



TERMS OF BUSINESS

US RESIDENT

CLIENT MONEY

© FOREX CAPITAL MARKETS LTD

Return to:

Forex Capital Markets Ltd.
145 Leadenhall Street
2nd Floor
London EC3V 4QT
United Kingdom
Fax: +44 (0) 207 398 4051

Introduction

These terms of business, together with the Schedules and accompanying documents, as amended from time to time (“Terms of Business”) apply to Retail and Professional Clients of Forex Capital Markets Limited (“FXCM”). If you are a United States Resident, you are ineligible to enter into any CFD or spread betting transaction and therefore any reference to CFDs or spread betting in these Terms of Business does not apply to you.

These Terms of Business set out the terms of the contract between you and us. These Terms of Business are legally binding and shall take effect and be deemed accepted when we receive your executed signature page to these Terms of Business.

We will deal with you on an execution only basis at all times. Please note that we shall not provide you with any advice on the merits of you entering into these Terms of Business or any Transaction. We shall not provide you with any tax advice on the same. You may wish to seek independent advice before entering into these Terms of Business and/or any Transaction.

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General Terms

Schedule 1 – Elective Professionals Client Notice.

Schedule 2 – Complex Products General Risk Disclosure Notice.

Schedule 3 – Rolling Spot Forex Supplement.

Schedule 4 – Account Opening Forms and Signature Page.

These Terms of Business set out important aspects of the relationship between FXCM and its clients. If there is any aspect of these Terms of Business that you do not understand or where you require further information you should contact Client Services at Forex Capital Markets Limited at the address below:

Forex Capital Markets Ltd.

145 Leadenhall Street
2nd Floor
London EC3V 4QT
United Kingdom

Phone: +44 (0) 207 398 4050

Fax: +44 (0) 207 398 4051

E-mail: admin@fxcm.co.uk

Clients are asked to confirm their acceptance of these terms and conditions by either signing the signature page of these Terms of Business online through FXCM’s website or by signing and returning the hardcopy signature page of these Terms of Business enclosed.

1. General Information

1.1 **Information about us:** Forex Capital Markets Limited (“FXCM”, “we” or “us”) is authorised and regulated by the Financial Services Authority (“FSA”) with registration number 217689. FXCM’s principal place of business is at 145 Leadenhall Street, 2nd Floor, London, EC3V 4QT, United Kingdom. We are required to conduct our business and dealings with you in accordance with the rules of the FSA (the “FSA Rules”).

Please read these Terms of Business carefully as they contain important information concerning your and FXCM’s rights and obligations in relation to the services we agree to provide you. Please let FXCM know as soon as possible if there is anything which you do not understand.

1.2 **Our capacity:** We will deal with you as principal unless we inform you that we are dealing with you as agent generally or with respect to any Transaction or class of Transactions and every order which we may take is accepted and executed on the basis that we act on our own account as principal and not as your agent.

1.3 **Your capacity:** You will enter into Transactions as principal unless otherwise agreed in writing by us.

1.4 **Language of Communications:** You may communicate with us in English. All FXCM standard documents will be available in English. If a document is translated into another language this will be for information purposes only and the English version will prevail.

1.5 **Commencement:** These Terms of Business supersede any previous agreement between us on the same subject matter and takes effect when you signify your acceptance of these Terms of Business by either signing the signature page of these Terms of Business through FXCM’s webpage or by returning a signed hardcopy of the signature page of these Terms of Business. By completing and signing the signature page of these Terms of Business you confirm that you have read, understood and agree to be bound by these Terms of Business with us.

1.6 **Amendments:** These Terms of Business may be amended from time to time as set out in clause 27.1. Any changes to these Terms of Business will not apply to transactions opened prior to the date on which the changes become effective unless specifically agreed otherwise. Any amendments to these Terms of Business shall be deemed accepted if and when you place an order with us after the date on which the changes become effective.

1.7 **Duty to you:** Nothing in these Terms of Business shall exclude or restrict any duty or liability owed by us to you under the Financial Services and Markets Act 2000 (the “Act”) or FSA Rules. If there is any conflict between these Terms of Business and the FSA Rules, the FSA Rules shall prevail.

1.8 **Duties and responsibilities:** We assume no greater responsibility or fiduciary duty than that imposed by the FSA Rules or the express terms of these Terms of Business.

1.9 **Investments:** The particular Investments which are available to trade from FXCM are listed on the FXCM Online Facility and updated from time to time. These Terms of Business govern your relationship with FXCM for all Investments traded with FXCM.

2. Warnings

2.1 Margined trading carries a high risk. Please note:

- (a) you may sustain a total loss of initial margin funds and any additional funds deposited with FXCM to maintain your position, in addition to any liability detailed in Section 26.7;
- (b) you may not be responsible for debit balances directly resulting from trading activity, except in the case of a force majeure as detailed in Section 26.6;
- (c) if the market moves against your position or margin levels are increased you may be called upon to pay substantial additional funds on short notice to maintain your position;

- (d) if you fail to comply with a request for additional funds within the time prescribed, FXCM in its sole discretion may liquidate any or all of your positions at a loss;
- (e) whether you make a profit or a loss will depend on fluctuations in the underlying security or commodity which are outside FXCM's control.

2.2 You should read the General Risk Disclosure Notice at Schedule 2.

2.3 You must make an independent decision as to whether or not to enter into Margined Transactions with FXCM on our Terms of Business. Please note:

- (a) FXCM does not provide advice, FXCM will not advise on the merits or otherwise of your Margined Transactions;
- (b) the decision to place a Margined Transaction is yours alone. You (and not FXCM) are responsible for the effect a Margined Transaction might have on any open positions;
- (c) we deal with you on an execution only basis at all times;
- (d) we do not execute orders on your behalf, we simply provide a quote for a particular product and then deal as principal, and therefore do not offer best execution in accordance with FSA Rules, as detailed in Section 17.8 and 17.9 of these Terms of Business.

3. Interpretation

3.1 In these Terms of Business the following words and phrases have the following meanings:

Account	means an account of yours opened with us;
Account Opening Forms	means the application forms supplied by FXCM to open your Account;
Act	has the meaning given in clause 1.7 of these Terms of Business;
Affiliate	means any company or partnership controlled by, or controlling, or in common control with another person. A person, company or partnership shall be deemed to control another person, company or partnership if the former person, company or partnership possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other person, company or partnership whether through the ownership of voting securities or partnership interests, representation on its board of directors or similar governing body, by contract or otherwise;
Affiliated Company	means (in relation to a person) an undertaking in the same group as that person;
Applicable Regulations	means FSA Rules or any other rules of a relevant regulatory authority or any other Rules of a relevant Market and all other applicable laws, rules and regulations as in force from time to time;
Business Day	means a day (other than a Saturday or Sunday) on which: in relation to a date for the payment of any sum denominated in (a) any Currency (other than Euro), banks generally are open for business in the principal financial centre of the country of such

Currency; or

- (b) Euros, settlement of payments denominated in Euros is generally possible in London or any other financial centre in Europe selected by us;

and

in relation to a date for the delivery of any property,

property of such type is capable of being delivered in satisfaction of obligations incurred in the market in which the obligation to deliver such first property was incurred; and

for all other purposes, is not a bank holiday or public holiday in London;

Closing Date	means the date on which a Margined Transaction is closed in accordance with these Terms of Business;
Closing Notice	means a notice given by you or FXCM to close all or any part of any Margined Transaction;
Closing Price	means in the case of a Margined Transaction Contract, the exchange rate at which you can buy if the Margined Transaction Contract you wish to close was a sell and the exchange rate at which you can sell if the Margined Transaction Contract you wish to close was a buy;
Commission	means the commission, charges or other remuneration for the conduct of the business by FXCM as disclosed and as notified to you from time to time;
Credit Support Provider	means any person who has entered into any guarantee, hypothecation, agreement, margin or security agreement in our favour in respect of your obligations under these Terms of Business;
Currency	shall be construed so as to include any unit of account;
Elective Professional Client	has the meaning given in the FSA Rules effective from 1 November 2007;
Event of Default	means any of the events of default as listed in paragraphs (a) to (l) of clause 22.1 of these Terms of Business;
Exceptional Market Event	The suspension, closure, liquidation, imposition of limits, special, or unusual terms, excessive movement, volatility or loss of liquidity in any relevant market or underlying Financial Instrument, or where FXCM reasonably anticipates any of the above circumstances are about to occur;
Expiry Date	means the expiry date and time of a Margined Transaction as determined by FXCM;
FSA	means the Financial Services Authority or any successor organisation or authority for the time being responsible for the regulation of investment

	business in the UK;
FSA Rules	has the meaning given in clause 1.1 of these Terms of Business;
FXCM Online Facility	means the online licensed trading platform of FXCM;
Initial Margin	has the meaning given in clause 15.1 of these Terms of Business;
Interest Rate	means LIBOR (the London Interbank Offered Rate) plus a mark up not to exceed 4%, or such other benchmark interest rate as may be applicable and as selected by FXCM depending upon the currency of a CFD Contract, plus a mark up not to exceed 4%;
Investment	means Rolling Spot, precious metals or other investment;
Margin	has the meaning set out in clause 15.2 of these Terms of Business;
Margin Call Warnings	means a demand for such sums by way of Margin as FXCM may reasonably require for the purpose of protecting itself against loss or risk of loss on present, future or contemplated Transactions under these Terms of Business;
Margined Transaction	means any Rolling Spot Forex Contract, precious metals contract or any other Transaction liable to Margin;
Market	means any market or multilateral trading facility subject to government or state regulation with established trading rules and trading hours including without limitation a Regulated Market and a Multilateral Trading Facility (MTF) as defined in Article 4 of the Markets in Financial Instruments Directive 2004/39/EC;
Order	means an instruction to purchase or sell a Rolling Spot Forex Contract or other Margin Transaction at a price quoted by FXCM as appropriate;
Professional Client	has the meaning given in the FSA Rules effective from 1 November 2007;
Related Party	means related party as that term is defined under FSA Rules;
Retail Client	has the meaning given in the FSA Rules effective from 1 November 2007;
Rolling Spot Forex Contract	means any over the counter contract which is a purchase or sale of foreign currency entered into between you and FXCM, excluding forward contracts;
Rules	means articles, rules, regulations, procedures and customs, as in force from time to time;
Spread	means the difference between the lower and higher figures of a quoted two-way price for a market;
Transaction	means a contract in an Investment or any other contractual arrangement entered into between you and us including a Margined Transaction as defined in these Terms of Business.

United States Resident	means any natural person resident of the United States; any company, partnership, or other legal entity created or organised under the laws of any jurisdiction of the United States; a branch or agency of a foreign entity located in the United States; a trust of which the trustee is a United States resident; an estate of which a United States resident is the executor or administrator; or any account held for the benefit of a United States resident.
Variation Margin	has the meaning given in clause 15.2 of these Terms of Business;

3.2 **General interpretation:** A reference in these Terms of Business to a “clause” or “Schedule” shall be construed as a reference to, respectively, a clause or Schedule of these Terms of Business, unless the context requires otherwise. References in these Terms of Business to any statute or statutory instrument or Applicable Regulations include any modification, amendment, extension or re-enactment thereof. A reference in these Terms of Business to “document” shall be construed to include any electronic document. References to persons include bodies corporate, unincorporated associations and partnerships/persons, firms, companies, corporations, governments, states or agencies of a state or any associations or partnerships (whether or not having separate legal personality) of two or more of the foregoing. The masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires. Words and phrases defined in the FSA’s Rules have the same meaning in these Terms of Business unless expressly defined in these Terms of Business.

3.3 **These Terms of Business and the Schedules:** The clauses contained in these Terms of Business and its Schedules together constitute the Terms of Business. We may from time to time send to you further schedules with respect to a specific Market or classes of Investments which will also form part of the Terms of Business.

3.4 **Headings:** Headings are for ease of reference only and do not form part of these Terms of Business.

4. Client Classification

4.1 For the purposes of the services provided by FXCM under these Terms of Business we will act as principal and not as agent on your behalf. We shall treat you as a Retail Client, subject to the following:

- (a) if you satisfy the definition of Professional Client or Eligible Counterparty, we may notify you that we will treat you as such and the terms detailed in Schedule 1 shall apply; and
- (b) you may request a different client classification from the one we have allocated to you, but please be aware that we may decline such a request. If you do request a different categorization and we agree to such a request, you may lose the protection afforded by certain FSA Rules, a summary of these lost protections can be found in Schedule 1. This may include, but is not limited to:
 - (i) the requirement for us to act in accordance with your best interests;
 - (ii) our obligation to provide appropriate information to you before providing our services;
 - (iii) the restriction on the payment or receipt by us of any inducements;
 - (iv) our obligation to achieve best execution in respect of your orders;
 - (v) the requirement to implement procedures and arrangements which provide for the prompt, fair, and expeditious execution of your orders;
 - (vi) our obligation to ensure that all information we provide to you is fair, clear and not misleading; and

- (vii) the requirement that you receive from us adequate reports on the services provided to you.

5. Risk of Investment

- 5.1 At Schedule 2 of these Terms of Business you are provided with a General Risk Disclosure Notice (“Risk Notice”) in compliance with the rules of the FSA. This Risk Notice sets out the particular investment risks of investing in complex financial instruments (namely, Margined Transactions). **Your execution of this document will be treated as your informed acknowledgment that you have carefully read and are prepared to accept the risks outlined in the Risk Notice.** If there is anything you do not understand it is recommended that you seek specialist independent financial and/or legal advice, in particular, regarding the suitability of complex financial instrument trading.

6. Applicable Regulations, Market And Stock Exchange Requirements

- 6.1 **Subject to Applicable Regulations:** These Terms of Business and all Transactions are subject to Applicable Regulations so that: (i) if there is any conflict between these Terms of Business and any Applicable Regulations, the latter will prevail; and (ii) we may take or omit to take any action we consider necessary to ensure compliance with any Applicable Regulations and whatever we do or fail to do in order to comply with them will be binding on you.
- 6.2 **Market, Price Providing Bank, and Stock Exchange action:** If a Market, price providing bank, or Stock Exchange (or intermediate broker or agent, acting at the direction of, or as a result of action taken by, a Market or Stock Exchange) take any action which affects a Transaction, then we may take any action which we, at our discretion, consider desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on you.

Our Services

7. Execution and Advice

- 7.1 **Execution only:** We deal with you on an execution-only basis and will not make personal recommendations or advise on the merits of purchasing, selling or otherwise dealing in particular Investments or executing particular Transactions, their taxation consequences or the composition of any account or any other rights or obligations attaching to such Investments or Transactions. You should bear in mind that merely explaining the terms of a Transaction or Investments or its performance characteristics does not itself amount to advice on the merits of the investment.
- 7.2 **Incidental information:** Where we do provide general trading recommendations, market commentary, guidance on shareholding disclosure or other information:
- (a) this is incidental to your dealing relationship with us. It is provided solely to enable you to make your own investment decisions and does not amount to a personal recommendation or to advice;
 - (b) we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the legal, tax or accountancy consequences of any Transaction;
 - (c) where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction;

8. Charges and Payments

- 8.1 **Charges:** You will pay our charges as agreed with you from time to time or we may deduct such charges from any funds held by us on your behalf.
- 8.2 **Currency indemnity:** If we receive or recover any amount in respect of an obligation of yours in a Currency other than that in which such amount was payable, whether pursuant to a judgment of any court or otherwise, you shall

indemnify us and hold us harmless from and against any cost (including costs of conversion) and loss suffered by us as a result of receiving such amount in a Currency other than the Currency in which it was due.

8.3 If you direct FXCM to enter into any Currency Transaction:

- (a) any profit or loss arising as a result of a fluctuation in the exchange rate affecting such Currency will be entirely for your account and risk;
- (b) FXCM is authorised to convert funds in your Account for Margin into and from such foreign currency at a rate of exchange determined by FXCM on the basis of the then prevailing money market rates. In such circumstances, FXCM will not be liable to you for any loss suffered by you as a result of such action (although, FXCM will use reasonable endeavours to only convert such funds as may prudently be required to cover the position in respect of the relevant transaction).

8.4 **Payments and deliveries net:** Unless we give you written notice to the contrary, all payments and deliveries between us shall be made on a net basis and we shall not be obliged to deliver or make payment to you or both (as the case may be) unless and until we have received from you the appropriate documents or cleared funds.

8.5 **Remuneration and sharing charges:** We may receive remuneration from, or share charges with, an Affiliate or other third party in connection with Transactions carried out on your behalf. Details of such remuneration or sharing arrangements will be made available to you on written request.

8.6 **Dormancy Fee:** If there are no Transactions on your account for at least one (1) year, and your account balance is 50.00 units or less of the currency in which your account is denominated (JPY 5,000 or less for JPY denominated accounts), you will be subject to a dormant account fee (the “Fee”), in return for administrative and information services and/or access provided by FXCM to active accounts. The Fee will be equal to the lesser of the remaining balance in your account or 50.00 units of the currency in which your account is denominated (JPY 5,000 for JPY denominated accounts). Upon assessment of the Fee, your account will automatically be closed.

8.7 **Active Trader Fee:** If you choose to use FXCM’s Active Trader Platform, you agree to pay a commission charge of fifty U.S. dollars (\$50 USD) per million base currency traded, per side.

9. Taxes

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

9.2 In the event that we become liable to pay any tax on your behalf arising from or incidental to Transactions executed by you with us you shall reimburse us on demand in full for the amount of such tax paid by us. In the event that we become liable to pay any stamp duty, stamp duty reserve tax or any other similar documentary tax or duty in any jurisdiction (collectively “Stamp Duty”) in respect of any shares purchased or otherwise acquired by us or an Affiliate in order to hedge any Margined Transaction between us and you, you shall reimburse us on demand in full for the amount of such Stamp Duty paid by FXCM.

9.3 You shall indemnify us (the “Indemnified Party”) and keep the Indemnified Party indemnified from and against all costs, claims, demands and expenses arising in connection with (i) any failure by you to reimburse the Indemnified Party in accordance with clause 9.1 and 9.2 of these Terms of Business and (ii) any late payment or non-payment of any tax or Stamp Duty payable by you in respect of Transaction executed by you with the Indemnified Party.

Our Relationship with You

10. **Material Interest and Confidentiality**

- 10.1 **Material interests:** Your attention is drawn to the fact that when we deal with you or for you, we or an Affiliate or some other person connected with us may have an interest, relationship or arrangement that is material. Without limiting the nature of such interests, examples include where we or an Affiliate could be:
- (a) dealing in the investment, a related investment or an asset underlying the investment, as principal for our (or its) own account or that of someone else. This could include selling to you or buying from you and also dealing with or using the services of an intermediate broker or other agent who may be an Affiliate;
 - (b) matching (e.g. by way of a cross) your Transaction with that of another customer by acting on his behalf as well as yours;
 - (c) buying from you and selling immediately to another customer, or vice versa;
 - (d) holding a position (including a short position) in the Investment concerned, a related Investment or asset underlying the Investment;
 - (e) quoting prices to the market in the Investment, a related Investment or asset underlying the Investment;
 - (f) advising and providing other services to Affiliates or other customers who may have interests in Investments or underlying assets which conflict with your own.
- 10.2 You accept that we and our Affiliates may have interests which conflict with your interests and may owe duties which conflict with duties which would otherwise be owed to you, and consent to our acting in any manner which we consider appropriate in such cases subject to Applicable Regulations.
- 10.3 **No liability to disclose or account:** We will comply with Applicable Regulations binding on us, but we shall be under no further duty to disclose any interest to you, including any benefit, profit, commission or other remuneration made or received by reason of any Transaction or any matching transaction.
- 10.4 **Information Barriers:** We maintain arrangements which restrict access by our employees to information relating to areas of our business (and that of Affiliates) with which, and the affairs of clients with whom, they are not directly concerned. Accordingly, we shall not be required to have regard to or disclose to you or make use of any information which belongs to or is confidential to another client or to us or any Affiliate, and we may be unable to advise or deal with you in relation to particular investments without disclosing the reason for this.
- 10.5 **Deals using a connected broker:** Where a material connection exists between us and a connected broker, you hereby agree that you do not require us to give you notice of that.

11. **Conflict of Interests**

- 11.1 **Conflicts Policy:** We are required to have arrangements in place to manage conflicts of interest between us and our clients and between different clients. We operate in accordance with a conflicts of interest policy we have put in place for this purpose under which we have identified those situation in which there may be a conflict of interest, and in each case, the steps we have taken to manage that conflict. A summary of our conflicts policy is available on the FXCM Online Facility [Retail Clients only]. Further details of this will be provided on request.
- 11.2 **Disclosure to you:** We shall not be obliged to disclose to you or take into consideration any fact, matter or finding which might involve a breach of duty or confidence to any other person, or which comes to the notice of any of our directors, officers, employees or agents but does not come to the actual notice of the individual or individuals dealing with you.

12. Market Abuse

12.1 **Market abuse:** By entering into any Transaction you represent and warrant that you will act in accordance with the Act and any Applicable Regulations, you are not acting in any way which is intended to or may be considered to be “Market Abuse” a defined term in the Act, nor are you acting with the intention of contravening any other provision of the Act, the FSA Rules, or any other Applicable Regulation.

13. Account Opening

13.1 An Account must be opened prior to entering into any Transaction with FXCM. No Orders can be placed until an Account has been opened and cleared funds received. Without prejudice to the foregoing, if FXCM permits you to place an Order notwithstanding that an Account has not been opened, or cleared funds received, this shall not limit your liability to FXCM pursuant to these Terms of Business in respect of the Order placed. FXCM may, at its absolute discretion, refuse to accept you as a client for whatever reason but will notify you of any such refusal, without giving any reasons, promptly following your application.

13.2 To assess your credit worthiness, manage credit risk and to prevent fraud (or other criminal activity) you acknowledge and agree that we may:

- (a) make periodic searches and enquiries about you and any Related Party at credit reference agencies, and your employers, if applicable;
- (b) disclose information to organisations involved in fraud prevention; and
- (c) obtain information from and disclose information to other broker-dealers or investment managers which deal in or manage investments for you concerning any payment or security default or concerning any investment which is related to or connected with Margined Transactions which you seek to open with us.

13.3 Any limits for your Account (including any credit limits) will be set and varied from time to time with regard to your credit status and, where applicable, the amount of funds deposited by you with us which may, in its sole discretion apply a limit to:

- (a) the size of any Transaction or series of Transactions that you may enter into; and
- (b) the amount of any loss or liability to which you may be exposed.

13.4 Account limits do not limit or represent your liability for losses to FXCM, and the funds you may have from time to time on deposit with us as Margin or otherwise do not represent any limit upon your financial liability to us.

14. Account Payments

14.1 **Payment:** We will only accept deposits from you by an approved credit card, crossed cheque, BACS, telegraphic transfer and SWIFT. No cash will be accepted. Payments may be denominated in UK pounds Sterling, US Dollars, Euros, or any other Currency agreed in advance with us.

14.2 **Payment Terms:** You agree to make payments due to us under these Terms of Business in accordance with the following terms:

- (a) all electronic or telegraphic transfer or other bank fees in respect of payment by you shall be your sole responsibility;
- (b) if any payment is not received by us on the due date for payment then, without limitation of any other rights which we may have, we will be entitled to charge interest on the overdue amount (both before and after judgment) at the Interest Rate from the date payment was due until the actual date of payment;

- (c) if you make a payment by an approved credit card and then request that payment to be returned to the approved credit card, please note that we reserve the right to charge an administration fee (details of which are available on request);
 - (d) you shall pay to us on demand in a full indemnity basis all costs, charges, and expenses incurred by us in relation to any overdue payment (including any referral fees);
 - (e) any payment made to us will only be deemed to have been received when we receive cleared funds; and
 - (f) it is your responsibility to ensure that payments made to us are correctly designated in all respects.
- 14.3 **Payment Withheld:** If the statement of your Account shows a credit balance, you may request us to send you a cheque or effect payment by alternative means in respect of such amount. However, we may at our discretion elect to withhold (or if applicable, deduct) any payment requested (in whole or in part) due to you if:
- (a) open Margined Transactions on the Account show notional losses;
 - (b) we reasonably consider that funds may be required to meet any current or future margin requirement on open Margined Transactions due to underlying market conditions;
 - (c) you have any contingent liability to us or to any of our affiliates in respect of any other account you have opened with them; and/or
 - (d) we reasonably determine that there is an unresolved dispute between us in connection with these Terms of Business or any related contract.
- 14.4 **Base currency:** You shall designate a base currency of your Account which shall either be UK Pounds Sterling, US Dollars, Euros, or any other currency agreed in advance with us (the “Base Currency”). Any sums deposited in your Account, if in a Currency other than the Base Currency of the Account, may be converted to that Base Currency at the prevailing conversion rate as designated by us unless alternative instructions from you are accepted by us. If any interest costs, commission and other charges to be debited to your Account are in a currency other than the Base Currency they may be converted to that Base Currency at the prevailing conversion rate as designated by us.
- 14.5 All payments from your Account will be made on your request in the Base Currency of that Account unless another Currency is agreed in advance between you and us and may be made in the form of a return payment to a credit card, crossed cheque naming you, via BACS transfer, Telegraphic Transfer or SWIFT. We shall not be obliged to make any payment to you unless your cash balance remaining after making the payment would be sufficient to cover your Margin and any unrealised losses in relation to your open Margined Transactions.
- 14.6 No instructions to pay a third party from your Account will be accepted by us unless otherwise agreed in writing by us.
- 14.7 In the event the applicable paying agent declines to transfer funds from you to us for any reason then we may treat any Margined Transaction placed or entered into in reliance upon receipt of the funds as void and of no further effect and we shall be entitled to recover any losses arising from any such Margined Transaction from you.
- 14.8 Your cash balance:
- (a) will be credited from time to time with the amount of each payment of Margin and any other payment received by us from you pursuant to these Terms of Business; and
 - (b) will be debited by:
 - (i) the amount of each payment made by us to you at the your request pursuant to clause 14 of these Terms of Business; and

- (ii) realised losses payable.

14.9 You hereby indemnify and hold us harmless against any costs or expenses (including all legal costs) which we may incur, either before or after the commencement of any legal action, to recover the requisite payment as a result of your failure to make payment within the stipulated period. We may convert money standing to your credit on your Account or paid by you to us or due to be paid by us from one currency to another at prevailing market rates available to us (after accounting for commissions or charges).

15. Margin

15.1 **Margin Arrangements:** As a condition of entering into a Margined Transaction, we may in our sole discretion require the deposit of funds or other collateral acceptable to us as security for payment of any losses incurred by you in respect of the Transaction (“Initial Margin”). Initial Margin is due and payable immediately as a condition to opening the relevant Margined Transaction and we may decline to open any Margined Transaction if you do not have sufficient available cash in your Account to satisfy the Initial Margin required for that Transaction at the time the relevant Order is placed.

15.2 Margin requirements may be set and varied without prior notice from time to time at our discretion including without limitation subsequent variation of any Margin rates set at the time that a Margined Transaction is opened (“Variation Margin” and together with Initial Margin, “Margin”).

15.3 **Form of Margin:** Margin shall be provided by or on behalf of you in cash or collateral acceptable to us as determined by us in our absolute discretion. You must inform us immediately if you cannot, or believe you will not be able to, meet a Margin payment when due. You are obligated to maintain in your account, at all times, sufficient funds to meet all Margin requirements. We are not obliged to make Margin Call Warnings of you at all or within any specific time period. You may by agreement with us satisfy a Margin Call Warning by providing collateral in a form acceptable to us. In addition we shall be entitled to treat any assets deposited with us by you from time to time (other than assets deposited for safe custody only) as collateral against your Margin requirements. In all cases we shall be entitled in our sole discretion to determine the value of any collateral deposited with us.

15.4 We are entitled to require payment of Margin of you (whether resident in the UK or in another jurisdiction) by telegraphic transfer or any other method of immediate/electronic funds transfer acceptable to us. Only funds received net of any bank charges, which relate to the transfer, will be credited as paid.

15.5 **Close-out:** In the event that there is insufficient Margin in your Account or in the event that the deposited Margin is not sufficient to meet the required Margin rates, as determined by us in accordance with clause 15.2 of these Terms of Business, we may in our sole discretion choose to close or terminate your Margined Transaction immediately, without notice to you. Subject to clauses 15.6 and 15.8 of these Terms of Business, this will not constitute an Event of Default. If we choose not to close or terminate your Margined Transaction, we may make a Margin Call Warning in accordance with clause 15.7 of these Terms of Business.

15.6 Without prejudice to the foregoing, any Transaction entered into by you or on your behalf which results in there being insufficient Margin to cover any actual or anticipated losses or liabilities in connection with your Account will constitute an Event of Default and we may in our discretion exercise our rights in clause 22 of these Terms of Business, whether there has been a Margin Call Warning or not.

15.7 **Margin Call Warnings:** Notwithstanding the fact that we are not obliged to make Margin Call Warnings prior to liquidating your Margined Transactions if you fail to maintain sufficient funds to meet the Margin requirements, Margin Call Warnings may be made at any time by telephone, telephone answering machine message, voice mail, letter, fax, e-mail or any other means of electronic communication. Therefore you must notify us immediately and provide alternative contact details to ensure Margin Call Warnings can be made if you will not be contactable at your usual contact details provided, e.g. when you are traveling or on holiday. Any Margin Call Warnings we make of you may be made by any method of communication listed above. We shall be deemed to have made a Margin Call Warning if we notify you electronically via the FXCM Online Facility. We shall not be liable for any failure by us to contact you or attempt to contact you. Should we decide to make a Margin Call Warning, the terms and conditions of the Margin Call Warning will be detailed within the Margin Call Warning and we reserve the right to

change the terms and conditions of any Margin Call Warning based on market conditions, without notice to you. If we make a Margin Call Warning, in no way does this waive our right to liquidate your Margined Transactions as detailed in Section 15.5.

- 15.8 Any payment made by or on your behalf in satisfaction of a Margin Call Warning must be received by us within the time specified within the Margin Call Warning. We may in our sole discretion close or terminate your Margined Transactions without notice to you immediately and decline to enter into any further Margined Transactions with you if you fail to honour any Margin Call Warning and this shall constitute an Event of Default and we may exercise our rights in clause 22 of these Terms of Business.
- 15.9 You acknowledge that under FSA Rules, we may be obliged, in the absence of formal arrangements to the contrary, to close your Margined Transaction in the event that a Margin Call Warning remains unsatisfied after a period of five (5) Business Days.
- 15.10 **Security interest:** As a continuing security for the performance of all your obligations (whether actual or contingent, present or future) to us under or pursuant to these Terms of Business (“**Secured Obligations**”) you grant to us, with full title guarantee, a first fixed security interest in all non-cash Margin now or in the future provided by you to us or to our order or under our direction or control or that of an Exchange or Market or otherwise standing to the credit of your account under these Terms of Business or otherwise held by us or our Affiliated Companies or our nominees on your behalf.
- 15.11 **Further assurance:** You agree to execute such further documents and to take such further steps as we may reasonably require to perfect our security interest over, be registered as owner of or obtain legal title to the Margin, secure further the Secured Obligations, enable us to exercise our rights, or to satisfy any market requirement.
- 15.12 **Substitution:** You may not withdraw or substitute any property subject to our security interest without our consent.
- 15.13 **Negative pledge:** You undertake neither to create nor to have outstanding any security interest whatsoever over, nor to agree to assign or transfer, any of the Margin transferred to us, except a lien routinely imposed on all Securities in a clearing system in which such Securities may be held.
- 15.14 **Power to charge:** You agree that we may, free of any adverse interest of yours or any other person, grant a security interest over Margin provided by you to cover any of our obligations to an intermediate broker Market or Exchange, including obligations owed by virtue of the positions held by us or another of our customers.
- 15.15 **Power of sale:** If an Event of Default occurs, we may exercise the power to sell all or any part of the Margin. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to these Terms of Business or to any exercise by us of our rights to consolidate mortgages or our power of sale. We shall be entitled to apply the proceeds of sale or other disposal in paying the costs of such sale or other disposal and in or towards satisfaction of the Secured Obligations.
- 15.16 **General lien:** In addition and without prejudice to any rights to which we may be entitled under these Terms of Business or any Applicable Regulations, we shall have a general lien on all property held by us or our Affiliates or our nominees on your behalf until the satisfaction of the Secured Obligations.
- 15.17 Any action taken by us in connection with or pursuant to a Margined Transaction by us at a time at which any Event of Default specified in clause 22 of these Terms of Business has occurred (whether or not we have knowledge thereof) shall be entirely without prejudice to our right to refuse any further performance thereafter, and shall not in any circumstances be considered as a waiver of that right or as a waiver of any other rights of ours should any such Event of Default have occurred.

Order Placement

16. Online Access

- 16.1 **Access Code:** In order to use the FXCM Online Facility you will need to request a username and password (“Access Code”) from FXCM. You will need to provide the Access Code each time you wish to use the Online Facility.
- 16.2 In relation to the Access Code you acknowledge and undertake that:
- (a) you will be responsible for the confidentiality and use of your Access Code.
 - (b) other than with our prior written consent, you will not disclose your Access Code to persons other than your Authorised Representatives for any purpose whatsoever.
 - (c) FXCM may rely on all instructions, orders and other communications entered using your Access Code, and you will be bound by any transaction entered into or expense incurred on your behalf in reliance on such instructions, orders and other communications; and
 - (d) you will immediately notify us if you become aware of the loss, theft or disclosure to any third party or of any unauthorised use of your Access Code.
- 16.3 If FXCM believes that your Access Code is being used without your knowledge by unauthorised persons, we may without prior notice suspend your rights to use the FXCM Online Facility. Further, if FXCM believe that you have supplied your Access Code to other persons in breach of clause 16.2(b) of these Terms of Business, then we may terminate these Terms of Business forthwith.

17. Instructions and Basis of Dealing

- 17.1 **Placing of instructions:** Unless otherwise agreed by FXCM all Orders for execution of Transactions between you and FXCM must be given to us electronically through the FXCM Online Facility or by telephoning our affiliate, Forex Capital Markets LLC, who will receive and transmit your Order to us for execution. Employees of Forex Capital Markets LLC will not be regulated by the FSA pursuant to an FSA overseas exemption, and are thus not required to offer best execution. Forex Capital Markets LLC is only responsible for arranging the execution of Orders placed by telephone and acts as an agent on your behalf. FXCM will still be your principal to any Transaction arranged by Forex Capital Markets LLC. FXCM will take responsibility, and be liable, for all conduct of Forex Capital Markets LLC and its employees. The charges, remuneration and commission receivable by FXCM set out in these Terms of Business and other documents we may direct you to, will not differ because of your involvement with Forex Capital Markets LLC.
- 17.2 **Communication of Orders:** Orders by telephone will only be accepted by Forex Capital Markets LLC during specified hours which will be notified to you from time to time. Forex Capital Markets LLC may impose more restrictive time limits on when orders may be placed. When you place an order by telephone, you can do so only by talking directly to a broker of Forex Capital Markets LLC. No messages may be left, and no orders may be placed using answer phone or voicemail facilities or by facsimile. All telephone calls are recorded for the purposes of fraud prevention and quality control and by agreeing to these terms and conditions you agree to the recording of such telephone conversations.
- 17.3 Any Order to execute a Transaction shall not take effect unless actually received by FXCM. FXCM shall be entitled to rely upon any instruction given or purporting to be given by you or any other person on your behalf without further enquiry as to the genuineness, authority or identity of any such person giving or purporting to give such instructions.
- 17.4 FXCM may, at its discretion refuse to accept any Order from you but will notify you of any such refusal, without giving any reasons, promptly following receipt of your instructions. FXCM may cancel any instructions previously given by you provided that FXCM has not acted on your instructions. Acceptance of your Order will be evidenced by FXCM’s confirmation of that Order. The validity of any Order shall not, however, be affected by you not

receiving confirmation of an Order. Acceptance of any Order does not constitute any agreement or representation that your initial Margin or Margin requirement in respect of the Order or your existing Order is satisfied.

- 17.5 **Regulated Market:** You acknowledge and agree that by executing the signature page of these Terms of Business that you have given us your prior express consent to execute all Orders outside a regulated market or multi-lateral trading facility (as such terms are defined by FSA Rules.)
- 17.6 **Confirmations:** FXCM may post confirmations on-line, which you will be able to access using the FXCM Online Facility. FXCM will post details of your Account activity on-line and you will be able to generate daily, monthly and yearly reports of Account activity as well as reports of each executed trade. Updated Account information will be available no more than twenty-four hours after any activity takes place on your Account. Posting of Account information on your on-line Account will be deemed delivery of confirmation and Account statements. Account information will include trade confirmations with ticket numbers, purchase and sale rates, used Margin, amount available for Margin trading, statements of profits and losses, as well as current open or pending positions and any other information as required by FSA Rules. Please notify us if you wish to receive confirmations in hard copy or by e-mail rather than through the FXCM Online Facility. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within three (3) Business Days of dispatch to you or we notify you of an error in the confirmation within the same period.
- 17.7 **Intermediate brokers and other agents:** We may, at our entire discretion, arrange for any Transaction to be effected with or through the agency of an intermediate broker, who may be an Affiliate of ours, and may not be in the United Kingdom. Neither we nor our respective directors, officers, employees or agents will be liable to you for any act or omission of an intermediate broker or agent. No responsibility will be accepted for intermediate brokers or agents selected by you.
- 17.8 **No Best Execution:** We will deal with you as principal in relation to any Orders and we will not act as your agent or act on your behalf in relation to any Orders. Rather, we will provide you with a price quote and you may place an Order on the basis of that price quote. Accordingly, we do not owe you any obligation of best execution and do not agree to obtain the best possible price for you. In this regard, we shall not be obliged to comply with the FSA Rules on best execution.
- 17.9 If we execute any Orders on your behalf, such as executing Orders as your agent, such Orders will be executed in compliance with the FSA's best execution rules and in accordance with our Order Execution Policy, a copy of which we have separately provided on the FXCM Online Facility, which may be amended from time to time. Each time you enter an Order you are deemed to have agreed to our Order Execution Policy.
- 17.10 **Aggregation of orders:** To the extent that we expressly agree in writing to execute Orders on your behalf in accordance with clause 17.9 of these Terms of Business, we may combine your Order with any Orders of our own and Orders of other customers. By combining your Orders with those of other customers we must reasonably believe that this is in the overall best interests of our customers. However, on occasions aggregation may result in you obtaining a less favourable price. Where we aggregate your Order with Orders of other customers, you agree that allocation of the investments concerned may be done within a period of five (5) Business Days after the Order has been filled. Where an Order for a particular customer has been aggregated with Orders for another customer, we will take great care to ensure a fair allocation of Investments available across those Orders. Where there is an insufficient quantity of Investments available to fill all Orders any allocation undertaken by us will be:
- (a) completely even across all interested parties;
 - (b) take account of the time of receipt of an Order such that Orders are allocated in due turn; or
 - (c) take account of the size of each Order with allocation being in proportion to the relative Order sizes.
- 17.11 **Execution Errors:** All orders executed by FXCM should be displayed on FXCM's Online Facility. Any failure or delay in any order being displayed on FXCM's Online Facility shall not affect the validity of the order. If FXCM has executed an order, but it is not displayed, it is solely your responsibility to make further inquiry of the FXCM Online Facility to obtain confirmation of the execution of the order. Any failure or delay by you in contacting

FXCM shall not affect the validity of any order. Once an order has been executed, you should be deemed to have entered into a corresponding contract with FXCM whether or not the corresponding order is displayed on the FXCM Online Facility.

- 17.12 If you incorrectly or erroneously submit an order, which is executed, you shall notify FXCM of the error immediately upon becoming aware of the error. You shall also notify FXCM at the same time whether you wish FXCM in respect of the error trade to either:
- (a) maintain the contract in your name with FXCM in the same size and at the same price as the executed order; or
 - (b) reverse the executed order.

18. **Appropriateness**

- 18.1 Before accepting any Order, you must record your investment knowledge and experience in the Account Opening Forms.
- 18.2 On the basis of this information and in accordance with the Applicable Rules we will assess whether opening an Account is appropriate for you. We will not be able to take your borrowings or leverage into account in assessing your investment risk appetite or capacity. You should be aware that leverage may dramatically increase the risk of investments, particularly where large positions can be taken in reliance on a small amount of initial Margin, as is common when dealing in Margined Transactions. Where you are classified as a Professional Client we will make certain assumptions about the appropriateness of the service provided, and we are entitled to assume that you have the requisite knowledge and experience in the relevant investment field. If you do not consider this to be the case, you must make us aware of this prior to the provision of the service and provide us with any available information as to the level of your knowledge and experience. It is your responsibility to inform us in writing of any information which might reasonably indicate that this assessment should be changed.

19. **Client Money**

- 19.1 Any money received by FXCM in respect of your Account with FXCM shall be treated as "Client Money" in accordance with the then applicable FSA's Client Money Rules including where you transfer full ownership of money to FXCM for, amongst other things, the purpose of security or otherwise covering present or future, actual or contingent or prospective obligations, such as margin.
- 19.2 In relation to Client Money:
- (a) unless you notify us in writing or otherwise, we may hold Client Money in a Client bank account opened with either an approved bank in the United Kingdom or in any other country. Your Client Money may therefore be held outside the United Kingdom and in such circumstances the legal and regulatory regime applying to the approved bank with which your bank account is opened will be different from that of the United Kingdom;
 - (b) unless you request us in writing or otherwise, we intend to hold Client Money in a FXCM Client Money bank account in the United Kingdom;
- 19.3 In respect of clause 19.2 (a) we will request that the applicable bank provide the acknowledgement required by FSA's Rules provided that in the case of a Client bank account in the United Kingdom, if the bank does not provide such acknowledgement within twenty (20) Business Days after we have dispatched the notice, we will (a) notify you of such fact and (b) withdraw all money standing to the credit of the account and deposit it in a Client bank account with another bank as soon as possible. Unless specifically agreed to the contrary we will not pay you interest on Client Money or any other unencumbered funds.
- 19.4 Unless you notify us in writing or otherwise, we may allow another person, such as an exchange, a clearing house or an intermediate broker, to hold or control Client Money where we transfer the Client Money (a) for the purposes of a

transaction for you through or with that person; or (b) to meet your obligations to provide collateral for a Transaction (e.g. an initial margin requirement for a derivative transaction).

- 19.5 You consent to us releasing any Client Money balances, for or on your behalf, from client bank accounts and for us to treat as Client Money any unclaimed Client Money balance where:
- (a) we have determined that there has been no movement on your balance for a period of six (6) years (notwithstanding any payments or receipts of charges, interest or similar items); and
 - (b) we have written to you at your last known address informing you of our intention of no longer treating that balance as Client Money, giving you twenty-eight (28) days to make a claim, provided we:
 - (i) shall make and retain records of all balances released from your Client bank accounts; and
 - (ii) undertake to make good any valid claims against any released balances.

20. Net Payment

- 20.1 We may at any time set off any liabilities to make payment owed by us to you against any liability of yours to make payment to us.

Representations and Undertakings

21. Representations, Warranties and Covenants

- 21.1 ***Representations and warranties:*** You represent and warrant to us on the date these Terms of Business come into effect and as of the date of each Transaction that:
- (a) [For individuals] you are of sound mind, legal age and legal competence;
 - (b) regardless of any subsequent determination to the contrary, you are suitable to trade Margined Transactions and that you are aware of the risks involved with such transactions;
 - (c) you have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform these Terms of Business and such Transaction and to grant the security interests and powers referred to in these Terms of Business;
 - (d) any change to the details supplied on your Account Opening Forms must be immediately notified to us in writing;
 - (e) the persons entering into these Terms of Business and each Transaction on your behalf have been duly authorised to do so;
 - (f) these Terms of Business, each Transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, Order, charge or agreement by which you are bound;
 - (g) no Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination of the above) an Event of Default (a "Potential Event of Default") has occurred and is continuing with respect to you or any Credit Support Provider;
 - (h) unless you have informed us otherwise you act as principal and sole beneficial owner (but not as trustee) in entering into these Terms of Business and each Transaction;

- (i) any information which you provide or have provided to us in respect of your financial position or other matters is accurate and not misleading in any material respect;
- (j) you are willing and financially able to sustain a total loss of funds resulting from Transactions;
- (k) you have consistent and uninterrupted access to internet service and the e-mail address provided on your Account Opening Forms;
- (l) except as otherwise agreed by us, you are the sole beneficial owner of all Margin you transfer under these Terms of Business, free and clear of any security interest whatsoever other than a lien routinely imposed on all Securities in a clearing system in which such Securities may be held; and
- (m) if you are not a resident in the UK, you are solely responsible for ascertaining whether any Transaction entered into under these Terms of Business is lawful under applicable laws of the jurisdiction of your residence.

21.2 **Covenants:** You covenant to us that:

- (a) you will at all times obtain and comply, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences and authorisations referred to in this clause;
- (b) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself or any Credit Support Provider;
- (c) you will use all reasonable steps to comply with all Applicable Regulations in relation to these Terms of Business and any Transaction, so far as they are applicable to you or us;
- (d) upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Regulations; and
- (e) the information disclosed in the Account Opening Forms (including any financial information) is true, accurate, and complete in all material respects. You must notify FXCM immediately of any changes to any information you have provided to FXCM.

22. Events of Default

22.1 If at any time:

- (a) you fail to comply fully and immediately with any obligation to make any payment when due under these Terms of Business or to make or take delivery of any property when due under these Terms of Business;
- (b) we have reasonable grounds to believe that you are in breach of any material provision of these Terms of Business;
- (c) we consider it necessary or desirable for our own protection or any action is taken or event occurs which we consider might have a material adverse effect upon your ability to perform any of your obligations under these Terms of Business;
- (d) we consider it necessary or desirable to prevent what is considered to be or might be a violation of any laws, Applicable Regulations, the Act, or good standard of market practice;
- (e) you die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you, or any indebtedness of yours is not paid on the due date therefore or becomes capable at any time of being declared due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to these Terms of Business

("Proceedings") are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);

- (f) you commence a voluntary case or other procedure seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, insolvency officer or other similar official (each an "Insolvency Officer") of you or any substantial part of your assets, or if you take any corporate action to authorise any of the foregoing;
- (g) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of an Insolvency Officer of you or any substantial part of your assets;
- (h) you or any Credit Support Provider (or any Insolvency Officer acting on behalf of either of you) disaffirm, disclaim or repudiate any obligation under these Terms of Business or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party, or of you, in favour of us supporting any of your obligations under these Terms of Business (individually a "Credit Support Document");
- (i) any representation or warranty made or given or deemed made or given by you under these Terms of Business or any Credit Support Document proves to have been untrue, false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (j) any Credit Support Provider fails to comply with or perform any agreement or obligation to be complied with or performed by you or it in accordance with the applicable Credit Support Document;
 - (i) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations under these Terms of Business, unless otherwise agreed in writing by us;
 - (ii) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
 - (iii) any event referred to in paragraphs (d) to (g) or (j) of sub-clause 1 of this clause occurs in respect of any Credit Support Provider; or
 - (iv) you are dissolved, or, if your capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedures are commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration;
- (k) where you or your Credit Support Provider is a partnership, any of the events referred to in paragraphs (d) to (g) or (j) of sub-clause 1 of this clause occurs in respect of one or more of your or its partners;
- (l) an Event of Default (however described) occurs in relation to you under any other agreement between us;

then we may exercise our rights under clause 22.2 of these Terms of Business.

- 22.2 Upon occurrence of an Event of Default we may by notice specify a date for the termination of any outstanding Transactions entered into between us except that the occurrence of an Event of Default under subparagraphs (d) to (g) or (j) of clause 22.1 shall result in the automatic termination of any outstanding Transaction. Neither of us shall

be obliged to make any further payments or deliveries under any Transactions which would but for this clause, have fallen due for performance on or after the termination of any outstanding Transactions. We shall be entitled without prior notice to you:

- (a) instead of returning to you investments equivalent to those credited to your Account, to pay to you the fair Market value of such investments at the time we exercise such right;
- (b) to sell your investments in our possession or in the possession of any nominee or third party appointed under or pursuant to these Terms of Business, in each case as we may in our absolute discretion select or and upon such terms as we may in our absolute discretion think fit (without being responsible for any loss or diminution in price) in order to realise funds sufficient to cover any amount due by you hereunder;
- (c) to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments;
- (d) to realise in accordance with this clause or to sub-pledge any securities or other assets of yours held by FXCM;
- (e) to call any guarantee or indemnity provided by or on behalf of you;
- (f) to exercise our rights of set-off pursuant to this clause;
- (g) to close any and all of your Accounts; and/or
- (h) to treat any or all Transactions then outstanding as having been repudiated by you, in which event our obligations under such Transaction or Transactions shall thereupon be cancelled and terminated.

22.3 We shall not lose any of our rights under this clause by reason of any delay on our part in the exercise thereof, but in no circumstance shall we be under any obligation under these clauses to exercise any such right or, if we do exercise any such right, to do so at a time or in a manner beneficial to you. We may at our absolute discretion close out Transactions either on a single or collective basis.

22.4 Where we exercise our right under this clause to close out a Transaction the closing out shall be effected by us in whole or in part at such time or times and at such price or prices as determined by us at our reasonable discretion. The amounts payable under the Transaction being closed out shall then be immediately due.

22.5 Where we exercise our right under this clause to realise any Investments or other assets of yours held by us, we shall be entitled to sell those Investments or assets at the market price (as determined by us in our reasonable discretion) at the time the sale takes place. We shall have the right to choose the time, place and method of such sale at our discretion. Any costs of sale shall be borne by you.

22.6 If any Event of Default specified in this clause occurs, we may by notice in writing to you require settlement of all open Transactions to take place in accordance with this clause on the settlement date which for this purpose shall be the date on which notice is given.

22.7 Where settlement of all Transactions are to be made under this clause no further payments shall be made in respect of any open Transaction after the settlement date and each open Transaction shall immediately be settled by your payment of the settlement amount.

22.8 You shall give us notice of an event specified in clause 22.1 as soon as you become aware of its occurrence.

22.9 We shall be entitled, following any of the events specified in clause 22.1 to set-off (i) any obligation to make payment to you against any obligation owed by you to make payment to any Affiliate and (ii) any obligation of yours to make payment to us against any obligation of any Affiliate to make payment to you.

22.10 Any obligations shall be satisfied by the net settlement (whether by payment, set-off or otherwise) of the amounts due between us with respect to all the outstanding terminated Transactions. With respect to each outstanding terminated Transaction we shall determine its total cost, loss or gain (including, if appropriate, any loss of bargain, cost of funding or other loss or gain as a result of the termination) and any net amount for all the outstanding terminated Transactions determined by us in accordance with the foregoing due either from you to us or from us to you shall be immediately payable upon its calculation. We shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction or these Terms of Business for as long as an Event of Default has occurred and is continuing.

23. Termination

23.1 You may terminate these Terms of Business immediately by giving written notice to us.

23.2 We may terminate these Terms of Business with you by giving you ten (10) Business Days notice, except that we may terminate these Terms of Business immediately if you fail to observe or perform any provision of these Terms of Business, or upon the occurrence of any Event of Default, or if you have no open Transactions in your Account at the time when the notice of termination is sent. At any time after the termination of these Terms of Business, we may, without notice, close out any of your open Transactions at the end of day Closing Price.

23.3 Termination shall be without prejudice to accrued rights and remedies and the existence and enforceability of any open Transaction, which shall continue until close in accordance with these Terms of Business, unless otherwise specified.

23.4 Upon terminating these Terms of Business, all amounts payable by you to us will become immediately due and payable including (but without limitation):

- (a) all outstanding fees, charges and commissions;
- (b) any dealing expenses incurred by terminating these Terms of Business; and
- (c) any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.

23.5 Termination shall not affect then outstanding rights and obligations (in particular those in clause 26 (Exclusions, Limitations and Indemnity), clause 27 (Miscellaneous) and clause 29 (Dispute Resolution) to these Terms of Business) and Transactions which shall continue to be governed by these Terms of Business and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed.

24. Manifest Errors

24.1 A “Manifest Error” means a manifest or obvious misquote by us, or any Market, Stock Exchange, price providing bank, information source, commentator or official on whom we reasonably rely, having regard to the current market conditions at the time an Order is placed. When determining whether a situation amounts to a Manifest Error, we may take into account all information in our possession including, without limitation, information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement.

24.2 We will, when making a determination as to whether a situation amounts to a Manifest Error, act fairly towards you but the fact that you may have entered into, or refrained from entering into, a corresponding financial commitment, contract or Transaction in reliance on an Order placed with us (or that you have suffered or may suffer any loss of profit, consequential or indirect loss) shall not be taken into account by us in determining whether there has been a Manifest Error. We reserve the right, without prior notice, to:

- (a) amend the details of such a Transaction to reflect what we consider in our discretion, acting in good faith, to be the correct or fair terms of such Transaction absent such Manifest Error/s;

- (b) if you do not promptly agree to any amendment made under (a) herein we may void from its inception any Transaction resulting from or deriving from a Manifest Error; and/or
- (c) refrain from taking any action at all to amend the details of such a Transaction or void such Transaction.

24.3 We shall not be liable to you for any loss, cost, claim, demand or expense you suffer (including loss of profits or any indirect or consequential losses) resulting from a Manifest Error or our decision to enforce the details of a Transaction notwithstanding any Manifest Error, except to the extent caused by our own fraud, willful default or gross negligence. In the event that a Manifest Error is made by any Market, Stock Exchange, price providing bank, information source, commentator or official on whom we reasonably rely, we will not be liable to you for any loss, cost, claim, demand, or expense, except to the extent caused by our own fraud, willful default or negligence.

25. Arbitrage

25.1 Internet, connectivity delays, and price feed errors sometimes create a situation where the price displayed on the FXCM Online Facility do not accurately reflect the market rates. The concept of arbitrage and “scalping”, or taking advantage of these internet delays, cannot exist in an OTC market where the client is buying or selling directly from the principal. FXCM do not permit the practice of arbitrage on the FXCM Online Facility. Transactions that rely on price latency arbitrage opportunities may be revoked, without prior notice. FXCM reserves the right to make the necessary corrections or adjustments on the Account involved, without prior notice. Accounts that rely on arbitrage strategies may at FXCM’s sole discretion be subject to FXCM’s intervention and FXCM’s approval of any Orders. Any dispute arising from such quoting or execution errors will be resolved by FXCM in their sole and absolute discretion.

25.2 FXCM shall have no obligation to contact you to advise upon appropriate action in light of changes in market conditions or otherwise.

25.3 You agree to indemnify and hold FXCM, its Affiliates and any of their directors, officers, employees and agents harmless from and against any and all liabilities, losses, damages, costs and expenses, including legal fees incurred in connection with the provision of the services under these Terms of Business to you provided that any such liabilities, losses, damages, costs and expenses have not arisen for our gross negligence, fraud or willful default.

26. Exclusions, Limitations and Indemnity

26.1 Nothing in these Terms of Business shall exclude or restrict any duty or liability owed by us to you under the Act or the FSA Rules (as may be amended or replaced from time to time).

26.2 **General exclusion:** Except as set out in 26.1 above neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses (including direct, indirect, incidental, punitive, or consequential loss, loss of profits, lost data, loss of use of the FXCM Online Facility, business interruption, costs of substitute, services or downtime costs), whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under these Terms of Business (including any Transaction or where we have declined to enter into a proposed Transaction) unless such loss arises directly from our respective gross negligence, willful default or fraud. In no circumstance shall our liability include losses suffered by you or any third party for any special damage, or loss of profits or loss of goodwill or reputation or loss of business opportunity arising under or in connection with these Terms of Business, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in these Terms of Business will limit our liability for death or personal injury resulting from our negligence.

26.3 **Trading Losses:** For the avoidance of doubt, in no circumstances shall we be liable to you, or responsible, for any losses or other costs or expenses of any kind arising out of or in connection with the placement of Orders by you, or the execution of Transactions with us.

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

- 26.5 **Changes in the market:** Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular Transaction is effected.
- 26.6 **Force majeure:** Since we do not control signal power, its reception or routing via Internet, configuration of your equipment or reliability of its connections, we shall not be liable for any claims, losses, damages, costs or expenses, including attorney's fees, caused directly or indirectly, by any breakdown or failure of any transmission or communication system or equipment or computer facility or trading software, whether belonging to us, our Affiliates, you, any market, or any settlement or clearing system when you trade online (via Internet) or for any cause preventing us from performing any or all our obligations, any act of God, war, terrorism, malicious damage, civil commotion, industrial acts, any Exceptional Market Event, or acts and regulations of any governmental or supra national bodies or authorities which in our opinion prevent an orderly market in relation to your Orders (a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, we shall use commercially reasonable efforts to resume performance and we may give you written notice. Upon occurrence of a Force Majeure Event, all of our obligations under these Terms of Business shall be immediately suspended for the duration of such Force Majeure Event. Additionally, we may take any one or more of the following steps:
- (a) alter normal trading times;
 - (b) alter the Margin requirements;
 - (c) amend or vary these Terms of Business and any Transaction contemplated by these Terms of Business, insofar as it is impractical or impossible for us to comply with our obligations;
 - (d) close any or all open Transactions, cancel instructions and orders as we deem to be appropriate in the circumstances; and/or
 - (e) take or omit to take all such other actions as we deem to be reasonably appropriate in the circumstances having regard to the positions of yours, ours, and other customers.
- 26.7 **Indemnity:** Without prejudice to our rights in clause 15 of these Terms of Business, you shall pay to us such sums as we may from time to time require in any of your Accounts with us and, on a full indemnity basis, any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your Accounts or any Transaction or any matching Transaction on a Market or with an intermediate broker or as a result of any misrepresentation by you or any violation by you of your obligations under these Terms of Business (including any Transaction) or by the enforcement of our rights. Notwithstanding anything to the contrary, you will be liable for any and all debit balances not directly resulting from trading activity.
- 26.8 You agree to indemnify and hold FXCM, its affiliates, employees, agents, successors and assigns harmless from and against all liabilities, losses, damages, costs and expenses, including attorney's fees resulting from use of programmable trading systems, whether built by you yourself or by any third party and executed on or using the FXCM Trading Station or any other trading platform offered by FXCM.
- 26.9 **Claims from your customers:** To the extent you have entered Orders for the account of your customers, you shall on demand indemnify, protect and hold us harmless from and against all losses, liabilities, judgments, suits, actions, proceedings, claims, damages and costs resulting from or arising out of claims raised by your customers. This clause shall not be affected by the termination of these Terms of Business.
- 26.10 **FXCM Online Facility:** Access to the FXCM Online Facility is provided "as is". FXCM makes no warranties, express or implied, representations, or guarantees as to the merchantability, fitness for any particular purpose or otherwise with respect to the FXCM Online Facility, its content, any documentation or any hardware or software provided. Technical difficulties could be encountered in connection with the FXCM Online Facility. These difficulties could involve, among others, failures, delays, malfunction, software erosion or hardware damage, which difficulties could be the result of hardware, software or communication link inadequacies or other causes. Such difficulties could lead to possible economic and/or data loss. In no event will FXCM or its Affiliates or any of their employees be liable for any possible loss (including loss of profit or revenue whether direct or indirect), cost or damage including, without limitation, consequential, unforeseeable, special or indirect damages or expense which

might occur as a result of or arising out of using, accessing, installing, maintaining, modifying, de-activating or attempting to access the FXCM Online Facility or otherwise.

- 26.11 **Internet Failures:** Since FXCM does not control signal power, its reception or routing via Internet, configuration of your equipment or reliability of its connection, FXCM cannot be responsible for communication failures, distortions or delays when using the FXCM Online Facility.

27. Miscellaneous

- 27.1 **Amendments:** We reserve the right to amend the terms and conditions of these Terms of Business from time to time, with or without notice to you, by posting such changes on the FXCM website. You are responsible for regularly reviewing these Terms of Business for any modifications and agree to be bound by the same. You may not amend these Terms of Business unless such amendment is in writing and signed by an authorised officer of FXCM. Unless otherwise agreed, an amendment will not affect any outstanding Order or Transaction. If you do not wish to accept any amendment made by us to these Terms of Business you may by notice to us close your open Margin Transactions and your Account in accordance with these Terms of Business.

- 27.2 **Notices:** Unless otherwise agreed, all notices, instructions and other communications to be given by us to you under these Terms of Business may be verbal or in writing and shall be given to your last known home address, place of work, telephone number (including a telephone answering machine), fax number, e-mail address or other contact details. All notices, instructions and other communications to be given to FXCM by you under these Terms of Business should be sent to the Compliance officer.

- 27.3 Each notice, instruction or other communication to you (except confirmations of trade, statements of account, and Margin Call Warnings) shall be conclusive unless written notice of objection is received by us within five (5) Business Days of the date on which such document was deemed to have been received. Any notice, instruction or other communication shall be deemed to have been duly given when received or given as follows, whichever is the earlier:

- (a) when left at your last known home or work address;
- (b) if given by leaving a telephone answering machine message or voice mail message, one hour after the message being left on the relevant medium;
- (c) if sent by first class post, in the ordinary course of the post and in any event on the next day (or third in the case of air mail) after posting (excluding Sundays and public holidays); and/or
- (d) if sent by e-mail, one hour after sending, provided no “not sent” or “not received” message is received from the relevant e-mail provider/s.

- 27.4 You will notify us in writing of any change of your address or other contact details in accordance with this clause.

- 27.5 **Assignment:** These Terms of Business shall be for the benefit of and binding upon us both and our respective successors and assigns. No assignment of these Terms of Business or any rights hereunder shall relieve you of any of your obligations or liabilities hereunder. You shall not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer rights or obligations under these Terms of Business or any interest in these Terms of Business, without FXCM’s prior written consent, and any purported assignment, charge or transfer in violation of this clause shall be void. FXCM may assign these Terms of Business by providing not less than ten (10) Business Days written notice to you, except where it is impracticable in the circumstances. You hereby instruct us as the case may be that upon any such assignment, any monies held as Client Money be transferred to the Assignee to be held as Client Money on your behalf.

- 27.6 **Disclosures:** In order to comply with its obligations under the Companies Act 1985 & 2006, the Financial Services and Markets Act 2000, the FSA Handbook, the United Kingdom Listing Authority’s Listing Rules, the City Code on Takeovers and Mergers, and any other Applicable Regulations (together the “Legislation”) we may be required to make certain disclosures relating to your Transactions, which may or may not include disclosing your identity. In

addition to complying with its obligations under the Legislation, we may comply with any request for information regarding any Transaction from the Takeover Panel, the FSA or any other relevant regulatory or governmental authority. You agree that such compliance does not cause us to breach any obligation of confidentiality which we owe to you pursuant to these Terms of Business.

- 27.7 **Time of essence:** Time shall be of the essence in respect of all obligations of yours under these Terms of Business (including any Transaction).
- 27.8 **Rights and remedies:** The rights and remedies provided under these Terms of Business are cumulative and not exclusive of those provided by law. We shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by us to exercise or delay by us in exercising any of our rights under these Terms of Business (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.
- 27.9 **Set-off:** Without prejudice to any other rights to which we may be entitled we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) at any time owing between you and us.
- 27.10 **Partial invalidity:** If, at any time, any provision of these Terms of Business is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Terms of Business nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
- 27.11 **Entire Agreement:** These Terms of Business, and any references to other agreements herein, together with any schedules attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written communications, proposals, agreement and representations with respect to the subject matter.
- 27.12 **Waiver:** We are entitled to waive or relax any of these Terms of Business from time to time without notice to you. No failure or delay in exercising or relaxation by us of these Terms of Business shall operate as a general waiver of the relevant term, condition, right or power and no partial or single exercise of any term, condition, right or power shall preclude any other or further exercise of some or any of our other rights and remedies against you. In particular, and without limitation, where these Terms of Business specify certain limits or parameters to your trading activities or Margin requirements, we shall be entitled from time to time and with or without notice to you to allow you to breach such limits or parameters.
- 27.13 **Recording of calls:** We may record telephone conversations without use of a warning tone to ensure that the material terms of the Transaction, and any other material information relating to the Transaction is promptly and accurately recorded. Such records will be our sole property and accepted by you as evidence of the Orders or instructions given.
- 27.14 **Electronic communications:** Subject to Applicable Regulations, any communications between us using electronic signatures shall be binding as if it were in writing. By execution of these Terms of Business you give your consent to the receipt of communications by electronic means which but for your consent must be made using a durable medium under Applicable Regulations. Orders or instructions given to you by electronic means will constitute evidence of the Orders or instructions given. You hereby consent that account information and trade confirmations will be made available to you on the FXCM Online Facility in lieu of delivery via mail or e-mail. You will be able to access this information using your Access Code. Updated information will be available no more than twenty-four hours after any activity takes place on your account, absent any Force Majeure Event or service interruption. If you no longer wish to communicate in this way, you must revoke this consent in writing. If you do not wish to communicate via electronic means at all, you must inform us of your wishes prior to you signing the signature page of these Terms of Business.
- 27.15 **Our records:** Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to

comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.

- 27.16 **Your records:** You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of Orders submitted and the time at which such Orders are submitted.
- 27.17 **Third party rights:** The parties to these Terms of Business do not intend that any provision of these Terms of Business should be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person who is not a party to these Terms of Business.
- 27.18 **Co-operation for proceedings:** If any action or proceeding is brought by or against us in relation to these Terms of Business or arising out of any act or omission by us required or permitted under these Terms of Business, you agree to co-operate with us to the fullest extent possible in the defence or prosecution of such action or proceeding.
- 27.19 **Complaints:** If you have any complaint about FXCM's performance under these Terms of Business, you should direct that complaint to our Compliance Officer, who will investigate the nature of the complaint in accordance with FXCM's complaints handling procedure to try to resolve it. A copy of FXCM's complaints handling procedure is available on request. You may be eligible to refer a complaint about FXCM's performance under these Terms of Business to the Financial Ombudsman Service ("FOS") [Retail clients only]. Information and rules relating to the FOS can be accessed on www.financialombudsman.org.uk.
- 27.20 **Investor protection scheme:** We are a member of the Financial Services Compensation Scheme (the "Scheme") in the United Kingdom. The Scheme is only available to certain types of claimants and claims. Payments to eligible claimants under the Scheme will vary depending on the type of protected claim the claimant holds with respect to the relevant institution. Payments under the Scheme in respect of investments are subject to a maximum payment to any eligible investor of GBP 48,000, made up of 100% of the first GBP 30,000 and 90% of the next GBP 20,000. Further details of the Scheme are available on request or at the Scheme's official website at www.fscs.org.uk.
- 27.21 **Information and Intellectual Property:** You acknowledge and agree that FXCM is the sole owner (except to the extent owned by third party licensors and except to the limited extent licensed by FXCM to any other financial institutions and their clients) of all right, title and interest (collectively the "IP Rights") in and to the FXCM Online Facility, the data and other information generated by the FXCM Online Facility ("Data") produced by and distributed by or through the FXCM Online Facility and each component thereof and all intellectual property and proprietary rights with respect thereto, including, without limitation, patent, copyright, trade secret, trademark and other proprietary rights in and to the FXCM Online Facility and each component thereof, and to all modifications, including custom modifications, to the FXCM Online Facility and each component thereof, whether made by or with the assistance of you and any other person and any know how, techniques, methodologies, equipment or processes used by FXCM, the look and feel of the FXCM Online Facility and each component thereof and all of FXCM's software (front and back end) all registered trademark applications, trademarks and service marks, trade names, URL registrations and all pricing information and other Data.
- 27.22 You shall not obtain any intellectual property rights in or to the IP Rights.

28. **Data Protection and Disclosure of Information**

- 28.1 By opening an Account with us and by placing Orders and entering into Transactions, you acknowledge that you will be providing personal information (possibly including sensitive data) within the meaning of the Data Protection Act 1998 to us, and you consent to the processing of that information by us for the purposes of performing our obligations under these Terms of Business and administering the relationship between you and us, including the disclosure of the information to Affiliates both within and outside the European Union and/or European Economic Area.
- 28.2 Data may be transferred to, and stored and processed in countries which do not offer "adequate protection" for the purposes of Directives of the European Union for any purpose related to the operation of your Account. Such purposes include but are not limited to processing of instructions and generation of confirmations, the operation of

control systems; the operation of management information systems and allowing staff of Affiliates who share responsibility for managing your relationship from other offices to view information about you.

- 28.3 Before doing so, we will put contractual arrangements in place to ensure the adequate protection of your information and we shall endeavour to ensure that any such contractual arrangements comply with standards required by the Information Commissioner.
- 28.4 We have security procedures covering the storage and disclosure of your personal information to prevent unauthorised access and to comply with our legal obligations.
- 28.5 You are entitled to ask us for details of the personal information that we hold about you, the purposes for which they are being or are to be processed, and the recipients or classes of recipients to whom they are or may be disclosed. If you would like to request this information, please contact us. We may charge a fee for providing this information to you (details of which are available upon request). If you make a written request to us, we will also correct, delete and/or block personal information from further processing if that information proves to be inaccurate.
- 28.6 We shall be entitled to disclose information concerning you or your Account (including without limitation information concerning late payment) to any regulator of your business or, to your employer (including the employer's Compliance Officer) if it is authorised or exempt under the Act (or any successor legislation or equivalent legislation or regulations in a foreign jurisdiction) or to any other person we accept as seeking a reference or credit reference in good faith.

29. **Governing Law**

- 29.1 **Governing law:** A Transaction which is subject to the Rules of a Market shall be governed by the law applicable to it under those Rules. Subject thereto, these Terms of Business shall be governed by and construed in accordance with English law.
- 29.2 **Jurisdiction:** Without prejudice to any rights you may have to refer a complaint to the FOS, as further set out in clause 27.19 of these Terms of Business, each of the parties irrevocably:
- (a) agrees for our benefit that the courts of England shall have jurisdiction to settle any suit, action or other proceedings relating to these Terms of Business ("Actions") and irrevocably submits to the jurisdiction of such courts (provided that this shall not prevent us from bringing an action in the courts of any other jurisdiction); and
 - (b) waives any objection which it may have at any time to the laying of venue of any Actions brought in any such court and agrees not to claim that such Actions have been brought in an inconvenient forum or that such court does not have jurisdiction over it.

30. **FXCM MT4 Powered by Boston Technologies Letter of Direction**

The following additional terms apply to clients utilizing FXCM MT4 Powered By Boston Technologies ("The Program"). If Client utilizes The Program, Client agrees to the additional terms and authorizes FXCM to act accordingly by signing this Client Agreement.

- 30.1 Client wishes to utilize The Program to execute trades and to direct trade orders and trade details to FXCM. Client's utilizing The Program will not be entering trades orders and trade details directly with FXCM, but rather will be entering trade orders and trade details through The Program, a third party. Client hereby authorizes and directs FXCM to enter trades for Client's account in accordance with trading signals generated and sent to FXCM by The Program. In consideration of opening Client's account, Client acknowledges and agrees to the additional terms and conditions, as follows:
- (a) Client fully understands that the trade orders and trade details are generated by The Program and not by FXCM and that FXCM's responsibility is to use commercially reasonable efforts to enter orders pursuant to

the trade orders and trade details generated by The Program and as received by FXCM. Client confirms that FXCM has not solicited, or in any other way recommended, Client's participation in The Program. Client has made inquiries and conducted research into The Program sufficient to make an informed investment decision. FXCM cannot imply or guarantee that Client will make a profit from The Program and Client agrees that FXCM will not be held responsible for The Program's performance or trading losses incurred in Client's account as a result of trading pursuant to The Program.

- (b) FXCM will enter trade orders for Client's account in accordance with the trade orders and trade details generated by The Program. Client understands that Client's trading access through The Program will be provided by The Program provider and not by FXCM.
- (c) If more than one FXCM client is using the same system or service as The Program, Client acknowledges that FXCM may enter block orders to enhance order execution, in which case a fair and systematic fill allocation method will be employed. Client understands and acknowledges that FXCM will only be responsible for using its commercially reasonable efforts to execute, in a timely fashion, the trade orders and trade details generated by The Program. FXCM shall not be responsible for any error or malfunction of The Program, mechanical or communication line failure, system errors, data failure or any other causes beyond its control. Client acknowledges that FXCM can accept and execute orders only if actually received or generated and then on a "not held" basis (*i.e.* FXCM shall not be held responsible for the execution of the order at the price indicated or otherwise).
- (d) Client has had the opportunity to ask questions on how Client's account will be handled and acknowledges that Client has not purchased The Program from FXCM. Client understands that there is no trading system or recommendation service, including The Program, that is free from the risk of loss. FXCM does not imply or guarantee that Client will make a profit and Client agrees that neither FXCM nor any of its officers, directors, employees, consultants, agents or affiliates will be held responsible for the performance of The Program or trading losses in Client's account.
- (e) FXCM may act upon the authority given by this letter of direction until Client revokes the authority by written notice addressed and actually delivered to FXCM, in accordance with the instructions and details on FXCM's website. FXCM may also terminate the authorization over The Program at any time for any reason in its sole discretion and will provide Client with written notice. Client shall be responsible for any open lots in Client's account at the time The Program is terminated. Client shall permit FXCM to execute offsetting orders for any open lots in Client's account at the time the letter of direction is terminated.
- (f) Client agrees that, in the absence of willful or wanton misconduct, neither FXCM nor any of its officers, directors, employees, consultants, agents or affiliates will be held liable for any act or omission in the course of or in connection with Client's participation in The Program. Client shall indemnify FXCM, its principals, officers, directors, employees, agents, successor and/or assigns from all losses and/or liability (including reasonable attorney's and/or accountant's fees) incurred or resulting from this letter of direction to utilize The Program, provided that there has been no judicial determination that such liability was the result of gross negligence or recklessness or intentional misconduct by FXCM, and further provided that the conduct that was the basis for such liability was not undertaken in the actual and reasonable belief that it was in the best interest of Client's account.

ELECTIVE PROFESSIONAL CLIENT NOTICE

1. **THIS NOTIFICATION IS GIVEN TO YOU IN ACCORDANCE WITH FSA RULES APPLICABLE FROM 1 NOVEMBER 2007 (COBS TP 1.6R AND COBS 3.3.1R(2)).**
2. **YOU HAVE BEEN CLASSIFIED BY US AS AN ELECTIVE PROFESSIONAL CLIENT BECAUSE YOU SATISFY AT LEAST TWO (2) OF THE FOLLOWING CRITERIA:**
 - 2.1 You have carried out Transactions, in significant size, on the relevant Market at an average frequency of ten (10) per quarter over the previous four (4) quarters;
 - 2.2 The size of your financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR 500,000;
 - 2.3 You work or have worked in the financial sector for at least one (1) year in a professional position, which requires knowledge of the Transactions or services envisaged.
3. **AS A CONSEQUENCE OF CLASSIFICATION AS AN ELECTIVE PROFESSIONAL CLIENT, YOU WILL LOSE THE FOLLOWING PROTECTIONS AFFORDED TO RETAIL CLIENTS (APART FROM THOSE WHICH ARE ALSO PROVIDED TO ELECTIVE PROFESSIONAL CLIENTS) UNDER FSA RULES:**
 - 3.1 Direct offer financial promotions - we will not be obliged to comply with COBS Rules relating to restrictions on and the required contents of direct offer financial promotions. We do not need to provide you in a direct offer financial promotion, with sufficient information for you to make an informed assessment of the investment to which it relates.
 - 3.2 Understanding of risk - we will not be required to provide you with the written risk warnings and notice required for Retail Clients in relation to Transactions in complex financial instruments, in particular derivatives and warrants, and stock lending.
 - 3.3 Disclosure of charges, remuneration and commission - we will not be required to disclose in writing before conducting any designated business on your behalf the basis or amount of their charges for conducting that business, or the amount of remuneration or commission or other income payable to FXCM or their Affiliates for conducting the regulated business.
 - 3.4 Financial Ombudsman Service and Investor Compensation Scheme - Access to the Financial Ombudsman and the right to claim compensation under the Financial Services Compensation Scheme will not extend to you as an Elective Professional customer.
4. **YOUR ATTENTION IS ALSO DRAWN TO THE FOLLOWING RULES, WHICH ARE LIMITED IN THEIR APPLICATION TO ELECTIVE PROFESSIONAL CLIENTS WITH THE FOLLOWING POSSIBLE CONSEQUENCES FOR CLIENTS:**
 - 4.1 Financial promotion - Certain COBS Rules relating to the form, content and checking and otherwise concerning financial promotions generally will not apply.
 - 4.2 Appropriateness - we are entitled to assume that you have the necessary level of experience and knowledge to understand the risks involved in relation to any investment, service, product or transaction. Where we provide you with investment advice, we are entitled to assume that you have the requisite knowledge and experience to understand the risks involved.
 - 4.3 Confirmation of transactions to customers - The COBS Rules relating to the confirmation of Transactions will apply in a modified form. Provisions regarding extra reporting requirements for dealings with Retail customers and provision of hard copies of confirmations not accessed electronically will not apply.
 - 4.4 Communication - we may have regard to your expertise as an Elective Professional customer when complying with the requirements under the regulatory system that communications be clear, fair and not misleading. Additionally, we may have regard to your expertise as an Elective Professional Client when complying with the requirements to provide you with a general description of the nature and risks of particular Transactions. If you have any queries on this warning or require any further information, you should contact our Compliance Officer.

COMPLEX PRODUCTS - GENERAL RISK DISCLOSURE NOTICE

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

Certain strategies, such as “spread” position or a “straddle”, may be as risky as a simple “long” or “short” position. Whilst derivatives instruments can be utilised for the management of risk, some investments are unsuitable for many investors. Different instruments involve different levels of exposure to risk, and in deciding whether to trade in such instruments you should be aware of the following points:

- (a) **Investing in precious metals, rolling forex or currency options** carries similar risks as investing in a future and you should be aware of these. Transactions in precious metals, rolling forex or currency options may also have a contingent liability and you should be aware of the implications of this as set out in paragraph (c) below. In addition to standard industry disclosures contained in these Terms of Business, you should be aware that **margined currency and precious metals trading is one of the riskiest forms of investment available in the financial markets and is only suitable for sophisticated individuals and institutions. Given the possibility of losing an entire investment, speculation in the foreign exchange and precious metals market should only be conducted with risk capital funds that if lost will not significantly affect your personal or institution's financial wellbeing.**

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

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

- (e) **Weekend risk.** Various situations, developments or events may arise over a weekend (Friday 16.30 EST – Sunday 18.00 EST) when the currency markets generally close for trading, that may cause the currency markets to open at a significantly different price from where they closed on Friday afternoon. Our customers will not be able to use the FXCM Online System to place or change orders over the weekend and at other times when the markets are generally closed. There is a substantial risk that stop-loss orders left to protect open positions held over the weekend will be executed at levels significantly worse than their specified price.
- (f) **Electronic trading.** Trading in OTC contracts through the FXCM Online Facility may differ from trading on other electronic trading systems as well as from trading in a conventional or open market. Customers that trade on an electronic trading system are exposed to risks associated with the system including the failure of hardware and software and system down time, with respect to the FXCM Online Facility, the individual customer's systems, and the communications infrastructure (for example the internet) connecting the platform with customers.
- (g) **Contingent liability transactions,** which are margined, require you to make a series of payments against the purchase price, instead of paying the whole purchase price immediately. You may sustain a total loss of the Margin you deposit with your dealer to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional Margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be liable for any resulting deficit. Even if the Transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered into the contract. Contingent liability transactions, which are not traded on or under the rules of a recognised or designated investment exchange, may expose you to substantially greater risks.
- (h) **Collateral.** If you deposit collateral as security, you should ascertain how your collateral will be dealt with. Deposited collateral may lose its identity as your property once dealings on your behalf are undertaken. Even if your dealings should ultimately prove profitable, you may not get back the same assets, which you deposited and may have to accept payment in cash.
- (i) **Commissions.** Before you begin to trade, you should obtain details of all commissions and other charges for which you will be liable. If any charges are not expressed in money terms (but, for example, as a dealing spread), you should obtain a clear written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms.
- (j) **Insolvency.** Any insolvency or default may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets, which you lodged as collateral and you may have to accept any available payment in cash.

You should only engage in precious metals, Rolling Spot Forex or other Margined Transaction trading if you are prepared to accept a high degree of risk and in particular the risks outlined in the Risk Warning Notice. You must be prepared to sustain the total loss of all amounts you may have deposited with your firm as well as any losses, charges (such as interest) and any other amounts (such as costs) we incur in recovering payment from you.

COMPLIANCE DEPARTMENT
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MARGINED TRANSACTION SUPPLEMENT**TERMS APPLICABLE TO CLIENTS WHO ENTER INTO MARGINED TRANSACTION CONTRACTS**

1. Scope
 - 1.1 This Schedule supplements and amends the Terms of Business as expressly provided below. Defined terms in the Terms of Business shall be assigned the same meaning in this Schedule. In the event of any conflict or inconsistency between the Terms of Business and this Schedule the provisions in this Schedule shall prevail. You acknowledge and agree that, by executing the signature page of these Terms of Business, you agree to be bound by the terms of this Schedule.
2. Services
 - 2.1 We deal with you only after you have requested a quote for a Margined Transaction Contract, we have quoted a price and you have given a specific instruction or Order to open a Margined Transaction Contract at the price quoted by us.
3. Obtaining a Quote and Order Placement
 - 3.1 At any time which you wish to enter into a Margined Transaction Contract, or to close all or part of a Margined Transaction Contract, you may request a quote to open a Margined Transaction Contract with FXCM during the normal hours of trading. FXCM may provide quotes in its sole discretion outside normal hours of trading if requested by you.
 - 3.2 Margined Transaction Contracts will be initiated by you placing an Order offering to enter into a Margined Transaction Contract at the price quoted to you.
 - 3.3 Each Order must be an instruction to 'buy' or 'sell'. A 'buy' Margined Transaction Contract may also be referred to as a 'long' or 'long position' and a 'sell' Margined Transaction Contract may also be referred to as a 'short' or 'short position'.
4. Acceptance of Orders and Opening of Margined Transaction Contracts
 - 4.1 You may cancel your Order at any time by notice to us unless and until the Order has been executed in whole or in part, only if the order is an Entry Order ("Entry Order" means an order to enter the market at a specific price). If an Order has been executed in whole or in part it will not be possible for you to cancel the Order to the extent that the Order has been executed. If an Order is a Market Order ("Market Order" means an order to enter the market at the best current price), it will not be possible for you to cancel the Order at any time.
 - 4.2
 - 4.2.1 For accounts using the "Non-Hedging" setting: If you give an Order to open a long position in relation to a Margined Transaction on an Account where at that time you already have a short position in relation to the same Margined Transaction on that Account, or give an Order to open a short position in relation to a Margined Transaction where you already have a long position in relation to that Margined Transaction, then we will treat your instruction to open the new position as an instruction to close the existing position to the extent of the size of the new position. If the new position is greater in size than the existing position, then the existing position will be closed in full and a Margined Transaction Contract opened in relation to the excess size of the new position.
 - 4.2.2 For accounts using the "Hedging" setting: You may open a position by providing us with an Order. Your request to open a new position will not close current open positions.

5. Closing a Margined Transaction Contract

5.1

5.1.1 For accounts using the “Non-Hedging” setting: To close a Margined Transaction Contract, you must enter into a second Margined Transaction Contract in relation to the same Margined Transaction as the first Margined Transaction Contract, but if the first Margined Transaction Contract was a buy, the second Margined Transaction Contract must be a sell, and vice versa. The first Margined Transaction contract will be closed to the extent of the contract size of the Margined Transaction Contract. You should advise us of the Margined Transaction Contract you wish to close out giving the precious metals or two currencies, identifying the Base Currency and the Contract Size.

5.1.2 For accounts using the “Hedging” setting: To close a position you must provide us with an Order identifying the position, precious metal or currency, and Contract Size of the position you wish to close.

5.2 Realised profit or loss in respect of a Margined Transaction Contract closed will be calculated by reference to the difference between (i) the product of the Margined Transaction Contract Size and Margined Transaction Contract Rate of the opening Transaction and (ii) the product of the Margined Transaction Contract Size and Margined Transaction Contract Rate of the closing Margined Transaction Contract and shall be denominated in the second named currency for Rolling Spot Forex and USD for precious metals.

5.3 In addition to our rights at clause 22 of these Terms of Business FXCM may close any Margined Transaction Contract in its sole discretion at any time without notice in the event that:

- (d) you fail to honour a Margin Call Warning in accordance with clause 15 of these Terms of Business;
- (e) a Force Majeure Event occurs; or
- (f) these Terms of Business are terminated.

6. Settlement Date, Rollover and Offset Instructions

6.1 FXCM will automatically rollover all open positions on your Account to the following business day unless you notify us to close your position(s) prior to 17.00 EST. FXCM will charge you a fee in respect of each such position that is rolled over.

6.2 Offset instructions on open positions arriving at settlement date must be given to us at least one (1) business day prior to settlement date.

6.3 In the absence of timely instructions from you, FXCM is authorised, at their absolute discretion, to rollover or offset all or any portion of the positions in your Accounts or to make or receive delivery on your behalf upon such terms and by such methods deemed reasonable by FXCM.

6.4 For the avoidance of doubt, FXCM will not arrange delivery of precious metals or currencies unless FXCM deem necessary or if we otherwise agree in writing with you.