

TERMS AND CONDITIONS FOR CFD TRADING

This agreement is entered into between Velocity Trade Capital Proprietary Limited, and the Client and sets out the terms and conditions on and subject to which Velocity Trade Capital Proprietary Limited and the Client will enter into Transactions.

This agreement forms part of this online application and consists of the following documentation:

- 1 Online Application submission
- 2 Terms and Conditions for CFD Trading
- 3 Risk Disclosure Statement
- 4 Product Schedules
- 5 Privacy Policy

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TERMS AND CONDITIONS

1 INTERPRETATION AND DEFINITIONS

- 1.1 Unless otherwise stated or inconsistent with the context in which they appear, the following expressions shall bear the following meanings and cognate expressions shall bear corresponding meanings:
- 1.1.1 “**Abnormal Market Conditions**” means that, in the opinion of Velocity Trade, abnormal, emergency or unusual conditions exist in any foreign exchange, securities, commodities, derivatives or futures market or exchange the effect or likely effect of which is that –
- 1.1.1.1 the prices, rates or availability of any currency, commodity, derivative or future is materially affected; or
- 1.1.1.2 Velocity Trade or any of its Associates, is not able or is not willing to make prices or rates in any currency, commodity, derivative or future;
- 1.1.2 “**Account**” means, in relation to the Client, a running account maintained by Velocity Trade for the purpose of recording certain credits and debits in relation to Transactions, margin and other financial requirements, as set out or described in this Agreement;
- 1.1.3 “**Administrator**” means TMF Corporate Services SA Proprietary Limited, with registration number 2006/013631/07, or such other independent administrator appointed from time to time;
- 1.1.4 “**the/this Agreement**” means the Application Form, the Risk Disclosure Statement, the Product Schedule, the Privacy Policy, the terms and conditions as set out in this document and all other annexure and schedules to this agreement, any other document expressed by Velocity Trade to be part of this agreement and any variation, novation or replacement of it;
- 1.1.5 “**Applicable Law**” includes each statute and each regulation in each relevant jurisdiction and other instrument under any such statute or regulation that –
- 1.1.5.1 applies to the conduct by Velocity Trade of its business; or
- 1.1.5.2 applies to the performance by Velocity Trade or the Client of its obligations under this Agreement or any Transaction; or
- 1.1.5.3 otherwise applies to Velocity Trade or to the Client;
- 1.1.6 “**Application Form**” means the application form and account opening documentation completed by the Client and submitted to Velocity Trade;
- 1.1.7 “**Authorised Representative**” means a person or juristic entity authorised as contemplated by the FAIS Act to represent Velocity Trade in providing financial services;

- 1.1.8 **“Associate”** means, in the case of Velocity Trade only, each of its Related Companies and Service Providers;
- 1.1.9 **“Base Rate”** means, at any time –
- 1.1.9.1 in the case of the South African Rand, one of the South African Futures Exchange Yield Overnight Deposit Rate (SAFEY ODR), the South African Futures Exchange Overnight Rate (SAFEX OR), the 3-month Johannesburg Interbank Agreed Rate (JIBAR) or the South African Bank Overnight Rate (SABOR); and in the case of the United States Dollar, United Kingdom Pound or the European Dollar, the 3-month Intercontinental Exchange London Interbank Offered Rate (ICE LIBOR);
- 1.1.9.2 in the case of another currency, the official cash rate or other base rate for that currency at that time of the relevant Public Authority;
- 1.1.10 **“Business Day”** means –
- 1.1.10.1 means a day other than a Saturday, Sunday or public holiday in the Republic of South Africa or the applicable offshore jurisdiction of the Transaction; or
- 1.1.10.2 in the case of a payment or the determination of an exchange rate or interest rate, a day on which banks and foreign exchange markets are open for business in the principal financial centres of the countries of the relevant currencies;
- 1.1.11 **“CFD”** means a Contract for Difference, a financial instrument that changes in value by reference to fluctuations in the price of an "*underlying instrument*", such as, for example, a share, commodity or index;
- 1.1.12 **“Client”** means the entity or person who has submitted the Application Form and agreed to be bound by the terms and conditions of this Agreement and who has been notified by Velocity Trade that its application has been accepted;
- 1.1.13 **“Client Base Currency”** means South African Rand or otherwise such currency as is agreed separately between Velocity Trade and the Client in writing;
- 1.1.14 **“Client Money”** means, in relation to the Client –
- 1.1.14.1 all money which –
- 1.1.14.1.1 in the course of carrying on its business of dealing in Transactions, Velocity Trade or any person on its behalf holds for, or receives from or on behalf of, the Client; and
- 1.1.14.1.2 is not immediately due and payable on demand to Velocity Trade or that other person for its own account; and

- 1.1.14.2 where the money is required by any annexure to be held in a Segregated Funds Account, all such money held in a Segregated Funds Account;
- 1.1.15 “**Close of Business**” means 5:00 p.m. (New York time) each day, other than a Saturday or a Sunday;
- 1.1.16 “**Close Out Formula**” means the standard formula or formulae used by Velocity Trade, at the time of termination of a Transaction, to determine any Settlement Amount;
- 1.1.17 “**Commencement Date**” means the date on which Velocity Trade notifies the Client that, having received and accepted a duly completed and transmitted Application Form and completed all further checks or enquiries that Velocity Trade deems necessary or desirable, the Client’s application has been accepted;
- 1.1.18 “**Confidential Information**” means in relation to the Client and Velocity Trade and each of its Associates –
- 1.1.18.1 the know-how, trade secrets, technical processes, information relating to pricing, market share, products, finances, clients or suppliers, the right to all lists of clients and suppliers of that party or of any of its Associates; and
- 1.1.18.2 other information relating to that party or to any of its Associates and their respective businesses,
- which by its nature, or by the circumstances of its disclosure to the holder of the information, is or could reasonably be expected to be regarded as confidential;
- 1.1.19 “**Confirmation**” –
- 1.1.19.1 means, in relation to a Transaction, a document or other confirming evidence delivered to one party by the other party, exchanged between the Parties, available by way of an Electronic Trading Platform or otherwise effective, and whether by way of the Electronic Trading Platform or otherwise, in each case for the purposes of confirming or evidencing that Transaction; but
- 1.1.19.2 does not include an electronic mail or text message, unless Velocity Trade specifies otherwise in that electronic mail or text message or otherwise in writing;
- 1.1.20 “**Corporate Action**” means an event or action initiated by a company that affects the securities issued by that company, including but not limited to dividends, unbundling’s, takeovers, capital reductions, rights issues, share conversions, scrip dividends and share redemptions;
- 1.1.21 “**Cost of Funds**” means, in relation to an amount payable by the Client to Velocity Trade, the rate per annum equal to the cost to Velocity Trade (as determined by Velocity Trade) if it were to fund that amount;

- 1.1.22 **“Derivative Instrument”** means a derivative instrument as defined in section 1 of the FM Act and includes any instrument the value of which is derived from the value of an underlying asset, group of assets, reference rate, exchange rate or index, all forward rate agreements, over-the-counter financial options and futures including those instruments governed by the International Swaps and Derivatives Association agreements;
- 1.1.23 **“DWT”** means Dividend Withholding Tax;
- 1.1.24 **“Exchange”** shall have the meaning ascribed to it in the FM Act;
- 1.1.25 **“External Exchange”** shall have the meaning ascribed to it in the FM Act;
- 1.1.26 **“Electronic Trading Platform”** means an electronic trading platform referred to in clause 5.1.1.1 made available by Velocity Trade to the Client, including by way of the Internet, for the purposes, among other things, of entering into certain types of Transactions;
- 1.1.27 **“Event of Default”** has the meaning set out in clause 20.1;
- 1.1.28 **“FAIS Act”** means the Financial Advisory and Intermediary Services Act, 37 of 2002, as amended;
- 1.1.29 **“Financial Product”** means “financial product” as defined in section 1 of the FM Act;
- 1.1.30 **“FM Act”** means the Financial Markets Act, 19 of 2012, as amended;
- 1.1.31 **“Force Majeure”** means any event or cause beyond the reasonable control of Velocity Trade, including –
- 1.1.31.1 Abnormal Market Conditions; or
- 1.1.31.2 an act of God, inevitable accident, fire, lightning, cyclone, earthquake, landslide, volcanic eruption or other natural phenomenon; or
- 1.1.31.3 sabotage, revolution, insurrection, act of war (whether declared or not) or war-like operations; or
- 1.1.31.4 a confiscation or expropriation, embargo, quarantine restriction or any like event; or
- 1.1.31.5 any strike, dispute or lockout; or
- 1.1.31.6 an epidemic, toxic emission or any like event; or
- 1.1.31.7 a requirement, restriction, prohibition, intervention, law, regulation, decree or other legally enforceable order of any Government; or
- 1.1.31.8 an explosion, nuclear accident or any like event; or

- 1.1.31.9 a telecommunications, network, power or equipment failure or damage, or power or water shortage, as a result of which, in each case in the opinion of Velocity Trade, it is impossible, impractical or illegal for Velocity Trade to perform and comply with any of its obligations under this Agreement or any Transaction;
- 1.1.32 “**Free Margin**” means, at any time, the amount in an Account available to meet any additional Margin Percentage Requirement (if applicable) at that time and which is determined in accordance with the relevant Product Schedule;
- 1.1.33 “**Hedging Arrangements**” means certain hedging arrangements that Velocity Trade, as principal, has entered into or may enter into with one or more third parties for the purposes, among other things, of hedging its exposures under this Agreement and Transactions;
- 1.1.34 “**Hedging Counterparty**” means a counterparty to any Hedging Arrangements;
- 1.1.35 “**Intellectual Property Rights**” means all patents, copyrights, trade secrets, trademarks, service marks, trade names and all other intellectual property rights;
- 1.1.36 “**Interest Earning Amount**” means the amount, as determined in accordance with clause 7, in an Account on which Velocity Trade agrees from time to time to pay interest;
- 1.1.37 “**Licensor**” means each licensor of any software utilised by Velocity Trade in relation to an Electronic Trading Platform;
- 1.1.38 “**Limit Order**” means, in relation to a Transaction, an order placed by the Client with Velocity Trade to enter into that Transaction when the applicable Exchange or External Exchange security price reaches a predetermined level;
- 1.1.39 “**Long Position**” means a number of over-the-counter derivative contracts concluded by the Client as a buy trade in terms of which –
- 1.1.39.1 in relation to CFD contracts, the Client agrees to receive the difference between the opening and closing value of the underlying asset over a period of time; or
- 1.1.39.2 in relation to other over-the-counter contracts, the Client has the right or obligation to buy or sell the underlying asset at the agreed price on or before a future date in accordance with the terms and conditions of the particular over-the-counter agreement;
- 1.1.40 “**Margin CFD**” means a Transaction that is entered into to swap the difference in price of an underlying reference instrument that is automatically rolled over at close of business;
- 1.1.41 “**Margin FX**” means a Transaction that is entered into as a spot foreign exchange Transaction that is automatically rolled over at close of business;
- 1.1.42 “**Margin Percentage Requirement**” means, at any time, the “margin percentage requirement” calculated in accordance with the Product Schedule;

- 1.1.43 **“Margin Requirement”** means, at any time, the “margin requirement” calculated in accordance with clause 8 or the Product Schedule (where applicable);
- 1.1.44 **“Margin Transaction”** means a Margin FX Transaction or a Margin CFD Transaction;
- 1.1.45 **“Normal Trading Hours”** means official trading times set by the JSE or any other applicable Exchange or External Exchange;
- 1.1.46 **“the Parties”** or **“Party”** means the Party or Parties to this Agreement;
- 1.1.47 **“Privacy Policy”** means the privacy policy on the Website which forms part of this Agreement;
- 1.1.48 **“Product Schedule”** means, at any time, any schedule, addendum or other document, by whatever name, issued by Velocity Trade and any of its Associates containing –
- 1.1.48.1 its rates, fees, commissions and charges applicable to Transactions at that time; and
- 1.1.48.2 the terms and conditions applicable to Margin Transactions, including the Margin Requirements, including the document designated as the “Risk Management Platform Addendum”,
- which is either published on the Website or otherwise available on request from Velocity Trade, it being recorded that these may be published as separate documents or a single document from time to time;
- 1.1.49 **“Public Authority”** means –
- 1.1.49.1 any government in any jurisdiction whether national, federal, state, regional, territorial or local; and
- 1.1.49.2 any minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government or any state-owned enterprise;
- 1.1.50 **“Related Companies”** means Velocity Trade Limited (Australia) with Australian Financial Services License (AFS) No. 329813, Velocity Trade Capital Limited (Canada) which is a member of the Investment Industry Organization of Canada (IIROC), the Canadian Investor Protection Fund (CIPF) and a participating organization of the Toronto Stock Exchange, Velocity Trade Limited (New Zealand) which is registered as a Financial Services Provider FSP20003 and Velocity Trade International Limited (registered in the United Kingdom) which is authorized and regulated by the Financial Conduct Authority (FCA Registered Number 497263);
- 1.1.51 **“Representative”** means, in relation to any person, each of its officers, directors, employees, agents and representatives;

- 1.1.52 **“Risk Disclosure Statement”** means the document setting out general information in respect of the risks associated with utilising Velocity’s financial products, at any time, for prospective South African clients, the Risk Disclosure Statement which is then current and for prospective clients in other jurisdictions the Risk Disclosure Statements then current issued by Velocity Trade and any of its Associates in relation to Transactions;
- 1.1.53 **“Rollover”** means in respect of an outstanding Margin Transaction, the process whereby the outstanding Margin Transaction is automatically valued and the settlement thereof is extended to the next day and **“Rolled-Over”** shall have the corresponding meaning;
- 1.1.54 **“Services”** means non-discretionary and/or discretionary services including administration of investments and acting as agent on behalf of the Client to purchase and sell and enter into Transactions with or, where applicable, on behalf of the Client;
- 1.1.55 **“Service Providers”** any entity appointed by Velocity Trade to deliver the Services outlined in this Agreement;
- 1.1.56 **“SSI”** means the standard settlement instruction provided by the Client to Velocity Trade;
- 1.1.57 **“Security Credentials”** means, in relation to any Trading Platform, any security credentials that the Client uses to access or use the Trading Platform, including any user name, account number, Client ID, user ID and/or password;
- 1.1.58 **“Segregated Funds Account”** means –
- 1.1.58.1 a South African Rand United States Dollar, European Dollar or United Kingdom Pound bank account that, where required by this Agreement (including any annexure hereto), is established and maintained by Velocity Trade in accordance with the provisions of this Agreement (and all annexures hereto), for the purpose of receiving, holding and disbursing Client Money, including client money of other clients of Velocity Trade; or
- 1.1.58.2 where required, overseas bank account/s that, where required by clause 8, is established and maintained by Velocity Trade in accordance with clause 8 for the purpose of receiving, holding and disbursing Client Money, including client money of other clients of Velocity Trade;
- 1.1.59 **“Settlement Amount”** means, in relation to each Terminated Transaction and the corresponding Termination Date, the Termination Currency Equivalent of the amount calculated by Velocity Trade in accordance with the Close Out Formula necessary to compensate, as the case may be, Velocity Trade (in which case the amount is expressed as a positive number) or the Client (in which case the amount is expressed as a negative number) for that Party’s total losses and costs in connection with or consequent upon the termination of that Terminated Transaction on that Termination Date;

- 1.1.60 **“Short Position”** means a number of over-the-counter derivative contracts concluded by the Client as a sell trade in terms of which –
- 1.1.60.1 in relation to CFD contracts, the Client agrees to pay the difference between the opening and closing value of the underlying asset over a period of time; or
- 1.1.60.2 in relation to other over-the-counter contracts, the Client has granted the right or obligation to another person to buy or sell the underlying instrument at the agreed price on or before a future date in accordance with the terms and conditions of the particular over-the-counter derivative contract;
- 1.1.61 **“Stop Loss Order”** means, in relation to a Transaction, an order placed by the Client with Velocity Trade to close out that Transaction when the applicable Exchange or External Exchange securities price moves to a pre-determined level;
- 1.1.62 **“Tax(es)”** includes any VAT, tax, levy, stamp, withholding tax(es) or other duty and any other charge, deduction or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of these);
- 1.1.63 **“Terminated Transaction”** means a Transaction that is terminated in accordance with clause 23;
- 1.1.64 **“Termination Currency Equivalent”** means –
- 1.1.64.1 in relation to any amount denominated in the Client Base Currency, that Client Base Currency amount; and
- 1.1.64.2 in relation to any amount denominated in a currency other than the Client Base Currency (the other currency) at any time the amount in the Client Base Currency determined by Velocity Trade as being required to purchase the amount of that other currency at that time;
- 1.1.65 **“Termination Date”** means a date for the termination of all or some Transactions either as specified in a Termination Notice or as otherwise provided by this Agreement;
- 1.1.66 **“Termination Notice”** means a notice given by Velocity Trade in accordance with this Agreement terminating all or some Transactions;
- 1.1.67 **“Trading Platform”** means either –
- 1.1.67.1 an Electronic Trading Platform; or
- 1.1.67.2 telephone or other means as may be specified by Velocity Trade in writing with respect to a type of Transaction;

- 1.1.68 **“Trading Platform Communication”** means any order or instruction or other communication sent by way of the Trading Platform by or on behalf of the Client (or purportedly by or on behalf of the Client);
- 1.1.69 **“Transaction”** means any transaction into which Velocity Trade or its Associates have entered or propose to enter into with or on behalf of the Client involving, or referable to the value of, or granting rights or accepting obligations in respect of or by reference to –
- 1.1.69.1 Margin Transactions;
- 1.1.69.2 one or more currencies, which for the avoidance of doubt includes currency option transactions; and
- 1.1.69.3 financial instruments;
- 1.1.70 **“Transaction Value”** means, at any time in relation to a Transaction, the current value of that Transaction, being the nominal position in each financial instrument of that Transaction, converted, where necessary, to the Client Base Currency at the Velocity Trade Exchange Rate at that time;
- 1.1.71 **“VAT”** means value added tax levied in terms of the Value-added Tax Act, 89 of 1991, as amended;
- 1.1.72 **“Velocity Trade”** or **“Velocity”** means Velocity Trade Capital (Pty) Ltd Registration No. 2011/002340/07;
- 1.1.73 **“Velocity Trade Exchange Rate”** means, in relation to the exchange of one currency into another at any time, the exchange rate applicable to those currencies that Velocity Trade, acting reasonably, determines at that time having regard to current market rates;
- 1.1.74 **“Velocity Trade Rollover Interest Rate”** means, in relation to a Rollover and a currency, the relevant Base Rate plus or minus, as the case may be, the Velocity Trade Spread at the relevant Close of Business;
- 1.1.75 **“Velocity Trade Spread”** means, at any time, the difference between the bid and offer prices of an instrument quoted by Velocity Trade at that time; and
- 1.1.76 **“Website”** means the website on which the Client completed and submitted the Application Form.
- 1.2 The words written and writing include facsimile communications and electronic mail and any other means of communication resulting in permanent visible reproduction.
- 1.3 The clause headings of this Agreement have been inserted for convenience only and shall not be taken into consideration in its interpretation.

- 1.4 Any references to the singular includes the plural and vice versa and any reference to natural persons includes legal persons and vice versa and reference to any gender includes reference to the other gender.
- 1.5 Any reference in this Agreement to a Party shall include a reference to that Party's assigns expressly permitted under this Agreement and, if such Party is liquidated or sequestrated, be applicable also to and binding upon that Party's liquidator or trustee, as the case may be.
- 1.6 A reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before, or after the date of this Agreement).
- 1.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.
- 1.8 The expiry or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiry or termination or which of necessity must continue to have effect after such expiry or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.9 The words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s.
- 1.10 Terms other than those defined in this agreement will be given their plain English meaning, and those terms, acronyms, and phrases generally known in the financial services industry will be interpreted in accordance with their generally known meanings.
- 1.11 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which the sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.12 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in this interpretation clause.
- 1.13 If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the day shall be the next succeeding Business Day.
- 1.14 The rule of construction that the contract shall be interpreted against the Party responsible for the drafting or preparation of this Agreement, shall not apply.

- 1.15 This Agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.
- 1.16 The word person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a state and an agency of state (in each case, whether or not having a separate legal personality).
- 1.17 A reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assignees.
- 1.18 A reference to something having a material adverse effect on a person is a reference to it having a material adverse effect –
- 1.18.1 on that person's financial condition or operations or on its consolidated financial condition or operations; or
- 1.18.2 on its ability to comply with its obligations under this Agreement.

2 APPLICATION FORM

- 2.1 It is recorded that the submission of the Application Form amounts to an irrevocable offer by the Client to enter into this Agreement with Velocity Trade. The Client can terminate this Agreement at any time as stipulated in clauses 20 and 21 of this Agreement.
- 2.2 By submitting the Application Form and by concluding each Transaction, the Client acknowledges to Velocity Trade that -
- 2.2.1 the Client has received, viewed or downloaded, and read and understood, these terms and conditions, the Privacy Policy, the current Product Schedules and any Risk Disclosure Statement/s; and
- 2.2.2 whether or not this Agreement is specifically referred to and unless the terms of this Agreement are expressly excluded, every Transaction is governed by the terms and conditions of this Agreement.

3 TERM OF AGREEMENT

- 3.1 This Agreement takes effect, and the rights and obligations of each party commence, on and from the Commencement Date.
- 3.2 This Agreement continues in force until terminated in accordance with its terms or as agreed by the Parties.

4 SCOPE OF AGREEMENT

- 4.1 Provided that the Client complies with its obligations under this Agreement, Velocity Trade may enter into Transactions with the Client as set out in and in accordance with this Agreement and any annexure to this Agreement.
- 4.2 Velocity Trade may, but is not obliged to, enter into any Transaction with the Client or where applicable, on behalf of, the Client.
- 4.3 This Agreement, each Transaction (and, to the extent recorded in a Confirmation, each Confirmation) together constitute a single agreement between the Parties.
- 4.4 The Client acknowledges and agrees that, unless Velocity Trade agrees otherwise in writing –
- 4.4.1 the Transactions will only be entered into on the Client's instructions as provided for in this Agreement;
- 4.4.2 Velocity Trade is not responsible for providing any advice, recommendation, opinion or guidance in relation to the entry into of this Agreement or any Transaction and Velocity Trading makes no representations to the Client; and
- 4.4.3 the execution of the instructions by the Client shall at no time imply Velocity Trade's approval of any of the Client's investment decisions and entry into of a Transaction by the Client does not mean that Velocity Trade makes a recommendation, holds an opinion or gives guidance to the Client in relation to its entry into of that Transaction.
- 4.5 The Client acknowledges and agrees that Velocity Trade does not intend to and is not required to consider one or more of the Client's objectives, financial situation and needs but that –
- 4.5.1 Velocity Trade may provide general information to the Client that Velocity Trade provides to its clients generally; and
- 4.5.2 that information will not take into account the particular needs, objectives or financial circumstances of the Client.
- 4.6 Subject to the provisions of this Agreement and Applicable Law, the Client hereby authorises Velocity Trade to appoint one or more Authorised Representatives to represent it in the performance of its obligations under this agreement and delegate all or any of its powers and authorities in terms of this agreement to such Authorised Representative.

5 TRADING PLATFORM

5.1 Availability of Trading Platform

- 5.1.1 For each type of Transaction offered by Velocity Trade, the applicable Annexure will specify –

5.1.1.1 if an Electronic Trading Platform is available; or

5.1.1.2 such other form of Trading Platform that may be used.

5.2 Password-protected Electronic Trading Platform

5.2.1 Where an Electronic Trading Platform is available, Velocity Trade will deal with the Client by way of a password-protected electronic trading platform to which the Client has access over the Internet.

5.2.2 The Client acknowledges and agrees that the Client may not transact with Velocity Trade except in accordance with the specified Trading Platform or as may otherwise be agreed by Velocity Trade on a case by case basis.

5.3 Using an Electronic Trading Platform

5.3.1 Velocity Trade may provide an Electronic Trading Platform for the purpose of the Client entering into certain types of Transactions, viewing Confirmations and/or other ancillary services.

5.3.2 The Client agrees to access and use each Electronic Trading Platform in accordance with, and solely for the purposes set out in, this Agreement.

5.3.3 The provision of an Electronic Trading Platform may involve the sub-licensing of Licensor software and/or information systems.

5.3.4 Velocity Trade or the Licensor may, with or without notice to the Client, change the nature, composition, features or availability of an Electronic Trading Platform.

5.4 Reference to Electronic Trading Platform in Agreement

5.4.1 Velocity Trade may provide one or more Electronic Trading Platforms depending upon the type of Transactions that Velocity Trade is willing to enter into at that time.

5.4.2 A reference to "Electronic Trading Platform" in this Agreement is a reference to the Electronic Trading Platform(s) provided in relation to the relevant type of Transaction.

5.5 Unavailability of Electronic Trading Platform

Where, for any reason, the Client is unable to access and use the relevant Electronic Trading Platform, Velocity Trade may, at its absolute discretion, trade through other means with the Client, such as by telephone.

5.6 Acknowledgments and agreements of Client

Velocity Trade shall, where possible, provide the Client with timely notice, in writing, of any unavoidable delay in the performance of the rectification of the Trading Platform and will advise the Client of other means of trading, having regard to the circumstances of the supply.

5.6.1 The Client –

5.6.1.1 acknowledges and agrees that any Electronic Trading Platform is provided on an “as is” basis;

5.6.1.2 acknowledges and agrees that there are significant risks associated with using and relying on a Trading Platform, including risks related to the use of software and/or telecommunications systems, such as software errors and bugs, delays in telecommunications systems, interrupted service, data supply errors, faults or inaccuracies and security breaches;

5.6.1.3 assumes all risk of use or attempted use of a Trading Platform and any data provided by way of a Trading Platform; and

5.6.1.4 acknowledges and agrees that it has no recourse against Velocity Trade or any Licensor in relation to the use or availability of a Trading Platform or any errors in Licensor software and/or related information systems;

5.7 Support and maintenance of Trading Platform

5.7.1 The Client –

5.7.1.1 acknowledges and agrees that Velocity Trade has no obligation or responsibility to –

5.7.1.1.1 provide support for or maintenance of any Trading Platform, including by supplying any corrections, updates or new releases; and

5.7.1.1.2 verify, correct, complete or update any information displayed on a Trading Platform;

5.7.1.2 acknowledges and agrees that Velocity Trade has no obligation or responsibility –

5.7.1.2.1 to inform the Client of any difficulties Velocity Trade or other third parties experience in relation to use of or access to a Trading Platform or to take any action in relation to those difficulties; and

5.7.1.2.2 to verify, correct, complete or update any information displayed on a Trading Platform; and

5.7.1.2.3 take any action in relation to those difficulties.

5.8 Security

5.8.1 The Client –

5.8.1.1 assumes full responsibility for any decision in relation to which any data provided to the Client by way of a Trading Platform may be used or relied upon;

5.8.1.2 will make its own independent decision to access or use a Trading Platform or to enter into any Transaction; and

5.8.1.3 acknowledges and agrees that no Trading Platform serves as the primary basis for any of the Client's investment decisions concerning its accounts or its managed or fiduciary accounts;

5.8.1.4 agrees to ensure the security and confidentiality of all Security Credentials;

5.8.1.5 agrees and acknowledges that, if any person accesses or uses a Trading Platform using a Security Credential, the Client is liable for the conduct of that person and the person's compliance with this Agreement;

5.8.1.6 acknowledges and agrees that, if Velocity Trade determines that the security surrounding any Trading Platform or the security or confidentiality of any Security Credentials is or has been breached, Velocity Trade may terminate, revoke, suspend, modify or change any or all of the Security Credentials at any time with or without prior notice; and

5.8.1.7 acknowledges and agrees that where a Trading Platform requires the use of Security Credentials, all Trading Platform Communications are deemed to be on behalf of and authorised by the Client;

5.8.1.8 accepts all responsibility for the genuineness and accuracy, in relation to content and form, of all Trading Platform Communications and for all resulting actions, including orders entered and Transactions entered into;

5.8.1.9 acknowledges that Velocity Trade is not obliged to act on any Trading Platform Communication and will be free to accept or reject, in its sole discretion, any transaction that the Client seeks to execute through the Trading Platform;

- 5.8.1.10 acknowledges and agrees that Velocity Trade may, at its discretion, verify receipt of any Trading Platform Communications;
- 5.8.1.11 acknowledges and agrees that the Client has no right to amend or revoke a Trading Platform Communication, unless Velocity Trade agrees otherwise; and
- 5.8.1.12 acknowledges and agrees that –
 - 5.8.1.12.1 Velocity Trade's records of any Trading Platform Communication and any communication sent by Velocity Trade by way of the relevant Trading Platform are deemed to be accurate until the contrary is proven; and
 - 5.8.1.12.2 the Client bears the burden of proof that those records are inaccurate or incomplete, except in the case of manifest error or fraud.

5.9 Provision of Market Information

5.9.1 Market Information

- 5.9.1.1 The Client acknowledges and agrees that where a Trading Platform displays market data and other purely factual information (collectively "**Market Information**") that –
 - 5.9.1.1.1 Velocity Trade does not endorse or approve the Market Information and makes it available to the Client only as a service and convenience;
 - 5.9.1.1.2 Velocity Trade does not guarantee the accuracy, timeliness, completeness or correct sequencing of the Market Information;
 - 5.9.1.1.3 Velocity Trade does not warrant any results from the Client's use or reliance on the Market Information;
 - 5.9.1.1.4 Velocity Trade is not obligated to update any information or opinions contained in any Market Information;
 - 5.9.1.1.5 Velocity Trade may discontinue offering Market Information at any time;
 - 5.9.1.1.6 Velocity Trade will not be liable in any way for the termination, interruption, delay or inaccuracy of any Market Information; and
 - 5.9.1.1.7 the Client will not redistribute or facilitate the redistribution of Market Information to any third party.

5.9.3 External Exchange Market Data

At Velocity all equities trade on actual market data from the relevant stock exchanges. If you have access to the Trading Platform you will receive live *Level 1 Data* as part of Services at the applicable fee set out in the applicable Product Schedule. If you do not have access to the Trading Platform there is no fee for this market data.

5.10 Third party Licensors

- 5.10.1 The Client acknowledges and agrees that the provision of an Electronic Trading Platform may involve the sub-licensing of Licensor software and/or information systems.
- 5.10.2 The Client waives all claims and causes of action which it may otherwise have against a Licensor.
- 5.10.3 The Client acknowledges and agrees that –
- 5.10.3.1 the Licensor is providing only a technical means for effecting Transactions;
 - 5.10.3.2 the Licensor is neither directly nor indirectly a party to any Transaction;
 - 5.10.3.3 the Licensor is not inviting, arranging for, or advising the Client or any third party to effect any Transaction or to purchase, sell or otherwise deal in any currency, commodity, derivative or future;
 - 5.10.3.4 the Licensor is not liable in any manner to any person for the failure of any person effecting a Transaction by way of an Electronic Trading Platform to perform its obligations under that Transaction; and
 - 5.10.3.5 the Licensor will not be involved in any dispute relating to any Transaction.
- 5.10.4 The Client –
- 5.10.4.1 is to maintain, for the duration of this Agreement, and for a period of 3 years afterwards, accounting and computer records that enable Velocity Trade and/or any Licensor to determine compliance with this clause and this Agreement;
 - 5.10.4.2 is to permit Velocity Trade and/or any Licensor to audit the Client's access to and use of any Electronic Trading Platform (including the Client's records of its access to and use of that Electronic Trading Platform); and
 - 5.10.4.3 acknowledges that information obtained pursuant to this clause may be used to determine the Client's compliance with this clause.

5.11 Intellectual Property Rights in Electronic Trading Platform

- 5.11.1 The Client acknowledges and agrees that –

- 5.11.1.1 all Intellectual Property Rights in respect of or derived from an Electronic Trading Platform are and remain the sole and exclusive property of Velocity Trade and/or any Licensors; and
- 5.11.1.2 the Client has no Intellectual Property Rights in respect of or derived from and will not acquire any Intellectual Property Rights in relation to an Electronic Trading Platform and/or any derivative or adaptation of an Electronic Trading Platform.
- 5.11.2 The Client is to use all reasonable efforts –
 - 5.11.2.1 to protect any such Intellectual Property Rights in an Electronic Trading Platform; and
 - 5.11.2.2 to comply with a request of Velocity Trade, acting reasonably, to protect its contractual, statutory and common law rights and obligations in respect of an Electronic Trading Platform.
- 5.11.3 If the Client becomes aware of any access to or use of the Electronic Trading Platform by a third party that is unauthorised or which constitutes an infringement or interference with any of Velocity Trade's and/or the Licensor's Intellectual Property Rights, it is promptly to notify Velocity Trade and, acting reasonably, co-operate with Velocity Trade and/or any Licensor with respect to any legal action which Velocity Trade and/or any Licensor may undertake in respect of the infringement.

5.12 Restrictions on use of Electronic Trading Platform

- 5.12.1 The Client acknowledges and agrees not –
 - 5.12.1.1 to access or use any Electronic Trading Platform for any purpose other than to request prices and enter into Transactions with Velocity Trade; or
 - 5.12.1.2 to use, copy, merge, make derivative works of or transfer copies of any software; or
 - 5.12.1.3 to use or disclose to any third party any information obtained through or from an Electronic Trading Platform other than for the purposes expressly set out in this Agreement; or
 - 5.12.1.4 to allow any access to or use of an Electronic Trading Platform by any third party; or
 - 5.12.1.5 to sell, lease or otherwise provide, directly or indirectly, an Electronic Trading Platform to any third party except as expressly permitted by this Agreement; or
 - 5.12.1.6 to reverse engineer, disassemble or decompile any software; or
 - 5.12.1.7 to copy any manuals related to an Electronic Trading Platform; or

- 5.12.1.8 to remove any statutory copyright notice, or other notice included in an Electronic Trading Platform or Licensor software or on any medium containing that software; or
- 5.12.1.9 to transmit or receive using an Electronic Trading Platform (or cause to transmit or receive) any information or material which is pornographic, obscene, abusive, profane, offensive, misleading, deceptive, disparaging or defamatory; or
- 5.12.1.10 to use the Electronic Trading Platform after the expiry, termination or cancellation of this Agreement and/or any license agreement between Velocity Trade and its Licensor.

5.13 Security and operating environment

The Client is responsible for ensuring the adequacy of the operating environment and the security of the environment, both physical and electronic, of the Client's access to and use of an Electronic Trading Platform, including –

- 5.13.1 maintain security measures maintaining appropriate security measures to prevent unauthorised access to, use of or damage –
- 5.13.2 to an Electronic Trading Platform and any information systems accessible through an Electronic Trading Platform; and
- 5.13.3 to any password management system not explicitly controlled by Velocity Trade or a Licensor;
- 5.13.4 where the Client accesses and uses, or attempts to access and use, an Electronic Trading Platform from any laptop computer or other portable device, taking all measures necessary to ensure the security, integrity and reliability of such computer or other portable device (including the security of the internet connection) and the Client is solely liable for any failure in such computer or other portable device's security, integrity or reliability; and
- 5.13.5 complying with all reasonable operational and security procedures notified by Velocity Trade from time to time and to inform Velocity Trade immediately of any breach of security.
- 5.14 To the maximum extent permitted by law, Velocity Trade makes no representation or warranty (express or implied) and expressly disclaims any warranties –
 - 5.14.1 in relation to the merchantability or fitness for a particular purpose and any warranty for the access to or use of or the results of the access to or use of a Trading Platform with respect to its suitability, availability, functionality, correctness, quality, accuracy, completeness, reliability, performance, timeliness, operation, continued availability or otherwise;
 - 5.14.2 that any Trading Platform Communication –
 - 5.14.2.1 will result in Velocity Trade entering into a Transaction with the Client; and/or

- 5.14.2.2 has been received by Velocity Trade; and
- 5.14.2.3 requirements or needs that a Trading Platform meets the requirements or needs of the Client.

6 NATURE OF RELATIONSHIP

- 6.1 Velocity Trade enters into this Agreement, and each Transaction with the Client, as principal, except where Velocity Trade is required to enter into a Transaction on behalf of the Client in which case Velocity enters into the Transaction as agent acting on behalf of the Client.
- 6.2 The Client agrees that Velocity Trade may appoint its Associates to render some of the Services and, where applicable, facilitate the Transactions.
- 6.3 The Client represents and warrants to Velocity Trade that it enters into this Agreement, and undertakes that it will enter into each Transaction with Velocity, as principal and not as agent.
- 6.4 The aforementioned representation and warranty is deemed to be repeated each time the Client enters into a Transaction.
- 6.5 If the Client nevertheless enters into this Agreement or any Transaction on behalf of one or more principals, the Client acknowledges and agrees that Velocity Trade does not accept any such principal as a client for the purposes of this Agreement or any Transaction.

7 INTEREST AND THIRD PARTY ACCOUNTS

- 7.1 No interest is payable by Velocity Trade on an Account except as specifically provided for in this clause 7.
- 7.2 For purposes of this clause 7 and clause 9 “**Deposit Interest**” means interest payable by Velocity Trade on Client Moneys.
- 7.3 Velocity Trade may pay Deposit Interest on either of the following bases –
- 7.3.1 if, at Close of Business on any day, the Interest Earning Amount exceeds an applicable “margin interest threshold” set out in the applicable Product Schedule, Velocity Trade will pay simple interest to the Client on the Interest Earning Amount for that day at the interest rate then applicable to that “margin interest threshold” set out in the applicable Product Schedule;
or
- 7.3.2 by such other method as may be specified in the Product Schedule.
- 7.4 The applicable interest rates in respect of which Velocity Trade will pay Deposit Interest are set out in the applicable Product Schedule.

- 7.5 Velocity Trade will pay Deposit Interest in arrears on such days as may be specified in the Product Schedule.
- 7.6 The Client authorises Velocity Trade –
- 7.6.1 to withhold or deduct from any such payment of Deposit Interest to the Client, any resident or non-resident withholding tax that is required to be withheld or deducted by Applicable Law; and
- 7.6.2 if necessary for this purpose, to withdraw any such withholding tax from the Velocity Trade's bank account where Client Moneys are held (including, where relevant, a Segregated Funds Account).
- 7.7 Except to the extent that interest is payable to the Client pursuant to clause 7.3 Velocity Trade will retain for its own account any interest earned on money held for the Client in the Segregated Funds Account and will not be required to pay interest on any other money held for the Client.
- 7.8 If an Account has a debit balance, the Client is to pay interest daily to Velocity Trade on the full amount of that balance at the relevant Cost of Funds plus a margin that is set out in the t Product Schedule or otherwise published or provided by Velocity Trade.
- 7.9 If the Client fails to meet any payment obligations, the Client is to pay interest daily to Velocity Trade on the amount that was due but not paid at the relevant Cost of Funds plus a margin that is set out in the Risk Disclosure Statement or otherwise published or provided by Velocity Trade.
- 7.10 The Client is to ensure that any transfer of moneys by it, is drawn on or made from an account in its name and not on or from that of another party, unless Velocity Trade has previously agreed otherwise in writing.
- 7.11 The Client acknowledges and agrees that Velocity Trade –
- 7.11.1 may, in its absolute discretion, without being obliged to do so, return any cheque drawn on, or transfer of moneys from, a third party account, unless Velocity Trade has previously agreed otherwise in writing; and
- 7.11.2 does not accept or bear any liability or responsibility for any loss, including consequential loss, incurred or sustained by the Client as a result of or arising out of Velocity Trade returning any cheque drawn on, or transfer of moneys from, a third party account, including any loss, including consequential loss, incurred or sustained by the Client because it is subsequently in default of its obligations under this Agreement or any Transaction.

8 MARGIN TRANSACTIONS

8.1 Holding of Client Money

Subject to this Agreement and Applicable Law, Velocity Trade will hold Client Money in respect of Margin Transactions in a Segregated Funds Account.

8.2 Trading Platform

8.2.1 The Trading Platform for Margin Transactions is either –

8.2.1.1 an Electronic Trading Platform/s Velocity Trade provides for the purpose of Margin Transactions; or

8.2.1.2 such other form of communication as Velocity Trade may specify in writing from time to time.

8.3 Accounts and interest

8.3.1 Prior to the Client first entering into any Margin Transactions with Velocity Trade, the Client must request Velocity Trade to open an Account (“**Request**”) for the purpose of the Client entering into Margin Transactions with Velocity Trade.

8.3.2 Velocity Trade may, in its absolute discretion, accept or decline a Request.

8.3.3 Velocity Trade is to notify the Client either that Velocity Trade accepts the Request and that an Account has been opened for the Client or that Velocity Trade declines the Request.

8.3.4 Details of the Interest Earning Amount and when Deposit Interest may be paid are set out in the applicable Product Schedule and may vary depending upon the Trading Platform used to enter into Margin Transactions.

8.4 Financing and Rollover of Margin positions

8.4.1 Each outstanding Margin Transaction is automatically valued and Rolled-Over by Velocity Trade at Close of Business on each day.

8.4.2 Velocity Trade determines the Transaction Value as at the Close of Business.

8.4.3 Velocity Trade determines the Velocity Trade Rollover Interest Rate for each currency as at the Close of Business.

8.4.4 The Client acknowledges and agrees that when a Margin Transaction is rolled over, Velocity charges the Client a fee for the Roll Over as set out in the Product Schedule.

8.4.5 The Client authorises Velocity Trade to withdraw the fee set out in clause 8.4.4 from the Segregated Funds Account with effect immediately after the Close of Business.

8.5 Margin CFD Transactions

8.5.1 Where the Client is in a Long Position in respect of the relevant share, index or sector CFD position, Velocity Trade credits the Account with an amount equivalent to overnight interest to the next trading date equal to the Velocity Trade Rollover Interest Rate on the Transaction Value.

8.5.2 Where the Client is in a Short Position in respect of the relevant share, index or sector CFD position, Velocity Trade debits the Account with an amount equivalent to overnight interest to the next trading date equal to the Velocity Trade Rollover Interest Rate on the Transaction Value.

8.6 Margin FX Transactions

8.6.1 Where the Client is a Long Position in respect of the relevant currency, Velocity Trade credits the Account with an amount equivalent to overnight interest to the next spot date equal to the Velocity Trade Rollover Interest Rate on the Transaction Value.

8.6.2 Where the Client is a Short Position in respect of the relevant currency, Velocity Trade debits the Account with an amount equivalent to overnight interest to the next spot date equal to the Velocity Trade Rollover Interest Rate on the Transaction Value.

8.7 Interest Payments

8.7.1 For the purposes of clauses 8.5 and 8.6, the interest is calculated on the basis of the annual rate, divided by 360 or 365 (according to relevant market practice), for and including the Business Day on which that Close of Business occurs to but excluding the next spot date.

8.7.2 The amounts of interest referred to in clauses 8.5 and 8.6 are credited and debited to the Account with effect immediately after the Close of Business.

8.7.3 The Client acknowledges and agrees that where there is more than one Electronic Trading Platform available in respect of Margin Transactions, the Velocity Trade Spread relevant to the Velocity Trade Rollover Interest Rate may differ according to the Electronic Trading Platform used.

8.8 Close-out of Margin Transactions

8.8.1 A Margin Transaction may be closed out in accordance with clause 23 if –

8.8.1.1 the Client instructs Velocity Trade including by way of the Trading Platform; or

8.8.1.2 Velocity Trade exercises any of its rights under this Agreement to close out a Margin Transaction at any time before the Margin Transaction otherwise closes out under this Agreement.

8.9 Margin and margin maintenance

- 8.9.1 The Client is to pay to Velocity Trade such sums of money in the Client Base Currency by way of margin as Velocity Trade may require under this Agreement or as otherwise notified in writing by Velocity Trade to the Client.
- 8.9.2 The Client is to ensure that moneys paid to Velocity Trade are correctly designated in all respects, including, where applicable, that those moneys are by way of margin and to which Account of the Client they should be applied.
- 8.9.3 From time to time, Velocity Trade is to provide to the Client details of the arrangements that apply to making payments to Velocity Trade.
- 8.9.4 The Client acknowledges and agrees that Velocity Trade will credit those moneys to the Segregated Funds Account only when they become cleared funds.
- 8.9.5 Accordingly, moneys paid by –
- 8.9.5.1 South African electronic fund transfers may not be available as collateral and, therefore, Free Margin until the funds have been received and allocated to Velocity Trade's bank account; and
- 8.9.5.2 International electronic transfers, in accordance with relevant bank and currency practice, may not be available as collateral and, therefore, Free Margin for a number of Business Days.
- 8.9.6 Velocity Trade will, in accordance with the normal practices of the registered bank in South Africa at which the Segregated Funds Account is held, arrange for the credit of those moneys to the Segregated Funds Account as soon as practicable after they become cleared funds.
- 8.9.7 The Client undertakes to maintain the Margin Requirement(s) being either –
- 8.9.7.1 in the case of Margin Transactions entered into using an Electronic Trading Platform, the relevant Margin Requirement(s) specified in the applicable Product Schedule; and
- 8.9.7.2 in all other cases, the Margin Requirement(s) advised by Velocity Trade.
- 8.9.8 The undertaking in clause 8.9.7 is deemed to be repeated at the time each Margin Transaction is entered into.
- 8.9.9 If the Client has more than one Account, the undertaking in clause 8.9.7 relates to each Account separately, unless Velocity Trade has agreed otherwise in writing.
- 8.9.10 For the avoidance of doubt, the undertaking in clause 8.9.7 is a margin requirement for the purpose of clause 20.1.2.

- 8.9.11 The Client acknowledges and agrees that –
- 8.9.11.1 the Margin Requirement may differ depending on the Electronic Trading Platform on which Margin Transactions are entered;
- 8.9.11.2 the applicable Margin Requirement may, from time to time, be updated by Velocity Trade by amending the relevant Product Schedule and it is the Client's responsibility to ensure it is aware of the prevailing Margin Requirement at any point in time.
- 8.9.12 The Client must maintain sufficient surplus Free Margin so that, should the relevant Trading Platform become unavailable and the Client is unable to ascertain its real-time Margin Requirement or amount of Free Margin available, the applicable Margin Requirement will still be satisfied notwithstanding any market movement during that period.
- 8.9.13 The Client acknowledges and agrees that, if at any time during any day, the relevant Margin Requirement is not maintained –
- 8.9.13.1 the relevant Electronic Trading Platform may automatically terminate and close out some or all outstanding Margin Transactions; and
- 8.9.13.2 Velocity Trade may at its discretion, but is under no obligation to, terminate and close out some or all of the Client's positions.
- 8.9.14 The Client acknowledges and agrees that Free Margin in its Account at any time does not include any interest that has accrued but has not been paid under this Agreement.
- 8.9.15 The Client acknowledges that, by accessing the Electronic Trading Platform at any time, the Client is able to view its margin position in real time.
- 8.9.16 The Client acknowledges and agrees that the Client is solely responsible for monitoring its margin position daily on a 24-hour basis, by way of the Electronic Trading Platform, and that, in doing so, the Client must have regard to –
- 8.9.16.1 outstanding Margin Transactions;
- 8.9.16.2 the volatility of any relevant currency, commodities, securities, derivatives or futures market or Exchange or of exchanges or markets generally;
- 8.9.16.3 any applicable exchange rate or interest rate risk; and
- 8.9.16.4 the time it takes the Client to remit sufficient cleared funds to Velocity Trade (including the time it takes those funds to clear).
- 8.9.17 The Client acknowledges and agrees that under no circumstances is it entitled to receive a margin demand, call or notice from Velocity Trade.

- 8.9.18 In particular, the Client acknowledges and agrees that, whether or not extreme or unusual market conditions exist, where the value of outstanding Margin Transactions is moving or have moved particularly quickly against the Client, Velocity Trade may not make a margin call or give notice before exercising its right to terminate and close out all (or some only) Transactions under this Agreement.
- 8.9.19 No demand, call or notice made or given by Velocity Trade to the Client in any one or more instances invalidates the acknowledgement and agreement given by the Client in clause 8.9.17.
- 8.9.20 Velocity Trade is not obliged to allow the Client time to forward further funds to meet its Margin Requirement under this clause before exercising its right to terminate and close out any Transactions (including Margin Transactions) under this Agreement.
- 8.9.21 However, Velocity Trade may in its absolute discretion allow the Client time to forward funds to meet its Margin Requirement, in which event that permission is only effective once it is confirmed in writing by Velocity Trade, and then only to the extent specified in the written notice given by Velocity Trade.

8.10 Stop Loss Orders and Limit Orders

- 8.10.1 Velocity Trade may, on the request of a Client by way of the Trading Platform, agree to a Stop Loss Order in relation to a Margin Transaction.
- 8.10.2 Velocity Trade may charge a fee it deems appropriate for the Stop Loss Order.
- 8.10.3 The Client authorises Velocity Trade to withdraw this fee from the Segregated Funds Account when the Stop Loss Order is entered into.
- 8.10.4 Subject to clause 8.10.5, Velocity Trade will close out the relevant Margin Transaction in accordance with the Stop Loss Order.
- 8.10.5 However, the Client acknowledges that –
- 8.10.5.1 market conditions, including Abnormal Market Conditions, may arise such that Velocity Trade may only be able to terminate and close out the Margin Transaction the subject of the Stop Loss Order at a price or rate that is substantially less than that in the Stop Loss Order;
- 8.10.5.2 once the Stop Loss Order is triggered, Velocity Trade will close out the Margin Transaction at whatever price or rate it is able to obtain for the Client in the market; and
- 8.10.5.3 the Client accepts these risks accordingly.

8.10.6 Velocity Trade may, on the request of a Client by way of the Trading Platform, agree to a Limit Order in relation to a Margin Transaction.

8.10.7 Velocity Trade may charge a fee it deems appropriate for the Limit Order.

8.10.8 However, the Client acknowledges that –

8.10.8.1 while the Limit Order will be entered into at the price or rate set out in the Limit Order, market conditions, including Abnormal Market Conditions, may arise such that Velocity Trade may only be able to enter into the Margin Transaction the subject of the Limit Order at a price or rate that is substantially different from the prices or rates prevailing in the relevant market at the time of entry into of the Margin Transaction; and

8.10.8.2 the Client accepts this risk accordingly.

8.11 Trading conduct and Corporate Actions

8.11.1 Notwithstanding that a Margin CFD Transaction is between Velocity Trade and the Client, the Client gains no ownership rights on the underlying instrument.

8.11.2 The Client accepts that it must acquaint itself with the relevant rules and legislation for the Exchange on which the underlying instrument is traded when trading and are bound by those rules when trading CFDs with Velocity Trade.

8.11.3 Velocity Trade will act reasonably and in good faith, taking into account the nature of a Corporate Action that has occurred, in order to endeavour to preserve the economic value of the relevant Transaction.

8.11.4 If a Corporate Action occurs, Velocity Trade is entitled to –

8.11.4.1 change Velocity Trade prices;

8.11.4.2 change Velocity Trade spreads;

8.11.4.3 change Margin factors;

8.11.4.4 change minimum Transaction Value or maximum Transaction Value in respect Transactions concluded pursuant to this Agreement;

8.11.4.5 suspend the acceptance of or refuse to accept Transactions or instructions for any affected market.

8.11.5 In addition, if a Corporate Action occurs Velocity Trade entitled to do any of the following in relation to a Transaction that is directly or indirectly affected by the Corporate Action and that was in place prior to the relevant Corporate Action –

- 8.11.5.1 change the opening Velocity Trade price of the trade as determined by the relevant exchange;
- 8.11.5.2 change the agreed execution price of the order as determined by the relevant exchange;
- 8.11.5.3 close any open bet/trade and cancel any order;
- 8.11.5.4 open a new trade or order in the relevant Market; or
- 8.11.5.5 make an appropriate credit or debit to your Account.
- 8.11.6 Velocity Trade can exercise the above rights with or without notice depending on the nature of the Corporate Action concerned. If Velocity Trade exercises a right before giving notice, Velocity Trade will inform the affected Clients as soon as reasonably practicable that we have done so.
- 8.11.7 If a dividend adjustment applies to an equity or index to which a Transaction relates and the Transaction was open at the Close of Business on the last of Velocity Trade's trading days (for that equity or index) prior to the relevant ex-dividend date Velocity Trade will apply a dividend adjustment in accordance with clause 8.11.8 or 8.11.9.
- 8.11.8 In the case of CFD trades relating to individual equities the dividend adjustment will be applied as follows –
 - 8.11.8.1 Clients holding long individual equity CFD positions will be credited an ex dividend adjustment net of the tax requirements of the relevant tax authority as determined by Velocity Trade acting reasonably; and
 - 8.11.8.2 Clients holding short individual equity CFD positions will be debited an ex dividend adjustment net of the tax requirements of the relevant tax authority as determined by Velocity Trade acting reasonably.
- 8.11.9 In the case of adjustments to index CFD trades, the rate of adjustment will be determined by Velocity Trade acting reasonably, taking into account, for example, the weighting of the companies concerned. Adjustments are applied as follows –
 - 8.11.9.1 Long Positions are credited with the relevant adjustment; and
 - 8.11.9.2 Short Positions are debited with the relevant adjustments.
- 8.11.10 Velocity Trade may (acting reasonably) terminate or vary the dividend adjustment depending on changes in law, the applicable regulatory system, rates of tax and in particular the withholding tax requirements of the relevant tax authority.

9 FEES AND EXPENSES

- 9.1 The basis on which, the manner in which and the intervals at which the Client will remunerate Velocity Trade and/or its Associates for the Services rendered by Velocity Trade and/or its Associates to the Client or Transactions concluded with or on instruction of the Client in terms of this Agreement are set out in the applicable Product Schedule.
- 9.2 Velocity Trade may, on prior written notice, furnish to the Client, whether electronically or otherwise, with changes to the fees and charges from time to time.
- 9.3 The Parties agree that Velocity Trade will calculate the fees and charges payable on the applicable calculation dates and notify the Client in writing of the fees calculated.

10 PAYMENTS AND STANDARD SETTLEMENT INSTRUCTIONS

- 10.1 The Client authorises Velocity Trade and the Administrator, jointly and in accordance with their usual practice, to withdraw from the Velocity Trade bank account where Client Moneys are held (including, where relevant, the Segregated Funds Account), and to debit the relevant Account accordingly, at any time any fee, commission or charge when it becomes payable to Velocity Trade and/or any of its Associates.
- 10.2 Velocity Trade may, in its absolute discretion, determine and advise the Client that if, on any date-
- 10.2.1 the same amounts are payable under this Agreement in respect of the same type of Transaction by each party to the other in the same currency, then, on that date, each party's obligation to pay that amount is automatically satisfied and discharged; and
- 10.2.2 the aggregate amount payable by one party exceeds the aggregate amount that is payable by the other party in the same currency, then, on that date, the amounts payable by each party to the other party are to be paid or satisfied by payment of the net amount of those obligations by the party having a net debit to the party having a net credit.
- 10.2.3 Velocity Trade has appointed the Administrator to ensure that Velocity complies at all times with its memorandum and articles of associations or memorandum of incorporation, whichever is applicable, and that all payments made by Velocity Trade will be in line with the standard settlement instruction issued by the Client or the relevant third party.

11 REPORTING TO CLIENT

- 11.1 Velocity Trade may, but is not obliged to, send a daily report by electronic mail to the Client.
- 11.2 The Client is responsible for ensuring that its electronic mail contact details with Velocity Trade are accurate and up-to-date.

12 RISK

The Client acknowledges and agrees that –

- 12.1 the Client has read and understood the risks of entering into Transactions outlined in the Risk Disclosure Statement and/or on the Website well as the prospect of profit; and
- 12.2 it accepts such risks, which may result in financial loss.

13 EXEMPTION, INDEMNITY AND INSURANCE

- 13.1 Subject to clause 13.2, Velocity Trade shall not be liable for, and the Client hereby indemnifies Velocity Trade against, any claims for loss, expense or damage which the Client may suffer, howsoever such loss, expense or damage may arise or be suffered, in respect of the Transactions concluded by the Client.
- 13.2 The exemption and indemnity in clause 13.1 shall not extend to any loss, expense or damage which arises as a result of the fraud, dishonesty or gross negligence of Velocity Trade or any director, employee, officer, or agent of Velocity Trade.
- 13.3 Velocity Trade shall, to the extent, and if required by the registrar in terms of the FAIS Act, arrange and maintain, at its own expense, insurance cover in respect of any liability which may be incurred by Velocity Trade in connection with this agreement.

14 SEGREGATED FUNDS ACCOUNT

- 14.1 Subject to this Agreement and Applicable Law, Velocity Trade will hold Client Money in respect of Transactions in a Segregated Funds Account –
 - 14.1.1 in South Africa with one or more banks registered as such in South Africa; or
 - 14.1.2 outside South Africa with one or more overseas banks.
- 14.2 The Client acknowledges and agrees that, where Client Money is described as being held in a “segregated funds account” –
 - 14.2.1 that account is maintained by Velocity Trade in its own name or by one of its Associates or Services Providers but is held in trust for the benefit of the clients;
 - 14.2.2 that account is managed by the Administrator, who will act as independent trustees;
 - 14.2.3 Client Money of the Client is pooled with client money of other clients of Velocity Trade;

- 14.2.4 Client Money of the Client may, in the insolvency of Velocity Trade and subject to Applicable Law, be held in favour of all clients of Velocity Trade with funds in the relevant Segregated Funds Account; and
- 14.2.5 there are risks involved in the manner in which Client Money is so held
- 14.3 The Parties wish to record that the Client Money falls under the Financial Institutions (Protections of Funds) Act 28 of 2001 and which act applies in relation to the protection of Client Money and trust property and Velocity Trade undertakes at all times to comply with its obligations as a financial institution under such act.
- 14.4 The Client acknowledges and agrees that Velocity Trade and the Administrator may, jointly, subject to Applicable Law withdraw moneys from a Segregated Funds Account for the purpose of –
- 14.4.1 making a payment for, or in connection with, the entering into, margining or settling of Transactions by Velocity Trade (including any such payment referred to in this Agreement); or
- 14.4.2 making a payment to the Client; or
- 14.4.3 making a payment to another person designated by Velocity Trade in connection with a Transaction entered into under this Agreement and agreed to by the Client,
- such payments being, for the purposes of this clause, payments made to persons specified by the Client in accordance with the standard settlement instruction issued by the Client to Velocity Trade –
- 14.4.4 meeting the amount of any fees, commissions or other charges payable under this Agreement by the Client to Velocity Trade in respect of any Transaction; or
- 14.4.5 making a payment to Velocity Trade in reimbursement for any payment made by Velocity Trade to or on behalf of the Client for which Velocity Trade is entitled to be reimbursed by the Client under this Agreement; or
- 14.4.6 where funds are deposited into the Segregated Funds Account that include Client Money and other money, withdrawing that portion of the funds that is not Client Money; or
- 14.4.7 where Velocity Trade has deposited its own money into the Segregated Funds Account to cover a shortfall in the Segregated Funds Account, withdrawing that money once it is no longer required to cover the shortfall.
- 14.5 Velocity Trade is entitled at any time to deduct, without notice or recourse to the Client, any moneys deposited in, or credited to, the Segregated Funds Account –
- 14.5.1 in error by, or on behalf of, Velocity Trade; or
- 14.5.2 that are not Client Money.

15 REPRESENTATIONS AND WARRANTIES

- 15.1 Each of Velocity Trade and the Client represents and warrants to the other that –
- 15.1.1 its obligations under each of this Agreement and each Transaction are legal, valid, binding and enforceable in accordance with its terms, subject to equitable principles and insolvency laws of general application;
 - 15.1.2 no litigation, arbitration or administrative proceeding is current, pending or, to its knowledge, threatened that has or could have a material adverse effect on it or on Velocity Trade's ability to exercise or enforce its rights under this Agreement or any Transaction;
 - 15.1.3 it is solvent and able to pay its indebtedness as it falls due;
 - 15.1.4 no Event of Default has occurred and is continuing;
 - 15.1.5 the execution and delivery of, and observance under, this Agreement and each Transaction, and any instrument in connection with this Agreement to which it is a party, do not violate or conflict with any Applicable Laws, any provision of its constituent documents, any order or judgment of any court or Public Authority applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
 - 15.1.6 all consents required to be obtained by it in connection with the execution, delivery and performance of this Agreement, including in relation to its access to and use of a Trading Platform, have been obtained and all Transactions are valid and subsisting.
- 15.2 The Client represents and warrants that –
- 15.2.1 all information provided by the Client to Velocity Trade in connection with this Agreement and each Transaction was true in all material respects as at the date when that information was provided and remains so as at the date of this Agreement; and
 - 15.2.2 there are no facts or circumstances that have not been disclosed to Velocity Trade that would make that information untrue or misleading in any material respect;
 - 15.2.3 the Client's access to and use of each Trading Platform complies with –
 - 15.2.3.1 all Applicable Law (including all relevant export laws and regulations to ensure that no software or any portion of it is exported, directly or indirectly, in violation of those laws);
 - 15.2.3.2 all applicable policies and practices of securities and futures exchanges, External Exchanges and associations, alternative trading facilities, and regulatory or self-regulatory organisations; and

- 15.2.3.3 the policies and procedures (whether stated orally or in writing) applicable to each Trading Platform and this Agreement;
- and the Client has all consents, rights, authority and has taken all actions necessary, to use a Trading Platform and enter any Transactions relating thereto;
- 15.2.4 the Client is not in default under –
- 15.2.4.1 any agreement relating to indebtedness; or
- 15.2.4.2 any guarantee; or
- 15.2.4.3 any other agreement,
- to an extent or in a manner that has or would have a material adverse effect on the Client;
- 15.2.5 the Client is acting for the Client’s own account, and it has made its own independent decision to enter into this Agreement and each Transaction, and whether any Transaction is appropriate or proper, based upon the Client’s own judgment and upon advice from such advisers as the Client has deemed necessary;
- 15.2.6 the Client is not relying on any communication (written or oral) of Velocity Trade as investment advice or as a recommendation to enter into this Agreement or any Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction are not considered investment advice or a recommendation to enter into that Transaction; and
- 15.2.7 the Client has not received from Velocity Trade any assurance or guarantee as to the expected results of any Transaction;
- 15.2.8 the Client is capable of assessing the merits of and understanding (on the Client’s own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of each Transaction; and
- 15.2.9 the Client is capable of assuming, and assumes, the financial and other risks of each Transaction;
- 15.2.10 Velocity Trade does not act as a fiduciary for or an adviser to the Client in respect of any Transaction; and
- 15.2.11 except as disclosed to, and accepted in writing by, Velocity Trade, no security interest exists over or affects, nor is there any agreement to give or permit to exist any security interest over or affecting, any Account or moneys payable or paid to Velocity Trade.
- 15.3 If the Client is a company, the Client represents and warrants that –

- 15.3.1 it is incorporated, has full power and authority to enter into and comply with its obligations under this Agreement and each Transaction; and
- 15.3.2 has taken all corporate and other action and obtained all consents needed to enable it to do so; and
- 15.3.3 the execution, delivery and performance of this Agreement and each Transaction does not violate its founding documentation.
- 15.4 If the Client is trustee of a trust, the Client represents and warrants that –
 - 15.4.1 the Client is entering into this Agreement and each Transaction as duly appointed trustee of the trust; and
 - 15.4.2 the Client is presently the sole trustee or, if not, that all trustees have entered into this Agreement;
 - 15.4.3 the trust was validly created and is in existence at the date of the Client's submission of the Application Form;
 - 15.4.4 the execution, delivery and performance of this Agreement and each Transaction is permitted by the terms of the trust deed and does not violate the trust deed or the trust; and
 - 15.4.5 the trust is solely constituted by the trust deed;
 - 15.4.6 the Client has full power and authority to enter into and comply with its obligations under this Agreement and each Transaction; and
 - 15.4.7 the Client has taken all action and obtained all consents necessary to enable it to do so; and
 - 15.4.8 the Client is not in breach of the terms of the trust, whether related to this Agreement or not, and has the right to be indemnified from the assets of the trust for all liabilities incurred under this Agreement and each Transaction;
 - 15.4.9 even though the Client is entering into this Agreement and each Transaction as trustee of a trust, the Client is personally liable to meet any obligations under this Agreement and each Transaction.
- 15.5 Each of the representations and warranties in this clause is deemed to be repeated continuously so long as this Agreement remains in effect by reference to the facts and circumstances then existing.

16 TRADING HOURS

- 16.1 Subject clauses 16.2 and 16.3 Velocity Trade intends to, but is under no obligation to, quote prices and rates and accept instructions (whether oral, written or electronic) in relation to any Transaction during Normal Trading Hours.
- 16.2 Velocity Trade is under no obligation to quote prices or rates, or to accept instructions (whether oral, written or electronic) in relation to any Transaction on a public holiday in any jurisdiction which, in Velocity Trade's reasonable opinion, affects any relevant currency, security, commodity, derivatives, future, market or Exchange.
- 16.3 Velocity Trade is under no obligation to quote prices or rates or accept instructions (whether oral, written or electronic) in relation to any Transaction during any time when any relevant foreign exchange, securities, commodities, derivatives or futures market or Exchange is closed for business.

17 LEGAL AND REGULATORY REQUIREMENTS

- 17.1 Notwithstanding any other provision of this Agreement, Velocity Trade may take any action it considers necessary or desirable in its absolute discretion to ensure compliance with all Applicable Law.
- 17.2 Velocity Trade undertakes to comply with all Applicable Law including the terms and conditions of any authorisation to carry on the business of dealing in futures contracts granted under FAIS and the FM Act and as Authorised Representative.
- 17.3 The Client undertakes to comply with all Applicable Law.

18 TAXES

- 18.1 The Client is to pay all Taxes and all other fees reasonably incurred by Velocity Trade in connection with this Agreement or any Transaction.
- 18.2 Any imposition of Tax, which may from time to time be levied in respect of this Agreement or any Transaction, is for the account of, and payable by, the Client.
- 18.3 Velocity Trade is entitled to deduct or withhold any Tax, as required by law to be deducted or withheld, from any payment made under this Agreement, or any payment made under any Transaction or any amount credited to the Velocity Trade bank account where Client Moneys are held (including, where relevant, the Segregated Funds Account) or any Account.

19 FORCE MAJEURE

- 19.1 Velocity Trade is not in default or breach of this Agreement or any Transaction to the extent that Force Majeure arises.
- 19.2 Subject to clause 19.3, if Force Majeure arises, Velocity Trade is to use its reasonable endeavours to give notice as soon as reasonably practicable to the Client accordingly.
- 19.3 Velocity Trade is not liable to the Client for any failure or delay in giving this notice.
- 19.4 If Force Majeure arises, and regardless of whether or not Velocity Trade has given the notice referred to in clause 19.2, Velocity Trade may take whatever steps in relation to this Agreement or any Transaction that, in its opinion, are necessary or desirable, including –
- 19.4.1 changing or restricting any hours within which the Client may enter into Transactions; or
 - 19.4.2 amending this Agreement or any Transaction, to the extent only that it is not possible, practicable or legal for Velocity Trade to perform or comply with its obligations to the Client under this Agreement or any Transaction; or
 - 19.4.3 terminating, closing out or not rolling over any Transaction or cancelling any instructions or orders under this Agreement or any Transaction; or
 - 19.4.4 taking or omitting to take any other action that Velocity Trade, acting reasonably, deems to be appropriate in the circumstances having regard to its business and its clients generally.

20 EVENTS OF DEFAULT

- 20.1 An Event of Default is any of the following events or circumstances with respect to Velocity Trade or the Client, as appropriate (the “**Defaulting Party**”, the other party being the “**Non-defaulting Party**”) –
- 20.1.1 any representation or warranty made by Velocity Trade or the Client under or in connection with this Agreement or a Transaction is later found to be incorrect or misleading in a material respect; or
 - 20.1.2 the Client fails to maintain margin at least equal to the Margin Requirement; or
 - 20.1.3 the Client fails to satisfy any Margin Requirement or other credit requirement that may be specified in clause 8 or any Product Schedule in relation to a type of Transaction; or
 - 20.1.4 the unrealised losses of outstanding Margin FX Transactions of the Client exceed any applicable Margin Requirement at any time; or

- 20.1.5 the Client fails to perform or comply with any of its obligations under this Agreement or any Transaction; or
- 20.1.6 the Client is in breach of any Applicable Law; or
- 20.1.7 the conduct of the Client is such that, in the opinion of Velocity Trade, it would cause a reasonably prudent financial person dealing in any of the Transactions to be of the view that the Client could be unable to perform and comply with any of the Client's obligations under this Agreement or any Transaction, including strict compliance with any time limit; or
- 20.1.8 where the Client is a natural person –
 - 20.1.8.1 the Client dies or becomes of unsound mind; or
 - 20.1.8.2 the Client's person or estate is liable to be dealt with in any way under any law relating to mental health; or
 - 20.1.8.3 in the absence of the Client making alternative arrangements, the Client is not contactable by Velocity Trade for any period of 24 hours in order for Velocity Trade to obtain instructions relating to any Transaction, any order or any obligations of the Client under this Agreement or any Transaction; or
 - 20.1.8.4 the Client becomes insolvent or enters into a composition or arrangement for the benefit of creditors or if the Client act of insolvency as defined in the Insolvency Act 24 of 1936; or
- 20.1.9 Velocity Trade or the Client, where the Client is a company –
 - 20.1.9.1 if either Party is deemed to be unable to pay its debts in terms of the Companies Act, 2008; and/or
 - 20.1.9.2 if either Party compromises or attempts to compromise with its creditors, or defers or attempts to defer payment of debts owing by either Party to its creditors generally; and/or
 - 20.1.9.3 any final judgment of any court or arbitration award against either Party remains unsatisfied for a period of 10 (ten) Business Days after it has been granted against such Party and for the purposes of this sub-paragraph, a final judgment means a judgment –
 - 20.1.9.3.1 which is not appealable, or
 - 20.1.9.3.2 which is appealable but in respect of which the period for the lodging of an appeal has lapsed and the relevant Party has failed to institute appeal proceedings, or
 - 20.1.9.3.3 which is not capable of rescission, or

- 20.1.9.3.4 which is capable of rescission but in respect of which the period for applying for rescission has lapsed and the relevant Party has failed to apply for rescission or has applied for rescission of such judgment and the application for rescission has been denied; and/or
- 20.1.9.3.5 if any property, moveable or immovable, of either Party is attached in execution or by any process of any Court; and/or
- 20.1.9.4 if either Party's members propose or pass a resolution to be placed in business rescue or for its liquidation or winding-up; and/or
- 20.1.9.5 if either Party has an order granted against or in respect of it, in terms of which such Party is sought to be provisionally or finally wound up, liquidated, dissolved or placed under judicial management or has any equivalent application or proceedings brought against it in terms of any equivalent applicable legislation; and/or
- 20.1.9.6 any guarantee of security given in respect of the Client's obligations under this Agreement is, without the consent of Velocity Trade, withdrawn or becomes defective or insufficient.
- 20.1.10 If, at any time, an Event of Default has occurred in respect of the Defaulting Party, the Non-defaulting Party may give a Termination Notice to the Defaulting Party designating a Termination Date for the termination of all (or some only) Transactions (Terminated Transaction).

21 TERMINATION

- 21.1 This Agreement shall commence on the Commencement Date and shall continue until terminated in accordance with the provisions of 20 and the remaining provisions of this clause 21.
- 21.2 Velocity Trade and the Client shall be entitled to terminate this Agreement –
- 21.2.1 by notice in writing to the other Party of 60 calendar days; or
- 21.2.2 by written agreement, subject to the terms of such agreement.
- 21.3 Notwithstanding anything to the contrary contained in this Agreement, in the event of the Client being a natural person, Velocity Trade and the Client shall be entitled to terminate this Agreement in the following manner –
- 21.3.1 the Client may terminate this Agreement, at any time, by giving 20 (twenty) Business Days' notice to this effect to Velocity Trade; or

- 21.3.2 Velocity Trade may cancel this Agreement in the event of a material breach having been committed by the individual Client and the Client failing to rectify such breach within 20 (twenty) Business Days' of receipt of a written notice from Velocity Trade.
- 21.3.3 This Agreement shall be terminated immediately and without the requirement for notice should Velocity Trade be sequestered, liquidated or placed under judicial management, whether provisionally or finally, in which event Velocity Trade shall account to the Client immediately.
- 21.4 Subject to specific written instructions from the Client, Velocity Trade shall not initiate any Transaction on behalf of the Client after notice of termination has been received or given.

22 OTHER TERMINATIONS

- 22.1 For the purpose of this clause 22 "**Value Date**" means –
- 22.1.1 in relation to a Margin FX Transaction, the spot delivery day for the currency pair to be purchased and sold pursuant to that Transaction as generally used in the relevant currency market; and
- 22.1.2 in relation to any other Transaction, the Business Day determined by Velocity Trade for the currency pair to be purchased and sold pursuant to that Transaction.
- 22.2 If Velocity Trade is at any time unable to obtain acceptable wholesale prices or rates under any of its Hedging Arrangements, Velocity Trade may terminate any or all outstanding Transactions before their Value Date by giving a Termination Notice to the Client not less than one Business Day before the proposed termination date ("**the Break Date**").
- 22.3 The notice must specify –
- 22.3.1 each Transaction to be terminated; and
- 22.3.2 the Break Date.
- 22.4 If a Termination Notice is given under clause 22.1 –
- 22.4.1 the Termination Notice is to specify the Termination Date of each Transaction; and
- 22.4.2 the amount payable in respect of that Termination Date and each Terminated Transaction is to be determined and paid in terms of the provisions of this Agreement.
- 22.5 If, in the opinion of Velocity Trade, Abnormal Market Conditions exist, it may (but is not obliged to) give a Termination Notice to the Client designating a Termination Date for the termination of all (or some only) Transactions terminate those Transactions immediately in accordance with clause 23.2.
- 22.6 If –

- 22.6.1 Velocity Trade is requested or required by any Public Authority to cease or limit carrying on business of dealing in one or more types of Transactions; or
- 22.6.2 any consent, licence or authority that Velocity Trade has obtained from a Public Authority is rescinded, modified or varied in any material respect, then Velocity Trade may give a Termination Notice to the Client designating a Termination Date for the termination of all (or some only) Transactions which is not later than the second Business Day after the date of that Termination Notice.
- 22.7 If at any time it is unlawful or contrary to any present or future requirement (whether or not having the force of law) of any Public Authority or of Applicable Law for –
- 22.7.1 Velocity Trade to perform or comply with all or any of its obligations under this Agreement or any Transaction; or
- 22.7.2 Velocity Trade to exercise all or any of its rights under this Agreement or any Transaction; or
- 22.7.3 Velocity Trade to comply with any of its obligations under any Hedging Arrangements; or
- 22.7.4 any third party that is party to any such Hedging Arrangements to comply with any of its obligations under those Hedging Arrangements,
- then Velocity Trade –
- 22.7.5 must promptly give notice accordingly to the Client; and
- 22.7.6 may give a Termination Notice to the Client designating a Termination Date for the termination of all (or some only) Transactions which is not later than the second Business Day after the date of receipt of that Termination Notice.
- 22.8 Velocity Trade may at any time send a Termination Notice to the Client notifying the Client that Velocity Trade will cease to deal in any type of Transaction.
- 22.9 This Termination Notice is to specify a Termination Date on which Velocity Trade will cease to deal in the type of Transaction, which Termination Date is to be at least one Business Day after the notice is sent.
- 22.10 The Client agrees to close out all outstanding Transactions in relation to the relevant type of Transaction before the Termination Date.
- 22.11 Close out by Velocity Trade closes out any remaining outstanding Transactions in the relevant type of Transaction on the Termination Date with effect from close of business on that day.

23 CLOSE-OUT

23.1 If –

23.1.1 an Event of Default occurs pursuant to clauses 20.1.2, 20.1.3 or 20.1.4; or

23.1.2 any other Event of Default occurs and the Non-defaulting Party gives a Termination Notice pursuant to clause 20; or

23.1.3 Velocity Trade gives a Termination Notice pursuant to clause 22.2; or

23.1.4 Abnormal Market Conditions exist; or

23.1.5 Clause 8 provides accordingly,

then –

23.1.6 as from the Termination Date, the Terminated Transactions are terminated;

23.1.7 the amount payable in respect of that Termination Date and those Terminated Transactions is to be determined by Velocity Trade and paid in accordance with this clause; and

23.1.8 Velocity Trade may refuse to enter into any further Transactions.

23.2 Notwithstanding any other provision in this Agreement, the parties agree that where –

23.2.1 an Event of Default occurs pursuant to clauses 20.1.2, 20.1.3 or 20.1.4; or

23.2.2 Abnormal Market Conditions exist,

some or all Transactions in existence between them will (in the case of clause 23.2.1 and may (in the case of clause 23.2.2 immediately become Terminated Transactions and that –

23.2.3 the Termination Date is the date of the occurrence of such Event of Default or that such Abnormal Market Conditions first occur;

23.2.4 the nature of immediate termination is such that Velocity Trade will not be able to give a Termination Notice to the Client prior to the termination taking effect; and

23.2.5 Velocity Trade may, but is not obliged to, give a Termination Notice to the Client after such Transactions have been terminated, whether by way of electronic mail, text messaging, a message displayed on the Trading Platform or such other notice procedures as are set out in this Agreement.

23.3 The netted balance payable in respect of a Termination Date and the relevant Terminated Transactions is to be determined by Velocity Trade as follows –

- 23.3.1 Velocity Trade is to take an account of all money due between the parties in respect of the Terminated Transactions by calculating an amount equal to –
- 23.3.1.1 the sum of –
- 23.3.1.1.1 the Settlement Amount (as determined by Velocity Trade); and
- 23.3.1.1.2 the Termination Currency Equivalent of any amounts that are due and payable but unpaid from the Client to Velocity Trade; less
- 23.3.1.1.3 the Termination Currency Equivalent of any amounts that are due and payable but unpaid from Velocity Trade to the Client; and
- 23.3.2 all obligations in respect of that netted balance are to be satisfied by payment of the net amount due from or on behalf of the party having a net debit to or on behalf of the party having a net credit.
- 23.4 On or as soon as reasonably practicable after the Termination Date, Velocity Trade is to give the Client notice specifying any amount payable in accordance with clause 23.3.
- 23.5 Any netted balance calculated in accordance with to clause 23.3 is payable in the case of –
- 23.5.1 a Termination Date which occurs as a result of an Event of Default, on the day on which notice given in accordance with clause 23.4 is effective; or
- 23.5.2 any other Termination Date, on the day which is two Business Days after the day on which notice given in accordance with clause 23.4 is effective.
- 23.6 The Parties agree that any Settlement Amount determined by reference to the Close Out Formula is a reasonable pre-estimate of loss and not a penalty.
- 23.7 The Parties agree that –
- 23.7.1 any Settlement Amount includes full and final payment in respect of the loss of bargain and the loss of protection against future risks; and
- 23.7.2 except as otherwise provided in this Agreement, neither Party is entitled to recover any additional damages as a consequence of those losses.
- 23.8 Notwithstanding any other provision of this Agreement and without limiting any right of setoff, off-set, combination of accounts, right of retention or withholding or similar right that either Party may have at law or in equity, the Client agrees that Velocity Trade may debit and set off at current value any moneys due and payable by the Client to Velocity Trade under this Agreement or any Transaction or otherwise against any currency deposits or other moneys held by Velocity Trade or payable by the Client.

- 23.9 The Client is liable to Velocity Trade for any costs and expenses incurred by Velocity Trade, acting reasonably, in connection with or arising out of the exercise by Velocity Trade of its rights under this clause, together with interest on those costs and expenses at the Cost of Funds.
- 23.10 The Client authorises Velocity Trade to withdraw the amount of any such costs, expenses or interest payable under clause 23.9 from the Velocity Trade bank account where Client Moneys are held (including, where relevant, the Segregated Funds Account).

24 INDEMNITY

- 24.1 The Client indemnifies Velocity Trade and the Associates (each, an indemnified party) against, and agrees to hold each of them harmless from, any and all losses, including consequential Loss, sustained or incurred by an indemnified party arising out of or in connection with –
- 24.1.1 any breach of representation or warranty made by the Client under or in connection with this Agreement or any Transaction; or
- 24.1.2 any failure by the Client to comply with or perform any of its obligations under or in connection with this Agreement or a Transaction; or
- 24.1.3 any access or use or attempted access or use to or of a Trading Platform by the Client and any person accessing or using a Trading Platform through any Security Credentials, whether or not such access or use is authorised by the Client; or
- 24.1.4 any third party claim related to the access or use or attempted access or use to or of a Trading Platform by the Client, any component of a Trading Platform or any data provided through a Trading Platform or relating to decisions or advice arising out of such access or use; or
- 24.1.5 any claim by any Licensor arising or resulting from the Client's' access or use or attempted access or use to or of an Electronic Trading Platform; or
- 24.1.6 any insufficiency whatsoever with respect to the environment from which the Client accesses or uses a Trading Platform and/or with respect to the Client's security measures to prevent unauthorised access to or use of a Trading Platform and any security breach in relation to a Trading Platform (including any access to or use of any of Velocity Trade's other systems not covered by this Agreement and any software viruses or other activities that comprise the security arrangements of Velocity Trade's IT infrastructure or network) caused directly or indirectly by the Client or any of its Representatives; or
- 24.1.7 any error, corruption or delay in any order or other instruction (whether oral, written or electronic) communicated by the Client; or
- 24.1.8 acting on any order or instruction (whether oral, written or electronic) which is, or appears to be communicated using any Security Credentials; or

- 24.1.9 the termination and close-out by Velocity Trade of any Transaction under this Agreement; or
- 24.1.10 the enforcement of an indemnified party's rights under this Agreement or any Transaction, except and to the extent that the loss or Consequential Loss is sustained or incurred by an indemnified party directly as a result of its gross negligence or wilful default.
- 24.2 If –
- 24.2.1 a judgment or order is rendered by any court or tribunal –
- 24.2.1.1 for the payment of any amount owing to an indemnified party; or
- 24.2.1.2 for the payment of damages in respect of any breach of this Agreement or any Transaction; or
- 24.2.2 under or in respect of a judgment or order of another court or tribunal for the payment of those amounts or damages; and
- 24.2.3 that judgment or order is expressed in a currency (the judgment currency) other than the Client Base Currency,
- then the Client indemnifies and holds harmless the indemnified party against any deficiency in terms of the Client Base Currency in the amount received by the indemnified arising or resulting from any variation between –
- 24.2.4 the rate of exchange at which the Client Base Currency is converted into the judgment currency for the purposes of that judgment or order; and
- 24.2.5 the rate of exchange at which the indemnified party is able to purchase the Client Base Currency with the amount of the judgment currency actually received by the indemnified party.
- 24.3 Each indemnity in this clause constitutes a separate and independent obligation of the Client from its other obligations under this clause.

25 EXCLUSION OF LIABILITY

- 25.1 Velocity Trade is not liable to the Client for any loss or consequential loss suffered or incurred by the Client arising out of or in connection with this Agreement or any Transaction, whether in contract, delict, or otherwise, including –
- 25.1.1 any error, corruption or delay in any order, instruction or other communication (whether oral, written or electronic) by the Client; or

- 25.1.2 Velocity Trade acting on any order, instruction or other communication (whether oral, written or electronic) through any Security Credentials; or
- 25.1.3 any misrepresentation of any information or general financial advice provided by or on behalf of Velocity Trade in relation to this Agreement or a Transaction; or
- 25.1.4 except in the case of fraud by Velocity Trade, the reliance of the Client on a rate or a price which the Client knew, or ought reasonably to have known, to be materially incorrect; or
- 25.1.5 the entry into of a Transaction, or other action, by the Client on the basis of money deposited in or credited to an Account, or (where applicable) the Segregated Funds Account or any other account where Client Money is held, in error by, or on behalf of, Velocity Trade; or
- 25.1.6 the exercise, attempted exercise or non-exercise of any of the rights, powers or remedies of Velocity Trade under this Agreement or any Transaction; or
- 25.1.7 the occurrence and continuance of any Force Majeure; or
- 25.1.8 any failure of the Client –
 - 25.1.8.1 to access or use the Trading Platform for its intended purposes, whether as a result of failure by Velocity Trade or otherwise; or
 - 25.1.8.2 to maintain the security, integrity and confidentiality of all Security Credentials; or
 - 25.1.8.3 to verify its Trading Platform Communications and any communications sent by Velocity Trade by way of the relevant Trading Platform, other notices and communications and other reports; or
 - 25.1.8.4 any deficiency whatsoever of the Trading Platform, including failure of, or inability to, access or use the Trading Platform; or
 - 25.1.8.5 the occurrence of Abnormal Market Conditions; or
 - 25.1.8.6 any failure of a telecommunications link or network by which the Client may seek access to or use of a Trading Platform; or
 - 25.1.8.7 with respect to any information published on the Website, including any claims or losses in relation to the accuracy, reliability or timeliness of such information; or
 - 25.1.8.8 with respect to any support, advice or assistance provided by Velocity Trade, including any claims or losses in relation to technical support, trading support and account administration support.

26 TAPE RECORDING

- 26.1 The Client acknowledges and agrees that Velocity Trade may –
- 26.1.1 record all telephone conversations between the Client and Velocity Trade; and
 - 26.1.2 submit the recording, or a transcript from the recording, as evidence to any court or in any proceeding for the purpose of establishing any matters pertinent to this Agreement or any Transaction.
- 26.2 The Client acknowledges and agrees that Velocity Trade is under no obligation to retain a recording or transcript made by Velocity Trade and that Velocity Trade may destroy such recording or transcript.

27 CONFIDENTIALITY

- 27.1 Each Party undertakes, without the prior written consent of the other Party –
- 27.1.1 not to use (other than in performing its obligations or exercising its rights under this Agreement or a Transaction) or disclose to any person any Confidential Information it has or acquires under or pursuant to this Agreement or any Transaction; and
 - 27.1.2 to make every effort, including issuing legal proceedings, to prevent the use or disclosure of Confidential Information by any person.
- 27.2 The obligations contained in clause 27.1 do not apply –
- 27.2.1 to the extent required by law, by the listing requirements of any relevant Exchange, External Exchange or other Public Authority; or
 - 27.2.2 to the extent that the information is already in the public domain (other than by virtue of a breach by it of the provisions of this Agreement or any Transaction); or
 - 27.2.3 to any information that each party agrees in writing is not Confidential Information; or
 - 27.2.4 to the extent that either party must use or disclose Confidential Information in order to perform its obligations under, or comply with the terms of, this Agreement or any Transaction; or
 - 27.2.5 to any information about the Client that Velocity Trade, in its absolute discretion, deems necessary to disclose to its Associates (and any third party pursuant to any Hedging Arrangements) provided that each of those persons –
 - 27.2.5.1 is made aware of the provisions of this clause; and

27.2.5.2 needs to know that information for the purpose of performing obligations or exercising rights under this Agreement, a Transaction or in connection with any Hedging Arrangements, as the case may be.

27.3 If either party becomes aware, or suspects, that any unauthorised person has obtained or attempted to obtain access to Confidential Information of the other party, that party is immediately to notify the other party and take the steps reasonably available to it to protect that Confidential Information.

28 DATA PROTECTION LAWS

Velocity Trade agrees that it shall –

28.1 use and apply appropriate measures, procedures and controls in the processing of the Client's personal information in terms of this Agreement, it being agreed that Velocity Trade shall process the Client's personal information in accordance with the Privacy Policy;

28.2 ensure that in the course of the performance of its obligations in terms of this Agreement, it complies with all Applicable Law relating to the protection of data or personal information, including but not limited to the Protection of Personal Information Act, 4 of 2013; and

28.3 comply with all applicable industry codes of conduct to the extent that they regulate or relate to the processing of personal information.

29 CONFLICTS OF INTEREST

29.1 Nothing in this Agreement prevents –

29.1.1 Velocity Trade providing advice and other Services to third parties whose interests may be in conflict or competition with the Client's interests; or

29.1.2 any of Velocity Trade, any of its Associates and any of its or their Representatives acting on behalf of other clients who may take positions opposite to the Client or may be in competition with the Client to acquire the same or a similar position.

29.2 The Client acknowledges and agrees that Velocity Trade is not responsible for any loss, including consequential loss, which may result directly or indirectly from advice, other Services or actions provided or taken pursuant to clause 29.1.

29.3 The Client acknowledges that Velocity Trade's relationship to the Client is not that of a fiduciary and Velocity Trade owes no fiduciary duties to the Client.

30 HEDGING ARRANGEMENTS

- 30.1 From time to time, Velocity Trade may effect hedging and other transactions with or through third parties, including its Associates, in order to hedge its exposure under this Agreement and Transactions.
- 30.2 For these purposes also, the Client –
- 30.2.1 acknowledges and agrees that Velocity Trade will withdraw funds from the Velocity Trade bank account where Client Moneys are held (including, where relevant, the Segregated Funds Account) and deposit those funds in one or more buffer accounts opened by Velocity Trade with a Hedging Counterparty for the purposes of providing a buffer or margin in relation to the Hedging Arrangements;
- 30.2.2 acknowledges and agrees that each such buffer account is not a trust account or a segregated funds account, such that any funds in that account may, subject to Applicable Law, be available to the creditors generally of the account holder; and
- 30.2.3 authorises Velocity Trade to withdraw from time to time, in respect of the Client, such amount from Velocity Trade bank account where Client Moneys are held (including, where relevant, the Segregated Funds Account) that Velocity Trade, in its absolute discretion, deems necessary or advisable in order that Velocity Trade is able to provide margin and a substantial additional buffer in relation to any transactions it has entered into or may enter into with any third party with whom Velocity Trade enters into Hedging Arrangements.

31 SHARING OF COMMISSIONS, FEES AND CHARGES

- 31.1 The Client acknowledges and agrees that Velocity Trade may share commissions, fees and charges with its Associates or other third parties or receive remuneration from them in respect of Transactions and/or Hedging Arrangements.
- 31.2 Details of these commissions, fees, charges, remuneration or sharing arrangements will be disclosed in accordance with any requirements of Applicable Law.

32 INSTRUCTIONS

32.1 Instructions

- 32.1.1 The Client may place an order or otherwise give Velocity Trade instructions (whether oral, written or electronic) as specified in any Risk Disclosure Statement or otherwise published or provided by Velocity Trade.
- 32.1.2 Velocity Trade may, in its absolute discretion, decide whether or not to accept any oral, written or electronic instructions.

- 32.1.3 Velocity Trade may act upon the oral, written or electronic order or instruction, including any Trading Platform Communications, of the Client, or any person who appears to Velocity Trade to be the Client, notwithstanding that the person is not, in fact, the Client.
- 32.1.4 In particular, Velocity Trade may act upon any Trading Platform Communications using the Client's Security Credentials.
- 32.1.5 The Client is to keep all security information relating to a Trading Platform, its Transactions, each Account and this Agreement, and all Security Credentials, confidential and secure.
- 32.1.6 Velocity Trade is not required to establish the authority of any person quoting the Client's Security Credentials.
- 32.1.7 If the Client is aware or suspects that any of these things is no longer confidential or secure, then the Client is to contact Velocity Trade as soon as practicable in order that it or they may be changed or otherwise made secure.

32.2 Required instructions, etc.

- 32.2.1 The Client must promptly give to Velocity Trade any instructions which Velocity Trade may require of the Client in respect of any Transaction or proposed Transaction.
- 32.2.2 If the Client does not promptly give those instructions, Velocity Trade, acting reasonably, may take the steps at the Client's cost and expense as Velocity Trade considers necessary or desirable for its own protection or the protection of the Client.
- 32.2.3 The Client authorises Velocity Trade to charge the Velocity Trade bank account where Client Moneys are held (including, where relevant, the Segregated Funds Account) with any such cost or expense of taking those steps.
- 32.2.4 The Client acknowledges and agrees that Velocity Trade is not responsible for notifying the Client of any times, dates or events that may be relevant to any Transaction (including in relation to Transactions where Velocity Trade may require instructions).
- 32.2.5 Velocity Trade may (but is not in any circumstances obliged to) require confirmation (in the form that Velocity Trade requires) of any order or instruction (whether oral, written or electronic) if –
- 32.2.5.1 the order or instruction is to close an Account or remit money due to the Client; or
- 32.2.5.2 it appears to Velocity Trade, acting reasonably, that the confirmation is necessary or desirable.

32.2.6 Velocity Trade may acknowledge an order, instruction or other communication (whether oral, written or electronic) orally, in writing or by way of a Trading Platform.

33 ASSIGNMENT

33.1 Subject to this clause, this Agreement is binding upon and ensures for the benefit of each of Velocity Trade and the Client and its successors and permitted assignees or transferees.

33.2 Velocity Trade may assign or transfer any of its rights or obligations under this Agreement or any Transaction without the consent of the Client. Each assignee or transferee is to have the same rights against the Client under this Agreement or any Transaction as if named in this Agreement as Velocity Trade.

33.3 Velocity Trade may disclose, on a confidential basis, to a potential assignee, transferee or other person with whom contractual relations in connection with this Agreement or any Transaction are contemplated, any information about the Client, whether or not that information was obtained in confidence and whether or not that information is publicly available.

33.4 The Client may not –

33.4.1 assign or transfer (whether absolutely, in equity, by way of security or otherwise), declare a trust over or otherwise deal with any of its rights or obligations under this Agreement or any Transaction; or

33.4.2 allow any such assignment, transfer, trust or dealing to subsist, without the prior written consent of Velocity Trade.

33.5 If an Event of Default occurs or the Client is in default of any of its obligations under this Agreement or any Transaction, Velocity Trade may (without prejudice to any other rights it may have) at any time afterwards assign and transfer to any person (including any third party with whom Velocity Trade has entered into Hedging Arrangements) with immediate effect all or any of its rights in respect of moneys owing to it under this Agreement or any Transaction, as well as any security or other remedies available to it in respect of those moneys.

33.6 If any such assignment is made, then the Client, if so required by Velocity Trade and the assignee and transferee, is to acknowledge in writing that the assignee and transferee has assumed the rights and obligations of Velocity Trade under this Agreement and any Transaction in relation to the relevant moneys.

34 DISPUTE RESOLUTION

34.1 The Parties agree that any dispute (including an alleged breach of, or default under, any Transaction) will be determined in terms of this clause by written notice given to the other Party in

accordance with the rules of the Arbitration Foundation of Southern Africa (“**AFSA**”) by an arbitrator or arbitrators nominated by the Parties.

34.2 This clause shall not preclude either Party from obtaining urgent relief from a court of competent jurisdiction.

34.3 The Parties hereby consent to the arbitration being dealt with on an urgent basis in terms of the Rules of AFSA should Velocity Trade, by written notice require the arbitration to be held on an urgent basis. In such event the Parties agree to apply jointly to the AFSA Secretariat as required in terms of the said Rules to facilitate such urgent arbitration.

34.4 The arbitrator shall be, if the matter in dispute is principally -

34.4.1 a legal matter, a practising advocate or attorney of Cape Town of at least fifteen years’ standing;

34.4.2 an accounting matter, a practising chartered accountant of Cape Town of at least fifteen years’ standing;

34.4.3 any other matter, any independent person,

agreed upon between the Parties.

34.5 Should the Parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within seven days after the arbitration was demanded, the matter shall be deemed to be a legal matter.

34.6 Should the Parties fail to agree on an arbitrator within fourteen days after the giving of notice in terms of clause 34.1, the arbitrator shall be appointed at the request of either Party to the dispute in terms of the Rules of AFSA.

34.7 The decision of the arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the court referred to in clause 34.8 at the instance of any of the parties to the dispute.

34.8 The Parties hereby consent to arbitration being held in Cape Town and to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to in clause 34.2.

34.9 The Parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated herein.

34.10 The provisions of this clause are severable from the rest of this Agreement and shall remain in effect despite the termination of or invalidity for any reason of this Agreement.

35 NOTICES AND ADDRESSES OF SERVICES

- 35.1 Each of the Parties choose as the address for service and delivery of documents their respective addresses set out in the Client Application for the purposes of the giving of any notice, the serving of any process and for any other purpose arising out of or in connection with this Agreement.
- 35.2 Each of the Parties shall be entitled from time to time to vary its address for the service and delivery of documents to any other address within the Republic of South Africa which is not a post office box or *post restante*.
- 35.3 Any notice given in terms of this Agreement shall be in writing and shall -
- 35.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
- 35.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 4th (fourth) day following the date of such posting;
- 35.3.3 if transmitted by facsimile be deemed to have been received by the addressee on the expiration of 24 (twenty four) hours after transmission;
- 35.3.4 if sent by courier be deemed to have been received on the date of delivery by the courier service concerned, unless the contrary is proved;
- 35.3.5 if transmitted by electronic mail message, be deemed to have been delivered to and received by the addressee when the complete electronic mail message enters an information system designated or used for that purpose by the addressee and is capable of being retrieved and processed by the addressee.
- 35.4 Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from the other including by way of facsimile transmission shall be adequate written notice or communication to such Party.

36 AMENDMENTS

- 36.1 Except as specifically otherwise provided, Velocity Trade may amend, modify or replace this Agreement or any part thereof, at any time by –
- 36.1.1 written notice to the Client in accordance with clause 34; and/or
- 36.1.2 posting notice accordingly and/or an amended form of this Agreement or the relevant part thereof on the Website; and/or
- 36.1.3 posting notice accordingly and/or an amended form of this Agreement or the relevant part thereof on an Electronic Trading Platform; and/or

- 36.1.4 as otherwise permitted by Applicable Law.
- 36.2 The Client acknowledges and agrees that –
- 36.2.1 Velocity Trade may make available to the Client any such notice and/or supplementary or new Risk Disclosure Statement, by any one or more of the means specified in clause 36.1; and
- 36.2.2 if the notice and/or supplementary or new Risk Disclosure Statement is made available to the Client by more than one means, it is deemed to be made available to the Client at the earliest possible time.
- 36.3 A notice and/or supplementary or new Risk Disclosure Statement posted on the Website or on an Electronic Trading Platform is deemed to have been made available to the Client at the time the relevant document was posted by Velocity Trade on the Website or on the Electronic Trading Platform.
- 36.4 Any amendment, modification or replacement to or of this Agreement, or any part thereof, is effective on the date specified in the notice.
- 36.5 The amendment, modification or replacement to or of this Agreement is deemed to be accepted by the Client if the Client –
- 36.5.1 continues to enter into Transactions by way of a Trading Platform; or
- 36.5.2 allows any outstanding Transaction to roll over.
- 5.1 This amendment, modification or replacement, where applicable, also amends the terms of any outstanding Transaction on that effective date.

37 GENERAL

- 37.1 Each of the provisions of this Agreement is separate and severable and enforceable accordingly. If any such term or condition is or becomes unenforceable for any reason whatsoever, that term or condition is severable from and shall not affect the validity of any other term or condition contained in this Agreement.
- 37.2 A certificate by Velocity Trade of any amount payable under this Agreement or any Transaction is, in the absence of manifest error or fraud, conclusive evidence for all purposes, including for any proceedings.
- 37.3 Each party will pay its own costs (including legal fees) of entering into -this Agreement.
- 37.4 If the Client is a trustee, the Client undertakes –
- 37.4.1 to notify Velocity Trade immediately in writing if –

- 37.4.1.1 the Client ceases for any reason or at any time to be the sole trustee of the trust; or
- 37.4.1.2 if there are two or more trustees, any other trustee ceases for any reason to be a trustee of the trust; or
- 37.4.1.3 the trust is determined or for any other reason ceases to exist; or
- 37.4.1.4 it becomes aware of any breach of trust; and
- 37.4.2 not to make any distribution of any capital of the trust which would result in the trust having insufficient assets to meet the Client's liabilities under outstanding Transactions and this Agreement.
- 37.5 Except as expressly set out in this Agreement, all warranties that may be implied into this Agreement by law are excluded to the maximum extent permitted by law.
- 37.6 Where this Agreement is executed by any party under power of attorney then, by executing this Agreement, each attorney is deemed to have stated that the attorney has received no notice of revocation of the relevant power of attorney.
- 37.7 The expiration, cancellation or other termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after such expiration, cancellation or other termination or which of necessity must continue to endure after such expiration, cancellation or other termination, notwithstanding that the relevant clause may not expressly provide for such continuation.
- 37.8 No indulgence, leniency or extension of time which any Party may give or allow to the other Party in respect of the performance of any obligation hereunder or under a Transaction, shall in any way prejudice the Party giving or allowing the indulgence, leniency or extension or preclude such Party from exercising any of its rights an enforcing the obligations of the other Party in terms of this Agreement and the Transaction. A provision of, or a right created under, this Agreement or any Transaction may not be waived except in writing executed by the party granting the waiver.
- 37.9 The person submitting the Application Form on behalf of the Client warrants his authority to do so.
- 37.10 This Agreement constitutes the entire agreement between the Parties as to the subject matter hereof and save as may be expressly set out herein, no agreements, representations or warranties between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.
- 37.11 The rights of each party under this Agreement and each Transaction are cumulative and not exclusive of any rights provided by law.