

# Customer Agreement



## 1. Introduction

1.1. This Customer Agreement ("Agreement") is entered by and between Alpari (UK) Limited (hereinafter called the "Company") and the customer who has completed the "Application to Open a Personal/Corporate Margin Trading Account" Form ("Customer").

1.2. The Company is authorised and regulated by the Financial Services Authority ("FSA") under the Financial Services and Markets Act 2000 and entered on the FSA's Register of authorised persons with registration number 448002. It is registered in the UK, registered number 05284142. Its registered office is 201 Bishopsgate, London, EC2M 3AB.

1.3. This Agreement with the Risk Acknowledgement and Disclosure attached to the schedule of this Agreement and the Terms of Business as amended from time to time in accordance with clause 21.1 (together, the "Operative Agreements") set out the terms upon which the Company will deal with the Customer in respect of foreign exchange and Precious Metal transactions and Contracts for Differences (CFDs). The dealings and relations between the Company and the Customer are subject to English law whether or not the terms of the Operative Agreements are accepted by the Customer and will be conducted in the English language unless otherwise agreed with the Customer.

1.4. The Operative Agreements shall govern all trading activity and should be read carefully by the Customer. Amongst other things, they set out those matters which the Company is required to disclose to the Customer under the FSA Handbook of Rules and Guidance ("FSA Rules").

1.5. The defined terms used in this Agreement are set out in clause 31 ("Interpretation of Terms").

## 2. Commencement

2.1. The Operative Agreements will commence on the date on which the Customer receives notice from the Company in accordance with clause 3.1 and will continue unless or until terminated by either party in accordance with clause 21.

2.2. This Agreement is an initial service agreement which relates to a series of successive or separate operations including, without limitation, Transactions. The Customer has no right to cancel the Agreement on the basis that it is a distance contract (as defined in the FSA Rules).

## 3. Account activation

3.1. The Customer's Trading Account will be activated by the Company giving notice to the Customer as soon as the Company has received a completed signed and dated copy of "Application to Open a Personal/Corporate Margin Trading Account" Form and identity checks

have been satisfied.

#### **4. Classification**

4.1. The Company will treat the Customer as a Retail Client, Professional Client or Eligible Counterparty, depending on how the Customer completes the "Application to Open a Personal/Corporate Margin Trading Account" Form.

4.2. When assessing the Customer's classification and thereafter dealing with the Customer, the Company will rely upon the truth, accuracy and completeness of the information provided by the Customer in the "Application to Open a Personal/Corporate Margin Trading Account" Form. The Customer expressly consents to the Company using and relying on all such information in making its assessment and its dealings with the Customer.

4.3. If there is a change in the personal circumstances of the Customer, the Customer must immediately notify the Company of the change in writing.

4.4. The Company may review the Customer's classification from time to time (subject to complying with regulatory requirements) to re-classify the Customer if necessary.

#### **5. Capacity**

5.1. In relation to any Transaction the Company acts as principal to principal and not as agent on the Customer's behalf. This means that unless otherwise agreed, the Company will treat the Customer as a client for all purposes and the Customer shall be directly and fully responsible for performing the obligations under each Transaction made by or on behalf of the Customer.

5.2. If the Customer acts in relation to or on behalf of someone else, whether or not the Customer identifies that person, the Company shall not accept that person as an indirect client and shall accept no obligation to that person, unless otherwise specifically agreed.

5.3. Any person or agent notified to the Company as being authorised by the Customer may give Instructions to the Company concerning any Transaction, or proposed Transaction, or any other matter.

5.4. The Customer authorises the Company to rely and act on any Instruction or other communication received from the Customer which purports to have been given by the Customer or on behalf of the Customer without further enquiry on the part of the Company as to the authenticity, genuineness, authority or identity of the person giving or purporting to give such Instruction or other communication. The Customer will be responsible for and will be bound by all obligations entered into or assumed by the Company on behalf of the Customer in consequence of or in connection with such Instructions or other communications.

#### **6. Customer money**

6.1. Relevant Amounts held on the Trading Account ("Segregated Funds") will be segregated by

the Company and held in accordance with FSA client money rules..

6.2. The Company shall not be obliged to pay interest to the Customer on any funds which the Company holds. The Customer waives all rights to interest.

6.3. The Company will promptly place any Segregated Funds held on the Customer's behalf and not transferred to or held for the Company, into a Segregated Account (subject to FSA Rules and Permissions).

6.4. Unless the Customer has notified the Company in writing to the contrary, the Company may hold Segregated Funds on the Customer's behalf in a Segregated Account located outside the United Kingdom or pass money held on the Customer's behalf to an intermediate broker, settlement agent or OTC counterparty located outside the United Kingdom. The legal and regulatory regime applying to any such person will be different from that of the United Kingdom and in the event of the insolvency or any other equivalent failure of that person, the Customer's money may be treated differently from the treatment which would apply if the money was held in a Segregated Account in the United Kingdom. The Company will not be liable for the solvency, acts or omissions of any third party referred to in this clause.

6.5. The Customer agrees that, in the event that there has been no movement on the Customer's Trading Account Balance for a period of at least six years (notwithstanding any payments or receipts of charges, interest or similar items) and the Company is unable to trace the Customer despite having taken reasonable steps to do so, the Company may release any Customer's money balances from the Segregated Account.

6.6. The Company is covered by the Financial Services Compensation Scheme (FSCS). The Customer may be entitled to compensation from the scheme if the Company cannot meet its obligations. The Financial Services Compensation Scheme may be contacted by writing to the Financial Services Compensation Scheme, 5th Floor, Lloyds Chambers, Portoken Street, London, E1 8BN, or by emailing them at the email address provided on the Financial Services Compensation Scheme website at [www.fscs.org.uk](http://www.fscs.org.uk).

6.7. The Company will carry out reconciliations of records and Segregated Funds with the records and accounts of the money the Company holds in Segregated Accounts on a daily basis, and any required transfer to or from the Segregated Account will take place by the close of business on the day that the reconciliation is performed. The Company reserves the right to carry out such reconciliations and transfers more frequently, should the Company reasonably consider that this is necessary to protect the Company's or a Customer's interests.

## **7. Services**

7.1. Subject to the Customer's obligations under the Operative Agreements being fulfilled, the Company may enter into Transactions with the Customer in the Instruments specified in the Contracts Specifications.

7.2. The Company shall carry out all Transactions with the Customer on an execution-only basis. The Company is entitled to execute Transactions notwithstanding that a Transaction may be not suitable for the Customer. The Company is under no obligation, unless otherwise agreed in the Operative Agreements, to monitor or advise the Customer on the status of any Transaction; to make margin calls; or to close out any Customer's Open Positions..

7.3. The Customer shall not be entitled to ask the Company to provide investment advice or to make any statements of opinion to encourage the Customer to make any particular Transaction.

7.4. The Company shall not provide physical delivery in relation to any Transaction. Profit or loss in the Currency of the Trading Account is deposited in/withdrawn from the Trading Account once the Transaction is closed.

7.5. The Company will not:

- (a) provide personal recommendations or advice on the merits of any specific Transactions; or
- (b) other than as described in clause 6, hold or safeguard any assets or investments.

7.6. The Company may from time to time and at its discretion provide information in newsletters which it may post on its Website or provide to subscribers via its Website or otherwise. It will not be responsible for such information and gives no representation, warranty or guarantee as to the accuracy, correctness or completeness, suitability or effect or consequences upon the Customer of such information. It is provided solely to assist the Customer to make the Customer's own investment decisions and does not amount to investment advice or unsolicited financial promotions to the Customer.

7.7. The Company reserves the right, at its discretion, at any time to refuse to provide the Services to the Customer and the Customer agrees that the Company will have no obligation to inform the Customer of the reasons.

## **8. Conflicts of interest and material interests**

8.1. When the Company deals with or for the Customer, the Company, an associate or some other person connected with the Company, may have an interest, relationship or arrangement that is material in relation to the Transaction concerned or that conflicts with the Customer's interest. By way of example only, when the Company deals with a Transaction for or on behalf of the Customer, the Company may be:

- (a) dealing in the Instrument concerned as principal for the Company's account by selling to or buying the Instrument from the Customer;
- (b) matching the Customer's Transaction with that of another customer by acting on such other customer's behalf as well as on the Customer's behalf;
- (c) dealing in the Instrument which the Company recommends to the Customer (including

holding a Long or Short Position); or

- (d) advising and providing other services to associates or other customers of the Company who may have interests in investments or underlying assets which conflict with the Customer's interests.

8.2. The Customer consents to and authorises the Company to deal with or for the Customer in any manner which the Company considers appropriate, notwithstanding any conflict of interest or the existence of any material interest in a Transaction, without prior reference to the Customer. Company employees are required to comply with a policy of independence and to disregard any such material interest or conflict of interest while advising the Customer.

### **9. Commissions, charges and other costs**

9.1. The Customer shall be obliged to pay the Company the commissions, charges and other costs set out in the Contracts Specifications. The Company will display all current commissions, charges and other costs on its Website.

9.2. The Company may vary commissions, charges and other costs from time to time and shall provide you with notice thereof in accordance with the FSA Rules. All changes in commissions, charges and other costs are displayed on the Company News Webpage, except the changes in rollover/interest policy which are displayed on the Rollover/Interest Policy Webpage.

9.3. Subject to complying with the FSA Rules and any other applicable regulations including those of a regulatory authority or the relevant recognised or designated investment exchange or other exchange, the Company will not be under any obligation to disclose to, or to account to the Customer for, any profit, benefit, commission or other remuneration made or received by the Company by reason of any Transaction or investment, unless otherwise agreed in the Operative Agreements.

9.4. The Company may from time to time deal on the Customer's behalf with persons whom the Company has a soft commission agreement which permits the Company (or another member of the Company's group) to receive goods or services in return for transacting investment business with such persons or others. It is the policy of the Company in relation to such agreements to ensure that such arrangements operate in the best interest of the Customer as far as practicable, for example, because the arrangements allow access to information or other benefits which would not otherwise be available.

### **10. Currency**

10.1. The Company is entitled, without prior notice to the Customer, to make any currency conversions which the Company considers necessary or desirable for the purposes of complying with its obligations or exercising its rights under the Operative Agreements or any Transaction. Any such conversion shall be effected by the Company in such manner and at such rates as the

Company may in its discretion determine, having regards to the prevailing rates for freely convertible currencies.

10.2. All foreign currency exchange risk arising from any Transaction or from the compliance by the Company with its obligations or the exercise by it of its rights under the Operative Agreements will be borne by the Customer.

## **11. Providing Quotes**

11.1. The Company provides Quotes to the Customer in accordance with the Terms of Business.

11.2. The Company shall not be obliged to, but may, at its absolute discretion, execute the Customer's Instructions in respect of any Instrument out of normal trading hours specified in the Contract Specifications for that particular Instrument.

11.3. The Company specifies Spread for each Instrument in the Contract Specifications. The Company is entitled to change Spreads without prior Written Notice to the Customer subject to the Terms of Business. Otherwise, the Company shall notify the Customer not less than 14 calendar days prior to any changes in Spreads.

11.4. Quotes displayed on the Website are Indicative Quotes.

11.5. Although the Company does not ensure that the CFD Quotes it provides are within any specific percentage of the underlying asset price, the Company takes into account the underlying asset price. When the Underlying Market is closed, the Quotes provided by the Company will reflect what the Company believes to be the current Bid and Ask price of the relevant Security of the Underlying Market at that time. The Customer acknowledges that such Quotes will be set by the Company at its absolute discretion.

## **12. Customer's Instructions**

12.1. The Company processes and executes Instructions in accordance with the Terms of Business.

12.2. The Company is entitled to decline an Instruction if any of the conditions set out in the Terms of Business or in clause 12.3 of this Agreement is breached before the Instruction is processed by the Company. However, the Company may at its absolute discretion, accept and execute the Instruction, notwithstanding that the conditions in the Terms of Business or in clause 12.3 of this Agreement are breached. If the Company executes the Instruction and becomes aware of any breach of the conditions set out in the Terms of Business or in clause 12.3 of this Agreement, the Company may act in accordance with the Terms of Business.

12.3. The conditions referred to in clause 12.2 are as follows:

- (a) a Quote must be obtained from the Company;
- (b) a Quote must not be an Indicative Quote;
- (c) if a Quote is provided to the Customer via the Client Terminal or the telephone, the

Customer Instruction must be given whilst the Quote is valid;

- (d) the Company receives and accepts the Instruction before the telephone conversation or before the Internet connection is disrupted;
- (e) a Quote must not be manifestly erroneous;
- (f) a Quote must not be an Error Quote (Spike);
- (g) the Transaction Size must not be less than the minimum Transaction Size for this Instrument indicated in the Contract Specifications;
- (h) a Force Majeure Event must not have occurred;
- (i) when the Customer gives an Instruction to the Company an Event of Default must not have occurred in respect of the Customer; and
- (j) when the Customer opens a position the Customer shall have sufficient Free Margin to cover the Initial Margin requirement in respect of that Open Position.

12.4. Terms defined in the Operative Agreements are subject to the Transaction Size within Normal Market Size for the specified Instrument (refer to the Website for details). The Company may, at its absolute discretion, change these terms if the Customer wishes to make a Transaction larger than Normal Market Size for the specified Instrument.

12.5. The Company reserves the right not to accept any offer to trade, e.g., if the Company believes that it will not be able to hedge the proposed Transaction in the Underlying Market, or the proposed Transaction is of such a size (too small or too large), that the Company does not wish to accept that Transaction.

12.6. The Company has the right to delete any cancelled Pending Orders older than 1 month from the Customer's Trading Account history.

### **13. Netting**

13.1. The amounts payable under the Operative Agreements are automatically converted by the Company into the Currency of the Trading Account at the relevant exchange rate for spot dealings in the foreign exchange market.

13.2. If the aggregate amount payable under the Operative Agreements by the Customer equals the aggregate amount payable under the Operative Agreements by the Company, then the obligations to make payment of any such amount will be automatically satisfied and discharged.

13.3. If the aggregate amount payable under the Operative Agreements by one party exceeds the aggregate amount payable under the Operative Agreements by the other party, then the party with the larger aggregate amount shall pay the excess to the other party and all obligations to make payment will be automatically satisfied and discharged.

13.4. The Customer obligations to pay any due amount shall include all commissions, charges and other costs determined by the Company.

#### **14. Margin requirements**

14.1. The Customer shall provide and maintain the Initial Margin and/or Hedged Margin in such limits as the Company, at its sole discretion, may require from time to time under the Operative Agreements. Such sums of money shall only be paid to the Company's bank account in the form of cleared funds. It is the Customer's responsibility to ensure that the Customer understands how a margin is calculated.

14.2. The Customer shall pay Initial Margin and/or Hedged Margin at the moment of opening a position. The amount of Initial Margin and Hedged Margin for each Instrument is defined in the Contract Specifications.

14.3. If no Force Majeure Event has occurred, the Company is entitled to change margin requirements, giving to the Customer five Business Days Written Notice prior to these amendments.

14.4. The Company is entitled to change margin requirements without prior Written Notice in the case of Force Majeure Event.

14.5. The Company is entitled to apply new margin requirements amended in accordance with clauses 14.3 and 14.4 to the new positions and to the positions which are already open.

14.6. The Company is entitled to close the Customer's Open Positions without the consent of the Customer or any prior Written Notice if the Equity is less than 20% of the Necessary Margin.

14.7. It is the Customer's responsibility to notify the Company as soon as the Customer believes that the Customer will be unable to meet a margin payment when due.

14.8. The Company is not obliged to make margin calls for the Customer. The Company is not liable to the Customer for any failure by the Company to contact, or attempt to contact the Customer.

14.9. For the purposes of determining whether the Customer has breached clause 14.6 above, any sums referred to therein which are not denominated in the Currency of the Trading Account shall be treated as if they were denominated in the Currency of the Trading Account by converting them into the Currency of the Trading Account at the relevant exchange rate for spot dealings in the foreign exchange market.

## 15. Adjustments

15.1. If any Security becomes subject to possible adjustment as a result of any of the events set out in clause 15.2 below ("Corporate Event"), the Company will determine the appropriate adjustment, if any, to be made to the size, value and/or number of the related Transaction (and or to the level and size of any Order) to:

- (a) account for the diluting or concentrating effect necessary to preserve the economic equivalent of the rights and obligations of the parties under that Transaction immediately prior to that Corporate Event; and/or
- (b) replicate the effect of the Corporate Event upon someone with an interest in the relevant underlying Security, to be effective from the date determined by the Company.

15.2. The events to which clause 15.1 refers are the declaration by the issuer of a Security of the terms of any of the following:

- (a) a subdivision, consolidation or reclassification of shares, a share buy-back or cancellation, or a free distribution of shares to existing shareholders by way of a bonus, capitalisation or similar issue;
- (b) a distribution to existing holders of the underlying shares of additional shares, other share capital or securities granting the right to payment of dividends and/or proceeds of liquidation of the issuer equally proportionately with such payments to holders of the underlying shares, or Securities, rights or warrants granting the right to a distribution of shares or to purchase, subscribe or receive shares, in any case for payment (in cash or otherwise) at less than the prevailing market price per share as determined by the Company;
- (c) any other event in respect of the shares similar to any of the above events or otherwise having a diluting or concentrating effect on the market value of the shares; or
- (d) any event similar to any of the foregoing events or otherwise having a diluting or concentrating effect on the market value of any Security not based on shares.

15.3. Determination of any adjustment or amendment of the size, value and/or number of the Transaction (and/or of the level and size of any Order) shall be at the absolute discretion of the Company and shall be conclusive and binding upon the Customer. The Company shall inform the Customer of any adjustment or amendment under the Operative Agreements as soon as reasonably practicable.

15.4. If at any time a take-over offer is made in respect of a company, then at any time prior to the closing date of such offer the Company may give Written Notice to the Customer of its intention to close a Transaction in respect of that Security. This notice will include the closing date and the closing price.

15.5. Where applicable (e.g. where a Security is based on shares in respect of which the issuer pays

dividends) a dividend adjustment will be calculated in respect of Open Positions held on the ex-dividend day for the relevant underlying Security. The dividend adjustment will be credited to the Customer's Trading Account if the Customer has an open Long Position, and debited if the Customer has an open Short Position.

## 16. Payments

16.1. The Customer may deposit funds into the Trading Account at any time. Deposits will only be accepted by debit / credit card or by cheque in the same name as the Customer, or by bank transfer from the account of the Customer. Under no circumstances will third party or anonymous payments be accepted.

16.2. The Company has the right to refuse payment by cheque if:

- (a) the cheque is drawn from a non-UK/EU clearing bank; or
- (b) any payment given has not cleared on the first presentation.

16.3. The Customer may withdraw funds from the Trading Account at any time in accordance with the clause 16.4.

16.4. If the Customer gives an instruction to withdraw funds from the Trading Account, the Company shall pay the specified amount within two Business Days once the instruction has been accepted, if the following requirements are met:

- (a) the withdrawal instruction includes all necessary information;
- (b) the instruction is to make a bank transfer to the account of the Customer (under no circumstances will payments to third party or anonymous accounts be accepted); and
- (c) at the moment of payment, the Customer's Free Margin exceeds the amount specified in the withdrawal instruction including all payment charges.

16.5. The Company shall debit the Customer's Trading Account for all payment charges.

16.6. If the Customer has the obligation to pay any amount to the Company which exceeds the Trading Account Equity the Customer shall pay the amount of excess forthwith upon the obligation arising.

16.7. All payments subject to the terms of clause 16 are made by bank transfer or by cheque. If the Company accepts any payments to be made by a debit or credit card it reserves the right to levy a transfer charge.

16.8. If the Customer makes a payment by bank transfer, by cheque, by credit card or any other method of electronic money transfer, the Company shall credit the Customer's Trading Account with the amount of such payment within one Business Day once the amount is cleared in the bank account of the Company.

16.9. The Customer acknowledges and agrees that (without prejudice to any of the Company's other rights under the Operative Agreements to close out the Customer's Open Positions and exercise other default remedies against the Customer), where a sum is due and payable to the Company in accordance with the Operative Agreements and sufficient cleared funds are not yet credited to the Customer's Trading Account, the Company shall be entitled to treat the Customer as having failed to make a payment to the Company and to exercise its rights under the Operative Agreements.

16.10. The Customer shall make any margin payments or other payments due in US dollars, Euros, Great Britain Pounds, Swiss Francs or Japanese Yen. The payment amount will be converted into the Currency of the Trading Account at the rate determined by the bank of the Company.

16.11. Any amount which is not paid in accordance with clauses 16.4, 16.5 and 16.7 on the due date therefor shall bear interest at the Applicable Rate plus 4% per annum, for each day for which such amount remains unpaid. All debts are legally enforceable.

#### **17. Limitations of liability and indemnity**

17.1. Nothing in the Operative Agreements will exclude or restrict any obligation or liability which the Company may have or owe to the Customer under the FSA Rules, nor any liability which the Company may incur under the Act or the FSA Rules in respect of a breach of any such obligation, nor will anything in the Operative Agreements require the Customer to indemnify or compensate the Company to any extent prohibited by the FSA Rules.

17.2. In the event the Company may provide advice, information or recommendations to the Customer, the Company shall not be responsible for the profitability of such advice, information or recommendations. The Customer acknowledges that the Company shall not, in the absence of its fraud, wilful default or gross negligence, be liable for any losses, costs, expenses or damages suffered by the Customer arising from any inaccuracy or mistake in any information given to the Customer including, without limitation, information relating to any Transactions. Subject to the right of the Company to void or close any Transaction in the specific circumstances set out the Operative Agreements, any Transaction following such inaccuracy or mistake shall nonetheless remain valid and binding in all respects on both the Company and the Customer.

17.3. The Company will not be liable for any loss or expense incurred by the Customer in connection with, or directly or indirectly arising from:

- (a) any error or failure in the operation of the Trading Platform or any delay caused by the Client Terminal;
- (b) Transactions made via the Client Terminal or by telephone;
- (c) any failure by the Company to perform any of its obligations under the Operative Agreements as a result of a cause beyond its control; or

(d) the acts, omissions or negligence of any third party.

17.4. The Customer will indemnify the Company and keep the Company indemnified on demand in respect of all liabilities, costs, claims, demands and expenses of any nature whatsoever which the Company suffers or incurs as a direct or indirect result of any failure by the Customer to perform any of the Customer's obligations under the Operative Agreements.

17.5. The Company shall in no circumstances be liable to the Customer for any consequential special or indirect losses, loss of profits, loss of opportunity (including in relation to subsequent market movements), costs, expenses or damages the Customer may suffer in relation to the Operative Agreements, unless otherwise agreed in the Terms of Business.

## **18. Complaints and Disputes**

18.1. The complaints and Disputes resolution procedures are set out in the Terms of Business.

18.2. If the Customer is a private individual or a firm, charity or organisation with a turnover of less than £1,000,000, the Customer may refer the matter to the Financial Ombudsman Service within six months if the Customer is not satisfied with the Company's final response, or earlier if the Company has failed to provide a final response within eight weeks. Details of the Financial Ombudsman's role may be found on <http://fsahandbook.info/FSA/html/handbook/DISP/2>.

The Financial Ombudsman Service can be contacted by:

- (a) website <http://www.financial-ombudsman.org.uk/consumer/complaints.htm>,
- (b) telephoning 0845 080 1800.

The Company will provide whatever assistance the Company can to the Financial Ombudsman Service and abide with their final decision.

18.3. The Customer's right to take legal action remains unaffected by the existence or use of any complaints procedures referred to above. However, the Financial Ombudsman Service may not adjudicate on any cases where litigation has commenced.

## **19. Communications**

19.1. The rules of communication between the Customer and the Company are set out in the Terms of Business.

19.2. The Customer shall give Instructions only via the Client Terminal or by telephone, in accordance with the Terms of Business.

## **20. Written Notice**

20.1. Any Written Notice given under this Agreement may be made as follows:

- (a) Trading Platform internal mail;
- (b) email;

(c) facsimile transmission;

(d) post; or

(e) information published on the Company News Webpage.

20.2. All contact details provided by the Customer, e.g. address, email address or fax number as last notified will be used as applicable. The Customer agrees to accept any notices or messages from the Company at any time.

20.3. Any such Written Notice will be deemed to have been served:

(a) if sent by email, within one hour after emailing it;

(b) if sent by Trading Platform internal mail, immediately after sending it;

(c) if sent by fax, at the completion of transmission during business hours at its destination or, if not within business hours, at the opening of the next period of business hours, but subject to:

- ✓ proof by the sender that the sender holds a printed transmission report confirming dispatch of the transmitted notice; and
- ✓ the sender not receiving any telephone calls from the recipient within one hour from the above time, that the fax has not been received in a legible form.

(d) if sent by post, seven calendar days after posting it;

(e) if posted on the Company News Webpage, within one hour after it has been posted.

20.4. For the purpose of clause 20, "business hours" mean between 9:00 a.m. and 5:30 p.m. on a Business Day.

## **21. Amendment and termination**

21.1. The Customer acknowledges that the Company has the right to modify the terms of the Operative Agreements at any time giving to the Customer five Business Days Written Notice prior to such changes. Any such amendments will become effective on the date specified in the notice and will also apply to positions opened and to Orders placed prior to such date.

21.2. The Customer may terminate this Agreement with immediate effect by giving Written Notice to the Company.

21.3. The Company may terminate this Agreement with immediate effect by giving Written Notice to the Customer.

21.4. Any such termination will not affect any obligation which has already been incurred by either the Customer or the Company in respect of any Open Position or any legal rights or obligations which may already have arisen under the Operative Agreements or any Transactions and deposit/withdrawal operations made thereunder.

21.5. Upon termination of this Agreement, the Company will be entitled without prior notice to the Customer to cease to grant the Customer access to the Trading Platform.

21.6. Upon termination of this Agreement, all amounts payable by the Customer to the Company will become immediately due and payable including (but without limitation):

- (a) all outstanding fees, charges and commissions;
- (b) any dealing expenses incurred by terminating this Agreement and charges incurred for transferring the Customer's investments to another investment firm; and
- (c) any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by the Company on the Customer's behalf.

## **22. Personal data and recording of telephone calls**

22.1. The Company may use, store or otherwise process personal information provided by the Customer in connection with the provision of the Services.

22.2. The Company is registered as a data controller in the United Kingdom under the Data Protection Act 1998.

22.3. If the Customer is an individual, the Company is obliged to supply the Customer, on request, with a copy of personal data which it holds about the Customer (if any), provided that the Customer pays a fee.

22.4. By entering into this Agreement, the Customer will be consenting to the transmittal of the Customer's personal data (and/or have obtained consent from individuals working on the Customer's behalf) outside the European Economic Area.

22.5. The Customer agrees that the Company may pass information about the Customer which the Customer has provided to other companies in the Company's group and to external companies to help the Company to process and/or analyse it as part of the provision of Services to the Customer. If the Customer does not wish the Customer's personal data to be used for such purposes, the Customer shall give the Company Written Notice.

22.6. Such personal data may also be used for marketing purposes, or to conduct market research for the Company or other companies in its group that may use the personal data to bring to the attention of the Customer products and services that may be of interest to the Customer and also to assist in the efficient provision of the Services. If the Customer does not wish the Customer's personal data to be held for such purposes, the Customer shall give the Company Written Notice.

22.7. Telephone conversations between the Customer and the Company may be recorded. All Instructions received by telephone will be binding as if received in writing. Any recordings shall be and remain the sole property of the Company and will be accepted by the Customer as conclusive evidence of the Instructions or conversations so recorded. The Customer agrees that

the Company may deliver copies of transcripts of such recordings to any court, regulatory or government authority.

### **23. Consent to direct contact**

23.1. The Customer expressly invites the Company, for the purpose of administering the terms of the Operative Agreements or otherwise marketing financial services and products, from time to time, to make direct contact with the Customer by telephone, fax, or otherwise.

23.2. The Customer consents to such communications and acknowledges that such communication would not be considered by the Customer as being a breach of any of the Customer's rights under any relevant data protection and/or privacy regulations.

## 24. Confidentiality

24.1. The information which the Company holds about the Customer is confidential and will not be used for any purpose other than in connection with the provision of the Services. Information of a confidential nature will be treated as such provided that such information is not already in the public domain. Information of a confidential nature will only be disclosed to any person other than an Affiliate of the Company, in the following circumstances:

- (a) where required by law or if requested by any regulatory authority or exchange having control or jurisdiction over the Company (or any respective associate);
- (b) to investigate or prevent fraud or other illegal activity;
- (c) to any third party in connection with the provision of Services to the Customer by the Company;
- (d) for purposes ancillary to the provision of the Services or the administration of the Customer's Trading Account, including, without limitation, for the purposes of credit or identification enquiries or assessments;
- (e) if it is in the public interest to disclose such information; or
- (f) at the Customer's request or with the Customer's consent.

## 25. Time of essence

25.1. Time shall be of the essence in the Operative Agreements.

## 26. Default

26.1. Each of the following constitutes an "Event of Default":

- (a) the failure of the Customer to provide any Initial Margin and/or Hedged Margin, or other amount due under the Operative Agreements;
- (b) the failure of the Customer to perform any obligation due to the Company;
- (c) any breach of clause 14 by the Customer;
- (d) the initiation by a third party of proceedings for the Customer's bankruptcy (if the Customer is an individual) or for the Customer's winding-up or for the appointment of an administrator or receiver in respect of the Customer or any of the Customer's assets (if the Customer is a company) or (in both cases) if the Customer makes an arrangement or composition with the Customer's creditors or any procedure which is similar or analogous to any of the above is commenced in respect of the Customer;
- (e) where any representation or warranty made by the Customer in clause 27 is or becomes untrue;
- (f) the Customer is unable to pay the Customer's debts when they fall due;

- (g) the Customer (if the Customer is an individual) dies or becomes of unsound mind; or
- (h) any other circumstance where the Company reasonably believes that it is necessary or desirable to take any action set out in clause 26.2.

26.2. If an Event of Default occurs the Company may, at its absolute discretion, at any time and without prior Written Notice, take one or more of the following steps:

- (a) close out all or any of the Customer's Open Positions at current Quotes;
- (b) debit the Customer's Trading Account(s) for the amounts which are due to the Company;
- (c) close any or all of the Customer's Trading Accounts held with the Company;
- (d) refuse to open new Trading Accounts for the Customer.

## **27. Representations and warranties**

27.1. The Customer represents and warrants to the Company, and agrees that each such representation and warranty is deemed repeated each time the Customer gives an Instruction by reference to the circumstances prevailing at such time, that:

- (a) the information provided by the Customer to the Company in the "Application to Open a Personal/Corporate Margin Trading Account" Form and the Operative Agreements and at any time thereafter is true, accurate and complete in all material respects;
- (b) the Customer has read and fully understood the terms of the Operative Agreements including the Risk Acknowledgement and Disclosure;
- (c) the Customer is duly authorised to enter into the Operative Agreements, to give Instructions and to perform its obligations thereunder;
- (d) the Customer acts as principal;
- (e) the Customer is an individual who has completed an "Application to Open a Personal Margin Trading Account" Form or, if the Customer is a company, the person who has completed "Application to Open a Corporate Margin Trading Account" Form on the Customer's behalf is duly authorised to do so; and
- (f) all actions performed under the Operative Agreements will not violate the Act, the FSA Rules or any law, ordinance, charter, by-law or rule applicable to the Customer or to the jurisdiction in which the Customer is resident, or any agreement by which the Customer is bound or by which any of the Customer's assets are affected.

27.2. In addition to all other rights and remedies available to it, the Company has the right to render any position voidable or to close out any or all positions at the current Quotes at any time, at its absolute discretion, if the Customer breaches clause 27.1.

## **28. Force Majeure**

28.1. The Company may, in its reasonable opinion, determine that a Force Majeure Event exists, in which case the Company will, in due course, take reasonable steps to inform the Customer. A Force Majeure Event includes without limitation:

- (a) any act, event or occurrence (including, without limitation, any strike, riot or civil commotion, terrorism, war, act of God, accident, fire, flood, storm, interruption of power supply, electronic, communication equipment or supplier failure, civil unrest, statutory provisions, lock-outs) which, in the Company's reasonable opinion, prevents the Company from maintaining an orderly market in one or more of the Instruments;
- (b) the suspension, liquidation or closure of any market or the abandonment or failure of any event to which the Company relates its Quotes, or the imposition of limits or special or unusual terms on the trading in any such market or on any such event.

28.2. If the Company determines in its reasonable opinion that a Force Majeure Event exists (without prejudice to any other rights under the Operative Agreements) the Company may without prior Written Notice and at any time take any of the following steps:

- (a) increase margin requirements;
- (b) close out any or all Open Positions at such prices as the Company considers in good faith to be appropriate;
- (c) suspend or modify the application of any or all terms of the Operative Agreements to the extent that the Force Majeure Event makes it impossible or impractical for the Company to comply with them; or
- (d) take or omit to take all such other actions as the Company deems to be reasonably appropriate in the circumstances with regard to the position of the Company, the Customer and other customers.

## **29. Miscellaneous**

29.1. The Company has the right to suspend the Customer's Trading Account at any time for any good reason with or without Written Notice to the Customer.

29.2. In the event that a situation arises that is not covered under the Operative Agreements, the Company will resolve the matter on the basis of good faith and fairness and, where appropriate, by taking such action as is consistent with market practice.

29.3. No single or partial exercise of, or failure or delay in exercising any right, power or remedy (under these terms or at law) by the Company shall constitute a waiver by the Company of, or impair or preclude any exercise or further exercise of, that or any other right, power or remedy arising under the Operative Agreements or at law.

29.4. Any liability of the Customer to the Company under the Operative Agreements may in whole

or in part be released, compounded, compromised or postponed by the Company in its absolute discretion without affecting any rights in respect of that or any liability not so waived, released, compounded, compromised or postponed. A waiver by the Company of a breach of any of the terms of the Operative Agreements or of a default under these terms does not constitute a waiver of any other breach or default and shall not affect the other terms. A waiver by the Company of a breach of any of the terms of the Operative Agreements or a default under these terms will not prevent the Company from subsequently requiring compliance with the waived obligation.

29.5. The rights and remedies provided to the Company under the Operative Agreements are cumulative and are not exclusive of any rights or remedies provided by law.

29.6. The Company may assign the benefit and burden of the Operative Agreements to a third party in whole or in part, provided that such assignee agrees to abide by the terms of the Operative Agreements. Such assignment shall come into effect ten Business Days following the day the Customer is deemed to have received notice of the assignment in accordance with the Terms of Business.

29.7. If any term of the Operative Agreements (or any part of any term) shall be held by a court of competent jurisdiction to be unenforceable for any reason then such term shall, to that extent, be deemed severable and not form part of this Agreement or the Terms of Business, but the enforceability of the remainder of Operative Agreements shall not be affected.

29.8. The Customer may not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer the Customer's rights or obligations under the Operative Agreements without prior written consent of the Company and any purported assignment, charge or transfer in violation of this term shall be void.

### **30. Governing law and jurisdiction**

30.1. This Agreement shall be governed by, and construed in accordance with the laws of England.

30.2. With respect to any proceedings, the Customer irrevocably:

- (a) agrees that the courts of England shall have exclusive jurisdiction to determine any proceedings,
- (b) submits to the jurisdiction of English courts,
- (c) waives any objection which the Customer may have at any time to the bringing of any proceedings in any such court, and
- (d) agrees not to claim that such proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over the Customer.

30.3. Where the Operative Agreements are issued in a language other than English, the English language version shall take precedence in the event of any conflict.

### 31. Interpretation of terms

31.1. In this Agreement:

**"Act"** shall mean the Financial Services and Markets Act 2000.

**"Affiliate"** shall mean in relation to the Company, any entity controlled directly or indirectly, by the Company, any entity that controls directly or indirectly, the Company, or any entity directly or indirectly under common control with the Company. For this purpose, "control" means ownership of a majority of the voting power of the Company or entity.

**"Applicable Rate"** shall mean:

- (a) Federal Funds rate, if the Currency of the Trading Account is US dollars;
- (b) Bank of England Official Bank Rate, if the Currency of the Trading Account is Great Britain pounds;
- (c) Key European Central Bank (repo) Interest Rate, if the Currency of the Trading Account is euros;
- (d) Swiss National Bank Key Interest Rate, if the Currency of the Trading Account is Swiss francs;  
or
- (e) Bank of Japan's Target Rate, if the Currency of the Trading Account is Japanese Yen.

**"Application to Open a Personal/Corporate Margin Trading Account" Form** shall mean the "Application to open a personal/corporate Margin Trading account" form completed by the Customer and accessed through the Website.

**"Ask"** shall mean the higher price in the Quote being the price at which the Customer may buy a specified quantity of Instrument.

**"Balance"** shall mean the total financial result of all Completed Transactions and depositing/withdrawal operations on the Trading Account.

**"Base Currency"** shall mean the first currency in the Currency Pair against which the Customer buys or sells the Quote Currency.

**"Bid"** shall mean the lower price in the Quote being the price at which the Customer may sell a specified quantity of an Instrument.

**"Business Day"** shall mean any day between Monday and Friday, inclusive, on which clearing banks are open in the City of London.

**"Client Terminal"** shall mean the MetaTrader program version 4, which is used by the Customer in order to obtain information of financial markets (which content is defined by the Company) in real-time, to make technical analysis of the markets, make Transactions, place/modify/delete Orders, as well as to receive notices from the Company. The program can be downloaded on the Website free of charge.

**"Company News Webpage"** shall mean the page of the Website where the Company news is displayed on. At date of this Agreement the information is displayed on <http://www.alpari.co.uk/en/company-news/>.

**"Completed Transaction"** shall mean two counter deals of the same size (opening a position and closing a position): buy then sell and vice versa.

**"Contract for Differences" ("CFD")** shall mean a contract, which is a contract for differences by reference to fluctuations in the price of the underlying asset (shares, futures, metals, indices etc.).

**"Contract Specifications"** shall mean principal trading terms (Spread, Lot Size, Initial Margin, Hedged Margin etc.) for each Instrument. At the date of this document the information is displayed on <http://www.alpari.co.uk/en/cspec/>.

**"Corporate Event"** shall have the meaning set out in clause 15.

**"Currency of the Trading Account"** shall mean the currency that the Customer chooses when opening the Trading Account.

**"Currency Pair"** shall mean the object of a Transaction based on the change in the value of one currency against the other.

**"Dispute"** shall mean either:

- (a) the conflict situation when the Customer reasonably believes that the Company as a result of any action or failure to act breaches one or more terms of the Terms of Business; or
- (b) the conflict situation when the Company reasonably believes that the Customer as a result of any action or failure to act breaches one or more terms of the Terms of Business; or
- (c) the conflict situation when the Customer makes a deal at an Error Quote (Spike), or before the first Quote comes to the Trading Platform on the Market Opening, or at the Quote received by the Customer because a Dealer made a Manifest Error or because of a software failure of the Trading Platform.

**"Eligible Counterparty"** shall mean an "Eligible Counterparty" for the purposes of the FSA Rules.

**"Equity"** shall mean: Balance + Floating Profit - Floating Loss.

**"Error Quote (Spike)"** shall mean an error Quote with the following characteristics:

- (a) a significant Price Gap; and
- (b) in a short period of time the price rebounds with a Price Gap; and
- (c) before it appears there have been no rapid price movements; and
- (d) before and immediately after it appears that no important macroeconomic indicators and/or corporate reports are released.

The Company has the right to delete Error Quotes (Spikes) from the Server's Quotes Base.

**"Event of Default"** shall have the meaning given in clause 26.

**"Floating Profit/Loss"** shall mean current profit/loss on Open Positions calculated at the current Quotes.

**"Force Majeure Event"** shall have the meaning as set out in clause 28.

**"Free Margin"** shall mean funds on the Trading Account, which may be used to open a position. It is calculated as Equity less Necessary Margin.

**"FSA"** shall mean the Financial Services Authority.

**"FSA Rules"** shall mean the FSA's Handbook of Rules and Guidance.

**"Hedged Margin"** shall mean the margin required by the Company sufficient to open and maintain Matched Positions. The details for each Instrument are in the Contract Specifications.

**"Indicative Quote"** shall mean a Quote at which the Company has the right not to accept any Instructions or execute any Orders.

**"Initial Margin"** shall mean the margin required by the Company to open a position. The details for each Instrument are in the Contract Specifications.

**"Instruction"** shall mean an instruction from the Customer to the Company to open/close a position or to place/modify/delete an Order.

**"Instrument"** shall mean any Currency Pair, Precious Metal or Contract for Differences.

**"Leverage"** shall mean subject to clauses 2.14-2.17 of the Terms of Business, 1:20, 1:25, 1:40, 1:50, 1:100, 1:200, 1:500 ratio in respect of Transaction Size and Initial Margin. 1:100 ratio means that in order to open a position the Initial Margin is one hundred times less than Transaction Size.

**"Long Position"** shall mean a buy position that appreciates in value if market prices increase. In respect of Currency Pairs: buying the Base Currency against the Quote Currency.

**"Lot"** shall mean a unit of Securities Base Currency or troy oz. of Precious Metal in the Trading Platform.

**"Lot Size"** shall mean the number of shares, underlying assets or units of Base Currency, or troy oz. of Precious Metal in one Lot defined in the Contract Specifications.

**"Margin Level"** shall mean the percentage Equity to Necessary Margin ratio. It is calculated as  $(\text{Equity} / \text{Necessary Margin}) * 100\%$ .

**"Margin Trading"** shall mean Leverage trading when the Customer may make Transactions having far less funds on the Trading Account in comparison with the Transaction Size.

**"Matched Positions"** shall mean Long and Short Positions of the same Transaction Size opened on

the Trading Account for the same Instrument <sup>1</sup>.

**"Necessary Margin"** shall mean the margin required by the Company to maintain Open Positions. The details for each Instrument are specified in the Contract Specifications.

**"Non-segregated Funds"** shall have the meaning as set out in clause 6.2.

**"Normal Market Size"** shall mean the Transaction sizes for any Instruments that are between the minimum and maximum levels as set out in the Contract Specifications.

**"Open Position"** shall mean a Long Position or a Short Position which is not a Completed Transaction.

**"Operative Agreements"** shall mean this Agreement, the Risk Acknowledgement and Disclosure attached at the schedule to this Agreement and the Terms of Business.

**"Order"** shall mean an instruction from the Customer to the Company to open or close a position when the price reaches the Order Level.

**"Order Level"** shall mean the price indicated in the Order.

"Precious Metal" shall mean spot gold or spot silver.

**"Price Gap"** shall mean the following:

- (a) the current Quote Bid is higher than the Ask of the previous Quote; or
- (b) the current Quote Ask is lower than the Bid of the previous Quote.

**"Professional Client"** shall mean a "Professional Client" for the purposes of the FSA Rules.

**"Quote"** shall mean the information of the current price for a specific Instrument, in the form of the Bid and Ask prices.

**"Quote Currency"** shall mean the second currency in the Currency Pair which can be bought or sold by the Customer for the Base Currency.

**"Quotes Base"** shall mean Quotes Flow information stored on the Server.

**"Quotes Flow"** shall mean the stream of Quotes in the Trading Platform for each Instrument

**"Rate"** shall mean the following:

- (a) for the Currency Pair: the value of the Base Currency in the terms of the Quote Currency; or
- (b) for the Precious Metal: the price of one troy oz. worth of the Precious Metal against the US dollar or any other currency specified.

**"Relevant Amount(s)"** shall mean any free Equity in the Customer's Trading Account not used for

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<sup>1</sup> For example, if the Customer has a Long Position of 2.0 Lots and a Short Position of 3.0 Lots in the same Instrument, then the Long Position and 2.0 Lots of the Short Position are considered as Matched Positions and 1.0 Lot of the Short Position is not a Matched Position.

margin purposes.

**"Retail Client"** shall mean a "Retail Client" for the purposes of the FSA Rules.

**"Risk Acknowledgement and Disclosure"** shall mean the Risk Acknowledgement and Disclosure attached at the schedule to this Agreement.

**"Rollover/Interest Policy Webpage"** shall mean the webpage at <http://www.alpari.co.uk/en/services/rollover-policy.html>.

**"Security"** shall mean any share, future, forward or option contract, commodity, Precious Metal, interest rate, debt instrument or stock index.

**"Segregated Account"** shall mean a client bank account as defined by and held in accordance with the FSA Rules.

**"Segregated Funds"** shall have the meaning as set out in clause 6.1.

**"Server"** shall mean the MetaTrader Server program, version 4. The program is used to execute the Customer's Instructions, to provide trading information in real-time mode (the content is defined by the Company), in consideration of the mutual liabilities between the Customer and the Company, subject to terms of the Terms of Business.

**"Services"** shall mean the services provided by the Company to the Customer as set out in clause 7.

**"Short Position"** shall mean a sell position that appreciates in value if market prices fall. In respect of Currency Pairs: selling the Base Currency against the Quote Currency.

**"Spread"** shall mean the difference between Ask and Bid.

**"Trading Account"** shall mean the unique personified registration system of all Completed Transactions, Open Positions, Orders and deposit/withdrawal transactions in the Trading Platform.

**"Trading Platform"** shall mean all programs and technical facilities which provide real-time Quotes, allow Transactions to be made, Orders to be placed/modified/deleted/executed and calculate all mutual obligations between the Customer and the Company. The trading platform consists of the Server and the Client Terminal.

**"Transaction"** shall mean any contract or transaction entered into or executed by the Customer or on behalf of the Customer arising under this Agreement and the Terms of Business.

**"Transaction Size"** shall mean Lot Size multiplied by number of Lots.

**"Underlying Market"** shall mean the market where the underlying asset for CFD is traded.

**"Website"** shall mean the Company's website at <http://www.alpari.co.uk> or such other website as the Company may maintain from time to time for access by customers.

**"Written Notice"** shall have the meaning set out in clause 20.

31.2. All references to a statutory provision include references to:

- (a) any statutory modification, consolidation or re-enactment of it, whether before or after the date of this Agreement, for the time being in force;
- (b) all statutory instruments or orders made pursuant to it; and
- (c) any statutory provision of which that statutory provision is a re-enactment or modification.

31.3. Words denoting the singular include the plural and vice versa; words denoting any gender include all genders; and words denoting persons include corporations, partnerships, other unincorporated bodies and all other legal entities and vice versa.

31.4. Unless otherwise stated, a reference to a clause, party or a schedule is a reference to respectively a clause in or a party or schedule to this Agreement.

31.5. The clause headings are inserted for ease of reference only and do not affect the construction of this Agreement.

## Schedule 1. Risk Acknowledgement and Disclosure

All words and expressions defined in the Operative Agreements shall unless the context requires otherwise have the same meaning in this document.

### 1. Acknowledgement

#### Technical risk

1.1. The Customer shall be responsible for the risks of financial losses caused by the failure of information, communication, electronic and other systems.

1.2. While trading via the Client Terminal the Customer shall be responsible for the risks of financial losses caused by:

- (a) Customer's or Company's hardware or software failure, malfunction or misuse;
- (b) poor Internet connection either on the side of the Customer or the Company or both;
- (c) the wrong settings in the Client Terminal;
- (d) delayed Client Terminal updates;
- (e) the Customer disregarding the applicable rules described in the Client Terminal user guide and in the FAQ section <sup>2</sup>.

1.3. The Customer acknowledges that at times of excessive deal flow the Customer may have some difficulties to be connected over the telephone with a Dealer, especially in a Fast Market (for example, when key macroeconomic indicators are released).

#### Abnormal market conditions

1.4. The Customer acknowledges that under Abnormal Market Conditions the period during which the Instructions are executed may be extended.

#### Trading platform

1.5. The Customer acknowledges that only one Instruction is allowed to be in the queue at one time. Once the Customer has sent an Instruction, any further Instructions sent by the Customer are ignored and the "Order is locked" message appears until the first Instruction is executed.

1.6. The Customer acknowledges that the only reliable source of Quotes Flow information is that of the live Server's Quotes Base. Quotes Base in the Client Terminal is not a reliable source of Quotes Flow information because the connection between the Client Terminal and the Server may be disrupted at some point and some of the Quotes simply may not reach the Client Terminal.

1.7. The Customer acknowledges that when the Customer closes the order

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<sup>2</sup> At the date of this document the information is displayed on <http://www.alpari.co.uk/en/metatrader4/userguide/index.html> and <http://www.alpari.co.uk/en/faq/>.

placing/modifying/deleting window or the position opening/closing window, the Instruction, which has been sent to the Server, shall not be cancelled.

1.8. In case the Customer has not received the result of the execution of the previously sent Instruction but decides to repeat the Instruction, the Customer shall accept the risk of making two Transactions instead of one.

1.9. The Customer acknowledges that if the Pending Order has already been executed but the Customer sends the Instruction to modify its level and the levels of If-Done Orders at the same time, the only Instruction, which will be executed, is the Instruction to modify Stop Loss and/or Take Profit levels on the position opened when the Pending Order triggered.

### **Communication**

1.10. The Customer shall accept the risk of any financial losses caused by the fact that the Customer has received with delay or has not received at all any notice from the Company.

1.11. The Customer acknowledges that the unencrypted information transmitted by e-mail is not protected from any unauthorised access.

1.12. The Customer is fully responsible for the risks in respect of undelivered Trading Platform internal mail messages sent to the Customer by the Company as they are automatically deleted within 3 (three) calendar days.

1.13. The Customer is wholly responsible for the privacy of the information received from the Company and accepts the risk of any financial losses caused by the unauthorised access of the third party to the Customer's Trading Account.

### **Force Majeure Event**

1.14. In case of a Force Majeure Event the Customer shall accept the risk of financial losses.

## **2. Risk Warning Notice**

This Notice is provided by the Company ("we", "us") to the Customer ("you", "your"). The following statements are intended to make you aware of and disclose to you the potential risk and loss in respect to the trading on the financial markets.

This notice cannot disclose all the risks and other significant aspects of foreign exchange and derivative products such as futures, options, and Contracts for Differences. You should not deal in these products unless you understand their nature and the extent of your exposure to risk. You should also be satisfied that the product is suitable for you in the light of your circumstances and financial position. Certain strategies, such as a "spread" position or a "straddle", may be as risky as a simple Long or Short position.

Although Forex and derivative instruments can be utilised for the management of investment risk, some of these products are unsuitable for many investors. Different instruments involve different

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

### **Effect of Leverage**

2.1. Under Margin Trading conditions even small market movements may have great impact on the Customer's Trading Account. It is important to note that all accounts trade under the effect of Leverage. The Customer must consider that if the market moves against the Customer, the Customer may sustain a total loss greater than the funds deposited. The Customer is responsible for all the risks, financial resources the Customer uses and for the chosen trading strategy.

It is highly recommended that the Customer maintains a Margin Level (percentage Equity to Necessary Margin ratio which is calculated as  $\text{Equity} / \text{Necessary Margin} * 100\%$ ) of not lower than 1,000%. It is also recommended to place Stop Loss to limit potential losses, and Take Profit to collect profits, when it is not possible for the Customer to manage the Customer's Open Positions.

The Customer shall be responsible for all financial losses caused by the opening of the position using temporary excess Free Margin on the Trading Account gained as a result of a profitable position (cancelled by the Company afterwards) opened at an Error Quote (Spike) or at a Quote received as a result of a Manifest Error.

### **High volatile instruments**

2.2. Some Instruments trade within wide intraday ranges with volatile price movements. Therefore, the Customer must carefully consider that there is a high risk of losses as well as profits.

### **Futures**

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

### **Options**

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

#### *Buying options:*

Buying options involves less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. The maximum loss is limited to the

premium, plus any commission or other transaction charges. However, if you buy a call option on a futures contract and you later exercise the option, you will acquire the future. This will expose you to the risks described under futures' and contingent liability investment transactions.

#### *Writing options:*

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

### **Contracts for Differences**

2.5. Investing in a Contract for Differences carries the same risks as investing in a future or an option and you should be aware of these as set out above. Transactions in Contracts for Differences may also have a contingent liability and you should be aware of the implications of this as set out below.

### **Off-exchange transactions in derivatives**

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

### **Foreign markets**

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

### **Contingent liability investment transactions**

2.8. Contingent liability investment transactions, which are margined, require you to make a series

of payments against the purchase price, instead of paying the whole purchase price immediately.

If you trade in futures, Contracts for Differences or sell options, you may sustain a total loss of the funds you have deposited to open and maintain a position. If the market moves against you, you may be called upon to pay substantial additional funds at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit.

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

Contingent liability investment transactions which are not traded on or under the rules of a recognised or designated investment exchange may expose you to substantially greater risks.

### **Collateral**

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

### **Commissions**

2.10. Before you begin to trade, you should make yourself aware of all commissions and other charges for which you will be liable. If any charges are not expressed in monetary terms (but, for example, as a percentage of contract value), you should ensure that you understand what such charges are likely to amount to.

### **Suspensions of trading**

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

### **Clearing house protections**

2.12. On many exchanges, the performance of a transaction by your firm (or third party with whom it is dealing on your behalf) is guaranteed by the exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you, the Customer, and may not protect you if

your firm or another party defaults on its obligations to you. On request, the Company must explain any protection provided to you under the clearing guarantee applicable to any on-exchange derivatives in which you are dealing. There is no clearing house for traditional options, nor normally for off-exchange instruments which are not traded under the rules of a recognised or designated investment exchange.

### **Insolvency**

2.13. The Company's insolvency or default, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash.

2.14. Segregated Funds will be subject to the protections conferred by the FSA's Client Money Rules.

2.15. Non-segregated Funds will not be subject to the protections conferred by the FSA's Client Money Rules. Non-segregated Funds will not be segregated from the Company's money and will be used in the course of the Company's business, and in the event of the Company's insolvency you will rank as a general creditor.

**Alpari (UK) Limited**

**March 2011**