



## **Orient Futures International (Singapore) Pte. Ltd.**

### **Client Agreement**

#### **IMPORTANT, PLEASE READ:**

In order to open and operate an account with Orient Futures International (Singapore) Pte. Ltd., you must agree to the terms and conditions of this Client Agreement. Please read this Client Agreement in its entirety. If you agree to be bound by its terms and conditions, please accept the terms electronically via the registration page and continue on with the registration process.

## INTRODUCTION

The General Terms and Conditions apply generally to the Client's relationship with Orient Futures International (Singapore) Pte. Ltd. including with respect to all accounts maintained with and all services provided by Orient Futures International (Singapore) Pte. Ltd.. Schedules 1 to 4, as well as all relevant Appendices published by Orient Futures International (Singapore) Pte. Ltd, additionally apply in respect of the respective services and types of transactions thereunder.

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## GENERAL TERMS AND CONDITIONS

### 1. INTERPRETATION

#### Definitions

1.1 In this Agreement, unless the context otherwise requires:

**“Agreement”** means this Client Agreement as amended, varied, and supplemented by Orient Futures in its sole and absolute discretion from time to time, and includes its Schedules and Appendices (to the extent applicable to the Client as a Retail Investor, Accredited Investor, or otherwise, as the case may be) and the terms and conditions in the Application Form;

**“Account”** means each account of the Client with Orient Futures (including any account subsequently opened or established with Orient Futures from time to time), and includes any account on which the Client effects Transactions or which are used for the purposes of the Services, pursuant to this Agreement, and any Omnibus Account;

**“Accredited Investor”** has the meaning ascribed to it in the SFA;

**“Additional Margin”** means any additional cash or other property in such form, and of such amount, currency denomination, specifications or value Orient Futures may provide to any Intermediary as collateral;

**“Agent”** means a third-party acting on the Client’s behalf;

**“Applicable Laws”** means all relevant or applicable statutes, laws, rules, regulations, notices, orders, bye-laws, rulings, directives, circulars, guidelines, practice notes and interpretations (whether of a governmental body, regulatory or other authority, market, Exchange, Clearing House, depository or self-regulatory organisation in relation to which Orient Futures or any person within the Orient Futures Group is a member, or which Orient Futures or a relevant Account, Service, facility or Transaction is subject to, or otherwise);

**“Application”** means the application by the Client to open the Account;

**“Application Form”** means the application form by which the Client makes an Application;

**“APEX”** means Asia Pacific Exchange Pte. Ltd.;

**“APEX Clear”** means Asia Pacific Clear Pte. Ltd.;

**“Associated person”** has the meaning ascribed to it in Section 3 of the SFA;

**“Authorised User”** means any person authorised by the Client from time to time, including any person appointed in the Application Form, to use the Electronic Facilities and who have been issued with a Security Code, and in respect of whom Orient Futures has not received from the Client any written notice of revocation or termination of such person’s appointment or has received such notice but the Reasonable Period for Orient Futures to update its records has not elapsed;

**“Authorised Representative”** means any person authorised by the Client from time to time to act for and on behalf of the Client in connection with the Account, whose name and/or specimen signature (where required) has been provided to Orient Futures, including any person appointed in the Application Form and any person appointed as attorney by the Client under power of attorney notified to any bank, and in respect of whom Orient Futures has not received from the Client any written notice of revocation or termination of such person's appointment or has received such notice but the Reasonable Period for Orient Futures to update its records has not elapsed;

**“Business Day”** means any day on which Orient Futures is open for business in Singapore;

**“Clearing House”** means the SGX-DC, APEX Clear or other clearing facility in any jurisdiction on which Orient Futures clears trades (either directly or by way of Intermediaries) from time to time;

**“Client”** means the person or persons named in the Application as the applicant(s), and where the context so admits, includes any one of those persons and may include one or more individuals, a partnership, a sole proprietorship or a corporation;

**“Client Information”** means any and all information (including personal data within the meaning of the PDPA) concerning the Client (and where applicable, the Client's directors, partners, Authorised Users, Authorised Representatives, shareholders and beneficial owners), the Account (and/or any Orient Futures Account), including, without limitation, information on or relating to any Transaction, the Client's financial condition, the Client's sources of funds or wealth, any dealing between the Client and Orient Futures and/or any member of the Orient Futures Group and any other agreement with any member of the Orient Futures Group;

**“Client Money Delegates”** means any third-parties that are relevant in respect of the Client's monies and assets, including any parties which holds any Client's monies and assets, as well as the issuers of any investments products which Orient Futures would invest in using the Client's monies and assets;

**“Close-out”**, in respect of any Transaction, means the act of closing out such Transaction (whether by way of an offsetting transaction or otherwise) or replacing such Transaction, for providing Orient Futures with the economic benefits of the material terms of such Transaction;

**“CLPA”** means the Conveyancing and Law of Property Act 1886 of Singapore;

**“Collateral”** includes bankers' guarantees, letters of credit (including stand-by letters of credit), Margin, Commodities, Securities and such other property as Orient Futures may deem acceptable as collateral for the obligations of a Client and up to a maximum percentage of its face value or Margin Value that Orient Futures may from time to time determine;

**“Commodity”** means any Currency, produce, item, good, article or such other items or things as may constitute the subject matter of a Futures Contract (as defined in Schedule 1), Futures Option (as defined in Schedule 1), OTC Derivatives Contract (as defined in Schedule 3) and includes an index, right or interest in such Commodity, and such other thing, item, index, right or interest of any nature as Orient Futures may, in its sole and absolute discretion, from time to time prescribe to be a Commodity;

**“Companies Act”** means the Companies Act 1967 of Singapore;

**“Confirmation”** means the written notice (including telex, facsimile or other electronic means from which it is possible to produce a hard copy) which contains the specific terms of a Transaction entered into between the parties and includes a contract note. Ancillary agreements referred to in the Confirmation are part of such Confirmation;

**“Connected person”** has the meaning ascribed to it in Section 2 of the SFA;

**“Content”** means any information, data, messages, alerts and/or other materials supplied or received via the Electronic Facilities;

**“Contingent Order”** means limit, stop and/or similar orders for certain types of Transactions;

**“Credit Support Document”** means a guarantee, hypothecation agreement, security agreement or any other document containing an obligation of a third party (**“Credit Support Provider”**) or of the Client in favor of Orient Futures supporting any obligations of the Client under this Agreement;

**“Credit Support Provider”** has the meaning ascribed to it in the definition of Credit support Document;

**“CRS”** and **“Common Reporting Standard”** means the Standard for Automatic Exchange of Financial Account Information, developed by the Organisation for Economic Co-operation and Development and any associated similar or analogous legislation, treaty, regulation, instruction or other official guidance of any Authority in any jurisdiction;

**“Customer Account Review”** and **“CAR”** have the meaning as ascribed to the term “Customer Account Review” in the MAS Sale Notice;

**“Customer Knowledge Assessment”** and **“CKA”** have the meaning as ascribed to the term “Customer Knowledge Assessment” in the MAS Sale Notice;

**“Custody Assets”** means any asset which Orient Futures holds on behalf of the Client, whether cash or non-cash, and including any Margin and Custodised Securities;

**“Currency”** means money denominated in the lawful currency of any jurisdiction;

**“Default”** has the meaning ascribed to it in Clause 18.1;

**“Derivatives Contracts”** has the meaning ascribed to it in the SFA;

**“Electronic Facility”** means any electronic broking, trading, clearing or other services, systems or platforms and/or related software and technology provided directly by Orient Futures to the Client;

**“Electronic Facilities Procedures”** means all the notices, guidelines, rules and instructions pertaining to the use of the Electronic Facilities;

**“Electronic Instruction”** means any instruction, communication, Order or request transmitted through an Electronic Facility and authenticated, whether individually or collectively, with the Security Codes in accordance with Orient Futures’ prescribed procedures and requirements;

**“Equivalent Assets”** means assets which are equivalent in value, type, description and amount to the Custody Assets which Orient Futures uses as a charge, pledge or hypothecation;

**“Exchange”** means any exchange or market in any jurisdiction on which Orient Futures trades (either directly or by way of Intermediaries) from time to time and which Orient Futures has consented to include as an Exchange for the purposes of this Agreement, and includes the SGX-DT and APEX;

**“Expert Investor”** has the meaning ascribed to it in the SFA;

**“Extraordinary Event”** means any event which Orient Futures in good faith believes to have a material adverse effect on any Transaction or otherwise in relation to the Account and shall include, without limitation, any Intermediary Default, any form of exchange control restriction, moratorium or requirement of whatsoever nature affecting availability, convertibility, credit or transfers of Currencies, Commodities, financial instruments or funds, any form of debt or other moratorium on jurisdictions, individuals or entities, any devaluation, redenomination or demonetisation of the underlying Currencies, Commodities, financial instruments or funds of any Transaction and/or any form of restriction or requirement which in Orient Futures’ good faith opinion adversely alters or changes the rights or obligations which Orient Futures in good faith undertook upon the establishment of such Transaction, or otherwise when establishing or maintaining the Account

**“FAA”** means the Financial Advisers Act 2001 of Singapore;

**“FATCA”** means:

- (a) sections 1471 to 1474 of the US Internal Revenue Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

**“Financial advisory service”** has the meaning ascribed to it in the FAA;

**“Financial Crime”** means fraud, money laundering terrorism financing, bribery, corruption, tax evasion or the enforcement of any economic and/or trade sanction;

**“Force Majeure Event”** means any event beyond the reasonable control of the affected party that prevents that party from performing its obligations or delays the performance of its obligation, including but not limited to:

- (a) any breakdown, malfunction or failure of transmission or power, communication or computer facilities (whether hardware or software) or systems (whether electronic, telecommunicative or otherwise);
- (b) strikes or industrial actions or lockout;
- (c) the failure of any agent (such as an agent, custodian, sub-custodian, carrier, delivery facility) or any relevant Exchange, Clearing House, settlement system or Intermediary for any reason to perform its obligations;
- (d) the mistake, misconduct or omission of other part(ies);
- (e) the unavailability of any energy source or utility;
- (f) the suspension or absence of quotation;
- (g) war, invasion, act of foreign enemy, hostility (whether war has been declared or not), civil war, rebellion, revolution, insurrection, riot, malicious damage, civil commotion, terrorist acts, sabotage or other blockade or embargo, requisition by any government, regional or local authority, competent regulatory authority, department, council or other authority (whether de jure or de facto) or any agency thereof, acts and regulations of any

government or supra national bodies or authorities (including any change in any Applicable Laws or taxes), exercise of military or usurped powers or any law, statute, rules, regulation, edict, order, requisition or mandate of any such body;

- (h) the suspension of trading in any Currency, Currency devaluations, imposition or changes to foreign exchange controls, moratorium or governmental intervention or restrictions on Currency exchange or remittance, whether having the force of law or not;
- (i) any act of God, fire, flood, frost, storm, explosion, disease epidemic, pandemic, or chemical contamination; and
- (j) Orient Futures' or an Intermediary's suspension, expulsion or ceasing to be a member of the relevant Exchange or Clearing House;

**"Hedging Transaction"**, in respect of a Transaction entered (or to be entered) into by a party (**"first party"**) with another party, means an offsetting, hedging or other transactions entered into by the first party for the purpose of hedging or otherwise managing the risks and exposures associated with such Transaction;

**"Initial Margin"**, in respect of a Transaction, means the minimum amount of collateral required to be provided to Orient Futures before entering into such Transaction;

**"Intermediary"** means, with respect to Orient Futures, any person (including another broker, dealer, market-maker, exchange, clearing house, bank, custodian or other third party), whether in Singapore or elsewhere, whether or not an Officer of Orient Futures, and whether or not associated with, connected to or related to Orient Futures ;

**"Intermediary Default"** means any wrongdoing, act, omission, insolvency, negligence, breach or duty, misconduct, fraud, wilful default or any other failure or default by or in respect of an Intermediary;

**"Institutional Investor"** has the meaning ascribed to it in the SFA;

**"instant messaging"** includes, without limitation, WhatsApp, WeChat, ICE Chat, Instant Bloomberg and Thomson Reuters Eikon Messenger;

**"Instruction"** means any instruction (including, without limitation, any Order and Electronic Instruction) in connection with any Account, Service, Transaction, given or purported to be given in any manner acceptable to Orient Futures by the Client, any Authorised User or any Authorised Representative;

**"Joint Account"** means an Account that is opened or maintained in the name of more than one person or a partnership;

**"Loss"** means any and all losses, claims, liabilities, damages, costs, charges and expenses (including, without limitation, the costs of complying with any verdict, award or settlement of any dispute, legal fees on a full indemnity basis, cost of funding and loss or cost incurred as a result of the terminating, liquidating or reestablishing of any hedge or related trading position, loss of profit, loss of revenue, loss of opportunity, foreign exchange losses, all duties, taxes and other levies, interest and service charges), whether direct, indirect, special or consequential and any and all other loss of whatsoever nature or description and howsoever arising;

**"Listed Specified Investment Product"** has the meaning ascribed to it in the MAS Sale Notice;

**“Liquidation Date”** means the date on which Orient Futures will commence the termination, close-out or liquidation.

**“Maintenance Margin”**, in respect of a Transaction, means the minimum amount of collateral which must be maintained, after the provision of Initial Margin, in order to keep such Transaction open in the Account;

**“Manifest Error”** means any error, omission or misquote (whether an error of Orient Futures or any third party) which is manifest or palpable, including without limitation a misquote by any representative of Orient Futures taking into account the current market and currently advertised quotes, or any error or lack of clarity of any information, source, commentator, official, official result or pronunciation. The fact that the Client may have entered into, or refrained from entering into, a corresponding financial commitment, contract or trade in reliance on a Transaction entered into with Orient Futures (or that the Client has suffered or may suffer any loss whether direct, indirect, consequential or otherwise) is deemed irrelevant as a factor and shall not be taken into account in determining whether a situation amounts to a Manifest Error;

**“Margin”** means cash or other property in form, amount, currency denomination, specifications or value as may be acceptable to Orient Futures and includes Initial Margin and Maintenance Margin;

**“Margin Value”** means the value of the Margin placed by the Client in the Account as determined by Orient Futures in its discretion;

**“MAS Sale Notice”** means the Notice on the Sale of Investment Products issued by the Monetary Authority of Singapore under the SFA;

**“Non-Accredited Investor”** means a customer who is not an Accredited Investor;

**“Officer”** means any officer or employee of Orient Futures;

**“Omnibus Account”** means an omnibus account created by Orient Futures for its client at Orient Futures’ sole and absolute discretion;

**“Order”** means any offer to enter into a Transaction, or any instruction, request, application or order (in whatever form and howsoever sent, given or transmitted) to Orient Futures of the Client or which Orient Futures or an Officer reasonably believes to be the instruction, request, application or order of the Client and includes any instruction, request or order to revoke, ignore or vary any previous request or order;

**“Orient Futures”** means Orient Futures International (Singapore) Pte. Ltd.;

**“Orient Futures Account”** means any account of the Client established and maintained with Orient Futures or any member of the Orient Futures Group, whether singly or jointly, including any trading account (online, margin basis, leveraged or otherwise), securities account, custody account, investment account, omnibus customer account and/or sub-account, and includes the Account;

**“Orient Futures Group”** means Orient Futures and its related corporations and any corporation in which Orient Securities Co., Ltd. owns beneficially 50% or more of the equity share capital;

**“Orient Futures Website”** means the website located at the following URL, “<https://www.orientfutures.com.sg/>” or such other website as may be designated by Orient Futures from time to time;

**“PDPA”** means the Personal Data Protection Act 2012 of Singapore and the regulations issued



under it;

**“Person”** includes any natural person, government, statutory body, business, firm, partnership, corporation or unincorporated body;

**“Potential Default”** means any event or circumstance which, with the giving of notice or the lapse of time or both, would constitute a Default;

**“Products”** means Futures Contracts (as defined in Schedule 1), Spot FX Contracts and FX Options (as defined in Schedule 2); OTC Transactions (as defined in Schedule 3) and Securities;

**“Property”** includes all moveable and immovable property (including debts and other choses in action) and any estate, share, right or interest in any property;

**“Proprietary Information”** means databases, programs, protocols, displays and manuals which may form part of the Electronic Facilities;

**“Reasonable Period”** means Five (5) Business Days;

**“Related corporation”** has the meaning ascribed to it in the Companies Act;

**“Retail Client”** means a customer who is not an Accredited Investor or Expert Investor or Institutional Investor;

**“Roll-over”**, where applicable with respect to a Transaction, means to extend the Value Date of such Transaction;

**“Securities”** has the meaning ascribed to it in the SFA;

**“Security Codes”** means all passwords, personal identification numbers (PINs), logon identifiers, electronic devices, tokens and other codes and access procedures issued from time to time by Orient Futures or any party designated by Orient Futures from time to time (each a **“Security Code Issuer”**) in order to enable the Client and/or the Authorised Users to access and/or use the Electronic Facilities. **“Security Codes”** shall include such other passwords, personal identification numbers (PINs), logon identifiers, electronic devices and other codes and access procedures issued by Orient Futures or by the Security Code Issuer in replacement of any Security Codes previously provided to the Client (whether by Orient Futures and/or the Security Code Issuer);

**“Security Code Issuer”** has the meaning ascribed to it in the definition of Security Codes;

**“Service”** means any and all products, services and/or facilities provided by or through Orient Futures under this Agreement at any time and from time to time to the Client;

**“Settlement Date”** means the day on which the Transaction is required to be settled;

**“SFA”** means the Securities and Futures Act 2001 of Singapore;

**“SFR”** means the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) promulgated under the SFA;

**“SGX-DC”** means the Singapore Exchange Derivatives Clearing Limited;

**“SGX-DT”** means the Singapore Exchange Derivatives Trading Limited;

**“Statement”** means all confirmations, account status, advice, contract notes;

**“Third Party Applications”** means third-party technology, web applications, application program interfaces, software, software code programs, protocols and/or other third-party resources;

**“Third Party Licensors”** means third-party vendors that are licensed by Orient Futures;

**“Transaction”** means any transaction in a Product as Orient Futures may from time to time permit to be carried out under the Account and includes any Securities Transaction (as defined in Schedule 4), Futures Transaction (as defined in Schedule 1), OTC Transaction (as defined in Schedule 3), FX Transaction and any other transaction as Orient Futures may from time to time permit to be carried out under the Account;

**“Trust Account”** means one or more trust accounts opened by and maintained by Orient Futures for the purposes of holding monies on the Client’s account, maintained with a bank that is licensed under the Banking Act 1970 of Singapore or such other financial institution as permitted under Applicable Laws;

**“Unlisted Specified Investment Product”** has the meaning ascribed to it in the MAS Sale Notice;

**“US Person(s)”** means a US Citizen or resident individual, a partnership or corporation organised in the US or under the laws of the US or any state of the US, a trust if (i) a court within the US would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of trust, and (ii) one or more US Person(s) have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the US. This definition shall be interpreted in accordance with the US Internal Revenue Code. Please note that persons who have lost their US citizenship and who live outside the US may nonetheless in some circumstances be treated as US Person(s);

**“Value Date”**, where applicable in relation to a Transaction:

- (a) in the case of an OTC Transaction (as defined in Schedule 3), has the meaning ascribed to it in Clause 4.1 of Schedule 3; and
- (b) in the case of a FX Option and Spot FX Contract, has the same meaning as it bears in Schedule 2 with respect to such FX Option and Spot FX Contract respectively;

**“Violation”** has the meaning ascribed to it in Clause 4.25(a); and

**“S\$”** and **“Singapore Dollars”** means the lawful currency of the Republic of Singapore.

#### Interpretation

- 1.2 The headings herein are inserted for convenience only and shall not affect the construction of this Agreement.
- 1.3 Expressions in the singular form shall include the plural and vice versa (without limitation to the foregoing, reference to the Account includes all Accounts), and all references to the masculine gender shall include the female and neuter genders and vice versa.
- 1.4 References to **“include”**, **“includes”** and **“including”** as they appear in this Agreement are not limiting and are deemed in each instance to be followed by the words “without limitation”.
- 1.5 The expression **“may”** when used in respect of Orient Futures shall be understood as permitting and entitling Orient Futures to do or not to do a thing, or to take or not to take any action, as the context may require, in Orient Futures’ discretion, but shall not be understood to mean that

Orient Futures owes any obligation (whether to the Client or otherwise) to do or not to do the thing, or to take or not to take such action.

- 1.6 Unless otherwise expressly provided, references in this Agreement to:
- (a) **"Clause"** are references to the clause in the Section in this Agreement in which the reference is made; and
  - (b) **"Schedule"** and **"Appendix"** are references to a Schedule and Appendix to this Agreement, as amended, varied, and supplemented by Orient Futures in its sole and absolute discretion from time to time.
- 1.7 A reference in this Agreement to **"document"** shall be construed to include any electronic document.
- 1.8 References to Applicable Laws (or any provisions thereunder), including, without limitation, FATCA and CRS, are to such Applicable Laws and/or provisions as may be from time to time modified, amended or re-enacted.

#### Conflict or inconsistency

- 1.9 Where any term or condition of this Agreement (as the same may be amended, modified or supplemented from time to time) is inconsistent with any Applicable Law, the affected term of this Agreement shall be deemed modified or superseded (as the case may be) by that Applicable Law to the extent that conformity with the same is achieved and all the other terms of this Agreement and terms so modified shall in all respect continue in full force and effect.
- 1.10 In the event of any conflict or inconsistency between the provisions of these General Terms and Conditions and the provisions of the Schedules, the provisions of the Schedules shall prevail over the provisions of these General Terms and Conditions, provided that any terms which are mandatory (and which cannot be waived) under Applicable Laws shall always prevail.
- 1.11 This Agreement may be made available in languages other than English. To the extent of any inconsistency between the English language version of this Agreement and any other translations, the terms of the English language version shall prevail.

## **2. CONDITIONS PRECEDENTS**

- 2.1 The acknowledgement and acceptance by the Client of various disclosures, terms and other matters set out in the Schedules and the Appendices (to the extent applicable to the Client as a Retail Investor, Accredited Investor, or otherwise, as the case may be) shall be a condition precedent to Orient Futures' performance of its obligations under this Agreement provided that Orient Futures may in its sole and absolute discretion specify any other documents or additional risk disclosure statements which the Client is required to accept and execute under this Clause.

#### KYC

- 2.2 Orient Futures' satisfaction (in its sole and absolute discretion) that it has completed all "know your customer" and other similar procedures that it is required (or deems desirable) to conduct in relation to the Account and/or for the provision of any Service to the Client, shall be a condition precedent to Orient Futures' performance of its obligations under this Agreement.

## Customer Account Review and Customer Knowledge Assessment

- 2.3 Without prejudice to the generality of Clause 5.1 or any other provision in this Agreement, where the Client is a Retail Client who is an individual:
- (a) Orient Futures' willingness to permit the Client to operate the Account in respect of Listed Specified Investment Products and/or unlisted Specified Investment Products, and enter into Transactions in Listed Specified Investment Products and/or unlisted Specified Investment Products on the Account, is subject to Orient Futures having established that the Client has, or in the case of a Joint Account, each Client has, the requisite knowledge and/or experience in connection with the Customer Account Review and/or Customer Knowledge Assessment requirements under the MAS Sale Notice, as the case may be;
  - (b) if the Client, or in the case of a Joint Account, any Client, is assessed or deemed by Orient Futures not to possess the requisite knowledge or experience pursuant to a Customer Account Review and/or Customer Knowledge Assessment as may be conducted by Orient Futures from time to time (including, without limitation, by the Client's failure or refusal to provide all the relevant information and documents to Orient Futures), the Client will not be permitted to operate the Account in respect of Listed Specified Investment Products and/or unlisted Specified Investment Products and enter into any Transaction in Listed Specified Investment Products and/or unlisted Specified Investment Products (as applicable); and
  - (c) Orient Futures may impose any restriction on the Account as it deems appropriate in its sole and absolute discretion without incurring any liability whatsoever to the Client.
- 2.4 The Client agrees and acknowledges that, to the fullest extent permitted by law, in conducting any Customer Knowledge Assessment and/or Customer Account Review, Orient Futures does not undertake any duty or obligation to ensure that any Transaction is suitable or recommended for the Client, and Orient Futures shall not be regarded as making any recommendation or suitability representation to the Client by reason only that Orient Futures permitted the Client to open an Account or to enter into any Transaction.

### Collateral

- 2.5 In addition and without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, Orient Futures may, as a condition to accepting the Client's Application and/or the continued maintenance of the Account, require the Client to provide Collateral as security for the Client's obligations under this Agreement. Orient Futures shall also be entitled from time to time to call for the provision of additional Collateral as it deems necessary.

### No prejudice

- 2.6 For the avoidance of doubt and without prejudice to Clause 31.8, no act or course of conduct on Orient Futures' part (including, without limitation, the opening of the Account, permitting the entry into of any Transaction and the performance of any obligation under this Agreement) shall in any way preclude Orient Futures' right to require subsequent fulfilment of any of the conditions referred to in Clause 2.

### 3. ACCOUNT

- 3.1 Notwithstanding anything in this Agreement, Orient Futures reserves the right to refuse to open an Account for any reason and shall not be obliged to provide any reason for such refusal.
- 3.2 Upon its acceptance of an Application, Orient Futures will, in accordance with its general operating procedures, open an Account in the name of the Client.
- 3.3 The Client shall not without the prior written consent of Orient Futures assign, charge or encumber any Account or the Client's rights therein, or create or permit to create, in favour of any person (other than Orient Futures) any interest in any Account (by way of trust or otherwise). Orient Futures shall not be required to recognise any person other than the Client as having any interest in any Account.
- 3.4 The Client hereby ratifies all Transactions, if any, effected by Orient Futures on its behalf prior to the date of this Agreement and agrees that such Transactions shall also be governed by the terms of this Agreement.

#### Agent

- 3.5 The Client may authorise an Agent to place any or all Orders, operate the Account, enter into any or all Transactions on the Account, collect monies, assets, contract notes or statements and/or to use any facility or service provided by or through Orient Futures from time to time, only with Orient Futures' prior written consent.
- 3.6 Both the Client and the Agent shall be required to execute and deliver to Orient Futures a third party authorisation agreement in the form and on such terms and conditions as may be required by Orient Futures, authorising and appointing the Agent to, *inter alia*, place any or all Orders, operate the Account, enter into any or all Transactions on the Account and/or to use any facility or service provided by or through Orient Futures from time to time.
- 3.7 The Client shall:
- (a) provide, or procure the Agent to provide, Orient Futures with any and all information and documents relating to the Agent that Orient Futures may from time-to-time request or require; and
  - (b) be fully responsible for all acts and/or omissions of the Agent as if such acts and/or omissions were made, given or done by the Client and as if the Agent were the Client. If the Client appoints any Agent, the Client shall still be treated as Orient Futures' sole client for all purposes.

#### Deposit

- 3.8 The Client may be required to place a deposit with Orient Futures before the Client can begin utilising the Account. Orient Futures may use such deposit to set-off against any sums owed to it by the Client and shall return the balance of such deposit, if any, free of interest upon the termination of the Account.

### Joint Account

#### 3.9 For Joint Accounts:

- (a) the expression "Client" shall refer to each person jointly and severally, and the liability of each such person to Orient Futures shall be joint and several;
- (b) Orient Futures may debit the Joint Account at any time in respect of any sum howsoever due or owed to Orient Futures by any of the persons in whose name the Account is opened or maintained;
- (c) the delivery of any monies, instruments and any other property in relation to the Joint Account and/or the Transactions may be made by Orient Futures upon the Order of any one of such persons and such delivery shall constitute full and complete delivery by Orient Futures and shall without limitation be deemed to be sufficient delivery to all such persons; and
- (d) no person constituting the Client shall be discharged, nor shall his liability be affected by, any discharge, release, time, indulgence, concession, waiver or consent at any time given or effected in relation to any one or more of the other such persons constituting the Client.

#### 3.10 Unless otherwise agreed in writing by Orient Futures:

- (a) the Orders or agreement of any one person constituting the Client shall be deemed to be the Orders or agreement of all the persons constituting the Client;
- (b) any notice or communication addressed and sent by Orient Futures to any one person constituting the Client shall be deemed to have been addressed and sent to all the persons constituting the Client; and
- (c) where any such person shall have received or is deemed to have received any such notice or communication, all the persons constituting the Client shall be deemed to have received the same.

#### 3.11 The doctrine of survivorship shall apply to any Account opened in the joint names of more than one person (including where such persons are the permitted assigns of a corporate entity) or in the name of a partnership.

### Omnibus Account

#### 3.12 Orient Futures may agree at its sole and absolute discretion to open for Clients Omnibus Accounts and to the extent that the Client enters into transactions in its own name but for the account of its customers:

- (a) without prejudice to Clause 17.1(c), the Client shall act on behalf of its customers as principal and not as agent and no such customer shall be a client or customer of Orient Futures; and
- (b) Orient Futures will continue to treat the Client alone (rather than any such other person) as its client for all purposes and in relation to all obligations and as principal in respect of all Transactions entered into hereunder and the Client will be liable as such.

#### Updating of particulars etc.

- 3.13 The Client shall keep Orient Futures updated as to any change in the particulars of the Client, or any information relating to any Account or to this Agreement (including its Authorised Users and Authorised Representatives), as supplied to Orient Futures.
- 3.14 The Client agrees and acknowledges that:
- (a) Orient Futures shall be given a Reasonable Period from its receipt of any such update referred to in Clause 3.13 to update its records;
  - (b) Orient Futures shall, before such period has elapsed, be entitled to act in reliance on the particulars of the Client, or any information relating to any Account or to this Agreement, prior to such update and shall incur no liability and (without prejudice to Clause 23) shall not be responsible for any resulting Loss to the Client arising out of or in connection with any such reliance;
  - (c) (without prejudice to Clause 23) if the Client fails to comply with Clause 3.13, Orient Futures shall not be responsible for any resulting Loss to the Client.

#### Product availability

- 3.15 Orient Futures shall have the right at any time, in its sole and absolute discretion, to change, vary or discontinue access to the Products and Services and/or specific Products and Services previously available to the Client.

### **4. GENERAL**

- 4.1 Orient Futures may engage or appoint any person (who is not an Officer or related to Orient Futures) to carry out any Order, to provide any service or facility to the Client or to exercise any authority granted to Orient Futures by the Client (whether hereunder or otherwise). Without prejudice to Clause 23, provided that Orient Futures has engaged or appointed such person in good faith, Orient Futures shall not be liable to the Client for any and all Loss suffered or incurred by the Client as a result of any act or omission of such person or entity.

#### Single agreement

- 4.2 All Transactions on any Account are entered into in reliance on the fact that this Agreement, all outstanding Transactions (and to the extent recorded in a Confirmation, each such Confirmation) shall form a single agreement between Orient Futures and the Client and Orient Futures would not otherwise enter into this Agreement and any such Transactions. However, a Transaction which is duly settled or liquidated in accordance with this Agreement or its terms will not form part of such single agreement.

#### Capacity in which Orient Futures act

- 4.3 Orient Futures may, in its sole and absolute discretion, unless otherwise required under Applicable Laws, act either as agent or principal in respect of any Transaction, whether such Transaction is effected on the Order of the Client or otherwise, and shall not (unless otherwise required under Applicable Laws) be required to inform the Client of the same except as required under Applicable Laws.

#### No fiduciary relationship

#### 4.4 The Client agrees and acknowledges that:

- (a) Orient Futures is not the Client's fiduciary in any respect, nor is it willing to assume any fiduciary or similar duties or obligations to the Client in any respect;
- (b) any action which Orient Futures may take or omit to take in connection with the Account and any Service or Transaction or any Order in relation thereto shall be solely for the Client's account and risk;
- (c) with respect to Transactions where Orient Futures acts as principal to the Client, an obligation or duty to, or a relationship of agency or trust for or with the Client for such Transactions is inconsistent with a principal to principal relationship between Orient Futures and the Client, and Orient Futures does not (unless otherwise required by Applicable Laws) assume any such obligation or duty to the Client or such relationship of agency or trust with the Client;
- (d) THE CLIENT IS FULLY AWARE AND ACCEPTS THAT THE CLIENT WILL BE SOLELY RESPONSIBLE TO DETERMINE THE MERITS AND SUITABILITY OF EACH AND EVERY TRANSACTION;
- (e) THE CLIENT HAS TAKEN ALL NECESSARY INDEPENDENT LEGAL, TAX, FINANCIAL AND OTHER ADVICE IN RELATION TO ANY ACCOUNT OR SERVICE BEFORE ENTERING INTO ANY TRANSACTION WITH OR THROUGH ORIENT FUTURES.

#### 4.5 Without prejudice to Clause 4, the Client agrees and acknowledges that:

- (a) no representative or Officer of Orient Futures, or any Intermediary appointed by Orient Futures in accordance with Clause 16, has any authority to give any advice on or make any representation, trading suggestion or recommendation on Orient Futures' behalf or account (but nothing in this Clause shall prevent the Intermediary from independently, and on the Intermediary's own behalf, providing any advice to the Client upon terms which the Intermediary and the Client may agree);
- (b) any such advice, representation, trading suggestion or recommendation if made or purported to be made on behalf of Orient Futures must therefore be regarded as having been made in the personal capacity of such person giving the same; and
- (c) the Client shall not hold Orient Futures liable for any Losses which the Client suffers if it relies on such advice, representations, trading suggestions or recommendations.

#### Hedging Transactions entered into by Orient Futures

#### 4.6 The Client acknowledges and agrees that, where Orient Futures act as principal to the Client in respect of a Transaction:

- (a) at Orient Futures' sole and absolute discretion without notice to the Client, Orient Futures may (but is not obliged to) enter into Hedging Transaction(s) for Orient Futures' own account with other counterparties with respect to such Transaction. Such Hedging Transaction(s) may or may not be executed at prices and terms different from those of the Transaction with or quoted to the Client, and Orient Futures shall be under no obligation at any time to disclose such price or terms of the Hedging Transaction(s) to



the Client;

- (b) (without prejudice to the generality of Clause 5.1) Orient Futures may refuse to enter into any Transaction with the Client if Orient Futures is unable to enter into or procure such Hedging Transaction(s);
- (c) Orient Futures may not have entered into such Transaction with the Client but for Orient Futures having entered into, or being able to procure, such Hedging Transaction(s); and
- (d) accordingly, in the event of any Default, all Losses, costs and expenses suffered or incurred by Orient Futures as a result of the termination, close-out, liquidation, obtaining, performing or re-establishing any Hedging Transaction shall be wholly borne by the Client.

#### Nature of provision of Services and other clients

- 4.7 The services to be provided by Orient Futures to the Client under this Agreement are non-exclusive and Orient Futures shall be permitted to perform such services for such other persons as Orient Futures in its absolute discretion deems fit and be duly paid or compensated therefor and Orient Futures shall not be liable or under any obligation to:
- (a) account to the Client for any benefit received by Orient Futures for providing such services to others; or
  - (b) disclose to the Client any fact or thing which may come to the notice of Orient Futures in the course of providing such services to others or in the course of the business in any other capacity or in any manner whatsoever.
- 4.8 The Client acknowledges and consents that Orient Futures when acting for another client may take the opposite position to the Client in a Transaction. Such other clients of Orient Futures may include its associated persons and connected persons.

#### Interests of Orient Futures and its connected persons

- 4.9 The Client acknowledges and consents that, without any further notice from Orient Futures, when Orient Futures executes any Orders for the Client, Orient Futures, its related persons and/or connected persons may, subject to any limitations and conditions under Applicable Laws:
- (a) be the counterparty to the Transaction for any proprietary account or an account in which any of them has a direct or indirect interest and shall be entitled to all gains, profits and benefits derived from such Transaction;
  - (b) deal with the Client as agent for both the Client and for another person (whether or not affiliated or connected with Orient Futures);
  - (c) match any Order by the Client with the order of any other person (whether or not affiliated or connected with Orient Futures); and
  - (d) otherwise make a profit in respect of a Transaction or have an interest in a Transaction where a conflict of interest may arise between the Client's interests and those of other clients or counterparties or of Orient Futures, its related persons and/or associated persons.

#### Referrals; introducers

- 4.10 The Client acknowledges and agrees that, where the Client is introduced to Orient Futures by a third party, Orient Futures may, subject to Applicable Laws, share Orient Futures' fees, commissions and/or other charges with such third party or any other third party.
- 4.11 The Client also acknowledges and agrees that Orient Futures may, subject to Applicable Laws, from time to time (either of its own initiative or at the request of the Client or a relevant third-party financial service/product supplier):
- (a) refer the Client to a third party for the possible provision of a financial service/product by or through such third party; and/or
  - (b) be the means by which a third party is given the opportunity to try to provide the Client with a financial service/product,

in return for the payment to Orient Futures, its related persons and/or connected persons by such third party of agreed fees or commissions. The Client further consents to Orient Futures', its related persons' and/or connected persons' retention and appropriation of such fees and/or commissions wholly for its own account and benefit.

#### Applicable Laws

- 4.12 The Client's relationship with Orient Futures, the opening, maintaining and operation of all Accounts, the provision of all services and facilities, the implementation and execution of all Orders and the entry into and settlement of all Transactions shall be subject at all times to the Applicable Laws and, to the furthest extent permitted by Applicable Laws, to this Agreement. Notwithstanding anything in this Agreement to the contrary, Orient Futures may take or refrain from taking any action whatsoever, and the Client shall cooperate as required by Orient Futures for its dealings with any Exchange, Clearing House, or any other authority, including assisting and participating in any investigation where necessary, and shall do all things required by Orient Futures in order to secure, procure or ensure for Orient Futures' benefit all compliance with Applicable Laws (including providing to Orient Futures all information as may be required under any Applicable Laws), and Orient Futures shall have no liability whatsoever to the Client.

#### Recordings

- 4.13 Orient Futures shall be entitled (but not obliged) to record (by any means) oral Instruction or other communications (through any medium) between Orient Futures and the Client or any servant or agent of the Client using any recording apparatus, without prior warning or notification to the Client and the Client agrees to the recording of such Instruction or communications. Any such recording shall be Orient Futures' exclusive property and may be used for any reasonable purpose by Orient Futures including, but not limited to, as evidence in any dispute.
- 4.14 Orient Futures may, in accordance with its internal procedures and policies and business requirements, periodically destroy such recordings without giving any reason and without having to account to any Client for the same.
- 4.15 No adverse inferences shall be drawn against Orient Futures for not having made any such recording, or for having destroyed such recording in the ordinary course of its business or pursuant to routine procedures or for not providing, or producing, any such recordings.

#### Client's responsibilities

- 4.16 The Client shall ensure that all necessary authorisations, licences, approvals and consents of any governmental or other regulatory body or authority applicable to each Transaction are obtained and that the terms thereof and of all Applicable Laws are complied with.
- 4.17 Orient Futures may require the Client to supply, and the Client shall supply such evidence of compliance with Clause 4.16 as Orient Futures may require. Notwithstanding the foregoing, the absence or lack of any such authorisation, licence, approval or consent shall not be a bar to any action or proceedings for recovery of payment or delivery by Orient Futures against the Client in respect of any Account, Service or Transaction.
- 4.18 For the avoidance of doubt, notwithstanding anything in this Agreement, the Client acknowledges and agrees that the Client shall be solely responsible for:
- (a) complying with any applicable reporting requirements to which the Client is subject under the Applicable Laws in respect of the Transactions;
  - (b) understanding and complying with the Client's tax obligations (including but not limited to, tax payment or filing of returns or other required documentation relating to the payment of all relevant taxes) in all jurisdictions in which those obligations arise and relating to the opening and use of account(s) and/or Services provided by Orient Futures. Certain countries may have tax legislation with extra-territorial effect regardless of the Client's place of domicile, residence, citizenship or incorporation. Orient Futures does not provide tax advice. The Client should seek independent legal and/or tax advice. Orient Futures has no responsibility in respect of the Client's tax obligations in any jurisdiction which they may arise including, without limitation, any that may relate specifically to the opening and use of account(s) and/or Services provided by Orient Futures; and
  - (c) complying with all exchange controls, capital restrictions and other similar restrictions or requirements imposed by any monetary or other authority, however described, applicable to the Client,
- and in no event shall Orient Futures be under any duty to provide any advice to the Client in relation to any of the foregoing and/or to supervise compliance by the Client with any of the foregoing.
- 4.19 The Client undertakes that any and all of the funds and assets it places with Orient Futures, and any profits that may accrue from the Client's Transactions, will be dealt with in full compliance with the tax laws of the countries where the Client is legally subject to.
- 4.20 The Client shall be responsible for updating itself as to:
- (a) Orient Futures' standard policies and practices (including Orient Futures' prevailing rates of fees, commissions and/or other charges) which have been made accessible to the Client by Orient Futures;
  - (b) the prevailing terms and conditions set out in this Agreement; and
  - (c) all Applicable Laws.
- 4.21 Updated or revised versions of this Agreement will be made available:
- (a) upon 1 Business Day's advance written notice to Orient Futures, for viewing at Orient Futures' registered office during its ordinary business hours; and/or

- (b) posted on the Orient Futures' Website for the Client's reference.

Time of the essence

- 4.22 In respect of the performance of this Agreement by the Client, time shall be of the essence in all respects.

Certificates and Records

- 4.23 Except in the event of fraud or Manifest Error, the Client agrees that a certificate issued by an Officer as to:

- (a) the substance or content of any oral or telephone or other communications between the Client and Orient Futures;
- (b) any monies owing from the Client to Orient Futures or from Orient Futures to the Client, or any monies or property in any Account; or
- (c) any monies owing from Orient Futures to any Intermediary in relation to Additional Margin,

shall be conclusive and binding on the Client.

- 4.24 The records of Orient Futures shall be prima facie evidence of the facts stated therein.

Notification obligations

- 4.25 The Client shall immediately notify Orient Futures of:

- (a) any violation of any Applicable Laws (a "**Violation**") or any non-frivolous or non-vexatious investigation or allegation of any Violation, or of any financial or commercial difficulty on the part of the Client, and as soon as practicable thereafter, give Orient Futures full particulars of the Violation, investigation, allegation or difficulty;
- (b) any engagement of the Client in any conduct which is detrimental to the financial integrity or interests of Orient Futures;
- (c) any action, proceeding, enforcement, sanction or injunction against the Client by any self-regulatory organisation, regulator or law enforcement agency whether in or outside Singapore (including without limitation any complaint or investigation involving an allegation of fraud, dishonesty or financial impropriety); and
- (d) any legal proceedings or investigations against the Client whether in or outside Singapore involving an allegation of fraud, dishonesty or financial impropriety.

**5. AUTHORISED REPRESENTATIVES, INSTRUCTIONS, AND ORDERS**

- 5.1 The Client authorises Orient Futures to act on, and Orient Futures is entitled but not obliged to accept, any Instruction or Order given by the Client and/or an Authorised Representative, as applicable. Without prejudice to the generality of this Clause 5, Orient Futures may, in its sole and absolute discretion, without having to state any reason and without any liability whatsoever, reject, not accept or refuse to comply with any Order or Instruction, whether in respect of any

Account, Service, Transaction and/or otherwise, including where any Order or Instruction is unclear, ambiguous, or conflicting and/or Orient Futures believes, in good faith, that any Instruction is fraudulent, forged or unauthorised or that acting on any Order or Instruction may be in breach of any Applicable Law.

5.2 Orient Futures shall be under no obligation to enter into any particular Transaction. The Client acknowledges and accepts:

- (a) that Orient Futures may not always be able to effect or execute a Transaction on the prices quoted at any specific time, or “at best” or “at market”; and
- (b) in any case, to be bound by the outcome when any discretion is given to Orient Futures to execute a Transaction.

#### Authorised Representatives

5.3 All acts and deeds of an Authorised Representative in the exercise or purported exercise of the powers of such Authorised Representative, discretion and authority are at all times deemed ratified and confirmed by the Client. Until receipt by Orient Futures from the Client of written notice of the revocation or termination of the appointment of any Authorised Representative and elapsement of the Reasonable Period for Orient Futures to update its records, Clause 5.1 applies.

#### Orders

5.4 If Orient Futures in its absolute discretion declines to accept any Order from the Client, Orient Futures will, as far as commercially practicable, notify the Client accordingly. Without prejudice to Clause 23, Orient Futures shall not in any circumstances whatsoever be liable in any way for any Loss suffered or incurred by the Client arising out or in connection with Orient Futures declining to act on such Order or omitting so to notify the Client.

5.5 Without prejudice to the generality of Clause 5.1 above, Orient Futures shall only act on Orders in respect of any Account or any part of the cash and other property held in any Account, and shall not be obliged to act in accordance with any Order:

- (a) which purports to dispose of or deal with any cash or other property which is in fact not held in or to the credit of any Account;
- (b) where there are insufficient funds in the Account; or
- (c) if Orient Futures believes that to do so might result in either Orient Futures or the Client contravening any Applicable Law.

5.6 The Client may instruct Orient Futures to operate the Account or to execute any Transaction by placing a relevant Order with Orient Futures through such medium and in such manner as Orient Futures may from time to time specify. Notwithstanding anything to the contrary in this Agreement, and unless Orient Futures otherwise agrees in writing, no Orders may be communicated to Orient Futures by electronic mail or by mail.

5.7 Where any Electronic Facility is made available to the Client by or through Orient Futures to place Orders, enter into and/or settle Transactions:

- (a) the Client may place Orders through the use of such Electronic Facilities; and
- (b) any such Orders placed shall also be subject to, and the Client agrees to comply with, any and all terms and conditions as Orient Futures and/or any other relevant Third Party Licensors may from time to time prescribe or stipulate to be applicable to their provision or the Client's access and use of such Electronic Facilities (including, without limitation, Clause 9).

- 5.8 Without prejudice to Clause 23 or this Clause 5, Orient Futures shall not be liable to the Client for any and all Losses incurred by the Client arising from any Loss or delay in the transmission or wrongful interception of any Order through any equipment or system, including any equipment or system owned and/or operated by or for Orient Futures or any Electronic Facilities.
- 5.9 The Client acknowledges and consents to the right of Orient Futures, where applicable, to aggregate the Orders with the orders of Orient Futures' other customers (whether for execution in other jurisdictions or otherwise). The allotment or distribution of any Commodities, Securities, monies or other property pursuant to such aggregation of Orders to or amongst the Client and its other clients shall, subject to Applicable Laws, be at Orient Futures' sole and absolute discretion. The Client accepts that such allotment or distribution may result in inequities on some occasions. Orient Futures may also effect such Transactions as principal to the counterparty in such jurisdictions and may also take such actions as Orient Futures may reasonably require in order to avoid liability to its counterparty.
- 5.10 Where the Client gives any Order which may be executed in more than one Exchange or market and/or by more than one mode or sub-market or sub-exchange (e.g. pit and electronic trading) without specifying the specific Exchange or market or the mode or sub-market or sub-exchange for execution, then Orient Futures shall be deemed to be vested with the discretion to decide where and how the Order should be executed if accepted for execution. So long as Orient Futures exercises its discretion in good faith it shall have no liability whatsoever to the Client with respect to such execution.

#### Verification

- 5.11 Orient Futures shall be entitled (but not obliged) to act on any Order or Instruction which Orient Futures in good faith has reason to believe is from the Client without making any independent inquiry as to its authenticity, genuineness and/or authorisation prior to acting on it. Notwithstanding the foregoing, Orient Futures shall be entitled to verify and be satisfied with respect to the identity of the person purporting to give an Instruction or Order or the source and origin of such Instruction or Order and Orient Futures, including inquiring as to the identity or authority of the person giving or purporting to give any Order or Instruction. The Client undertakes to indemnify Orient Futures (on a full indemnity basis) against any expenses, Losses or damages suffered by Orient Futures in relation to Orient Futures' acting on any such Order or Instruction.
- 5.12 The Client acknowledges and agrees that Orient Futures is authorised (but is not obliged) to treat all Instructions and Orders as fully authorised and binding on the Client, and accept, rely upon and act in accordance with the same which may from time to time be:
- (a) or purported to be, given orally, whether by telephone or otherwise. For telephone orders, Orient Futures and its Officers, agents and representatives cannot be expected to recognise the Client's voice or that of any Agent in any circumstances and Orient Futures shall be under no duty to enquire about the identity of any person who gives the Client's name, Account number and Security Code. Without prejudice to the generality of other provisions in this Agreement relating to the Security Code, the Client shall be fully liable and responsible for all acts and omissions of any person giving the same as if such person were the Client, including all Transactions entered into and Instructions given as if such Transactions were made and such Instructions were given by the Client;
  - (b) transmitted to Orient Futures by facsimile or similar means or given to Orient Futures in writing (other than by e-mail or instant messaging) and contains the signature of the Client and/or the Authorised Representative(s) authorising or purporting to authorise its issue; and/or

- (c) transmitted by e-mail or instant messaging sent by the Client and/or the Authorised Representative(s) sent from e-mail address(es) or instant messaging accounts (as the case may be) provided by the Client or Authorised Representatives, used by the Client and/or the Authorised Representatives in communications with Orient Futures and/or otherwise,

regardless of the circumstances prevailing at the time the Instructions were given, the nature or amount of any Transaction effected pursuant thereto and notwithstanding any error, misunderstanding, fraud, forgery, lack of clarity in the Instructions or lack of authority in relation to the Instructions.

#### Client responsibilities

##### 5.13 The Client acknowledges and agrees that:

- (a) the Client is under an express duty to Orient Futures to prevent any fraudulent, forged or unauthorised Instructions being given. Specifically for e-mail and instant messaging Instructions, the Client undertakes to ratify and confirm all e-mail and instant messaging Instructions upon which Orient Futures may rely and act upon. In the event that Orient Futures accepts and executes any e-mail or instant messaging Instruction or declines to do so, Orient Futures shall be exonerated from all and any liability to the Client and the Client irrevocably waives all claims against Orient Futures;
- (b) Orient Futures may require Instructions to be encrypted and/or to contain such identifying code, test or digital signature as it may from time to time specify and the Client shall be responsible for any improper use or misappropriation of such code, test or digital signature or failure to encrypt; and
- (c) if the Client is in any doubt whatsoever as to the validity of any Order for any reason, including, but not limited to, by reason of a breakdown in communication leading to a cessation of connection between Orient Futures and the Client, it is the Client's sole responsibility to contact Orient Futures immediately by telephone in order to obtain clarification as to and/or confirmation of the validity of such Order.

#### Ambiguity, inconsistency and clarity

- 5.14 Without limitation to the generality of the foregoing, Orient Futures may (but is not obliged to) act on ambiguous or conflicting Orders or Instructions. If it so decides to act, Orient Futures shall be entitled to rely and act upon any Order or Instruction in accordance with any interpretation which its Officer believes in good faith to be the correct interpretation, or refuse to act until a fresh Order or Instruction is obtained. Orient Futures shall not be liable for any Loss whatsoever or howsoever arising from an incorrect interpretation of the Order or Instruction, as the case may be.
- 5.15 In acting on any Instruction or Order (whether on its own volition or pursuant to an obligation), Orient Futures shall be allowed such amount of time to act upon and implement such Instruction or Order as may be commercially reasonable having regard to the systems and operations of Orient Futures and prevailing circumstances, including processing and assessing the feasibility of the Instructions or Order and requiring the Client to verify the authenticity, source and origin of or clarify such Instruction or Order to the satisfaction of Orient Futures prior to Orient Futures executing the same. Orient Futures shall not be liable for any Loss whatsoever or howsoever arising from any delay on the part of Orient Futures in acting on any such Instruction and/or Order.

#### No liability

- 5.16 Without prejudice to Clause 22 and the generality of Appendix 13 (*Potential Limitations And Risks of Electronic Communications*), the Client acknowledges that it is aware of the risks involved in the use of postal services, telephone, facsimile, e-mail and instant messaging services, Voice Over Internet Protocol and other similar services, which may include errors in transmission, mutilation, interruption or delay in transmission, technical defect, data corruption, viruses, power failure, breakdown of telecommunication networks, fraud, forgery, misunderstanding, unintended disclosure or unauthorised interception or manipulation or fraud or forgery of third parties. The Client agrees that it shall bear all such risks and notwithstanding the foregoing, the Client authorises Orient Futures to accept any Instruction and effect any communication through such means.
- 5.17 Without prejudice to Clause 22 and the provisions of this Clause 5, the Client undertakes to indemnify Orient Futures against all and any Loss incurred by Orient Futures of whatever nature and howsoever arising out of or in connection with Orient Futures acting in accordance with any Instruction and the Client agrees to perform and ratify any contract entered into or action taken by Orient Futures as a result of such Instruction.
- 5.18 The provisions of this Clause 5 and Orient Futures' rights hereunder shall apply to, and be conferred on, any member of the Orient Futures Group which receives any Instruction, all of which shall be entitled to enforce and enjoy the benefit of this Clause 5 to the fullest extent allowed by law.
- 5.19 Where the Client and/or the Authorised Representative(s) consists of more than one person, Instructions (other than Instructions requiring the signature, as determined by Orient Futures in its absolute discretion) from any one of them may be accepted and acted on by Orient Futures notwithstanding inconsistency with signing instructions notified to Orient Futures.

#### **6. STATEMENTS AND CONFIRMATIONS**

##### Confirmations

- 6.1 Orient Futures is not obliged to inform the Client of the fulfilment of any Order, except via a Confirmation.
- 6.2 The failure by Orient Futures to issue a Confirmation will not prejudice or invalidate the terms of any Transaction. Orient Futures will not have any liability as a result of a failure to issue a Confirmation.
- 6.3 Each Confirmation shall supplement and form a part of this Agreement and shall be read and construed as one with this Agreement and with each other Confirmation, so that this Agreement and all Confirmations, constitute a single agreement between the Client and Orient Futures.

##### Verification and correctness of Confirmations etc.

- 6.4 The Client shall verify all Statements sent by Orient Futures to the Client from time to time.
- 6.5 If no objection in writing is raised by the Client within 7 calendar days of the date of any Statement (or such other time period set out in such Statement or, in respect of a Confirmation, such shorter time as may be appropriate given the Value Date of the Transaction to which such Confirmation relates), such Statement shall, in the absence of Manifest Error, be deemed conclusive and binding as against the Client, who shall not be entitled to object thereto.



- 6.6 Notwithstanding Clause 6.5, Orient Futures may at any time rectify any error on any Statement which has been proved to its satisfaction, and may demand immediate repayment from the Client of any monies erroneously paid over to the Client as a result of such error. Any and all objections by the Client shall not be valid unless accompanied by supporting evidence for such objections.
- 6.7 The Client shall immediately notify Orient Futures if any Statement is not received by the Client in the ordinary course of business. Orient Futures shall have the right to withhold the sending of any Statement to the Client where required under any Applicable Law as decided by Orient Futures in its reasonable discretion.
- 6.8 Subject to the provisions of this Clause 6, a Confirmation which does not accurately reflect the relevant Transaction entered into using the telephone or via the relevant Electronic Facility:
- (a) does not affect the validity of the Transaction which the Confirmation evidences; and
  - (b) where there is Manifest Error, does not entitle the Client to enforce whatever is inaccurately recorded in the Confirmation.
- 6.9 Orient Futures reserves the right to void from the outset any Transaction involving or deriving from a Manifest Error or to amend the details of such Transaction to reflect that which Orient Futures considers, in its sole and absolute discretion, acting in good faith, to be the correct or fair details of such a Transaction in the absence of Manifest Error.
- 6.10 Without prejudice to Clause 23, Orient Futures shall in no circumstances be liable to the Client for any Loss or demand of whatsoever nature the Client may suffer or incur in connection with any Manifest Error in a Statement howsoever arising, whether direct or indirect, special or consequential, including, but not limited to, loss of profit, loss of opportunity or even if Orient Futures had been advised of the possibility of the same arising or that the same were reasonably foreseeable.

Provision of Statements by electronic means

- 6.11 Subject to Clause 6.12, the Client acknowledges and agrees and accepts that all Statements shall be provided by Orient Futures to the Client by electronic means and:
- (a) Orient Futures may (except to the extent prohibited by Applicable Laws) deliver the Statements by electronic mail to the electronic mail address provided to Orient Futures by the Client;
  - (b) Orient Futures will not impose any additional fees or charges in connection with the provision of these Statements by electronic means; and
  - (c) the Client agrees and acknowledges that delivery of these Statements shall be in lieu of printed Statements and it will not receive printed versions of these Statements.
- 6.12 To the extent that:
- (a) the Client's consent for the provision of any Statement by electronic means is required to be revocable under Applicable Laws; and
  - (b) the Client revokes in writing its consent for the provision of any such Statement by electronic means,

Orient Futures shall, following receipt of such written revocation, deliver such Statement in print to the Client.

## **7. CONTINGENT/ STOP-LOSS/ STOP-LIMIT ORDERS**

- 7.1 Orient Futures may permit the Client to place Contingent Orders for certain types of Transactions.
- 7.2 No Contingent Orders are guaranteed, and Contingent Orders may be filled by Orient Futures where it is reasonably able to do so as determined by Orient Futures in its sole and absolute discretion unless:
- (a) Orient Futures has accepted alternative Instructions from the Client; or
  - (b) the relevant market has been traded through the level of a Contingent Order outside such market's trading hours but has been restored at the opening of such market such that the Contingent Order level has not been exceeded, in which case Orient Futures will not execute that Contingent Order at the opening of such market.
- 7.3 The Client must ensure that all relevant requirements in respect of the Client's entering into any Transaction must be complied with, both at the time of any Contingent Order and on its execution (including opening or closing any position). Orient Futures shall be entitled to refuse to accept or fulfil any Contingent Order at its sole and absolute discretion.
- 7.4 All Contingent Orders the Client places with Orient Futures shall be subject to such restrictions, terms and conditions (including in respect of maximum and minimum trade sizes) which may apply on acceptance and on execution, including (without limitation) the maximum trade size applicable at the time of execution of the Contingent Order irrespective of the maximum trade size applicable at the time of placing the Contingent Order. Contingent Orders which on execution would be in excess of the maximum trade size applicable on execution will be executed in tranches of up to the maximum trade size until the Contingent Order is fulfilled. Where this is the case, the Client acknowledges and agrees that the price applicable for each tranche may vary considerably.

## **8. TRANSACTION LIMITS AND RESTRICTIONS**

- 8.1 Orient Futures may, in its sole and absolute discretion, without giving the Client any reasons therefor, and without incurring any liability on its part, at any time and without prior notice to the Client:
- (a) impose upon the Client any position or Transaction limits, and/or any trading or Transaction restrictions. Such limits may include, without limitation, minimum and/or maximum sizes for Transactions (including, but not limited to, specific types of Transactions) at any given time, limits on the maturity periods of Transactions (where applicable) and specified times or procedures for communicating Orders to Orient Futures or otherwise; and
  - (b) vary the position or Transaction limits, and/or any trading or Transaction restrictions. No previous limit or restriction shall set a precedent or bind Orient Futures.
- 8.2 The Client shall not exceed any position or Transaction limits, or breach any trading or Transaction restrictions imposed by Orient Futures in accordance with this Clause 8. For the avoidance of doubt, the Client shall continue to be liable to Orient Futures for any liabilities incurred by the Client over and above the limits set by Orient Futures.

## 9. ELECTRONIC FACILITIES

- 9.1 The Electronic Facilities may be proprietary to Orient Futures or may be licensed by Orient Futures from Third-Party Licensors for access and/or use by the Client. In addition to the terms of this Agreement, the Client agrees and undertakes to comply with:
- (a) any and all terms and conditions as Orient Futures and/or such Third-Party Licensors may from time to time prescribe or stipulate to be applicable to their provision and/or the Client's access and/or use of such Electronic Facilities; and
  - (b) all Electronic Facilities Procedures including all operating rules or policies,
- that may be issued or published by Orient Futures and/or Third-Party Licensors from time to time and/or otherwise made available through the Electronic Facilities (as the case may be).
- 9.2 To the extent that the Client may use Third Party Applications, whether independently identified and selected, sourced or used by the Client, made available via Orient Futures or otherwise, to provide connectivity to the Electronic Facilities offered or made available by Orient Futures to place Orders, enter into and/or settle Transactions, the Client acknowledges and accepts that it is solely responsible for and will bear all risks that such Third Party Applications may not be compatible with or function appropriately with the Electronic Facilities.
- 9.3 Orient Futures has the right, without having to furnish any notice to the Client, to modify, update, upgrade, end, suspend, terminate or discontinue the Electronic Facilities or any part thereof, including without limitation the functionality, specifications, availability and/or Content of the Electronic Facilities or any part thereof, temporarily or permanently, at any time. The Client acknowledges and agrees that Orient Futures will not be liable to the Client or any third party for any modifications, upgrades, termination, suspension or discontinuance of the Electronic Facilities or any part thereof.
- 9.4 The Client represents, warrants and undertakes on a continuing basis that the Client has received adequate instructions in respect of the operation and access of the Electronic Facilities and is fully conversant with the Electronic Facilities Procedures and will ensure that all the Authorised Users are equally conversant with and will abide by the Electronic Facilities Procedures.

### Authorised Users

- 9.5 The Client agrees and confirms that:
- (a) the Authorised Users are severally empowered and authorised on behalf of the Client to give Orders and shall act as agents of the Client when giving Orders and when accessing and/or using the Electronic Facilities;
  - (b) any Orders made through the Electronic Facilities given by any Authorised Users shall bind the Client in all transactions between Orient Futures and the Client; and
  - (c) all use and/or access of the Electronic Facilities by the Authorised Users shall be deemed the Client's use and/or access.
- 9.6 All references to the Client's use of the Electronic Facilities in this Agreement shall be deemed to include the Authorised Users' use and/or access where applicable.
- 9.7 The Client shall procure and ensure that each Authorised User is aware of, subject to and complies with this Agreement.

“As is” and “as available” basis; risks

9.8 The Client acknowledges and agrees that access and use of such Electronic Facilities is provided on an “as is” and “as available” basis. Without prejudice to any other provision of this Agreement (including the provisions hereunder), the following shall, except to the extent prohibited by Applicable Laws, apply:

- (a) The use of the Electronic Facilities is at the Client’s sole risk;
- (b) In respect of the Electronic Facilities, the use thereof, and/or the content available via the Electronic Facilities, Orient Futures makes no representation or warranty of any kind, whether express, implied or statutory, and disclaims and excludes all terms and conditions and warranties implied by statute or common law, in relation to the following:
  - (i) Any warranties of title, non-infringement of third-party rights, merchantability, satisfactory quality, suitability, fitness for any particular purpose and/or freedom from computer virus or other malicious, destructive or corrupting code, agent, program or macros;
  - (ii) The functionality, operation, content, security of any information transmitted by or to the Client using the Electronic Facilities or otherwise of such Electronic Facilities
  - (iii) That the Electronic Facilities or any part thereof is free from defect, failure or interruption or that they are fit for the Client’s purposes or any particular purpose; and
  - (iv) The privacy, security, accuracy, authenticity or completeness of any communication, including that any electronic message and/or alert in connection with the Electronic Facilities will be sent to and/or received by the Client;
- (c) The Client acknowledges and accepts that technical difficulties may be encountered in connection with the Electronic Facilities as the result of hardware, software or communication link inadequacies or otherwise and that such difficulties could lead to possible economic and/or data loss. Such technical difficulties include without limitation malfunctions, failures, delays, hardware damages or software erosion, interruption, transmission blackout, delayed transmission due to Internet traffic or incorrect data transmission due to the public nature of the Internet
- (d) Orient Futures shall not be responsible in any way whatsoever for the content, accuracy, timeliness or completeness of any information, data or other services provided through the Electronic Facilities;
- (e) Without prejudice to Clause 23, and even if Orient Futures has been advised of the possibility of such Loss or such Loss was reasonably foreseeable, Orient Futures, its related corporations, the Third Party Licensors and their respective officers, employees, agents, representatives or contractors shall not be liable for and accepts no liability for any Loss arising from the Client’s use of the Electronic Facilities, and including any Loss (including any indirect, special, economic or consequential Loss) arising from, but not limited to:
  - (i) Any defect, error, imperfection, fault, mistake, delay, failure or inaccuracy relating to the Electronic Facilities and/or any Content supplied or received by the Client via the Electronic Facilities or due to any unavailability of the

Electronic Facilities or any part thereof or of any Content or any part thereof;

- (ii) Orient Futures acting on any Orders given to Orient Futures via the Electronic Facilities which are referable to the Client's Security Codes and/or an Authorised User's Security Codes, as the case may be (whether or not the Client had authorised the Orders and/or use of the Security Codes);
  - (iii) Any machine, system, server, connection or communications failure, error, omission, interruption, delay in transmission, viruses, industrial dispute or any Force Majeure Event that leads either to the Electronic Facilities being totally or partially inaccessible or unavailable or to Instructions given via the Electronic Facility not being acted upon promptly or at all or to any damage caused to the Client's computer, equipment or system;
  - (iv) Any intrusion or attack by any person, computer system, computer virus or other malicious, destructive or corrupting code, agent program or macros into the Orient Futures Website and/or any computer system belonging to Orient Futures, the Security Code Issuer and/or the Client;
  - (v) any loss of profits, loss of goodwill, loss of anticipated savings or other intangible losses; and/or
  - (vi) any access and/or use of or inability to access and/or use the Electronic Facilities or any reliance by Client on Content (including financial information) provided through the Electronic Facilities; and
- (f) The Client agrees not to bring any legal action, whether in tort, contract or otherwise, against Orient Futures, any Third Party Licensors or any other third party technology providers alleging damages for, the failure by Orient Futures to perform or otherwise settle a Transaction entered by the Client using the Electronic Facilities.

#### Proprietary Information and intellectual property rights

- 9.9 The Client acknowledges that Proprietary Information are proprietary and unique to Orient Futures, Third Party Licensors or third party technology providers, as to which copyright, patent, or other proprietary rights may be held by Orient Futures, such Third Party Licensors, third party technology providers or third parties from whom such Third Party Licensors or third party technology providers have licensed or otherwise acquired such rights. The Client agrees to take or cause to be taken any and all necessary precautions to maintain the confidentiality of such Proprietary Information, to comply with all copyright, trademark, trade secret, patent and other laws necessary to protect all rights in the Proprietary Information as advised by Orient Futures and agrees not to remove, conceal or obliterate any copyright or other proprietary notice, which may include references to Orient Futures, such Third Party Licensors or such other third parties' ownership, as included in the Electronic Facilities.

#### Security Codes

- 9.10 Access to Electronic Facilities shall be subject to this Clause 9 and is granted to person(s) having identified themselves by entering the Security Code(s) in accordance with the Orient Futures' instructions and procedures regarding the use of such Security Code(s). Orient Futures shall have no obligation or responsibility to ensure that such person(s) entering such Security Code(s) accessing the Electronic Facilities through the Security Code(s) is/are the Client and/or an Authorised User.

- 9.11 In order to maintain a high level of security, the Client agrees that Orient Futures and/or the Security Code Issuer:
- (a) may, in its/their sole and absolute discretion, at any time without notice and without assigning any reason therefore, forthwith vary, invalidate and/or suspend or cancel the Client's Security Codes, provided that Orient Futures will give the Client notice thereof as soon as commercially practicable thereafter; and
  - (b) (without prejudice to Clause 23) shall not be liable or responsible to the Client for any Loss suffered by the Client or arising out of or in connection with or by reason of such invalidation, suspension or cancellation.
- 9.12 The Client is responsible for the confidentiality and use of its Security Code(s). If the Client becomes aware of any loss, theft or unauthorised use of its Security Code, the Client must notify Orient Futures immediately.
- 9.13 The Client accepts full responsibility for the monitoring of its Instructions and/or Orders and safeguarding the secrecy of its Security Code(s) and agrees that the Client shall be fully liable and responsible for any and all unauthorised use and misuse of its Security Code(s) and also for any and all acts done by any person through using the Client's Security Code(s) in any manner whatsoever as if such person were the Client, including all Transactions entered into and Instructions given as if such Transactions were made and such Instructions were given by the Client.
- 9.14 The Client agrees that Orient Futures and its Officers, agents and representatives may act upon any Electronic Instruction without inquiry or investigation as to:
- (a) the authority of the person giving or purporting to give any such Electronic Instruction and/or Order unless such person is not an Authorised User (as identified in accordance with Clause 9.10); or
  - (b) the authenticity of any telephone, facsimile or any other form of electronic communication including internet messaging services,

and may treat the same as fully authorised by and binding on the Client, regardless of the circumstances prevailing at the time of the Instruction or amount of the Transaction and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation thereto, and without requiring further confirmation in any form, provided that Orient Futures or the Officer, agent or representative concerned believed the Instruction to be genuine at the time it was given.

#### Electronic records

- 9.15 Without prejudice to any other provision of this Agreement, the Client accepts Orient Futures' records of any and all Instructions, communications, operations or transactions made or performed, processed or effected through the Electronic Facilities as (in the absence of Manifest Error) final and conclusive and the same shall be binding on the Client for all purposes.
- 9.16 The Client agrees that such records are admissible in evidence and that the Client shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were in electronic form or were produced by or are the output of a computer system, and the Client hereby waives any of its rights (if any) to so object.
- 9.17 Clauses 9.15 and 9.16 shall also apply to all records maintained by any third party designated by Orient Futures. To the extent of any inconsistency between Orient Futures' and such third party's records, Orient Futures' records shall (in the absence of Manifest Error) prevail.

10. **FEES AND PAYMENTS**

- 10.1 The Client shall promptly pay all of Orient Futures' fees and/or other charges at such rates and in such manner as Orient Futures may impose and stipulate from time to time with respect to the execution, performance and/or settlement of any Transaction or otherwise for the maintenance of any Account or the provision of any Service to the Client or in connection with any Account.
- 10.2 The Client shall make payment to Orient Futures' order promptly of any outstanding sum in respect of any Transaction on the Settlement Date of the relevant Transaction or upon demand by Orient Futures.
- 10.3 Orient Futures may charge interest on any sum or payment due to Orient Futures from the Client at such rate and calculated and/or compounded in such manner as Orient Futures may impose and determine from time to time and the Client shall pay such interest to Orient Futures.
- 10.4 All payments to Orient Futures shall be in the Currency in which they are due, in free and clear funds and free of deductions or withholdings. If the Client is required to effect such deductions or withholdings, then the amount due to Orient Futures shall be increased by such amount as shall result in Orient Futures receiving an amount equal to the amount Orient Futures should have received in the absence of such deduction or withholding.
- 10.5 Any taxes, duties, disbursements, costs and/or other expenses incurred by Orient Futures in connection with the Services, the Account or the Client shall be reimbursed in full by the Client.
- 10.6 Unless Orient Futures otherwise agrees in writing with the Client, each obligation of Orient Futures to make any payment to the Client under this Agreement is subject to the condition precedent that there is no Default subsisting or amount owing to Orient Futures by the Client, and no Liquidation Date in respect of the relevant Transaction has occurred or otherwise been specified.
- 10.7 If for any reason Orient Futures cannot effect payment or repayment to the Client in a particular Currency in which payment or repayment is due, Orient Futures may effect payment or repayment in the equivalent in any other Currency selected by Orient Futures based on the rate of exchange quoted by Orient Futures in respect thereof at the relevant time.
- 10.8 All interest, fees, commissions and other charges of Orient Futures are exclusive of any goods and services tax or any other applicable sales tax which shall be borne by and separately charged to the Client.
- 10.9 Any and all payments to be made by Orient Futures to the Client shall be made in such manner as Orient Futures may from time to time determine. All such payments shall be subject to:
- (a) all applicable taxes, deductions and withholdings, and less any and all amounts payable by the Client to Orient Futures; and
  - (b) all Applicable Laws, including any withholding tax requirement, foreign exchange restriction or control.
- 10.10 The Client agrees and acknowledges that, pursuant to the foregoing, Orient Futures may perform, or cause to be performed withholding of any monies payable to the Client, deposit any such monies into a sundry or other account and/or retain such monies pending determination of the applicability of such withholding tax requirement, foreign exchange restriction or control. Orient Futures shall not be liable for any Loss that may be incurred by reason of such

withholding, retention or deposit.

## 11. **FOREIGN CURRENCY TRANSACTIONS**

11.1 If the Client directs Orient Futures to enter into a Transaction and such Transaction is effected in a Currency other than the currency which is designated by the Client when opening an Account (the “**Relevant Currency**”):

- (a) any Loss resulting from exchange rate fluctuations of the Relevant Currency will be at the Client's sole risk;
- (b) all initial and subsequent deposits for Margin purposes in respect of that Transaction shall, unless Orient Futures otherwise stipulates, be made in the Relevant Currency and in such amounts as Orient Futures may require; and
- (c) Orient Futures may debit or credit the Account in the Relevant Currency when such Transaction is liquidated, and the rate of exchange of the Relevant Currency shall be determined by Orient Futures in its discretion on the basis of the rates of exchange prevailing at the time of the debit or credit.

11.2 Orient Futures may, at any time, convert any amounts in any Account or standing to the credit of the Client in any other Currency for the purposes of carrying out the Orders of the Client or exercising any of Orient Futures' rights under this Agreement or under any Account. Exchange rate losses and the costs of conversion shall be borne by the Client.

## 12. **PAYMENT NETTING**

12.1 To the extent permitted by Applicable Laws, if on any date two or more amounts would otherwise be payable:

- (a) in the same Currency; and
- (b) in respect of one or more Transaction on an Account,

by each of the Client and Orient Futures to the other party, then, on such date, each of the Client's and Orient Futures' obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by which the larger amount would have been payable to pay to the other party the excess of the larger amount over the smaller aggregate amount.

## 13. **MARGIN**

13.1 At any time, Orient Futures may require the Client to provide Margin, for:

- (a) the due performance of the Client's obligations under any and all Transactions or Accounts;
- (b) for the entry into or maintaining of any and all outstanding Transactions or Accounts; and/or



- (c) for the due performance of the Client's other obligations to Orient Futures whether hereunder or otherwise,

("Margin"), which is required to be maintained by Orient Futures and/or the Client.

13.2 The Client hereby acknowledges and agrees that:

- (a) Margin required by Orient Future may reflect or be greater than any applicable margin requirements as may be set by any governmental or self-regulatory organisation in any jurisdiction (including any Exchange), or any Intermediary;
- (b) separate Margin shall be provided by the Client in respect of each Account or Transaction as Orient Futures may require, and the Margin in respect of each Account or Transaction shall be treated as separate for the purposes of this Agreement; and
- (c) upon specific Instructions provided by the Client, Orient Futures may transfer all or part of the Margin held by Orient Futures for the Client in respect of any Account or Transaction to any other Account or Transaction, or to utilise such Margin for any purposes as required by the Client.

13.3 Without prejudice to and unless otherwise required by this Clause 13, the Client undertakes to Orient Futures to:

- (a) provide all Margin by the next Business Day after receiving notification from Orient Futures or at such time as may be stipulated by Orient Futures where such Margin is required by Applicable Law or in respect of an Extraordinary Event (as the case may be); and
- (b) place the required Initial Margin before entering into any Transaction and at all times maintain sufficient Maintenance Margin for outstanding Transactions.

13.4 Without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, in the event that the Client is unable to furnish the Margin as required under Clause 13.3(a), Orient Futures may, without prior notice to the Client, apply and use as Margin for purposes of any Transaction or Account, any and all cash or other property for the time being deposited with, received by, held by or under the control of Orient Futures for the Client or for the Account.

13.5 The Client agrees that, whether or not a Margin Call has been made and unless required by this Clause 13, if the Equity falls below:

- (a) the required Maintenance Margin, the Client shall transfer additional margin to Orient Futures (whether or not a Margin Call has been made) to restore the Equity to the required Initial Margin for the outstanding Transactions; and
- (b) Liquidation Level, Orient Futures may close out some or all the Transactions immediately, or at any time thereafter.

13.6 For the purpose of this Clause 13:

- (a) "**Equity**" means the sum of the value of all Margin held for the Account, subject to such discount(s) or hair-cut(s) as Orient Futures may in its sole discretion determine, and the unrealised profits of the outstanding Transactions less the unrealised losses of outstanding Transactions. The determination of the unrealised profits and losses of Transactions shall be made by reference to the prevailing bid, offer or last transacted price of the relevant Product. Such determination shall be made by Orient Futures in

its sole discretion and the determination of the Equity by Orient Futures is binding on the Client;

- (b) Initial Margin, in respect of each Transaction, shall be an amount equal to such percentage (as Orient Futures may from time to time determine) of the notional amount of the Transaction;
- (c) Maintenance Margin, in respect of each Transaction at any time, shall be an amount equal to such percentage (as Orient Futures may from time to time determine) of the aggregate Initial Margin required for all outstanding Transactions as if all the outstanding Transactions were established at such time (and not based on the amount placed by the Client to satisfy the Initial Margin requirement for establishing a new Transaction);
- (d) **"Liquidation Level"** means 30% (or such other percentage as Orient Futures may from time to time determine) of the aggregate Initial Margin required for all the outstanding Transactions as if all the outstanding Transactions were established then (and not based on the amount placed by the Client to satisfy the Initial Margin requirement for establishing a new Transaction); and
- (e) all open positions in the Account will be marked-to-market daily or at more frequent intervals as determined by Orient Futures in its sole discretion.

13.7 Notwithstanding Clause 13.1, Orient Futures may:

- (a) by notice to the Client, except to the extent prohibited by Applicable Laws, vary its Margin limits, levels and other requirements (referred to as **"Margin Requirements"** for the purposes of this Clause 13) for the Account at any time;
- (b) stipulate that such revised Margin Requirements shall apply to existing positions as well as new positions in respect of the Transactions or Accounts; or
- (c) by notice to the Client, effect an immediate change in Margin Requirements and/or require, with or without prior notice, additional Margin to be deposited immediately or within a very short period of time which may be by the end of the next Business Day but which may be less than 24 hours if required in respect of an Extraordinary Event or by Applicable Laws.

The Client hereby waives any right to object on the grounds that such requirement is unreasonable.

13.8 No previous Margin Requirement shall set a precedent or bind Orient Futures. The Client accepts that this is a risk inherent in the Client's entering into and dealing in Transactions.

13.9 The value of all Margin provided to and held by, or to be provided to and held by, Orient Futures shall be as determined by Orient Futures in its sole and absolute discretion. Orient Futures may (but is not obliged to) at any time and from time to time:

- (a) conduct a valuation or assessment of the Margin provided by or for the Client; and
- (b) the cost of such valuation or assessment shall, except to the extent prohibited by Applicable Laws, be borne by the Client and for the Client's account.

13.10 Save as provided otherwise in Clause 5 of Schedule 3, all Margin shall be held by Orient Futures, notwithstanding any provision or Instructions to the contrary, as continuing security and shall be subject to a general lien and right of set-off in favour of Orient Futures for any and

all of the Client's liabilities to Orient Futures (whether contingent or actual) under this Agreement or otherwise, and Orient Futures may realise any of the Margin of the Client as provided for in this Agreement.

- 13.11 No interest shall be paid on any type of Margin deposited by or for the Client with Orient Futures and the Client acknowledges and consents that interest earned on the Client's Margin may, except to the extent prohibited by Applicable Laws, be retained by Orient Futures for its own account and benefit.
- 13.12 Except to the extent required by Applicable Laws, nothing in Clause 13.14(a) shall oblige Orient Futures to apply and use any cash or other property for the time being deposited with, received by, held by or under the control of Orient Futures for the Client or the Account as Margin for purposes of any Transaction or Account.
- 13.13 Except to the extent prohibited by Applicable Laws, any and all cash and other property received by Orient Futures as Margin for purposes of any Transaction or Account of the Client may also be applied and used by Orient Futures as collateral to secure any and all of the Client's obligations to Orient Futures under any other Transaction or Account.
- 13.14 The Client agrees and acknowledges that it is the Client's principal responsibility to:
- (a) monitor the Equity in its Account, the required Initial Margin and Maintenance Margin for its Account, and its Transactions on an ongoing and real-time basis; and
  - (b) comply with all Margin Requirements.

Additional Margin

- 13.15 In addition to the Margin amount as referred to in Clause 13.1, Orient Futures may, at any time, from time to time and in its absolute discretion provide additional margin as Orient Futures may determine in its absolute discretion, for:
- (a) the due performance of Orient Futures' obligations under any and all Transactions or Accounts relating to the Client;
  - (b) the entry into or maintaining of any and all outstanding Transactions or Accounts relating to the Client; and/or
  - (c) the due performance of Orient Futures' other obligations to the Intermediary whether hereunder or otherwise relating to the Client,

(**"Additional Margin"**).

- 13.16 Orient Futures may, at any time, from time to time and in its absolute discretion require, except to the extent prohibited by Applicable Laws, the Client to provide to Orient Futures as collateral, such cash or other property in such form, and of such amount, Currency denomination, specifications or value as Orient Futures may determine in its absolute discretion for the Additional Margin (as applicable).

### Insufficient Margin

13.17 The Client acknowledges and agrees that:

- (a) if:
  - (i) by entering into any Transaction, its Margin will become insufficient for all of its positions; or
  - (ii) it enters into a Transaction without having provided any Margin to Orient Futures,

Orient Futures shall be entitled to immediately, or at any time thereafter, and without notice to the Client liquidate such Transaction;
- (b) it would be liable for all commission and transaction costs relating to the aforesaid Transaction and any losses resulting from the liquidation of such Transaction; and
- (c) Orient Futures shall not be liable for any losses resulting from the liquidation of such Transaction if Orient Futures shall exercise its rights under this Clause 13.17.

### Default

13.18 Without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, Orient Futures may (but is not obliged to), if it determines in its sole judgment that a Default has occurred, at any time, apply (whether by way of sale, disposal, purchase or otherwise) any and all Margin held by Orient Futures:

- (a) towards the payment of any amounts due and payable by the Client to Orient Futures under any Transaction or Account; or
- (b) towards meeting any of the Client's obligations and liabilities to Orient Futures (including the obligation to comply with the Margin Requirements and the obligation to provide Additional Margin), whether or not any time which has been allowed for the Client to provide any Additional Margin or take any other action has elapsed, and Orient Futures' giving of any prior demand or call (including a Margin Call) or any prior notice of the time and place of such sale or purchase shall not be considered as a waiver of Orient Futures' rights under this Clause 13 or Clause 12.

### Negative pledge

13.19 The Client undertakes to neither create nor to have outstanding any security interest whatsoever over, nor to agree to assign or transfer, any of the cash or non-cash Margin transferred to Orient Futures, other than a lien or other security interest routinely imposed on the type of property (other than cash) so provided in a relevant clearing system.

### Further assurance

13.20 The Client shall (at its own cost) promptly execute and do all such documents, instruments, assurances, acts and things as necessary or as required by Orient Futures for creating, perfecting and/or protecting the rights of Orient Futures to any Margin, including:

- (a) delivering to Orient Futures all security and other documents, in such form or forms acceptable to Orient Futures, duly executed by the Client or for the Client in favour of Orient Futures; and
- (b) where necessary, having the same duly filed, stamped and registered in accordance with all Applicable Laws.

## Margin Calls

- 13.21 The Client acknowledges that Orient Futures may make a call for Margins (referred to as **"Margin Call"** for the purposes of this Clause 13) on the Client in respect of the Margin Account orally or in writing or in such other manner as Orient Futures may in its sole discretion deem appropriate. Without prejudice to the generality of the foregoing, the Client agrees that:
- (a) Orient Futures may contact the Client at any of the telephone numbers in its Application or at any other telephone numbers as the Client may notify Orient Futures from time to time, for the purpose of any Margin Call and the Client shall make itself available at such telephone numbers; and
  - (b) if Orient Futures fails to reach the Client at such telephone numbers, the Client shall be deemed to have defaulted on the Margin Call.
- 13.22 Any Margin Call must be met on the same day by telegraphic transfer or other similar transfer of cleared funds, verified in such manner as may be required by, and to the satisfaction of, Orient Futures, to such bank account as Orient Futures may designate from time to time for such purpose or by delivery of a bank guarantee issued by a Singapore-incorporated bank in the form required by Orient Futures. Without prejudice to the Client's obligation to pay Margin immediately when the same becomes due, the Client must notify Orient Futures immediately if the Client cannot, or believes it would not be able to, meet a Margin Call when due.
- 13.23 Orient Futures may, before the time for meeting the Margin Call has elapsed, take any step(s) it deems necessary in its sole and absolute interest to protect its financial interests, including exercising any of its rights under Clause 12 and Clause 13.
- 13.24 Except to the extent prohibited by Applicable Laws, Orient Futures may:
- (a) require Additional Margin;
  - (b) liquidate the value of all of the positions in a Margin account; and/or
  - (c) take such other action or to exercise any of its rights under this Clause 13 or Clause 12,
- as it deems fit whenever it considers such action to be necessary for its protection, including in the event of, but not limited to the occurrence of any Default or Extraordinary Event, all without demand for Margin or Additional Margin, or notice to the Client.
- 13.25 If Orient Futures grants any such extension of time for Margin Calls in its discretion, then unless Orient Futures expressly states in writing that such extension of time is intended to override or prevail over Orient Futures' rights under this Clause 13, such extension of time shall be deemed to have been granted subject always to Orient Futures' rights under this Clause 13 and Clause 12.
- 13.26 Notwithstanding Clause 13.25, the Client does not have a right to an extension of time with regards to Margin Calls.
- 13.27 Upon any Margin Call and without prejudice to Orient Futures' rights under this Agreement, any other agreement or otherwise at law, the Client acknowledges that Orient Futures may refuse any request by the Client to enter into any further Transaction until Orient Futures has confirmed receipt of the called Margin in cleared funds.
- 13.28 Notwithstanding the fact that Orient Futures may make Margin Calls, the Client agrees that it is the Client's principal responsibility to monitor any open positions and all other relevant factors

used to calculate Margin payable and Orient Futures is not obliged to make Margin Calls of the Client at all or within any specific time period nor shall Orient Futures be liable to the Client for any failure by Orient Futures to contact the Client.

#### 14. **ORIENT FUTURES' RIGHTS**

14.1 Except to the extent prohibited by Applicable Laws, Orient Futures may, whenever Orient Futures considers it necessary, desirable or advisable for Orient Futures' protection and interests, without prior notice to the Client and at the Client's sole expense and risk, take such actions and/or steps in such manner as Orient Futures deems fit in relation to the Account including, but not limited to:

- (a) satisfy any obligation the Client may have to Orient Futures (either directly or by way of guarantee or suretyship) out of any cash or other property (including any and all Collateral) of the Client in Orient Futures' custody or control including to apply any amounts of whatsoever nature standing to the credit of any Account against any amounts which the Client owes to Orient Futures (of whatsoever nature and howsoever arising, including any prospective or contingent amounts), or generally exercise Orient Futures' right of set-off against the Client;
- (b) terminate any outstanding Transactions or other open positions in the Account, or close-out or otherwise liquidate the same in such manner and upon such terms as Orient Futures deems fit;
- (c) sell or buy any or all property outstanding which may be long or short respectively in the Account;
- (d) net or set off some or all positions and balances in the Account;
- (e) combine two or more of the Accounts;
- (f) take delivery under any of the positions in the Account;
- (g) cancel or complete any outstanding Orders or other commitments made on behalf of the Client for the purchase or sale of any property or for any Transaction; and
- (h) cancel any outstanding Orders in order to close the Account or Accounts,

on such terms and conditions as deemed appropriate by Orient Futures in its sole and absolute discretion. In exercising any one or more of its foregoing rights, Orient Futures shall not be obliged to furnish any reason to the Client.

14.2 For the avoidance of doubt, Orient Futures may, in the event of a Default, and in addition to its rights and remedies under Clause 20, exercise such other rights and remedies as provided under this Clause 14.

14.3 Without prejudice to the generality of Clause 14.1, with respect to any sale or purchase of property of the Client arising out of Clause 14.1 or Clause 20, Orient Futures shall be entitled, in each case, in its sole and absolute discretion to select the Client's property to sell and determine the terms thereupon the property is sold, without being responsible for any Loss or diminution in price.

14.4 It is understood that, in all cases, a prior demand, or call, or prior notice of the time or place of any sale or purchase under Clause 14.3:

- (a) shall not be considered a waiver of Orient Futures' right to sell or to buy without demand

or notice as herein provided;

- (b) that the Client shall at all times be liable for the payment of any debit balance owing in such Account with Orient Futures upon demand; and
- (c) that in all cases, the Client shall be liable for any deficiency remaining in such Account in the event of the liquidation thereof in whole or part by Orient Futures or by the Client.

- 14.5 In the event of Transactions for which Orient Futures is called to take up or deliver the underlying but for which funds are not made available by the Client or documents for delivery are not forthcoming when required by Orient Futures, Orient Futures may terminate or close-out such Transactions.
- 14.6 In case of the sale of any property by Orient Futures at the direction of the Client and Orient Futures' inability to deliver the same to the purchaser by reason of the Client's failure to supply Orient Futures therewith, then, Orient Futures may buy-in or borrow for the Client's account any such property necessary to make delivery thereof.

#### Interest

- 14.7 Debit balance(s) in the Account shall be charged with interest thereon at such rate per calendar month as provided by Orient Futures to the Client and updated by Orient Futures from time to time with prior notice in writing and the Client shall promptly settle, upon demand, all liabilities outstanding to Orient Futures, together with all costs of collection including legal costs on a solicitor and own client basis.
- 14.8 Except to the extent prohibited under Applicable Laws, the Client waives and relinquishes in Orient Futures' favour all claims for interest that may otherwise accrue with respect to monies (including Margin) received on account of the Client (whether held in a trust account, omnibus trust account or subject to a trust in favour of the Client or held with a Clearing House or a member of an Exchange or otherwise).
- 14.9 Notwithstanding Clause 14.8, where Orient Futures believes it to be appropriate, Orient Futures may in its sole and absolute discretion pay over to the Client such part of the interest received by Orient Futures with respect to monies received on account of the Client as Orient Futures may, in its sole and absolute discretion, deem appropriate.

#### Set-off

- 14.10 Orient Futures may, except to the extent prohibited by Applicable Laws, at any time and from time to time without notice set-off any amounts due to the Client or held in any Account or any other account to which the Client is beneficially entitled (whether with Orient Futures or with any member of the Orient Futures Group) to reduce or extinguish any liability whether present or future, actual or contingent, as primary obligor or as surety, owed by the Client to Orient Futures or to any of other member of the Orient Futures Group.

#### Withholding

- 14.11 For so long as the Client owes monies or obligations (of whatsoever nature and howsoever arising whether present or future, actual or contingent, as primary obligor or as surety) to Orient Futures, the Client may not withdraw any cash or other property held with Orient Futures (whether as Margin or otherwise) without Orient Futures' consent. Orient Futures may at any time withhold any cash or other property of the Client pending full settlement of all such monies or obligations of the Client.

### Consolidation

- 14.12 Without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law (including, without limitation, any right of set-off, combination or other right which Orient Futures may have) and subject to Applicable Laws where the Client has more than one Orient Futures Account, Orient Futures may, in its sole and absolute discretion, at any time without notice to the Client, combine and/or consolidate all or any of the Orient Futures Accounts, set off and/or transfer any sum or sums standing to the credit of any one or more Orient Futures Accounts in settlement of any or all of the Client's obligations or liabilities of whatsoever nature to Orient Futures and any member of the Orient Futures Group in respect of any other Orient Futures Account.

### Transfer between Accounts

- 14.13 Orient Futures may, in its discretion, at any time and from time to time without notice to the Client apply and/or transfer any or all such cash and other property of the Client's interchangeably between any of the Accounts.

### As to provision of information and access by Client

- 14.14 The Client agrees and undertakes to provide Orient Futures with any and all information and documents as well as access to any staff or representative of the Client that Orient Futures may from time to time request or require for the purposes of this Agreement or in connection with any Account of the Client (including any beneficiary or person connected therewith), including such information and documents as Orient Futures may require under Applicable Laws, whether relating to the prevention of financial crime, fraud, bribery, corruption, money-laundering, terrorism financing and any international sanctions or any other matter or for the purposes of assisting any Exchange, Clearing House or authority in relation to any Transaction or any monitoring, surveillance, audit, investigation, enforcement or other action.

### Adjustments upon Extraordinary Events

- 14.15 Without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, if there occurs in relation to any Transaction or otherwise in relation to the Account an Extraordinary Event, Orient Futures shall have the sole discretion to determine any adjustments or action whatsoever in relation to such Transaction or any or all Transactions or otherwise to the Account in view of the Extraordinary Event. Such adjustments or actions may include, without limitation:

(a) altering or varying the:

- (i) quantities;
- (ii) exchange rates; and/or
- (iii) specifications,

of Currencies, Commodities, or instruments bought or sold in respect of such Transaction or some or all Transactions;

(b) terminating the Transaction in question or some or all Transactions, and/or

(c) terminating the Account.



- 14.16 Provided that Orient Futures undertakes such adjustment(s) or action(s) pursuant to Clause 14.15 in good faith, any such adjustment(s) or action(s) shall be binding on the Client who shall be liable for any additional Loss incurred by Orient Futures on the account of the Client or which the Client is consequently liable for as a result of such adjustment or action.

#### Force Majeure Events

- 14.17 Without prejudice to Clause 23, Orient Futures shall not be liable to the Client for any Loss or delay caused by any Force Majeure Event.
- 14.18 If Orient Futures determines in its reasonable opinion that a Force Majeure Event exists then Orient Futures may in its sole and absolute discretion, without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law and, where relevant, for such period as Orient Futures may in its sole and absolute discretion determine in good faith to do one or more of the following:
- (a) cease or suspend trading and/or alter trading times for any Transaction in any market or Exchange;
  - (b) vary commission rates or any other applicable fees or charges;
  - (c) exercise a buy-in or force sell in respect of any or all Transactions, refuse any trades for any Transaction, close any or all open trades, cancel or fill any Order, in each case at such level as Orient Futures considers in good faith to be appropriate in all the circumstances;
  - (d) require immediate payment of Margin, Collateral or any other amounts the Client may owe Orient Futures;
  - (e) vary maximum and/or minimum Transaction size;
  - (f) suspend or modify the application of any one or more provisions of this Agreement to the extent that it is impossible or not reasonably practicable for Orient Futures to comply with them; and
  - (g) take or omit to take all such other actions as Orient Futures deems appropriate in the circumstances to protect itself and its clients as a whole.

#### General lien

- 14.19 Save as provided otherwise in Clause 5 of Schedule 3, in addition and without prejudice to any other right of Orient Futures under this Agreement, any other agreement or otherwise at law, Orient Futures shall have a general lien on all cash and other property of the Client (including Margin) which may at any time be in Orient Futures' possession or control or carried on Orient Futures' books for the Client either solely, jointly with others and right of set off for liabilities of the Client to Orient Futures and/or any member of the Orient Futures Group whether or not Orient Futures has made advances in connection with such cash or other property, and irrespective of the number of Accounts the Client may have with Orient Futures.
- 14.20 Orient Futures is hereby authorised to sell and/or purchase, or otherwise apply, any and all such cash and other property (including Margin) without notice to the Client to satisfy such general lien.

## Charge

- 14.21 Except to the extent prohibited by Applicable Laws, as a continuing security for the payment and satisfaction on demand of all monies and liabilities and the performance of all obligations under this Agreement which are now or at any time hereafter may be due, owing or incurred from or by the Client to Orient Futures, the Client hereby charges to Orient Futures, free of all encumbrances and adverse interests:
- (a) by way of first fixed equitable charge, all cash and other property of the Client which are or have been deposited with, held by or in the custody or control of Orient Futures or its nominee; and
  - (b) by way of a first fixed legal mortgage, all cash and other property of the Client, the title to which has been transferred by the Client or its nominee to Orient Futures or its nominee, in each case, including dividends, interests, rights, monies or property accruing in respect thereof.
- 14.22 Section 21 and Section 25 of the CLPA shall not apply to the security created pursuant to Clause 14.21 and Orient Futures may exercise the powers of sale conferred on mortgagees by the CLPA (as may be varied or extended by these terms and conditions) free from the restrictions imposed by Section 25 thereof.
- 14.23 The Client shall, upon request by Orient Futures, forthwith execute (at the Client's cost) all such transfers and other documents as may be necessary to enable Orient Futures or its nominee to perfect the charge, to be registered as owner of, or otherwise obtain legal title to, any securities deposited with or held by it and which are charged to Orient Futures pursuant to Clause 14.21.
- 14.24 Nothing in this Agreement shall restrict the operation of any general lien or other rights or lien whatsoever which Orient Futures may be entitled to under general law.

## **15. CLIENT'S MONIES AND ASSETS**

- 15.1 Where Orient Futures holds cash or other assets (including Margin) on behalf of the Client, Orient Futures shall deposit such cash or other assets in trust accounts or other segregated accounts as required under the SFA, unless otherwise directed by the Client or unless otherwise permitted by the SFA. Where the Client's assets or monies are deposited in an individually segregated account, subject to any Applicable Laws, the Client shall pay all fees requested and/or incurred by Orient Futures arising out of or in connection with such segregated account (such fees shall be determined by Orient Futures in its sole and absolute discretion).
- 15.2 Except to the extent prohibited or otherwise required under Applicable Laws:
- (a) Orient Futures may, for the purpose of depositing monies received on the Client's account which are denominated in a foreign Currency in a trust account, maintain a Trust Account with a custodian outside Singapore which is licensed, registered or authorised to act as a custodian or to conduct banking business in the country or territory where the account is maintained by Orient Futures;
  - (b) without prejudice to the generality of any other provision in this Agreement, Orient Futures shall have no liability whatsoever to the Client in the case where such custodian is unable (for any reason whatsoever) to return, pay or deliver any portion of the monies in such account to Orient Futures or the Client;
  - (c) the Client understands that the laws and practices relating to trust accounts or customers in the relevant jurisdiction may differ from the laws and practices in

Singapore. Such differences mean that the Client's monies may not enjoy the same level of protection as accorded to monies that are held in Singapore. Depending on the jurisdiction, this may affect the Client's ability to recover the funds deposited in the trust or customer's account;

- (d) in the event of insolvency of the bank or such other financial institution holding the omnibus Trust Account, the Client may not be able to fully recover its monies. Further, where the Client's monies are commingled with those of other customers in the same account, the Client may potentially be exposed to the losses of other customers; and
- (e) in the event of Orient Futures' insolvency, monies held on the Client's account in the Trust Account will be excluded from the monies and assets of Orient Futures available to Orient Futures' creditors.

15.3 Except to the extent prohibited or otherwise stipulated or required by Applicable Laws, the Client acknowledges and consents that:

- (a) Orient Futures may place monies (including Margin) received on the Client's account in an omnibus customer trust account together with monies that Orient Futures holds for other customers;
- (b) Orient Futures may hold monies (including Margin) received on the Client's account on trust in the forms of investment stipulated in Regulation 20 of the SFR; and
- (c) all returns from the investment of the Client's monies held in trust by Orient Futures in accordance with the said Regulation 20 shall accrue to Orient Futures.

#### Interest waiver

15.4 The Client hereby acknowledges and accepts that:

- (a) as a general rule (except to the extent prohibited by Applicable Laws) funds of the Client (including Margin) in the possession or control of Orient Futures (whether held in a trust account or subject to a trust in favour of the Client or held with a Clearing House or a member of a futures Exchange or a member of an overseas futures Exchange or otherwise) will be held commingled with funds of other customers of Orient Futures (where applicable in a trust account in accordance with the provisions of the SFA);
- (b) one result of the preceding is that it would be administratively difficult and as a matter of economic costs counter-productive to attempt to allocate the respective interest entitlement (if the trust account is interest bearing) on an individual basis. This is primarily because of the constant fluctuations in the value of the commingled funds in such trust account;
- (c) it is a condition for Orient Futures accepting the Client as a customer that the Client agrees therefore to waive and relinquish in favour of Orient Futures any and all rights and entitlements to interest and investment earnings accruing to the Client's share of funds (including Margin), whether held in such trust account or subject to a trust in favour of the Client or held with any Clearing House as collateral for any applicable Transaction (including, without limitation, any OTC Clearing Transaction) in respect of the Client;
- (d) by applying to open the Account with Orient Futures and by being a customer of Orient Futures and/or accessing or using any of Orient Futures' Services, the Client shall be deemed to agree to (and Orient Futures will and does materially rely on the

effectiveness of) such waiver and relinquishment as set out in Clause 15.4(c); and

- (e) Orient Futures may however pay from time to time such portion of any actual interest and investment earnings it may receive with respect to such funds (including Margin) as it deems appropriate.

#### Investment of Custody Assets

- 15.5 The Client hereby agrees that Orient Futures may invest any of the Custody Assets in accordance with Applicable Laws, including any investments in Government securities under Section 20(1)(a) of the Securities and Futures (Licensing and Conduct of Business) Regulations.

#### Clearing House Collateral

- 15.6 The Client hereby acknowledges and accepts that:
- (a) (without prejudice to Clause 23) at no time shall Orient Futures be held liable or responsible in any way for any Loss suffered or incurred by the Client as a result of any investment by a Clearing House of the Client's Margin held with such Clearing House as collateral for any applicable Transaction (including without limitation any OTC Clearing Transaction) in respect of the Client ("**Clearing House Collateral**"); and
  - (b) the deposit or provision of any Clearing House Collateral in any Clearing House shall be subject to:
    - (i) the clearing rules of such Clearing House;
    - (ii) any security deed or document which such Clearing House may require its clearing members to enter into to govern the provision of Clearing House Collateral (which form may be prescribed and amended or supplemented from time to time by such Clearing House); and
    - (iii) any applicable law or regulation (including without limitation the SFA).

#### Exercise of any right and Power

- 15.7 The Client shall inform Orient Futures of any instruction to exercise any right or power arising from the ownership of assets in writing to Orient Futures.

#### Liability with respect to Client Monies

- 15.8 Orient Futures shall not be liable for any Losses suffered or incurred by the Client, or profit or advantage of which the Client may be deprived, which arises from or in connection with: (a) any manner in which Orient Futures holds or deals with Client's monies or assets received or intended to be received in connection herewith; (b) the loss, theft or destruction of, or any damage to, any of the Client's assets or monies, or certificates relating thereto; or (c) any action or omission of Orient Futures with respect to this Clause 15, provided that:
- (a) Orient Futures shall, at all times, act in accordance with Applicable Laws;
  - (b) upon written request by the Client, Orient Futures shall as far as commercially practicable inform the Client the details of the identities of any Client Money Delegates that are relevant to the Client;
  - (c) Orient Futures shall exercise reasonable care in the selection of and the conduct of due

diligence on any Client Money Delegate (which shall be in the sole and absolute discretion of Orient Futures); and

- (d) Orient Futures shall mitigate any Losses on the part of the Client as far as commercially practicable.

- 15.9 Orient Futures shall also not be liable for: (a) the insolvency or bankruptcy of any Client Money Delegates (or any similar proceedings faced by the Client Money Delegates in any jurisdiction, including where the assets or monies held by the Client Money Delegates are frozen or unrecoverable); or (b) any act or omission of any Client Money Delegate, to the extent that such act or omission does not involve any gross negligence, fraud or wilful default on the part of Orient Futures. For the avoidance of doubt, any assets or monies that the Client is unable to recover from any Client Money Delegate as a result of the aforementioned situations will not extinguish or affect any other obligations owed by the Client to Orient Futures under this Agreement (including any Margin requirements imposed by Orient Futures on the Client).

#### Unclaimed Client Monies and Assets

- 15.10 In the event that Orient Futures reasonably and in good faith takes the view that the Client no longer wishes to recover or claim any monies or assets held by Orient Futures on behalf of the Client, Orient Futures shall have the right to send a final notice to the Client to the last known mode of communication which Orient Futures has on record (the **"Final Notice"**). The mode and manner of the Final Notice shall be decided in the sole and absolute discretion of Orient Futures, but the Final Notice shall specify the remaining monies and assets which Orient Futures still holds on behalf of the Client (the **"Remaining Assets"**). In the event that the Client does not provide written notice to Orient Futures seeking to recover or claim the Remaining Assets within a period of six (6) years starting from the date on which the Final Notice is sent, the Client shall be deemed to have irrevocably and permanently waived all rights, claims, title, interest and benefit in the Remaining Assets, and Orient Futures may appropriate all Remaining Assets to itself and the Client shall no longer be entitled to bring any claims or proceedings against Orient Futures for the return of the Remaining Assets.

#### Maintenance of Dormant Accounts

- 15.11 Where there is no Transaction activity on any of the Client's Accounts for a period of 12 months or more at any given time, Orient Futures shall have the right to charge reasonable maintenance fees or any other associated fees with regards to the maintenance of such Accounts at the discretion of Orient Futures.

### 16. **USE OF INTERMEDIARIES**

- 16.1 Without prejudice to the generality of Clause 4.1, Orient Futures may use, engage or appoint, directly or indirectly, any Intermediary to:

- (a) carry out any Order;
- (b) execute or clear any Transaction;
- (c) hold or custodise any of the Client's funds and assets; or
- (d) exercise any authority granted to Orient Futures by the Client under this Agreement or otherwise.

Such use, engagement or appointment of any Intermediary shall be upon such terms and conditions as Orient Futures deems fit in its discretion.

16.2 Without prejudice to Clause 23, the Client acknowledges, agrees and accepts that if:

- (a) Orient Futures had exercised reasonable care in its selection of the Intermediary;
- (b) such selection of the Intermediary was under the express Instruction of the Client;
- (c) the use of such Intermediary was necessary to carry out Transactions and/or Services for the Client (including for the avoidance of doubt, the custody arrangements made by Orient Futures with respect to the Client's assets); or
- (d) any combination of 16.2(a) through 16.2(c) applies,

Orient Futures shall have no liability or responsibility for, and the Client shall bear all risks arising from, consequent to, and/or in relation to the acts or omissions of the Intermediary and the Intermediary Default of such Intermediary which is beyond Orient Futures' reasonable control, including without limitation, the loss of all Margin which the Client is required to provide to Orient Futures at Orient Futures' absolute discretion pursuant to Clause 13 and/or Additional Margin, which is deposited by Orient Futures with the defaulting Intermediary with or through whom the Client's Transactions are to be effected, traded, cleared or settled.

16.3 In view of the fact that where Orient Futures uses, engages or appoints an Intermediary, Orient Futures may have to accept principal responsibility and/or liability to an Intermediary notwithstanding that, as between the Client and Orient Futures, Orient Futures may in fact be the agent of the Client:

- (a) the Client agrees and acknowledges that:
  - (i) any cash or other property (which as between Orient Futures and the Client is to be regarded as that of the Client, or purchased by or for the Client) may or will be regarded by such Intermediary as being the cash or other property of Orient Futures or purchased by Orient Futures for itself;
  - (ii) this may in some instances result in prejudice to the Client. For example, in certain circumstances, the Client's monies and property may be used to satisfy obligations of Orient Futures or other customers of Orient Futures; and
  - (iii) the Client accepts that this is a necessary risk of dealing in Singapore or in any foreign jurisdiction through Orient Futures; and
- (b) in addition and without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, the Client shall indemnify, keep indemnified and hold harmless Orient Futures against any and all Losses (including legal costs on a full indemnity basis) suffered or incurred by Orient Futures whether directly or indirectly in relation to, arising out of or in connection with any act, or omission, or any Intermediary Default, of an Intermediary or such Intermediary's officers, employees, agents or representatives, which is beyond Orient Futures' reasonable control, provided that all actions taken by Orient Futures were in good faith, in compliance or performance of Orient Futures' said principal obligation or responsibility.

16.4 The foregoing rights and remedies of Orient Futures will apply even though as between Orient Futures and the Client, the Client may be in actual or anticipatory default.

## 17. CLIENT'S REPRESENTATIONS, WARRANTIES, AGREEMENT AND UNDERTAKINGS

17.1 The Client represents, warrants, agrees and undertakes to Orient Futures on a continuing basis that:

- (a) the Client has full capacity and authority, including but not limited to all authorisations, consents, licences or approvals (whether under Applicable Laws or otherwise) required, to accept and agree to this Agreement, to open, maintain and/or continue to maintain the Account from time to time opened and/or maintained and/or continued to be maintained with Orient Futures, and to give Orient Futures Orders thereon;
- (b) the Client is not an employee of any governmental or self-regulatory organisation in any jurisdiction, including any exchange or a member firm thereof, or engaged in the business of dealing (either as agent or principal), which prohibits the Client from establishing a relationship with Orient Futures in dealing in any of the property traded under the Account, and the Client shall promptly notify Orient Futures if it becomes so employed;
- (c) it acts as principal and not as agent or trustee on behalf of another person and no person other than the Client has an interest in any Account, unless otherwise notified to Orient Futures in writing and/or agreed to by Orient Futures (as applicable);
- (d) except with the express written consent of Orient Futures, and except for any security or encumbrance created hereunder, no person has or will have any security or other encumbrance over any Account and/or over any cash or property in any Account;
- (e) Orient Futures shall not be under any duty or obligation to inquire into the purpose or propriety of any Order and shall be under no obligation to see to the application of any funds delivered by the Client in respect of any Account;
- (f) any person(s) empowered to act on the Client's behalf have been duly authorised;
- (g) the Client has complied and shall comply with all Applicable Laws in all jurisdictions relevant to any Account, Transaction or service or facility provided or made available by Orient Futures to it (including, without limitation, all tax laws and regulations, exchange controls, capital restrictions and other similar restrictions or requirements imposed by any monetary or other authority, however described, applicable to it);
- (h) the Client shall cause to be filed and/or registered and/or lodged with any relevant authorities such statements of prescribed particulars, forms and/or other documents whatsoever as may be required by any Applicable Law in connection with the execution, delivery, performance, validity, enforceability or admissibility in evidence of this Agreement (including the charges created under Clause 14.21) is obtained and is in full force and effect and there is no default in the observance of any condition imposed in connection therewith;
- (i) all information and/or documents provided by or for or to be provided by or for the Client to Orient Futures in relation to any Application or pursuant to or under this Agreement are true, accurate, complete and not misleading in any and all respects, and nothing has been concealed from Orient Futures which may have a material bearing on Orient Futures' decision to provide or continue to provide any of the services under this Agreement;
- (j) the Client shall not knowingly or recklessly:
  - (i) permit the use of Orient Futures' services, facilities or membership in a manner

which is in the opinion of Orient Futures liable to bring Orient Futures, Orient Futures Group or any Exchange or Clearing House into disrepute, impair the dignity or degrade the good name of any of the foregoing; or

- (ii) create or maintain or exacerbate manipulations (or attempted manipulations), corners (or attempted corners) or Violations (or arrangements, provisions or directions made or given thereunder), or otherwise be substantially detrimental to the interests or welfare of any markets or Exchange;
- (k) there is not, nor will the Client create or permit to be outstanding, any mortgage, pledge, lien, security interest or other charge or encumbrance, or any other agreement having the same economic effect over or in respect of any assets that the Client places in custody with Orient Futures;
- (l) all assets and/or Collateral deposited by the Client in the Account are and shall be in Good Deliverable Form, unless Orient Futures otherwise approves. The Client agrees to give Orient Futures timely information relating to any restrictions on the transfers of any assets or Collateral deposited in the Account. The Client agrees further to satisfy in a timely manner all legal transfer requirements and to furnish all necessary documents before and after any assets or Collateral are transferred. The Client shall be responsible for any delays, expenses and losses associated with the compliance or failure to comply with the requirements for transfer of any securities subject to restrictions;
- (m) unless otherwise agreed with Orient Futures, the Client will not effect any Transactions in securities of which the Client or its affiliates is the issuer;
- (n) no Default, Intermediary Default or Potential Default with respect to the Client has occurred and is continuing, and no such event or circumstance will occur as a result of entering into or performing obligations under this Agreement;
- (o) where the Client:
  - (i) has one or more customers to whom it provides one or more services ("**Client's Customers**"); and
  - (ii) uses or receives Service(s) (A) in order to provide such services to the Client's Customers, and/or (B) for the benefit or account of the Client's Customers,

the Client shall subject the Client's Customers to terms and conditions that are in substance similar to the applicable terms and conditions of this Agreement.

17.2 The representations, warranties, agreement and undertakings in Clause 17.1 shall be deemed repeated whenever the Client gives Orders to Orient Futures, enters into any Transactions or establishes a new Account with Orient Futures.

17.3 The Client shall notify Orient Futures immediately if any of the representations, warranties and undertakings contained in this Clause 17 ceases to be true or accurate to a material extent.

## 18. **EVENTS OF DEFAULT**

18.1 A "**Default**" shall be deemed to occur if:

- (a) the Client fails to make, when due, any payment or delivery required to be made by it under this Agreement or in respect of any Account or Transaction;



- (b) the Client fails to comply with or perform any of its obligations hereunder or in respect of any Account or Transaction (other than its payment or delivery obligations described in Clause 18.1(a)) and if such failure (if remediable) is not remedied within 3 Business Days after notice of such failure is given to the Client;
- (c) the Client breaches any provision of the Applicable Laws;
- (d) the Client disaffirms, disclaims or repudiates any Transaction;
- (e) (in the event the Client is comprised of one or more individuals or sole proprietorships) any person constituting the Client dies, becomes bankrupt, of unsound mind, unable to pay his debts as they fall due, or has an action commenced against him to place him in bankruptcy;
- (f) (in the event the Client is a partnership) any of the partners thereof dies, becomes bankrupt, of unsound mind, unable to pay his debts as they fall due or has an action commenced against him to place him in bankruptcy, or if an action is commenced to dissolve and/or alter the partners or the constitution of the Client;
- (g) (in the event the Client is a corporation or other body corporate) the Client or Orient Futures, as the case may be, becomes unable to pay its debts as and when they are due, or any action or step is commenced or any resolution is passed to place the Client or Orient Futures, as the case may be, in liquidation, winding up, insolvency, judicial management, receivership, administrative management, or any similar or analogous proceedings;
- (h) the Client makes any composition, compromise or arrangement with its creditors;
- (i) any claim, action or proceeding of any nature is commenced against the Client, or steps are taken by any person to enforce any security against the Client;
- (j) an encumbrancer takes possession of, or a trustee, receiver, judicial manager, manager or similar officer is appointed for, or a distress, execution, attachment or other process is levied or enforced upon any Account or upon any part of the Client's assets;
- (k) the Client transfers or otherwise disposes of all or substantially all its respective assets to any person, firm or corporation (except for the purpose of and followed by a reconstruction, amalgamation or reorganization on terms approved by Orient Futures before the step is taken) whether by way of scheme of arrangement or otherwise;
- (l) the Client stops or suspends payment of its/his debts or is unable or admits its/his inability to pay its/his debts as they fall due, or commences negotiations with its/his creditors for the rescheduling of the Client's debts;
- (m) any governmental authority or self-regulatory organization having jurisdiction over either the Client or its assets in the country of its incorporation, organisation or principal office shall take any action under any banking, insurance or similar law or regulation governing the operation of the Client which may prevent the Client from performing its obligations under this Agreement as and when due;
- (n) the Client fails to maintain the required Collateral with Orient Futures or fails to provide additional Collateral if requested by Orient Futures to do so from time to time;
- (o) (A) any Credit Support Provider or the Client itself fails to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with the applicable Credit Support Document and such failure is continuing after any applicable

grace period, if any, has elapsed; (B) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all obligations of the Client under this Agreement, unless otherwise agreed in writing by Orient Futures; (C) the Client or any Credit Support Provider disaffirms, disclaims or repudiates, in whole or in part, or challenges the validity of, any Credit Support Document; (D) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document shall prove to have been false or misleading in any material respect as at the time it was made or given or deemed made or given; or (E) any event set out in (e) to (m) above occurs in respect of any Credit Support Provider;

- (p) any representation or warranty made or given or deemed made or given by the Client or a Credit Support Provider pursuant to this Agreement or any document in connection with this Agreement (including, without limitation, any Credit Support Document) is not complied with or proves to be false, inaccurate or misleading in any material respect as at the time it was made or given or deemed made or given;
- (q) the Client suffers, in the opinion of Orient Futures, a material adverse change in its/his financial condition, or the Client fails to give adequate assurance satisfactory to Orient Futures of its/his ability to perform its/his obligations under this Agreement or any Transaction within 48 hours (or such other period as specified by Orient Futures) of a request by Orient Futures to do so;
- (r) where the Client is a registered broker dealer, the Client's membership is suspended by any exchange, or its registration status is suspended or terminated by any applicable regulatory bodies or governmental authorities;
- (s) any event occurs or circumstances arise which Orient Futures determines gives reasonable grounds for believing that the Client may not be able to perform or comply with any one or more of the Client's obligations under this Agreement or any Transaction;
- (t) Orient Futures forms the view, acting in good faith, that it should take action in order to preserve its rights or interests under any Account or Transaction, or under its relationship with the Client;
- (u) it becomes unlawful, in the good faith judgment of Orient Futures, for Orient Futures or the Client to perform any Transaction or obligation under this Agreement;
- (v) any event occurs, which under the law of any relevant jurisdiction, has an analogous or equivalent effect to any of the events mentioned in this Clause 18.1; and/or
- (w) any default, event of default or other similar condition or event (however described) occurs in respect of the Client or any affiliate of the Client under one or more agreements of any of them (individually or collectively) with Orient Futures or any affiliates of Orient Futures.

18.2 The Client shall immediately notify Orient Futures if any Default in respect of the Client or any Credit Support Provider occurs, or if a Default or Potential Default in respect of the Client or any Credit Support Provider is likely to occur.

## 19. **CLOSE OUT NETTING AND TERMINATION**

### Close-out netting

- 19.1 Subject to Clause 19.2 below, on or at any time following the occurrence of a Default (other than a Default occurring under Clause 18.1(e), 18.1(f), 18.1(g) or 18.1(h) (each a “**Bankruptcy Default**”) and including, without limitation, any ISDA master agreement), Orient Futures may (but is not obliged), by notice to the Client, specify a Liquidation Date of such obligations or transactions as Orient Futures may determine (each an “**Affected Transaction**”) in accordance with the provisions of Clause 19.4 below.
- 19.2 Unless Orient Futures otherwise specifies, the date of occurrence of any Bankruptcy Default in respect of the Client shall automatically constitute a Liquidation Date without the need for any notice by Orient Futures and the provisions of Clause 19.4 below shall apply in respect of all Transactions (each of which shall be regarded as an Affected Transaction).
- 19.3 The date of occurrence of any Bankruptcy Default (if applicable) in respect of Orient Futures shall automatically constitute a Liquidation Date without the need for any notice by the Client and the provisions of Clause 19.4 below shall apply in respect of all Transactions (each of which shall be regarded as an Affected Transaction).
- 19.4 Upon the occurrence of a Liquidation Date (and unless otherwise required by any Applicable Laws):
- (a) (subject to Clause 19.5 below) neither Orient Futures nor the Client shall be obliged to make any further payments or deliveries under any Affected Transaction which would, but for this Clause 19.4(a), have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount (as defined below);
  - (b) all outstanding Affected Transactions (including any of the following: (i) any Affected Transaction which as determined by Orient Futures has not been performed; and (ii) any Affected Transaction which as determined by Orient Futures has not been performed and in respect of which the Value Date is on or precedes the Liquidation Date) entered into between the Client and Orient Futures shall (subject to Clause 19.5 below) be deemed immediately terminated at prevailing prices (as determined by Orient Futures in its sole and absolute discretion);
  - (c) Orient Futures shall determine all costs, losses or gains (and if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or gain as a result of the termination, close-out, liquidation, obtaining, performing or re-establishing any hedge or related trading position) in respect of all Affected Transactions, having regard if appropriate to such market quotations published on, or official settlement prices set by any relevant Exchange or market on which the Affected Transactions may have been traded as may be available on, or immediately preceding, the date of calculation, and in each case, all such costs, losses or gains so determined by Orient Futures shall be expressed in Singapore dollars (unless another currency has been determined by Orient Futures in its sole and absolute discretion); and
  - (d) all costs and losses to Orient Futures as determined under Clause 19.4(c) above shall be expressed as positive amounts, and all gains by Orient Futures as determined under Clause 19.4(c) above shall be expressed as negative amounts, and Orient Futures shall aggregate all such amounts against each other to derive a single net positive amount or a single net negative amount (the “**Liquidation Amount**”), which (if positive) shall be payable by the Client to Orient Futures or (if negative) shall be payable by Orient Futures to the Client.
- 19.5 For the purposes of Clause 19.4(b), in respect of all Affected Transactions effected on an Exchange or market or otherwise centrally cleared through or novated for clearing to a Clearing House or other central counterparty, the termination of such Transactions shall be effected by

Orient Futures (to the extent that it is and remains able to where the relevant Default occurs in respect of Orient Futures) by way of termination, close-out or liquidation of the relevant Affected Transactions or positions on, with or through such Exchange, market, Clearing House or central counterparty in accordance with the applicable business rules and the instructions of such Exchange, market, Clearing House or central counterparty (and such Affected Transactions shall be regarded as being terminated, closed-out or liquidated, not on the Liquidation Date, but only when they are in fact so terminated, closed-out or liquidated as aforesaid, and until this occurs, Clause 19.4(b) above shall not apply to such Affected Transactions); and failing the foregoing, the Affected Transactions which may not be so terminated, closed-out or liquidated as aforesaid, shall be dealt with in such manner as Orient Futures and the Client may agree or otherwise in accordance with the directions and instructions of the Exchange, market, Clearing House or central counterparty.

- 19.6 In particular, where the master documentation of any type of Transaction provides for the netting and set-off of Transactions entered into pursuant to such documents, such rights shall be without prejudice to the right to set off sums due in respect of Transactions governed by any other documents. Orient Futures will be entitled to set off any net sum due to you from Orient Futures or any of its affiliates in respect of any other document.

#### Payment of Liquidation Amount

- 19.7 Orient Futures shall notify the Client of the Liquidation Amount determined pursuant to Clause 19.4 above, and by whom such Liquidation Amount is payable when reasonably practicable.
- 19.8 A Liquidation Amount shall be paid in Singapore dollars (unless another currency has been specified by Orient Futures in its sole and absolute discretion) either:
- (a) immediately upon such notification, in the event that the Liquidation Amount is payable by the party in respect of whom the relevant Default has occurred; or
  - (b) by no later than 7 calendar days after the date of such notification, in the event that the Liquidation Amount is payable by the non-Defaulting party (i.e. the party other than the party in respect of whom the relevant Default has occurred).
- 19.9 A Liquidation Amount payable to Orient Futures that is not paid when due shall bear interest, at the rate reasonably determined by Orient Futures to be its cost of funding such overdue amount, which shall accrue on a daily basis and will be due and shall be payable by the Client to Orient Futures.

#### Suspension of obligations

- 19.10 Without prejudice to the foregoing, so long as a Default has occurred and is continuing and Orient Futures has not exercised its rights under this Clause 19, Orient Futures may, at its election and without penalty, suspend its obligation to perform under this Agreement.

#### Additional rights

- 19.11 For the avoidance of doubt, Orient Futures' rights under this Clause 19 shall be in addition to, and not in limitation or exclusion of, any other rights which Orient Futures may have (whether by agreement, operation of law or otherwise).

## **20. RIGHTS ON DEFAULT**

20.1 Without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, in the event that Orient Futures determines in its judgement that a Default in respect of the Client or any Credit Support Provider has occurred or a Liquidation Amount payable by the Client is unpaid when due, Orient Futures may immediately, or at any time thereafter, without prior notice to the Client, and at the Client's sole expense and risk, take such action and/or steps in such manner as Orient Futures deems fit in relation to the Account, Transactions and/or Services, including to:

- (a) satisfy any obligation the Client may have that is due to Orient Futures (either directly or by way of guarantee or suretyship) out of any cash or other property (including any and all Collateral) of the Client in Orient Futures' custody or control including to apply any amounts of whatsoever nature standing to the credit of any Account against any amounts which the Client owes to Orient Futures howsoever arising or generally exercise Orient Futures' right of set-off against the Client;
- (b) suspend (indefinitely or otherwise) or terminate any Account, or Orient Futures' relationship with the Client and accelerate any and all liabilities of the Client to Orient Futures so that they shall become immediately due and payable;
- (c) hedge and/or close out any outstanding Transaction (including any Transaction which has yet to be settled on the date on which Orient Futures terminates such Transaction) by determining its value in good faith as of the date of the close-out as soon as practicable after the close-out;
- (d) sell or buy any property outstanding which may be long or short respectively in the Account;
- (e) net or set off some or all positions and balances in the Accounts;
- (f) take delivery under any of the positions in the Accounts;
- (g) cancel or complete any outstanding Orders or other commitments made on behalf of the Client for the purchase or sale of any property or for any Transaction;
- (h) cancel any outstanding Orders in order to close the Account;
- (i) liquidate all Collateral or part thereof at a price which Orient Futures deems appropriate in the circumstances;
- (j) call upon any Collateral or other security including any guarantees and letters of credit which may have been issued to or in favour of Orient Futures as security for the Account;
- (k) demand any shortfall, after taking any one or more of the above steps, from the Client, hold any excess pending full settlement of any other obligations of the Client, or pay any excess to the Client by way of cheque to the last known address of the Client;
- (l) sell, realise, liquidate or otherwise apply all or any part of the Collateral towards satisfaction of any and all of the Client's liabilities to Orient Futures;
- (m) borrow or purchase or otherwise procure any such property being the subject matter of any sale and making delivery under such sale; and/or
- (n) exercise such other authority and powers that may have been conferred upon Orient Futures by this Agreement (including those set out under Clause 12),

on such terms and conditions as deemed appropriate by Orient Futures. In exercising any one

or more of its foregoing rights, Orient Futures shall not be obliged to furnish any reason to the Client.

## **21. NON-DEFAULT TERMINATION**

- 21.1 Orient Futures may terminate any Account or any Service provided by Orient Futures under this Agreement by giving 5 Business Days' notice in writing to the Client.
- 21.2 The Client may terminate any Account or any Service provided by Orient Futures under this Agreement by giving 30 Business Days' notice in writing to Orient Futures.
- 21.3 Prior to the date of any such termination of any Account or Service, the Client shall instruct Orient Futures as to the proper disposal or transfer of monies and other property of the Client in relation to such Account or Service. If the Client fails to do so, Orient Futures may exercise any of its rights under Clause 19 as if a Default had occurred.
- 21.4 Any such termination of this Agreement shall not:
- (a) affect any outstanding Transaction; or
  - (b) release the Client from any obligations which have accrued to that time (including but not limited to the Client's obligation to pay all fees, commissions and other charges to Orient Futures incurred before, or in connection with, termination of this Agreement) or from any liabilities for any breach of any of the terms of this Agreement arising before the date of termination.
- 21.5 In addition, Orient Futures has the right to terminate (temporarily or permanently and at any time, with or without cause or prior notice) all or any part of any Service, or the Client's access to such Service, or to change the nature, composition, or availability of any Service on reasonable notice (where possible) for any reason. The provision of Services may also be terminated (in whole or in part) by Orient Futures immediately if there is a breach or threatened breach of the Agreement by the Client. The Client acknowledges that termination of all or any part of any Service will not affect accrued rights, existing commitments or any contractual provisions in respect of such Service intended to survive termination and, in particular, the terms of this Agreement will remain in effect with respect to all Transactions executed pursuant to this Agreement.

## **22. INDEMNITY**

- 22.1 In addition and without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, the Client shall fully indemnify and keep indemnified promptly on demand (whether such demand is made orally or otherwise) on a full indemnity basis Orient Futures, any member of the Orient Futures Group and every director, officer, employee, representative or agent of any of the foregoing against any and all Losses, which may be brought against any of them or which any of them may suffer or incur (whether directly or indirectly) in connection with the Account or any Service, Transaction or Order in relation thereto save where the same arises directly from their respective fraud, negligence or wilful default, including those which Orient Futures may incur or sustain from, by reason of or in connection with:
- (a) Orient Futures acting upon or carrying out any Order or Instruction purportedly given to Orient Futures pursuant to this Agreement;
  - (b) any breach by the Client of any provision of this Agreement or such other terms and conditions as are applicable to the Services provided or to be provided by Orient Futures to the Client or Transactions between Orient Futures and the Client;

- (c) any of the Client's representations, warranties, agreements and undertakings in this Agreement or the application form being untrue, incorrect, incomplete or misleading in any material respect;
- (d) Orient Futures using any system or means of transmission, communication, transportation or otherwise in carrying out any Order (including, without limitation to, by reason of Loss, delay, misunderstandings, mistakes, distortions or duplications);
- (e) Orient Futures' provision of the Services to the Client (including, without limitation, the Transactions contemplated hereunder and in connection with all or any matters or Transactions in respect of the Account);
- (f) any default in repayment of any advances upon demand or interest accrued thereon or any sum payable under this Agreement or under any other agreement or any other document whatsoever entered into pursuant to this Agreement or otherwise entered into by the Client in relation to its obligations in favour of Orient Futures (including but not limited to any Loss or expense sustained or incurred by Orient Futures in liquidating any of Orient Futures' foreign exchange contracts, or in taking proceedings hereunder or under any such agreement or other document);
- (g) Orient Futures' involvement (directly or otherwise) in any proceeding (whether in or out of Singapore) of whatever nature in connection with the Client's Orders, Transactions, Account and/or any Service offered to the Client;
- (h) the preparation of any document or agreement necessary to facilitate any Order or Transaction, or providing any Service as may be requested by the Client from time to time or as Orient Futures deems advisable in Orient Futures' sole and absolute discretion;
- (i) Orient Futures' disclosure of Client Information in accordance with this Agreement, any other agreement between Orient Futures and the Client and/or any Applicable Law;
- (j) any exercise of Orient Futures' rights of appropriation, debit, set-off and/or consolidation of accounts;
- (k) any Force Majeure Event;
- (l) any change in any Applicable Law relating to the Account, any Service or Transaction;
- (m) Orient Futures acting hereunder prior to its receipt of written notice of the termination or revocation of this Agreement by operation of law applicable to the Client;
- (n) the Client's breach or violation of any third-party rights, including violation of any proprietary or intellectual property rights;
- (o) Orient Futures protecting or enforcing or attempting to protect or enforce any rights it may have against the Client pursuant to this Agreement, any other agreement or otherwise at law; and/or
- (p) Orient Futures being unable to exercise or being restricted from exercising any of its rights (whether in contract or otherwise) against any person Orient Futures in its absolute discretion enters into any transaction with (including any Transaction), to hedge against any risk(s) Orient Futures in its absolute discretion determines to arise

from or relate to any Transaction entered into between the Client and Orient Futures, where such inability to exercise or restriction from exercising such right(s) by Orient Futures arises from any Applicable Law or any action taken by any government, quasi-government, regulatory, fiscal, tax, monetary or other authority, body or person having supervisory jurisdiction over Orient Futures (whether in Singapore or in any other jurisdiction).

- 22.2 The Client agrees to assist Orient Futures in defending any demand, claim, investigation or proceeding of any third party against Orient Futures, or with respect to which Orient Futures seeks indemnification from third parties, in relation to any particular Transaction.

Currency indemnity

- 22.3 If any sum due from the Client or any order or judgment given or made in relation to or in connection with this Agreement has to be converted from the currency in which it is payable by the Client (in this Clause, the "**currency of account**") into another currency (in this Clause, the "**other currency**") for the purpose of making or filing a claim or proof against the Client, obtaining an order or judgment in any court or other tribunal or enforcing any order or judgment given or made in relation to or in connection with this Agreement, the Client shall, as a separate independent debt, indemnify and hold harmless Orient Futures from and against any loss suffered as a result of any difference between the rate of exchange used to convert the sum in question from the currency of account into the other currency and the rate or rates of exchange at which Orient Futures may in the ordinary course of business purchase the currency of account with the other currency upon receipt of a sum paid in satisfaction, in whole or in part, of any such order, judgment, claim or proof.

- 22.4 The receipt or recovery by Orient Futures of any amount in respect of the Client's obligation in a currency (in this Clause, the "**other currency**") other than the currency in which such amount is payable (in this Clause, the "**currency of account**") shall constitute a discharge only to the extent that Orient Futures is able, in accordance with Orient Futures' usual practice, to purchase the currency of account with the other currency so received. The Client shall indemnify and keep Orient Futures indemnified in respect of any shortfall arising therefrom, which shall constitute a separate and independent obligation under this Agreement.

Separate and independent obligation etc.

- 22.5 Each of the indemnities in this Clause 22:
- (a) constitutes a separate and independent obligation from the other obligations of the Client under this Agreement and shall give rise to a separate and independent cause of action and shall survive termination or expiry of this Agreement;
  - (b) shall apply irrespective of any indulgence granted by Orient Futures;
  - (c) shall continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due hereunder or under any judgment or order; and
  - (d) shall apply whether or not any claim under it relates to any matter disclosed by the Client or otherwise known to, in contemplation of or foreseeable by Orient Futures.
- 22.6 The provisions of this Clause 22 and all of the rights of Orient Futures hereunder have been entered into by Orient Futures for itself and as agent for each member of the Orient Futures Group and every director, officer, employee, representative or agent of any of the foregoing, all of whom shall be entitled to enforce and enjoy the benefit of this Clause 22 to the fullest extent



permitted by law. For the avoidance of doubt, nothing in the foregoing sentence shall affect Orient Futures' right to amend this Agreement in its sole and absolute discretion pursuant to Clause 30.

- 22.7 For the avoidance of doubt, the indemnities in this Clause 22 shall not in any way be prejudiced or affected by the closure of any of the Accounts and/or the termination of this Agreement.

## 23. **EXCLUSION OF LIABILITY**

- 23.1 Neither Orient Futures, nor any member of the Orient Futures Group nor any director, officer, employee, representative or agent of any of the foregoing shall be responsible for or liable to the Client for any Loss which may be suffered by the Client in any way in relation to any Account, Transaction or Service or any Order in relation thereto, howsoever caused, unless such Loss is due to the gross negligence or wilful default of Orient Futures. Without prejudice to the generality of the foregoing, in no event shall Orient Futures, nor any member of the Orient Futures Group nor any director, officer, employee, representative or agent of any of the foregoing be liable to the Client for any indirect, special or consequential Loss.

- 23.2 Without prejudice to the generality of Clause 23.1 or to any other provision in this Agreement, neither Orient Futures, nor any member of the Orient Futures Group nor any director, officer, employee, representative or agent of any of the foregoing shall be responsible for or liable to the Client for:

- (a) any Loss arising from or in connection with:
  - (i) the Client's default or negligence;
  - (ii) the Client's or any Authorised Representative and/or any Authorised User's failure to comply with or fulfil any of the Client's obligations and/or warranties, to the extent that such breach or failure interferes directly or indirectly with Orient Futures' performance of Orient Futures' obligations under this Agreement;
  - (iii) any default, insolvency or analogous proceedings of, or action or inaction by any intermediary, Exchange or Clearing House (including wrongful or unlawful action or inaction);
  - (iv) any liability for tax or similar charges payable in connection with any Order or Transaction or arising from the utilisation of any of the Services offered by Orient Futures to the Client;
  - (v) Orient Futures acting upon any Order, notice, resolution, request, certificate, report, or other document which Orient Futures, in good faith, believed to be genuine and properly executed or any Instruction from the Client, any Authorised Representative and/or any Authorised User;
  - (vi) any falsification of identity or faulty identification which could not have been detected despite Orient Futures exercising due care in verifying the identity of the party Orient Futures is dealing with;
  - (vii) Orient Futures' refusal to accept or act on any Order or Instruction from the Client in accordance with this Agreement;
  - (viii) any delay or failure in performing any of Orient Futures' duties or other obligations resulting wholly or partly from any action taken by Orient Futures for the purpose of complying with Applicable Laws;

- (ix) any irregularity, inaccuracy, omission, incorrect entry, error and/or unauthorised transaction in any Confirmation, Statement or Transaction or any loss of, destruction of or error in any other records save as expressly provided for in this Agreement;
  - (x) the suspension, closure or termination of the Account or any Service made available to the Client or any Authorised Representative and/or any Authorised User;
  - (xi) the use of postal services, telegraph, telephone, Voice Over Internet Protocol, telex, SMS, instant messaging, e-mail or any other means of communications with the Client;
  - (xii) any delay, interception, loss or failure in the delivery, transmission or dispatch of any communication to the Client or if any communication is not sent in accordance with this Agreement or if the content of any communication is disclosed to any third party during transit;
  - (xiii) Orient Futures' disclosure of Client Information in accordance with this Agreement, any other agreement with the Client and/or any Applicable Law;
  - (xiv) any information, advice or opinion given by Orient Futures or any Officer to the Client, whether or not provided at the Client's request or relied upon;
  - (xv) any constraint which Orient Futures may face (through no fault of Orient Futures) in executing any Order;
  - (xvi) any action taken or omission by Orient Futures pending the completion of Orient Futures' update of its records of the Client's particulars and/or information in accordance with this Agreement, including processing of any Order in accordance with Orient Futures' records for the time being or sending any communication to the Client's last known address, facsimile or e-mail address in Orient Futures' records as the Client had directed for any communication to be sent prior to Orient Futures' receipt of the Client's written notice of change;
  - (xvii) Orient Futures enforcing or attempting to enforce or protect any right, power or remedy which Orient Futures may have against the Client pursuant to this Agreement, any other agreement or otherwise at law; and
  - (xviii) Orient Futures' exercise, non-exercise or any delay on Orient Futures' part in exercising any power (including, without limitation, any power of sale), discretion or right conferred upon Orient Futures under this Agreement, any other agreement or otherwise at law; and
- (b) any loss or any diminution in the value of or damage to any asset or funds under the Account or in respect of any Service, or Transaction or any Order in relation thereto, including for any lost opportunity whereby the value of any asset or funds could have been increased or otherwise in connection therewith or for the acts of any Intermediary appointed by Orient Futures in good faith.

23.3 The provisions of this Clause 23 and all of the rights, exemptions from liability, defence hereunder have been entered into by Orient Futures for itself and as agent for each member of the Orient Futures Group and every director, officer, employee, representative or agent of any of the foregoing, all of whom shall be entitled to enforce and enjoy the benefit of this Clause 23 to the fullest extent permitted by law. For the avoidance of doubt, nothing in the foregoing

sentence shall affect Orient Futures' right to amend this Agreement in its sole and absolute discretion pursuant to Clause 30.

- 23.4 Any limitations or exclusions of liability contained in this Agreement shall survive any termination of this Agreement howsoever arising.
- 23.5 No other member of the Orient Futures Group shall be responsible or liable for any of the liabilities or obligations of Orient Futures hereunder.
- 23.6 For the avoidance of doubt, the Client shall be liable for any Loss resulting from the Client's disability or incapacity of whatever nature to act. The Client shall also be liable in all cases for any Loss resulting from the disability or incapacity of whatever nature on the part of any Authorised Representative or any Authorised User.

24. **PERSONAL DATA**

- 24.1 The Client acknowledges and consents to Orient Futures' collection of Client Information for the purposes listed in Clause 24.5 below.
- 24.2 The Client is entitled to withdraw the consent for the collection, use, disclosure and processing of any Client Information at any time by notifying Orient Futures in accordance with Clause 24.11 below, and accepts and acknowledges that in doing so, it may not be reasonably possible for Orient Futures to continue to provide any one or more of its services to the Client. Orient Futures shall be given a commercially reasonable period of from its receipt of any such notification to process such withdrawal of consent.
- 24.3 The Client acknowledges and accepts that any Client Information disclosed by Orient Futures may be subject to further disclosure by the recipient to other parties whether in accordance with the laws of the country in which the recipient is located or otherwise. Such laws may be wider in scope and implemented under less restrictive terms than would otherwise be the case in Singapore. Without prejudice to Clause 23, the Client agrees that Orient Futures shall not be liable for any Loss sustained and/or incurred by the Client by reason of or in connection with such further disclosure by the recipient.
- 24.4 For the avoidance of doubt:
- (a) any consent given by the Client in relation to the collection, use, processing and disclosure of Client Information shall continue notwithstanding the Client's death or incapacity, the termination of this Agreement or the closure of any of the Account; and
  - (b) the rights conferred on Orient Futures in this Clause 24 are in addition to, and shall not prejudice, any other rights that Orient Futures may have under any other agreement or otherwise at law.

Purposes

- 24.5 The Client hereby consents and authorises the collection, use, disclosure and/or processing of Client Information for any of the following purposes:
- (a) account opening, and operations relating to the Account including closing the Account;
  - (b) providing the Services to the Client from time to time;
  - (c) administration and/or managing the relationship between Orient Futures (or any affiliates of Orient Futures) and the Client and/or the Account;

- (d) conducting identity and/or credit checks;
- (e) developing new services and/or products;
- (f) to update the Client on Orient Futures' products and services from time to time;
- (g) to provide the Client with marketing, advertising and promotional information, materials and/or documents relating to products and/or services that Orient Futures (or any affiliates of Orient Futures) may be selling, marketing, offering or promoting, whether such products or services exist now or are created in the future;
- (h) to comply with any Applicable Laws or such requirement or request of any regulatory authority, including an Exchange or Clearing House or their related corporations, services providers and agents;
- (i) processing any applications or requests for new services and/or products made by the Client;
- (j) enforcing Orient Futures' legal and/or contractual rights against the Client; and
- (k) all other purposes as stated in this Agreement.

24.6 The Client agrees and acknowledges that Orient Futures may disclose and/or transfer any Client Information to any member of the Orient Futures Group, third party service providers, agents and advisers (whether located in or outside Singapore) for any of the purposes listed above. Any transfer of Client Information outside of Singapore will be carried out in accordance with the PDPA and the Client is entitled to request details of any transfer of Client Information at any time, in accordance with Clause 24.11 below.

24.7 Without prejudice to the generality of Clause 24.6, the Client consents to, authorises and approves the provision of documents, records or information (including Client Information) to an Exchange and/or the Clearing House and/or their related corporations, service providers and agents for all purposes in connection with:

- (a) the Exchange and/or the Clearing House discharging their obligations under their rules or any applicable law;
- (b) the opening, administration and operation of the trading, clearing or other relevant accounts with the Exchange or Clearing House or other ancillary purposes; and
- (c) such other purposes set out in the respective privacy policies of the Exchanges and the Clearing Houses (for the purpose of Clause 24, each referred to as a **"Exchange/Clearing House Privacy Policy"**),

(for the purpose of Clause 24, all such purposes collectively referred to as **"Exchange/Clearing House Permitted Purposes"**).

24.8 Such consents, authorisations and/or approvals shall include consents, authorisations and/or approvals for Client Information to be: (i) collected and/or used by the Exchange and/or the Clearing House and/or their related corporations, service providers and agents; (ii) disclosed by the Exchange and/or the Clearing House and/or their related corporations, service providers and agents to the following persons and their authorised representatives, for all Exchange/Clearing House Permitted Purposes:

- (a) other members of the Exchange or Clearing House;
- (b) banks of other members of the Clearing House with whom such members' bank accounts are maintained for direct crediting or debiting in connection with Transactions;
- (c) the Clearing House's bank by whom the Clearing House's bank account is maintained for direct crediting or debiting in connection with Transactions; and/or
- (d) such other persons as specified in the Exchange/Clearing House Privacy Policy(ies).

24.9 The Client acknowledges that it has read and understood and will undertake to read and understand the relevant Exchange/Clearing House Privacy Policy(ies).

Personal data of another individual

24.10 If the Client provides Orient Futures with personal data of another individual (including, where applicable, the Client's directors, partners, the Client's appointed mandate and/ or Authorised User, shareholders and beneficial owners), the Client undertakes, represents and warrants to Orient Futures that the Client has obtained such individual's consent for, and hereby consent on behalf of such individual to, the collection, processing, use and disclosure of his/her personal data by Orient Futures in accordance with this Clause 24.

Data Protection Officer

24.11 Should the Client have any questions relating to Orient Futures' data protection practices, please contact Orient Futures' Data Protection Officer at [pdpa@orientfutures.com.sg](mailto:pdpa@orientfutures.com.sg).

**25. GOVERNING LAW AND JURISDICTION**

25.1 This Agreement (except where specifically otherwise stated) shall be governed by and construed in accordance with the laws of Singapore.

25.2 Except where specifically otherwise stated in this Agreement, the parties hereby agree that the courts of Singapore shall have exclusive jurisdiction over any and all disputes arising from or in respect of this Agreement.

25.3 Notwithstanding Clause 25.2, but except where specifically otherwise stated in this Agreement, nothing in this Agreement restricts the right of Orient Futures to submit disputes to any other court of competent jurisdiction and the Client agrees to submit to the jurisdiction of such other court, whether concurrently or not.

Service of process

25.4 Without prejudice to any other mode of service allowed under any relevant law, where the Client is not an individual resident in Singapore or a Singapore incorporated company or a foreign company registered under Part XI of the Companies Act, the Client:

- (a) irrevocably appoints the person named as the process agent in the Application Form as its agent for service of process in relation to any proceedings before the Singapore courts;
- (b) must immediately appoint another agent for service of process on terms acceptable to Orient Futures, if any person appointed as process agent is unable for any reason to

act as agent for service of process. Failing this, Orient Futures may appoint another agent for this purpose; and

- (c) agrees that failure by a process agent to notify the Client of the process will not invalidate the proceedings concerned.

No litigation against third parties for account of Client

25.5 Unless otherwise agreed or required by Orient Futures, Orient Futures will not engage in litigation or arbitration or any other proceedings (including bankruptcy, winding up and/or other analogous proceedings in connection with the Client's assets or otherwise) against third parties for the account of the Client. For the avoidance of doubt, any termination of this Agreement shall not affect and shall be without prejudice to this Clause 25.5 which shall survive such termination.

26. **FATCA, CRS AND OTHER REPORTING/ DISCLOSURE OF INFORMATION**

26.1 The Client authorises Orient Futures, Orient Futures' Officers and any other person who by reason of their scope of work or capacity or office have access to Orient Futures' records, registers or any correspondence or material with regards to the Client Information, to disclose any Client Information, for any purpose whatsoever, to:

- (a) any entity in the Orient Futures Group, wherever situated;
- (b) any government, quasi-government, regulatory, fiscal, monetary or other authority, agency body or person, including, without limitation, any self-regulatory organisation, Clearing Houses and Exchanges or members thereto, whether in Singapore or elsewhere, where such disclosure is required by any Applicable Laws (including applicable laws imposing any reporting and/or withholding obligations on Orient Futures such as the FATCA and CRS);
- (c) any agents or contractors which have agreed to perform works for or provide services to Orient Futures; and
- (d) any other person or entity at any time to whom Orient Futures, any of its Officers or agents are under a duty to disclose or in good faith considers to be appropriate or in Orient Futures' interest to make such disclosure.

26.2 Without prejudice to any provision of this Agreement relating to information or data or its disclosure, the Client consents to the disclosure, without prior notice to the Client, by Orient Futures of any information or data in connection with or relating to the Client, this Agreement and/or any Transaction to the extent required, permitted or desirable to comply with Applicable Laws.

26.3 The consent and authority in Clause 26.1 and Clause 26.2 shall constitute consent and authority for the purpose of the provisions of any Applicable Laws.

26.4 Without prejudice to any provision of this Agreement relating to notification of changes, the Client will promptly notify Orient Futures in writing of any change in:

- (a) the Client's particulars, circumstances, status, including any (where applicable) change in citizenship, residence, tax residency, address(es) on record, telephone and facsimile numbers and e-mail addresses; and
- (b) (where applicable) the Client's constitution, shareholders, partners, directors or

company secretary, or the nature of the Client's business.

- 26.5 Without prejudice to any provision of this Agreement relating to cooperation, the Client will cooperate fully in respect of any enquiry that Orient Futures may make for the purposes of compliance with any Applicable Law (including the FATCA and CRS and/or any other reporting and/or withholding requirements of any government) including promptly providing all relevant information, details and/or documents as may be necessary to enable Orient Futures to comply with the same.
- 26.6 The Client hereby authorises Orient Futures to make such enquiries and carry out such credit checks and assessments on itself and to obtain from any third party any and all information regarding the Client or the relationship or account(s) of the Client with such third party as Orient Futures may in its sole and absolute discretion deem fit and undertakes to execute and deliver such documents as Orient Futures may require for the purposes of such enquiries, credit checks and assessment and the obtaining of such information, including but not limited to a letter of authorisation in such form as Orient Futures may require.
- 26.7 Without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, the Client shall indemnify, keep indemnified and hold harmless Orient Futures against any and all liabilities, actions, claims, Losses, damages, costs and expenses (including but not limited to legal costs on a full indemnity basis) suffered or incurred by Orient Futures as a result of or in connection with the Client's disclosure on its US Persons status being inaccurate, outdated or untrue.

**27. FINANCIAL CRIMES**

- 27.1 Orient Futures shall be entitled to take all actions Orient Futures considers appropriate in order for it to meet any obligation or requirement, either in Singapore or elsewhere, in connection with the detection, investigation and prevention of Financial Crimes.
- 27.2 The Client understands and agrees that if any activities, conduct or circumstances the Client is involved in (directly or indirectly) may, in the sole and absolute discretion of Orient Futures, expose Orient Futures to legal or reputational risk, or actual or potential regulatory or enforcement actions, Orient Futures shall at any time, and without prejudice to any other right or remedy of Orient Futures under this Agreement, any other agreement or otherwise at law, without giving any reason or notice to the Client, have the right to immediately or at any time thereafter,;
- (a) close all Accounts and terminate all Services the Client has with Orient Futures;
  - (b) delay, block or refuse the making or clearing of any payment, the processing of any Transaction or the provision of all or part of the Services; and/or
  - (c) make reports and take such other actions as Orient Futures may deem appropriate, without incurring any liability to the Client.

**28. COMMUNICATIONS FROM ORIENT FUTURES**

- 28.1 Communications may be transmitted or sent by Orient Futures to the Client by telephone, electronic mail, facsimile or to any postal address of the Client at such numbers or address(es) last known to Orient Futures.
- 28.2 Where the Account is a Joint Account and no specific person is nominated for receiving communications from Orient Futures, Orient Futures may address, transmit and/or send all communications to the first of such persons identified in Orient Futures' written records and

Clauses 3.10(b) and 3.10(c) shall apply.

- 28.3 Where there is one or more Authorised Representative in relation to any Account, any notice, demand and/or other communications shall be deemed to be received by the Client if it is received (or deemed received) by any one of the Authorised Representative (whether or not it is forwarded to or received by the Client).
- 28.4 Any such communications shall be deemed received by the Client:
- (a) in the case of electronic mail or facsimile communications, immediately upon transmission by Orient Futures;
  - (b) in the case of posted communications, 1 calendar day after the communication was dispatched by Orient Futures, whether or not actually received by the Client; and
  - (c) in the case of communications served personally on or delivered personally to the Client, upon service or delivery.
- 28.5 The risk of loss or damage to, and the costs of delivery of, any articles or items sent to the Client shall be borne by the Client.

## 29. **GENERAL POWER OF ATTORNEY**

- 29.1 Orient Futures is hereby authorised as the Client's attorney (with full rights of substitution) with full authority to be the Client's true and lawful attorney and in the Client's name to do on the Client's behalf and as the Client's acts and deeds, all things which the Client could have done for the purposes of:
- (a) carrying out any Orders of the Client;
  - (b) sign and execute all documents;
  - (c) discharging any of its obligations to the Client; and/or
  - (d) doing any act or thing as may, in Orient Futures' opinion, be necessary or desirable for the purposes of preserving its rights hereunder.
- 29.2 Registration of this power of attorney in any jurisdiction may be effected on the Client's behalf by Orient Futures at the Client's expense.
- 29.3 The Client undertakes to ratify and confirm, and hereby ratifies and confirms, all and whatsoever Orient Futures may do pursuant to this power of attorney.

## 30. **AMENDMENTS**

- 30.1 The Client acknowledges, agrees and accepts that Orient Futures shall have the right at any time at its sole and absolute discretion to amend, vary or supplement any of the clauses in this Agreement or any additional or specific terms relating to any Account, Service or Transaction, by not less than 5 Business Days' notice to the Client by electronic mail, post and/or any means as Orient Futures deems fit, including by publication of the same on the Orient Futures Website, except that no prior notice to the Client shall be required for any amendments, variations or supplements required by Applicable Law or by the relevant Exchange, Clearing House or Intermediary (as the case may be).



- 30.2 Any such amendment, variation or supplement shall take effect as from the date specified in such notice (the “**effective date**”), provided that such date is not less than 5 Business Days’ from the date of the notice. Without prejudice to Clause 30.1, use of the Services (including, without limitation, the placing of any Order or entry into of any Transaction) after the effective date of such amendments, variations and/or supplements shall be deemed as the Client’s acceptance in totality and agreement to all such amendments, variations and/or supplements.

31. **MISCELLANEOUS**

Third party rights

- 31.1 Unless expressly provided to the contrary in this Agreement, a person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce any of the terms in this Agreement.
- 31.2 Notwithstanding any term herein, the consent of any third party is not required for any subsequent agreement between the parties hereto to amend or vary (including any release or compromise of any liability) or terminate this Agreement. Where third parties are conferred rights under this Agreement, those rights are not assignable or transferable.

Rights and remedies

- 31.3 All of Orient Futures’ rights and remedies under this Agreement are cumulative of, in addition to, and not exclusive or in derogation of, any other rights or remedies provided or available to Orient Futures hereunder, by law, in equity or by any other agreement.

Entire agreement

- 31.4 The Client acknowledges that it has not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement. Without prejudice to Clause 23, Orient Futures shall not be liable to the Client (in equity, contract or tort under the Misrepresentation Act 1967 of Singapore) for any representation that is not set out in this Agreement and that is not fraudulent.

Assignment

- 31.5 This Agreement shall be binding on Orient Futures and the Client and their respective successors in title and assigns, and shall continue to be binding on the Client notwithstanding any change in the name or constitution of Orient Futures, or the consolidation or amalgamation of Orient Futures into or with any other entity.
- 31.6 The Client may not assign its rights hereunder or under any Account or Transaction without the prior written consent of Orient Futures.
- 31.7 Orient Futures may assign any or all of its rights hereunder or under any Account to any affiliate or successor of Orient Futures, or change the office through which any Transaction is booked, or through which it makes or receives payments or deliveries for the purpose of any Service or Transaction.

No waiver

- 31.8 No failure to exercise or enforce and no delay in exercising or enforcing on the part of Orient Futures of any right, power or privilege shall operate as a waiver thereof, nor shall it in any way prejudice or affect the right of Orient Futures afterwards to act strictly in accordance with the powers conferred on Orient Futures under this Agreement, nor shall any single or partial

exercise of any right, power or privilege of Orient Futures preclude any other or further exercise thereof or the exercise of any other right, power or privilege of Orient Futures.

- 31.9 Without prejudice to Clause 31.8, Orient Futures may grant time or other indulgence to the Client, a Credit Support Provider or any of them or any other person without impairing or affecting in any way any of Orient Futures' rights as against such Client, Credit Support Provider or any such other person.
- 31.10 Unless otherwise expressly agreed in writing by Orient Futures, no waiver of any provision in this Agreement, rules and regulations applicable to any exchange, clearing house or otherwise imposed by Orient Futures relating to all or any Transaction, Service or Account may be implied from any conduct or course of dealing between the Client and Orient Futures.

#### Severability

- 31.11 If any provision of this Agreement is or becomes illegal, invalid or unenforceable, the same shall not affect the legality, validity or enforceability of any other provision of this Agreement nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction.

#### Waiver of immunities

- 31.12 The Client irrevocably waives, to the fullest extent permitted by Applicable Law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by Applicable Law, that it will not claim any such immunity in any proceedings.