised Persons, which we may incur in connection with:
- (a) the provision of Services or products to you in connection with the Account Agreement;
  - (b) any of your Accounts or any Transaction;
  - (c) as a result of any misrepresentation by you or any violation by you of your obligations under the Account Agreement (including any Transaction); or
  - (d) as the result of the enforcement of our rights under the Account Agreement or any Applicable Law.

Except in each case to the extent where any such Losses arise as a result of our gross negligence, wilful misconduct or fraud.

- 23.4. We will not be obliged to take or refrain from taking any action wholly or partly as a result of an event or state of affairs which was beyond our reasonable control to prevent and the effect of which is beyond our reasonable power to avoid, including, without limitation: any change in the law, any Applicable Law, failure of any exchange or clearing house or settlement system, war, terrorism, civil unrest, any breakdown or failure of transmission or communication or computer facilities, postal or other strikes or similar industrial action in each case whether actual, threatened or anticipated.
- 23.5. We will not be liable to you, your directors, officers, or employees for any partial or total non-performance of our obligations or delay in performance by reason of any cause beyond our reasonable control including, without limitation, (i) any failure or delay by any exchange, market, or clearing house, or broker or dealer, in performing its obligations (including with respect to the delivery or re-delivery of assets) with respect to any Transactions executed and/or cleared for the Account, or (ii) the imposition, introduction, amendment or change (including a change in interpretation) of any legislation, regulation, directive or policy by any governmental or supranational body, exchange, regulatory or self-regulatory organisation, market clearing house or any failure or delay by any of the foregoing in enforcing such legislation, regulation or policy.

## **24. Reimbursement**

- 24.1. You will reimburse, and keep us indemnified on demand in respect of all Liabilities, Losses or costs of any kind or nature whatsoever that may be incurred by us as a direct or indirect result of:
- (a) any failure by you to perform any of your obligations under the Account Agreement;
  - (b) your use of programmable trading systems, whether built by you or by any third party and executed on or using the System; and
  - (c) any act or omission by any person having access to your Account, by using your designated Account number and/or password, whether or not you authorised such access.
- 24.2. To the extent you use or used the System for a commercial purpose and entered Orders or Transactions for the account of your clients, you will, on demand, reimburse, protect and hold us harmless from and against all Liabilities resulting from or arising out of claims raised by your clients. This Clause shall not be affected by the termination of the Account Agreement.

## **25. Amendments**

25.1. We may amend the Account Agreement and any arrangements made hereunder at any time by written notice to you in such manner we think appropriate, which may include the publishing of the Account Agreement on our Website or by sending an e-mail to you. Any such amendment will come into effect on the date specified by us which will, in most cases, be at least ten (10) Business Days from the date of our amendment notice. You will be deemed to be bound by the terms of such amendment or change on the earlier of:

(a) ten (10) Business Days after we have e-mailed you or published notice of such amendment to the Website; or

(b) the date you place an Order (other than a liquidating order) via the System.

25.2. If you choose to object to amendments to the Account Agreement or any arrangements made hereunder, you must:

(a) notify us in writing (in accordance with the details set out in the amendment notice) within ten (10) Business Days of the date of the amendment notice;

(b) close all your Open Positions;

(c) withdraw all remaining funds remaining to the credit of your Account, net of any amount due to us from you, after closing all your Open Positions; and

(d) close your Account.

If you do not complete any of the above within ten (10) Business Days of the date of the amendment notice, you will be deemed to have accepted the Account Agreement and will be bound by them.

25.3. Any amendment to the Account Agreement will supersede any previous agreement between us on the same subject matter and will govern any Transaction entered into after, or outstanding on, the date the amended Account Agreement comes into effect.

25.4. Notwithstanding the above, we reserve the right to make such modifications, improvements or additions to the System as we shall deem fit. We shall use reasonable endeavours to give you prior notice of such modifications, improvements or additions. You should visit our Website to obtain the latest terms relating to the System.

## **26. Suspension and Termination**

26.1. You may terminate the Account Agreement immediately by giving written notice to us. You agree that at any time after the termination of the Account Agreement, we may, without notice to you, close out any or all of your Open Positions (if any).

26.2. We may suspend or terminate the Account Agreement and/or your Account by giving five (5) Business Days written notice to you for any reason or no reason whatsoever, except that we may terminate the Account Agreement immediately, upon written notice to you, for any reason or no reason whatsoever, if you have no Open Positions in your Account at the time when the notice of termination is sent. If you have an Open Position under any Service or in any product that is being terminated, we will aim to provide you with at least thirty (30) calendar days' notice to close such Open Position. However, where, in our reasonable opinion, it is necessary or fair to do so or it is impracticable to give you thirty (30) calendar days' prior notice, we may provide a shorter notice period. Where notice is given, you undertake to cancel any Orders and/or close any Open Positions in respect of such affected product or Service before the time specified in our notice.

- 26.3. You agree that at any time after the termination of the Account Agreement, we may, without notice to you, close out any or all of your Open Positions. You further agree that we may, at our sole and absolute discretion, suspend your Account and restrict your trading activities during the notice period mentioned in this Clause. Where we suspend your Account, we may prevent you from opening any new positions, but we will not close your Open Positions unless otherwise allowed under the Account Agreement.
- 26.4. Upon termination of the Account Agreement, all amounts payable by you to us will become immediately due and payable including, without limitation:
- (a) all outstanding fees, charges and commissions;
  - (b) any expenses incurred by terminating the Account Agreement;
  - (c) any Losses realised in closing out any Open Positions or settling or concluding outstanding obligations incurred by us on your behalf; and
  - (d) any financial accommodations remaining to the credit of your Account.
- 26.5. Termination of the Account Agreement will not affect any rights or obligations, which may already have arisen between you and us. The termination of the Account Agreement will not affect the coming into force or the continuance in force of any provision in the Account Agreement which is expressly, or by implication, intended to come into, or continue in force, on or after such termination.
- 26.6. If termination occurs, we will, as soon as reasonably practicable and subject to the Account Agreement, deliver to you any funds in your Account(s) subject to any applicable charges and rights of set-off. A final statement will be issued to you where appropriate.
- 26.7. The provisions of this Clause will not prevent us from exercising any of our rights to terminate or suspend the Account Agreement as provided elsewhere in the Account Agreement.
- 26.8. Notwithstanding our general power to terminate the Account Agreement pursuant to Clause 26.2 above, we will be entitled to take any or all of the following actions including terminating the Account Agreement or suspending your Account or restricting your ability to place new Order without further notice to you where our reasonable attempts to communicate with you using your last known contact details have remained unsuccessful for fourteen (14) calendar days. Where we terminate the Account Agreement, suspend your account and/or restrict your ability to place new Order pursuant to this Clause, we are entitled to:
- (a) cancel any or all outstanding Orders;
  - (b) liquidate any or all Open Positions;
  - (c) in respect of the closed or suspended Account(s) and/or terminated Service(s), to set-off the proceeds against any amounts owed to us, and to issue a demand draft for the amount of any remaining funds which may be retained for your collection.
- 26.9. Termination will not affect any Transaction affected before the date of termination of the Account Agreement and will be without prejudice to the rights and obligations which have arisen under the Account Agreement before the date of termination.
- 26.10. Clauses 17, 23 and 30 survive the termination of the Account Agreement.

## **27. Notices and Communication with the Client**

- 27.1. We may notify, instruct, or communicate with you by telephone, letter, fax, e-mail, text message, or by posting a message on our Website or System, and you agree that we may contact you through any of these mediums at any time. We will use the address, fax number, phone number,

or e-mail address specified in your Account Application Form or such other address (physical or electronic) or number (fax or phone) as you may subsequently provide us in writing.

- 27.2. You will be deemed to have acknowledged and agreed with the content of any notice, instruction or other communication (except confirmations of Transactions, Account Statements, and Margin Call Warnings) unless you notify us to the contrary in writing within five (5) Business Days of the date on which you are deemed to have received it in accordance with Clause 27.1.
- 27.3. Any notice, instruction or other communication will be deemed to have been properly given by us if:
- (a) hand delivered, when left at your last known home or work address;
  - (b) sent by post to the address last notified by you to us, on the next Business Day after being deposited in the post;
  - (c) given verbally over the telephone, immediately where we speak with you. If we are unable to connect with you via phone, we may leave a message on your answering machine. In such an event, the notice, instruction or other communication will be deemed to have been properly given one hour after the message is left;
  - (d) sent by fax, immediately upon receipt of a successful transmission report;
  - (e) sent by text message, as soon as we transmit the message;
  - (f) sent by e-mail, immediately after the e-mail is sent providing we do not receive confirmation of a failed delivery from the relevant e-mail provider; and/or
  - (g) published on our Website or System, as soon as it has been published.
- 27.4. You are responsible for reading all notices published on our Website and System in a timely manner.
- 27.5. You may notify us by letter, fax, or e-mail, each of which shall constitute written notice. You will use our registered address, fax number, or e-mail address specified by us in accordance with any notice requirement set out in this Clause.
- 27.6. Any notice will be deemed to have been properly given by you if:
- (a) hand delivered, when left at our registered office;
  - (b) sent by post to our registered address, upon receipt by us;
  - (c) sent by fax, immediately upon receipt of a successful transmission report; and/or
  - (d) sent by e-mail, one hour after the e-mail is sent providing you do not receive confirmation of a failed delivery from the relevant e-mail provider.
- 27.7. We shall communicate in English. Translations of the Account Agreement provided to you is made for your reference only. The original English version shall be the only legally binding version for you and us. In case of discrepancies between the original English version and other translations in your possession, the original English version provided by us shall prevail.
- 27.8. We will not be liable for any delays you may face in receiving any communication once dispatched by us, except where the delay is caused by our gross negligence, fraud or wilful misconduct.
- 27.9. You acknowledge and agree that conversations between you and us be recorded electronically with or without the use of an automatic tone warning device. You (i) consent to the recording of telephone conversations in connection with the Account Agreement, any potential Transaction or Transaction and (ii) agree to obtain any necessary consent, and give notice of such recording, to

your personnel as may be necessary. You understand that such records will be our sole property. You further agree to the use of such recordings and transcripts thereof as evidence by us in connection with any complaint or legal proceeding which may arise and may be submitted in evidence to any court or in any legal proceeding for any purpose relating to any Transactions or the Account Agreement.

## **28. Intellectual Property**

28.1. All title, ownership rights and intellectual property rights in or relating to our Website, System and any and all information or materials that we may supply or make available to you (including any software which forms part of those items) are and will remain our exclusive property, save and except for any information which is proprietary to our Service Providers. Such Service Providers may include providers of real-time price data to us. In addition:

- (a) all copyrights, trademarks, design rights and other intellectual property rights in those items are and will remain our property (or those of third parties whose intellectual property we use in relation to products and Services we provide for your Account);
- (b) we supply or make them available to you on the basis that: (i) we can also supply and make them available to other persons; and (ii) we may cease providing them at our sole and absolute discretion or if our Service Providers require us to do so;
- (c) you must not supply all or part of them to anyone and you must not copy all or any part of them;
- (d) you must not delete, obscure or tamper with copyright or other proprietary notices we may have put on any of those items; and/or
- (e) you must only use these items for the operation of your Account in accordance with the Account Agreement.

## **29. Personal Data Protection**

29.1. We may obtain information (including personal data) about you or your directors, shareholders, officers, employees, agents or clients (as necessary) during thproe course of our relationship with you. This Clause describes some of the key issues in relation to how we process this personal data, which you should be aware of. Please note that this description is not comprehensive, and our Privacy Policy and Personal Information Collection Statement contain additional information. Our Privacy Policy and Personal Information Collection Statement are available on our Website and should be read alongside this Clause as it sets out the types of personal data which we collect about you and additional ways in which we safeguard and use such personal data. We will take reasonable measures to safeguard your personal information.

29.2. In accordance with Applicable Law, and subject to the following, we will treat all information we hold about you and your directors, shareholders, officers, employees, agents and clients as private and confidential, even when you are no longer a client. You agree that we may:

- (a) use your information to (i) determine your identity and background before and during the term of the Account Agreement for anti-money laundering and regulatory purposes, (ii) administer and operate your Account and monitor and analyse its conduct, (iii) provide Services to you, (iv) improve any of our operations, procedures, products and/or Services during the term of the Account Agreement, (v) assess any credit limit or other credit decision (and the interest rate, fees and other charges to be applied to your Account) and (vi) carry out statistical and other analysis;

- (b) use your personal data including your contact details, Account Application's details and details of the Service we provide to you and how you use them, to decide what products and Services may be of interest to you;
  - (c) contact you by telephone (including automated calls), post, e-mail and other electronic messages such as short text, video and picture messaging, and fax, with information, news, events and seminars and generally for the purpose of promoting our Services; and
  - (d) use your personal data to comply and cooperate with the requirements of regulators and the courts and to comply with our legal obligations.
- 29.3. You hereby specifically and explicitly agree that we may share your personal data with any of our Service Providers in connection with providing you with Services under or in connection with the Account Agreement, including but not limited to, data processors, information technology service providers, platform providers, or marketing services providers who may only use it for the same purposes as us. Such purposes include the processing of instructions and the generation of confirmations of Transactions, the operation of control systems and the operation of management information systems. We will take appropriate measures to protect the security of your personal data.
- 29.4. You agree that we may transfer information we hold about you to any country which may not have comparable data protection laws, for any of the purposes described in this Clause.
- 29.5. In order to comply with our obligations under various legislative and regulatory requirements we may be required to make certain disclosures relating to you or your Account, which may or may not involve disclosing your identity, your Account's details and trading activities. In addition to complying with such obligations, we may comply with any request for information pertaining to you from any relevant regulatory or government authority. You consent to such disclosures and you agree that such compliance does not constitute a breach of any obligation of confidentiality, which we owe you pursuant to the Account Agreement.
- 29.6. If any personal data belonging to any of your shareholders, directors, employees, officers, agents or clients is provided to us, you represent to us that each such person is aware of and consents to the use of such data as set out in this Clause and you agree to indemnify us against any Loss, costs or expenses arising out of any breach of this representation.
- 29.7. Without prejudice to any right or obligation that we may have under the Applicable Laws, you acknowledge and consent that we may report any activity, suspected trading misconduct, other malpractice or irregularity to the regulator(s), authority(ies) and/or the liquidity provider or the issuer of the foreign exchange or gold/silver bullion or contract for difference product concerned. You shall not challenge any decision to make such report, or attempt to hold us responsible for resulting action against, or Loss incurred by, you. You undertake to provide us with such information as lawfully requested by us within one (1) Business Day of such request. Further, we may in our sole discretion suspend the operation of the Account or decline to act in accordance with any instruction or commitment without incurring any liability whatsoever to you for any Loss howsoever related to our suspension of the Account or its delay or refusal to act in accordance with any instruction or commitment relating to the Account or the Account Agreement.
- 29.8. In accordance with Applicable Law, your consent is required for the use of your personal data in direct marketing. If you intend not to receive any information concerning products and Services, latest promotion, assistance on the System and other trading resources, you can exercise your opt-out right in writing.

### **30. Confidentiality**

- 30.1. Neither party may, either before or after the termination of the Account Agreement, disclose to any person any Confidential Information. Each party will use all reasonable endeavours to prevent the disclosure of any Confidential Information.

- 30.2. The obligations of confidentiality under Clause 30.1 will not apply where Confidential Information is:
- (a) used by or disclosed to a director, officer, employee, representative, agent or delegate of a party on a need-to-know basis for the purpose of fulfilling that party's obligations under the Account Agreement or with the prior written consent of the other party;
  - (b) required to be disclosed to any governmental or regulatory authority or otherwise required to be disclosed by any law or order of any court of competent jurisdiction to which the party required to make the disclosure may be subject; or
  - (c) disclosed in confidence to the recipient's advisers, lawyers, auditors or insurers where reasonably necessary for the performance of such advisers', lawyers', auditors' or insurers' professional services.

### **31. Compliance with Anti-Corruption Laws**

- 31.1. The parties shall not commit, authorise, or permit any action which would cause the other party (or its associated companies) to be in violation of any applicable anti-bribery laws or regulations. This obligation applies in particular to illegitimate payments to government officials, representatives of public authorities or their associates, families or close friends.
- 31.2. Each party agrees that it will neither offer or give, or agree to give, to any employee, representative or third party acting on behalf of the other party nor accept, or agree to accept from any employee, representative or third party acting on behalf of the other party, any gift or benefit, be it monetary or otherwise, that the recipient is not legally entitled to with regard to the negotiation, conclusion or performance of these Terms.
- 31.3. To the extent permitted by law, the parties shall promptly notify each other, if they become aware of or have specific suspicion of any corruption with regard to the negotiation, conclusion or performance of these Terms.
- 31.4. In case any prohibited payments of gifts are made by one party as stated above, or if the other party has reasonable cause to believe that such payments or gifts have been or are being made, the other party may terminate these Terms with immediate effect.

### **32. Compliance with Anti-Money Laundering Laws**

- 32.1. You represent and warrant to us that at all times for the duration of these Terms:
- (a) you are the underlying principal of the Account and no person other than you has any interest in the Account, regardless of whether you are trading for the account of any of your customer; and
  - (b) all monies paid or transferred by, or under the instructions of, you under these Terms are from a legitimate source.
- 32.2. You shall promptly provide us with all information and documents necessary to verify your identity and do all acts and things necessary to enable us to comply with applicable anti-money laundering and know your customers laws, regulations, rules and practices whether in Cayman Islands or elsewhere.
- 32.3. You will perform all customer identification, know your customer, anti-money laundering and other due diligence with respect to each of your customer, and provide each of your customers with all required documents, information and disclosures, in full compliance with applicable laws, rules and regulations.

### **33. Miscellaneous**



- 33.1. The Account Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and the basis on which we will enter into any Transaction with you and supersedes all previous written or oral communications with respect to the Account Agreement.
- 33.2. We may, but you may not, at any time transfer or assign absolutely our rights, benefits and/or obligations under the Account Agreement by providing you with not less than ten (10) Business Days written notice. Any such transfer or assignment shall be subject to the assignee undertaking in writing to be bound by and perform our obligations under the Account Agreement.
- 33.3. No failure on the part of any party to exercise, and no delay on its part in exercising, any right or remedy under the Account Agreement shall operate as a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of such right or remedy or the exercise of any other right or remedy.
- 33.4. Our rights and obligations under the Account Agreement are personal to you. This means that you cannot assign them without our prior written consent.
- 33.5. Time is of the essence in respect of all your obligations under the Account Agreement and any Transaction. This means that specified times and dates in the Account Agreement are vital and mandatory. Any delay, reasonable or not, may be grounds for terminating a Transaction, multiple Transactions or the Account Agreement.
- 33.6. The rights and remedies provided under the Account Agreement are cumulative and not exclusive of those provided by law.
- 33.7. We are under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No delay or failure by us to exercise any of our rights under the Account Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of any other rights or remedies. No course of conduct or previous dealings shall create any future obligation to perform in the same manner.
- 33.8. If, at any time, any provision of the Account Agreement is or becomes illegal, invalid, or unenforceable in any respect under the law of any jurisdiction, then such provision or part thereof will, to that extent, be deemed severable and not form part of the Account Agreement. Neither the legality, validity or enforceability of the remaining provisions of the Account Agreement under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.
- 33.9. Unless otherwise permitted by any Applicable Law, nothing in the Account Agreement shall be taken to exclude or restrict our obligations under any Applicable Law. We shall be entitled to take any action as we consider necessary in our absolute discretion to ensure compliance with any Applicable Law and such actions shall be binding on you and shall not render us or any of our directors, officers, employees, agents or representatives liable.
- 33.10. You consent that, without prior notice from us when we execute Orders on your behalf, we or our representatives and/or agents may buy or sell for an account in which any such person has a direct or indirect interest, subject to the limitations and conditions, if any, contained in the SIBL or Applicable Laws then in force in the market where which such Orders are executed.
- 33.11. You accept that we operate from Cayman Islands and will therefore comply with the requirement of Cayman Islands relating to working hours and public holidays. This means that we may not offer services, in whole or in part, every day of the year. You should keep yourself apprised of our regular hours of business and closure schedule to avoid any service disruption or inconvenience when trading.

- 33.12. You may be affected by any curtailment of, or restriction on, the capacity of us to deal in respect of Open Positions as a result of action taken by the SIBL or for any other reason, and that in such circumstances, you may be required to reduce or close out the Open Positions with us.
- 33.13. Your contracts may be closed out without your consent.
- 33.14. All formal complaints should be made in writing to us via email [compliance@byfx.com](mailto:compliance@byfx.com) and marked for the attention of our Complaint Officer.
- 33.15. Our records will, unless shown to be wrong, be evidence of your dealings with us in connection with our Services. You will not object to the admission of our records in any legal proceedings because such records are not originals, are not in writing or are produced by a computer. Although records may be made available to you upon request, the provision of such records to you is subject to our sole and absolute discretion.
- 33.16. The provisions of the Account Agreement may not be enforced by a person who is not a party to the Account Agreement.
- 33.17. If any action or proceeding is brought by or against us in relation to the Account Agreement or arising out of any act or omission by us, you agree to cooperate with us to the fullest extent possible in the defence or prosecution of such action or proceeding.
- 33.18. We shall have absolute rights to amend, delete or substitute any of the Account Agreement herein or add new provisions to the Account Agreement. Any revised terms will be posted on our Website. You should visit our Website to obtain the latest Account Agreement.
- 33.19. We may issue further Supplemental Documents. If there is any conflict between the clauses of any Supplemental Document and the Account Agreement, the provisions in the Supplemental Document shall prevail.
- 33.20. Headings and captions in the Account Agreement are inserted for reference only and shall not be given any effect in the interpretation of any provision of the Account Agreement.
- 33.21. Word or phrases importing the singular shall be interpreted to include the plural and vice versa, unless the context requires otherwise.
- 33.22. References to statutory provisions or enactments in the Account Agreement shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision or enactment, to any previous enactment which has been replaced or amended and to any regulation, instrument or order or other subordinate legislation made under such provision or enactment, except where expressly stated to the contrary.
- 33.23. The Account Agreement shall be continuous and shall cover, individually and collectively, all of your Accounts at any time opened or reopened with BYFX Global, irrespective of any change or changes at any time in the personnel of BYFX Global or its successors or assigns. The Account Agreement, including all authorizations, shall inure to the benefit of BYFX Global and its successors and assigns, whether by merger, consolidation or otherwise, and shall be binding upon you and/or your agents, personal representatives, heirs, executor, administrator, trustee, legatees, legal representative, successors and assigns.
- 33.24. A person who is not a party to the Account Agreement and who is granted rights pursuant to Clause 24 (“**Indemnified Person**”) may, in their own right, enforce their rights as if they were a party to the Account Agreement, subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Law in Cayman Islands. Except as expressly provided in the foregoing, a person who is not a party to the Account Agreement will not have any rights to enforce any term of the Account Agreement. Notwithstanding any term of the Account Agreement, the consent to, or notice to, any person who is not a party to the Account Agreement (including, without limitation, any Indemnified Person) will not be required for any termination, rescission or agreement to any variation, waiver, assignment, amendment, novation, release or settlement under the Account Agreement.

#### **34. Governing Law**

- 34.1. A Transaction which is subject to the rules of a market shall be governed by the law applicable to it under those rules. Subject thereto, the Account Agreement will be governed by and construed in accordance with the laws of Cayman Islands.
- 34.2. The courts of Cayman Islands will have exclusive jurisdiction to settle any dispute arising in connection with the Account Agreement and for such purposes you and we irrevocably submit to the jurisdiction of the courts of Cayman Islands.
- 34.3. Nothing in this Clause shall prevent us from bringing proceedings against you in any other country which may have jurisdiction to whose jurisdiction you irrevocably submit.
- 34.4. Irrespective of your location, you agree to the service of legal process or any other documents in connection with proceedings in any court by the registered mailing of copies to your last address shown in our records, or in any other manner permitted by the laws of Cayman Islands.
- 34.5. In relation to any dispute between BYFX Global and you, BYFX Global shall, if you so require, agree to refer the dispute to arbitration in accordance with The Arbitration Law, 2012 in the Cayman Islands.

## Appendix 1: Definitions

In the Account Agreement, the following words and phrases shall, unless the context otherwise requires, have the following meanings and may be used in the singular or plural as appropriate:

**“Abusive Trading Strategies”** means trading activities made by you which, in our opinion, aim to benefit from errors, latencies, internet related issues, connectivity delays and any other circumstance or malfunction of the System whereby the liquidity or pricing displayed on the System does not accurately reflect current market rates;

**“Account”** means any account that you maintain with us for the purposes of trading under the Account Agreement and in which your funds or other collateral are held and in which realised profits and/or losses are credited and/or debited;

**“Account Agreement”** means these Terms and the Supplemental Documents;

**“Account Application”** means the application for the opening of an Account including supplemental documents;

**“Account Application Form”** means the account opening form signed by you and which contains the mandate to BYFX Global in relation to any Account and/or Service;

**“Account Statement”** means a periodic statement of trading activities, fees, charges, commissions and other applicable charges credited or debited to your Account at a specific point in time;

**“Act of Insolvency”** with respect to a person means that such person (a) becomes unable to pay its debts or fails to pay its debts as they become due; (b) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (c) institutes or has instituted against it proceedings seeking a judgement of bankruptcy or insolvency (or their equivalent under legislation applicable to such party) howsoever described; (d) has a resolution passed for its winding-up or winding-down or liquidation; (e) seeks or becomes subject to the appointment of a liquidator or trustee or other official for a substantial part of its assets;

**“Appendices”** means any appendix to these Terms as may be provided to you;

**“Applicable Law”** means any legislation (including, without limitation, constitution, statute, law, regulation, by-laws or rules), order, directions, guidelines, notice, request, customs, usages, rulings, and interpretations of any legal, regulatory, governmental, tax, law enforcement or other competent authorities or self-regulatory or industry bodies or associations, exchanges, alternative trading systems, contract markets, derivatives transaction execution facilities, and other markets (within or outside Cayman Islands) which we deem to be applicable to BYFX Global;

**“Authenticators”** means one or more unique usernames, passwords and/or other devices necessary to enable you to access and use the System;

**“Authorised Persons”** means any person you have authorised to give instructions or Orders to us, as set out in the Account Application Form, or as you may otherwise advise us in writing;

**“Base Currency”** or **“Base Currencies”** means the currency in which your Account is denominated and in which we will debit and credit your Account;

**“Business Day”** means any day other than a Saturday, Sunday on which we are open for trading in LFX or PRECIOUS METALS or CFD and/or such other day or days as we may determine;

**“BYFX Global”, “We”, “Our”, “Us”** mean BYFX Global Co., Ltd, an SBI Group member company, authorized and regulated by the Cayman Islands Monetary Authority (CIMA) under the Securities Investments Business Law (SIBL) of the Cayman Islands;

**“The Cayman Islands”** means an autonomous British Overseas Territory in the western Caribbean Sea;

**“CIMA”** means the Cayman Islands Monetary Authority;

**“Client”, “You”, “Yourself”** means the person(s) named in the Account Application Form to whom BYFX will provide Services in relation to LFX or PRECIOUS METALS or CFD trading;

**“Client Services Officer”** means an employee of BYFX Global who is authorised to receive, enter or execute client Orders and/or Transaction (as applicable);

**“Confidential Information”** means any information designated as confidential by any party, relating to such party or to the affairs of such party of which either party is in possession or control during the term of the Account Agreement, provided that Confidential Information will exclude information which at the time of its disclosure is, or which thereafter becomes, (in each case otherwise than as a result of any act or default by the recipient) part of the public domain by publication or otherwise;

**“Credit Facility”** means credit or a line of credit that we provide to you at any time and for any reason in connection with your Account or your trading activities, including, without limitation, where we credit your account with Margin in anticipation of receiving Margin from you, or where we agree to credit your account with Margin for any reason;

**“Disruptions”** means disruptions, failures, delays, malfunctions, software erosion or hardware damage;

**“Entry Order”** means a Limit Order or a Stop Order to open new Open Position;

**“Event of Default”** means any of the events listed in Clause 18.2 of these Terms;

**“Fees and Charges”** means commissions, fees, charges, taxes, stamp duty, levies (including all transaction and other costs and charges for incidental banking-related fees such as wire charges for deposits/withdrawals and returned check fees and inactivity fees, phone fees, transfer fees, registration costs, taxes, stamp duty) and other relevant fees and expenses in respect of the Account(s) and Service(s).

**“Force Majeure Event”** means any event which is beyond the reasonable control of a party and which renders the performance of all or part of the obligations of such party to be virtually impossible or economically impracticable, including, without limitation, acts of civil or military authorities, lock-outs, strikes or other labour disputes, insurrections, turmoil, wars and the like, floods, fires, droughts, earthquake, storm, tempest and other acts of God, war, nuclear leakage, riot, civil commotion, rebellion, pandemic, acts and regulations of any governmental or supra national bodies or authorities (which in BYFX Global’s reasonable opinion prevents an orderly market in relation to Orders or Transactions), suspension, closure, liquidation, imposition of limits, special or unusual terms, excessive movement, volatility or loss of liquidity in any relevant market or LFX or PRECIOUS METALS or CFD contract, or where we reasonably believe(s) that any of the above circumstances are about to occur, as well as any event relating to power, reception or routing via internet, configuration of equipment or reliability of connections, breakdown or failure of any transmission or communication system or equipment or computer facility or trading software, whether belonging to us, to you, and the failure of any relevant exchange, clearing house, settlement system or broker for any reason to perform its obligations;

**“Hedging Setting”** means an optional feature on the System allowing you to hedge investment positions, which may be enabled or disabled;

**“Leverage”** means a line of credit that we provide to you for the purposes of multiplying your Margin deposit, which enables you to have additional buying power in order to place Orders and maintain Transactions in relation to your Account;

**“LFX/PRECIIOUS METALS/CFD”** means leveraged foreign exchange or gold/silver bullion or contract for difference trading contract as defined in SIBL;

**“Liabilities”** means any obligation of the client to us under the Account Agreement or under any other agreement including, without limitation, the obligation to pay an amount on its due date or on demand, charges, costs, fees, expenses (including attorneys’ fees), Losses or other liabilities;

**“Limit Order”** means an order to buy or sell a LFX/ PRECIOUS METALS/CFD once the price of that LFX/ PRECIOUS METALS/CFD reaches a specific price;

**“Loss”** or **“Losses”** means any and all losses (including direct, indirect, special, incidental, punitive, or consequential loss, loss of profits or revenues, loss of goodwill or reputation, lost data, loss of use of the System, business interruption, business opportunity, costs of substitute, services or downtime costs ), damages, costs, fees (including, but not limited to, attorneys’ fees), charges, expenses, disbursements, taxes, duties or levies, obligations, penalties, claims, demands, actions, proceedings, judgments, suits of whatsoever nature and regardless of how they arise.

**“Manifest Error”** has the meaning ascribed to it in Clause 20 of these Terms;

**“Margin”** means cash, funds, assets and/or other collateral acceptable to us;

**“Margin Call Warning”** means a demand for such sums by way of Margin (whether by e-mail or sms or in any other form) as we may, in our sole and absolute discretion, require for the purpose of protecting ourselves against loss or risk of loss on present, future or contemplated transactions under the Account Agreement;

**“Margin Requirement”** means the amount of Margin that you are required to deposit and/or hold with us as consideration for entering into a Transaction and/or maintaining an Open Position;

**“Market Order”** means an Order to enter the market at the price offered by us at that time;

**“New System”** has the meaning ascribed to it in Clause 3.5 of these Terms;

**“Open Position”** means a Transaction which has not been liquidated or closed in whole or in part under these Terms;

**“Order”** means an instruction, communication or a request made or given, or purported to be made or given, by you or your Authorised Person(s) in any form (whether orally or in writing) and by such means (whether by hand, facsimile, electronically or otherwise), as we may allow, to enter into a Transaction;

**“Principal”** means a person which is a party to a Transaction;

**“Schedule of Fees”** means the schedule of fees published on our Website from time to time;

**“Secured Obligations”** means any and all of your obligations to us (whether actual, contingent, present or future) under or pursuant to the Account Agreement or any other agreement with us;

**“Security Assets”** has the meaning ascribed to it in Clause 12.1;

**“Security Interest”** has the meaning ascribed to it in Clause 12.1;

**“Service”** means any and all facilities, products and/or services granted and/or made available by us to you;

**“Service Provider”** means a person or firm who is not an agent of BYFX, who provides a third party service, including, without limitation, any trading programme, signal, advice, risk management or other trading assistance, which may have direct access or connectivity to your Account;

**“SIBL”** means the Securities Investments Business Law of the Cayman Islands;

**“Stop Order”** means an Order to buy to sell a LFX/ PRECIOUS METALS/CFD once the price of that LFX/ PRECIOUS METALS/CFD reaches a specific price;

**“Supplemental Documents”** means the Account Application Form, Margin Call Policy, Personal Information Collection Statement, Schedule of Fees and such other documents as we may require to be part of the Account Agreement;

**“System”** means the password protected online or downloadable electronic facility where you can trade with us and review particulars of your Account under the Account Agreement and which can be downloaded and/or accessed using any electronic means (such as a website, application programming interface commonly known as API) or device (such as a computer, tablet, mobile phone);

**“Terms”** means these terms of business;

**“Transaction”** means all transactions in LFX/ PRECIOUS METALS/CFD made under the Account Agreement, including the purchasing, selling, exchanging of, or the acquiring, disposing of, and other dealings in and with, any LFX/ PRECIOUS METALS/CFD ;

**“Website”** means any website of BYFX Global.

## Appendix 2A: Services – Trading in LFX/PRECIOUS METALS/CFD

### 1. Pricing and Execution

- a. We will, from time to time, provide you with quotes via the System. Verbal quotes provided to you are indicative only. Indicative quotes are provided for information purposes only and do not constitute an offer to buy or sell any product at that price. Where you place an Order following an indicative quote, we will consider that you are placing an Order at our then offered rate. You acknowledge that such rate may differ from the indicative quote provided by us.
- b. Although we expect that our pricing will be reasonably related to other pricing available in the interbank market, pricing reported by us may vary from pricing available to banks and other participants in what is known as the interbank market. We will, in our sole and absolute discretion, determine the pricing and price feed for your Account. Further, we reserve the right to modify the offered pricing and spread offered at any time without prior notice to you.

Our live pricing may vary from both the demo environment and from our competitors. Any reference made to pricing or orders transacted with other brokers or banks will not be taken into account when and where a complaint arises.

- c. You acknowledge and understand that Transactions are not traded on a physical exchange and, therefore, cannot be physically delivered. Therefore, you authorise us to rollover all Open Positions in your Account at the end of the Business Day (at your own risk), into the next Business Day, which may be inclusive of the weekend or holiday when the market is closed for trading. The positions will be rolled over by debiting or crediting your Account with the amount calculated in accordance with our policy which is available on our Website.
- d. It is important for you to note that the execution of Orders will vary depending on the System which you are using for your trading activities. We highly recommend that you refer to the risk disclosure on our Website before you begin your trading activities and subsequently on a regular basis.
- e. Orders may be placed as Market Orders to buy or sell as soon as possible at the price then offered by us or on selected LFX/PRECIOUS METALS/CFD as Limit Orders and Stop Orders to trade when the price reaches a pre-defined level. Limit Orders to buy and Stop Orders to sell must be placed below the then current price offered by us, and Limit Orders to sell and Stop Orders to buy must be placed above the then current price offered by us. If the bid price for sell orders or ask price for buy orders is reached, the Order will be filled as soon as possible at the price then offered by us. Limit Orders and Stop Orders are not guaranteed executable at the specified price or amount, unless explicitly stated by us for the specific Order.
- f. We will try to execute Limit Orders, Stop Orders and Market Orders as soon as practicable but market conditions, available liquidity and technological issues can affect the time taken to execute these Orders. We cannot guarantee that a Limit Order or a Stop Order will be executed even if the limit or stop price is reached. We do not accept any actual or potential Loss you may suffer if there is a delay in execution.
- g. Where you have enabled Hedging Setting for an Order, if you:
  - (i) give an Order to open a long position in relation to a currency pair on your Account where at that time you already have on that Account a short position in relation to the same currency pair; or
  - (ii) gives an Order to open a short position in relation to a currency pair where you already have a long position in relation to the same currency pair;

Then we will not treat your Order to open a new position as an instruction to close the existing position.



- h. Where you have disabled Hedging Setting for an Order, if you:
- (i) give an Order to open a long position in relation to a currency pair on your Account where at that time you already have on that Account a short position in relation to the same currency pair; or
  - (ii) given an Order to open a short position in relation to a currency pair where you already have a long position in relation to the same currency pair;

Then we will treat your instruction to open the new position as an instruction to close the existing position to the extent of the size of the new position. If the new position is greater in size than the existing position, then the existing position will be closed in full and a new Open Position will be opened in relation to the excess size of the new position.

- i. By placing Orders on the System or by entering into Transactions through the System, you acknowledge that you understand the risks involved in trading LFX/PRECIOUS METALS/CFD. You further acknowledge and understand that trading LFX/PRECIOUS METALS/CFD is speculative, involve a high degree of risk, involve the use of leverage and are appropriate only for persons who can assume the risk of losses which can exceed their original deposit. Since the possibility exists that you could sustain a loss of more than your initial investment, you should not invest money that you cannot afford to lose. You should not trade LFX/PRECIOUS METALS/CFD unless you understand the nature of the contract you are entering into, your risk appetite, your risk exposure and your financial position.
- j. You undertake to BYFX Global that you are willing and able, financially and otherwise, to assume the risk of trading LFX/PRECIOUS METALS/CFD. Further, you acknowledge that you understand the nature of the LFX/PRECIOUS METALS/CFD contracts you are entering into and the true extent of your exposure to the risk of loss. You have determined that trading LFX/PRECIOUS METALS/CFD is suitable for you in light of your circumstances and financial position and you agree not to hold BYFX Global responsible for any Losses arising from Transactions entered into on your behalf.
- k. An Order shall not constitute a binding Transaction between you and us even if accepted by us. Subject to Manifest Errors, Abusive Trading Strategies and a Transaction appearing in your Account Statement, a binding Transaction between you and us will only become effective two (2) Business Days following the trade date of the Transaction.

## **2. Leverage**

- a. We may, in our sole discretion, agree to provide you with Leverage to trade in your Account. Leverage terms and conditions may vary depending on your account balance, trading style, trading history, experience or other factors determined by us. The purpose of the Leverage is to provide you with funding in respect of Transactions for your Account. By placing Orders on the System, you confirm that the purpose of any Leverage will be fully consistent with your financial condition, strategy, objectives and business conditions.
- b. We reserve the right to alter, amend, or revoke any Leverage given to you at any time, in our sole and absolute discretion and without prior notice to you. You have the right to request us to alter your Leverage requirements at any time.
- c. You understand and agree that:
- (i) if you trade using Leverage, you increase your buying power but also and concurrently increase the amount of capital at risk of loss should your trading activities result in a loss;
  - (ii) your Margin Requirements will vary based upon the amount of Leverage extended to you; and

- (iii) although your Leverage will not vary with market movements, your Margin Requirement will.
- d. It is your sole responsibility to monitor your Leverage and Margin Requirements at all times.
- e. The high degree of leverage resulting from a relatively small Margin Requirement can work against you as well as in your favour. The use of leverage may result in large Losses as well as gains. You should therefore consider the suitability of transacting with us on a Margin basis carefully in light of your financial positions and investment objectives.

### **3. Margin**

- a. As a condition of entering into a Transaction and an Entry Order, we may, in our sole and absolute discretion, require you to deposit Margin as security for payment of any losses incurred by you in respect of any Transaction. You must satisfy any and all Margin Requirements immediately as a condition to entering into any Transaction and any Entry Order and we may decline to enter into a Transaction and an Entry Order if you do not have sufficient funds in your Account to satisfy the Margin Requirement for that Transaction and that Entry Order at the time the relevant Order is placed.
- b. Unless otherwise agreed, Margin will be held in the Base Currency.
- c. You agree that we will be entitled to assign such value to the Margin Requirements we, in our sole and absolute discretion, will determine. In setting your Margin Requirements, we will take into consideration multiple factors including your Account balance, your trading history and patterns, your trading style, your trading experience, the potential volatility of the foreign exchange or gold/silver bullion or contract for difference contracts you are trading, the historical volatility of the foreign exchange or gold/silver bullion or contract for difference contracts you are trading, etc. You understand and agree that even if we have previously applied Margin Requirements to you at a specified level, it does not preclude us from raising or lowering your Margin Requirements at any time and without prior notice to you. For more details on how Margin requirements are calculated, please refer to our Website and our Margin Call Policy.
- d. Our Margin Requirements for different types of foreign exchange or gold/silver bullion or contract for difference contracts are generally displayed on our Website. However, we may notify you of Margin Requirements through alternative means. We may designate specific Margin Requirements for individual Transactions. We may also modify Margin Requirements with immediate effect without giving any reasons or notice to you. You are specifically made aware that the Margin Requirements applicable to your Open Positions are subject to change without prior notice.
- e. You may access details of Margin amounts which are paid by you or due to us by logging into the System or by calling a Client Services Officer. You appreciate that in extreme market conditions, Open Positions might be closed out mandatorily without a Margin Call Warning being made to you. You therefore undertake that you will constantly monitor market condition and reassess your ability to maintain your Open Positions. Further, you acknowledge that:
  - (i) it is your responsibility to understand how your Margin Requirements are calculated;
  - (ii) you are responsible for monitoring and ensuring the Margin required on your Account at all times for all Transactions; and
  - (iii) your obligation to pay Margin will exist whether or not we contact you regarding any outstanding Margin obligations.
- f. You have a continuing obligation to ensure that your Account balance (taking into account its

profit and loss, be it realised or floating) is equal to or greater than the Margin Requirements for all of your Open Positions. For the avoidance of doubt, you undertake that you will maintain in your Account, at all times, sufficient Margin to meet your Margin Requirements. If you believe that you cannot or will not be able to meet your Margin Requirement, you should reduce your Open Positions or transfer adequate Margin to your Account to satisfy your Margin Requirements.

- g. Where there is any shortfall between your Account balance (taking into account its profit and loss, be it realised or not) and your Margin Requirement for your Open Positions, we may, in our sole and absolute discretion, choose to close or terminate, replace or reverse one, several, or all of your Orders (including pending Orders) and/or Transactions (including your Open Positions) immediately, with or without notice to you and take, or refrain from taking, such other action at any time or manner as we, at our sole and absolute discretion, deem appropriate to cover, reduce or eliminate our Liability under or in respect of any Orders or Transactions, including without limitation:
- (i) calling upon you on short notice to provide such additional Margin as we determine. This amount may be substantial and may exceed the amount originally committed as Margin;
  - (ii) realising part or all of the Open Positions as we deem necessary to satisfy your Liability without notice to or consent from you; and/or
  - (iii) closing out, liquidating, setting off (notwithstanding that any of the same has not yet matured), realising or otherwise dealing with any or all Open Positions and outstanding Transactions (whether or not any additional loss may thereby arise) by such time and by such means or in such manner as we consider appropriate without notice to or consent from you. If the Open Positions and Transactions are liquidated at a loss and the loss exceeds the aggregate Margin deposited, you will be liable for any shortfall.

For more details on our liquidation procedures, please refer to the Margin Call Policy.

- h. Where you are near breach or in breach of any Margin Requirements, we may make a Margin Call Warning in accordance with the Account Agreement or our Margin Call Policy. You understand that:
- (i) we are not obliged to make a Margin Call Warning to you;
  - (ii) where we elect to make a Margin Call Warning, we may make the Margin Call Warning at any time through the System or any other means as determined by us. For this reason, it is in your best interests to keep us regularly apprised of changes in your contact details. We will not be liable for any failure to contact you with respect to a Margin Call Warning;
  - (iii) should we make a Margin Call Warning, the terms and conditions of the Margin Call Warning will be detailed within such warning and we may change the terms and conditions of any Margin Call Warning based on market conditions, with or without notice to you;
  - (iv) even if we have issued a Margin Call Warning to you, this does not oblige us to take any liquidation action in accordance with Clause 3(g) of this Appendix (whether due to changes in market conditions or otherwise). Further, you understand that we are also entitled to delay the liquidation of your Orders (including pending Orders) and/or Transactions (including your Open Positions) to a later date and at the conditions (including price, level, rate) to be determined by us in our sole and absolute discretion; and
  - (v) we will not be limited or restricted by the content of any Margin Call Warning if or where made. We will be deemed to have made a Margin Call Warning if we notify you

electronically via the System.

- i. You may satisfy your Margin Requirement and/or a Margin Call Warning by providing Margin in a form acceptable to us.
- j. Subject to Applicable Laws, Margin will not be required where we have expressly agreed to reduce or waive all or part of your Margin Requirement. The period of such waiver or reduction may be temporary or may be in place until further notice. Any such waiver or reduction must be agreed in writing by us (including by e-mail) and will not limit, fetter or restrict in any way our right to seek further Margin from you.
- k. Where you have opened more than one Account with us, we are entitled, in our sole and absolute discretion, to transfer funds, assets, collateral or security from one Account to another to satisfy Margin Requirements even if such transfer will necessitate the closing of Open Positions or the cancellation of Orders on the Account from which the transfer takes place.
- l. Until you have paid or discharged in full all monies and Liabilities owed to us, any monies outstanding to the credit of any of your Accounts shall not be due and payable. We shall be entitled at any time to retain or make deductions from credit balances which we owe to you and you consent to the money in your Accounts being subject to a general lien in our favour in order to meet any Liabilities which you may have incurred to us, for example:
  - (i) sums to be paid in settlement of Transactions or Margin calls or in connection with your Open Positions;
  - (ii) settlement of charges or any Liabilities or costs incurred when exercising our rights under any provision of the Account Agreement;
  - (iii) any interest payable to us.
- m. You undertake neither to create nor to have any security interest whatsoever, nor to agree to assign or transfer, any of the Margin transferred to us.

#### **4. Trade Rollover and Daily Settlement**

- a. A LFX/PRECIOUS METALS/CFD is generally considered an open-ended contract with no definitive close date. Open ended LFX/PRECIOUS METALS/CFD will roll over each trading day until you instruct us to close the LFX/PRECIOUS METALS/CFD provided that we accept and act on that instruction.
- b. We reserve the right to disable the rollover facility at any time. We will notify you as soon as reasonably practicable should it decide for whatever reason to discontinue the roll over facility.
- c. Where the rollover facility is not disabled:
  - (i) If you maintain an Open Position with us and you roll that Open Position from one day to the next, we will charge you a roll-over fee relative to that Open Position, which will vary between currency pairs and depend on the amount of the Open Position.
  - (ii) The rollover fee is subject to change and will be made available on our System and/or Website.
  - (iii) The rollover fee may be positive or negative, meaning that you will either owe money to us or receive money from us each night an Open Position is rolled over.
  - (iv) Where you do not provide us with an Order to offset an Open Position prior to our maintenance period (the time of which is made available on our Website) on a Business Day, we may, in our sole and absolute discretion, provisionally credit and debit the

Account a rollover fee to rollover the Open Position to the then following Business Day. We may, however, at any time in our sole and absolute discretion reverse any such provisional debits and credits.

- d. Subject to Clause 4(b) in this Appendix, when the rollover facility is disabled:
  - (i) If you maintain an Open Position with us and you do not instruct us to close that Open Position prior to the maintenance period (the time of which is made available on our Website) on a Business Day, you agree that the Open Position will be closed by us at the market rates then offered by us and then reopened by us at the same market rates and in the same quantity.
  - (ii) You accept and understand that this daily settlement of Open Positions will lead to a realisation of all unrealised profits and losses accumulated intra-day on Open Positions.

## **5. Credit Facilities**

- a. We may, in our sole and absolute discretion, agree to provide you with a Credit Facility in relation to Transactions to be entered into for your Account. The purpose of the Credit Facility is to provide you with intra-day funding in respect of Transactions for your Account. By requesting a Credit Facility, you confirm that the purpose of any Credit Facility will be fully consistent with your financial condition, strategy, objectives and business conditions.
- b. The terms and conditions of the Credit Facility shall be determined by us and notified to you from time to time (which notification may be by e-mail). We may, without any prior notice, to vary the terms and conditions of the Credit Facility or to terminate the provision of the Credit Facility at our sole and absolute discretion. We may charge you interest on the amount of any Credit Facility provided to you in connection with your Account. You hereby agree to reimburse us for any costs, charges or fees incurred by us in connection with the provision of the Credit Facility to you.
- c. Unless otherwise agreed by us in writing, you undertake to repay any amount outstanding towards your Credit Facility on demand, such demand to be effective immediately, as and when required by us. Amounts shall be repayable in the currency or currencies in which the Credit Facility is denominated.
- d. In the event of a non-payment of any amount due under or in connection with the Credit Facility, we may:
  - (i) deduct any amounts outstanding under the Credit Facility from any funds held by us on your behalf (including against any Margin in your Account);
  - (ii) withhold and/or set-off the whole or part of any payment due to you against any amount outstanding under the Credit Facility;
  - (iii) exercise our rights to sell any investments held by us on your behalf;
  - (iv) close out, terminate, replace or reverse any of your Transactions immediately, without notice to you; and
  - (v) take, or refrain from taking, such other action at such time or times and in such manner as we, in our sole and absolute discretion, consider necessary or appropriate to cover, reduce or eliminate our Liability under or in respect of any of your Transactions.

## Appendix 2B: Services – Provision of Prices

1. Subject to the agreements between us and our liquidity providers, we may grant you a limited, non-exclusive, non-transferrable, non-sublicensable licence (“**Licence**”) to use the tradable prices made available to us by our liquidity providers (“**Prices**”) for the sole purpose of enabling your customer to conduct LFX/PRECIIOUS METALS/CFD trading on your electronic trading platform (“**Sole Purpose**”).
2. You agree that you will neither use nor permit any of your customers or any other third parties to use the Prices for any other purposes not expressly authorised in this Account Agreement. You further agree that you will not use the Prices in any manner that would cause any party to be party to any unlawful act or transaction.
3. You agree to provide us with all information and necessary assistance to enable us to provide the Prices on your electronic trading platform.
4. You acknowledge that you are responsible for, at your sole expense, providing all necessary equipment at our requests from time to time for you to access and use the Prices, including, but not limited to, computers, computer systems, servers, peripheral equipment, operating systems, applications, communications software, internet access, telecommunications equipment and other equipment and software (“**Equipment**”).
5. You shall pay us fees as set out in the Schedule of Fees in this Account Agreement.
6. Unless otherwise agreed in writing, the License does not convey any right, express or implied, to manufacture, duplicate or otherwise copy or reproduce the Prices or any of our software, proprietary content, documentation, record or other information, or any part, portion or aspect thereof. You acknowledge and agree that no ownership of proprietary rights is conveyed to you.
7. You will inform us of any existing relationship with any of our competitor under which services are provided to you similar to those contemplated hereunder. You agree that for the duration of this Account Agreement, you will not enter into any new relationship with any of our competitor under which services will be provided to you similar to those contemplated in this Account Agreement.
8. You acknowledge and accept that using the Prices will expose you and your customer to the risks associated with the use of computers and data feed systems relied on by us. Such risks include, without limitation to, failure of hardware, software or communication lines or systems.

### Appendix 3: Client money

1. It is our practice to segregate client funds from our funds. Subject to Applicable Laws, we shall be entitled to deposit or transfer any funds held in the Account or received for or on your Account, between one or more segregated account(s) opened and maintained by BYFX Global, each of which shall be designated as a trust account or client account, at one or more authorised financial institution(s).
2. We will maintain full and complete records and accounts of all activities relating to your Account. We will not assert any ownership in funds that are placed with us by clients for trading purposes. We will, as far as possible and practicable make our auditors fully aware of the fact and record in all relevant books of account that funds contained in client accounts belong beneficially to our clients and that we have no proprietary interest therein.
3. The Account shall be denominated in Base Currency as we BYFX Global may agree from time to time, which will be communicated to you or made available on our Website. If you instruct us to affect a Transaction in a currency other than US Dollars, any profit or loss arising as a result of fluctuation in the exchange rate of the relevant currency will be for your Account. Any conversion from one currency into another required to be made by BYFX Global for performing any action or step under the Account Agreement may be affected by us in such manner at such time as we may determine in our absolute discretion.
4. All payments to be made by you to BYFX Global shall be freely transferable and immediately available funds clear of any taxes, charges or payments of any nature when received by us.
5. By placing funds with us, you agree that all funds transferred into your Account is done for trading purposes only and in anticipation of a Transaction with us and therefore has the purpose of securing or covering your present, future, actual, contingent or prospective obligations to us. You should not place any funds with us that are not for the purpose of trading and securing or covering your present, future, actual, contingent or prospective obligations to us. Any funds you transfer to us pursuant to this Clause will be treated as client money and we will hold it in our bank account which is established to receive and keep separate client funds. Pursuant to the Client Assets, Money and Safekeeping Rules, your funds will be separated from our assets in the event of our insolvency.
6. Unless otherwise agreed in writing, you acknowledge and agree that we will not pay you interest on any funds provided to us and you expressly waive any entitlement to interest.
7. On occasion, we will receive deposits or payments into our accounts that cannot be allocated to any particular client following reasonable attempts to do so. This may occur (in addition to other reasons) where clients transfer funds to us for deposit but fail to follow stated procedures or to include relevant account references. Where this occurs, we will hold the funds in a suspense account and make reasonable efforts to determine who the funds belong to. If we cannot allocate the funds after a reasonable period of time, we will attempt to return the funds to the bank or source of transfer. You are therefore urged to follow stated deposit procedures and review your Account when transferring funds to us to ensure all funds are appropriately allocated.
8. We may hold your money on your behalf outside Cayman Islands. The legal and regulatory regime applying to any such bank or person will be different from that of Cayman Islands and in the event of the insolvency of any other analogous proceedings in relation to that bank or person, your money may be treated differently from the treatment which would apply if it was held with a bank in an account in Cayman Islands. We will not be liable for the insolvency, acts or omissions of any third party referred to in this Clause.
9. You agree that we may cease to treat your money as client money if there has been no movement on your balance for six years. We shall write to you at your last known address informing you of our intention of no longer treating your money as client money and giving you twenty-eight (28) calendar days to make a claim.