

# CLIENT AGREEMENT

## 1. DEFINITIONS AND INTERPRETATIONS

1.1 Whenever used in this Agreement, unless inconsistent with the subject matter or context, the following words shall have the following meanings:

**Account Opening Form** means the Fexsi form prepared by Fexsi for completion by the Client to enable Fexsi to open the Client Account.

**Agreement** means this Client Agreement together with all other documents which are referred to in this Client Agreement.

**Available Balance** means the total amount of funds held at any time across in the account(s) of the Client.

**Base Currency** means US Dollars, or another currency declared by Fexsi to be the Base currency for a particular Contract or account type, or as otherwise agreed between Fexsi and the Client.

**CFD** means a Contract For Difference, which is a type of Contract.

**Client, you or your** means the Client named in the Account Opening Form, together with its:

- (a) subsidiaries, affiliates, successors and/or assigns; and
- (b) officers, directors, employees and agents.

**Client Account** means the Client's Fexsi account which operates under the terms of this Agreement and allows the Client and the nominated Authorised Users to enter into transactions with Fexsi.

**Contract** means a transaction in which the Client and Fexsi enter into a derivative contract based on the value of an underlying instrument (such as a currency, commodity or an index). Any contract entered into between Fexsi and the Client is subject to the terms of this Agreement.

**Contract Expiry** refers to the date when a contract reaches expiry and will be automatically closed, crystalizing any 'floating profit or loss'. A new position must be opened to reestablish a position after the contract expiry.

**Credit** means the total amount of credit that Fexsi will provide to the Client.

**Day** means a day on which commercial banks are open for business (including dealings in

foreign exchange) in the place specified by Fexsi for that purpose.

**Default Event** means any acts or omissions on the part of

(a) the Client;

which in Fexsi' sole discretion, are deemed as being:

(a) negligence;

(b) mistake;

(c) wilful misconduct including:

(i) commission churning

(ii) sniping

(iii) causing or contributing to or benefiting from a Material Error;

(iv) moving the price of an underlying instrument or Contract;

(v) scalping;

(vi) arbitraging off-market pricing;

(vii) money laundering;

(viii) different accounts being traded by one trader simultaneously;

(ix) churning;

(x) abuse of Fexsi' "guaranteed stop loss" feature and any other feature of Fexsi;

(xi) trading patterns such as risking all the trading equity in large, one-directional trades;

(xii) accounts showing similar or identical trading patterns;

(xiii) multiple accounts displaying the same deposit and withdrawal patterns;

(xiv) accounts sharing the same device and/or IP.

(xv) use of excessive leverage;

- (xvi) same electronic identification point with other Clients or communication with other Clients;
  - (xvii) placement of opposing orders so as to abuse guaranteed fill.
- (d) a breach of any provision, obligation, warranty or representation made under this Agreement (including any information provided to Fexsi in connection with this Agreement that is or has become untrue or misleading);
- (e) a failure at any time or for any period deemed reasonable by Fexsi to respond to any Notice or correspondence from Fexsi;
- (f) taking advantage of what Fexsi considers to be abnormal trading conditions; or
- (g) the violation of any law.

**Division Event** means any event having, or with the potential to have, a diluting or concentrating effect on the value of, or the effect of changing the nature of, any underlying instrument not based on shares (including but not limited to digital currency) whether temporary or otherwise.

**Fexsi** means Fexsi Technology Ltd, its subsidiaries, holding companies, successors and /or assigns, as well as its officers, directors, employees and agents.

**Fexsi Website** means the Fexsi website located at [www.fexsi.com](http://www.fexsi.com).

**Force Majeure Event** means events or causes including, but not limited to, the following: an act of God, unavoidable accident of navigation, war (whether declared or not), sabotage, riot, insurrection, civil commotion, national emergency (whether in fact or law), martial law, fire, flood, cyclone, earthquake, landslide, explosion, power or water shortage, failure of a transmission or communication network, epidemic, quarantine, strike or other labour difficulty or expropriation, restriction, prohibition, law, regulation, decree or other legally enforceable order of a government agency, breakage or accident, change of International, State or Commonwealth law or regulation or any damage of Fexsi' machinery or systems, unless occurring as a result of an act, omission, default or negligence of the Client or Fexsi.

**Intellectual Property** means the trade marks, designs, patents and copyrights of the parties to this Agreement.

**Internet** means the interconnected system of networks that connects computers around the world and includes any Online Platform.

**Insolvency Event means any of the following:**

- (a) an order, or an application for an order, is made by or to a court:

- (i) that a corporate Client be wound up; or
- (ii) appointing a liquidator or provisional liquidator for a corporate Client;
- (b) a liquidator, provisional liquidator or controller is otherwise appointed to a corporate Client;
- (c) a resolution is passed to appoint an administrator to a corporate Client;
- (d) a corporate Client enters into a deed of arrangement or propose a reorganisation, moratorium or other administration involving all or any of the Client's creditors;
- (e) a corporate Client is dissolved or wound up in any other way;
- (f) the Client is unable, or states that they are unable, to pay their debts as and when they fall due, or otherwise states that they are insolvent;
- (g) the Client seeks or obtains protection from any of their creditors under any legislation;
- (h) a bankruptcy petition is presented in respect of the Client or, if the Client is a member of a partnership, in respect of one or more of the partners;
- (i) any security interest becomes enforceable against the Client and the beneficiary of that security interest takes steps to enforce the security or charge; or
- (j) any other event having substantially the same legal effect as the events specified in paragraphs (a) to (j) above.

**Limit Order** has the meaning as set out.

**Margin Call** means an amount that Fexsi may at its sole discretion require the Client to pay, in addition to the Initial Margin, solely determined by Fexsi.

**Material Error** means a liquidity provider or Fexsi error, a software error, a typographical error, an off-market price or obvious mistake in a Contract, underlying instrument, quote or indication and includes quoting delays.

**Multiple Accounts** means that a Client holds more than one account type(s) and/ or accounts on different base currencies.

**Notice** has the meaning stated in clause 29 of this Agreement.

**Online Platform** has the meaning stated in clause 8.1 of this Agreement.

**Open Position** is where a client has entered into a Contract with Fexsi, and a further Contract has not been entered into in order to close the position.

**Stop Loss Order** has the meaning set out in the PDS.

**Take Profit Order** has the meaning set out in the PDS.

## **2. THIS AGREEMENT**

2.1 This is a master agreement and sets out the terms and conditions in respect of any future contracts between the Client and Fexsi, relating to either or both of the:

(a) provision of General Advice to the Client; and

(b) execution of Contracts relating to foreign exchange, commodities, indices, cryptocurrencies and other market transactions.

2.2 This Agreement includes the Fexsi Account Opening Form and the PDS that may have been exchanged and/or executed between the parties. However, in the event of any inconsistency between this Agreement and other contracts or documents, exchanged and/or executed between the Client and Fexsi, the PDS shall prevail to the extent of the inconsistency, and with respect to any other inconsistency, this Agreement shall prevail.

2.3 In the event of any inconsistency between the English language version of each of the documents described in clause 2.2 above and their translated equivalent in any other language, the English language version shall prevail, to the extent of any inconsistency.

## **3. OUR SERVICES AND TASKS**

3.1 Fexsi provides General Advice and Execution-Only foreign exchange and derivatives trading services in the stocks, commodities, indices and cryptocurrencies markets. If Fexsi provides General Advice to the Client then the Client acknowledges that the advice is general only and does not consider the personal objectives, circumstances or needs of the client. The Client must consider its own objectives, circumstances or needs, as well as the relevant PDS, before making a decision to use Fexsi' services. General Advice is provided without charge.

3.2 Under no circumstances will Fexsi provide Personal Advice to the Client

3.3 If the client does not fully understand the risks associated with Fexsi' services, then they should not use Fexsi' services.

## **4. TRADING FACILITIES**

When you use our trading platforms, you may "plug in" other third-party applications. The use of those applications can carry significant risk. We do not take responsibility and will not indemnify you from any loss incurred in connection with third party plugins that you choose to use, regardless of whether or not we know about them or approve them.

## **5. CLIENT REPRESENTATIONS AND WARRANTIES**

### **CLIENT AGREEMENT**

- 5.1 The Client warrants that in the case of:
- (a) an individual or more than one individual, they are of full age and capacity; and
  - (b) a firm or corporation, it is duly constituted and incorporated and possesses the requisite power to enter into this Agreement,
- 5.2 The Client warrants that all Contracts made, and this Agreement are and will constitute legally binding and enforceable obligations of the Client.
- 5.3 If the Client enters into this Agreement in its capacity as trustee of a trust, the Client makes the following representations and undertakings:
- (a) the relevant trust instrument is valid and complies with all applicable laws which apply to the Client;
  - (b) the Client is properly appointed as trustee of the trust;
  - (c) the Client has a right of indemnity from the trust assets in respect of this Agreement and the transactions contemplated by it;
  - (d) the Client will comply with its duties as trustee of the trust;
  - (e) the Client will not do anything which may result in the loss of its right of indemnity from the trust assets;
  - (f) if the Client is replaced or joined as trustee, the Client will make sure the new trustee becomes bound to Fexsi's satisfaction by this Agreement and any other Agreement relating to a transaction contemplated by this Agreement to which the Client is expressed to be a party, or by a document which is identical in effect;
  - (g) the Client will not resettle, set aside or distribute any of the assets of the trust without Fexsi's written consent unless compelled to do so by the trust instrument;
  - (h) the Client will not amend or vary the trust instrument without Fexsi's written consent; and
  - (i) if the Client is not the sole trustee of the trust it is a requirement that each and every trustee agrees in writing to be bound by the terms of this Agreement and by any transactions entered into in connection with this Agreement.
- 5.4 The Client represents and warrants to Fexsi that:
- (a) execution and delivery by the Client of this Agreement, and performance of all of the Client's obligations contemplated under this Agreement, does not violate any Law applicable to the Client;
  - (b) all information provided by the Client to Fexsi is true, correct and complete, and the Client

will notify Fexsi promptly of any changes to such information;

- (c) all information provided by the Client to Fexsi is true in all material respects as at the date of this Agreement or, if later, when the information is provided. Neither that information nor the Client's conduct or the conduct of anyone acting on its behalf in relation to the transactions contemplated by this Agreement, was or is misleading, by omission or otherwise;
- (d) the Client shall make ongoing disclosure to Fexsi of any matters that may affect the operation of this Agreement or of the ability of the Client to pay Margin Calls or to remain solvent;
- (e) the Client is not restricted by any applicable laws from using Fexsi' Online Platforms;
- (f) the funds used by the Client are funds that the Client is entitled to use, and are not derived from illegal sources;
- (g) the information on the Online Platforms will not be used for unlawful or unauthorised purposes.
- (h) It will not "deep-link" the Fexsi Website, resell or permit access to the Fexsi Website to others or copy any materials appearing on the Fexsi Website for resale or for any other purpose without the prior written consent of Fexsi.

5.5 The Client acknowledges that:

- (a) Fexsi will enter into the transactions contemplated by this Agreement in reliance on the representations and warranties made by the Client; and
- (b) Fexsi provides advisory and execution-only Services and the final investment decision is always the Client's own; and
- (c) if Fexsi provides advice to the Client then that advice is general only and does not consider the personal objectives, circumstances or needs of the Client.

5.6 If the Client is comprised of two or more legal persons then a reference to a right or obligation of the Client under this Agreement or under a transaction contemplated by this Agreement confers that right or imposes that obligation, as the case may be, jointly and severally on those persons.

## **6. USE OF PERSONAL INFORMATION**

6.1 Fexsi will only collect Personal Information which is necessary to perform the services contemplated by this Agreement.

- 6.2 Fexsi will treat the Client's Personal Information in accordance with its privacy policy, which the Client may obtain by contacting Fexsi or on the Fexsi Website.
- 6.3 Fexsi will use reasonable precautions to maintain the confidentiality of information Fexsi receives from the Client and material and/or data the Client provides, creates, inputs or develops in connection with the Client's use of the Fexsi services. Nonetheless, because such information, material and/or data may be provided through the Internet the Client hereby acknowledges and agrees that Fexsi cannot assure that such information, material and/or data will continue to be confidential.
- 6.4 The Client accepts the risk of a third party receiving confidential information concerning the Client and specifically releases and indemnifies Fexsi from any claim arising out of a third-party intercepting, accessing, monitoring or receiving any communication from a Client intended to be provided to Fexsi or from Fexsi intended to be provided to the Client.
- 6.5 The Client acknowledges and agrees that Fexsi may disclose the Client's name and other personal and financial information about the Client, and any relevant details of an Authorised User, to its employees, Representatives, officers, agents, and affiliates, as well as to a governmental entity or self-regulatory authority, an internet service provider or any other third party agent or service provider for any purpose related to offering, providing, administering or maintaining the Fexsi services, or to comply with applicable Laws.
- 6.6 The information provided on Fexsi's Online Platforms is to be used for the purpose of the Client trading with Fexsi only, and not for any other purposes. Using Fexsi's Online Platforms does not transfer intellectual property rights to the Clients.
- 6.7 In appropriate cases, all communications and information concerning the Client held by Fexsi, may be disclosed to and reviewed by law enforcement agencies and regulatory authorities. In addition, the Client agrees to comply with all applicable money laundering and counter terrorism financing Laws, including, but not limited to, the requirement to obtain or provide satisfactory evidence of the identity of any person whom the Client may represent in any transaction entered into with Fexsi.

## **7. FORMATION OF EACH CONTRACT**

- 7.1 When the Client contacts Fexsi by either telephone, electronically or otherwise via the Internet, Fexsi may, but is not obligated to, ask for or clarify the following information where applicable:
- (a) the Client's account number;
  - (b) further Client identification details;
  - (c) the Contract type (e.g. foreign currency, commodity, indices or cryptocurrencies);
  - (d) whether the Contract is to buy or sell;



- (e) the number of Contracts; and
  - (f) for Contract orders, the order type, the order price and the order expiry date.
- 7.2 Collectively, though not exhaustively, the information referred to in clause 7.1 or any portion thereof, constitutes the **“Instructions”**.
- 7.3 Fexsi will immediately provide the Client with, either verbally or via the Internet, prices at which the relevant Contract can be purchased or sold. These are the **“Trade Contract Terms”**.
- 7.4 If the Client then indicates by either telephone or by clicking the relevant button (e.g. an “buy” or “sell” button) on the Online Platform that they accept the Trade Contract Terms (**“Acceptance”**) then Fexsi shall have a discretionary right to create a Contract within a reasonable time after receiving the Instructions. If Fexsi exercises this right, then a Contract is formed between the Client and Fexsi. When a Contract is created the parties shall become bound by the content of the relevant Trade Contract Terms and this Agreement.
- 7.5 If Fexsi declines to exercise the right to create a Contract, Fexsi shall not be obliged to:
- (a) give a reason for declining; or
  - (b) notify the Client that Fexsi has not created a Contract with the Client.
- 7.6 The Client shall indemnify Fexsi for any error made by the Client or an Authorised User in providing Instructions to Fexsi.
- 7.7 A Contract will remain open until closed by the client providing instruction to close, or when “Contract Expiry” is reached. The contract expiry date varies from market to market and is clearly stated within the trading platforms and on the company website.

## **8. PROVIDING INSTRUCTIONS**

- 8.1 If the Client uses Fexsi’ online transaction system (Online Platform), the Client confirms and accepts the following:
- (a) the Client may be able to enter into Contracts at the rates and/or prices quoted on the Online Platform.
  - (b) all transactions must be completed using the logins and passwords allocated to the Client by Fexsi and valid entry of such a login and password will constitute an authorisation by the Client to complete the Contract specified irrespective of whether the login and password are entered by an Authorised User.
  - (c) the Client must ensure that the logins and passwords are kept secure and confidential. The Client will advise Fexsi immediately if the Client has any reason to believe that the login and passwords allocated to the Client or have not been kept secure and confidential.

- (d) the Client must ensure that no unauthorised person is able to use the logins and passwords.
- (e) Fexsi may at any time without notice suspend, withdraw or deny access to the Online Platform for any reason including but not limited to security, quality of service, failure by the Client to pay an amount when due or breach by the Client of any provision of this Agreement. If and while such access is suspended:
  - (i) the Client will be able to close any Open Positions but will not be entitled to enter into new Contracts.
  - (ii) Fexsi may, at its sole discretion (without or without notice), close out the Client's Open Positions at prices it considers fair and reasonable at that time, and the Client agrees not to make any claim against Fexsi in this regard.
- (f) Fexsi may change the minimum specification required to access the Online Platform and may also make operational changes to and alter the services currently available at any time. Fexsi will notify Clients of such changes by either placing a message on the Fexsi Website, log on page of the Online Platform or by email or SMS.
- (g) the Client is responsible for obtaining, maintaining and ensuring compatibility of their electronic software, devices and equipment. Fexsi will not be responsible for any loss of or damage to a Client's data, software, computer, electronic devices, telecommunications or other equipment caused by use of the Online Platform, unless such loss or damage is directly and solely caused by our negligence or deliberate default.
- (h) the Client is responsible for ensuring that their electronic devices and equipment are free from viruses and other malware and Fexsi will not be responsible for any losses incurred by failure to do this. Fexsi shall use reasonable endeavours to keep the Online Platform free from viruses and corrupt files but cannot guarantee that the Online Platform will be free from infection by viruses or anything else with contaminating or destructive properties. Fexsi is not able to guarantee that access to the Online Platform will be uninterrupted, continuous or error free.
- (i) the Client must not:
  - (i) misuse the Online Platform by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful;
  - (ii) attempt to gain unauthorised access to the Online Platform or any server, computer or database connected the Online Platform;
  - (iii) attack the Online Platform via a denial-of-service attack or a distributed denial-of-service attack.

(iv) either through deliberate action or negligence, engage in any 'wilful misconduct' in their account, as defined by this client agreement.

By breaching this provision of the agreement, Fexsi reserves the right to cancel any affected trades and or associated profits and close the client's account and refund initial deposits and or remaining account balances.

In this instance the Client may also commit a criminal offence. Fexsi may report any such breach to the relevant law enforcement authorities and will co-operate with those authorities by disclosing a Client's identity to them. In the event of such a breach, the Client's right to use the Online Platform will cease immediately and without Notice. Fexsi will not be liable for any loss or damage caused by a distributed denial-of-service attack, virus or other technologically harmful material that may infect a Client's electronic devices and equipment.

(j) the Client will be liable for all Contracts made when using the Online Platform including instances of any misuse, fraud or abuse by the Client or when the Client has disclosed or negligently shared their login or password details with a third party.

8.2 The Client acknowledges agrees and acknowledges, that Fexsi may make a recording of any telephone conversation between any person and Fexsi at any time. The recording remains the property of Fexsi. The telephone recording can be used by Fexsi to confirm the terms and conditions of any transaction where there is dispute with a Client as to the Trade Contract Terms of the transaction, and for training, monitoring and compliance purposes.

## 9. METHOD AND TIMING OF PAYMENT

9.1 The Client must not deposit physical cash into Fexsi's accounts under any circumstances. Fexsi has an absolute discretion as to whether the Client may pay by cheque.

9.2 Any sums that the Client owes to Fexsi must be paid in one of the following:

- (a) by online bank transfer;
- (b) by same day bank transfer;
- (c) by cheque (with the consent of Fexsi);
- (d) by international telegraphic transfer; or
- (e) by payment through a credit card or electronic gateway provider approved by Fexsi from time to time;
- (f) by crypto wallet;

**Crypto wallet payment methods:** If you decide to deposit funds via a crypto wallet

payment method, you are bound by the rules and regulations of this service provider and the terms stated herein: a. Where you deposit funds via crypto wallet, you will not be able to make a chargeback claim against us in relation to that transfer, b. Where you deposit funds via crypto wallet, you will not be allowed to exchange the cryptocurrency offered, in any other currency including but not limited to fiat currency etc., c. You may also be liable to further TAXATION and other restrictions. Please read the terms and conditions of your service provider for further information, d. We will credit your account with the net amount we received. Please note that any withdrawal will be executed via the same facility you used for the original deposit, if required for legal and regulatory purposes (Anti Money Laundering rules). Please, further note that any profits will be returned to your crypto wallet, and you will bare all the charges, e. Where you wish to withdraw your funds, you must provide us with your Wallet Address. You acknowledge, understand, and agree that it is your responsibility to provide us with your correct Wallet Address in order to be able to execute the withdrawal. You acknowledge, understand, and agree that if the Wallet Address provided is incorrect it will result in loss of your funds. You further acknowledge, understand, and agree, that if any incorrect information is provided, Fexsi shall not bear any responsibility for the loss of funds.

- 9.3 The Client must have sufficient cleared funds deposited in Fexsi' designated account before Fexsi will execute any Contracts. Fexsi will indicate to the Client the sum required as the Initial Margin for each Contract. Each client can deposit a maximum of 1.000.000 USD to trading account(s), as per the risk policy
- 9.4 Fexsi will notify the Client of any change in the amount of the Initial Margin or further margin for any Contract by giving Notice and Client must accept it. Client must give a prior confirmation before the change of the amount in the margin. Any increase in the amount of the Initial Margin will be due and payable immediately on Notice to the Client.
- 9.5 Fexsi may impose other fees and charges for using its services, by providing Notice to the Client. If the Client does not consent to the charges, it can terminate the Agreement and the charges will not apply to new Contracts. If the Client terminates the Agreement under this clause, all existing Contracts will survive the termination of this Agreement.
- 9.6 Fexsi is not responsible for any fees or charges imposed by third party banks or other counterparties, which are incurred by the Client in connection with the use of Fexsi services.

## **10. CREDIT LIMITS**

The Client understands that:

- (a) Fexsi may grant certain Clients Credit under certain circumstances.

Such a circumstance can include but not be limited to;

- (i) an amount that reflects the amount paid by the Client to an Fexsi approved third party merchant, which has not yet been received by Fexsi. This credit is referred to as a 'technical

loan’.

- (b) Fexsi is not obliged to provide credit to the Client; it is solely up to its discretion to do so.
- (c) any Credit Limit set by Fexsi may be reduced or withdrawn at any time by giving Notice to the Client.
- (d) In instances where a ‘technical loan’ is provided to the client, but the purported funds do not arrive in the client trust account, the client will become liable for any such loan granted to the client. This extends to any losses from trades taken with these loaned funds by the client.
- (e) If Fexsi has to recover any such funds from a client under these circumstances, then the client will become liable for any costs incurred in this process.

## 11. AUTHORISATION LIMITS

- 11.1 The Client may inform Fexsi of an authorisation limit applicable to some or all Contracts either in general or for particular Authorised Users.
- 11.2 Any authorisation limit provided by the Client to Fexsi may be withdrawn by the Client at any time by giving Notice to Fexsi.
- 11.3 Fexsi may, at its own discretion, impose an authorisation limit on the Client and/or one or more Authorised Users at any time, by providing Notice before the imposition of the limit.

## 12. CORPORATE ACTIONS

12.1. Takeovers and Transformations (including but not limited events such as share consolidations/splits, mergers, takeovers, spinoffs, MBOs, de-listings, etc.). Depending on the circumstances of each event, we endeavour when possible to close out open Positions immediately prior to the event taking place. As a result of such event, if any Instrument becomes subject to an adjustment, we shall determine the appropriate adjustment to be made to your account given the diluting or concentrating effect of the action. Such adjustment shall represent the economic equivalent of the rights and obligations of us and you immediately prior to the action.

## 13. INITIAL MARGIN

Before executing a Contract, Fexsi may in its absolute discretion require a deposit of between 0.01% and 100% of the Contract’s value in respect of any anticipated or existing Open Positions which the Client has or will have with Fexsi (“**Initial Margin**”).

## 14. FORCED LIQUIDATION

## CLIENT AGREEMENT

14.1. The Client is required to maintain sufficient level of Initial Margin. Fexsi reserves its full rights to close out all Open Positions:

- (a) when the Stop Loss Order is reached; or
- (b) if at any time the Initial Margin held by Fexsi is approaching or is no longer sufficient to cover the negative floating value of any or all Open Positions that the Client has open with Fexsi; or

14.2. Fexsi shall have the right, at its sole discretion, to determine the floating market value from time to time.

14.3. In addition to other remedies available to Fexsi, if the Client fails to pay an amount when due under this Agreement, Fexsi has the right to terminate (by either buying or selling) any or all of the Client's Open Positions.

## 15. SET OFF AGAINST MONIES OWED

15.1. In addition to other remedies available to Fexsi, if the Client fails to pay any amount when due under this Agreement and/or if a Default Event occurs, Fexsi may set-off such amount against any amount payable by Fexsi to the Client.

15.2. Fexsi is entitled to set-off against any amounts due to it by the Client, any amounts received by Fexsi from or on behalf of the Client including but not limited to moneys received as Initial Margin or Margin Calls. Fexsi may determine the application of any amounts which are to be set-off at its own discretion.

15.3. A Client must not set-off against any amounts the Client owes to Fexsi, any amounts Fexsi owes to the Client.

## 16. DELAY

Fexsi will use all reasonable efforts to process the Client's Contract order on a timely basis. However, Fexsi shall not, in the absence of wilful misconduct, be liable for delays, damages, failures or errors in the completion of the Contract order.

## 17. RATES

17.1 Rate indications from Fexsi are available via the Online Platform or by telephone upon request (the "**Indication**"). The Indication is not binding, and the Client agrees to accept the prices offered by Fexsi when the Contract is executed.

17.2. The Company's proprietary and non-proprietary platforms do not support sub-zero prices ("**Negative Pricing**"). Therefore, the Company does not allow the trading of sub-zero (negative) prices. Where the prices of any financial instrument collapse in sub-zero (negative) prices, the Company is obliged to disable the trading for the specific instrument and as a result

closure of the existing positions at zero price for the instrument affected will occur.

## **18. MATERIAL ERROR**

18.1 Fexsi will take reasonable steps to prevent Material Errors from occurring.

18.2 Should a Material Error occur Fexsi:

(a) reserves the right to make the necessary adjustments to correct the Material Error; and

(b) is not liable for any damages, claims, losses, liabilities or costs arising from the Material Error.

18.3 Any dispute arising from a Material Error will be resolved on the basis of the fair market value (plus Fexsi' typical spread), as determined by Fexsi acting reasonably, of the relevant Contract(s) at the time such Material Error occurred.

## **19. DEDUCTION OF INTERMEDIARY/RECEIVING BANK FEES**

19.1 In some circumstances a number of intermediaries may be involved in a payment transaction and may deduct a charge. The receiving bank may also take a charge. These charges cannot always be calculated in advance, and the Client will be liable for these expenses.

19.2 Fexsi will not be liable for losses that result from fees under clause 18.1 being levied. Fexsi will use its best endeavours to ensure that all fees associated with a transaction are disclosed in the Trade Contract Terms. However, due to the complexity of the international foreign exchange markets this may not always be possible. If it is important that an exact amount of a particular currency arrives, the Client agrees to advise Fexsi accordingly and Fexsi may be able to pre-cover any undefined charges.

## **20. CIRCUMSTANCES BEYOND FEXSI' CONTROL**

20.1 If Fexsi is unable to perform its obligations under this Agreement or a Contract because of factors beyond its control or because of a Force Majeure Event, Fexsi will notify the Client as soon as is reasonably practicable and will use reasonable endeavours to secure the return of any money paid by the Client in respect of which Fexsi has been unable to discharge its obligations under this Agreement.

20.2 In the case of a Force Majeure Event, Fexsi may also take any other steps it considers reasonably necessary, including but not limited to altering the Initial Margin, closing any or all Open Positions, amending or varying this Agreement and/or any Contract insofar as it is impractical or impossible for Fexsi to comply with its obligations to the Client.

20.3 Fexsi may give a notice ("**a Disturbance Notice**") to the Client at any time if it forms the view that market conditions in the relevant market for the underlying instrument are seriously disturbed. This includes circumstances where, in Fexsi' opinion, the underlying instrument is

not available (for example, deposits in the currency concerned are not available) in the ordinary course of business to Fexsi in the relevant market or because of national or international financial, political or economic circumstances, or because of exchange controls.

20.4 When a Disturbance Notice is given under clause 19.2, Fexsi' obligations will be suspended while it and the Client negotiate alternative arrangements. If both parties reach agreement before the Value Date, those alternative arrangements will apply. If they do not reach agreement within that period, each will be released from its obligations under the relevant transaction.

## 21. CLIENT MONEY

21.1 The Client agrees that Fexsi may aggregate money paid into the Client's Account ("**the Monies**") with funds received from other Clients into a single designated account, which will be maintained as required by law.

21.2 The Client consents to and directs Fexsi to:

- (a) retain any interest accrued from time to time on the Monies,
- (b) withdraw Monies that constitute remuneration payable to Fexsi; and
- (c) withdraw Monies that it is otherwise entitled to pursuant to law.

21.3 If the Client is a Wholesale Client, the Client authorises and directs Fexsi to withdraw, apply or otherwise utilise the Monies:

- (a) in order to meet obligations (the **Obligations**) incurred by Fexsi in connection with Contracts. Obligations may include an obligation to make payments to a Related Entity and/or a liquidity provider in connection with liabilities Fexsi incurs when the Client and other clients place Contracts with Fexsi. Liabilities in this sub-clause include but are not limited to minimum floating margin requirements imposed by a Related Entity or liquidity provider, or other hedging requirements;
- (b) in order to enforce other rights that Fexsi has under this Agreement or in the PDS; and
- (c) for any other reason allowed by law.

21.4 The Client agrees that when Fexsi uses the Monies for a lawful purpose as set out in this clause 22, the Monies do not belong to the Client and do not constitute a loan or constructive trust in favour of the Client.

21.5 If the Client has an open Contract, and Fexsi is entitled to make a deduction for any reason as set out in this Agreement or the PDS, that deduction may occur immediately, and the Monies will become Fexsi monies. Conversely, if the Client has an open Contract and Fexsi is required to apply a credit to the client' monies for any reason as set out in this Agreement or the PDS, that credit will apply immediately or end of the day according to the specific



situation.

## **22. MAXIMUM LIMIT**

- 22.1 A maximum limit of \$500,000 USD (the “Maximum Limit”) applies for a specific Client’s Available Balance. In case of Multiple Accounts held by a Client, the total combined Available Balance held across all Client’s accounts cannot exceed the Maximum Limit.
- 22.2 The Client may temporarily exceed the Maximum Limit where this is necessary to cover margin requirements. The Client must adhere to the Maximum Limit immediately after their open position(s) are closed out.
- 22.3 The Client must always adhere to the Maximum Limit. Before the end of each month, the Client must withdraw to their external bank account the profits (if any) exceeding the Maximum Limit.

## **23. PAYMENTS INTO CLIENT ACCOUNT**

- 23.1 The Client must ensure that:
- (a) payments into the Client Account are from the Client as the holder of the Client Account and not from any third party;
  - (b) without limiting the above, payments from an account are payments from your account and not from any account of any third party.
- 23.2 The Client agrees and acknowledges that Fexsi may refuse to accept or return any payment of money from any third party or from any account of any third party, and that Fexsi does not accept any liability or responsibility for any loss, cost or expense incurred or suffered by the Client in connection with such non-acceptance or return, including because the Client is subsequently in default of their obligations to Fexsi.

## **24. DEFAULT EVENTS**

- 24.1 If a Default Event occurs Fexsi may take all or any of the following actions, or any other step it considers reasonably necessary:
- (a) immediately require payment of any amount the Client owes to Fexsi, including any Margin Call;
  - (b) terminate this Agreement;
  - (c) close all or any of the Client’s Open Positions;
  - (d) limit the size of the Client’s Open Positions either in monetary terms or a number of Contracts;
  - (e) refuse orders to establish new Contracts;

- (f) convert any ledger balances to the Base Currency of the Client Account;
- (g) exercise Fexsi' rights of set off;
- (h) impose new Initial Margin requirements to the Client's trading or Client Account;
- (i) withdraw the provision of any credit, in relation to the Client Account;
- (j) suspend the Client Account;
- (k) open one or more new Contracts on the Client Account;
- (l) call on any guarantee in respect of the Client's obligations;
- (m) require the Client immediately to close out any Open Position or settle any Contract in such a manner as Fexsi reasonably determines necessary;
- (n) combine, close or consolidate any Client Accounts and offset any and/or amounts owed to, or by, Fexsi in such manner as Fexsi may in its absolute discretion determine; or
- (o) retain any amount owed by Fexsi to the Client against any contingent liability of the Client to Fexsi or so long as the contingency subsists.
- (p) Cancel any profits.

## **25. FEXSI' RIGHTS TO CLOSE, VOID OR ENFORCE CONTRACTS**

- 25.1 Without limiting any other right Fexsi has under this Agreement, Fexsi may close or void any Contract or take any other steps it considers reasonably necessary where:
- (a) Fexsi is in dispute with the Client in respect of an Open Position or a Default Event. In this case we can close all or part of the Open Position in order to minimize the amount in dispute;
  - (b) Fexsi identifies or reasonably suspects that the Client has engaged in wilful misconduct, manipulated its prices, execution process or other practices; or
  - (c) there is a material breach of the Agreement in relation to the Contract.
- 25.2 Fexsi may also, in its absolute discretion, choose to enforce any Contract of a type referred to in clause 23.1.

## **26. TERMINATION**

- 26.1 This Agreement may be terminated immediately by the Client or Fexsi by Notice to the other in writing. However, termination by either party shall not affect any Contract or other

transaction previously entered into and shall not relieve either party of any outstanding obligations arising out of this Agreement, nor shall it relieve the Client of any obligations arising out of any Contract entered into prior to such termination.

26.2 In the event that Fexsi is made aware of or has reason to believe any of the following:

- (a) that the Client has provided false or misleading information to Fexsi; or
- (b) that the Client has participated or is participating or has assisted or is assisting in money laundering or terrorist financing; or
- (c) that the Client is being officially investigated by law enforcement and/or regulatory agencies; or
- (d) a Default Event or Insolvency Event has occurred,

then Fexsi, at its sole discretion, may terminate this Agreement immediately by Notice to the Client, and Fexsi at its sole discretion shall be relieved of any obligations set out in this Agreement or arising out of the transactions contemplated by this Agreement, including any obligations arising out of any Contract already entered into with Fexsi.

## **27. LIABILITY AND INDEMNITY**

27.1 The Client shall indemnify and hold Fexsi harmless from any and all liabilities, claims, costs, expenses and damages of any nature, including, but not limited to, reasonable legal fees and any fees and expenses incurred in connection with litigation, arising out of or relating to the Client or an Authorised User's negligence, mistake or wilful misconduct, the violation of any law by the Client, or the breach by the Client of any provision of this Agreement or if a Default Event occurs.

27.2 The Client also agrees to promptly pay Fexsi for all damages, costs and expenses, including reasonable legal fees and expenses, incurred by Fexsi in the enforcement of any of the provisions of this Agreement. The Client's obligations under this Clause shall survive the termination of this Agreement.

27.3 In calculating or mitigating its loss due to a Default Event or Material Error, Fexsi is entitled to:

- (a) crystallise, unwind, reverse, repair or close any Open Positions by closing any open Contracts; and/or
- (b) nominate the date on which the open Contracts are valued; and/or
- (c) nominate the methodology used to calculate the open Contracts' value; and/or
- (d) take any other action that Fexsi determines to be reasonably necessary to protect its legitimate interests.

- 27.4 The Client acknowledges they will be liable for any losses which may be realised as the result of entering into a Contract, regardless of the trading resources available in relation to the Client Account at the time the Contract is executed.
- 27.5 Fexsi will use all reasonable endeavours to execute Contracts or make payments to the Client or to any third party specified by the Client, in accordance with the timing specified in the Client's Instructions. However, Fexsi shall not be liable under any circumstances for any direct, indirect or consequential loss (including any loss of profits) incurred as a result of a delay in funds reaching the Client's nominated account.
- 27.6 Nothing in this Agreement is intended to limit or exclude any liability Fexsi may owe the Client under any statutory rights the Client may have.

## **28. AMENDING THIS AGREEMENT**

- 28.1 The terms of this Agreement and any transactions under it, may be amended by Fexsi at any time. The Client agrees to be bound by the terms of such an amendment.
- 28.2 If the Client does not consent to the amendment the Client can terminate the Agreement and the amendment will not apply retrospectively. Termination in this case does not affect any obligations owed by the Client, or rights of Fexsi with regard to any open Contracts held by the Client.

## **29. NOTICE**

- 29.1 Scalping is not welcome at Fexsi. Fexsi reserves the right to cancel orders/profit with duration less than 300 seconds. If the number of orders in most of account that are closed earlier than in 300 seconds (exceeds 20% of total order or total trading volume), Fexsi will refuse to provide services evermore.
- 29.2 Any orders which are placed at the times within 15 minutes of closing market or closed at the times within 15 minutes of market opening on the next trading day will be abused the agreement. Fexsi reserves the right to cancel those orders/profit.
- 29.3 Fexsi reserves the right to cancel orders/profit and stop providing services to clients if Fexsi considers account(s) traded by abusing market such as hedging, bad tick, bonus, dividend or other conditions.

## **30. GENERAL**

- 30.1 At no time shall either party enter into commitments for or in the name of the other party or use their Intellectual Property for any purpose whatsoever. Except as specifically provided for in this Agreement, neither party will:
- (a) use the other party's name or Intellectual Property without the prior written approval of the other party; or

(b) represent itself as being affiliated with, or authorised to act for, the other party.

30.2 Any rights or obligations that the Client may have pursuant to this Agreement shall not be assigned, transferred, sold, or otherwise conveyed, except with the prior written consent of Fexsi. Fexsi may, however, transfer any rights or obligations it may have pursuant to this Agreement to another party without the consent of the Client. Such an assignment shall only take place if a reasonable person would not expect it to cause detriment to a typical client of Fexsi. However, termination in this case does not affect any obligations owed by the Client, or rights of Fexsi with regard to any open Contracts held by the Client.