



# **Terms of Business**

Version 1.2.1

December 2020

## 1. **DEFINITIONS, INTERPRETATION AND ANCILLARY PROVISIONS**

1.1 In this Agreement the following definitions apply:

“Account”	means a transaction account of Yours with Axis Capital Markets Ltd.
“Account Statement”	means a periodic statement of the transactions credited or debited to an Account.
“Account Summary”	means a statement of the Clients securities portfolio, open positions, margin requirements, cash deposit etc. at a specific point in time.
“Advisory Services”	means the provision of advice to You in Your capacity as an investor on the merits of making or realising Investments, together with any services ancillary thereto
“Agreement”	means these Terms of Business together with the current charging schedule and risk warning.
“Business Day”	means any Monday, Tuesday, Wednesday, Thursday or Friday (except where a public holiday in any part of the United Kingdom) on which clearing banks in the City of London are normally open for non-automated business.
“Clause”	means a clause in these Terms of

	Business.
“the Client Money Rules”	means those provisions of the CASS Sourcebook within the FCA Rules that regulate the treatment of Your money held by us as Client Money
“Custodian”	means such third party provider of custodian and related services as We may in our discretion arrange to provide such services for Your benefit
“Data Protection Legislation”	means all legislation and regulatory requirements in force from time to time relating to the Use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as Well as (ii) the General Data Protection Regulation ((EU) 2016/679) (‘GDPR’).
“Execution-Only Services”	means Services We provide to You in relation to transactions where we act on Your instructions and offer no advice as to whether an investment is suitable for You.
“Forex”	means over-the-counter trades on the foreign currency exchange or market.

“FCA”	means the Financial Conduct Authority or any successor.
“FCA Rules”	means the rules, regulations and guidance issued by the FCA, as may be amended from time to time and as may be applicable to Our business with You.
“FSMA”	means the Financial Services and Markets Act 2000.
“Investment”	means the investment types that Axis have FCA permission to advise on, arrange deals in, deal as agent and as principal and arrange safeguarding and administration of as may be varied (for full details please refer to the FCA register which can be found at the following webpage <a href="https://register.fca.org.uk/ShPo_FirmDetailsPage?id=001b000000NMeWBAA1">https://register.fca.org.uk/ShPo_FirmDetailsPage?id=001b000000NMeWBAA1</a> ).
“Margin Trading”	means trading in any leveraged financial instrument, including Forex.
“Money Laundering Requirements”	means the Proceeds of Crime Act 2002; FSMA; the Terrorism Act 2003; and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.
“Person” or “Persons”	includes one or more individuals,

bodies, corporate, partnerships, firms, associations (whether incorporated or unincorporated), Trustees, Personal Representatives, and any other person or entity recognised by law. A Person is connected with Us, if so defined by the FCA Rules, including persons who control Us, are controlled by Us, or are members of the same group of companies and including Our employees and those of a connected person.

“Pledged/ Hypothecated Assets”

refers to any assets that You provide for the Custodian to hold as security for Your obligation to repay a loan or other financial commitment to a third party lender or credit provider.

“Rules”

means the rules of any exchange, clearing house or regulatory authority having jurisdiction in relation to business, which We transact for You, together with any requirements arising from regulations made by or under FSMA.

“Terms of Business”

means the terms, conditions, obligations and rights applying between Us and You, as set out in this document, the document entitled "Personal Information & Data Protection Policy", and Our published Charging Schedule.

“Trading Platform”	means any Internet trading service offered by Us to Our clients in order to access information and trading facilities, via an internet service and/or an electronic order routing system.
“the Services”	means the Advisory Services and the Execution-Only Services which Axis is able to provide to You under the terms of this Agreement.
“TTCA”	means a title transfer collateral arrangement, as defined in the FCA Rules.
“We”, “Us”, “Our”, “Ours” and “Axis”	mean Axis Capital Markets Limited (Company Registration Number 08133033) of 2 <sup>nd</sup> Floor St Clements House, 27 Clements Lane, London, EC4N 7AE, its successors and assigns, together with any parent company, companies in the same group (including any nominee company) and, where applicable, employees of any such persons.
“You”, “Your”, “Yours”	means the person or persons who has or have accepted these Terms of Business as a client of Axis.

1.2 The above definitions are not an exhaustive list of the terms used in these Terms of Business.

1.3 The FCA regulates services provided by us. Any term used in these Terms of

Business and not specifically defined herein has (unless stated otherwise) the meaning given to it by the FCA Rules.

- 1.4 This document contains details of both the Advisory Services and the Execution-Only Services which We can provide to You, and it sets out Axis's obligations to You and Your rights in relation to the relevant Service(s) that We provide.
- 1.5 Where these Terms of Business have been translated from English, they are offered for information only, the English version shall prevail and as such these Terms of Business will be governed by English law.

## **2. COMMENCEMENT OF TERMS OF BUSINESS**

- 2.1 These Terms of Business set out the terms and conditions on which Axis will provide You with services from time to time. The Agreement constitutes the terms agreed between You and Axis.
- 2.2 This Agreement will commence on the last to occur of the following:
  - (a) The date on which You execute this Agreement;
  - (b) The date on which You provide Axis with all materials which Axis requires in order to comply with Our obligations under Money Laundering Requirements;
  - (c) If the distance marketing provisions in the FCA Rules apply to the formation of this Agreement, the close of any period for cancellation or cooling-off;
  - (d) The date on which any agreement or arrangement with the Custodian, needed to support the performance by Us of these Terms of Business, comes into force; or
  - (e) Such later date as Axis may agree with You in writing.
- 2.3 These Terms of Business supersede all other Terms of Business, notices sent or other communications about Our business.
- 2.4 There is no minimum term to this Agreement, and Axis will provide services to

You on a continuing basis until this Agreement is terminated in accordance with clause 16.

2.5 You represent and warrant to Us as follows:

- (a) If You are an individual, You are at least 18 years of age;
- (b) If You are an entity, You are lawfully constituted (and, if a body corporate, lawfully incorporated) and in good financial standing; and
- (c) In either case, You have all requisite authorisation or authority to enter into this Agreement.

### **3. OUR REGULATORY STATUS**

3.1 Axis is authorized and regulated by FCA (FRN 589327).

3.2 Axis is a private limited company registered in England, company number 08133033. The registered office of Axis Capital Markets Limited is 2<sup>nd</sup> Floor, St Clements House, 27 Clements Lane, London, EC4N 7AE.

3.3 Axis operates under the trading name of AxCap247.

3.4 Axis is a member of the London Stock Exchange AXCKGB22.

### **4. CLIENT CATEGORISATION**

4.1 In accordance with FCA Rules, We have classified You as a professional client. You have the right to request a different classification and the details of any changes to the level of protection that a different classification might entail, but we reserve the right to decline such a request. As a professional client, You will receive a lesser degree of regulatory protection than is provided by regulated investment firms to their retail clients, and You may lose (or not have) certain protections and compensation rights to which a retail client is automatically entitled under the FCA Rules and FSMA, You agree to notify Us immediately if You consider at any point that You would no longer fall within the definition of professional client.

- 4.2 A summary of the main differences between the treatment of professional clients and retail clients is set out at Appendix A.
- 4.3 Whenever We deal with You it will be on the basis that only You are our customer under these Terms Of Business and that even if You are acting as an agent and have identified Your client to us, unless otherwise required by FCA Rules, Your principal will not be Our client and You will remain liable to Us as principal in relation to any transactions that You execute with us.
- 4.4 **Important** – the Custodian’s appointment is regulated entirely by an agreement between Us and the Custodian. You are not deemed to be party to any such agreement, though the Custodian may be under obligations under the FCA Rules to classify You. While in such a case We expect the Custodian to classify You as a professional client, We cannot assure that this happens.
- 4.5 In providing the Advisory Service, We will advise You, at Your request, on entering into investments and exercising Your rights in relation thereto. We seek to ensure that Our advice is suitable for You based on the information that You provide to Us with respect to Your investment objectives. It remains Your sole responsibility to inform us of any changes to Your circumstances, requirements and objectives.
- 4.6 **Our Advisory Services are available for Professional Clients and Eligible Counterparties only. If You are recategorized as a retail client at any time after the date of entering into this Agreement, please be aware that our Advisory Services will no longer be available to You.**

## 5. **SCOPE OF SERVICES TO BE PROVIDED**

- 5.1 We may provide You with Our Advisory Services under which We may recommend to You any Investments which We reasonably believe are suitable for You. All decisions on whether to invest in, hold or dispose of any investment or asset are Yours and We will only enter into transactions in accordance with Your instructions.
- 5.2 However, if You are an Execution-only client We will not provide our Advisory Services to You. In this case it is clearly understood that all transactions are

undertaken with or for You on the basis that the Investment decision(s) involved will have been made by You.

5.3 Please note that whether an Investment transaction results from the use of Our Advisory Services or Our Execution-Only Services, We may be acting on a matched-principal basis, where You will be trading the Investment with or through Us as a position that is matched with that of another client of Axis (whom We may have advised with respect thereto).

5.4 Each Forex transaction will normally comprise a spot transaction in respect of currency pair and its exchange rate. Spot transactions will be due for delivery two days after dealing; however, We will automatically roll Your positions out every day until they are closed out by You or an appointed attorney. Further details are set out in clause 7 below.

5.5 A particular transaction may involve delivery of the relevant currency if We agree to this in advance. If delivery of currency occurs, You will be liable to make or receive delivery and to pay for all related costs.

5.6 The services We provide under this Agreement may involve margined transactions.

5.7 **Important** – Axis does not provide any services to its clients in respect of the safeguarding and administration of their Investments. It is for this purpose that We have engaged the Custodian (pursuant to our permission from the FCA to arrange for our clients' Investments to be safeguarded and administered by the Custodian). Axis will at no time hold any Investments of Yours for the purposes of safeguarding.

## 6. **PROVISION OF SERVICES**

6.1 We shall use reasonable endeavours to ensure that any information We provide to You as part of the Services is accurate at the time of provision, but You hereby acknowledge that information provided by Us may be based upon incomplete or unverified information obtained from third parties. We shall not be liable for any costs, claims, liabilities, expenses or losses which You may suffer as a result of

relying on any such information unless We acknowledge or are proven to be negligent or have acted in bad faith.

6.2 Our execution dealings for You will be in accordance with our Order Execution Policy, details of which will be provided under separate cover.

6.3 We are not authorised to and will not act for You on a discretionary basis.

6.4 We shall not be obliged to effect any transaction, nor do anything else, which We believe would breach any statute law or regulation.

6.5

## **7. MARGIN TRADING AND FOREX TRANSACTIONS**

7.1 You should not engage in Margin Trading unless You understand the nature of the contracts and the extent of Your exposure to risk. Further details of the risks associated with Margin Trading and information about Margin Trading is set out in Appendix D.

7.2 Forex transactions are a type of Margin Trading and involve You reaching a view as to what You consider the price of one currency will be against the price of another currency in the future (a "**currency pair**"). For each currency pair We will quote a bid price, which is the price We will pay You in the secondary currency for the position in the base currency, and an offer price, which is the price You will pay Us in the secondary currency for the position in the base currency. The difference between the bid price and the offer price is known as the spread.

7.3 Transactions in Margin Trading involve an obligation to settle a position at a future date. There may be financing costs in holding a Margin Trading position overnight.

7.4 We may agree to allow You to use stop-loss, limit-loss or take-profit orders to limit Your losses or secure Your gains whilst Margin Trading.

## **8. MARGINS AND COLLATERAL PAYMENTS**

8.1 During the lifetime of any Financial Instrument, We, at our absolute discretion,

reserve the right to review and adjust the percentage of funding required or the rates at which interest is calculated on such Financial Instrument, with or without notice to you. Positions that are open overnight may be adjusted to reflect the cost of carrying such positions over to the next trading day.

- 8.2 Where we effect or arrange a Transaction involving a CFD , You may be liable to make further payments when the Transaction fails to be completed or upon the earlier of the Transaction settlement or closing out of Your position. You will be required to make further variable payments by way of margin against the purchase price of the Financial Instrument, instead of paying (or receiving) the whole purchase (or sale) price immediately. The movement in the market price of Your investment will affect the amount of margin payment You will be required to make. We will monitor Your margin requirements on a daily basis and We will inform You as soon as it is reasonably practicable of the amount of any margin payment required under this clause.
- 8.3 You agree to pay Us on demand such sums by way of margin as are required from time to time or as We may in our discretion reasonably require for the purpose of protecting ourselves against loss or risk of loss on present, future or contemplated transactions under these Terms Of Business.
- 8.4 Unless otherwise agreed, margin must be paid in cash. Cash margin is paid to Us as an outright transfer of funds and You will not retain any interest in it. Cash margin received by Us will be recorded by Us as a cash repayment obligation owed by Us to You.
- 8.5 In addition, and without prejudice to any rights to which We may be entitled under these Terms of Business or any Regulations, We shall have a general lien on all funds held by Us or the Custodian on Your behalf until the satisfaction of all of Your obligations to Us under this Agreement.
- 8.6 We shall have the right, in addition to any other rights We may have under these Terms of Business, or under the law in general, to close out, cancel and/or limit the size of Your open positions (new or gross) and/or to refuse to establish new positions. Situations where We may exercise such right include, but are not limited to, where:

- (a) We consider that there are abnormal trading conditions.
  - (b) We consider there to have been abusive trading strategies transmitted to Us.
  - (c) Your account has reached Stop Out level.
- 8.7 At margin levels of less than 50% of Your equity, We have a right to begin closing positions immediately and without notice. Individual stop out levels are set at 50% of Your margin level and We reserve the right to close out all or any of Your Open Positions below stop out level immediately and without notice. However, these percentage levels may vary depending on market conditions and platform type; please see Our website for further details [www.axcap247.com](http://www.axcap247.com)
- 8.8 For deals entered using Our online trading platform (“MT4”), We have a right to issue margin calls when the margin level is below the platform/region Margin Call %. Deals will start to be closed automatically and without any further notice when the margin level falls below the stop-out level. If You use MT4 You may receive e-mails notifying You of such levels. If You use a WebTrader You will receive notification from within the platform. It is Your responsibility to be and remain aware at all times of Your margin levels and the standing of Your account at all times.
- 8.9 We shall be entitled to retain monies which are required to cover adverse positions, initial margin, variation margin, any uncleared funds, realized losses and any and all other amounts payable to Us under these Terms of Business.
- 8.10 Whenever We conduct currency conversions, We will do so at such reasonable rate(s) of exchange as We may determine.

## **9. TRADING PLATFORM(S)**

- 9.1 Once You have been processed by Us through the security procedures associated with the Trading Platform(s), You will be provided with access to the service. We may change Our security procedures at any time and We will tell You of any new procedures that apply to You as soon as possible.
- 9.2 There may be restrictions on the number of transactions that You can enter into

on any one day and also in terms of the total value of those transactions when using the Trading Platform(s).

- 9.3 We may at any time, on reasonable notice (which, in certain circumstances, may be immediate) enter (or instruct our subcontractors to enter) Your premises and inspect Your systems to ensure that they comply with the requirements notified by Us to You from time to time and that You are using the Trading Platform(s) in accordance with these Terms of Business.
- 9.4 You will be responsible for providing and maintaining at Your sole expense all hardware, software and other components whatsoever that You require to enable You to use the Trading Platform(s).
- 9.5 You will be responsible for the installation and proper use of any virus detection/scanning program We require from time to time.
- 9.6 In the event that You receive any data, information or software via the Trading Platform other than those which You are entitled to receive pursuant to this Agreement, You will immediately notify Us and will not use, in any way whatsoever, such data, information or software.
- 9.7 When using the Trading Platform(s), You are solely responsible for:
- (a) Ensuring that Your systems are maintained in good order and are suitable for use with the Trading Platform;
  - (b) Running such tests and providing such information to Us as We shall reasonably consider necessary to establish that Your system satisfies the requirements notified by Us to You from time to time;
  - (c) Carrying out virus and related checks on a frequent basis (typically not less often than once per month);
  - (d) Informing Us immediately of any unauthorised access in Your name to the Trading Platform(s) or any unauthorised transaction or instruction which You know of or suspect has been proffered for Your account and, if within Your control, causing such unauthorised use to cease.

- (e) Not at any time leaving the terminal from which You have accessed the Trading Platform(s) unattended while connected thereto, or permitting anyone else use the terminal until You have logged off from the Trading Platform(s).
- 9.8 In the event You become aware of a material defect, malfunction or virus in the Trading Platform(s), You will immediately notify Us and cease all use of the Trading Platform(s) until You have received permission from Us to resume use.
- 9.9 All rights in patents, copyrights, design rights, trademarks and any other intellectual property rights (whether registered or unregistered) relating to the Trading Platform(s) remain vested in Us or Our licensors. You will not copy, interfere with, tamper with, alter, amend or modify the Trading Platform(s) or any part or parts thereof unless expressly permitted by Us in writing. You shall ensure that all the licensors' trademarks and copyright and restricted rights notices are reproduced on these copies.
- 9.10 Without prejudice to any other terms of this Agreement, relating to the limitation of liability and provision of indemnities, the following clauses shall apply to the Trading Platform(s).
- (a) We shall have no liability to You for damage which You may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers. You acknowledge that access to the Trading Platform(s) may be limited or unavailable due to such system errors, and that We reserve the right upon notice to suspend access to the Trading Platform(s) for this reason.
  - (b) Neither We, nor any third party software provider accept any liability in respect of any delays, inaccuracies, errors or omissions in any data provided to You in connection with the Trading Platform(s).
  - (c) We shall have no liability to You in the event that any viruses, worms, software bombs or similar items are introduced via the Trading Platform(s) or any software provided by Us to You in order to enable You to use the

Trading Platform(s) provided that We have taken reasonable steps to prevent any such introduction.

- (d) You will ensure that no computer viruses, worms, software bombs or similar items are introduced into Our computer system or network and will indemnify Us on demand for any loss that We suffer arising as a result of any such introduction.
- (e) We shall not be liable for any loss, liability or cost whatsoever arising from any unauthorised use of the Trading Platform(s). You shall on demand indemnify, protect and hold Us harmless from and against all losses, liabilities, judgments, suits, actions, proceedings, claims, damages and costs resulting from or arising out of any act or omission by any person using the Trading Platform(s) by using Your designated passwords, whether or not You authorised such use.

9.11 We may suspend or permanently withdraw the Trading Platform(s) by giving You 10 days written notice.

9.12 We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently Your ability to use the Trading Platform(s), or any part thereof, without notice, where We consider it necessary or advisable to do so. In addition, the use of the Trading Platform(s) may be terminated automatically upon the termination (for whatever reason) of

- (a) Any licence granted to Us which relates to the Trading Platform(s); or
- (b) These Terms of Business.

9.13 In the event of a termination of the use of the Trading Platform(s) for any reason, You shall, at Our option, return to Us or destroy all hardware, software and documentation We have provided You in connection with the Trading Platform(s) and any copies thereof.

## **10. INSTRUCTIONS**

10.1 All instructions regarding Margin Trading transactions between You and Us should be made to Us using the Trading Platform.

- 10.2 We shall be entitled to rely on oral or written instructions communicated to Us and received by Us. We may at Our discretion refuse to accept any new instruction from You. We may acknowledge Your instruction by such means as We consider appropriate whether orally, in writing, by actual performance or otherwise.
- 10.3 We may (but are not required to) set limits on Your ability to give instructions and may increase, decrease, remove or add such limits in our discretion.
- 10.4 We shall not be bound by any bid or offer price quoted which was manifestly incorrect at the time of the transaction or which was, or which You reasonably should have known was, incorrect at the time of the transaction. In such cases We may cancel the transaction or correct the erroneous price.
- 10.5 We shall not accept instructions from third parties unless a valid power of attorney has been established for this purpose.
- 10.6 The dispatch of an instruction to Us by post or electronic means does not guarantee its timely receipt.
- 10.7 We shall use our reasonable efforts to act on Your instructions in the order in which We receive them.
- 10.8 Instructions can only be processed during normal working hours. This means that Your instructions may not always be processed as soon as Axis receives them. Subject to the preceding provisions of this clause 10 qualifying Our obligation to accept and process instructions, Axis will do what it reasonably can to implement Your instructions as soon as they are received.
- 10.9 In the absence of manifest error, Our records will stand as formal evidence of Your transactions with Us and You acknowledge that such records may be produced in a form other than the original in the event of dispute between Us. You may not rely on Us to maintain records for You but We may make such records available to You on Your reasonable request and may charge a reasonable administrative fee for doing so.

## **11. COMMUNICATIONS**

- 11.1 You may communicate with Axis by post or email. All communications between

Us and You will be to the address or email and to the individual/department/account name specified at [www.axcap247.com](http://www.axcap247.com) under "Contact".

- 11.2 Communications between You and Us are taken to be received:
- (a) If sent by post: three Business Days after the date of posting, or five Business Days if sent to or from a place outside the UK;
  - (b) If sent by electronic mail: on the date following dispatch.
- 11.3 Orders may also be given by telephone or email if You have previously agreed this with Axis.
- 11.4 You accept that all telephone calls may be recorded and such recording remains the sole property of Axis. Axis may rely on these recordings as conclusive evidence of the conversations recorded in the event of a dispute. You agree that We may deliver copies or transcripts of such recordings to any court or regulatory authority if required thereby to do so.
- 11.5 All communications under this Agreement will be in English.
- 11.6 It is Your responsibility to keep Us up to date with any changes to Your email and postal address as well as changes to the telephone numbers You have provided Us with.

## **12. CLIENT MONEY ARRANGEMENTS**

- 12.1 Money held by Us on Your behalf will be treated as client money within the meaning of the Client Money Rules. We will, no later than the close of business on the Business Day We receive it, promptly credit Your client money to a segregated client account held at an Approved Bank in accordance with the FCA Rules and maintained in Our name by the Custodian.
- 12.2 Where, in our discretion, We consider that the amount of money You have transferred to Us is more than is necessary to cover Your present, future, actual, contingent or prospective obligations to Us or a third party, We shall treat any excess in accordance with the Client Money Rules.

- 12.3 Axis will not pay or allow interest on client money.
- 12.4 You will be required to settle Your transactions with funds drawn from an account in Your own name. Your account must be with a bank that is regulated within the European Economic Area.
- 12.5 If there has been no movement on Your account for a period of not less than six years (apart from payment of interest or deduction of charges, interest or similar items), We shall be entitled to cease to treat the balance on Your account as client money. However, before We do so, We will send notice to that effect to Your last known address, giving You 28 days in which to make a claim. We will make and retain records of all such balances and undertake to make good any valid claims in respect of such funds received during such period.
- 12.6 In carrying out business for You, Axis may transfer money held on Your behalf to a third party such as an exchange, clearing house or intermediary broker for the fulfilment of a particular transaction. If such third party operates outside of the United Kingdom, the Client Money Rules will not apply to the manner in which it holds such money and You should be aware that as a result such money may not be as well protected as it is when held subject to the arrangements in clause 12.1.
- 12.7 If We close all of Your accounts so that there are no open Transactions, We will pay to You the net credit balance of Your accounts after deducting all outstanding amounts, which You owe to Us or a third party to whom We are obligated to make payment.

### **13. CLIENT ASSETS**

- 13.1 Axis has appointed the Custodian, and will separately provide you with written notice of the details thereof. Axis reserves the right to replace the Custodian at any time. Please note that:
- (a) Axis restricts its liability to You for the prudent selection and retention of the Custodian, but is not otherwise liable to you for the acts and omissions of the Custodian.
  - (b) A copy of the agreement between Axis and the Custodian is available upon request. You are not a party to that agreement and the Custodian is entitled

to provide that You have no rights to enforce its terms.

13.2 Subject to the provisions of this clause 13 related to treatment of Pledged/ Hypothecated Assets and TTCAs:

- (a) the Custodian is responsible for holding in safe custody Your assets in accordance with the provisions of the relevant provisions of the FCA CASS Sourcebook pertaining to the holding of clients' assets (" the Client Assets Rules");
- (b) however, the Custodian may be obliged for regulatory or operational reasons to engage sub-custodians operating in jurisdictions other than the United Kingdom, who operate under different regulatory regimes and where lesser standards for the protection of Your assets may apply; and
- (c) the Custodian has informed us that its procedure under its agreement with Axis is to segregate all investments for all Axis clients into an omnibus custody account (separate and distinct from any such other account for other clients of the Custodian and from the Custodian's own property). However, the Custodian does not undertake in its agreement with Axis to individually identify any investment in such account for Your or any other Axis client's benefit, and will be dependent on Our record-keeping for these purposes. For the purposes of these Terms of Business, where it is indicated that the Custodian holds assets "for Your benefit", this is deemed to refer to no more than the placement of such assets into an Axis-denominated omnibus account as aforementioned.

13.3 The following provisions apply in relation to Pledged/ Hypothecated Assets:

- (a) Where You inform Us that You are providing to the Custodian Pledged/ Hypothecated Assets as security against Your obligation to service finance arrangements to which You are party with third party lenders or credit providers, You give Axis to direct the Custodian immediately and continuously to treat Pledged/ Hypothecated Assets as Our own beneficial property, and You undertake to provide the Custodian on demand with such documents or other assistance as enable the Custodian to deal in the Pledged/ Hypothecated Assets to Our order and provide good title thereto.

- (b) Upon Your provision to Axis and to the Custodian of evidence that any loan or provision of credit to which the pledge of the Pledged/ Hypothecated Assets was connected has been settled or discharged in full by the lender or credit provider, We will ensure that the Custodian commits to immediately re-transfer to You (or to hold in safe custody for your benefit) assets of equivalent number, type or class as the Pledged/ Hypothecated Assets, it being clarified that such re-transferred assets are not treated for any purposes as Pledged/ Hypothecated Assets and are therefore held for Your benefit subject to the provisions of the Client Assets Rules.
- (c) **Important** – no part of any arrangement with the Custodian or Us has any bearing on Your obligation to honour the terms of the loan or credit provision to which the Pledged/ Hypothecated Assets are related. Axis and the Custodian have no liabilities of any sort to any such lender or credit provider, and You will be required to indemnify Axis and the Custodian in full for any costs, claims, expenses or losses either may sustain by reason of any claim by such lender or credit provider.

13.4 This clause makes further specific provision for Title Transfer Collateral Arrangements (TTCAs). A TTCA is an arrangement under which money or assets that are provided to Us or the Custodian for the purposes of collateralising obligations that You enter into under this Agreement shall be treated as becoming Our exclusive beneficial property.

- (a) Where We notify you of Our intention to use a TTCA in relation to Your obligations to Axis:
  - (i) the Client Money Rules will not apply in respect of any monies provided as collateral under the TTCA; and
  - (ii) The Client Assets Rules will not apply in respect of any non-cash collateral provided under the TTCA,

but instead, full legal and beneficial ownership will be treated as having been transferred by You to Axis for the purpose of securing or otherwise covering any or all of Your present or future, actual or contingent or

prospective obligations under this Agreement. Axis is accordingly entitled to arrange to hold all moneys under the TTCA unsegregated from its own moneys, and to sanction or direct the Custodian to treat all non-cash assets under the TTCA as held to the order of Axis.

- (b) Axis will provide You with such further documentation as We may be advised to be necessary to establish and maintain any TTCA. You agree to provide to Axis on demand such further documentation or other materials as may be needed in order to give full effect to any TTCA, including as may be needed to ensure that full legal and beneficial title to any assets is conferred effectively upon Axis.
- (c) You may notify Us in writing if You wish to terminate a TTCA currently in operation. We are not obliged to agree to such termination, and/or may set such terms (e.g. as to date of termination) as We may consider to be in the best interests of both parties. You should be aware that immediate termination may not be practical, having regard to the totality of Your obligations to Us.
- (d) Money You place with Axis as collateral subject to a TTCA is treated for all purposes as being in anticipation of one or more Transactions and of securing or covering Your present, future, actual, contingent or prospective obligations to Us in relation to such Transaction(s) (including all present or future Margin Arrangements in respect thereof).
- (e) **Important** – material consequences of a TTCA are as follows:
  - (i) Your assets which are held by the Custodian under a TTCA in favour of Axis will be transferred by the Custodian out of its omnibus account for Axis clients mentioned above and held instead in a single omnibus account that We instruct the Custodian to maintain in Our name for all TTCA assets for all of Our clients for the time being.
  - (ii) Accordingly, should Axis fail or default as a business, You will have the status and rights of a general creditor of Axis in relation to all moneys or non-cash assets which we hold under the TTCA.

- (iii) You will no longer have a proprietary claim over any funds which You have paid into Your account and We shall be permitted to hold and deal with those funds in such manner as We may determine in our discretion.
- (iv) While You may at any time request Us to return to You all or any part of the balance standing to the credit of Your account from time to time, We shall only be required to do so to the extent that such amounts are not securing or otherwise covering current Margin Requirements.

#### **14. MONEY LAUNDERING PREVENTION**

- 14.1 Axis's dealings with You will be covered by the -Money Laundering Requirements. We reserve the right not to undertake any transaction, or accept any money into Your account, until there has been full compliance with the Money Laundering Requirements.
- 14.2 We may terminate this Agreement if You fail to provide Us with (or fail to update Us by further provision of) all relevant materials which We require from time to time in accordance with) Money Laundering Requirements. If taking such action, We may:
- (a) Treat any transactions placed as having been cancelled and terminated;
  - (b) Realise any of Your assets that We hold for You;
  - (c) Bring Your account to the same position as if You had not traded;
  - (d) Return any funds received into Your account from the account they were sent from;
  - (e) Notify the relevant Government Agency or regulatory authority.
  - (f) Close Your account; and
  - (g) Retain any monies on Your Account where We are advised that this is lawful for Us and We consider We shall need such monies to indemnify Us against costs associated with Your non-compliance with Money

Laundrying Requirements.

**15. DATA PROTECTION**

15.1 The following definition apply in this clause 15:

- (a) **Agreed Purposes:** the performance by each party of its obligations under this Agreement.
- (b) **Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures:** as set out in the Data Protection Legislation in force at the time.
- (c) **Permitted Recipients:** the parties to this Agreement and in addition, any third parties engaged to perform obligations in connection with this Agreement (including a licensed credit reference agency, other brokers, financial institutions and other agency users (for making credit decisions and assessing credit risks)).
- (d) **Shared Personal Data:** the personal data to be shared between the parties under this Agreement. Shared Personal Data shall be confined to information relevant to identity data and contact data.

15.2 Clause 15 sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the Data Discloser) will regularly disclose to the other party (the Data Recipient) Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

15.3 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall constitute a material breach for the purposes of the termination provisions at clause 16.

15.4 Each party shall:

- (a) Ensure that it has all necessary consents and notices in place to enable lawful transfer of the Shared Personal Data to the Data Recipient for the

Agreed Purposes;

- (b) Give full information to any data subject whose personal data may be processed under this Agreement;
- (c) Process the Shared Personal Data for the Agreed Purposes only;
- (d) Ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less demanding than those imposed by this Agreement;
- (e) Ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss of destruction of, or damage to, personal data;
- (f) Not transfer any personal data outside of the European Economic Area unless the transferor:
  - (i) Complies with the provisions of Article 26 of the GDPR; and
  - (ii) Ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; or (iii) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer.

15.5 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

- (i) Consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- (ii) Promptly inform the other party about the receipt of any data subject access request;
- (iii) Provide the other party with reasonable assistance in complying

with any data subject access request;

- (iv) Not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
- (v) Notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation’;
- (vi) Use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- (vii) Maintain complete and accurate records and information to demonstrate compliance with this clause 15; and
- (viii) Provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties’ compliance with the Data Protection Legislation.

15.6 In accordance with legal and regulatory requirements, Axis will retain Your records for a minimum period of five years following the termination of this Agreement. This period may be extended by force of law, regulatory requirement or agreement between You and Us.

15.7 In connection with these Terms of Business, if You are an individual, We may carry out a credit check with a Permitted Recipient, e.g. a licensed credit reference agency, which will retain a record of that search. This information may be used by other Permitted Recipients including other brokers and financial institutions and other agency users who are permitted to see these records to help them make credit decisions and assess credit risks about You and members of Your household, and also for debt tracing and fraud prevention purposes. You can contact Us to find out which agencies We have used, so You can get a copy of Your details from them. They may charge You a fee for doing this.

15.8 Axis may also disclose details of how You have run Your accounts to these agencies, to other member firms of relevant exchanges and other financial institutions if You have not run Your account in a satisfactory way. In particular, We will do this if We do not receive full payment or satisfactory proposals from You when We have asked You to pay Us money that You owe to Axis. This information could affect the credit decisions other organisations make.

## **16. TERMINATION**

16.1 Either party has the right to terminate this Agreement without cause at any time.

16.2 Such termination will be without prejudice to the completion of transactions already initiated.

16.3 A party wishing to terminate this Agreement should notify the other party, in writing, which will be effective on the deemed date of receipt as specified in clause 11.2.

16.4 Any charges accrued to Us will become due and payable upon termination of this Agreement and the provisions in section 18 may apply to any such sums or charges. The termination of the Agreement shall not affect any term or provision of the Agreement that is intended to come into force on or after termination and shall be without prejudice to any rights or liability accruing prior to termination.

16.5 Termination of this Agreement:

- (a) brings to an end any TTCA that may be in operation, though without prejudice to any requirement We may have to continue to retain cash and assets subject to the TTCA until such time as We are satisfied in our discretion that the obligations You assumed in relation to the TTCA have all been discharged or otherwise waived or released; and
- (b) is treated as requiring Us to take the necessary arrangements to recover for Your account, reverse any transactions in relation to, or otherwise restore to Your beneficial ownership all Pledged/ Hypothecated Assets, with such recovery, reversal or restoration taking place as soon as practical following termination.

16.6 In the event that an account is not used for a period of time and has been inactive for 6 months, then an account fee of USD 10 will be charged on a monthly basis. Should this bring the account balance to zero then the account shall be made inactive.

16.7 This Agreement terminates automatically where:

- (a) Axis ceases to be appropriately regulated by the FCA to provide the Services specified;
- (b) Either party, being a corporation or other entity, ceases trading, goes into administration or liquidation, becomes insolvent or enters into an arrangement with its creditors; or
- (c) You, being an individual, die, become bankrupt or become subject to an order under the Mental Health Act 1983.

## **17. PERSONAL TAXATION**

17.1 Axis accepts no liability for the tax consequences of transactions carried out with You and will not provide or be responsible for the provision of any tax or legal advice.

17.2 Axis will remit any payments to which You become entitled under this Agreement on a gross-of-tax basis unless Axis is obliged to deduct tax at source for any reason. If any deductions are made, Axis will provide You with relevant statements to indicate the amounts involved. If You consider that You are entitled to have any such deducted tax refunded to You, it is Your exclusive responsibility to make any necessary claims.

## **18. ACCOUNTS AND SETTLEMENT**

18.1 Axis will report to You as required by the FCA Rules.

18.2 Axis will provide You with a confirmation promptly after each transaction; this will include any amount payable by You and the date by which payment should be received by Us.

18.3 If You disagree with any confirmation You must advise Our settlements

department within 24 hours of receipt. (We reserve the right to ask for this to be confirmed in writing.) If You do not notify Us of any basis for disagreement with a confirmation within this timeframe, the confirmation is deemed to be accurate and correct for all purposes.

- 18.4 If You do not receive a contract note within three days of the transaction date You should inform Our settlements department as soon as possible.
- 18.5 IMPORTANT – there is no right of withdrawal from a transaction once instructed to Us. Axis does not accept conditional or reversible instructions.
- 18.6 The date of settlement of a transaction will be shown on the relevant contract note or other confirmation and You agree to ensure that on or before that date there are sufficient cleared funds in Your account to settle the transaction. For an online account You acknowledge that transactions will not be undertaken unless there are sufficient cleared funds in Your account for settlement on the settlement date.
- 18.7 We shall not be obliged to settle a transaction if We do not have cleared funds or We are otherwise unable to settle the transaction as a result of circumstances outside of Our reasonable control. In such circumstances, the provisions of clause 20 below will apply.
- 18.8 Subject to clause 18.9, Axis allows You one account only per platform or one registered account per IP address. Should You require a further account in any such case, You may approach Axis to discuss this but the grant thereof remains in Axis’s discretion.
- 18.9 Axis will allow You to hold more than one account only where You are trading Contracts for Differences (“CFDs”) through the Trading Platform and this remains at all times at the discretion of Axis.
- 18.10 Axis reserves the right not to issue You an Account Statement if Your account is closed or deemed dormant.

## **19. NETTING**

- 19.1 If there are payments due from both Us to You and You to Us then each party's obligations to make payments to the other may be settled by netting, and if the

aggregate amount payable by one party exceeds the aggregate amount payable by the other then the party with the larger amount payable may pay the excess and the obligations of each party may be satisfied.

- 19.2 If the amounts owed are not in the same currency then We may conduct currency conversion at such reasonable rate of exchange as We may select and shall be entitled to add a mark-up to the exchange rate as set out in our Charging Schedule.
- 19.3 If this Agreement is terminated in accordance with clause 16 then the Your and Our claims may be discharged by means of netting to determine a final amount payable by You or Us. In determining the value of any open positions We will apply our usual spreads and include all costs and any applicable other charges.
- 19.4 We shall be entitled to make use of money and non-cash assets held under a TTCA for the purposes of this clause.

## **20. OUR RIGHTS ON YOUR DEFAULT**

- 20.1 In the event that We do not receive any monies on or before the date they are due, We may:
- (a) Close out, replace or reverse any transaction with You, buy, sell, borrow or lend or enter into any other transaction or take or refrain from taking any such other action at such time or times and in such manner as We consider necessary or appropriate to reduce or eliminate our loss or liability. You agree to indemnify and keep Us indemnified for any losses or expenses arising out of or in connection with such action.
  - (b) Charge interest on any money due at the rate of 2% per annum above LIBOR (or such other benchmark rate that We will duly notify You of before any transition) during the period of default, prior to and after judgment. Interest will cease to be charged upon receipt of money due. We agree to provide three days' notice that interest will be charged.
  - (c) Make use of any money or non-cash assets held subject to a TTCA.
- 20.2 If You have more than one account with Us We may transfer monies from one account to another, even if such transfer would necessitate the closing of positions

of any sort on the account from which the transfer takes place.

- 20.3 Axis may realise any assets held on Your behalf in any account, in order to discharge any obligations You have to Us, which arise from transactions conducted by Us with You. You authorise Us to exercise this right, without further notice to You.
- 20.4 You will indemnify Axis, keep Us indemnified and be responsible for all legal fees and any other associated costs charges or liabilities, involved in Axis exercising the powers available to Us under this clause 20. We shall not be liable to You in respect of any choice made or by selecting to exercise the said powers. The proceeds of sale after all associated costs will be applied in or towards the discharge of Your liabilities including any costs, fees, charges or other liabilities and We will account to You for the balance. In the event that such proceeds are insufficient to cover the whole of Your liabilities, You will remain liable for the balance.
- 20.5 In the event of Your default, relevant details may be recorded with a credit reference agency. This information may be used by other brokers, financial institutions etc. in assessing applications for credit by You in the future.

## **21. JOINT DEALING ACCOUNTS AND TRUST ACCOUNTS**

- 21.1 If “You” for the purposes of this Agreement is an account is held in two or more joint names, then each account holder is jointly liable to Axis under these Terms of Business. This means that all account holders are separately responsible for abiding by the terms of this Agreement, and breach by one joint account holder may be treated by Axis as breach by You in toto.
- 21.2 We may assume instructions received from one holder of a joint account or one trustee in a trust account will be given on behalf of and with the knowledge of all holders or trustees of the account. Any action that We take regarding such instructions will be binding on all of You. Any reference to 'You' shall be deemed to be any one or all such persons as the context shall require.

## **22. DEATH OF ACCOUNT HOLDER**

- 22.1 Please note that We are unable to accept instructions following the death of an

account holder until We are in receipt of a sealed copy of grant of representation. We will inform the personal representatives of the deceased of the value of the account at the date of death.

- 22.2 In the event of the death of one party of a joint account or a trustee please inform Us immediately.

**23. CHARGES**

- 23.1 Charges are defined in Our Charging Schedule. If We amend Our charges You will be notified a minimum of ten (10) days prior to those changes becoming effective.

- 23.2 Taxes or costs may exist that are not paid through Us or imposed by Us. We shall not be liable to You for the payment or non-payment of any additional tax or costs.

**24. CONFLICTS OF INTEREST AND DISCLOSURES**

- 24.1 Under the FCA Rules, We are required to have arrangements in place to manage conflicts of interest between Us and our clients and between our different clients. We operate in accordance with our Conflicts of Interest Policy which sets out the types of actual or potential conflicts of interest which could possibly affect our business and provides details of how these are managed. A summary of our Conflicts of Interest Policy is attached at Appendix B.

- 24.2 In relation to any transaction We execute with You, We or an associate, a connected person or another client may have, directly or indirectly an interest, relationship, arrangement, or duty which is material or which gives or may give rise to a conflict of interest with Your interest(s) in relation to the transaction in question. We will take reasonable steps to ensure that You are not treated in terms materially less favourably than if the conflict or potential conflict had not existed.

**25. REPRESENTATIONS AND WARRANTIES**

- 25.1 You represent and warrant to Us, and agree that each such representation and warranty is deemed repeated each time You give instructions in relation to a transaction by reference to the circumstances prevailing at such time, that:

- (a) You are duly authorised to execute and deliver this Agreement, to enter into each transaction and to perform Your obligations under this Agreement and such transaction and have taken all necessary actions to authorise such execution, delivery and performance;
- (b) You will enter into this Agreement and each transaction as principal, unless You have informed Us otherwise in accordance with clause 4.3 and We are required to treat Your client as our client under FCA Rules;
- (c) any person representing You in providing instructions in relation to a transaction will have been, and (if You are a company) the person signing this Agreement on Your behalf is, duly authorised to do so;
- (d) to the extent that any governmental or other authorisations and consents are required by You in connection with this Agreement and in connection with each transaction, You have obtained such authorisations, they are in full force and effect and all of their conditions have been and will be complied with;
- (e) execution, delivery and performance of this Agreement and each transaction will not violate any law, ordinance, charter, by-law or rule applicable to You or to the jurisdiction in which You are resident, or any agreement by which You are bound or by which any of Your assets are affected;
- (f) without limiting the generality of preceding provisions in this clause, you are competent to enter into a TTCA and to provide title to Pledged/Hypothecated Assets;
- (g) other than in exceptional circumstances, You will not send funds to Your account(s) with Us from, or request that funds be sent from Your account(s) to, a bank account other than that in Your name. Such requests will need to be assessed and confirmed in writing by Us to You prior to any such payment being made:
- (h) if You are an employee or contractor of a financial services firm or any other firm that has controls over the financial transactions in which its

employees and contractors deal, You will give Us proper notice of this and of any restrictions that apply to Your dealing;

- (i) You will not use Our bid and offer prices for any purpose other than for Your own dealing purposes, and You agree not to redistribute Our bid and offer prices to any other person whether such redistribution be for commercial or other purposes; and
- (j) You will use the services offered by Us pursuant to this Agreement in good faith and, to this end, You will not use any electronic device, software, algorithm, or any dealing strategy ("**Device**") that aims to manipulate or take unfair advantage of the way in which We construct, provide or convey our bid or offer prices and You agree that using a Device whereby in Your dealings with Us You are not subject to any downside market risk will be evidence that You are taking unfair advantage of Us.

25.2 This Agreement contains the entire understanding between the parties in relation to the Margin Trading services offered by Axis Capital Markets Limited.

25.3 In the absence of fraud, wilful default or negligence, We give no warranty regarding the performance of Our website(s), the Trading Platform or other software or their suitability for any equipment used by You for any particular purpose.

25.4 Any breach by You of a warranty given under this Agreement renders any transaction voidable or capable of being closed by Us at our then prevailing prices, at our discretion.

## **26. INDEMNITY AND LIABILITY LIMITATION**

26.1 You will indemnify Us and keep Us indemnified against all losses, expenses, costs and liabilities which arise as a result of or in connection with Your breach of these Terms of Business (including, for the avoidance of doubt, any fines which may be imposed upon Us as a result of late settlement of any transaction) or the proper provision by Axis Capital Markets Limited of the services envisaged by these Terms of Business except to the extent that such losses arise as a result of Our negligence, fraud or wilful default.

26.2 Nothing in this Agreement shall limit Our liability for:

- (a) Fraud; or
- (b) Any matter where in accordance with FSMA and/or the FCA Rules We are not permitted to limit or exclude liability to You.

26.3 Subject to instances of liability arising from Clause 26.2, the total aggregate liability of Axis to You in any one year under or in connection with this Agreement (including in the case of Our negligence or Our breach of this Agreement) shall be the lesser of:

- (a) All fee revenue (net of associated expenses) generated for Us from Your trading activities with or through Us in the 12 months ending on the date of such liability occurring; and
- (b) £50,000.

26.4 Notwithstanding Clause 26.2 and Clause 26.3, in no event shall Axis be liable to You for indirect special or consequential loss of profits, business, revenue, goodwill or anticipated savings of an indirect nature ("**Indirect Loss**") whether arising under or in connection with the Agreement including any indirect loss incurred to a third party.

## **27. FORCE MAJEURE EVENTS**

27.1 We may, in Our reasonable opinion, determine that an emergency or an exceptional market condition exists (a "**Force Majeure Event**"), in which case We will, in due course, inform the FCA and take reasonable steps to inform You. A Force Majeure Event will include, but is not limited to, the following:

- (a) any act, event or occurrence (including, without limitation, any strike, riot or civil commotion, act or threat of terrorism, war, industrial action, acts and regulations of any governmental or supra national bodies or authorities) that, in Our opinion, prevents Us from maintaining an orderly market in one or more of the currency pairs in respect of which We ordinarily accept transactions;

- (b) the suspension or closure of any market or the abandonment or failure of any event upon which We base, or to which We in any way relate, our quotes, or the imposition of limits or special or unusual terms on the trading in any such market or on any such event;
- (c) the occurrence of an excessive movement in the level of any of our currency pairs and/or any corresponding market or Our anticipation (acting reasonably) of the occurrence of such a movement;
- (d) any breakdown or failure of transmission, communication or computer facilities, interruption of power supply, or electronic or communications equipment failure; or
- (e) the failure of any relevant supplier, broker, agent or principal of Ours, exchange, clearing house or regulatory or self-regulatory organisation, for any reason to perform its obligations.

27.2 If We determine that a Force Majeure Event exists We may without notice and at any time take one or more of the following steps:

- (a) Increase Your margin requirements;
- (b) Close any or all of Your open transactions, at such price as We reasonably believe to be appropriate.
- (c) Suspend or modify the application of any or all of the terms of this Agreement to the extent that the Force Majeure Event makes it impossible or impractical for Us to comply with the Term or Terms in question.

## **28. INFORMATION ON SERVICES**

We may separately provide You with information on Axis and Our services, investments and investment strategies designed to help You understand the nature and risks involved therewith. We may update this from time to time and may send You a revised version, but are not required to do so.

## **29. NON-RELIANCE**

All information made available by Us to You is for Your sole use in accordance with

exclusive judgment. We shall not be liable for any loss or liability incurred in connection with any reliance that may be placed upon such information by You .

### **30. COMPLAINTS PROCEDURE**

30.1 If You are dissatisfied with the services We have provided under this Agreement, You should in the first instance should raise Your concerns with Our Compliance Officer, who will investigate the matter. We will endeavour to resolve Your complaint as quickly as possible. In any event We will acknowledge receipt of Your communication promptly. Upon resolution of Your complaint, We will send You a final response letter, which sets out the nature of that resolution and any applicable remedy. For more information please note that a copy of Our complaints handling procedure is available on our website.

30.2 As a Professional Client You will not be able to make a complaint to the Financial Ombudsman Service (FOS) unless You fall with the definition of an “eligible complainant” under the FCA Rules (and the overwhelming majority of professional clients will fall outside this definition).

### **31. FINANCIAL SERVICES COMPENSATION SCHEME**

31.1 Please note that as a Professional Client, You may not be eligible to seek compensation under the Financial Services Compensation Scheme in the event of Our default unless You fall with the definition of an “eligible claimant” under the FCA Rules (and the overwhelming majority of professional clients will fall outside this definition). You would in any case not be able to make a claim if you are not using the Advisory Services, regardless of your status.

### **32. VARIATION**

We may amend this Agreement at any time if such amendment is a requirement imposed upon Us by reason of changes in the FCA Rules or other applicable legislation.

32.1 We may similarly amend this Agreement by written notice of at least 10 Business Days to You in any other circumstances.

We will publish a notice of any amendment on our website ([www.axcap247.com](http://www.axcap247.com))

which shall state the date from which the amendment shall be effective.

### **33. CONFIDENTIALITY**

33.1 Neither party to these Terms of Business shall, without the prior written consent of the other, use or disclose any information relating to the business, investments, finances or other matters of a confidential nature of the other party except to the extent that such use or disclosure is:

- (a) required by law or any regulatory authority or governmental body or as required by Us to establish a defence in any legal or regulatory process; or
- (b) to enable the disclosing party to properly perform its obligations under these Terms of Business; or
- (c) if You specifically consent to the disclosure of that confidential information; or
- (d) if acting reasonably, We believe that at the time of such disclosure that disclosure is necessary for the purpose underlying this Agreement.

33.2 Additionally, You agree that if You default on a debt We may disclose any information We have about You to a credit reference agency, which may keep a record of Our enquiry.

33.3 The provisions of this clause shall continue to bind the parties after termination of his Agreement.

### **34. OTHER MATTERS**

34.1 We will only accept payments in such currencies as We may specify from time to time. Any charges or shortfalls arising from currency conversions must be met by You.

34.2 We are under no obligation to disclose to You any information which comes to Our attention from conducting transactions for other customers.

34.3 If You wish to receive marketing information, please so indicate in the space provided at the execution of this Agreement.

- 34.4 In entering into this Agreement, and the documents referred to in it, neither You nor We rely on, and shall have no remedy in respect of, any statement, representation, warranty, or understanding (whether negligently or innocently made) of any person whether party to this Agreement or not, other than as expressly set out in this Agreement.
- 34.5 Nothing in this Agreement (or any of the arrangements contemplated hereby) shall be deemed to create a partnership between the parties.
- 34.6 No waiver by Us of any breach of these Terms of Business will be construed as a waiver of any subsequent breach of the same or any other provision.
- 34.7 No failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver thereof and no single or partial exercise of any right or remedy under this Agreement shall preclude or restrict any further exercise of such right or remedy. The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 34.8 If any term or provision of this Agreement in whole or in part shall be found to be invalid, illegal or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Terms of Business nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
- 34.9 The rights conferred by these Terms of Business are for the benefit of You and Us only and (unless stated to the contrary elsewhere in these Terms of Business) are not granted to, or enforceable in any way by any third party.

**35. LAW AND JURISDICTION**

Unless otherwise agreed between Us in writing this Agreement is governed by and shall be construed in accordance with English law and the parties You hereby submit to the exclusive jurisdiction of the English courts.

**36. DISTANCE MARKETING INFORMATION**

In order to comply with the FCA's provisions relating to distance marketing, these

Terms will be subject to the following extra provisions, but only in circumstances where these aspects of the FCA Rules apply, that is to say where You have entered into this Agreement remotely and without the interaction of any investment advisor or other intermediary.

- 36.1 Our main business is dealing in Margin Trading and other leveraged products. Our address is St Clements House, 27 Clements Lane, London, EC4N 7AE.
- 36.2 In addition to Our charges, please note that other taxes and costs may exist that are not paid through or imposed by Us.
- 36.3 There are no specific additional costs for You, which are charged by Us, as a result of You entering into contracts without meeting one of our representatives.
- 36.4 These Terms are supplied in English, and We will communicate with You in English during the course of our relationship with You.
- 36.5 Under the FCA Rules, You have a right to cancel these Terms of Business within 14 days after You have originally accepted them. If You cancel Your agreement to these Terms of Business You will still be liable for the settlement of all Your outstanding transactions and all the sums and charges which You owe at cancellation. To exercise Your right to cancel You must notify Us in writing within this 14 day period.

## APPENDIX A:

### Client Categorisation

We propose to classify You as a Professional Client. We are obliged to inform You that as a consequence of this categorisation, You may lose some of the protections afforded to Retail Clients under the FCA Rules.

In particular, the protections in the following areas will not apply:

**1. Financial Ombudsman Service and Financial Services Compensation Scheme**

You may not have access to the Financial Ombudsman Service. In addition, You may not be entitled to compensation under the Financial Services Compensation Scheme if We default.

**2. Disclosures**

You will not be given any of the additional disclosures which are required to be provided to Retail Clients (for example on costs, commissions, fees and charges).

**3. Advice and financial promotions**

The standard of investment advice provided to a Professional Client, and the detail of any financial promotion or other communication which We make to a Professional Client, are entitled to reflect Our view of that Professional Client's understanding of the Investment and the risks involved, and may therefore be less detailed, or more technically presented, than would be the case for a Retail Client.

**4. Best Execution**

We do not need to inform You of material difficulties relevant to the proper carrying out of Your order(s) promptly.

**5. Client Money**

If We are holding money on behalf of a Retail Client:

- (a) We must notify that client as to whether interest is payable (which is not

required for Professional Clients); and

- (b) We cannot transfer the money to a third party without notifying a Retail Client and We must explain who is responsible for that third party's actions or omissions, and the consequences where that third party becomes insolvent.

## APPENDIX B:

### Summary of Conflicts of Interest Policy

#### 1. Introduction

This policy covers conflicts that may arise between Axis or an employee of the company and its clients, as well as between one client and another. The Company's senior management is responsible for ensuring that the systems, controls and procedures in place are robust and adequate to identify and manage a conflict as and when it arises. These procedures are regularly reviewed by the Compliance Department in order to ensure that they are up to date, reflect best practice and that all relevant activities and regulations are covered.

#### Guarding against conflicts of interest

Various systems and procedures have been put in place to minimise any potential for conflicts of interest. This list, although not exhaustive, includes:

- Personal account detailing requirements within the firm;
- Information barriers preventing the flow of information between the group companies;
- A gifts and inducements policy;
- Segregation of duties where a potential conflict of interest may arise if duties are carried out by the same individual;
- A public disclosure policy ("**whistleblowing**") for the firm Identification of conflicts;

In the course of identifying potential conflicts of interest, Axis will take into account whether Axis or a staff member or another client:

- Is likely to make a financial gain, or avoid a loss, at the expense of the client;
- Has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that

outcome;

- Has a financial or other incentive to favour the interests of another client or group of clients over the interests of the client;
- Carries on the same business as the client; or
- Receives or will receive from a person other than the client an inducement in relation to a service provided to the client, in the form of monies, goods or services, other than the standard commission or fee for that service.

### **Management of conflicts**

Axis operates several policies for managing conflicts of interest, including an independence policy and, where appropriate, information barriers. Where We are aware of a conflict We will manage the conflict in line with our policy and procedures. We will disclose a conflict to the relevant clients where it is not practicable for Us to manage it effectively or We otherwise think disclosure is necessary or desirable. In some cases We may decide not to proceed with a transaction which has given rise or We believe may give rise to a conflict of interest. In addition the nature of the business is non-advisory and therefore such client conflicts are less likely to arise.

## APPENDIX C:

### **Data Protection Act 2018**

Axis is registered with the Information Commissioner's Office as a Data Controller, for the processing of Personal Data under the Data Protection Act 2018 (the Act).

### **Data Protection Policy**

This policy sets out the Data Protection Policy adopted by Axis. Axis needs to collect and use certain types of information about current, past and prospective employees, suppliers, clients and customers, and others with whom it communicates. In addition, it may occasionally be required by statute to collect and use certain types of information to comply with the requirements of government departments.

This personal information must be dealt with properly however it is collected, recorded and used, whether on paper, electronically, by telephone or any other means and there are safeguards to ensure this in the Act.

We regard the lawful and correct treatment of personal information as important to the success of our operations, and to maintaining confidence between You and us. We therefore need to ensure that We treat personal information confidentially, lawfully and correctly.

To this end, We fully endorse and adhere to the following eight principles of data protections, as set out in the Act:

1. the data should be processed fairly and lawfully and may not be processed unless the data controller can satisfy one of the conditions for processing set out in the Act;
2. data should be obtained only for specified and lawful purposes;
3. data should be adequate, relevant and not excessive;
4. data should accurate and, where necessary, kept up to date;
5. data should not be kept for longer than is necessary for the purposes for which it is processed;

6. data should be processed in accordance with the rights of data subjects under the Act;
7. appropriate technical and organisational measures should be taken against unauthorised or unlawful processing of personal data, or the accidental loss or destruction of, or damage to, personal data;
8. data should not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Therefore, Axis will, through appropriate management and strict application of criteria and controls:

- Observe fully, conditions regarding the fair collection and use of information; Meet Our legal obligations to specify the purposes for which information is used;
- Collect and process appropriate information only to the extent that it is needed to fulfil its operational needs or to comply with any legal requirements;
- Ensure the quality of information used;
- Ensure that the rights of people about whom information is held can be fully exercised under the Act;
- Take appropriate technical and organisational security measures to safeguard personal information; and
- Ensure that personal information is not transferred abroad without suitable safeguards.

To assist in achieving compliance with the principles, We have appointed Data Protection officers with responsibility for data protection within the firm.

### **Your Personal Data**

Details of Your application and any credit reference search that Axis carries out with licensed credit reference and fraud prevention agencies will be added to our records and

will be shared with other organisations that make searches and used by Us and them to:

- Help make decisions about credit and credit related services, for You and members of Your household;
- Help make decisions on credit and other proposals, for You and members of Your household;
- Trace debtors, recover debts, prevent fraud, and to manage Your account accounts;
- Check Your identity to prevent money laundering.

It is important that You give Us accurate details. We will check Your details with fraud prevention agencies and if You give Us false or inaccurate information and We suspect fraud, We will record this.

Your information will be stored on computer or in any other way and will be used by Axis:

- enable Us to develop, improve and market our products and services to You and our other customers;
- For market research and statistical analysis; and
- For general business purposes and as otherwise permitted in law.

We will analyse and assess Your information (which will include an analysis and assessment of Your transactions and how and when You use Your account) to enable Us to:

- Understand more about you; and
- Design, select and offer products and services (including those of organisations which are not connected with Us) which We consider may be of interest to you.

We may tell You about products or services or invite You to take part in offers of ours and other organisations which are not connected with Axis Capital Markets Limited, which We consider may be of interest to you. We may do this by post, by telephone, by

e-mail or via our web site. If You do not wish to receive this information, please confirm this in writing to us. Please note that if You do so, We will not be able to tell You about products, services or various offers that may benefit you. We will, of course, continue to inform You about any important changes to the terms under which Your account is operated.

We may at any time give Your information to:

- Any organisation who introduced You to Us or Us to You or who act on Your or our behalf, on the basis it is kept confidential;
- Any organisation who provides a service to Us relating to Your account or any agreement You may have with us, on the basis it is kept confidential;
- Debt collection agencies, legal advisors or other organisations which may assist Us following any default or failure by You to keep to the terms of Your account or any agreement You may have with us. You are entitled, on payment of a fee, to a copy of the details and information We hold about You if You contact Us in writing. You may obtain details of the credit reference and fraud prevention agencies from which We obtain and to whom We pass Your information.

From time to time We may need to transfer Your information to a country (or countries) outside of the United Kingdom including a country (or countries) outside of the European Economic Area.

## **APPENDIX D:**

### **Risk Warnings and Information about Margin Trading Forex & Margin Trading Risk Warnings**

The risk of loss in dealing in Margin Trading can be substantial and you may lose more than your initial investment.

You should not deal in Margin Trading unless You understand the nature of the contract You are entering into and the extent of Your exposure to risk. You should also be satisfied that the contract is suitable for You in the light of Your circumstances and financial position.

The leverage that is available in Margin Trading means that a small margin can lead to large losses or gains, and also means that a small movement in price can lead to a much larger movement in the value of Your position and could result in losses substantially exceeding any initial margin.

The risk of loss in dealing in Margin Trading can be substantial and it is possible to lose more than Your initial investment. If the market moves against Your position, You may be called upon to deposit a substantial amount of additional margin funds, on short notice, in order to maintain Your position. If You do not provide the required funds within the time required by Us, Your position may be liquidated at a loss, and You will be liable for any resulting deficit in Your account.

There may be costs associated with financing positions held overnight and these costs should be considered in advance of deciding whether to commence Margin Trading.

In light of the above You should consider carefully whether or not this product is suitable for You in light of Your circumstances and financial position, and if in any doubt please seek professional advice.

#### **Information**

In respect of every Transaction made between Us We shall act as matched principal with you.

Transactions in forex involve You taking a position with regard to what You consider the

price of one currency will be against the price of another currency in the future. In order to do this You will trade in a currency pair with us, for example Euro/US Dollar (EUR/USD) or US Dollar/Japanese Yen (USD/JPY).

### **Example of Margin Trading in Forex**

Currency pairings are expressed as two codes usually separated by a division symbol (e.g. GBP/USD), the first representing the "base currency" and the other the "secondary currency". The price quoted is the value of the secondary currency expressed in terms of one unit of the base currency. For example GBP/USD = 2.0045 denotes that one unit of sterling (the base currency) can be exchanged for 2.0045 US dollars (the secondary currency). The prices that We quote for each currency pair are normally labelled as the "Bid Price" and the "Offer Price".

The Bid Price is the price that We will pay You in the secondary currency for the position in the base currency. The Offer Price is the price You will pay Us in the secondary currency for the position in the base currency. The Bid Price will always be less than the Offer Price. The difference between the Bid and the Offer price is known as the "Spread". We make a profit from the spread. In general the wider the Spread the greater our profit.

You can take a view on the price of the base currency increasing by "Going Long" or You can take a view on the price of the base currency decreasing by "Going Short". For example, if You consider that the price of Sterling will increase against the price of the US Dollar You will decide to take a position with Us where You will Go Long (or buy) GBP/USD. If, by contrast, You consider that the price of Sterling will drop against the price of the US Dollar You will decide to take a position with Us whereby You Go Short or sell GBP/USD.

If You were Going Long, the opening price of the currency pair would be fixed at our Offer Price. If our Bid Price at the end of the contract is greater than our Offer Price at the commencement of the contract then, subject to the deduction of applicable charges, You will receive a sum calculated by multiplying the number of units of the base currency by the difference between the opening Offer Price and the closing Bid Price of the currency pair. However, if the Bid Price for the currency pair at the end of the contract does not exceed the Offer Price for the currency pair at the commencement of the contract You will be required to pay Us a sum calculated by multiplying the number of units of the base currency by the difference between the opening Offer Price and the closing Bid

Price of the currency pair. Regardless of how the price of the currency pair moves You will also be required to pay Us applicable interest charges, ticket charges (which You will be notified about separately), and financing charges

If however You were Going Short, the opening price of the currency pair would be fixed at our Bid Price. If the Offer Price of the currency pair at the end of the contract is less than the Bid Price at the commencement of the contract then, subject to the deduction of applicable charges, You will receive a sum calculated by multiplying the number of units of the base currency by the difference between the opening Bid Price and the closing Offer Price of the currency pair. However, if the Offer Price for the currency pair at the end of the contract exceeds the Bid Price for the currency pair at the commencement of the contract You will be required to pay Us a sum calculated by multiplying the number of units of the base currency by the difference between the opening Bid Price and the closing Offer Price of the currency pair.

Again, regardless of how the price of the currency pair moves You will also be required to pay Us applicable interest charges, ticket charges (which You will be notified about separately), and financing charges.

Transactions in forex involve the obligation to settle a position at a future date. At 22.00 London time (which is the standard forex market value- date change time) each day, We will settle all spot transactions by closing the trade at the current market rate and reopening it for the following day's spot date at a rate that will reflect the interest rate differential.

Whenever any transaction is entered into which is effectively closing an existing transaction, then the obligations of each of Us under both sets of transactions shall automatically and immediately be terminated upon entering into the second transaction, except for any settlement difference payment due in respect of such closed out transactions.

By Margin Trading with Us You will be required to provide a certain amount of margin and We will then leverage that margin. This exposes You to a high degree of risk. Leverage is the amount, expressed as a multiple, by which the notional amount traded exceeds the margin required to trade.

We will advise You of the amount of margin and the amount of leverage that We will

require on a transaction by transaction basis. If the price of the currency pair moves against Your interests You may be called upon to deposit additional margin at short notice and We may close out Your position without notice if We do not receive the additional margin from you.

You may be able to agree with Us to limit Your losses while Margin Trading by using stop loss, limit loss or take profit orders. These facilities may help You limit Your exposure to Us and We strongly recommend that You consider the use of such facilities.

New forex prices are quoted by Us between 22.00 on Sunday and 22.00 on Friday (UK time) and prices for other Margin Trading instruments in accordance with their individual underlying market

Positions in forex which are rolled over from one trading day to the next will incur financing based upon the interest rate differentials between the currencies in the currency pair.

Positions in other Margin Trading instruments, which are rolled from one trading day to the next, will incur financing based upon mark-up of the relevant London Interbank Offered Rate.

You pay interest on the currency that You are short on and You receive interest in the currency that You are long on. For example, if You are long on the GBP/USD pair You will receive interest on Sterling and You will pay interest on the US Dollar. If Sterling has a higher interest rate than the US Dollar then You will receive a net interest payment but if Sterling has a lower interest rate than the US Dollar then You will pay out a net interest amount. The financing price offered to You will differ depending on whether

You are Going Long or Going Short. We may make a profit from the difference in the financing price offered to persons Going Long and the financing price offered to persons Going Short.