



# Terms of Business

## I. Introduction

These Terms of Business regulate business relationship between the investment services company XNT LTD. (hereinafter referred to as "XNT", "we" or "us") and persons, to whom XNT renders investment services and ancillary investment services as defined in clause 2 below or who have applied to XNT to receive its investment services and ancillary investment services (hereinafter referred to as the "Client(s)" or "you"). XNT and the Client hereinafter each is referred to as the "Party" and jointly – the "Parties".

These Terms of Business and Client Online Application for opening the Account shall constitute the Agreement between XNT and the Client on provision of investment services and ancillary investment services as set forth in these Terms of Business (hereinafter referred to as the "Agreement").

The Agreement shall be considered concluded from the moment of opening the Account. The Account shall be deemed opened from the moment an Account Opening Letter is issued to the Client by XNT.

XNT shall be entitled to reject opening the Account at its own discretion for any reason without the obligation to provide any explanations.

From time to time XNT may adopt and notify to the Client additional conditions and provisions applicable to Client's business relationship with XNT, which shall form an integral part of the Agreement unless rejected by the Client within the time frame specified by XNT.

The Client can get acquainted with the Terms of Business and other additional conditions and provisions currently in force at XNT's website <https://xnt.mt/>.

If there is any aspect of these Terms of Business or any additional conditions and provisions that you do not understand or where you require further information you should have to contact XNT at the address below:

**XNT LTD.**

Portomaso Tower, Annex Level 18, Vjal Portomaso,  
St. Julian's STJ 4011, Malta

+356 2015 0000  
xnt.mt

**XNT LTD.,**

Portomaso Tower,  
Annex Level 18,  
Vjal Portomaso,  
St. Julian's, STJ 4011  
Malta

Phone: +356 2015 0000

E-mail: [info@xnt.mt](mailto:info@xnt.mt).

By submitting the Client Online Application for opening the Account with XNT, you acknowledge and confirm that the Client has previously received, read carefully and fully understands and agrees to be bound by and comply with these Terms of Business and other additional conditions and provisions. All Transactions and Contracts shall be entered into in reliance on the fact that these Terms of Business and all additional conditions and provisions notified to the Client form a single agreement between the Parties, and the Parties would not otherwise enter into any Transactions or Contracts.

The Agreement shall supersede any previous agreements between XNT and the Client on the same subject matter.

You acknowledge that you have not relied on or been induced to enter into the Agreement by any representations other than those expressly set out in the Agreement.

## 2. General information

2.1. Company details: XNT LTD. is a company established under the laws of the Republic of Malta. It is registered at the Registry of Companies of the Republic of Malta under company registration number C52182 and with the registered office at Portomaso Tower, Annex Level 18, Vjal Portomaso, St. Julian's STJ 4011, Malta.

2.2. XNT's principal place of business: XNT is an investment services firm with its principal place of business at Portomaso Tower, Level 18, Vjal Portomaso, St. Julian's STJ 4011, Malta.

2.3. XNT's licence: XNT is licensed by the Malta Financial Services Authority (the "MFSA") under the Investment Services Act (Chapter 370 of the Laws of Malta). XNT has been issued with a Category 3 Investment Services Licence by the MFSA (Licence No. IS/52182) (the "Licence"). XNT is licensed to provide, amongst other investment services, the following services within the meaning of the First Schedule to the Investment Services Act (Chapter 370 of the Laws of Malta) to Professional/ Elective Professional Clients, Collective Investment Schemes and Eligible Counterparties:



- (i) reception and transmission of orders in relation to the Instruments listed below;
- (ii) execution of orders on behalf of other persons, in relation to units in collective investment schemes and foreign exchange acquired or held for investment purposes; and
- (iii) acting as nominee holder of Instruments, or of the assets represented by or otherwise connected with the Instruments listed below, where XNT is doing so as part of providing any investment services.

(herein referred to as "Services").

The Services referred to in points (i) and (iii) may be provided by XNT in relation to the following instruments within the meaning of the Second Schedule to the Investment Services Act (Chapter 370 of the Laws of Malta):

- transferable securities;
- money market instruments;
- units in collective investment schemes;
- options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash;
- options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event);
- options, futures, swaps, and any other derivative contracts relating to commodities, that can be physically settled provided that they are traded on a regulated market, within the meaning of the Financial Markets Act (Chapter 345 of the Laws of Malta) and, or a Multilateral Trading Facility within the meaning of the First Schedule to the Investment Services Act (Chapter 370 of the Laws of Malta);
- options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled, are not for commercial purposes, are not included in the preceding indent, and, which have the characteristics of other derivative instruments, having regard to whether, inter alia, they are cleared and settled throughout recognized clearing houses or are subject to regular margin calls;



- rights under a contract for differences or under any other contract the purpose or intended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price for property of any description or in an index or other factor designated for that purpose in the contract;
- Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in the First Schedule to the Investment Services Act, which have the characteristics of other derivative instruments, having regard to whether, inter alia, they are traded on a regulated market within the meaning of the Financial Markets Act or a Multilateral Trading Facility within the meaning of the First Schedule to the Investment Services Act, are cleared and settled through recognized clearing houses or are subject to regular margin calls;
- foreign exchange acquired or held for investment purposes;

(herein referred to as “Instruments”).

Further detail on XNT’s authorisations is set on the following website:

<https://www.mfsa.com.mt/pages/licenceholders.aspx>.

2.4. Regulatory body: The MFSA has its offices at Notabile Road, Attard, BKR 3000, Malta

([www.mfsa.com.mt](http://www.mfsa.com.mt)).

2.5. Information on website: The Website at <https://xnt.mt/> contains further details about XNT, its Services and other information, relevant to this Agreement. In the event of conflict between this Agreement and the Website, this Agreement will prevail.

2.6. Your capacity: You will enter into Orders, Contracts and Transactions as principal, unless otherwise agreed in writing by XNT.

2.7. Your regulatory protection: For the purpose of the MFSA Rules, XNT has categorised and shall treat you as a Per Se/ Elective Professional Client and/or Eligible Counterparty, as specified in the Client Categorisation Form, when conducting business with you.

You have the right to request us to categorise you as a Retail Client either generally or specifically, for



one or more particular Services or Transactions, or one or more types of products or transactions. However, XNT is not authorized to provide the Services to Retail Clients, and as a result will not be in a position to provide the Services to you thereafter. The categorisation as a Per Se/ Elective Professional Client and/or Eligible Counterparty implies that you are subject to a lower degree of client protection under the Laws, than if you were to be categorised as a Retail Client. Furthermore, Per Se/ Elective Professional

Clients and Eligible Counterparties are generally not entitled to claim for compensation from the Investor Compensation Scheme in terms of the Investor Compensation Scheme Regulations (Legal Notice 368 of 2003, as amended).

You undertake to provide XNT with any information and documentation as may be required by the Applicable Regulations or the Licence conditions, promptly upon request. If there are any changes in any such information or documentation provided by you, you must inform us of such changes as soon you become aware of them.

- 2.8. Tax residency: Under the tax laws of the Republic of Malta, reflecting requirements arising from the European Union legislation and/or international tax conventions, applicable to the Republic of Malta and/or the European Union, that aim at strengthening mutual administrative cooperation in the prevention of tax fraud and tax evasion, XNT shall be entitled to collect and document data on tax residency and reporting status of the Client and its' UBOs and report information about the Client and its Account(s) to the Office of the Commissioner for Revenue of the Republic of Malta, where so required pursuant to the Applicable Regulations. The Client shall be obliged to provide to XNT accurate and complete information therein and immediately inform on any changes to the information provided.
- 2.9. Account opening: Upon acceptance by XNT of your application to open an Account, we will open and maintain the Account in your name for the purpose of entering into Contracts, placing Orders and engaging in Transactions and to provide the Services in accordance with this Agreement. Once you have opened your first Account, we may accept, at our discretion, to open and operate one or more additional Accounts or sub-accounts upon your request, and if we agree to open any additional Account or sub-account, any such Account or sub-account and any Services provided in relation to the same will be subject to this Agreement.
- 2.10. Additional agreements: This Agreement may be amended and/or supplemented by any existing or future terms and conditions ("Additional Agreement(s)") mutually agreed between the Parties in writing. In the event of any conflict between the provisions of this Agreement and the Additional Agreement(s), the terms of the Additional Agreement(s) shall prevail.



2.11. Accuracy of information: You are obliged to ensure that all information you provide us is accurate and up to date. You must inform XNT on any change in information, data or documentation previously submitted to XNT (identification data, contact details, ownership or control structure, changes of representatives and their identification data, etc.), as well as any relevant update and/or change of your previously declared economical or personal activity within 30 days after the day that you become aware of a reportable change/event. You undertake the responsibility of informing XNT on any change regarding Ultimate Beneficial Owner/-s (UBO) without any delay as soon as you become aware of such UBO change.

If you fail to provide correct and updated information on ownership, control structure, UBO, representatives or any other essential documents or information according to this clause 2.11 or clause 2.1.19, XNT shall be entitled to apply additional fees and charges to you in accordance with clause 5.1, as well as take any other actions according to the terms of this Agreement, including, but not limited to, restricting or suspending Transactions and/or termination of the business relationship with you.

2.12. Definitions and Interpretation: Capitalised terms have the meaning given to them in this Agreement, including the Glossary attached hereto, unless the context otherwise requires.

Any reference to XNT includes a reference to its duly authorised agents/ representatives or delegates and permitted assignees, unless the context otherwise requires.

References to Clauses, Appendices and Schedules are to Clauses, Appendices and Schedules of this Agreement. The headings to the Clauses of this Agreement are for convenience only and will not affect the construction or interpretation hereof.

Save to the extent that the context or the express provisions otherwise require, in this Agreement: words importing any gender include all other genders; words importing the singular number only include the plural number and vice versa; words which import the whole are to be treated as including reference to any part of the whole; words importing individuals include legal persons and vice versa; references to this Agreement or to any other document are to be construed as reference to this Agreement or to that other document as modified, amended, varied, supplemented, assigned, novated or replaced from time to time; reference to any statute or statutory provision (including any subsidiary legislation) includes any statute or statutory provision which amends, extends, consolidates or replaces the same, or which has been amended, extended, consolidated or replaced by the same, and includes any orders, legislation, instruments or other subsidiary legislation made under the relevant statute or statutory provision; and any phrase introduced by the words "including", "include", "in particular" or any similar expression is to be construed as illustrative only and will not be construed as limiting the generality of any preceding words.



### 3. Risk acknowledgement

3.1. You acknowledge, recognize and understand that trading and investments in leveraged as well as non-leveraged Instruments is:

3.1.1. highly speculative;

3.1.2. may involve an extreme degree of risk; and

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

3.2. Margined trading carries a high risk. Please note:

3.2.1. you may sustain a total loss of initial margin funds and any additional funds deposited with XNT to maintain your position, in addition to any liability;

3.2.2. if the market moves against your position or margin levels are increased you may be called upon to pay substantial additional funds on short notice to maintain your position;

3.2.3. if you fail to comply with a request for additional funds within the time prescribed, XNT in its sole discretion may liquidate any or all of your positions at a loss;

3.2.4. whether you make a profit or a loss will depend on fluctuations in the price of the respective Instrument which is outside XNT's control.

3.3. You must make an independent decision as to whether or not to enter into Margined Transactions. Please note:

3.3.1. XNT does not provide advice, XNT will not advise on the merits or otherwise of your Margined Transactions;

3.3.2. the decision to place a Margined Transaction is yours alone. You (and not XNT) are responsible for the effect a Margined Transaction might have on any open positions;

3.4. Best execution policy: Pursuant to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments ("MiFID II") and the MFSA Rules which implement MiFID II, XNT is required to put in place an Order execution policy and take all reasonable steps to obtain the best possible result for its clients either when executing Customer Orders or when receiving



and transmitting orders for execution. XNT advises you to read XNT's Client Order Execution Policy carefully each time prior to placing Orders or entering into any Transaction with XNT. By placing any Order or entering into any Transaction with XNT, you are giving your consent to XNT's Client Order Execution Policy the in place.

XNT's Best Execution Policy may be reviewed and amended from time to time, and we will post any material amendments to XNT's Client Order Execution Policy on the Website or notify you thereof through other means. Any amendments to XNT's Client Order Execution Policy will come into effect when posted on the Website or otherwise notified to you (whichever is the earliest).

If XNT executes any Order on your behalf or receives and transmits any Order for execution on your behalf, such Order will be handled in compliance with XNT's Client Order Execution Policy as applicable at the relevant time; provided that whenever you give a specific instruction, we will carry out the order following the specific Instruction. You hereby acknowledge and agree that any specific instructions from you may prevent XNT from taking the steps that it has designed and implemented to obtain the best possible result for the execution of those Orders in respect of the elements covered by those instructions.

3.5. Incidental information: Where XNT provides general explanation of trading, market commentary, guidance on shareholding disclosure or other information:

3.5.1. this is incidental to your dealing relationship with XNT. It is provided solely to enable you to make your own investment decisions and does not amount to a personal recommendation or investment advice;

3.5.2. XNT gives no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the legal, tax or accountancy consequences of any Transaction;

3.5.3. where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction;

3.6. Loss of assets: You acknowledge and agree that XNT's liability for the loss of any of your assets (in particular, any cash or Instruments held in your Account) is limited in terms of this Agreement. In the event of any loss or prejudice arising from the insolvency, acts and omissions of any Counterparty, Delegate or Securities Depository or any Service Provider, you may have to enforce your rights against such persons directly. You furthermore acknowledge that any delegation made pursuant to Clause 10.4 poses operational, credit, counterparty and legal risks and may be susceptible to systemic risk;





if any such risk materializes, your money and assets may be lost or become unavailable; for instance, if customers' money or assets are not segregated on a Delegate's books, it may not be possible to identify the money or assets belonging to you or to reattribute them to you; or if a Delegate or Counterparty becomes insolvent, you may not be able to claim back your assets immediately.

You acknowledge that your assets may be placed or kept in a common, omnibus or client account of XNT or any Delegate or are otherwise commingled with assets belonging to other customers, and that if there is an un-reconcilable shortfall in any such account, you may have to share in that shortfall.

3.7. You acknowledge that you are responsible for making an independent appraisal and investigation into the risks of a particular Instrument. XNT gives no warranty as to the appropriateness of the Instruments and Services and assumes no fiduciary duty in its relations with the Client. You acknowledge that all governmental and other consents that are required to have been obtained by you with respect to this Agreement or any Transactions or Contracts have been obtained and are in full force and effect and all conditions of any such consents have been complied with. The Client assumes all risks that may arise from capital or foreign exchange control, tax or other financial laws in any country, as well as court awards and resolutions or other administrative decisions of the central banks or other competent authorities that may cause losses or additional expenses to the Client, XNT or third parties.

3.8. Your acceptance of this Agreement will be treated as your informed acknowledgment that you have carefully read, understood and are prepared to accept the risks outlined in this Agreement, including in the Risk Warnings and Acknowledgements attached hereto. If there is anything you do not understand it is recommended that you seek specialist independent financial and/or legal advice, in particular, regarding the suitability of trading in the Instruments concerned.

#### 4. XNT's Services

4.1. Services: XNT offers brokerage Services through an Online Facility, which allows you to place Orders, enter into Contracts and conduct Transactions in Instruments with various Counterparties, and provides related Services, including the maintenance of the Client's Account, subject to the terms and conditions set out in this Agreement. As part of the Services, XNT will execute, transmit and receive orders on your behalf. XNT will not make personal recommendations or advice on the merits of purchasing, selling or otherwise dealing in particular Instruments, placing of Orders, entering into Contracts or particular Transactions, their taxation consequences or the composition of any account or any other rights or obligations attaching to such Investments, Orders, Contracts or Transactions. You should bear in mind that merely explaining the terms of a Transaction, Contract or Instrument or its performance characteristics does not itself amount to advice on the merits thereof.



Portfolio management: XNT does not undertake any obligation to provide individual advice, information or recommendation in respect of financial products and does not provide any tax advice to its Clients. Without the prejudice to the aforementioned, XNT is licensed by the MFSA to provide portfolio management services and may accept to provide portfolio management services to you, in which case such service will be subject to a supplemental or separate agreement between you and XNT.

4.2. Access to Services: You acknowledge that XNT is making or may make the Services available through its Website and the Online Facility or through other means mutually acceptable to you and XNT, and that access to the internet and the Services is dependent on numerous factors, technologies and systems, which are beyond the authority and control of XNT. You are responsible for obtaining and maintaining all hardware and communication services or equipment necessary to use the Services, and for installing any software and software upgrades, updates or revisions as may be directed by XNT. You acknowledge and agree that neither XNT nor any of its Affiliates, is liable or responsible for your inability to access the Services, whether as a result of any error, malfunction or breakdown of the Services or of any third-party resources used by you to access the Services.

4.3. Authenticators: We will provide you with such user identification, initial password, digital certificates and/or other devices (collectively, "Authenticators") as are necessary to enable you to access and use the Services. You may access the Services only by using such Authenticators or by using replacement Authenticators created in accordance with this Agreement. You authorise XNT (i) to act on or, as applicable, transmit any Instructions which XNT receives from you pursuant to methods designated by XNT, and (ii) to create replacement Authenticators if original Authenticators are lost or forgotten. You will change or replace any Authenticators as soon as possible after receipt of instructions to do so from XNT. You may not permit any agent or third party to use the Services, unless you have obtained XNT's written consent thereof in accordance with and subject to the provisions of Clause 4.5, and must take appropriate steps to maintain the confidentiality of all Authenticators and secure the Authenticators from unauthorised use. You are responsible and liable for the security of the Authenticators and all Instructions given and Transactions and Contracts entered into using such Authenticators. You must immediately notify XNT of any unauthorised use of the Services. You acknowledge and agree that any unauthorised use of the Services by any agent or third party will be at your sole risk, and will for all purposes be binding upon you as if such use had in fact been made by you or under your authority. Nothing in the foregoing will be deemed to in any way limit your indemnification obligations under this Agreement.

4.4. Agents: You may not authorise any third party to act for you or on your behalf under this Agreement (an "Agent"), with respect to all or part of the Services and/or any Account, unless you have obtained XNT's prior written consent. You shall provide XNT with a valid power of attorney in such form and accompanied by such information or documentation as may be specified by XNT, including any



representations, warranties and undertakings as may be required by XNT.

- 4.5. You are solely responsible for all information and content that you transmit or otherwise make available via the Services. You agree that you will not use the Services (i) in a manner that negatively affects other clients or users or interferes with or disrupts the Services or that could otherwise bring the Services or XNT or any of its Affiliates into disrepute, (ii) in any manner that intentionally or unintentionally violates any Applicable Regulations, or (iii) to collect or store personal data about other users, creators, sponsors, or operators of the Services. XNT has the right to remove any information or content that violates any term or condition governing the use of the Services generally or that, in its sole discretion, is otherwise objectionable.
- 4.6. Equipment: You are responsible to obtain and maintain, at your own expense, computers (including mobile devices), computer systems (including, but not limited to, servers and peripheral equipment), operating systems, applications, communications software, internet browser, telecommunications equipment, third-party application services and other equipment and software (the "Equipment") required for you to access and use the Services, which Equipment requirements may be changed from time to time by XNT upon reasonable advance notice to the Client. Without prejudice to the limitations on liability of XNT stated elsewhere herein, you agree and acknowledge that XNT and its Affiliates are not responsible for any problem, error or malfunction relating to the Services resulting from data entry errors by you or of any Counterparty or the performance or failure of Equipment or any telecommunications service, internet connection, internet service provider or any other third-party software or communications provider or any other failure or problem not attributable to XNT.
- 4.7. Restrictions on use: XNT is entitled, at its discretion, to restrict the use of the Services by the Client, and/or to make the use of the Services, as a whole or in part, subject to such limits and conditions (including regarding leverage and the Instruments that may be transacted in) as XNT deems appropriate, at any time, and XNT will notify the Client of any applicable restrictions, limits or conditions imposed in respect of the Client. XNT will grant you access to the Services in accordance with and subject to the terms and conditions set forth in this Agreement and the Client agrees to use the Services only in strict conformity with such terms and conditions.
- 4.8. Other services: XNT may (at its discretion) provide such additional services and/or may facilitate your access to, or receipt of, one or more third party products or services, including automated trading systems (collectively, "Third-Party Services"). Such additional services and Third-Party Services will be charged for and be governed by such terms and conditions as may be agreed from time to time; provided that, unless otherwise agreed, the provision of this Agreement, in particular Clause 18 shall apply. You acknowledge that the provision of such Third-Party Services shall be under agreements or terms of use between you and the relevant third-party provider to which XNT will not be a party.



Use of and access to Third-Party Services is at your own risk, and with respect to Third-Party Services, XNT makes no representations or warranties, disclaims all responsibility and liability, and does not endorse the Third-Party Services. XNT may, at any time and in its sole discretion, and with or without prior notice, cancel, change, revoke or suspend your access to or receipt of any or all Third-Party Services and any related arrangements that facilitate Client's access to and use of Third-Party Services.

- 4.9. Transaction documentation: All Transactions and all Contracts and Orders in relation thereto which are transmitted or executed by XNT for and on behalf of the Client to or with Counterparty, are governed by the terms of this Agreement; provided that the Orders, Transactions and Contracts will also be subject to any applicable terms and conditions or contractual arrangements which may be entered into by XNT with the relevant Counterparty, including any brokerage agreements and master agreements ("Transaction Documentation") and subject to any terms and conditions of or contractual arrangements with the service providers providing the products and services ("Service Providers") required for the provision of the Services, and the Applicable Regulations. You understand and acknowledge that XNT may be required by any Counterparty to enter into Transaction Documentation in order to provide the Services.
- 4.10. You acknowledge that XNT may not be able, for a variety of reasons, including the unwillingness of the Counterparty to enter into Transactions or Contracts generally or, to enter into a Transaction or Contract with any particular entity or, if applicable, at any particular price, and you agree that neither XNT nor any of its Affiliates will have any liability in respect thereof.
- 4.11. Where the Services involve the receipt and transmission and/or execution of Orders by XNT, for and on behalf of the Client, for the purpose of conducting any Transaction or entering into any Contract, XNT will not act as principal, but will only act for and on behalf of the Client, and the Client will be responsible for the performance of its obligations pursuant to and the enforcement of any rights in relation to such Transaction or Contract. Neither XNT nor any of its Affiliates will have any obligation or liability in respect of or be responsible for, or otherwise be deemed to guarantee, the performance of any Contract or Transaction entered into by the Client through the use of the Services.
- 4.12. You acknowledge and agree that you are solely responsible for evaluating the creditworthiness, and desirability as a counterparty, of each Counterparty to a Contract, and that you are not relying on, and in the future will not rely on, XNT or any of its Affiliates for any information as to the desirability or creditworthiness of any Counterparty. The access to a Counterparty through the Services does not constitute any investment advice, recommendation or other endorsement by XNT or any of its Affiliates of any Counterparty, nor does it imply the desirability or creditworthiness of any Counterparty in respect of any particular Contract or Transaction.



4.13. Corporate actions: You are responsible for knowing the rights and terms of any financial instruments held in your Account including, but not limited to, voting rights, calls for redemption, grants or expirations of conversion rights, takeovers, subscription rights, mergers, offers, consolidations, reorganisations, capitalisations and other relevant corporate actions ("Corporate Actions"). Except as explicitly required by the Applicable Regulations, XNT shall not have an obligation to notify you on any Corporate Actions, and you shall independently obtain information on Corporate Actions using public sources of information. XNT acquires the information about the Corporate Actions from its Delegates or Counterparties, and does not undertake to acquire the information about the Corporate Actions from other sources. Where XNT has duly received information regarding a Corporate Action from its Delegates or Counterparties, it will use reasonable endeavours to provide you with such information immediately, provided it is practical and expedient and there is no restriction to distribution of the Corporate Action information under any Applicable Regulations. You agree that the said notice on Corporate Actions may contain only information which XNT considers necessary for your participation in the Corporate Action. No representation or warranty is made by XNT in relation to the accuracy and completeness of such information, and no responsibility or liability will be undertaken by XNT in relation to it. A notice on any Corporate Action shall not constitute a recommendation, representation or warranty about your ability to exercise or participate, or an offer to buy or sell, or a solicitation of an offer to buy or sell any financial instrument or participate in any particular Corporate Action.

If you intend to exercise a right relating to a Corporate Action, you shall promptly, within a reasonable time before the latest time for the exercise of such right and, in any case, prior to any deadline specified by XNT or its Counterparties or Delegates, notify XNT and provide the necessary instructions, information and funds, as may be required by XNT or its Counterparties and Delegates. Provided that XNT is entitled to exercise any such rights and you have provided all the necessary information, instructions and funds as requested by XNT or its Delegates or Counterparties, XNT shall use reasonable endeavours to facilitate the exercise of such right. XNT shall be entitled to charge you a fee and the costs that XNT incurs for facilitation of such right. You hereby acknowledge and agree that: (i) XNT may not be able to provide you at all times with the possibility to exercise the rights relating to a Corporate Actions arising out of the financial instruments held with its Counterparties and Delegates, (ii) XNT shall be entitled to exercise the rights relating to a Corporate Action on such terms that are acceptable to XNT, and (iii) XNT shall be entitled to deny execution of the Client's instruction for participation in any Corporate Action.

Any request from you to participate on your behalf in the proposed Corporate Action shall be a representation to XNT that you are entitled to participate and that all restrictions and qualifications, as may be applicable, have been complied with. By accepting and executing any request on your behalf, XNT is not making any representation or warranty about your eligibility to exercise or participate in



any particular Corporate Action.

When receiving information on Corporate Action, you shall have a duty to independently assess such information and the impact of such Corporate Action and to make an independent decision on the required course of action. XNT shall not be liable for any losses or damages incurred by the Client as a result of participation or non-participation in a Corporate Action, or in case the Client was not aware, has not been notified of or has been denied to participate in any Corporate Action by XNT or its Counterparties or Delegates.

For execution of some Corporate Actions, XNT may, without receiving your instructions, block financial instruments in your Account until the Corporate Action is effected. XNT shall not be liable for any loss incurred by the Client due to the Client not being able to operate with the financial instruments blocked in the Client Account.

## 5. XNT charges

5.1. Charges: You shall pay XNT such charges, commissions and fees (the "Charges") as may be determined by XNT in its own discretion from time to time. You will be deemed to agree to the applicable Charges disclosed on the Website or through the Online Facility every time you place an Order or enter into a Contract or Transaction. If in accordance with the Applicable Regulations the Charges are applicable with any taxes, duties or similar payments, XNT shall be entitled to withhold such payments from you, it being understood that the amount of the respective Charge shall be increased for the amount of such payments.

5.2. Changes in the Charges: XNT is entitled to unilaterally amend and change the Charges in its own discretion at any time with such amendments or changes taking effect in accordance with procedures set forth in Clause 21.1.

XNT is entitled to adopt the Charges with immediate effect for newly introduced Services in its own discretion at any time.

5.3. Charges disclosure: Without prejudice to Clause 5.2, XNT will inform you of the Charges in force and any amendments and changes to the Charges via the Website or the Online Facility. Every Order / Transaction placed is a confirmation of your consent to the Charges applicable.

5.4. Expenses: In addition to the Charges, unless otherwise stated, immediately upon XNT's request, you are obliged to reimburse XNT for all payments made by XNT and all expenses incurred by XNT in connection with execution of any Order, Contract or Transaction and/or in connection with maintaining the Client relationship, or generally, the Services.



No deduction of any kind shall be made from the Charges, expenses of other payables due to XNT.

5.5. Settlement of payables: Unless specified otherwise, all amounts due to XNT under this Agreement shall, at XNT's option:

5.5.1. be deducted from any funds held by XNT for you; or

5.5.2. be paid by you in accordance with the provided invoice.

5.6. You hereby irrevocably and unconditionally authorise XNT (which mandate is given by way of security to XNT who declares to have an interest therein), to deduct or withdraw any amounts payable and due to XNT under this Agreement from the Clients' Money and to perform such acts as may be required in order to ensure such deductions or withdrawals can be effected.

5.7. Inducements: You acknowledge that, subject always to the Applicable Regulations, fees, commissions, and/or non-monetary benefits may be paid or provided by or to third parties in connection with the Services, which are designed to enhance the quality of the relevant Service(s) ("Inducements"). The Inducements which may be provided or paid as at the date of this Agreement, are summarised below.

XNT has concluded or may conclude agreements regarding the introduction or referral of clients with Introducers, in terms of which it is or may be obliged to pay remuneration, in the form of commissions or otherwise, to the Introducer.

XNT may receive remuneration from, or share charges with, an Affiliate or other third party in connection with Transactions carried out on your behalf. In particular, XNT may be entitled to receive commissions or rebates from certain Counterparties, where a certain volume threshold is exceeded.

In general, where you are referred by an Introducer/, we may pay the Introducer a commission or referral fee of up to 50 % per annum. In other cases and in accordance with our licensing conditions and applicable law we will provide you, upon request or where required before provision of the relevant Services, with further details on the existence, nature and amount, or where the amount cannot be ascertained, the method of calculation of the amount, of the relevant Inducements. In addition, where required under our licensing conditions and applicable law, we may on an annual basis provide details of Inducements paid or received during the year in particular where the exact amount could not be ascertained upfront.

5.8. Currency indemnity: If XNT receives or recovers any amount in respect of an obligation of yours in a currency other than that in which such amount was payable, whether pursuant to a judgment of any



court or otherwise, you shall indemnify us and hold us harmless from and against any cost (including costs of conversion) and loss suffered by XNT as a result of receiving such amount in a currency other than the currency in which it was due. It is your responsibility to manage your currency risks after XNT charges have been debited.

5.9. Late payments: In the event of late payment under the provisions of this Clause 5 or of any other amount due by you under this Agreement, you agree to pay interest on any amount owed by you to us, in consideration of mere delay of payment, at the maximum rate allowed by Applicable Regulations from time to time (or if no maximum rate is established, the statutory rate), and you waive any right of abatement of such interest. You further agree to reimburse XNT for all costs of collection of payments owed to XNT under the provisions of this Clause 5 or as otherwise provided in this Agreement, including legal fees and third-party collection fees or charges.

## 6. Confidentiality and personal data protection

6.1. XNT will treat all information about you and your Accounts and Transactions ("client information") as confidential, even when you are no longer a client. XNT will keep client information for as long as it is required by Applicable Regulations. You agree, however, that XNT may disclose client information without the obligation to obtain your additional approval:

- 6.1.1. to other companies in XNT group (Affiliates), and that XNT and Affiliates may disclose it to those who provide services to XNT, or act as agents or with whom XNT or Affiliates enter into partnership agreements or other financing agreements on the understanding that they will keep that information confidential;
- 6.1.2. to anyone to whom XNT transfers or proposes to transfer either XNT's rights or duties under this Agreement; to any third party as a result of any restructuring, sale or acquisition of any company within the group provided that any recipient uses your information for the same purposes as it was originally supplied to XNT and/or used by XNT; to credit reference agencies or other organizations that help XNT and others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity fraud prevention or credit control checks;
- 6.1.3. to regulators and governmental agencies, in any jurisdiction, where XNT is required to do so by Applicable Regulations;
- 6.1.4. to any, Counterparty, Delegate, Service Provider, Depository and other third party, if it is required for execution of any your Instruction, Order, Transaction/Contract or ensuring provision of the Services under this Agreement, or for performance by XNT or by the aforementioned persons





of their statutory duties;

- 6.1.5. to issuers (or their authorized representatives) of the respective Instruments held on your behalf, revenue or government supervising authorities, or other competent authorities of the Republic of Malta, the European Union or other countries, if it is required in order to ensure compliance with any Applicable Regulations, or to ensure performance by the aforementioned persons of their statutory duties;
- 6.1.6. to supervisors or auditors of XNT;
- 6.1.7. to supervisors of financial and capital markets or to stock exchanges, if it is required in accordance with Applicable Regulations;
- 6.1.8. to courts, courts of arbitration, or for the sake of out-of-court dispute resolution pursuant to the provisions of Applicable Regulations;
- 6.1.9. to other third parties, where there is a public duty to disclose or XNT's interests require disclosure, or where the information was previously publicly available, or at your request or in other cases, if permitted under Applicable Regulations.

You agree, that in the aforementioned cases XNT shall also be entitled to transfer client information outside the EEA subject to Applicable Regulations.

- 6.2. Without prejudice to Clause 6.1, neither Party hereto will (except under compulsion of law or as otherwise required pursuant to this Agreement), either before or after the termination of this Agreement, disclose to any person not authorised by the relevant Party to receive the same, any confidential information relating to the relevant Party or to the affairs of such Party which has come in the possession of the Party disclosing the same in the performance of this Agreement, and each Party will use all reasonable endeavours to prevent any such disclosure as aforesaid. No Party to this Agreement will knowingly do or suffer any act or matter or thing which would or might reasonably be expected to prejudice materially or bring into disrepute the business or reputation of any other Party.
- 6.3. Personal Data Protection: For the purposes of this Agreement, "GDPR" means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, as may be amended or replaced from time to time, and includes any related guidance provided by the European Data Protection Board or any other competent authority; and the words and expressions "controller", "data subject", "personal data", "process / processing", "processor"



and “third party” have the same meaning as is assigned to them under article 4 of the GDPR.

Personal data: For the purposes of this Agreement, “personal data” means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. Before providing XNT with any personal data you should ensure that the individuals to whom the personal data relate have consented to you providing XNT with their data and are aware of their rights as data subjects under the GDPR, of XNT’s identity and that XNT may use their information for the purposes set out below.

To the extent that XNT, as a controller and a processor, processes any information that constitutes personal data, in the performance of this Agreement, XNT undertakes to process such data in accordance with the provisions of the GDPR, in the manner and for the purposes indicated in this Clause 6, and/or as XNT may disclose on its Website or Online Facility, or notify to the Client from time to time.

XNT will process such personal data as may be necessary for the provision of the Services, in accordance with this Agreement, and as XNT may be obliged or authorised to do by or under the Applicable Regulations (including but not limited to, compliance with the Licence conditions and with applicable prevention of money laundering and funding of terrorism legislation and requirements thereunder applicable to XNT) or in line with any data subject consent to processing that it may obtain from time to time.

Any processing of personal data carried out by XNT or any processor appointed by it, shall be undertaken in compliance with the GDPR.

XNT shall ensure that any processors engaged by XNT, which are located outside the EEA shall be subjected to standard contractual clauses or any other equivalent protection measures specified under the GDPR which ensure that transfers outside the EEA are subject to safeguards and protection which are equivalent to those provided to data subjects under the GDPR.

XNT shall furthermore ensure that personal data is only disclosed and processed as authorised or otherwise for contractual necessity, in compliance with its legal obligations or pursuant to XNT’s legitimate interests. XNT and its Affiliates may use the information for marketing purposes (including letter, telephone, email or other methods) to inform you or other data subjects about services which



may be of interest to you or them. You are hereby being notified that you have an absolute right to object to such and may do so by contacting your usual contact within XNT or the XNT data protection officer at [dpo@xnt.mt](mailto:dpo@xnt.mt). XNT may retain personal data after you cease to be a client, for as long as permitted for legal, regulatory, fraud and legitimate business purposes.

You hereby agree to the processing of personal data relating to you, your officers, agents, employees, and other persons related to you in accordance with the provisions of this Clause 6 in relation to the processing of personal data as described above, as may be required by or under the applicable laws.

6.4. Your rights: As a data subject, you are entitled to a number of rights under the GDPR. These rights include the right to:

- Request access to your personal data (commonly known as a “data subject access request”). This enables you to receive a copy of the personal data we hold about you and to check that we are lawfully processing it;
- Request correction of the personal data that we hold about you. This enables you to have any incomplete or inaccurate data we hold about you corrected, though we may need to verify the accuracy of the new data you provide to us;
- Request erasure of your personal data. This enables you to ask us to delete or remove personal data where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal data where you have successfully exercised your right to object to processing where we may have processed your information unlawfully or where we are required to erase your personal data to comply with local law. Note, however, that we may not always be able to comply with your request of erasure for specific legal reasons which will be notified to you, if applicable, at the time of your request;
- Object to processing of your personal data where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground as you feel it impacts on your fundamental rights and freedoms. You also have the right to object where we are processing your personal data for direct marketing purposes. In some cases, we may demonstrate that we have compelling legitimate grounds to process your information which override your rights and freedoms;
- Request restriction of processing of your personal data. This enables you to ask us to suspend the processing of your personal data in the following scenarios: (a) if you want us to establish the data’s accuracy; (b) where our use of the data is unlawful but you do not want us to erase it; (c)



where you need us to hold the data even if we no longer require it as you need it to establish, exercise or defend legal claims; or (d) you have objected to our use of your data but we need to verify whether we have overriding legitimate grounds to use it;

- Request the transfer of your personal data to you or to a third party. We will provide to you, or a third party you have chosen, your personal data in a structured, commonly used, machine-readable format. Note that this right only applies to automated information which you initially provided consent for us to use or where we used the information to perform a contract with you.

Such rights may be exercised by contacting your usual contact within XNT or by contacting the XNT data protection officer directly at [dpo@xnt.mt](mailto:dpo@xnt.mt).

Such requests must be made by the relevant data subject and will be handled by us in accordance with the GDPR.

6.5. XNT, its Affiliates, its Delegates, the Counterparties, and the Service Providers and other persons processing personal data, may also be subject to and required to comply with data protection legislation in the relevant jurisdiction, including the GDPR.

6.6. For the purpose of this Agreement XNT will process the following data, for the following purposes, and subject to the terms mentioned below:

Data Category: Personal details (including name, surname, nationality, Identity number, Date of birth, biometrical data, address, tax number, residence, information related to experience, employment, source of wealth, experience in trading). Main Purposes: Contractual necessity, client onboarding, know-your client, Anti Money-laundering regulations, MiFID Categorization Detection, billing, report preparation, risk management, internal client analytics, storage and backup. Main Sources: Application forms, website registration, email and telephone correspondence. Possible Disclosures: Affiliates, Service Providers and Affiliates, to anyone to whom XNT transfers or proposes to transfer either XNT's rights or duties or any third party as a result of any restructuring, sale or acquisition of any company within the XNT group, credit reference agencies or other organisations that help XNT and others make credit decisions and reduce the incidence of fraud, regulators and government agencies. Retention Period: For the duration of the contractual relationship, and subsequently thereafter as may be required by Applicable Regulations. XNT shall be entitled to request, receive and process personal data from other sources, including from private, government, municipal data bases.

Data: Personal Details and Interaction (Gender, Age, Date of Birth, Country of Residence, Language,



Interest in Investment Products) Main Purposes: Direct Marketing and Marketing Research Main Source: EXANTE CRM, Google analytics, Facebook, researches of marketing agencies, telephone and email correspondence. Possible Disclosures: : Affiliates, Service Providers and Affiliates, to anyone to whom XNT transfers or proposes to transfer either XNT's rights or duties or any third party as a result of any restructuring, sale or acquisition of any company within the XNT group.

Please note that XNT will only process your data for Direct Marketing and Marketing Research provided you have explicitly provided to XNT your consent in relation to these categories of processing.

## 7. Conflict of interest

7.1. Conflict of Interest Policy: XNT is required to have arrangements in place to identify, prevent and manage conflicts of interest. XNT has identified potential conflicts of interest and they are managed in accordance with XNT's Conflict of Interest Policy. If XNT faces conflicts of interest with the Client, it will have regard to its obligations prescribed by the Applicable Regulations and under this Agreement, and will in particular ensure that all reasonable steps designed to prevent conflicts of interest from adversely affecting the Client's interests are taken. Where the organisational or administrative arrangements made by XNT to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to the Client's interests will be prevented, XNT will disclose the nature and/or sources of conflicts of interest to the Client before undertaking business on the Client's behalf. Details of the Conflicts of Interest Policy may be provided on request.

7.2. Disclosure: XNT shall not be obliged to disclose to you or take into consideration any fact, matter or finding which might involve a breach of duty of confidence to any other person, or which comes to the notice of any of XNT's directors, officers, employees or agents but does not come to the actual notice of the individual or individuals dealing with you. You agree that XNT may transact such business without prior reference to any potential specific conflict of interest.

## 8. XNT account and payments

8.1. Account Preconditions: An Account must be opened prior to placing any Order or entering into any Contract or Transaction with XNT. No Orders can be placed until an Account has been opened and cleared funds (to such amount as may be specified by XNT) received. Without prejudice to the foregoing, if XNT permits you (at its sole discretion) to place an Order notwithstanding that an Account has not been opened, or cleared funds have not been received, this shall not limit your liability to XNT under this Agreement in respect of the Order placed.



- 8.2. Account Currency: You shall designate a base currency of your Account in which XNT will recalculate net asset value of your positions. This Account base currency may be changed from time to time, upon reasonable request, at your expense. XNT has a multi-currency settlement account structure whereas each currency account is added whenever certain currency position entered.
- 8.3. Credit Assessment: To assess your creditworthiness, manage credit risk and to prevent fraud (or other criminal activity) you acknowledge and agree that XNT may, at its discretion:
- 8.3.1. make periodic searches and enquiries about you and any related party at credit reference agencies, and your employers, if applicable;
  - 8.3.2. disclose information to organizations involved in fraud prevention; and
  - 8.3.3. obtain information from and disclose information to other broker-dealers or investment managers which deal in or manage investments for you concerning any payment or security default or concerning any investment which is related to or connected with Margined Transactions which you seek to open with XNT.
- 8.4. Credit Limit Maintenance: Any limits for your Account (including any credit limits) will be set and varied from time to time with regard to your credit status and, where applicable, the amount of funds held with XNT. XNT may, in its sole discretion apply a limit to:
- 8.4.1. the size of any Order, Contract or Transaction or series of Orders, Contracts or Transactions that you may enter into; and
  - 8.4.2. the amount of leverage or any loss or liability to which you may be exposed.
- 8.5. Credit Disclosure: Account limits do not limit or represent your liability for losses to XNT, and the funds you may have from time to time with XNT as Margin, Client Money or otherwise do not represent any limit upon your financial liability to us.
- 8.6. Deposit Terms: XNT will only accept money from you by wire transfer. No cash or cheques will be accepted. Payments may be denominated in US Dollars, Euro or other currency if agreed so. You agree to make payments due to XNT under this Agreement in accordance with the following terms:
- 8.6.1. all transfer or other bank fees in respect of payment by you shall be solely at your expense;
  - 8.6.2. if any payment is not received by XNT on the due date for payment then, without limitation of any other rights which XNT may have, it will be entitled to charge interest on the overdue amount



- (both before and after judgment) at the rate specified in Clause 5.9 from the date payment was due until the actual date of payment, for mere delay, and you waive any right of abatement of such interest, in accordance with Clause 5.9;
- 8.6.3. you shall pay XNT on demand in a full indemnity basis all costs, charges, and expenses incurred by XNT in relation to any overdue payment;
- 8.6.4. any payment made to XNT will only be deemed to have been received when XNT receives cleared funds; and
- 8.6.5. it is your responsibility to ensure that payments made to XNT are correctly designated in all respects.
- 8.7. Third-party Payments/Transfers: XNT accepts no third-party payments/transfers to your Account, nor does it accept instructions to pay/transfer to a third party from your Account unless otherwise agreed in writing by XNT.
- 8.8. Payment Withheld: If the statement of your Account shows a credit balance, you may request XNT to return available Clients' Money and/or, XNT may agree (at its discretion) to transfer Clients' Assets to the Client or such third party appointed by the Client to hold the relevant assets on Client's behalf. However, XNT may at its discretion elect to withhold (or if applicable, deduct) any payment requested (in whole or in part) due to you if:
- 8.8.1. open Margined Transactions on the Account show notional losses;
- 8.8.2. XNT reasonably considers that additional funds may be required to meet any current or future Margin requirement on open Margined Transactions due to underlying market conditions;
- 8.8.3. you have any actual or contingent liability to XNT under this Agreement; and/or
- 8.8.4. XNT reasonably determines that there is an unresolved dispute between you and XNT in connection with this Agreement.
- 8.9. Payments from XNT: Without prejudice to Clauses 8.8, 11 and 14, Clients' Money credited to your Account will be returned upon your request in Euro or US Dollars unless another currency is agreed in advance between you and XNT. Payments will be made in the form of a wire transfer to the bank account from which funds were transferred to XNT, unless otherwise agreed. XNT shall not be obliged to make any payment to you unless your cash balance of Clients' Money remaining after making the payment would be sufficient to cover your Margin and any unrealized losses in relation to your open Margined Transactions.



8.10. You hereby agree to fully indemnify and hold XNT harmless against any costs or expenses (including all legal costs) which XNT may incur, either before or after the commencement of any legal action, to recover any amounts due to XNT as a result of your failure to make payment within the stipulated period.

8.11. XNT may convert money standing to your credit on your Account or transferred by you to XNT or due to be returned by XNT from one currency to another at prevailing market rates available to XNT (after accounting for commissions or charges), at your expense. Without prejudice to the generality of the foregoing, where a Transaction is entered into in a currency for which insufficient funds are available in that currency on the Account, XNT may, at its discretion, convert any funds in any other currency into the currency of the Transaction at prevailing market rates available to XNT, at your expense.

## 9. Dealing with XNT

9.1. Placing of Instructions: You may provide XNT with Instructions or Orders in writing, by email or other electronic means accepted by XNT or orally (including by telephone), unless otherwise specified by XNT. If you provide XNT with any Instruction or place any Order by telephone, your conversation shall be recorded. If any Instructions are received by XNT orally (including by telephone), XNT may ask you to confirm such Instructions in writing. XNT shall be authorized to follow Instructions notwithstanding your failure to confirm them in writing. The internet and other electronic communications may not be secure, reliable or timely. You acknowledge that any Instructions sent by you through the internet or other electronic means may be intercepted, copied, adapted or imitated by third parties.

9.2. Authority: You hereby authorise XNT to receive, transmit and execute any Orders and to carry out any Instructions for you and on your behalf in accordance with your electronic, written or oral Instructions received by XNT through the Online Facility or via telephone, or via any other means of communication.

XNT shall be entitled to act for you upon Instructions given or purporting to be given by you or any person authorized on your behalf without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such Instructions.

XNT is not liable in respect of any act or omission, made in good faith in reliance upon any Instructions believed to be genuine and to have been given by you, nor is XNT in any way liable for any unauthorised Instructions or use of the Services or for acting on or giving effect to any such unauthorised Instructions or use of the Services and, without prejudice to the foregoing, XNT shall have no responsibility for further inquiry into any Instructions given or the apparent authority of any third party and no liability





for the consequences of any actions taken or failed to be taken by XNT or any of its employees, officers or agents, Delegates of Affiliates, in reliance on any Instructions or on the apparent authority of any such authorised person(s).

- 9.3. You shall promptly notify XNT, if you discover or have reason to suspect or believe that an improper Instruction, Order, Transaction or Contract has been initiated using the Authenticators provided by XNT hereunder; provided, however, that you will be bound by the Instruction, Order, Transaction or Contract regardless of whether or not such improper Instruction, Order, Transaction or Contract was authorised by you.
- 9.4. You represent, warrant, acknowledge and agree that you shall be bound by all communications, including all offers and acceptances, which are accompanied by a valid Authenticator (each, a "Customer Order"). You acknowledge and agree that XNT and any Counterparty (i) may rely on, and enforce the terms of, any such Customer Order, (ii) shall have no duty to verify it further and (iii) shall not incur any liability as a result of acting on any Customer Order. You are deemed to have given a Customer Order to the Counterparty when such Counterparty receives such Customer Order through the Online Facility, whether or not you receive any acknowledgment subsequent thereto. You acknowledge and agree that you have an affirmative duty to timely review, for accuracy and correctness, any and all confirmation and reports of executions or orders and/or statements of accounts provided in connection with the use of the Services.
- 9.5. Cancellation/ Withdrawal of Instructions or Orders: If you request XNT to cancel your Instructions or Orders, XNT shall only be able to do so if it has not already acted on those Instructions/Orders. Instructions/Orders may only be withdrawn or amended by you with our consent.
- 9.6. Right Not to Accept Instructions or Orders: XNT may, but shall not be obliged to, accept Instructions to place an Order or to enter into a Contract or Transaction. If XNT declines to place an Order or to enter into a proposed Contract or Transaction, XNT shall not be obliged to provide a reason but XNT shall promptly notify you accordingly. Unless otherwise agreed with you, Instructions for the simultaneous sale and purchase of a security or a financial instrument on behalf of the same beneficial owner may not be given under this Agreement.
- 9.7. Control of Instructions or order Prior to Execution: XNT has the right (but no obligation) to set limits and/or parameters to control your ability to place Instructions at XNT's absolute discretion. Such limits and/or parameters may be amended, increased, decreased, or removed or added to by XNT at its absolute discretion and may include (without limitation):



- 9.7.1. Controls over maximum Instruction amounts and maximum Instruction sizes;
- 9.7.2. Controls over any of your liabilities under this Agreement and XNT's resulting total exposure to you;
- 9.7.3. Controls over prices at which Instructions may be submitted (to include, without limitation, controls over Instructions which are at a price which differs greatly from the market price at the time the Instruction is submitted to the order book);
- 9.7.4. Controls over XNT's Online Facility, including any verification procedures intended to ensure that any particular Instruction or Instructions has come from you; or
- 9.7.5. Any other limits, parameters or controls which XNT may be required to implement in accordance with Applicable Regulations.
- 9.8. Confirmations: XNT shall send you confirmations promptly for any Transactions that XNT has carried out on your behalf, by electronic means over XNT's Online Facility or otherwise.
- 9.9. If, for any reason the system supporting the Online Facility fails to accept your proposed terms of an attempted Transaction (as reflected by the fact that the attempted Transaction does not appear in a Trade Confirmation), XNT shall not be bound by your proposed terms, regardless of whether or not you were aware thereof, and no Transaction shall have come into existence.
- 9.10. When the economic and other relevant trade details of a Transaction have been accepted by the system supporting the Online Facility and have been made available on your trade statement found on the Online Facility (the "Trade Confirmation"), such Trade Confirmation shall, even if not expressly specified therein, constitute a valid "confirmation" for the purposes of this Agreement, sufficient for all purposes to evidence a binding supplement to this Agreement.
- 9.11. Confirmations shall in the absence of manifest error, be conclusive and binding on you, unless XNT notify you of an error in the Trade Confirmation. If XNT has notified you of any such error XNT shall issue a revised Trade Confirmation and the revised Trade Confirmation shall be conclusive and binding on you, unless XNT receives your objection in writing within one (1) Business Day of dispatching the revised Trade Confirmation to you.
- 9.12. Intermediate Broker and other Agents: XNT may at its entire discretion, arrange for any Transaction to be effected with or through the agency of an intermediate broker, who may be an Affiliate of XNT, and may not be in Malta. Neither XNT nor its directors, officers, employees or agents are liable to you for any act or omission of an intermediate broker or agent.



- 9.13. Performance and Settlement: You will promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction, as may be modified by any instructions given by XNT for the purpose of enabling XNT to perform its obligations under the relevant Transaction.
- 9.14. You shall not place any Orders and XNT shall not be obliged to accept Orders unless sufficient Clients' Money and Clients' Assets are available on the Account for the settlement of the relevant Transaction, the provision of Margin as may be required and the payment of any related Charges and expenses; provided that XNT may, at its discretion and subject to such terms and conditions as may be agreed, accept Orders where insufficient Clients' Money is available at the time of the Order.
- 9.15. Position Limits: XNT or any Counterparty may require you to limit the number of Open Positions which you may have at any time and it may in its sole discretion close out any one or more Open Positions in order to ensure that such position limits are maintained.

XNT is hereby irrevocably authorised (which mandate is given by way of security to XNT which declares to have an interest therein) to terminate and close out all or part of the Open Positions at the Client's expense in accordance with this Clause 9.15 or as otherwise provided in this Agreement; and to perform such acts as may be required in order to ensure that the same can be effected, without notice to the Client (including, to execute and deliver on behalf and/or in the name of the Client or otherwise, any powers of attorney, undertakings, representations and warranties and other documents, and to give any notices, and perform such acts on behalf and/or in the name of the Client or otherwise).

- 9.16. Trade Reporting and Limit Orders: Under Applicable Regulations, XNT may be obliged to make information about certain Transactions public.
- 9.17. Rollovers: In the absence of an offsetting or closing liquidation trade executed prior to the relevant cut-off time on any Business Day, XNT is irrevocably authorised (which mandate is given by way of security to XNT which declares to have an interest therein) to rollover/swap all or any portion of the Open Positions in the relevant Contracts in your Account at XNT's absolute and sole discretion and at your risk and expense, to the next settlement date and to perform such acts as may be required for the rollover/swap to be effected. Rollovers/swaps will be executed at rates determined by XNT and at XNT's absolute and sole discretion. Rollover/swap debits or credits will be reflected in the Client's Account at a time after the normal close of the Business Day.



9.18. Market Abuse or other misconduct: You shall not place any Order through or with us if you have reason to know that your Transaction is in breach of the Prevention of Financial Markets Abuse Act (Cap. 476) or subordinated subsidiary regulations of the Republic of Malta, or Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse, or other general market standards prohibiting insider dealing, market manipulation or any other form of market abuse or market misconduct.

Additionally, you shall not:

- (i) use any trading strategies, or use any electronic device, software, algorithm or practise behaviour aimed at exploiting errors, latency in prices, deficiencies of the Online Facility/Trading Platform, or
- (ii) conclude trades at off-market prices, or
- (iii) if applicable to you, abuse negative balance protection measures; whether under the same Account or in concert with another Client.

In the event that you place any Order or otherwise act in breach of the representations and warranties given in this section or we have reasonable grounds for believing that you have done so, in addition to any rights we may have under these Terms of Business, we may enforce the respective Transaction(s) against you, and/or treat all of your Transactions as null and void.

9.19. Exposure Fee: XNT is entitled to introduce additional or increase existing Margin Requirements in accordance with Clause 11 for your Transactions in Financial Instruments issued by entities recognized as your related party (the 'Exposure Fee').

An entity shall be deemed your related party if any of the following conditions applies:

- if you are a person: you and/or your close family member has control, including joint control, or significant influence over such entity, or you and/or your family member is a member of the key management personnel of the entity or of a parent of the entity;
- you are an entity:
  - the entity and you are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others),
  - one of you is an associate or joint venture of another entity (or an associate or joint venture of a member of a group of which one of you is a member),



- both you and the entity are joint ventures of the same third party,
- one of you is a joint venture of a third entity and another is an associate of the third entity,
- one of you, or any member of a group of which it is a part, provides key management personnel services to another or to the parent of that another entity.

Payment of the Exposure Fees does not render XNT responsible for your compliance with Applicable Regulations on market abuse, or other general market standards prohibiting insider dealing, market manipulation or any other form of market abuse or market misconduct, for which you shall remain solely responsible at all times.

## 10. Clients' money and assets

10.1. Clients' Money: Money received from a client by and held under the control of XNT will be credited to the relevant Account and placed in one or more accounts of XNT with a credit institution established and authorised in an EEA State or a bank authorised in a Third Country in an Account designated as a clients' account (each a "Client Account"). For the purpose of the Services, XNT will keep, transfer or deposit such Money as may be required to place Orders, enter into Contracts or carry out any Transactions from time to time, on or to one or more accounts maintained with, the relevant Counterparty/-ies or Delegate for trading purposes, including as Margin (each a "Trading Account"), which Trading Account(s) may be common, omnibus or client account(s). For the avoidance of any doubt, any Money transferred from a Client Account to, deposited with, or held by any Counterparty or other third party as Margin, or otherwise provided as collateral, will not be considered to be held by or under the control of XNT, and accordingly, will not be considered Clients' Money.

10.2. Clients' Assets: XNT will segregate Clients' Assets from assets belonging to XNT; provided that Clients' Assets may be placed or kept in a common pool of identical assets or otherwise deposited in an omnibus clients' account. In the event of default on the part of the bank or other institution which causes a shortfall in the money held in the pooled account, the Client may share proportionately in that shortfall.

10.3. Record keeping: XNT will maintain records and accounts of Clients' Money and Clients' Assets held under the control of XNT. XNT will identify the Client in such records and accounts and indicate that Clients' Money and Clients' Assets are separate and distinct from money and assets belonging to other clients or to XNT. Without prejudice to Clause 12.1 and 11.4, the Client must notify XNT where any Security Interest over Clients' Money or Clients' Assets held under the control of XNT has been given by the Client to any third party (except for any Security Interest granted under this Agreement,



Margined Transactions or any Transaction Documentation), and where any order by any Court has been made in connection with the Clients' Money or Clients' Assets, and XNT will indicate the same in its records and accounts.

- 10.4. Delegation: XNT may delegate all or part of the Services, including its functions and duties regarding the safeguarding of Clients' Money and Clients' Assets, to one or more intermediate brokers, agents or other third parties (a "Delegate") in accordance with the Applicable Regulations, and may entrust or deposit all or part of the Clients' Money and Clients' Assets to or with such Delegate(s). Without prejudice to the XNT's liability for its own acts and omissions as provided in Clause 18.1, XNT will not be liable for any loss or prejudice, directly or indirectly, suffered by the Client as a result of the acts, omissions or insolvency of any Delegate.
- 10.5. Use of Depositories: XNT may make use (directly or indirectly through any Counterparty, Delegate or other intermediary) of any market clearing system, central counterparty, settlement system, dematerialised book entry system, centralised custodial depository, or similar system (a "Depository") for the purpose of the holding or control of Clients' Assets and / or to effect any Transactions under this Agreement. XNT shall not be liable for any loss or prejudice suffered by you as a result of the acts, omissions or insolvency of any Depository or the use of such Depository or the system operated by it.
- 10.6. Where accounts containing Clients' Money and / or Clients' Assets are subject to the laws of any jurisdiction outside Malta, your rights relating the Clients' Money and Clients' Assets may differ from your rights under the laws of Malta.
- 10.7. XNT has a Security Interest, a right of retention and a right to set-off as stipulated in this Agreement, and Counterparties, Delegates, Depositories and other third parties engaged by XNT for the provision of the Services or by any of their delegates or Depositories ("Third Parties") may have a right of retention and / or Security Interest over, or right of set-off in relation to the Clients' Money and Clients' Assets deposited or entrusted with such Third Parties.
- 10.8. However, we may (but shall not be obliged to) pay interest or charge negative interest on cash balances of any Account or sub-account at a rate and otherwise on such terms as may be determined by us in our sole discretion. We reserve our discretion to pay interest to some (but not all) of our Clients.
- 10.9. Securities Financing Transactions: You agree that XNT its Delegates and any Counterparty may enter into arrangements for securities financing transactions in respect of Instruments held by XNT on your behalf, or held on your behalf in a nominee account maintained by a Delegate or other third party, or otherwise use such Instruments for the account of a third party, subject to the following:



- (i) when you transfer Instruments to XNT, you expressly authorise XNT, without giving notice to you, to borrow, lend, pledge, charge, rehypothecate, dispose of or otherwise use any Instruments for the account of XNT's clients to the extent permitted under Applicable Regulations, including, without limitation, use in securities financing transactions (as defined in the MFSA Rules), and you expressly authorise XNT to and hereby authorise any Delegate and any Counterparty to use the Instruments held with them for securities financing transactions or otherwise, for their own account or for the account of their customers, in accordance with the Transaction Documentation;
- (ii) upon borrowing, lending or other use by XNT, such Instruments will become the absolute property of XNT (or that of its transferee) free from any Security Interest and from any right, title or interest of yours;
- (iii) XNT, any Delegate or Counterparty may retain for its own account all fees, profits and other benefits received in connection with any such use of Instruments;
- (iv) upon any such use of Instruments by XNT, you will have a right against XNT for the delivery of Instruments of an identical amount, type, nominal value and description, having the same rights as the other Instruments and, for Securities, are of the same issuer ("Equivalent Assets"). XNT may deliver, or procure delivery of, Equivalent Assets to you by causing such Equivalent Assets to be transferred or designated to your Account. Such Equivalent Assets will upon such transfer or designation become subject to all of the provisions of this Agreement, including without limitation, this Clause 10 and Clause 11.

10.10. Client's Account statements will be available online via the Online Facility.

10.11. Reports, statements of Account/s, trade confirmations and all information available via the Online Facility shall be deemed correct and shall be conclusive and binding if you do not object to by telephone or e-mail immediately upon receipt or posting, and such objection (if made by telephone) is confirmed in writing within one (1) Business Day after posting or the transmission to you or if XNT does not change the confirmed execution price and details. XNT reserves the right to change confirmed rates, prices or trade details of executed and confirmed trades if XNT determines that the electronic or oral price or details related to that trade were reported in error. Trade corrections shall be conclusive and binding unless objected to immediately by telephone or email. Written objections on Client's part shall be directed to XNT and shall be deemed received only if actually delivered, return receipt requested. Failure to object shall be deemed ratification of all actions taken by XNT, its Delegates and/or Counterparties, or Service Providers, prior to Client's receipt or posting of said reports and other information.



10.12. You understand and acknowledge that oral information provided by XNT to you regarding confirmations of trades and statements of Account may be unverified and incomplete due to delays in transmission and other factors beyond XNT's reasonable control. You therefore acknowledge and agree that any reliance upon such oral information is your risk and you further agree to immediately bring to XNT's attention any such oral information which you have reason to believe is inconsistent with Client's own information.

10.13. No provision of this Agreement shall operate to prevent XNT from correcting any error or omission upon discovery. You agree that such errors, whether resulting in a profit or loss (which will be borne by you), may be corrected and your Account will be credited or debited in such manner and extent as to place the Account in the same position in which it would have been had the error not occurred, without any liability on XNT's part.

## 11. Margin conditions and security interest

11.1. Sufficient assets: You will ensure that sufficient Clients' Money and Clients' Assets are maintained in the Account, in such amounts or for such value and in such currency as may be specified or requested by XNT from time to time, to meet your obligations under this Agreement including for the provision of Margin. XNT is hereby irrevocably authorised (which mandate is given by way of security to XNT which declares to have an interest therein) to debit and transfer such amount from any Account, without notice:

- (i) as required for the payment of any Charges and expenses due and payable to XNT by you in terms of this Agreement, in particular Clause 5;
- (ii) as required for the payment of any amounts due to any Delegate, Counterparty, Depository, or other third party in relation to any Order, Contract or Transaction carried out or Instrument held on your behalf;
- (iii) to keep, transfer or deposit any Margin as may be required in the relevant Client Account(s) and/or to the relevant Trading Account(s), in particular to ensure that posted marked-to-market margin equals or exceeds required margin on Open Positions as may be required pursuant to Transaction Documentation; and
- (iv) to perform such acts as may be required in order to ensure that such debits and transfers can be effected.





11.2. Margin: For the purpose of the Orders, Contracts and Transactions, Client is required to provide and maintain Margin in such amounts and in such forms, and within such limits as XNT or the Counterparties may from time to time require in accordance with the Transaction Documentation. Margin requirements, including initial (opening) margin and maintenance margin requirements, are at XNT or the Counterparty's discretion. XNT or the Counterparty may change Margin requirements at any time and XNT is not required to provide you with advance written notice. Provided that, however, and notwithstanding any demand for additional Margin, XNT or the Counterparty may at any time proceed to liquidate Open Positions in accordance with the Transaction Documentation. XNT or the Counterparty may call for additional Margin at any time the Margin balance falls below the maintenance margin level as applied by the Counterparty.

11.3. Margin Calls: XNT may at any time notify you that unless you transfer to your Account(s) such additional Margin to meet Margin requirements, it or the relevant Counterparty may liquidate any or all Open Positions ("Margin Call"). Once issued, you must comply in full with the Margin Call regardless of any currency value fluctuations and irrespective of any recovery in the market value of the subject Open Positions. You may not increase or establish any new Open Positions while any Margin Call remains unsatisfied. Margin does not represent the total extent of your financial liability to XNT or otherwise, as you are liable for all losses in respect of any Contract or Transaction and any other costs or payments due under the Agreement. Furthermore, you acknowledge and agree that any waiver of margin or failure to make a Margin Call cannot be relied upon, or treated as, an act, omission or representation as to the current value of any of your Open Position.

11.4. Form of Margin: Unless otherwise agreed, Margin must be paid in cash. The currency of the cash margin you pay to XNT shall be the currency of the relevant underlying Transaction or Contract (if applicable) or as XNT may in its discretion reasonably request from time to time.

Non-Cash Margin: Where XNT agrees to accept non-cash collateral as Margin, it must be in a form acceptable to XNT. The value of the non-cash collateral and the proportion of that value to be taken into account for margin purposes shall be determined by XNT in its absolute discretion.

Security Interest: As continuing security interest for the due payment of the Secured Claims, you hereby pledge:

- (i) any present and future cash balances standing from time to time to the credit of any Account (excluding any cash provided as Margin) (the "Cash Collateral"); and
- (ii) any present and future Instruments in any Account (excluding any Instrument provided as Margin or otherwise provided as collateral to a third-party collateral taker or a person acting on its behalf (the "Securities Collateral"));



as financial collateral (the "Collateral") to XNT, subject to the terms and conditions set out in Clauses 14.1 to 14.4. Where you are a Client which is a non-natural person, the provision of Collateral shall be deemed as being provided in accordance with the Financial Collateral Arrangements Regulations, 2004 (Legal Notice 177 of 2004, as amended) (the "FCAR") and, as applicable, with the provisions of Title XXI of the Civil Code (Chapter 16 of the Laws of Malta) (the "Civil Code"). Where you are a Client who is a natural person the provision of Collateral shall be deemed as being provided in accordance with the provisions of Title XXI of the Civil Code. For the purpose of this Agreement the term 'non-natural person' shall have the same meaning as ascribed to it in the FCAR and your provision of the Collateral under these Terms of Business shall be referred to as the "Collateral Arrangement".

The Collateral Arrangement shall secure until full and final settlement, all present and future, actual or contingent or prospective obligations of the Client, arising under or in connection with this Agreement which give a right to cash settlement, together with all accruing interest and other indebtedness and all losses, costs, charges and expenses incurred by XNT in connection with the protection, preservation or enforcement of its under this Agreement and the Collateral (the "Secured Claims").

Until a Declared Default has occurred, the Client may use and dispose of the Collateral and operate any Account in accordance with this Agreement; this shall be without prejudice to the use of Instruments by XNT or a third party in terms of Clause 10.9.

The Client hereby:

- (i) acknowledges and agrees to the pledge of the Collateral, in accordance with the FCAR and/or the Civil Code, as the case may be (depending on whether the Client is a natural person or a non-natural person) and such other law as may be applicable;
- (ii) warrants that XNT will have first-ranking priority with regard to the Collateral, and undertakes not to create or permit to subsist any Security Interest over any part of the Collateral, or knowingly do or permit to be done, anything which might reasonably be expected to depreciate, jeopardise or otherwise directly or indirectly prejudice the existence, validity or ranking of the Collateral, unless otherwise agreed with XNT;
- (iii) undertakes to warrant and to defend its right, title and interest in the Collateral and that of XNT under this Agreement against the claims, demands and pretensions of any person whomsoever and the Client shall, at its own expense, perform all such acts as XNT may reasonably require for perfecting or protecting the Collateral Arrangement under this Agreement;
- (iv) undertakes to inform XNT promptly upon becoming aware of any seizure by any third party that relates or may relate to the Collateral or any other third-party measures which may impair or



jeopardise the Collateral. In the event of any such seizure or measures, the Client shall provide XNT with the order of seizure or declaring the relevant measure and any documents which XNT may request that are necessary or expedient for a defence against such seizure or measures. The Client shall inform the third party promptly in writing of the Collateral Arrangement and render XNT all assistance required or expedient to protect the Collateral;

- (v) undertakes to provide XNT with any authorisations and to sign any documents as may be required under any applicable law for the perfection of the Collateral, including the registration of any pledges. The Client hereby also irrevocably and unconditionally authorises XNT, by means of an irrevocable mandate by way of security in favour of XNT (who declares to have an interest in this mandate), to take such measures and perform such acts as may be required (including the provision of any authorisations and execution of any documents on behalf of the Client) for the perfection of the Collateral.

Without limiting any other rights or remedies under this Agreement or under the Applicable Regulations, upon a Declared Default, the Collateral may, at XNT's discretion, be realised, in whole or in part, in accordance with the following provisions of this Clause 11.4 and where applicable the FCAR and/or any other applicable law:

- (i) upon a Declared Default, the Client shall not be entitled to use or dispose of the Collateral and to make any withdrawals or transfers from any Account, unless XNT expressly consents thereto;
- (ii) upon a Declared Default, XNT shall be entitled to realise the Cash Collateral, at its discretion, by setting off the amount of any cash balance (as on the date of the Declared Default or thereafter) on any Account, against, or by applying such amount in discharge of the Secured Claims;
- (iii) upon a Declared Default, XNT shall be entitled to realise the Securities Collateral, as follows XNT may, at its discretion, sell (including, to any of its Affiliates) or appropriate all or part of the Securities Collateral and set off the value thereof against or apply the value thereof in discharge of the Secured Claims, in such manner and on such terms as it thinks fit;
- (iv) XNT shall only realise such Collateral as necessary to settle the Secured Claims (if and to the extent that this is commercially reasonable), but the Collateral Arrangement shall continue to secure any future Secured Claims, until it is terminated or released in accordance herewith. For the avoidance of any doubt, if XNT decides not to realise all the Collateral, it shall be entitled to determine, at its discretion, which part of the Collateral shall be realised;
- (v) for the purpose of realising the Collateral, the Client shall, upon XNT's request, promptly furnish



XNT with all relevant documents, and shall render all assistance and perform all acts as may be necessary or expedient for the realisation of the Collateral;

- (vi) the net proceeds (namely, the proceeds less any taxes, fees costs and expenses) resulting from the realisation of all or part of the Collateral shall be applied by XNT in discharge of the Secured Claims in such order and/or proportion as XNT shall determine in its absolute discretion.

In realising the Secured Claims through the appropriation of part or all of the instruments forming part of the Securities Collateral XNT and the Client agree that the value of the instruments so realised shall be determined by reference to the value of the instruments as follows:

- a) in case of listed instruments by reference to their value as quoted on the relevant exchange as at the date of the Declared Default;
- b) in case of unlisted instruments by reference to the value as at the date of the Declared Default as ascribed to them by an independent valuer appointed by XNT. The cost of the valuer shall be at the cost of the Client.

Without prejudice to the foregoing, XNT shall be entitled to take all measures and perform all acts on behalf of the Client, as may be necessary or expedient for the realisation of the Collateral, and the Client hereby irrevocably and unconditionally authorises XNT, by means of an irrevocable mandate by way of security in favour of XNT (who declares to have an interest in this mandate) to take such measures and perform such acts. Notwithstanding the realisation of Collateral by XNT on one or more occasions, the Collateral Arrangement shall not expire or terminate before and unless all Secured Claims have been fully and finally discharged and settled, and there is no amount outstanding under the Secured Claims, whether for principal, interest, fees, discounts or other costs, expenses, Charges or otherwise.

Upon full and final settlement of all Secured Claims as mentioned in Clause 11.4, XNT shall at the cost and expense of the Client, confirm to the Client in writing the release of the Collateral, do everything necessary to effect that release, and surrender the surplus of proceeds, if any, resulting from any realisation of the Collateral to the Client.

11.5. Right of Retention: XNT has a right of retention over the Clients' Money and Clients' Assets, to the extent of any lawfully due but unpaid Charges and expenses under this Agreement, until the same are paid in full by you.

XNT may exercise its right of retention by refusing to carry out any Order or Instructions to transfer, realise, dispose of or otherwise transact in any Clients' Money and Clients' Assets (which XNT may select at its sole discretion) and/or to refuse repayment of any Clients' Money up to a value which



is, in the opinion of XNT, sufficient to cover the amount of any unpaid fees and expenses under this Agreement. XNT will notify you of its decision to exercise its right of retention as aforesaid; provided that lack of or delay in notification does not prejudice XNT's right of retention. XNT is not liable for any loss or prejudice suffered as a result the exercise its right of retention.

## 12. Representations, warranties and covenants

12.1. Representations and Warranties: You represent and warrant to XNT as of the date of your acceptance of this Agreement and on a continuing basis, on the date of each Instruction, Order, Contract or Transaction that:

- 12.1.1. You have all the necessary authority, powers, consents, licenses and authorization and have taken all the necessary action to enable you lawfully to enter into and perform this Agreement and such Instruction, Order, Contract or Transaction and to grant the Security Interest and powers referred to in this Agreement;
- 12.1.2. The persons entering this Agreement and each Instruction, Order, Contract or Transaction on your behalf have been duly authorized to do so;
- 12.1.3. This Agreement, each Instruction, Order, Contract and Transaction and the obligations created under them are legal, valid and binding upon you and enforceable against you in accordance with their terms and do not and will not violate the terms of any law, regulation, order, charge or agreement by which you are bound;
- 12.1.4. No Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination of the above) an Event of Default (a "Potential Event of Default") has occurred and is continuing with respect to you;
- 12.1.5. You act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Instruction, Order, Contract or Transaction;
- 12.1.6. Any information which you provide or have provided to XNT in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect; and
- 12.1.7. Except as otherwise agreed in writing by XNT, you are the sole beneficial owner of all money and assets you transfer to XNT under this Agreement, free and clear of any Security Interest whatsoever other than a lien routinely imposed on securities in a clearing system in which such Securities may be held or the Security Interest created under this Agreement.



12.2. Covenants: You covenant to XNT that:

- 12.2.1. You will at all times obtain and comply, and so all that is necessary to maintain in full force and effect, all authority, powers, consents, licenses and authorizations referred to in this Clause 12;
- 12.2.2. You will promptly notify XNT of the occurrence of any Event of Default or Potential Event of Default;
- 12.2.3. You will use all reasonable steps to comply with all Applicable Regulations in relation to this Agreement and any Instruction, Order, Contract or Transaction, so far as they are applicable to you, and in any event you will at all times act with due skill and care;
- 12.2.4. You will not send Instructions or otherwise take any action that could create a false impression of the demand or value for a financial instrument, or send Instruction which you have reason to believe are in breach of Applicable Regulations. You shall observe the standard of behavior reasonably expected of persons in your position and not take any step which would cause XNT to fail to observe the standard of behavior reasonably expected of persons in XNT's position; and
- 12.2.5. You will provide XNT promptly following any reasonable request made by XNT with such information as XNT may reasonably require to evidence the matters referred to in this Clause 12 or to comply with any Applicable Regulations.

12.3. Taxes: You will be solely responsible for all taxes, levies, duties or similar charges, however designated, that may be assessed by any jurisdiction in respect of any proceeds derived from any Instruments as well as any of your Instruction, Order, Contract or Transaction or the Services provided by XNT under this Agreement (collectively "Taxes"), other than any taxes assessed or levied on XNT in respect of revenues earned by XNT in the provision of the Services under this Agreement.

You acknowledge that Taxes and/or costs may exist that are not imposed by or paid through XNT.

For the avoidance of doubt, by entering into this Agreement and agreeing to these Terms of Business, you authorize XNT to deduct from your Account any Taxes, withheld by any Counterparty, Delegate or Securities Depository or any Service Provider of XNT without the obligation to obtain your additional approval, but you shall not be consequently released of the obligation to independently assess your tax liabilities.



Should, notwithstanding the application of aforementioned deduction, you and/or your shareholders / beneficial owners and/or any related party be liable to pay additional Taxes, XNT shall not be held liable to pay any additional amounts in this respect, and you agree to hold XNT harmless from any claim whatsoever thereon.

XNT shall not be obliged to ensure application of the reduced Tax rates (as may be provided in applicable tax treaties between your country of residence and the country of source of proceeds), even where you have provided XNT with documents evidencing country of your tax residence.

12.4. Advice: XNT does not provide any financial, market, tax, legal or other advice to the Client. The Client is advised to obtain individual independent advice from a financial advisor, auditor, tax or legal advisor with respect to financial products, financial markets and tax implications of the respective Services. All and any information that may be provided or published by XNT in respect of taxes, market conditions or otherwise is for general reference only and is provided without any warranty, expressed or implied, in respect of its accuracy, completeness or applicability.

12.5. If a Market (or intermediate broker or agent, acting at the direction of, or as a result of action taken by, a Market) or regulatory body takes any action which affects a Transaction, then XNT may take any action which XNT, in its own reasonable discretion, considers desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any action shall be binding on you. If a Market or a regulatory body makes an enquiry in respect of any of your Transactions, you agree to fully co-operate with XNT and to promptly supply information requested in connection with the enquiry.

### 13. Events of default

#### 13.1. If at any time:

13.1.1. you fail to comply fully and immediately with any obligation to make any payment when due under this Agreement or to make or take delivery of any property when due under this Agreement;

13.1.2. you fail to comply fully and immediately with any obligation to inform and provide XNT with all relevant information and documents under the condition provided in this Agreement;

13.1.3. XNT has reasonable grounds to believe that you are in breach of any material provision of this Agreement;

13.1.4. XNT considers it necessary or desirable for its own protection or any action is taken or event occurs which XNT considers might have a material adverse effect upon your ability to perform



any of your obligations under this Agreement;

- 13.1.5. XNT considers it necessary or desirable to prevent what is considered to be or might be a violation of any laws, Applicable Regulations or good standard of market practice;
- 13.1.6. you die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you, or any indebtedness of yours is not paid on the due date therefore or becomes capable at any time of being declared due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to the Account or this Agreement ("Proceedings") are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrance takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);
- 13.1.7. you commence a voluntary case or other procedure seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, insolvency officer or other similar official (each an "Insolvency Officer") of you or any substantial part of your assets, or if you take any corporate action to authorize any of the foregoing;
- 13.1.8. an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganization, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of an Insolvency Officer of you or any substantial part of your assets;
- 13.1.9. you disaffirm, disclaim or repudiate any obligation under this Agreement or any guarantee, hypothecation agreement, margin, Security Interest or security agreement or document, or any other document containing an obligation of a third party, or of you, in favour of XNT or any Counterparty supporting any of your obligations under this Agreement (individually a "Credit Support Document");
- 13.1.10. any representation or warranty made or given or deemed made or given by you under this Agreement or any Credit Support Document proves to have been untrue, false or misleading in any material respect as at the time it was made or given or deemed made or given;





13.1.11. where you are a partnership, any of the events referred to in Clauses 13.1.1 to 13.1.9 occurs in respect of one or more of your partners;

13.1.12. an event of default (however described) occurs in relation to you under any other agreement with XNT;

then XNT may exercise any of rights under this Clause 13, without prejudice to any other rights and remedies under this Agreement or the Applicable Regulations.

13.2. Upon occurrence of an Event of Default XNT shall be entitled immediately to unilaterally suspend, change the provisions of execution, set any restrictions on executing or terminate, partially or in whole, any or all outstanding Open Positions, Instructions, Orders, Contracts or Transactions or limit the availability of any Services of XNT, as well as restrict, suspend or terminate, partially or in whole, any or all contractual relations with the client without the obligation to provide prior notice or reimburse any expenses or losses resulting therefrom.

If XNT elects to terminate any or all contractual relationship, XNT shall be entitled:

13.2.1. instead of returning to you Instruments equivalent to those credited to your Account, to pay to you the fair market value of such Instruments at the time XNT exercises such right;

13.2.2. to sell your Instruments in XNT's possession or in the possession of any Delegate, nominee or third party appointed under or pursuant to this Agreement, in each case as XNT may in our absolute discretion select or and upon such terms as XNT may in its absolute discretion think fit (without being responsible for any loss or diminution in price) in order to realize funds sufficient to cover any amount due by you hereunder;

13.2.3. to close out, replace or reverse any Open Position, Instruction, Order, Contract or Transaction, buy, sell, borrow or lend or enter into any other Contract or Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at XNT's sole discretion, XNT considers necessary or appropriate to cover, reduce or eliminate any loss or liability under or in respect of any of your Instruments, Open Positions or commitments;

13.2.4. to realize in accordance with this Clause 13 any Instruments or other assets of yours held by XNT;

13.2.5. to call any guarantee or indemnity provided by or on behalf of you;

13.2.6. to treat any or all Transactions then outstanding as having been repudiated by you, in which event our obligations under such Transaction or Transactions shall thereupon be cancelled and terminated.



- 13.3. XNT shall not lose any of its rights under this Clause 13 by reason of any delay on XNT's part in the exercise thereof, but in no circumstance shall XNT be under any obligation under this Clause 13 to exercise any such right or, if XNT does exercise any such right, to do so at a time or in a manner beneficial to you. XNT may at its absolute discretion close out Open Positions, Contracts or Transactions either on a single or collective basis.
- 13.4. Where XNT exercises its right under this Clause 13 to close out an Open Position, Instruction, Order, Contract or Transaction the closing out shall be effected by us in whole or in part at such time or times and at such price or prices as determined by XNT at its reasonable discretion. The amounts payable by you under the Open Position, Instruction, Order, Contract or Transaction being closed out shall then be immediately due.
- 13.5. Where XNT exercises its right under this Clause 13 to realize any Instruments or other assets of yours held by XNT, XNT shall be entitled to sell those Instruments or assets at the market price (as determined by XNT in its reasonable discretion) at the time the sale takes place. XNT shall have the right to choose the time, place and method of such sale at XNT's discretion. Any costs of sale shall be borne by you.
- 13.6. If any Event of Default occurs, XNT may by notice in writing to you require settlement of all open Transactions to take place in accordance with this Clause 13 on the settlement date which for this purpose shall be the date on which notice is given.
- 13.7. Where settlement of all Transactions are to be made under this Clause 13 no further payments shall be made in respect of any open Transaction after the settlement date and each open Transaction shall immediately be settled by your payment of the settlement amount.
- 13.8. You shall give XNT notice of an event specified in Clause 13.1 as soon as you become aware of its occurrence.
- 13.9. The Client shall at all times be liable for the payment of any deficit balance in Client's Account upon demand by XNT and, in all cases, Client shall be liable and indemnify XNT for any deficit remaining in Client's Account in the event of any actions taken by Client or XNT under this Agreement. In the event that the proceeds realised pursuant to the closing-out of any Open Positions, Instructions, Orders, Contracts or Transactions or the realisation of any Instruments or the Client's Money on the relevant Account/s are insufficient for the full payment of all liabilities of the Client under this Agreement, the Client shall promptly pay upon demand the entire amount of any such deficit, together with all other deficits and all unpaid liabilities of Client, including interest on any such deficit and liabilities at the rate specified in Clause 5.9, and all costs of enforcement and collection, such as, but not limited to, actual lawyers' fees, disbursements, travel and other expenses.



13.10. Where XNT exercises its right under this Clause 13 to suspend, change the provisions of execution, set any restrictions on executing or limit the availability of any Services of XNT, as well as restrict or suspend any or all contractual relations with the Client, XNT shall be entitled to do so for as long as any Event of Default lasts.

#### 14. Set-off and netting

14.1. Set-off: Immediately upon the occurrence of a Specified Event, all outstanding Orders, Transactions and other commitments made by XNT on your behalf will be cancelled, and no Orders may be placed by you or Transactions or Contracts entered into on your behalf.

14.2. Immediately upon the occurrence of a Specified Event:

- (i) all Open Positions will be terminated and closed-out and XNT's obligation to (re-)deliver Securities will be converted into a monetary obligation as provided below, and XNT shall determine, as at the Specified Event or as soon as reasonably practicable thereafter, the amount payable by or to you as a result of the termination and close-out of the Open Positions and the conversion of the obligation to (re-)deliver Securities into a monetary obligation, net of any fees, expenses or other amounts due to any Counterparty or other third party (the "Liquidation Amount"); and
- (ii) all outstanding obligations of XNT to pay or repay any amount under this Agreement to the Client (including the obligation to return any Client's Money) shall become due for performance immediately; and
- (iii) all outstanding obligations of the Client to pay or repay any amount under this Agreement to XNT (including the obligation to pay or reimburse any Charges or expenses related to the Services, in particular those referred to in Clause 5) shall become due for performance immediately; and the performance of the respective obligations of the Parties with respect to the (re-)payments (including the payment of the Liquidation Amount), as aforesaid shall be effected in accordance with Clause 14.3.

XNT's obligation to (re-)deliver Securities referred to in paragraph (i) will be converted into a monetary obligation to pay the amount equivalent to (i) the net proceeds of the realisation of Securities (if XNT chooses to realise such Securities on or after the Specified Event) or (ii) the value of the Securities determined by XNT as the amount which is XNT's estimate of the net proceeds that would be realised on a sale of such Securities after deducting all reasonable costs, fees, expenses and Taxes (if any) incurred in connection therewith, based on bid quotations in respect of the Securities of the relevant description (unless XNT determines it to be unreasonably practicable to obtain such bid quotations) obtained as of such date or dates as XNT thinks fit, in its sole and absolute discretion, from two or more market makers



or regular dealers in the appropriate market for Securities of that description in a commercially reasonable size (as determined by XNT).

Provided further that in respect of the outstanding obligations of XNT to (re-)deliver Securities, which are converted into a monetary obligation as per paragraph (i), the Securities may be realised by XNT, at its discretion, upon or after the Specified Event.

14.3. On the basis of the amounts established in accordance with Clause 14.2 (including the Liquidation Amount), which amounts will be expressed in EUR or USD or converted to EUR or USD at the exchange rates applied by the XNT in its ordinary course of business, an account will be taken (as on the Specified Event or as soon as is reasonably practicable thereafter) of any amounts that are due from each Party to the other in respect of the obligations referred to in Clause 14.2, and such obligations will be discharged by the payment of an aggregate net amount equal to the balance of account by the Party from whom the larger amount is due. If the balance is due by you, you shall promptly pay such balance upon XNT's demand; in the event of late payment by you, late payment interest shall accrue and be due and payable in accordance with Clause 5.9.

14.4. XNT is hereby irrevocably authorised (which mandate is given by way of security to the XNT which declares to have an interest therein) to terminate and close out all or part of the Open Positions and/or to realise all or part of the Instruments at your expense in accordance with Clause 14.2 or as otherwise provided in this Agreement; and to perform such acts as may be required in order to ensure that the same can be effected, without notice to the Client (including, to execute and deliver on behalf and/or in the name of the Client or otherwise, any powers of attorney, undertakings, representations and warranties and other documents, and to give any notices, and perform such acts on behalf and/or in the name of the Client or otherwise).

## 15. Termination

15.1. You may terminate this Agreement at any time by giving written notice to XNT, provided that, without prejudice to Clause 14, all outstanding Transactions and Orders shall be cancelled, all Open Positions closed out and all Instruments realised by the Client so that on the Termination Date the assets in the Account shall only consist of a cash balance.

15.2. XNT may terminate this Agreement at any time by giving you ten (10) Business Days' notice. Without prejudice to Clause 14, you shall ensure that all outstanding Transactions and Orders be cancelled, all Open Positions closed out and all Instruments be realised so that on the Termination Date the assets in the Account shall only consist of a cash balance.



15.3. XNT may terminate this Agreement immediately, at any time by giving notice in writing:

- (i) upon or following the occurrence of an Event of Default;
- (ii) if XNT goes into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation) or is unable to pay its debts or commits any act of bankruptcy or similar act under the laws of Malta or if a receiver is appointed in respect of any of the assets of XNT or if some event having an equivalent effect occurs;
- (iii) if XNT ceases to be licensed or otherwise authorised, or if the provision of the Services or the performance of the obligations of XNT under this Agreement becomes inappropriate, unlawful or illegal or if some event having an equivalent effect occurs;
- (iv) if you have no Open Positions or Instruments in your Account at the time when the notice of termination is sent.

Additionally we may, in our discretion and without providing any explanation for doing so, terminate this Agreement immediately and/or suspend or close any of your Accounts, additional Accounts and/or any sub-accounts of any such Account and/or suspend or cancel the provision of any Services, whether in general or in relation to any specific Instruments, by giving you a notice to that effect, if we believe in our discretion that any such action is necessary or desirable to comply with any legal or regulatory requirements or any regulator's requests applicable to us, any of our affiliates, agents, officers or employees. Any such action of XNT shall be without any liability for damages whatsoever.

15.4. The termination of this Agreement takes effect: (i) in the event of termination under Clause 15.2, on the date of expiration of the notice period; or (ii) otherwise, on the date of notice of termination given by either Party to the other Party, or such later date as may be specified in the notice (the "Termination Date").

15.5. Without prejudice to any other rights and remedies under this Agreement or the Applicable Regulations, if you fail to cancel all outstanding Transactions and Orders, close out all Open Positions and realise all Instruments by the Termination Date XNT may, without notice, do the same on your behalf, and you hereby irrevocably authorise XNT to do so (which mandate is given by way of security to the XNT which declares to have an interest therein).

15.6. Termination shall be without prejudice to accrued rights and remedies, and the existence and enforceability of any Open Position, which shall continue until close in accordance with this Agreement, unless otherwise specified.



15.7. Upon termination, all amounts due by you to XNT will become immediately due and payable including (but without limitation):

- (i) all outstanding fees, charges and commissions and other amounts due and accrued;
- (ii) any dealing expenses incurred by terminating this Agreement; and
- (iii) any losses and expenses realized in closing out any Transactions or settling or concluding outstanding obligations incurred by XNT on your behalf.

15.8. Termination shall not affect then outstanding rights and obligations under the Agreement and Transactions which shall continue to be governed by the Agreement and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed.

15.9. Without prejudice to any right or remedy which may be available to any Party in respect of the cause of termination of this Agreement, neither Party is entitled to compensation from the other Party solely by reason of the termination where the Agreement is terminated by the other Party in accordance with this Agreement.

15.10. Upon termination (and not later than the Termination Date), the Client shall (i) cease the use of the Services and destroy all Authenticators then in possession or control of the Client and (ii) without prejudice to Clause 14, pay to XNT all fees, expenses and liabilities due up to the Termination Date.

15.11. As soon as reasonably possibly following the Termination Date and subject to the provisions of Clause 14, XNT will return any Client's Money to the Client or to the Client's order, and, XNT may accept, at its discretion and subject to such terms and conditions as may be agreed between the Parties, deliver any Securities to the Client or to the Client's order.

15.12. All representations, warranties, and covenants made in or pursuant to this Agreement will survive the termination of this Agreement.

15.13. Any clauses or provisions of this Agreement which are expressly said or intended to apply or have effect and/or to continue to apply or have effect after the termination of this Agreement (for any reason whatsoever), including Clauses 11, 14, and 18 and 19, will so apply or have effect or continue to apply or have effect after such termination.

## 16. Net payments

16.1. Without prejudice to Clause 14, XNT may at any time set off any liabilities to make payment owed by XNT to you against any liability of yours to make payment to XNT.



16.2. When a Client of XNT acts as a Counterparty of XNT and holds financial instruments and/or cash in any currency deposited by XNT, XNT is entitled to net off, in total or in part, the cash deposits made by the Client in any currency and/or the financial instruments deposited by the Client with XNT, against the cash deposits made by XNT in any currency and/or financial instruments deposited by XNT with this Client as the Counterparty, provided these financial instruments are of an identical type, having the same rights and, for securities, are of the same issuer. For avoidance of doubt, XNT's entitlement to net off financial instruments includes, but is not limited to, ADRs and any other derivatives of the underlying financial instruments, as well as short sales of the underlying financial instruments.

## 17. Manifest errors

17.1. A "Manifest Error" means a manifest or obvious misquote by XNT, any Counterparty, or any Market, price providing third party, information source, commentator or official on whom XNT reasonably relies, having regard to the current market conditions at the time an Order is placed. When determining whether a situation amounts to a Manifest Error, XNT may take into account all information in its possession including, without limitation, information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement.

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

- (i) amend the details of such Order or Transaction to reflect what XNT considers in XNT's discretion, acting in good faith, to be the correct or fair terms of such Order or Transaction absent such Manifest Error/s;
- (ii) if you do not promptly agree to any amendment made under (i) herein XNT may void from its inception any Order or Transaction resulting from or deriving from a Manifest Error; and/or
- (iii) refrain from taking any action at all to amend the details of such a Order or Transaction or void such Order or Transaction.

17.3. XNT shall not be liable to you for any loss, cost, claim, demand or expense you suffer (including loss of profits or any indirect or consequential losses) resulting from a Manifest Error or XNT's decision to enforce the details of an Order or Transaction notwithstanding any Manifest Error, except to the



extent caused by XNT's own fraud, willful default or negligence. In the event that a Manifest Error is made by any Market, Counterparty, price providing third party, information source, commentator or official on whom XNT reasonably relies, XNT will not be liable to you for any loss, cost, claim, demand, or expense, except to the extent caused by its own fraud, willful default or negligence.

## 18. Liability and indemnity

- 18.1. General limitation: Neither XNT nor its directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses (including direct, indirect, incidental, punitive, or consequential loss, loss of profits, lost data, loss of use of the XNT Online Facility, business interruption, costs of substitute, services or downtime costs), incurred or suffered by you under this Agreement (including any Order, Contracts or Transaction or where XNT has declined to carry out a proposed Order or Transaction) unless and to the extent that such loss or prejudice arises directly from fraud, wilful default, or negligence, including the unjustifiable failure to perform all or part of its obligations under this Agreement, the Licence or the Applicable Regulations, on the part of XNT. In no circumstance shall XNT's liability include losses suffered by you or any third party for any special damage, or loss of profits or loss of goodwill or reputation or loss of business opportunity arising under or in connection with these Terms of Business.
- 18.2. Trading Losses: For the avoidance of doubt, in no circumstances shall XNT be liable to you, or responsible, for any trading losses or costs or expenses of any kind arising out of or in connection with the placement of Orders, or the entering into Contracts or Transactions by you, the carrying out of any Transactions or the holding of Instruments in accordance with this Agreement.
- 18.3. Tax implications: Without limitation, XNT does not accept liability for any adverse Tax implications of any Instruction, Order, Transaction or Contract or related to the Services whatsoever. For the avoidance of doubt, XNT shall not be liable to pay any amounts which are due to by paid by you and/or your shareholders / beneficial owners and/or any related party to the relevant revenue authorities.
- 18.4. Changes in the market: Without limitation, XNT does not accept any liability by reason of any delay or change in market conditions before any particular Transaction is effected.
- 18.5. Without prejudice to the provisions of Clauses 10.4 and 10.5, XNT will not be liable for any loss, damage, action, proceedings, claims, expenses, costs or other liabilities whatsoever which may be, directly or indirectly, suffered or incurred by or made against the Client, arising from any acts or omissions or the insolvency of any third party, including any Agent, Counterparty or Service Provider.
- 18.6. Force majeure: XNT shall not be liable for any loss of or damage or for any failure to fulfil its duties hereunder if such loss, damage or failure is caused, directly or indirectly, by force majeure such as the





act of any Government or other competent authority (including, capital or exchange controls, forfeitures, nationalizations, devaluations), civil commotion, rebellion, war, storm, fire, natural disasters, acts of God, international intervention, market conditions, inability to communicate with any relevant person or entity or any breakdown or failure of any transmission or communication system or computer facility, whether belonging to XNT, the Client or otherwise or of any Market, Depository, or other cause whether similar or not, outside the reasonable control of XNT and which makes it practically impossible for XNT to comply with its obligations under this Agreement (a "Force Majeure Event"). Without prejudice to the generality of the foregoing, since XNT does not control signal power, its reception or routing via internet, configuration of your Equipment or reliability of its connections, XNT shall not be liable for any claims, losses, damages, costs or expenses, including attorney's fees, caused directly or indirectly, by any breakdown or failure of any transmission or communication system or equipment or computer facility or trading software, whether belonging to XNT, its Affiliates, you, any Market, or any Depository when you trade online (via internet) or for any cause preventing XNT from performing any or all its obligations, any act of God, war, terrorism, malicious damage, civil commotion, industrial acts, any exceptional market event, or acts and regulations of any governmental or supra national bodies or authorities which prevent an orderly market in relation to your Orders. Upon the occurrence of a Force Majeure Event, XNT shall use commercially reasonable efforts to resume performance. Upon occurrence of a Force Majeure Event, all of XNT's obligations under the Agreement shall be immediately suspended for the duration of such Force Majeure Event. Additionally, XNT may take any one or more of the following steps:

- (i) alter normal trading times;
- (ii) alter the Margin requirements;
- (iii) amend or vary these Terms of Business and any Transaction contemplated by these Terms of Business, insofar as it is impractical or impossible for XNT to comply with our obligations;
- (iv) close such Open Positions and/or cancel such Instructions and Orders as XNT deems to be appropriate in the circumstances; and/or
- (v) take or omit to take all such other actions as XNT deems to be reasonably appropriate in the circumstances having regard to your Open Positions and those of other clients.

18.7. Indemnity: You agree to fully and effectively indemnify and hold harmless XNT, its officers, employees, Delegates, Affiliates and agents from and against any loss, actions, proceedings, claims, damages, expenses, costs or other liabilities whatsoever incurred or suffered by or made against XNT and/or any of its officers, employees, Delegates, Affiliates and agents at any time (before, during and after termination of this Agreement) arising, directly or indirectly, out of the holding or control of any



Clients' Money and Clients' Assets by or on behalf of XNT and/or in connection with the provision of the Services, or any Order, Transaction or Contract (including as a result of XNT acting upon the orders, instructions and/or directives of the Client or orders, instructions and/or directives believed by XNT to be coming from the Client; any loss incurred in relation to any Contract or Transaction which exceeds Margin provided by the Client; or any breach by the Client of the representations and warranties given in this Agreement), except and to the extent that the same arises from fraud, wilful default, negligence, including the unjustifiable failure to perform all or part of its obligations under this Agreement, the Licence or the Applicable Regulations, on the part of XNT.

18.8. Without prejudice to the generality of the foregoing and XNT's rights under Clauses 11 and Clause 14, you shall pay to XNT promptly upon request such sums as it may from time to time require to cover any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which XNT may incur or be subjected to with respect to any of your Accounts or any Transaction or as a result of any misrepresentation by you or any violation by you of your obligations under this Agreement (including any Transaction) or by the enforcement of our rights. Notwithstanding anything to the contrary, you will be liable for any and all debit balances not directly resulting from trading activity.

18.9. Without prejudice to Clause 18.7, you agree to indemnify and hold XNT, its Affiliates, employees, agents, and Delegates harmless from and against all liabilities, losses, damages, costs and expenses, including attorney's fees, resulting from use of Third-Party Services, including programmable trading systems, whether built by you yourself or by any third party and executed on or using the XNT Online Facility or any other additional services offered by XNT.

18.10. Claims from your customers: Without prejudice to Clause 2.6, to the extent you have entered Orders for the account of your customers, you shall on demand fully indemnify, protect and hold XNT harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs resulting from or arising out of claims raised by your customers.

18.11. XNT Online Facility: Access to the Online Facility is provided "as is". XNT makes no warranties, express or implied, representations, or guarantees as to the merchantability, fitness for any particular purpose or otherwise with respect to the Online Facility, its content, any documentation or any hardware or software provided. Technical difficulties could be encountered in connection with the Online Facility. These difficulties could involve, among others, failures, delays, malfunction, software erosion or hardware damage, which difficulties could be the result of hardware, software or communication link inadequacies or other causes. Such difficulties could lead to possible economic and/or data loss. In no event will XNT or its Affiliates or any of their employees, officers, agents or Delegates be liable for any possible loss (including loss of profit or revenue whether direct or indirect), cost or damage including, without limitation, consequential, unforeseeable, special or indirect damages or expense which might



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

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

18.13. The provisions of this Clause 18 shall survive the termination of this Agreement for any reason whatsoever.

## 19. Intellectual property

19.1. Information and Intellectual Property: You acknowledge and agree that XNT is the sole owner (except to the extent owned by third party licensors and except to the limited extent licensed by XNT to any other financial institutions and their clients) of all right, title and interest (collectively the "IP Rights") in and to the XNT Online Facility, the data and other information generated by the Online Facility ("Data") produced by and distributed by or through the Online Facility and each component thereof and all intellectual property and proprietary rights with respect thereto, including, without limitation, patent, copyright, trade secret, trademark and other proprietary rights in and to the Online Facility and each component thereof, and to all modifications, including custom modifications, to the Online Facility and each component thereof, whether made by or with the assistance of you and any other person and any know how, techniques, methodologies, equipment or processes used by the Online Facility, the look and feel of the Online Facility and each component thereof and all of XNT's software (front and back end) all registered trademark applications, trademarks and service marks, trade names, URL registrations and all pricing information and other Data.

19.2. You acknowledge and agree that XNT and/or its Service Providers and/or any of their Affiliates, as the case may be, own and shall retain all right, title and interest in and to the Services, the Website and the Online Facility, all components thereof, including without limitation all related applications, all application programming interfaces, user interface designs, software and source code and any and all intellectual property rights therein, including, without limitation all registered or unregistered, as applicable (a) copyright, (b) trade mark, (c) service mark, (d) trade secret, (e) trade name, (f) data or database rights, (g) design rights, (h) moral rights, (i) inventions, whether or not capable or protection by patent or registration, (j) rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, (k) patent and (l) other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Services, the Website and the Online Facility and all other related proprietary rights of XNT and/or its Service Providers and/or any of their Affiliates (together, with any and



all enhancements, corrections, bug fixes, updates and other modifications to any of the foregoing and any and all data or information of any kind transmitted by means of any of the foregoing, the "Proprietary Information"). You further acknowledge and agree that the Proprietary Information is the exclusive, valuable and confidential property of XNT and/or its Service Providers and/or any of their Affiliates, as the case may be. You agree not to reverse engineer, copy, bug fix, correct, update, transfer, reproduce, republish, broadcast, create derivative works based on or otherwise modify, in any manner, all or any part of the Services, the Website or the Online Facility or the Proprietary Information. You further agree to keep the Proprietary Information confidential and not to transfer, rent, lease, loan, sell or distribute, directly or indirectly, all or any portion of the Services or any Proprietary Information to any third party without the prior written consent of XNT.

## 20. Joint accounts

- 20.1. If more than one (1) natural person enters into this Agreement (Joint Account Agreement) as the Client, all such natural persons agree to be jointly and severally liable for the obligations assumed in this Agreement.
- 20.2. If this Agreement is entered on behalf of a corporation, limited liability company, trust, partnership, unincorporated association or other non-natural person as the Client, the Client hereby agrees to indemnify, defend, save and hold harmless XNT for any losses, claims, costs, damages and expenses resulting directly or indirectly from breach of any fiduciary or similar duty or alleged breach thereof.
- 20.3. If any Account is held by more than one (1) person, all of the joint holders are jointly and severally liable to XNT for any and all obligations arising out of transactions in the Account and agree to be bound by all terms and conditions of this Agreement signed by each party. XNT is authorised to accept Instructions without enquiry, and to send confirmations, notifications, documents and other information to any one (1) of the joint holders. Each Client hereby further appoints any and all of other said joint holders as Client's agent for any and all matters relating to the said Joint Account, including but not limited to the receipt of confirmations, notifications, documents and other information and hereby waives any right to receive the same otherwise. Any one (1) or more of the joint holders shall have full authority for the Joint Account and risk in the said Joint Account, including authority to: (i) trade for the Account; (ii) receive all correspondence, notices, documents and other information in respect of the Services; (iii) receive or withdraw funds from the Account; and (iv) execute agreements, form and other documents relating to the Services, in accordance with the terms of this Agreement. If any Account is a Joint Account, in the event of the death of any of the Account holders, the survivor(s) shall immediately give XNT written notice thereof, and XNT, before or after receiving such notice, may, at its discretion, take such action, institute such proceedings, require such documents, retain such portion of the Account, and restrict transactions in the Account as XNT may deem appropriate to protect



XNT against any tax, liability, penalty, or loss under any present or future laws or otherwise, or liquidate the Account or accept the instructions of the survivor, or a majority of the survivors, as the case may be, as to its continuance and as to the respective interests of the participants therein. The estate(s) of any of the Clients who shall have died shall be liable, and the survivor(s) shall continue to be liable, to XNT for any debit balance or loss in the Account in any way resulting from Orders, Transactions or Contracts initiated prior to the receipt by XNT of the written notice of the death of the particular Account holder, or incurred in the liquidation of the Account, or the adjustment of the interests of the respective parties.

## 21. Miscellaneous

21.1. Amendments: You understand, acknowledge and agree that XNT is entitled to unilaterally amend or change this Agreement, including the Charges and any additional conditions and provisions applicable to Client's business relationship with XNT (Clause 1 of this Terms of Business) in its own discretion at any time. XNT will notify you of any such amendment or change by posting the notice thereon on the Website or communicating it via an Online Facility. You are solely responsible for reviewing the said amendment or change. You agree to be bound by the terms of any such amendment or change on the earlier of: (i) ten (10) days after XNT has posted or communicated the notice as aforesaid; or (ii) on the date of the entry of any Instruction or Order other than a liquidating order, following the said notice, unless otherwise provided in this Agreement. In the event that Client objects to any such change or amendment, the Client shall notify XNT thereof, within ten (10) days after the notice of the amendment or change has been posted or communicated as aforesaid, and such notice given by the Client shall be deemed to be a notice of termination given in accordance with Clause 15, unless otherwise agreed. Unless otherwise agreed, an amendment or change will not apply to Transactions carried out prior to the date on which the amendment/change becomes effective and will not affect any outstanding Order, Contract or Transaction.

21.2. Notices: Unless otherwise agreed, all notices, instructions and other communications to be given by XNT to you under this Agreement may be oral or in writing and shall be given to your last known home address, place of work, telephone number (including a telephone answering machine), fax number, e-mail address or other contact details. All notices, instructions and other communications to be given to XNT by you under this Agreement (other than Instructions given through the Online Facility) should be sent to XNT by prepaid post or electronic mail.

21.3. Without prejudice to Clause 9.11, each notice, instruction or other communication to you (except confirmations of trade, statements of Account, and Margin Call warnings) shall be conclusive unless written notice of objection is received by us within five (5) Business Days of the date on which such document was deemed to have been received. Any notice, instruction or other communication shall



be deemed to have been duly given when received or given as follows, whichever is the earlier:

- (i) When delivered by hand or left at your last known home or work address;
- (ii) if given by leaving a telephone answering machine message or voice mail message, one hour after the message being left on the relevant medium;
- (iii) if sent by courier, in the ordinary course of the post and in any event on the third day after posting (excluding weekends and public holidays); and/or
- (iv) if sent by e-mail, one hour after sending, provided no "not sent" or "not received" message is received from the relevant email provider/s.

21.4. You will notify XNT in writing of any change of your address or other contact details in accordance with this Clause.

21.5. Assignment: This Agreement shall be for the benefit of and binding upon XNT and our respective successors and assignees. No assignment of any rights hereunder shall relieve you of any of your obligations or liabilities hereunder. You shall not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer rights or obligations under the Agreement or any interest in the Agreement, without XNT's prior written consent. XNT may assign its rights or transfer this Agreement by providing not less than ten (10) Business Days' written notice to you, except where it is impracticable in the circumstances. You hereby instruct XNT as the case may be that upon any such assignment or transfer, any monies held as Client Money be transferred to the Assignee to be held as Client Money on your behalf.

21.6. Disclosures: In order to comply with obligations under Applicable Regulation and the Licence, XNT may be required to make certain disclosures relating to your Contracts and Transactions, which may or may not include disclosing your identity. You agree that such compliance does not cause XNT to breach any obligation of confidentiality which it owes to you pursuant to this Agreement.

21.7. Time of essence: Time shall be of the essence in respect of all your obligations under this Agreement (including any Transaction).

21.8. Rights and remedies: The rights and remedies provided under this Agreement are cumulative and not exclusive of those provided by law. XNT shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by XNT to exercise or delay by XNT in exercising any of our rights or remedies under this Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.



- 21.9. Partial invalidity: If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
- 21.10. Entire Agreement: this Agreement, and any references to other agreements herein, together with any schedules attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written communications, proposals, agreement and representations with respect to the subject matter.
- 21.11. Waiver: XNT is entitled to waive or relax any provision of this Agreement from time to time without notice to you. No failure or delay in exercising or relaxation by XNT of this Agreement shall operate as a general waiver of the relevant term, condition, right or power and no partial or single exercise of any term, condition, right or power shall preclude any other or further exercise of some or any of our other rights and remedies against you. In particular, and without limitation, where this Agreement specifies certain limits or parameters to your trading activities or Margin requirements, XNT shall be entitled from time to time and with or without notice to you to allow you to breach such limits or parameters.
- 21.12. Recording of calls: XNT may record telephone conversations to ensure that the material terms of the Order or Instruction, and any other material information relating to the Order or Instruction is promptly and accurately recorded. Such records will be XNT's sole property and accepted by you as evidence of the Orders or Instructions given. You agree to the use of such recordings and transcripts thereof as evidence in connection with any dispute or proceedings that may arise involving you or XNT. You understand and agree that XNT may destroy such recordings at regular intervals in accordance with XNT established business procedures and at its discretion.
- 21.13. Electronic communications: By accepting this Agreement you give your consent to XNT providing information in a durable medium other than paper, where required under Applicable Regulations, and to receiving any reports, statements, documents, notices on amendments or changes to the Agreement and / or additional conditions and provisions and any other notices and information which XNT is required to provide by Applicable Regulations or under this Agreement (including any Account information, trade confirmations and statement of Clients' Money and Assets), primarily via the Online Facility in lieu of having such information delivered to Client via mail, fax or e-mail or in any other medium, unless otherwise stated in this Agreement. Orders or Instructions given by or to you by electronic means will constitute evidence of the Orders or Instructions given. You hereby consent that Account information and Trade Confirmations will be made available to you on the XNT Online Facility in lieu of delivery via mail or e-mail or other medium. You will be able to access this information using your Authenticators. Updated information will be



available no more than twenty-four hours after any activity takes place on your Account, absent any Force Majeure Event or service interruption. Posting of Account information will be deemed to be delivery of trade confirmations and statements of Clients' Money and Assets. If you no longer wish to communicate in this way, you must revoke this consent in writing.

- 21.14. Our records: Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our Services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on XNT to comply with your record keeping obligations, although records may be made available to you on request at XNT's absolute discretion.
- 21.15. Your records: You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of Orders submitted and the time at which such Orders are submitted.
- 21.16. Co-operation for proceedings: If any action or proceeding is brought by or against us in relation to this Agreement or arising out of any act or omission by us required or permitted under this Agreement, you agree to co-operate with XNT to the fullest extent possible in the defence or prosecution of such action or proceeding.
- 21.17. Complaints: If you have any complaint about XNT's performance under this Agreement, you should direct that complaint to our Compliance Officer, who will investigate the nature of the complaint in accordance with XNT's complaints handling procedure to try to resolve it. A copy of XNT's complaints handling procedure is available on request. XNT will take all reasonable steps to handle any complaint by the Client reasonably and promptly, and will keep records of each complaint received and the measures taken for its resolution. You may refer your complaint(s) to the MFSA if you are not satisfied with the manner in which your complaint(s) has/have been handled by XNT.
- 21.18. XNT has a legal obligation to comply with the provisions of the Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta) and regulations made thereunder. In furtherance of such obligations, in the event that XNT has a suspicion of money laundering or funding of terrorism in relation to the money or assets deposited by the Client or its agent it will be obliged to communicate its suspicions to the competent authorities. XNT may also be required to, inter alia, block the money and assets of the Client concerned. You acknowledge that XNT is bound to comply with the provisions of the Prevention of Money Laundering Act and regulations made thereunder and agree to provide XNT promptly upon the latter's request, with such documents and information which XNT may require from time to time to ensure compliance with applicable prevention of money laundering legislation, including the Prevention of Money Laundering and Funding of Terrorism Regulations, 2008 (Legal Notice 180 of 2008), and will notify XNT of any updates or changes to such documents or information provided by the Client or its agent, including without limitation, the identification of the





Client, the identification of the Client's beneficial owners, and details on the economic and business background and rationale of the business relationship with XNT, as soon as it becomes aware thereof.

- 21.19. You agree to provide to XNT, upon request, any documents or other information that may be required to comply with any laws, rules, regulations or notices relating to anti-money laundering or countering the financing of terrorism or any other related laws, rules, regulations or notices in any applicable jurisdiction. You further agree that, upon the request of XNT, you shall provide (i) such information as XNT or any Affiliate, Delegate, Counterparty or Service Provider may reasonably require to satisfy applicable anti-money laundering, client identification, verification and due diligence rules and regulations and other related laws and regulations, including, without limitation, background documentation and foreign bank certifications, if applicable, relating to you, and (ii) if applicable, the anti-money laundering policies and client identification, verification and due diligence policies and procedures of the Client.
- 21.20. Unless otherwise declared in such form as may be acceptable to XNT, you warrant to XNT that you are not a Politically Exposed Person or an immediate family member of a Politically Exposed Person or a close associate of a Politically Exposed Person and you will inform XNT as soon as you become one of the above. A Politically Exposed Person is a natural person who is or has been entrusted with prominent public functions. This may include: (i) Heads of State, Heads of Government, Ministers and Deputy and Assistant Ministers and Parliamentary Secretaries; (ii) Members of Parliament; (iii) Members of the Courts or other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances; (iii) Members of the courts of auditors, Audit Committee or of the boards of central banks; (iv) Ambassadors, charge d'affairs and other high ranking officers in the armed forces; and (v) Members of the administration, management or boards of State-owned corporations.
- 21.21. XNT may be bound to ensure compliance with international sanctions, including those issued by the United Nations Security Council and/or by the European Union; such sanctions may entail for instance that XNT is required to freeze assets belonging to, owned, held or controlled by designated individuals and entities, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them and to notify the relevant competent authorities thereof, or is prohibited from providing Services to designated individuals and entities.

## 22. Governing law

- 22.1. Governing law: A Transaction which is subject to the rules of a Market shall be governed by the law applicable to it under those rules, and/or as specified in the Transaction Documentation. This Agreement and any non-contractual obligations of the Parties shall be governed by, and construed in accordance with the laws of the Republic of Malta. If any conflict arises between this Agreement and the Applicable Regulations, the latter shall prevail.



22.2. Any dispute, controversy or claim arising out of or in relation to this Agreement, or the breach, termination or invalidity thereof, as well as any non-contractual relations with XNT in respect of matters contemplated in this Agreement, shall be settled by arbitration in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act of 1996 and the Arbitration Rules of the Malta Arbitration Centre as at present in force.

There shall be one (1) arbitrator to be appointed by agreement between the Parties or, failing such agreement within seven (7) days from the receipt by either Party from the other of a notice proposing the names of one or more persons who may serve as the sole arbitrator, by the Chairman of the Malta Arbitration Centre at the request of either Party. The seat of the arbitration shall be such place in Malta. The arbitral proceedings shall be conducted in English language. The applicable substantive law shall be Maltese law. The award shall be final and binding and there shall be no appeal. The arbitrator shall decide *ex aequo et bono*.

Notwithstanding, prior to the appointment of an arbitrator as described in this clause, XNT may by notice in writing to the other Party require that all or a specific dispute, controversy or claim arising out of or in relation to this Agreement, be heard by the competent courts of Malta. If XNT gives such notice to the other Party, the dispute, controversy or claim to which such notice refers shall be determined in accordance with the applicable Maltese law.

22.3. The official language of communication with XNT is English. However, for information purposes these Terms of Business and any other additional conditions and provisions may be provided in other languages. In case of any discrepancy or conflict between the text of these Terms of Business and other additional conditions and provisions in English and the text of these Terms of Business and other additional conditions and provisions in any other languages, the English text shall prevail and govern for all purposes.