

# **EVM Prime**

## **Account Opening Agreement**

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## 1. DEFINITIONS AND INTERPRETATIONS

- 1.1. **EVM Prime** is the trade name of EVA Markets Ltd (hereinafter referred to as the 'Company'), is incorporated under registered number HY01123442 and licensed by the Mwali International Services Authority, Island of Moheli as an International Brokerage and Clearing House under License number T2023415 with a registered office Bonovo Road – Fomboni Island of Mohéli – Comoros Union.
- 1.2. In this Client Services Agreement (hereinafter the "Agreement") the following terms shall, unless the context otherwise pledges, have the following meanings and may be used in the singular or plural as appropriate:
  - 1.2.1. "Account" shall mean a transaction account of the Client at EVM Prime
  - 1.2.2. "Account Statement" shall mean a periodic statement of the transactions credited or debited to an Account
  - 1.2.3. "Account Summary" shall mean a statement of the Clients securities portfolio, open positions, margin requirements, cash deposit etc. at a specific point in time;
  - 1.2.4. "Agent" shall mean an individual person or legal entity undertaking a transaction on behalf of another individual person or legal entity but in his/its own name;
  - 1.2.5. "Authorised Person" shall mean a person authorised by the Client to give instructions to EVM Prime
  - 1.2.6. "Best Execution Policy" shall mean EVM Prime's prevailing policy available at the website of the broker and the Trading Platform regarding best execution when executing client orders;
  - 1.2.7. "Business Day" shall mean any day on which we are open for business;
  - 1.2.8. "CFD Contract" or "CFD" shall mean a contract which is a contract for difference by reference to fluctuations in the price of the relevant security or index;
  - 1.2.9. "Client" shall mean the individual person, legal entity or firm being a customer of EVM Prime;
  - 1.2.10. "Client Classification" shall mean EVM Prime 's overall, product-, or transaction specific classification of Clients;

- 1.2.11. "Commercial use" shall mean any use of the Trading Platform by Clients which legal entities or firms are;
- 1.2.12. "Commissions, Charges & Margin Schedule" shall mean the schedule of commissions, charges, margin, interest and other rates which at any time may be applicable to the Services as determined by EVM Prime on a current basis. The Commissions, Charges & Margin Schedule is available on EVM Prime's website and may be supplied to the Client on demand;
- 1.2.13. "Conflict of Interest Policy" shall mean EVM PRIME's prevailing policy regarding conflicts of interest which is available at the website;
- 1.2.14. "Contract" shall mean any contract, whether oral or written, for the purchase or sale of any commodity, security, currency or other financial instrument or property, including any derivatives such as an option, a future, a CFD or other transaction relating thereto, entered into by EVM PRIME with the Client;
- 1.2.15. "Contract Option" shall mean a contract between EVM PRIME and a Client the terms of which correspond in all respects to the terms of an option, which is quoted, listed or ordinarily purchased or sold on and cleared through a regulated market place or another market;
- 1.2.16. "Counterparties" shall mean banks and/or brokers through whom EVM PRIME may cover its Contracts with Clients or with whom EVM PRIME otherwise deals in relation to Clients' transactions;
- 1.2.17. "Durable Medium" means any instrument which enables the Client to store information in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;
- 1.2.18. "Events of Default" shall have the meaning given to this term in Clause 19;
- 1.2.19. "FIFO" is an abbreviation of "First in – First Out" and refers to the fact that in case one or more Contracts with the same characteristics shall be closed, EVM PRIME will as a point of departure close the older Contract first;
- 1.2.20. "Inside Information" shall mean non-published information which is likely to have a noticeable effect on the pricing of a Contract if it was made public;

1.2.21.

1.2.22. "Margin Trade" shall mean a Contract opened and maintained based on a margin deposit as opposed to a Contract based on a purchase price;

1.2.23. "Market Rules" shall mean the rules, regulations, customs and practices from time to time of any exchange, clearing house or other organisation or market involved in, or otherwise relevant to, the conclusion, execution, terms or settlement of a transaction or Contract and any exercise by any such exchange, clearing house or other organization or market of any power or authority conferred on it;

1.2.24. "Net Free Equity" is a basis of calculation of interest which is calculated in accordance with the definition specified in EVM PRIME's Commissions, Charges & Margin Schedule;

1.2.25. "Politically Exposed Persons (PEPs)" means a Foreign PEP, a Domestic PEP and an International Organisation PEP and their family members and close associates. For the purposes of this definition:

- a. "Domestic PEP" means a natural person who is or has been entrusted domestically with prominent public functions in Mwali and includes the Head of State and of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials and such other person or category of persons as may be specified as may be specified by a supervisory authority or regulatory body after consultation with the National Committee;
- b. "Foreign PEP" means natural person who is or has been entrusted with prominent public functions by a foreign country, including Heads of State or of government, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials and such other person or category of persons as may be specified as may be specified by a supervisory authority or regulatory body after consultation with the National Committee;
- c. "International Organisation PEP" means a person who is or has been entrusted with a prominent function by an international organisation and includes members of senior management or individuals who have been entrusted with equivalent functions, including directors, deputy directors and members of the board or

equivalent functions and such other person or category of persons as may be specified by a supervisory authority or regulatory body after consultation with the National Committee.

- d. "Family members" are individuals who are related to a PEP either directly (consanguinity) or through marriage or similar (civil) forms of partnership.
- e. "Close associates" are individuals who are closely connected to a PEP, either socially or professionally

1.2.26. "Private use" shall mean any use of the Trading Platform by Clients that are physical persons;

1.2.27. "Principal" shall mean the individual person or the legal entity which is a party to a transaction;

1.2.28. "EVM PRIME" shall mean EVM PRIME with a registered office Bonovo Road – Fomboni Island of Mohéli – Comoros Union, or any branch hereof;

1.2.29. "Security" shall mean any securities or other assets deposited with EVM PRIME by the Client;

1.2.30. "Services" shall mean the services to be provided by EVM PRIME subject to the Agreement;

1.2.31. "Settlement/Trade Confirmation" shall mean a notification from EVM PRIME to the Client confirming the Client's entry into a Contract;

1.2.32. "Trading Platform" shall mean any online trading platform made available by EVM PRIME under the Agreement;

1.3. If there is any conflict between this Agreement and the applicable legislations, rules and regulations, the latter shall prevail.

1.4. In this Agreement any reference to an individual person shall include bodies corporate, unincorporated associations, partnerships and individuals.

1.5. Headings and notes in this Agreement for reference only and shall not affect the contents and interpretation of the Agreement.

1.6. In this Agreement references to any law, statute or regulation or enactment shall include

references to any statutory modification or re-enactment thereof or to any regulation or order made under such law, statute or enactment (or under such a modification or re-enactment).

## **2. RISK ACKNOWLEDGEMENT**

2.1. The Client acknowledges, recognizes, and understands that trading and investments in leveraged as well as non-leveraged Contracts is:

2.1.1. highly speculative;

2.1.2. may involve an extreme degree of risk; and

2.1.3. Is appropriate only for persons who, if they trade on margin, can assume risk of loss in excess of their margin deposit.

2.2. The Client acknowledges, recognizes and understands that:

2.2.1. because of the low margin normally required in Margin Trades, price changes in the underlying asset may result in significant losses, which losses may substantially exceed the Client's investment and margin deposit;

2.2.2. when the Client directs EVM PRIME to enter into any transaction, any profit or loss arising as a result of a fluctuation in the value of the asset or the underlying asset will be entirely for the Client's account and risk;

2.2.3. the Client warrants that the Client is willing and able, financially and otherwise, to assume the risk of trading in speculative investments;

2.2.4. the Client agrees not to hold EVM PRIME responsible for losses incurred as a consequence of EVM PRIME carrying the Client's account and following its recommendations or suggestions or those of its employees, associates or representatives, unless EVM PRIME has exercised gross negligence in connection herewith;

2.2.5. the Client is aware of the fact that unless it is otherwise specifically agreed, EVM PRIME shall not conduct any continuous monitoring of the transactions already entered into by the Client neither individually nor manually. Hence, EVM PRIME cannot be held responsible for the transactions developing differently from what the Client might have pre-supposed and/or to the disadvantage of the Client;

2.2.6. the Client accepts that guarantees of profit or freedom from loss are impossible in investment trading; and

2.2.7. the Client is aware that the services provided by the Company are not intended for persons under eighteen (18) years of age nor is the Company's website designed for the use of these people. The Client accepts and confirms that he/she is above eighteen (18) years of age.

### **3. CLIENT CLASSIFICATION**

3.1. EVM PRIME offers its Clients the possibility to request reclassification online and thus to increase or decrease the level of regulatory protections afforded. Where a Client requests a different categorisation (either on an overall level or on a product level), the Client needs to meet certain specified quantitative and qualitative criteria.

3.2. On the basis of the Client's request, EVM PRIME undertakes an adequate assessment of the expertise, experience, and knowledge of the Client to give reasonable assurance, in the light of the nature of transactions or services envisaged that the Client is capable of making his/her own investment decisions and understanding the risks involved. However, if the above-mentioned criteria are not met, EVM PRIME reserves the right to choose whether to provide services under the requested classification.

### **4. SERVICES**

4.1. Subject to the Client fulfilling its obligations under this Agreement, EVM PRIME may enter into transactions with the Client in the following investments and instruments:

4.1.1. CFDs Currency Pairs

4.1.2. CFDs Equity Indices

4.1.3. CFDs Metal

4.1.4. CFDs Commodity

4.2. The Services provided by EVM PRIME may involve:

4.2.1. Margined transactions; or

4.2.2. Transactions in instruments which are: traded on exchanges which are not recognized or designated investment exchanges; and/or not traded on any stock or investment exchange; and/or not immediately and readily realisable.



- 4.3. Orders may be placed as market orders to buy or sell as soon as possible at the price obtainable in the market, or on selected products as limit and stop orders to trade when the price reaches a pre-defined level. Limit orders to buy and stop orders to sell must be placed below the current market price, and limit orders to sell and stop orders to buy must be placed above the current market price. If the bid price for sell orders or ask price for buy orders is reached, the order will be filled as soon as possible at the price obtainable in the market. Limit and stop orders are executed consistent with " EVM PRIME's Best Execution Policy" and are not guaranteed executable at the specified price or amount, unless explicitly stated by EVM PRIME for the specific order.
- 4.4. In relation to any transaction or Contract, EVM PRIME will effect such transaction or Contract as Principal unless it is specifically agreed that EVM PRIME shall act as Agent for the Client.
- 4.5. The Client shall, unless otherwise agreed in writing, relative to EVM PRIME enter into Contracts as Principal.
- 4.6. If the Client acts as Agent, regardless of whether the Client identifies the Principal to EVM PRIME, EVM PRIME shall not be obliged to accept the said Principal as a client, and consequently EVM PRIME shall be entitled to consider the Client as Principal in relation to the Contract.
- 4.7. When the Client enters into a Contract Option with EVM PRIME, EVM PRIME will act as counterparty to the Client. EVM PRIME will enter into a contract with a Counterparty which is identical in all respects to the contract between EVM PRIME and the Client. The Counterparty will in turn enter into a contract on the relevant exchange (unless Market Rules requires the Counterparty to act as EVM PRIME's agent in which case EVM PRIME will enter into a contract on the exchange). The Client is contracting with EVM PRIME and has no right of recourse against EVM PRIME's Counterparties or any right over contracts between EVM PRIME and its Counterparties.
- 4.8. In the event EVM PRIME provides advice, information or recommendations to the Client EVM PRIME shall not be responsible for the profitability of such advice, information or recommendation as further stipulated in Clause 20, and the Client acknowledges, recognizes and understands that:
- 4.8.1. All transactions in exchange-traded investments and many Contracts will be effected subject to, and in accordance with, Market Rules;

- 4.8.2. Market Rules usually contain far-reaching powers in an emergency or otherwise undesirable situation;
- 4.8.3. If any exchange or clearing house takes any action which affects a transaction or Contract, directly or indirectly, including any Contract Option, then EVM PRIME is entitled to take any action relevant to the situation and reasonable to the parties in the interests of the Client and/or EVM PRIME;
- 4.8.4. EVM PRIME shall not be liable for any loss as further stipulated in Clause 20 and suffered by the Client as a result of the acts or omissions of any exchange or clearing house or any action reasonably taken by EVM PRIME as a result of such acts or omissions unless EVM PRIME has exercised gross negligence in connection hereby;
- 4.8.5. Where any transaction is effected by EVM PRIME as Agent for the Client, delivery or payment (as appropriate) by the other party to the transaction shall be at the Client's entire risk;
- 4.8.6. EVM PRIME's obligation to deliver investments to the Client or to account to the Client or any other person on the Client's behalf for the proceeds of sale of investments shall be conditional upon receipt by EVM PRIME of deliverable documents or sale proceeds (as appropriate) from the other party or parties to the transaction;
- 4.9. EVM PRIME may in whole or in part, on a permanent or temporary basis withdraw any account facility provided by EVM PRIME to the Client. Situations where EVM PRIME may take such action include situations where:
- EVM PRIME considers that the Client may be in possession of Inside Information;
  - EVM PRIME considers that there are abnormal trading conditions; or
  - EVM PRIME is unable to calculate prices in the relevant Contract due to the unavailability of the relevant market information.
- EVM PRIME informs the Client of the withdrawal and the reasons for it, where possible, before the withdrawal and if this is not possible immediately thereafter, unless giving such information would compromise objectively justified security reasons;
- 4.10. EVM PRIME reserves a right to raise commission on withdrawal up to 4.5% in case there is no sufficient trading activity between last deposit and withdraw request.

- 4.11. Normally EVM PRIME shall not provide any advice to the Client on any tax issues related to any Services. The Client is advised to obtain individual independent counsel from its financial advisor, auditor or legal counsel with respect to tax implications of the respective Services.
- 4.12. Notwithstanding any other provision of this Agreement, in providing its Services, EVM PRIME shall be entitled to take any action considered necessary and reasonable to ensure compliance with the Market Rules and all other applicable laws and regulatory decisions.

## **5. DEALINGS BETWEEN THE COMPANY AND THE CLIENT**

- 5.1. The Client may provide EVM PRIME with oral through recorded telephone or written instructions (which shall include instructions provided via the internet or by e-mail as described below). EVM PRIME shall acknowledge the reception of the instructions orally or in writing, as appropriate.
- 5.2. The Client shall inform EVM PRIME in writing of the persons the Client has granted a Power of Attorney to instruct EVM PRIME on behalf of the Client. For practical reasons, EVM PRIME can only undertake to register one Power of Attorney for the Client. If the Client at any time wishes to revoke such a Power of Attorney, to change the extent of the Power of Attorney, or grant Power of Attorney to a different person this shall also be informed to EVM PRIME in writing. EVM PRIME is in accordance with general rules regarding Power of Attorneys entitled to receive instructions from any person authorised by the Client as well as persons who appear authorised.
- 5.3. In addition to the terms listed on EVM PRIME's website and the terms stated in Section 6 regarding the Trading Platform, the following terms apply to Contracts executed on the internet:
  - 5.3.1. EVM PRIME shall not undertake the risk towards Clients for any loss, expense, cost or liability suffered or incurred by the Client due to failure of the system, transmission failure or delays or similar technical errors unless EVM PRIME has exercised gross negligence in connection herewith, notwithstanding Clause 6.9;
  - 5.3.2. EVM PRIME may offer real-time tradable prices to the Client. Due to delayed transmission between the Client and EVM PRIME the price offered by EVM PRIME may have changed before an order from the Client is received by EVM PRIME. If automatic order execution is offered to the Client, EVM PRIME shall be entitled to change the price on which the Client's order is executed to the market value at the time at which

the order from the Client was received;

- 5.3.3. Prices offered by EVM PRIME regarding the sale, purchase or exercise of Contract Options reflect the price of the relevant exchange traded product. Due to delays from the Client's execution of an order or instruction regarding a Contract Option to the execution of the relevant exchange traded product on the exchange, the price as listed on the Trading Platform is subject to change, in order for the Contract Option to reflect the price of the relevant exchange traded product at the time of its execution or exercise (as applicable);
  - 5.3.4. The Trading Platform may be available in several versions, which may be differentiated in various aspects including, but not limited to the level of security applied, products and services available etc. EVM PRIME shall not be liable to the Client for any loss, expense, cost or liability suffered or incurred by the Client due to the Client using a version different from EVM PRIME's standard version with all available updates installed;
  - 5.3.5. The Client shall be responsible for all orders, and for the accuracy of all information, sent via the internet using the Client's name, password or any other personal identification means implemented to identify the Client;
  - 5.3.6. The Client is obliged to keep passwords secret and ensure that third parties do not obtain access to the Client's trading facilities;
  - 5.3.7. If the Trading Platform is used for Commercial use the Client is liable to EVM PRIME for Contracts executed by use of the Client's password even if such use might be wrongful;
  - 5.3.8. Regardless of the fact that the Trading Platform might confirm that a Contract is executed immediately when the Client transmits instructions via the Trading Platform, it is the Settlement/Trade Confirmation forwarded by EVM PRIME or made available to the Client on the Trading Platform which solely constitutes EVM PRIME's confirmation of execution.
- 5.4. Any instruction sent via the Trading Platform or by e-mail by the Client shall only be deemed to have been received and shall only then constitute a valid instruction and/or binding Contract between EVM PRIME and the Client when such instruction has been recorded as executed by EVM PRIME and confirmed by EVM PRIME to the Client through

the Settlement/Trade Confirmation and/or Account Statement, and the mere transmission of an instruction by the Client shall not constitute a binding Contract between EVM PRIME and the Client.

- 5.5. The Client shall promptly give any instructions to EVM PRIME, which EVM PRIME may require. If the Client does not give such instructions promptly, EVM PRIME may, at its reasonable discretion, take such steps at the Client's cost, as EVM PRIME considers necessary or desirable for its own protection or the protection of the Client. This provision is similarly applicable in situations when EVM PRIME is unable to obtain contact with the Client.
- 5.6. If the Client does not provide EVM PRIME with notice of its intention to exercise an option, a Contract Option or another Contract which requires an instruction from the Client at the time stipulated by EVM PRIME, EVM PRIME may treat the option or Contract as abandoned by the Client. If the Client wishes to exercise an option, Contract Option or another Contract, the Client must provide EVM PRIME with notice thereof in reasonable time (and within applicable cut-off times) for EVM PRIME to exercise the corresponding right under any contract equivalent to the Contract Option that EVM PRIME has entered into with any Counterparty. Contract Options (put and call) that close one tick or more in the money on the last trading day will automatically be exercised, regardless of whether the Client has purchased or sold the Contract Option. The Client cannot instruct EVM PRIME not to exercise Contract Options that are in the money at expiry and cannot at any time instruct EVM PRIME to exercise Contract Options that are out of the money.
- 5.7. EVM PRIME applies a random method of assignment among its Clients' Contract Options when EVM PRIME is notified by its Counterparties that one or more short option positions have been assigned. EVM PRIME's allocation method randomly selects short Contract Options among all EVM PRIME's Clients' positions, including Contract Options opened immediately prior to the assignment. All short Contract Options are liable for assignment at any time. If a short Contract Option is assigned, the Client is obliged, within the applicable time of delivery, to deliver the relevant amount of cash or assets in the case of a call Contract Option and the relevant amount of cash in the case of a put Contract Option, to effect settlement.
- 5.8. EVM PRIME may (but shall not in any circumstances be obliged to) require confirmation in such form as EVM PRIME may reasonably request if an instruction is to close an Account or remit money due to the Client or if it appears to EVM PRIME that such confirmation is

necessary or desirable.

- 5.9. Pursuant to general rules regarding power of attorney the Client is accountable to EVM PRIME for losses which EVM PRIME may suffer as a result of instructions from a person who has explicitly or tacit power of attorney to give EVM PRIME instructions on behalf of the Client.
- 5.10. EVM PRIME reserves the right in its absolute discretion to cancel, unwind, close out, repair, reinstate or take other action it may deem necessary with respect to open or closed trades of Client or instructions from the Client where the trades executed or instructions submitted would be in violation of, but not limited to, the Agreement, securities markets legislation, usual market practices, legislation on money laundering or insider trading or if the Client is using or has otherwise engaged proprietary or third party malicious and manipulative software or plugins or general trading style that in EVM PRIME's, its eligible counterparties' or liquidity providers' view, has the actual, suspected or potential nature of breaching the Agreement or relevant securities markets legislation or EVM PRIME believes that to execute its absolute discretion with the regards to the above matters is necessary to protect its own interests, or the interests of its Clients.
- 5.11. In general, EVM PRIME shall act according to instructions as soon as practically possible and shall, as far as trading instructions are concerned, act consistent with the broker's Best Execution Policy. However, if after instructions are received, EVM PRIME believes that it is not reasonably practicable to act upon such instructions within a reasonable time, EVM PRIME may defer acting upon those instructions until it is, in EVM PRIME's reasonable opinion, practicable to do so or as soon as possible notify the Client that EVM PRIME is refusing to act upon such instructions.
- 5.12. It is possible that errors may occur in the prices of transactions quoted by EVM PRIME. In such circumstances, without prejudice to any rights it may have, EVM PRIME shall not be bound by any Contract which purports to have been made (whether or not confirmed by EVM PRIME) at a price which:
- i EVM PRIME is able to substantiate to the Client was manifestly incorrect at the time of the transaction; or
  - ii was, or ought to have reasonably been known by the Client to be incorrect at the time of the transaction. In which case EVM PRIME reserves the right to either

- a. cancel the trade all together or
  - b. correct the erroneous price at which the trade was done to either the price at which EVM PRIME hedged the trade or alternatively to the historic correct market price.
- 5.13. Trading strategies aimed at exploiting errors in prices and/or concluding trades at off-market prices (commonly known as "sniping") are not accepted by EVM PRIME Provided that EVM PRIME can document that there on the time of the conclusion of the trade were errors in prices, commissions, or in the Trading Platform, and provided EVM PRIME can render probable that the Client, based on its trading strategy or other provable behavior, deliberate and/or systematically has exploited or attempted to exploit such an error, EVM PRIME is entitled to take one or more of the following countermeasures:
  - i adjust the price spreads available to the Client;
  - ii restrict the Client's access to streaming, instantly tradable quotes, including providing manual quotation only;
  - iii retrieve from the Client's account any historic trading profits that EVM PRIME can document have been gained through such abuse of liquidity at any time during the client relationship; and/or
  - iv terminate the client relationship immediately by giving written notice.
- 5.14. If the Client is more than one person (for example, joint accountholders):
  - i the liabilities of each such person shall be direct, joint and several;
  - ii EVM PRIME may act upon instructions received from anyone person who is, or appears to EVM PRIME to be, such a person, whether or not such person is an Authorised Person;
  - iii any notice or other communication provided by EVM PRIME to one such person shall be deemed to have been provided to all such persons; and
  - iv the rights of EVM PRIME under Clause 19 shall apply if an event described in Clause 19 shall be deemed to have occurred in respect of any one of such persons.
- 5.15. The Client agrees that "Diana Catrina" <diana@utrademarkets.com> may record all telephone conversations, internet conversations (chat), and meetings between the Client and EVM PRIME and use such recordings, or transcripts from such recordings, as evidence

towards any party (including, but not limited to, any regulatory authority and/or court of law) to whom EVM PRIME at its reasonable discretion sees it to be desirable or necessary to disclose such information in any dispute or anticipated dispute between EVM PRIME and the Client. However, technical reasons may prevent EVM PRIME from recording a conversation, and recordings or transcripts made by EVM PRIME will be destroyed in accordance with EVM PRIME's normal practice. Consequently, the Client should not rely on such recordings to be available.

- 5.16. When the Client instructs EVM PRIME to enter into a position opposite to one or more of the Client's open positions, EVM PRIME will close out the opposite position in accordance with the FIFO principles unless the position has related orders or otherwise agreed.
- 5.17. The Client acknowledges that EVM PRIME has the right to, but not the obligation to close directly opposite positions. This applies not only when the positions are held on the on the same account, but also when they are held on separate accounts.
- 5.18. If the Client operates several Accounts (or subaccounts) and opposite positions are opened on different Accounts (or sub-accounts), EVM PRIME shall not close out such positions. The Client is specifically made aware that unless closed manually, all such positions may be rolled over on a continuous basis and thereby consequently all incur a cost for such roll-over.

## **6. SPECIAL NOTE ON THE USE OF THE TRADING PLATFORM**

- 6.1. The technical requirements to which the Client's IT equipment, operating system, Internet connection etc. shall conform are described on EVM PRIME's website.
- 6.2. The Client shall enter his user ID and password when logging on to the Trading Platform. The Client should memorize the password. The Client is obligated to notify EVM PRIME without undue delay on becoming aware of unauthorized use of the Trading Platform, or if the Client suspects that the password has been misappropriated by a third party, the Client shall contact EVM PRIME immediately to block his Trading Platform. The Client can then order a new password. The Client is for a period of 18 months after notification entitled to request EVM PRIME to provide the Client with the means to prove that he made such notification.
- 6.3. The Client can block his Trading Platform at any time by contacting EVM PRIME. Blocking the Trading Platform prevents other persons from accessing it. Open orders and positions placed on the platform before the blocking will not be affected by the blocking unless the



Client specifically requests so, and the Client is responsible for deciding about his positions.

- 6.4. The right to use the Trading Platform is personal, and the Client shall not allow other persons to use his user ID and/or his password. If the Client wants to allow a third party to trade on the Client's account, the Client shall issue a separate power of attorney to the relevant third party. The power of attorney shall be written on one of EVM PRIME's power of attorney forms. The issue of the power of attorney shall be approved by EVM PRIME.
- 6.5. From the Trading Platform the Client can print reports on trading activities and his account balances.
- 6.6. Where the Client has placed an order which he subsequently regrets, the Client may request that the order be cancelled up until the time of execution. The Client is aware that EVM PRIME is under no obligation to cancel the order. A request for cancellation or an order can be made via the Trading Platform or by calling EVM PRIME Sales Trading. Requests concerning cancellation of orders generated when the margin is exceeded can only be made to EVM PRIME Sales Trading. An order shall not be considered to be cancelled until the Client has received a written confirmation from EVM PRIME.
- 6.7. The Client shall not be liable for unlawful use of the Trading Platform occurring after the Client has informed EVM PRIME.
- 6.8. Where the Trading Platform is used for Private Use, EVM PRIME shall be liable for direct losses resulting from defectively executed orders, unless defectively executed order is due to conditions for which the Client is liable. EVM PRIME shall not be liable for any indirect losses.
- 6.9. EVM PRIME shall not be liable for losses in cases of abnormal and unforeseeable circumstances beyond the control of EVM PRIME pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary.
- 6.10. If the Trading Platform is used for Commercial use EVM PRIME shall not be liable for any indirect losses and/or losses resulting from:
  - i Operational failures preventing the use of the Trading Platform;
  - ii Interruptions preventing the Client from accessing the Trading platform;

- iii Use of the Internet as a means of communication and transport;
  - iv Damage caused by matters relating to the Client's own computer systems.
- 6.11. EVM PRIME shall not be responsible for losses resulting from the Client's installation and use of the computer programs used on the Trading Platform, unless such liability follows from indispensable rules of law. Where the Trading Platform is used for Commercial Use, the Client shall be responsible for ensuring that the Trading Platform is adequately insured against direct and indirect losses which may result from the installation and use of the computer programs in the Client's computer system. Furthermore, the Client shall be obliged to make backup copies of data which, should such data be lost, might result in losses for the Client.
- 6.12. EVM PRIME reserves the right to archive or disable the Client Account that is inactive (no trading and/or deposit/withdrawal activity) for at least 90 calendar days and has a balance of equal or less than 10 euros or equivalent in other currencies. The Client Account may be restored from archive only to generate a report/statement and not for trading or depositing. Restored Client Account is again put back to archive once the report/statement is generated. The Client may always open a new trading account and is allowed to transfer any archived balance to the new account. EVM PRIME is not obligated to inform the Client prior to or after archivation/disabling.

## **7. MARGINS, SECURITY, PAYMENTS AND DELIVERY**

- 7.1. The Client shall pay to EVM PRIME on demand:
- i such sums of money by way of deposits, or as initial or variation margin as EVM PRIME may require. In the case of a Contract effected by EVM PRIME on an exchange, such margin shall be not less than the amount or percentage stipulated by the relevant exchange plus any additional margin that EVM PRIME at its reasonable discretion may require
  - ii such sums of money as may from time to time be due to EVM PRIME under a Contract and such sums as may be required in or towards clearance of any debit balance on any Account;
  - iii such sums of money as EVM PRIME may from time to time require as security for the Client's obligations to EVM PRIME; and
  - iv any amount to maintain a positive cash balance on any and all Account(s).
- 7.2. When dealing with Contract Options EVM PRIME will enter into a contract with its

Counterparties which is identical in all respects to the Contract Option between EVM PRIME and the Client and EVM PRIME may under such Counterparty contract be required to deliver additional margin from time to time. EVM PRIME may without notice change the margin requirement towards the Client to reflect changes in applicable margin requirements for EVM PRIME from time to time under any Counterparty contract.

- 7.3. If the Client makes any payment which is subject to any price fluctuations, withholding or deduction, the Client shall pay to EVM PRIME such additional amount to ensure that the amount actually received by EVM PRIME will equal the full amount EVM PRIME would have received had no price fluctuations, withholding or deduction been made.
- 7.4. Payments into the Client's account are deposited by EVM PRIME on the condition of EVM PRIME receiving the amount in question. This shall apply irrespective of whether it has been explicitly stated in receipts or other notices of or requests for payment.
- 7.5. With the prior written agreement of EVM PRIME on each occasion, the Client may deposit Security with EVM PRIME or provide EVM PRIME with a guarantee or indemnity from a person and in a form acceptable to EVM PRIME instead of cash for the purpose of complying with its obligations. The Client is made specifically aware that EVM PRIME at its reasonable discretion may determine the value by which Security shall be registered and consequently contribute to EVM PRIME's demand towards the Client and EVM PRIME may continuously change such value of Security without prior notice to the Client.
- 7.6. The Client is made aware that securities held or deposited on the Client's account with EVM PRIME the Client cannot put up as collateral or guarantee for any of the Client's obligations towards a third party.
- 7.7. Any Security will be held by an intermediate broker or eligible custodian, appointed by EVM PRIME, and the intermediate broker or eligible custodian shall be responsible for claiming and receiving all interest payments, income and other rights accruing to the Client.
- 7.8. EVM PRIME is with the Client's specific consent entitled to:
  - i. pass on any money or Security received from the Client in order to satisfy EVM PRIME's obligations to any third party;
  - ii. charge, pledge or grant any security arrangement over Security in order to satisfy EVM PRIME's obligations to any third party in which case the Security may or may not be registered in the Client's name;

- iii. lend Security to any third party in which case the Security may or may not be registered in the Client's name; and
  - iv. return to the Client other Security than the original Security.
- 7.9. EVM PRIME shall not be obliged to account to the Client for any income received by EVM PRIME as a result of carrying out any of the activities described in this Clause.
- 7.10. The Client shall be obliged to promptly deliver any money or property deliverable by it under a Contract in accordance with the terms of that Contract and with any instructions given by EVM PRIME for the purpose of enabling EVM PRIME to perform its obligations under any corresponding Contract entered into between EVM PRIME and a third party.
- 7.11. If the Client fails to provide any margin, deposit or other sum due under this Agreement in respect of any transaction EVM PRIME may close any open position without prior notice thereof to payment of any amounts due to EVM PRIME This is further regulated in Clause 8.2 and Clause 18.
- 7.12. If the Client fails to make any payment when it falls due, the Client shall pay interest (from the due date and until payment takes place) on the outstanding amount at the rate stated in the Commissions, Charges & Margin Schedule stipulated on the website.
- 7.13. The Client is advised that EVM PRIME shall have the right, in addition to any other rights it may have under this Agreement, to limit the size of the Client's open positions (net or gross) and to refuse orders to establish new positions. EVM PRIME will inform the Client as soon as possible regarding such refused orders and the reason for the refusals. Situations where EVM PRIME may exercise such right include, but are not limited to, where:
- i. EVM PRIME has reason to believe that the Client may be in possession of Inside Information;
  - ii. EVM PRIME considers that there are abnormal trading conditions;
  - iii. the value of the Client's Security (as determined by EVM PRIME) falls below the minimum margin requirement as defined in EVM PRIME's Commissions, Charges & Margin Schedule; or
  - iv. the Client has a negative cash-balance on any Account.
- 7.14. Settlement of Contract Options shall correspond to the settlement of the relevant exchange traded option in accordance with the market rules and terms and conditions

applicable to the relevant exchange traded option. For Contract Options on cash settled options, final settlement requires payment of the cash difference between the value of the underlying option and the strike price. For Contract Options regarding physically settled options, the Contract Options will settle into the respective contract, stock or other security. Contract Options regarding options on futures will settle into a future acquired at the strike price. EVM PRIME will only allow the Client to trade Contract Options on Contracts with physical delivery if the Contract Option expires before the underlying Contract. EVM PRIME will require Clients to close any Contract with physical delivery of commodities before they can be exercised (i.e. EVM PRIME does not support physical delivery of commodities).

## **8. MARGIN TRADES**

- 8.1. On the date of the opening of a Margin Trade between EVM PRIME and the Client, EVM PRIME may require the Client to have margin on the Account at least equivalent to EVM PRIME's initial margin requirement.
- 8.2. EVM PRIME's margin requirement shall apply throughout the term of the Margin Trade. It is the Client's responsibility continuously to ensure that sufficient margin is available on the Account at any time. If practicably possible EVM PRIME shall notify the Client if the margin requirements are not met. If, at any time during the term of a Margin Trade, the margin available on the Account is not sufficient to cover EVM PRIME's margin requirement, the Client is obliged to reduce the amount of open Margin Trades or transfer adequate funds to EVM PRIME. Even if the Client takes steps to reduce the size of open Margin Trades or to transfer sufficient funds to EVM PRIME, EVM PRIME may close one, several or all of the Client's Margin Trades or part of a Margin Trade and/or liquidate or sell securities or other property at the Client's account at its sole discretion without assuming any responsibility towards the Client for such action.
- 8.3. If EVM PRIME due to insufficient margin, cf. Clause 8.2, may close one, several or all of the Client's Margin Trades, the Client shall expect, unless otherwise agreed and confirmed by EVM PRIME that all of the Client's open Margin Trades will be closed.
- 8.4. If the Client has opened more than one Account, EVM PRIME is entitled to transfer money or Security from one Account to another, even if such transfer will necessitate the closing

of Margin Trades or other trades on the Account from which the transfer takes place.

- 8.5. EVM PRIME's general margin requirements for different types of Margin Trades are displayed on EVM PRIME's web site. However, EVM PRIME reserves the right to determine specific margin requirements for individual Margin Trades.
- 8.6. The Client is specifically made aware that the margin requirements are subject to change without notice. When a Margin Trade has been opened, EVM PRIME is not allowed to close the Margin Trade at its discretion but only at the Client's instruction or according to EVM PRIME's rights under this Agreement. However, EVM PRIME will increase the margin requirements if EVM PRIME considers that its risk on a Margin Trade has increased as compared to the risk on the date of the opening.

## 9. ACCOUNTS

- 9.1. EVM PRIME will make available to the Client a Settlement/Trade Confirmation in respect of any transaction or Contract entered into by EVM PRIME with or for the Client and in respect of any open position closed by EVM PRIME for the Client. Settlement/Trade Confirmations will normally be available instantly following the execution of the transaction.
- 9.2. An Account Summary and Account Statement are available to the Client through the Trading Platform. The Account Summary will normally be updated periodically during EVM PRIME's opening hours. The Account Statement will normally be updated every Business Day with information for the previous Business Day. By accepting this Agreement the Client agrees not to receive any Account Statements or Account Summaries in printed form from EVM PRIME other than upon specific request.
- 9.3. Any notice or other communication to be provided by the Company under the Terms, including Account Statements and Settlement/Trade Confirmations, may be sent by the Company at its option to the Client in electronic form by e-mail or by display on the Client's account summary on the Trading Platform. The Client is obliged to provide EVM PRIME with an e-mail address for this purpose. An e-mail message is considered received by the Client when sent from EVM PRIME. EVM PRIME is not responsible for any delay, alteration, re-direction or any other modification the message may undergo after transmission from EVM PRIME. A message on the Client's account on the Trading Platform is considered received by the Client when EVM PRIME has placed the message on the Trading Platform.

It is the responsibility of the Client to ensure that the Client's software and hardware setup does not stand in the way of the Client receiving e-mails or get access to the Trading Platform from EVM PRIME.

- 9.4. The Client is obliged to verify the contents of each document, including documents sent in electronic form from EVM PRIME. Such documents shall, in the absence of manifest error, be deemed conclusive unless the Client notifies EVM PRIME in writing to the contrary immediately after having received such document. In the event that the Client believes to have entered into a transaction or Contract, which should have produced a Settlement/Trade Confirmations or otherwise a posting on the Client's account, but the Client has not received such confirmation, the Client must inform EVM PRIME immediately when the Client ought to have received such confirmation. In the absence of such information the transaction or Contract may at EVM PRIME's reasonable discretion be deemed non-existent.

## **10. COMMISSIONS, CHARGES, AND OTHER COSTS**

- 10.1. The Client shall be obliged to pay to EVM PRIME the commissions and charges set out in the Commissions, Charges & Margin Schedule which is available at our website.
- 10.2. EVM PRIME may vary such commissions and charges without notice when the change is to the Client's advantage, or the grounds for changes are due to external circumstances beyond EVM PRIME's control. Such circumstances are:
- i. Changes in the relationship with EVM PRIME's counterparties, which affect EVM PRIME cost structures; and/or
  - ii. Changes in commissions and charges from exchanges, clearing houses, information providers or other third-party providers that are passed on to the Client by EVM PRIME.
- 10.3. EVM PRIME may vary such commissions and charges, with one month's notice if:
- i. market conditions, including competitive behavior, call for changes to EVM PRIME conditions;
  - ii. EVM PRIME for commercial reasons wishes to change its general cost and pricing structure; and/or
  - iii. significant particulars of the Client, based on which individual conditions were

provided, have changed.

- 10.4. In addition to such commissions and charges, the Client shall be obliged to pay all applicable VAT and other taxes, storage and delivery charges, exchange and clearing house fees and all other fees incurred by EVM PRIME in connection with any Contract and/or in connection with maintaining the Client relationship.
- 10.5. Furthermore, EVM PRIME shall be entitled to demand that the following expenses are paid separately by the Client:
- i. all extraordinary disbursements resulting from the client relationship e.g. telephone, telefax, courier, and postal expenses in case the Client requests hardcopy Settlement/Trade Confirmations, Account Statements etc. which EVM PRIME could have delivered in electronic form;
  - ii. any expenses of EVM PRIME, caused by non-performance by the Client, including a fee determined by EVM PRIME in relation to forwarding of reminders, legal assistance etc;
  - iii. any expenses of EVM PRIME in connection with replies to inquiries by public authorities, including a fee determined by EVM PRIME in relation to forwarding of transcripts and enclosures and for the preparation of copies;
  - iv. administration fees in connection with security deposits, and any expenses of EVM PRIME in relation to a pledge, if provided, including any insurance premium payments; and
  - v. any expenses of EVM PRIME in connection with auditor's comments/reports if such is requested by the Client.
- 10.6. The fees will be charged either as a fixed amount corresponding to payments effected, or as a percentage or hourly rate corresponding to the service performed. The methods of calculation can be combined. EVM PRIME reserves the right to introduce new fees.
- 10.7. Unless specified otherwise in this Agreement, all amounts due to EVM PRIME (or Agents used by EVM PRIME) under this Agreement shall, at EVM PRIME's option:
- i. be deducted from any funds held by EVM PRIME for the Client; or
  - ii. be paid by the Client in accordance with the provisions of the relevant difference account, Settlement/Trade Confirmation or other advice.



10.8. In respect of any transactions to be effected, EVM PRIME shall be entitled to quote prices at which it is prepared to trade with the Client. Save where EVM PRIME exercises any rights it may have under this Agreement to close a Contract, it is the Client's responsibility to decide whether or not it wishes to enter into a Contract at such prices.

10.9. Furthermore, the Client acknowledges, recognizes and accepts that the procedures described in Clause 10 and Clause 13 may result in additional indirect costs for the Client.

## **11. INTEREST AND CURRENCY CONVERSIONS**

11.1. Subject to the Clause below and save as otherwise agreed in writing, EVM PRIME shall not be liable to:

- i. pay interest to the Client on any credit balance in any Account or on any other sum held by EVM PRIME; or
- ii. account to the Client for any interest received by EVM PRIME on such sums or in connection with any Contract.

11.2. The Client is entitled to interest on the basis of the Client's positive Net Free Equity in accordance with the terms in EVM PRIME's Commissions, Charges & Margin Schedule.

11.3. The Client is obliged to pay interest on the basis of the Client's negative Net Free Equity in accordance with the terms in EVM PRIME's Commissions, Charges & Margin Schedule.

11.4. EVM PRIME may vary such interest rates and/or thresholds for interest calculation without notice when changes are to the Client's advantage, or the grounds for changes are due to external circumstances beyond EVM PRIME's control. Such circumstances are:

- i. Changes in the monetary or credit policies domestic or abroad that affect the general interest level in a way that is of importance to EVM PRIME;
- ii. Other changes in the general interest level, including in the money and bond markets, that is of importance to EVM PRIME;
- iii. Changes in the relationship with EVM PRIME's Counterparties, which affect EVM PRIME's cost structures.

11.5. EVM PRIME may vary such interest rates where the Trading Platform is used for Commercial use with one month's notice, and where the Trading Platform is used for Private use with two months' notice if:

- i. market conditions, including competitive behavior, call for a change to EVM PRIME conditions;
- ii. EVM PRIME wishes to change its general commission, fee and pricing structure for commercial reasons; and/or
- iii. changes to significant particulars of the Client, based on which individual conditions were provided, occurs.

The Client is deemed to have accepted such changes if he does not, before the proposed date of their entry into force, notify EVM PRIME that he does not accept them.

11.6. EVM PRIME is entitled, but shall not in any circumstances be obliged, to convert:

- i. any realised gains, losses, option premiums, commissions, interest charges and brokerage fees which arise in a currency other than the Client's base currency (i.e. the currency in which the Client's Account is denominated) to the Client's base currency;
- ii. any cash currency deposit to another cash currency deposit for the purpose of purchasing an asset denominated in a currency other than the Client's base currency;
- iii. any monies held by EVM PRIME for the Client into such other currency as EVM PRIME considers necessary or desirable to cover the Client's obligations and liabilities in that currency.

11.7. Whenever EVM PRIME conducts currency conversions, EVM PRIME will do so at such reasonable rate of exchange as EVM PRIME selects. EVM PRIME shall be entitled to add a mark-up to the exchange rates. The prevailing mark-up is defined in the Commissions, Charges & Margin Schedule.

## **12. PLEDGE AGREEMENT**

12.1. Any and all Security transferred to EVM PRIME by the Client or held by EVM PRIME or by EVM PRIME's Counterparties on behalf of the Client is pledged as a security for any liability that the Client may have or get towards EVM PRIME. Without limitation such Security shall comprise the credit balances on Accounts, the securities registered as belonging to the Client on EVM PRIME's books, and the value of the Client's open positions with EVM PRIME.

12.2. If the Client fails to fulfill any obligation under this Agreement, EVM PRIME is entitled to sell any pledged Security immediately without any notice or court action. Such sale shall

take place by the means that EVM PRIME in its reasonable discretion determines and at the price that EVM PRIME in its reasonable discretion determines to be the best obtainable.

### **13. NETTING AGREEMENT**

- 13.1. If on any date the same amounts are payable under this Agreement by each party to the other in the same currency, then, each party's obligations to make payment of any such amount will be automatically satisfied by netting. If the amounts are not in the same currency, the amounts are converted by EVM PRIME in accordance with the principles referred to in Clause 11.
- 13.2. If the aggregate amount that is payable by one party exceeds the aggregate amount that is payable by the other party, then the party by whom the larger aggregate amount is payable shall pay the excess to the other party and the obligations to make payment of each party will be satisfied and discharged.
- 13.3. If the Client, at any time during the Client relationship, has a negative cash-balance in any Account, EVM PRIME is entitled but not obligated to net between the Client's Accounts. The Client shall bear all the charges and any other costs associated with such netting in accordance with the Commissions, Charges & Margin Schedule.
- 13.4. If the Client relationship is terminated according to Clause 23, the claims that the parties have against each other shall be finally discharged by means of netting (closed). The value of open Contracts shall be determined according to the principles set forth below and the final amount to be paid by one of the parties shall be the difference between the payment obligations of the parties.
- 13.5. Rates based on which the Contracts shall be closed shall be market rates applicable on the day on which EVM PRIME decides to close the Contracts.
- 13.6. EVM PRIME may at its reasonable discretion determine the rates by obtaining an offer from a Market Maker in the asset in question or by applying rates from electronic financial information systems.
- 13.7. When determining the value of the Contracts to be netted, EVM PRIME shall apply its usual spreads and include all costs and other charges.
- 13.8. This netting agreement shall be binding towards the estate and creditors of the parties to the client relationship.

## 14. MARKET MAKING

- 14.1. When EVM PRIME executes orders as Agent for the Client on a recognized stock or futures exchange, EVM PRIME will not be a party to such a trade as such orders will be executed in the trading system of the relevant exchange at the best price and the most favourable conditions available at the time of the order or according to the Client's specific instructions, e.g. in a situation where the Client has chosen to limit the order. EVM PRIME will not include any additional spread in the price of the execution achieved for the Client but will be remunerated according to the Commissions, Charges & Margin Schedule.
- 14.2. In order for EVM PRIME to quote prices with the swiftness normally associated with speculative trading, EVM PRIME may have to rely on available price or availability information that may later prove to be faulty due to specific market circumstances, for instance, but not limited to, lack of liquidity in or suspension of an asset or errors in feeds from information providers or quotes from Counterparties. If so and if EVM PRIME has acted in good faith when providing the price to the Client, EVM PRIME may cancel the trade with the Client but shall do so within reasonable time and shall provide the Client with a full explanation for the reason for such cancellation.
- 14.3. Following execution of any position with a Client, EVM PRIME may at EVM PRIME's reasonable discretion subsequently offset each such client position with another client position, or a position with one of EVM PRIME's Counterparties or retain a proprietary position in the market with the intention to obtain trading profits from such positions. Such decisions and actions may therefore result in EVM PRIME off- setting client positions at prices different (sometimes significantly different) from prices quoted to clients, resulting in trading profits or losses for EVM PRIME. This in turn can raise the possibility of the Client incurring what may be seen as an implied cost (i.e. the difference between the price at which the Client traded with EVM PRIME and the price at which EVM PRIME subsequently traded with Counterparties and/or other clients) due to any profits realised by EVM PRIME as a result of the Market Making function. However, the Market Making function may involve significant costs to EVM PRIME if the market moves against EVM PRIME as compared to the price at which EVM PRIME traded with the Client.
- 14.4. The Client acknowledges, recognizes and accepts that the price quoted to the Client includes a spread when compared with the price to which EVM PRIME may have covered or expected to be able to cover the Contract in a trade with another client or a Counterparty. Furthermore, the Client acknowledges, recognizes and accepts that said

spread constitutes remuneration to EVM PRIME and that such spread not necessarily can be calculated for all Contracts and that such spread will not be specified at the Settlement/Trade Confirmation or otherwise revealed to the Client.

- 14.5. The Client acknowledges, recognizes and accepts that EVM PRIME quotes variable spreads on options. The Client is specifically made aware that variable option spreads are affected by actual market conditions, which are beyond EVM PRIME's control. EVM PRIME does not guarantee any maximum or minimum quotable option spreads.
- 14.6. If the Client is an active trader and is undertaking numerous transactions, the total impact of as well visible as not visible costs may be significant. Consequently, the Client may have to obtain significant profits in the markets in order to cover the costs associated with trading activities with EVM PRIME. For very active Clients, such costs may over time exceed the value of the margin deposited. Normally, when trading margined derivatives, the lower the percentage of the applicable margin rate, the higher the proportion of the costs associated with executing a transaction.

#### **15. AGGREGATION AND SPLIT**

- 15.1. EVM PRIME is in accordance with the broker's Best Execution Policy entitled to aggregate the Client's orders with the broker's own orders, orders of any of the broker's associates and/or persons connected with EVM PRIME including employees and other clients. Furthermore, EVM PRIME may split the Client's orders when executing these. The orders will only be aggregated or split if EVM PRIME reasonably believes it to be in the best interest of the Client. On some occasions aggregation and split of the Client's order may result in the Client obtaining a less favourable price than if the Client's orders had been executed respectively separately or mutually.

#### **16. CONFLICTS OF INTEREST**

- 16.1. EVM PRIME, its associates or other persons or companies connected with EVM PRIME may have an interest, relationship or arrangement that is material in relation to any transaction or Contract effected, or advice provided by EVM PRIME, under this Agreement. By accepting this Agreement and EVM PRIME's Conflict of Interest Policy (which distinctly describes the general character and/or background of any conflict of interest) the Client agrees that EVM PRIME may transact such business without prior reference to any potential specific conflict of interest.

#### **17. EVM PRIME'S COUNTERPARTIES**

- 17.1. In order to give effect to the Client's instructions, EVM PRIME may instruct a Counterparty selected at EVM PRIME's discretion and EVM PRIME shall do so where the transaction is to be subject to the rules of an exchange or market of which EVM PRIME a member is not.
- 17.2. EVM PRIME shall not be responsible for errors committed by such Counterparties unless it is proven that EVM PRIME has not acted with sufficient care when selecting the Counterparty.

## **18. DEFAULT AND DEFAULT REMEDIES**

- 18.1. The provisions contained in this Clause supplement any other rights that EVM PRIME or any of its associates have according to this Agreement, including but not limited to the Pledge Agreement referred to in Clause 12, and furthermore any other rights EVM PRIME has.
- 18.2. EVM PRIME reserves the right to retain, or make deductions from, any amounts which EVM PRIME owes to or is holding for the Client if any amounts are due from the Client to EVM PRIME or EVM PRIME's associates.
- 18.3. The Client authorises EVM PRIME, at EVM PRIME's discretion, at any time and without notice, to sell, apply, set-off and/or charge in any manner any or all of the Client's property and/or the proceeds of any of the same of which EVM PRIME or any of its associates or Agents has custody or control, in order to discharge any or all of the Client's obligations to EVM PRIME or to EVM PRIME's associates.
- 18.4. Each and any of the following events shall constitute an Event of Default in relation to all of a Client's Contracts, Margin Trades, securities and other business with EVM PRIME (regardless of whether the Event of Default only relates to part of the business with EVM PRIME):
  - i if the Client fails to make any payment or fails to do any other act required under this Agreement or by EVM PRIME at its reasonable discretion;
  - ii if the Client fails to remit funds necessary to enable EVM PRIME to take delivery under any Contract on the first due date;
  - iii if the Client fails to provide assets for delivery, or take delivery of assets, under any Contract on the first due date;
  - iv if the Client dies or becomes of unsound mind;

- v if an application is made in respect of the Client for any action pursuant to Bankruptcy Act or any equivalent act applicable to the Client or, if a partnership, in respect of one or more of the partners, or if a company, that a receiver, trustee, administrative receiver or similar officer is appointed;
- vi if a petition is presented for the winding-up or administration of the Client;
- vii if an order is made or a resolution is passed for the winding-up or administration of the Client (other than for the purposes of amalgamation or reconstruction with the prior written approval of EVM PRIME);
- viii if any distress, execution or other process is levied against any property of the Client and is not removed, discharged or paid within seven days;
- ix if any security created by any mortgage or charge becomes enforceable against the Client and the mortgagee or chargee takes steps to enforce the security or charge;
- x if any indebtedness of the Client or any of its subsidiaries becomes immediately due and payable, or capable of being declared so due and payable, prior to its stated maturity by reason of default of the Client (or any of its subsidiaries) or the Client (or any of its subsidiaries) fails to discharge any indebtedness on its due date;
- xi if the Client fails to fully comply with obligations under this Agreement or any Contract, including refrains from complying with Margin requirements;
- xii if any of the representations or warranties given by the Client are, or become, untrue;
- xiii if EVM PRIME or the Client is requested to close a Contract (or any part of a Contract) by any regulatory agency or authority; or
- xiv if EVM PRIME reasonably considers it necessary for its own protection or the protection of its associates.

18.5. Upon the occurrence of an Event of Default, EVM PRIME shall at its discretion be entitled to:

- i sell or charge in any way any or all of the Client's collateral, assets and property which may from time to time be in the possession or control of EVM PRIME or any of its associates or Agents or call on any guarantee, without any notice or court order. Sale of Security, assets and property shall take place by means that EVM PRIME in its

reasonable discretion determines and at the price that EVM PRIME in its reasonable discretion determines to be the best obtainable, provided that EVM PRIME shall provide a 7-day notice period before realizing Security of any Client, unless immediate sale is necessary to avoid or limit a loss;

- ii buy or sell any Security, investment or other property where this is, or is in the reasonable opinion of EVM PRIME likely to be, necessary in order for EVM PRIME to fulfill its obligations under any Contract and the Client shall reimburse EVM PRIME for the full amount of the purchase price plus any associated costs and expenses;
- iii deliver any Security, investment or property to any third party, or otherwise take any action EVM PRIME considers to be desirable in order to close any Contract;
- iv require the Client immediately to close and settle a Contract in such manner as EVM PRIME may in its reasonable discretion request;
- v to enter into any foreign exchange transaction, at such market rates and times as EVM PRIME may determine, in order to meet obligations incurred under a Contract;
- vi reinvoice all or part of any assets standing to the debit or credit of any Account (including commuting EVM PRIME's or the Client's obligation to deliver an asset into an obligation to pay an amount equal to the market value of the asset (determined by EVM PRIME at its reasonable discretion) on the date reinvicing takes place); and
- vii close-out all Contracts and net all the Client's and EVM PRIME's obligations towards each other as of the date fixed by EVM PRIME with effect to third parties.

18.6. The Client authorises EVM PRIME to take any or all of the steps described in this Clause without notice to the Client and acknowledges that EVM PRIME shall not be responsible for any consequences of it taking any such steps, unless EVM PRIME has exercised gross negligence in connection herewith. The Client shall execute the documents and take the action as EVM PRIME may request in order to protect the rights of EVM PRIME and its associates under this Agreement or under any agreement the Client may have entered into with EVM PRIME's associates.

18.7. If EVM PRIME exercises its rights to sell any Security or property of the Client under this Clause, it will effect such sale, without notice or liability to the Client, on behalf of the Client and apply the proceeds of sale in or towards discharge of any of the Client's obligations to EVM PRIME or to EVM PRIME's associates.



18.8. Without prejudice to EVM PRIME's other rights under this Agreement or under prevailing law, EVM PRIME may, at any time and without notice, combine or consolidate any of the accounts maintained by the Client with EVM PRIME or any of its associates and off-set any and all amounts owed to, or by, EVM PRIME or any of its associates in such manner as EVM PRIME at its reasonable discretion may determine.

## **19. CLIENT WARRANTIES & REPRESENTATIONS**

19.1. The Client warrants and represents that:

- i it is not under any legal disability with respect to, and is not subject to any law or regulation which prevents its performance according to this Agreement or any Contract or transaction contemplated by this Agreement;
- ii it has obtained all necessary consents and has the authority to operate according to this Agreement (and if the Client is not an individual person, that it is properly empowered and has obtained necessary corporate or other authority pursuant to its constitutional and organisational documents);
- iii investments or other assets supplied by the Client for any purpose shall, subject to this Agreement, at all times be free from any charge, lien, pledge or encumbrance and shall be beneficially owned by the Client;
- iv it is in compliance with all laws to which it is subject including, without limitation, all tax laws and regulations, exchange control requirements and registration requirements; and
- v the information provided by the Client to EVM PRIME is complete, accurate and not misleading in any material respect.
- vi the Client should inform the Company prior opening an account in a case of being a Politically Exposed Person (PEP) or is related to a PEP.

19.2. The above warranties and representations shall be deemed to be repeated each time the Client in the future for the duration of the client relationship provides instructions to EVM PRIME.

## **20. INDEMNITY AND LIMITATIONS OF LIABILITY**

20.1. The Client is obliged to compensate EVM PRIME for all losses, taxes, expenses, costs and liabilities whatsoever (present, future, contingent or otherwise and including reasonable legal fees) which may be suffered or incurred by EVM PRIME as a result of or in connection

with:

- i the Client's breach of this Agreement;
- ii EVM PRIME entering into any transaction or Contract; or
- iii EVM PRIME taking any of the steps which EVM PRIME is entitled to take in an Event of Default; unless and to the extent only that such losses, taxes, expenses, costs and liabilities are suffered or incurred as result of EVM PRIME's gross negligence or willful default.

20.2. This right to compensation shall survive any termination of the Client relationship.

20.3. Without prejudice to Clause 6 EVM PRIME shall not be liable for:

- i any loss (including consequential and other indirect losses), expense, cost or liability (together referred to as "Loss") suffered or incurred by the Client as a result of or in connection with the provision of the Services unless and to the extent that such Loss is suffered or incurred as a result of EVM PRIME's gross negligence or willful default;
- ii any Loss due to actions taken by EVM PRIME according to its rights under this Agreement, or;
- iii any consequential or other indirect loss suffered or incurred by the Client whether arising from EVM PRIME's negligence or otherwise.

20.4. Especially, the Client acknowledges, recognizes and accepts that any market recommendation and any information communicated by EVM PRIME does not constitute an offer to buy or sell or the solicitation of an offer to buy or sell a Contract and that such recommendation and information, although based upon information from sources believed by EVM PRIME to be reliable, may be based solely on a broker's opinion and that such information may be incomplete and may be unverified and unverifiable. EVM PRIME makes no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy or completeness of any information or trading recommendation furnished to the Client.

## **21. CONFIDENTIALITY AND EVM PRIME'S DISCLOSURE OF INFORMATION**

21.1. Neither party shall disclose any information relating to the business, investments, finances

or other matters of a confidential nature of the other party of which it may in the course of its duties or obtain possession of, and each party shall use all reasonable endeavours to prevent any such disclosure. However, this shall not apply if a party is obliged hereto due to prevailing legislation, or to a legislative or supervising authority, or to another person who according to the law is entitled to demand disclosure, or in order to enable the party sufficiently to fulfill its obligations pursuant to this Agreement.

- 21.2. By accepting this Agreement the Client authorizes EVM PRIME to disclose such information relating to the Client as may be required by any law, rule or regulatory authority, including any applicable Market Rules, without prior notice to the Client. Furthermore EVM PRIME may disclose requested and relevant information relating to the Client to third parties in order to facilitate the transfer of funds by credit card initiated by Client.
- 21.3. By accepting this Agreement the Client permits EVM PRIME to transfer personal information about the Client submitted to or collected by EVM PRIME with any legal entity within EVM PRIME. EVM PRIME may transfer such personal information for the purposes of complying with regulatory matters, providing and performing investment advice, investment services, and other services which EVM PRIME offers, conducting marketing, and managing the client relationship. Furthermore, EVM PRIME may share such personal information with a third-party agency working on behalf of EVM PRIME with the purpose of performing client analysis for the use of EVM PRIME's sales and marketing.
- 21.4. The Client's personal information will be stored no longer than necessary to carry out the purposes listed in this Agreement. The Client has the right to request correction, supplementation, deletion, or blocking of such personal information if inaccurate, incomplete, or irrelevant for the purposes of the processing or if processed in any other way that is unlawful. In certain circumstances, the Client may also have the right to object for legitimate reasons to the processing of such personal data in accordance with the procedures set forth in the applicable data protection regulations and to seek other legal remedies available in connection with the processing of such personal information.

## **22. AMENDMENTS**

- 22.1. EVM PRIME is entitled to amend this Agreement in favour of the Client without notice. Changes not in the Client's favour may take place at any time by giving a notice of minimum 30 days where Clients are using the Trading Platform for Commercial use, and by giving a notice of 2 months where Clients are using the Trading Platform for Private use.

EVM PRIME will provide the notice to the Client on a Durable Medium.

- 22.2. The Client is deemed to have accepted such changes if he does not, before the proposed date of their entry into force, notify EVM PRIME that he does not accept them.
- 22.3. When dealing with Contract Options, if a market place on which the relevant exchange traded product is traded or if the Counterparty with whom EVM PRIME has entered into a contract which is identical in all respects to the Contract Option EVM PRIME has entered into with the Client, take any action which affects the exchange traded product or the contract EVM PRIME has entered into with its Counterparty, then EVM PRIME may take any such action with regard to the relevant Contract Options which EVM PRIME in its reasonable discretion considers desirable or appropriate to correspond with such action taken by the market place or Counterparty or to mitigate any loss which is or may be incurred by it as a result of such action.

## **7.0 TERMINATION**

- 22.4. The Client relationship shall remain in force until terminated.
- 22.5. The Client is entitled to terminate the Client relationship immediately by giving written notice to EVM PRIME. EVM PRIME is entitled to terminate the Client relationship with two months' notice where clients are using the Trading Platform for Private use and with one month's notice where clients are using the Trading Platform for Commercial use. EVM PRIME will provide the notice to the Client on a Durable Medium. Termination shall not affect any accrued rights and obligations.
- 22.6. On termination, EVM PRIME and the Client undertake to complete all Contracts that are already entered into or under execution and this Agreement shall continue to bind both parties in relation to such transactions. EVM PRIME is entitled to deduct all amounts due to it before transferring any credit balances on any Account to the Client and it is entitled to postpone such transferring until any and all Contracts between EVM PRIME and the Client are closed. Furthermore, EVM PRIME is entitled to require the Client to pay any charges incurred in transferring the Client's investments.

## **23. COMPLAINTS AND DISPUTES**

- 23.1. In case the Client has raised a question or a problem with the account executive or another employee of EVM PRIME without receiving a satisfactory answer, the Client is entitled to file a written complaint to [clientaudit@evamarkets.com](mailto:clientaudit@evamarkets.com). The Compliance Department hereafter investigates and answers the complaint.

23.2. Without prejudice to any of EVM PRIME's other rights under this Agreement, in case of a dispute between the Client and EVM PRIME over a Margin Trade or alleged Margin Trade or any instruction relating to a Margin Trade, EVM PRIME is entitled at its reasonable discretion and without notice to close any such Margin Trade or alleged Margin Trade if EVM PRIME reasonably believes such action to be desirable for the purpose of limiting the maximum amount involved in the dispute. EVM PRIME shall not be responsible to the Client in connection with any subsequent fluctuations in the level of the relevant Margin Trade. If EVM PRIME closes a Margin Trade under this Clause such action shall be without prejudice to EVM PRIME's right to contend that such Margin Trade had already been closed by EVM PRIME or was never opened by the Client. EVM PRIME shall take reasonable steps to inform the Client that EVM PRIME has taken such action as soon as practicable after doing so. Where EVM PRIME closes a Margin Trade or alleged Margin Trade in accordance with this Clause, the closing shall be without prejudice to the Client's rights to open a new Margin Trade, provided that such Margin Trade is opened in accordance with this Agreement. When calculating margin or other funds required for such Margin Trade, EVM PRIME is entitled to do so on the basis that EVM PRIME's view of the disputed events or instructions is correct.

#### **24. MISCELLANEOUS**

24.1. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.

24.2. EVM PRIME shall not be liable to the Client for any failure, hindrance or delay in performing its obligations under this Agreement where such failure, hindrance or delay arises directly or indirectly from circumstances beyond its reasonable control. Such force majeure events shall include without limitation any technical difficulties such as telecommunications failures or disruptions, non-availability of EVM PRIME's website e.g. due to maintenance downtime, declared or imminent war, revolt, civil unrest, catastrophes of nature, statutory provisions, measures taken by authorities, strikes, lock-outs, boycotts, or blockades, notwithstanding that EVM PRIME is a party to the conflict and including cases where only part of EVM PRIME's functions are affected by such events.

- 24.3. If the Client's combined exposure in one or more margin trades reaches a level which - in case of an adverse market development - may lead to a significant deficit not covered by the Client's deposits and/or margin with EVM PRIME, EVM PRIME may in its reasonable discretion
- i increase the margin requirements and/or
  - ii reduce the Client's exposure by closing one or more or all of the client's open positions.
- 24.4. Furthermore, EVM PRIME is entitled in its reasonable opinion to determine that an emergency or an exceptional market condition has occurred. Such conditions shall include, but are not limited to, the suspension or closure of any market or the abandonment or failure of any event to which EVM PRIME relates its quote or the occurrence of an excessive movement in the level of any Margin Trade and/or underlying market or EVM PRIME's reasonable anticipation of the occurrence of such a movement. In such cases EVM PRIME may increase its margin requirements, reduce the Client's exposure, close any or all of the Client's open Margin Trades and/or suspend trading.
- 24.5. The Client may not assign its rights or delegate any of the Client's obligations under this Agreement or according to any Contract to others whereas EVM PRIME may assign its rights or delegate its obligations to any regulated financial institution.
- 24.6. For various investments, instruments and groups of Clients, EVM PRIME may provide additional business agreements. The Client acknowledges, understands and accepts that:
- i such business agreements made available to Clients shall constitute an addition to this Agreement; and
  - ii the Client should not undertake any transaction unless the business terms applicable for such investment instrument or group of Clients have been understood and accepted. Transactions undertaken by the Client notwithstanding above, shall be deemed as had this sub-clause indeed been complied with.
- 24.7. The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 24.8. No delay or omission on the part of EVM PRIME in exercising any right, power or remedy provided by law or under this Agreement, or partial or defective exercise thereof, shall:
- i. impair or prevent further or other exercise of such right, power or remedy; or

ii. operate as a waiver of such right, power or remedy.

24.9. No waiver of pleading a default of a clause in this Agreement shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same clause or as authorizing a continuation of the particular breach.

24.10.

24.11. The Client hereby ratifies all transactions with EVM PRIME effected prior to the Client's acceptance of this Agreement and agrees that the rights and obligations of the Client in respect thereto shall be governed by this Agreement.

24.12. By accepting this Agreement on behalf of a corporation or other legal entity, the person signing represents and warrants that he/she is authorised to act on behalf of such corporation or legal entity and to bind the same to this Agreement and all obligations arising hereunder. If at a later stage it becomes apparent that the signatory was not duly authorized to bind the corporation or legal entity, EVM PRIME will have the right to seek restitution from this person. Furthermore, the signatory shall indemnify EVM PRIME against all liabilities, losses, damages, costs and expenses in relation to any claims or action brought against EVM PRIME as a result of the signatory holding out to be authorised to act and bind any such corporation or legal entity.

24.13. Client shall be able to communicate with EVM PRIME in English or any other language as EVM PRIME may offer from time to time. EVM PRIME may communicate with the Client in English or any other language agreed between the parties.

24.14. EVM PRIME or third parties may have provided the Client with translations of this Agreement. The original English versions shall be the only legally binding versions for the Client and EVM PRIME. In case of discrepancies between the English version and other translations in the Client's possession, the original English version provided by EVM PRIME on the website shall prevail.

## **25. RISK DISCLOSURE STATEMENT FOR TRADES IN FOREIGN EXCHANGE AND DERIVATIVES (INCLUDING CFD'S, FUTURES AND OPTIONS)**

25.1. This brief statement, which constitutes an addition to this Agreement, does not disclose all of the risks and other significant aspects of trading foreign exchange and derivatives. In consideration of the risks, you should enter into transactions with the mentioned products only if you understand the nature of the contracts and the contractual legal

relationship into which you are entering and the extent of your exposure to risk. Transactions in foreign exchange and derivatives are not suitable for many members of the public. You should carefully consider whether transacting is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.

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## 26. Appendix

### 26.1. FOREIGN EXCHANGE AND DERIVATIVES

#### 26.1.1. Effect of "Leverage" or "Gearing"

Transactions in foreign exchange and derivatives carry a high degree of risk. The amount of initial margin may be small relative to the value of the foreign exchange or derivatives contract so that transactions are "leveraged" or "geared". A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit; this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with EVM PRIME to maintain your position. If the market moves against your position and/or margin requirements are increased, you may be called upon to deposit additional funds on short notice to maintain your position. Failing to comply with a request for a deposit of additional funds, may result in closure of your position(s) by EVM PRIME on your behalf and you will be liable for any resulting loss or deficit.

#### 26.1.2. Risk-reducing Orders or Strategies

The placing of certain orders (e.g. "stop-loss" orders, where permitted under local law, or "stop-limit" orders), which are intended to limit losses to certain amounts, may not be adequate given that markets conditions make it impossible to execute such orders, e.g. due to illiquidity in the market. Strategies using combinations of positions, such as "spread" and "straddle" positions may be as risky as taking simple "long" or "short" positions.

### **OPTIONS**

#### 26.1.3. Variable Degree of Risk

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e., put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs. The purchaser of options may offset or exercise the options or allow the option to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on Futures above). If the purchased option is out-of-the-money when it expires, you will suffer a total loss of

your investment, which will consist of the option premium plus transaction costs. If you are contemplating purchasing out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

Selling ("writing" or "granting") an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavourably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on Futures above). If the option is "covered" by the seller holding a corresponding position in the underlying asset, in a future or in another option, the risk may be reduced. In case the option is not covered, the risk of loss can be unlimited.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

## 26.2. ADDITIONAL RISKS COMMON TO FOREIGN EXCHANGE AND DERIVATIVE TRANSACTIONS

### 26.2.1. Terms and Conditions of Contracts

You should ask the firm with which you deal about the terms and conditions of the Contracts entered into and information on associated obligations (e.g. the circumstances under which you may become obligated to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

### 26.2.2. Suspension or Restriction of Trading and Pricing Relationships

Market condition (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g., the suspension of trading in any contract or contract month because of price limits or "circuit breakers") may increase the risk of loss by making it difficult or impossible to effect transactions or close/ offset positions. If you have sold options, this may increase the risk of loss.

Normal pricing relationships between the underlying asset and a derivative do not always exist. The absence of an underlying reference price may make it difficult to judge "fair" value.

### 26.2.3. Deposited Cash and Property

You should familiarize yourself with the protections accorded the Security you deposit by way of money or other assets in domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or other assets is governed by the legislation and local rules in the country at which location the counterparty acts.

### 26.2.4. Commission and Other Charges

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit or loss.

### 26.2.5. Transactions in Other Jurisdictions

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation, which may offer different or diminished investor protection. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected.

#### 26.2.6. Currency Risks

The profit or loss in transactions in foreign currency-denominated contracts in another currency than your account currency will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to the account currency.

#### 26.2.7. Trading Facilities

Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary: you should ask the firm with which you deal for details in this respect.

#### 26.2.8. Electronic Trading

Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions, is not executed at all and a lack of capability to keep you informed continuously about your positions and fulfillment of the margin requirements.

#### 26.2.9. Off-Exchange Transactions

In some jurisdictions firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterpart to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize yourself with applicable rules and attendant risks.