



**SMARTFX**

# Customer Agreement



Privileged & Confidential: This document is solely for the intended recipient. All information within the document is confidential. Any other use of the information contained herein, including but not limited to disclosure, copying, use, or distribution of the information, is prohibited. © 2022, Smart Securities and Commodities Limited, All Rights Reserved.

This Customer Agreement (“Agreement”) is entered into by and between Smart Securities and Commodities Limited (“SmartFX”) its successors and assigns, and the undersigned individual or legal entity, including a corporation, limited liability company, trust or partnership (as applicable, “Customer”) that wants to open a Customer Account (“Account”) with SmartFX. In consideration of SmartFX’ agreement to carry one or more Accounts of Customer and provide services to Customer in connection with the purchase and sale of over-the-counter margin based trading contracts, Customer agrees as follows:

## **A. TRADING**

**1. AUTHORIZATION TO TRADE.** Subject to the terms and conditions of this Agreement and acceptance of Customer’s application to open an Account with SmartFX, Customer hereby authorizes SmartFX to maintain one or more Accounts in Customer’s name and engage in transactions for Customer’s Account in accordance with oral, written or electronic instructions by Customer and its officers, partners, principals, employees or other agents (“Representatives”). Customer will bear the risk of all unauthorized instructions by its Representatives and will indemnify and hold SmartFX harmless from all claims, liabilities, losses, damages, fees, costs and expenses relating to or arising from SmartFX’ reliance on such instructions, including any improper, unauthorized or fraudulent instructions by the Representatives, except in cases of gross negligence or willful misconduct by SmartFX. Unless expressly stated otherwise in writing, all transactions entered into between SmartFX and Customer shall be governed by the terms of this Agreement, as amended from time to time (including, without limitation, SmartFX’ Risk Disclosures and Trading Policies and Procedures).

## **B. ACCOUNTS**

**1. ACCOUNT APPROVALS AND MAINTENANCE.** SmartFX may reject Customer’s application or close Customer’s Account for any reason, at SmartFX’ sole and absolute discretion. SmartFX may require Customer to provide SmartFX with additional information or documentation in order for SmartFX to continue carrying Customer’s Account. Customer acknowledges that SmartFX may, at any time in its sole and absolute discretion, restrict trading, disbursements or transfers. SmartFX may amend, change, revise, add or modify the Agreement at any time. The most current Agreement will be posted to SmartFX’ Web site <http://www.Smartfx.com>. Customer understands that this Agreement cannot be modified by any verbal statements or written amendments that Customer seeks to make to the Agreement without written acceptance from the General Counsel of SmartFX. Customer acknowledges and agrees that Accounts are segregated in the SmartFX’ books and records only, and Customer’s funds are not FDIC-insured and are deposited with a liquidity provider selected by SmartFX in its sole discretion.

**2. JOINT ACCOUNT OWNERS.** If this Account is held by more than one (1) person, all of the joint holders agree to be jointly and severally liable for the obligations assumed in this Agreement. If this Account is held in trust, joint ownership, or partnership, the undersigned hereby agrees to indemnify, defend and hold harmless SmartFX for any losses resulting from breach of any fiduciary duty of the



undersigned to the other holders and beneficiaries of this Account. Further, any one or more of the joint owners shall have full authority for the Account and risk of the Account owners, to buy, sell, and trade in transactions of off-exchange products, to deposit with and withdraw from SmartFX, currencies, securities, negotiable instruments, and other property, including withdrawals to or for the individual use or Account of the party directing the sale or of any other party, to receive and acquiesce in the correctness of notices, confirmations, requests, demands and all other forms of communications, and to settle, compromise, adjust, and give releases with respect to any and all claims, demands, disputes, and controversies. Upon death or legal incapacity of any of the undersigned, SmartFX is authorized to take such action in regard to the Account, as SmartFX may deem advisable to protect itself against any liability, penalty or loss. Customer agrees to notify SmartFX immediately upon the death or legal incapacity of any joint owner. SmartFX may terminate this Agreement by written notice to any one of the joint owners.

**3. MARGINS AND DEPOSIT REQUIREMENTS.** Customer shall provide and maintain margin in such amounts and in such forms as SmartFX, in its sole discretion, may require. Customer agrees to deposit by immediate wire transfer such additional margin when and as required by SmartFX, and will immediately meet all Margin Calls in such mode of transmission as SmartFX shall, in its sole discretion, designate. SmartFX may change margin requirements at any time without prior notice. SmartFX retains the right to limit the amount and/or total number of open positions that Customer may acquire or maintain at SmartFX. SmartFX reserves the right to close any Customer positions at any time that it deems necessary. SmartFX shall not be responsible for any loss or damage caused, directly or indirectly, by any events, actions or omissions including but not limited to loss or damage resulting, directly or indirectly, from any delays or inaccuracies in the transmission of orders and/or information due to a breakdown in or failure of any transmission or communication facilities. For example, in volatile market conditions a margin call may be delayed resulting in the possibility of a negative usable margin; a margin call may occur even if positions are hedged, in the jurisdictions where hedging is permitted by law, due to rate volatility or daily interest charges or credits.

**4. ROLLOVERS.** SmartFX may, in its sole discretion and without notice to Customer, offset Customer's open positions, roll over Customer's open positions into the next settlement time period, or make or receive delivery on behalf of Customer upon any terms and by any methods deemed reasonable by SmartFX, in its sole discretion. Terms and/or methods for delivering, offsetting, or rolling over Customer's open positions may differ on a customer--by--customer basis, at SmartFX' sole discretion. Any positions held in Customer's Account at 5PM GMT may be rolled over to the next settlement date and the Account may be debited or credited for the interest differential for the rollover period.

**5. SETTLEMENT DATE OFFSET INSTRUCTIONS.** Offset instructions on positions open prior to settlement arriving at settlement date must be given to SmartFX at least one to three business days prior to the settlement or value day. Alternatively, sufficient funds to take delivery or the necessary delivery documents must be in the possession of SmartFX within the same period described above. If neither instructions, funds nor documents are received, SmartFX may without notice, either offset Customer's position or roll Customer's positions into the next settlement time period or make or receive delivery on behalf of Customer upon such terms and by such methods deemed reasonable by SmartFX in its sole discretion.

**6. LIQUIDATION OF ACCOUNTS.** In the event of: (a) death or judicial declaration of incompetence of Customer or, in the case of a legal entity, its dissolution or liquidation; (b) filing of a petition in bankruptcy, or a petition for the appointment of a receiver, or the institution of any insolvency or similar proceeding by or against Customer; (c) filing of an attachment against any of Customer's

Accounts carried by SmartFX; (d) insufficient margin, or SmartFX' determination that any collateral deposited to protect one or more Accounts of Customer is inadequate, regardless of current market quotations, to secure the Account; (e) Customer's failure to provide SmartFX any information requested pursuant to this Agreement; or (f) any other circumstances or developments that SmartFX deems appropriate for its protection, and in SmartFX' sole discretion, it may take one or more, or any portion of, the following actions: (1) sell any or purchase any or all contracts, securities or other property held or carried for Customer; and (2) cancel any or all outstanding orders or contracts, or any other commitments made with Customer. Any of the above actions may be taken without demand for margin or additional margin, without prior notice of sale or purchase or other notice to Customer, Customer's personal or appointed representatives, heirs, executors, administrators, trustees, legatees or assigns and regardless of whether the ownership interest shall be solely Customer's or held jointly with others.

**7. MANAGED ACCOUNTS.** With regard to managed Accounts, a money manager ("Money Manager") is a person or entity authorized to make decisions with respect to an Account on behalf of the Account's beneficial owners, including a trustee, custodian, conservator, guardian, executor, administrator, attorney-in-fact, or investment advisor or other person to whom Customer has granted trading authority over an Account. Customer understands and agrees that SmartFX may, but is not required to, review any action or inaction by a Money Manager with respect to an Account and is not responsible for determining whether a Money Manager's action or inaction satisfies the standard of care applicable to such Money Manager's handling of the Account. Customer further understands and agrees that SmartFX is not responsible for determining the validity of a person's or entity's status or capacity to serve as a Money Manager. Customer agrees to hold SmartFX and its officers, directors, employees, agents and affiliates harmless from any liability, claim, or expense, including attorneys' fees and disbursements, as incurred, for the actions or non-actions of Customer's Money Manager.

## **C. CUSTOMER REPRESENTATIONS**

**1. GENERAL REPRESENTATIONS AND WARRANTIES.** Customer represents and warrants that: a) Customer is of sound mind, legal age and legal competence; b) Customer (if not a natural person) is duly organized and validly existing under the applicable laws of the jurisdiction of its organization; c) Execution and delivery of this Agreement and all transactions contemplated hereunder have been duly authorized by Customer and will not violate any statute, rule, regulation, ordinance, charter, by-law or policy applicable to Customer; d) Each person executing and delivering this Agreement has been duly authorized by Customer to do so; e) No person other than the Customer has or will have an interest in Customer's Account; f) Regardless of any subsequent determination to the contrary, Customer is suitable to trade over-the-counter products; g) Customer is not now an employee of any exchange, any corporation in which any exchange owns a majority of the capital stock, any member of any exchange and/or firm registered on any exchange, or any bank, trust, or insurance company that trades the same instruments as those offered by Smart Securities and Commodities, and in the event that Customer becomes so employed, Customer will promptly notify SmartFX via email of such employment; h) Customer has read and understands the Risk Disclosure Statement, Arbitration Agreement and Trading Policies contained in this Agreement; i) Customer has conducted simulated trading using the demo trading platform for a period that has allowed the Customer to develop a full understanding of the trading platform; j) All information provided by Customer to SmartFX, including information regarding Customer's trading experience and investment sophistication, is true, correct and complete, and Customer will notify SmartFX promptly of any changes in such information. k) Customer will not engage in transactions for purposes of arbitrage, scalping or exploitation of temporary inaccuracies or technical discrepancies. Scalping, which we regard as an unacceptable trading method and a form of market abuse, entails exploiting internet latencies, delayed prices, off-market/bad prices, or high transaction volumes targeting tick fluctuations rather than price movements for rapid profit gains or swiftly closing trades within two minutes.



If we, at our discretion, determine your involvement in scalping, it will be considered a violation of our Terms and Conditions, allowing us to:

- Promptly modify your account, including adjusting provided liquidity and quoted spreads.
- Immediately terminate your account and server access.
- Invalidate any trade associated with scalping, treating it as if the trade never occurred.
- Close any trade linked to scalping based on our current market price.
- We retain the right to exercise these actions even if you've engaged in agreements with third parties regarding the trade in question, and even if you incur trading losses as a consequence.

Kindly note that we closely monitor all trading activity, and if scalping is detected, we reserve the right to promptly close your account.

**2. DISCLOSURE OF FINANCIAL INFORMATION.** Customer represents and warrants that the financial information disclosed to SmartFX in the Application is an accurate representation of the Customer's current financial condition. Customer represents and warrants that in determining Customer's Net Worth, Gross Income, Total Assets and Liabilities were carefully calculated. Customer represents and warrants that in determining the value of Total Assets, the Customer included cash and/or cash equivalents, U.S. Government and Marketable securities, real estate owned (excluding primary residence), the cash value of life insurance and other valuable Assets. Customer represents and warrants that in determining the value of Liabilities, Customer included notes payable to banks (secured and unsecured), notes payable to relatives, real estate mortgages payable (excluding primary residence) and other debts. Customer represents and warrants that Customer has very carefully considered the portion of Customer's Total Assets which Customer considers to be Risk Capital. Customer recognizes that Risk Capital is the amount of money Customer is willing to put at risk and if lost would not, in any way, change Customer's lifestyle. Customer agrees to immediately inform SmartFX if the Customer's financial condition changes in such a way as to reduce Customer's Net Worth and/or Risk Capital. **3. CREDIT.** Customer authorizes SmartFX or agents acting on behalf of SmartFX to investigate Customer's credit standing and in connection therewith to contact such banks, financial institutions and credit agencies as SmartFX shall deem appropriate to verify information regarding Customer. Customer further authorizes SmartFX to investigate Customer's current and past investment activity, and in connection therewith, to contact such futures commission merchants, exchanges, broker/dealers, banks, compliance data centers, and any other financial and investment institution as SmartFX shall deem appropriate. Upon reasonable request made in writing by Customer to SmartFX, Customer shall be allowed to review any records maintained by SmartFX relating to Customer's credit standing. Customer shall also be allowed, at Customer's sole cost and expense, to copy such records. Customer acknowledges that Customer's credit score may be impacted when SmartFX accesses Customer's credit file. Customer also acknowledges that SmartFX may provide information (e.g. negative Account information of unsecured debts) regarding Customer's performance under this Agreement to these agencies.

## **D. ORDER MANAGEMENT**

**1. CANCELLATION AND MODIFICATION REQUESTS.** Customer acknowledges that it may not be possible to cancel or modify an order. Customer understands and agrees that, if an order cannot be canceled or modified, Customer is bound by any execution of the original order. SmartFX is not liable to Customer if SmartFX is unable to cancel or modify an order. Customer further acknowledges that attempts to modify or cancel and replace an order can result in an over execution of the order, or the execution of duplicate orders, that SmartFX's systems do not prevent over execution on duplicate orders from occurring, and that Customer shall be responsible for all such executions. Customer agrees not to assume that any order has been executed or cancelled until Customer has received confirmation from SmartFX with regard to order execution. Customer is responsible for knowing the status of Customer's pending orders before entering additional orders. Customer agrees to contact SmartFX in the event



Customer is unclear on the status of an order. Customer agrees to regularly review Customer's online Account Statement to confirm the status of Customer's orders.

**2. STATEMENTS AND CONFIRMATION.** Reports of the confirmation of orders and statements of Accounts for Customer shall be deemed correct and shall be conclusive and binding upon Customer if not objected to immediately upon receipt and confirmed in writing within one (1) business day after the execution of the Customer's order. SmartFX will provide Customer access to view Customer's Account at any time with an online login via the Internet. SmartFX will not provide trade confirmation via postal mail. Written objections on Customer's part shall be directed to SmartFX at its address located at: Smart Securities and Commodities Limited., 1st Floor, Govant Building, Kumul Highway Port Vila, Vanuatu and shall be deemed received only if actually sent via email or delivered or mailed by registered mail, return receipt requested. Failure to object shall be deemed ratification of all actions taken by SmartFX or its agents prior to Customer's receipt of said reports. Customer's failure to receive a trade confirmation shall not relieve Customer of the obligation to object as set out herein.

**3. CHARGES.** Customer shall pay such charges (including, without limitation, markups and markdowns, statement charges, idle Account charges, order cancellation charges, Account transfer charges, introducing broker and Money Manager fees, or other charges) arising out of SmartFX providing services hereunder. SmartFX may change its charges without notice. All such charges shall be paid by Customer as they are incurred, or as SmartFX in its sole and absolute discretion may determine, and Customer hereby authorizes SmartFX to withdraw the amount of any such charges from Customer's Account(s).

**4. ABNORMAL ACTIVITY.** SmartFX may, in its sole discretion, reasonably determine that the Customer is showing abnormal trading activity or is behaving in a way which might reasonably be considered to be abusive in accordance with applicable regulations or is trading strategies aimed at exploiting misquotations or generally deemed to be in bad faith on the part of the Customer or attempting to abuse the information or facilities available on the Trading Platform wherever generated by the Customer will not be accepted by SmartFX. In any of such cases SmartFX shall be entitled to:

- a) upon written notice terminate Client Portal and trading accounts of Customer;
- b) adjust the price spreads;
- c) retrieve from the Customer's margin balance any historic trading profits that have been gained by the Principal (as determined by SmartFX) through such abuse;
- d) take any other action that SmartFX reasonably considers necessary to reverse the outcome and avoid such behaviour.

**5. RESPONSIBILITIES.** SmartFX will not be responsible for delays in the transmission of orders due to a breakdown or failure of transmission or communication facilities, electrical power outage or for any other cause beyond SmartFX' control or anticipation. SmartFX shall not be liable for losses arising from the default of any agent or any other party used by SmartFX under this agreement.

**6. CURRENCY FLUCTUATION RISK.** If Customer directs SmartFX to enter into any transaction: (a) any profit or loss arising as a result of a fluctuation in the rates affecting such a transaction will be entirely for Customer's Account and risk; (b) all initial and subsequent deposits for margin purposes shall be made in USD, or another currency which SmartFX may choose to accept, in such amounts as SmartFX may in its sole discretion require, with subsequent deposits being in the same currency as the initial deposit; and (c) SmartFX is authorized to convert funds in Customer's Account for margin into and from such foreign currency at a rate of exchange determined by SmartFX in its sole discretion on the basis of then prevailing money market rates.

**7. CROSS TRADE CONSENT.** Customer hereby acknowledges and agrees that SmartFX may act as the counterparty to Customer for any trade entered for the undersigned's Account. The undersigned hereby consents to any such transaction, subject to the limitations and conditions, if any, contained in the Rules or Regulations of any bank, institution, exchange or board of trade upon which such buy or sell orders are executed, and subject to the limitations and conditions, if any, contained in any applicable regulations of any globally recognized regulatory agency.

## **E. COMMUNICATIONS**

**1. GENERAL COMMUNICATIONS.** Reports, statements, notices and any other communications shall be transmitted to Customer electronically by posting to Customer's online Account or via email to the email address on Customer's application, or to such other email address as Customer may from time to time designate to SmartFX.

**2. EMAIL AND ELECTRONIC COMMUNICATIONS.** All emails sent to and from SmartFX are subject to monitoring, review or disclosure to someone other than Customer or Customer's intended recipient. Customer acknowledges that there may be delays in email being received by Customer's intended recipient. Customer agrees to hold SmartFX harmless for any delay in email delivery regardless of whether the delay was caused by SmartFX or a third party. Email sent to and from a SmartFX address may be retained by SmartFX' corporate email system. Customer agrees not to use email to transmit orders to purchase or sell over-the-counter products and further agrees that SmartFX is not liable for any actions taken or any omissions to act as a result of any email message Customer sends to SmartFX. Electronic communications with SmartFX via our Website, wireless device or touch tone service are also subject to monitoring, review by or disclosure to someone other than the recipient and such communications may be retained by SmartFX.

## **F. THIRD PARTIES**

**1. NO SEPARATE AGREEMENTS.** Customer acknowledges that Customer has no separate agreement with Customer's broker or any SmartFX employee or agent regarding the trading in Customer's Account, including any agreement to guarantee profits or limit losses in Customer's Account. Customer understands that Customer is under an obligation to notify SmartFX' Compliance Department immediately in writing as to any agreement of this type. Further, Customer understands that any representations made by anyone concerning Customer's Account that differ from any statements Customer receives from SmartFX must be brought to the attention of SmartFX' Compliance Department immediately in writing. Customer understands that Customer must authorize every transaction prior to its execution unless Customer has delegated discretion to another party by signing SmartFX' limited power of attorney ("LPOA"). Any disputed transactions must be brought to the attention of SmartFX' Compliance Department pursuant to the notice requirements of this Agreement. Customer agrees to indemnify and hold SmartFX harmless from all damages or liability resulting from Customer's failure to notify SmartFX' Compliance Department within one (1) business day of any of the occurrences referred to herein. All notices required under this section shall be sent to SmartFX at its address.

**2. REVENUE SHARING DISCLOSURE.** Customer acknowledges that SmartFX may enter into revenue sharing arrangements with or retain the services any other third party vendors in connection with technology support, back office and operational support functions relating to Customer's Accounts. SmartFX reserves the right to enter into such compensation or revenue sharing arrangements any other third party vendors based on volume traded, bid/offer pricing or other outside commission or revenue sharing models.



## G. COMPLIANCE

**1. ANTI-MONEY LAUNDERING PROCEDURES.** Customer agrees to and acknowledges that SmartFX may conduct the following procedures at the time of the opening and throughout the existence of the Account: a. Identity Verification. To help the government fight the funding of terrorism and money laundering activities, SmartFX is required to obtain, verify, and record information that identifies each person who opens an Account with SmartFX. When Customer opens an Account, SmartFX is required to collect information such as the following: 1) Customer's name; 2) date of birth;

3) permanent address; and 4) identification number. If Customer is a U.S. Citizen, the identification number required is Customer's social security number. SmartFX may verify Customer's identifying information by performing a credit check, or requiring Customer to provide a driver's license or other identifying documents. b. Monitoring. SmartFX may monitor the trading activity in Accounts to investigate or identify potential money laundering.

**2. SECURITY AND CONFIDENTIALITY.** Customer agrees and acknowledges that Customer is the exclusive owner and solely responsible, jointly and severally if applicable, for the confidentiality and protection of Customer's Account number(s) and password(s) that allow Customer to place online orders and access SmartFX' electronic trading systems. Customer further agrees that Customer will be fully responsible for all activities including brokerage transactions that arise from the use of Customer's Account number(s) and password(s). Customer agrees to indemnify and hold SmartFX harmless from: if any other person utilizing Customer's confidential information provides instructions to SmartFX that may be contrary to Customer's instructions. Customer will immediately notify SmartFX in writing or by email of any loss, theft or unauthorized use of Customer's Account number and/or passwords.

**3. INTELLECTUAL PROPERTY AND CONFIDENTIALITY.** All copyright, trademark, trade secret and other intellectual property rights in the SmartFX Trading Platform ("Trading Platform") shall remain at all times the sole and exclusive property of SmartFX and/or its 3rd party service providers and Customers shall have no right or interest in the Trading Platform except for the right to access and use the Trading Platform as specified herein. Customer acknowledges that the Trading Platform is confidential and has been developed through the expenditure of substantial skill, time, effort and money. Customer will protect the confidentiality of SmartFX and/or its 3rd party service providers by allowing access to the Trading Platform only by its employees and agents on a need to access basis. Customer will not publish, distribute, or otherwise make Information available to third parties any information derived from or relating to the Trading Platform. Customer will not copy, modify, de-compile, reverse engineer, and make derivative works of the Trading Platform or in the manner in which it operates.

**4. TRADING RECOMMENDATIONS.** (a) Customer acknowledges that: (i) any market recommendations and information communicated to Customer by SmartFX or by any person within the company, does not constitute an offer to sell or the solicitation of an offer to buy any contract, (ii) such recommendation and information, although based upon information obtained from sources believed by SmartFX to be reliable, may be based solely on a broker's opinion and that such information may be incomplete and may be unverified; and (iii) SmartFX makes no representations, warranties or guarantees as to, and shall not be responsible for, the accuracy or completeness of any such information or trading recommendation furnished to Customer. Customer acknowledges that SmartFX and/or its officers, directors, affiliates, associates, stockholders or representatives may have a position in or may intend to buy or sell, which are the subject of market recommendations furnished to Customer, and that the market position of SmartFX or any such officer, director, affiliate, associate, stockholder or representative may not be consistent with the recommendations furnished to Customer by SmartFX.

**5. RISK ACKNOWLEDGMENT.** Customer acknowledges that investments in leveraged transactions are speculative, involve a high degree of risk, and are appropriate only for persons who can assume



risk of loss of their margin deposit. Customer understands that because of the low margin normally required in trading over-the-counter contracts, price changes in contracts may result in the loss of Customer's margin deposit. Customer warrants that Customer is willing and able, financially and otherwise, to assume the risk of trading, and in consideration of SmartFX' carrying his/her Account(s), Customer agrees not to hold SmartFX responsible for losses incurred through following its trading recommendations or suggestions or those of its employees, agents or representatives. Customer recognizes that guarantees of profit or freedom from loss are impossible in trading. Customer acknowledges that Customer has received no such guarantees from SmartFX or from any of its representatives or any introducing agent or other entity with whom Customer is conducting his/her SmartFX Account and has not entered into this agreement in consideration of or in reliance upon any such guarantees or similar representations.

**6. RECORDINGS.** Customer agrees and acknowledges that all conversations regarding Customer's Account(s) between Customer and SmartFX personnel may be electronically recorded with or without the use of an automatic tone warning device. Customer further agrees to the use of such recordings and transcripts thereof as evidence by either party in connection with any dispute or proceeding that may arise involving Customer or SmartFX. Customer understands that SmartFX destroys such recordings at regular intervals in accordance with SmartFX' established business procedures and Customer hereby consents to such destruction.

**7. SECURITY AGREEMENT.** All monies, securities, negotiable instruments, contracts, off-exchange options and/or other property on deposit with SmartFX or its affiliates, in Customer's Account, for any purpose, including safekeeping, are hereby pledged with SmartFX and shall be subject to a security interest in SmartFX' favor for the discharge of all Customer's obligations to SmartFX, irrespective of the number of Accounts Customer has with SmartFX. Customer also grants SmartFX the right to use the above described properties and any Account credit to offset against any of Customer's obligations to SmartFX including, but not limited to, transfers for the purpose of margining, or for application to negative balance Accounts not promptly paid, as well as delivery costs and charges.

**8. TECHNOLOGY AND COMMUNICATIONS ISSUES.** SmartFX and/or its 3rd party service providers provide trading technology for Customer's use in connection with transactions made by Customer with SmartFX. Such trading technology includes, but is not limited to, the Trading Platform, web applications, application program interfaces, software, software code, programs, protocols and displays (collectively "Technology") for trading, analyzing trades and markets, and constructing automated trading systems. SmartFX provides the Technology "as is," without any warranties of Merchantability, fitness for a particular purpose, or other express or implied warranties. SmartFX will not be responsible for the operation or performance of any automated trading system developed with Technology or for any malfunctions of Technology or for any delays or interruptions in transmission of orders due to breakdown, excessive call volume or failure of transmission or communication equipment on the Internet or otherwise, including, but not limited to, communications problems, computer software or hardware breakdowns, malfunctioning errors, any and all problems or glitches associated with computer problems or any other technical cause or causes.

**9. FOREIGN ACCOUNTS.** Customers not residing in the United States ("Foreign Accounts") may be asked to comply with requests for special information by SmartFX as required by any governmental unit or regulatory agency. This includes, but is not limited to, special calls for information. In the event of a special call for information, SmartFX or its agent shall be required to obtain the information set forth by any governmental unit or regulatory agency requesting information. In addition, failure to respond to a special call may cause transactions to be prohibited (other than offsetting trades) for Customer. Foreign Accounts must copy and forward an official form of picture identification and must provide a bank reference before Customer is approved for trading.

## H. MISCELLANEOUS.

**1. BINDING EFFECT.** This Agreement shall be continuous and shall cover, individually and collectively, all Accounts of Customer at any time opened or reopened with SmartFX irrespective of any change or changes at any time in the personnel of SmartFX or its successors, assigns, or affiliates. This Agreement including all authorizations, shall inure to the benefit of SmartFX and its successors and assigns, whether by merger, consolidation or otherwise, and shall be binding upon Customer and/or the estate, executor, trustees, administrators, legal representatives, successors and assigns of Customer. Customer hereby ratifies all transactions with SmartFX affected prior to the date of this Agreement, and agrees that the rights and obligations of Customer in respect thereto shall be governed by the terms of this Agreement.

**2. TERMINATION.** This Agreement shall continue in effect until termination, and may be terminated by Customer at any time when Customer has no open position(s) and no liabilities held by or owed to SmartFX upon the actual receipt by SmartFX of written notice of termination via email, or at any time whatsoever by SmartFX upon the transmittal of written notice of termination to Customer; provided, that such termination shall not relieve either party of any obligations set out in this Agreement nor shall it relieve Customer of any obligations arising out of prior transactions entered into in connection with this Agreement.

**3. ACCEPTANCE.** This Agreement shall not be deemed to be accepted by SmartFX nor become a binding contract between Customer and SmartFX until Customer's information is verified and approved by SmartFX.

**4. INDEMNIFICATION.** Customer agrees to indemnify and hold SmartFX, its affiliates, employees, agents, successors and assigns harmless from and against any and all liabilities, losses, damages, costs and expenses, including attorney's fees, incurred by SmartFX arising out of Customer's failure to fully and timely perform Customer's responsibilities herein or should any of the representations and warranties fail to be true and correct. Customer also agrees to pay promptly to SmartFX all damages, costs and expenses, including attorney's fees, incurred by SmartFX in the enforcement of any of the provisions of this Agreement and any other agreements between SmartFX and Customer.

**5. FORCE MAJEURE.** SmartFX shall not be liable to Customer for any claims, losses, damages, costs or expenses, including attorneys' fees, caused, directly or indirectly, by any events, actions or omissions, including, without limitation, claims, losses, damages, costs or expenses, including attorneys' fees, resulting from civil unrest, war, insurrection, international intervention, governmental action (including, without limitation, exchange controls, forfeitures, nationalizations, devaluations), natural disasters, acts of God, market conditions, inability to communicate with any relevant person or any delay, disruption, failure or malfunction of any transmission or communication system or computer facility, whether belonging to SmartFX, Customer, any market, or any settlement or clearing system.

**6. TERMS AND HEADINGS.** The term "SmartFX" shall be deemed to include Smart Securities and Commodities Limited, its affiliates, divisions, successors and assigns; the term "Customer" shall mean the party (or parties) executing the Agreement; and the term "Agreement" shall include all other agreements and authorizations executed by Customer in connection with the maintenance of Customer's Account with SmartFX regardless of when executed. The paragraph headings in this Agreement are inserted for convenience of reference only and are not deemed to limit the applicability or affect the meaning of any of its provisions.



**7. GOVERNING LAW AND JURISDICTION.** This Agreement, and the rights and obligations of the parties hereto, shall be governed by, construed and enforced in all respects by the laws of Vanuatu, without regard to choice of law principles.

**8. USE OF SMARTFX' WEBSITES.** Websites refer to SmartFX' Website (<http://www.Smartfx.com> and any additional Websites that SmartFX may register). The Websites provide Customer with content and information. The content on the Websites is provided as a convenience but may be inaccurate or outdated. Customer agrees at all times to rely upon Customer's transaction confirmations and statements as the official records of Customer's Account. Information is not related specifically to an Account. Information is financial or investment information provided by third parties to SmartFX that SmartFX provides to Customer, which includes market data, news, research, financial analysis, commentary, or tools. The information on the Websites is provided from sources believed to be reliable but cannot be guaranteed. The information provided on our Websites is not customized for Customer and Customer understands that the information provided to Customer is not a recommendation to Customer about the suitability of a purchase and/or sale of any trading product. SmartFX may without notice to Customer change, revise, modify, add, upgrade, remove or discontinue any part of SmartFX' Websites. The Web sites may include hyperlinks to third--party web sites. SmartFX is not responsible for the information or content provided by such third party web sites.

**9. MARKET DATA, NEWS AND OTHER INFORMATION.** Customer agrees that the market data, news and other information available to Customer through our Web site is for Customer's personal use and that Customer will not retransmit or republish this information in any form without the written consent of Smart Securities and Commodities.

**10. NO WAIVER OR AMENDMENT.** No provision of this Agreement may be waived or amended unless the waiver or amendment is in writing and signed by both Customer and an authorized officer of Smart Securities and Commodities. No waiver or amendment of this Agreement may be implied from any course of trading between the parties or from any failure by Smart Securities and Commodities or its agents to assert its rights under this Agreement on any occasion or series of occasions. No oral agreements or instructions to the contrary shall be recognized as enforceable. This instrument and the attachments hereto embody the entire agreement of the parties, superseding any and all prior written and oral agreements and there are no other terms, conditions or obligations other than those contained herein.

**11. SEVERABILITY.** This Agreement, any attachments hereto, and the terms and conditions contained in statements and confirmations, contain the entire agreement between the parties with respect to the subject matter hereof. If any provision or condition of this Agreement shall be held to be invalid or unenforceable by any court, or regulatory or self-regulating agency or body, such provision shall be deemed modified, or, if necessary, rescinded in order to comply with the relevant court, or regulatory or self-regulatory agency or body. The validity of the remaining provisions and conditions shall not be affected thereby, and this Agreement shall be carried out as if such invalid or unenforceable provision or condition was not contained herein.

**12. ACCOUNT TRANSFER AND ASSIGNMENT.** Customer authorizes Smart Securities and Commodities to transfer and assign Customer's Account to a futures commission merchant or another legal entity. Customer may not transfer or assign this Agreement without Smart Securities and Commodities' prior written consent. Any purported assignment by the Customer in violation of this provision is null, void and unenforceable.

## I. RISK DISCLOSURE STATEMENT.

**1. GENERAL.** Trading in margined account involves a high degree of risk including the risk of loss of the Customer's entire Risk Capital deposited with Smart Securities and Commodities. Losses, in some cases, have the potential to extend beyond the Customer's Account Value. In consideration of SmartFX agreeing to enter into contracts with its Customer(s) for this Account, SmartFX requires all the undersigned Customer(s) to analyze their financial objectives, financial status, investment constraints and tax situation to determine whether trading is suitable. In addition, we require our Customers to carefully read and acknowledge the SmartFX Risk Disclosure Statement that outlines without limitation the risks associated with trading a margined account through SmartFX.

By signing this Agreement the Customer understands and agrees that:

- 1. OTC Margined Trading involves a high amount of risk and is highly speculative.** Customer(s) agrees that they are in full understanding and willing to assume the legal, economic, and other risks associated with the trading a margined account, and are willing and able to assume the loss of their entire Risk Capital, defined as those funds, that if lost, would not change your lifestyle or your family's lifestyle. As such, they further agree that margined trading is not suitable for Retirement Funds. SmartFX encourages Customers to closely manage outstanding open positions and to use prudent money management precautions such as, but not limited to, Stop Loss Orders.
- 2. Excessive leverage available with Margined accounts can lead to quick losses.** Customer(s) agrees that using a high degree of leverage, defined as the use of a small amount of capital to control a larger amount of an Open Position, can result in large losses due to a price change(s) of open contract(s) with SmartFX. SmartFX provides leverage on most trading products for most customers of 100:1 or more. With 100:1 leverage the Customer has the potential to control \$1,000,000 position with \$10,000 in an Account. SmartFX encourages its Customers to use only that portion of leverage that the Customer is most comfortable with and to use money management precautions such as, but not limited to, Stop Loss Orders for the purpose of limiting risk. SmartFX reserves, at its sole discretion, the right to reduce or increase the amount of leverage given on any trading product at any time and without notice.
- 3. Trading experience periods of liquidity risk.** Customer acknowledges that Liquidity Risk, resulting from decreased liquidity, is usually due to unanticipated changes in economic and/or political conditions. Customer also acknowledges that Liquidity Risk can affect the general market in that all participants experience the same lack of buyers and/or sellers. The Customer also understands that liquidity risk can be SmartFX' specific due to changes in liquidity available to SmartFX from the SmartFX Custodian of funds interbank liquidity providers or specific to market makers due to a perception that the risks of the market segment has increased. When liquidity decreases, Customers can expect, at the minimum, to have wider bid to ask spreads as the supply of available bid/ask prices, outstrips the demand. Decreases in liquidity can also result in "Fast Market" conditions where the price of a trading product moves sharply higher or lower or in a volatile up/down pattern without trading in an ordinary step-like fashion. In some instances, there may exist the possibility that a trading bid and/or ask price for a trading product or products are not available (a situation where there is no liquidity). Although there may be instances when the aggregate OTC market enters a "FastMarket" situation or periods where liquidity is in short or no supply, it is important to note that prices, bid/ask spreads and liquidity will reflect the prevailing interbank market liquidity for

SmartFX. SmartFX can Liquidate Positions of the Customer that do not have adequate margin: Because of the leverage available with OTC Margined Trading and the potential for extreme volatility, SmartFX Custodian of funds reserves the sole discretionary right to liquidate Customer's Account(s) should the Margin in the Account not be sufficient to cover the potential risk of loss. Should the Customer's Account value go below the free of programming bugs that can cause trading, position keeping or any other required functionality of the Trading Platform and other relevant software applications associated with SmartFX including but limited to clearing, market making and escrow Account software, from becoming inoperable or without errors.

4. **There is a Communication Risk that the Customer assumes.** Although SmartFX will have qualified representatives available on the telephone during business hours to accept and execute Customer Market Orders, there exists the risk that the Customer will not be able to contact or make contact with the SmartFX representative due to but not limited to, communication malfunction, an overabundance of telephone orders, or any other malfunction or negligence. The Customer acknowledges and agrees that they will hold harmless SmartFX for any loss or missed trading opportunity resulting from any communication problems the Customer may encounter.
5. **SmartFX does not take responsibility for Money Managers.** Should a Customer grant a Money Manager trading discretionary trading authority or control over a Customer's Account, the Customer acknowledges that SmartFX does not take any responsibility for any action done by that Third Party on the Customer's behalf. The Customer grants Money Manager trading authority for the Customer's Account at its sole, and full risk. SmartFX reserves the right to correct any transactions executed on misquoting errors: In the case when a quoting error occurs that results in a Customer transaction done at an off market price, SmartFX reserves the sole discretionary right to make the necessary corrections and adjustments to the Customer's Account whether it be in the favor of the Customer or not in the Customer's favor. Any change will be reported to the Customer either verbally or via an electronic method such as but not limited to email.
6. **All Market Recommendations made by SmartFX or any representative of SmartFX are for informational purposes only.** Any decision by the Customer to buy or sell is an independent decision by the Customer. Market recommendations made by SmartFX or a representative of SmartFX do not constitute an offer to sell or buy from SmartFX or from any other source that may provide straight-through-processing prices to the Customer. SmartFX and its employees are not investment advisor(s) and have no fiduciary duty to Customer and therefore are not liable for any losses incurred by the Customer as a result of information or any recommendations made by SmartFX or representative of SmartFX. Customer is at Risk if SmartFX should go out of business. There is no guarantee that SmartFX as a business will be profitable. Consequently, there exists a credit risk that SmartFX may be subject to losses, which could, in turn, jeopardize the capital that the Customers have in their Accounts. Customer acknowledges that in the event of insolvency, the Customer can only look to SmartFX for performance and return of all Collateral and Margin that the Customer may have at SmartFX.
7. **SmartFX may decide to exit the Business.** There is no guarantee that SmartFX Custodian of funds may decide that they do not want to continue to participate as a market maker. As a result, the Customer agrees and acknowledges that SmartFX may liquidate all Customer positions, and return margined funds to the Customer at the sole discretion of SmartFX, at

any time and for any reason. SmartFX Customers do not hold SmartFX liable for any loss as a result of liquidation of the Customers position either on an actual basis or as a result of missed profit opportunities.

- 8. Customers are responsible for any reporting errors.** Any reporting and confirmation errors of omission, and/or errors in details of transactions including but not limited to the price contracts were executed, the product traded, the market direction (i.e., "buy" or "sell") of order, the type of order and/or any errors in fees, charges or credits to the Customer's Account including but not limited to charges for executing a transaction, wiring funds, rolling over position, and sweeping balances into the home currency, require that the customer notify SmartFX immediately upon discovery for review.
- 9. SmartFX has limited liability.** The Customer agrees and acknowledges that SmartFX shall not be liable to the Customer for any claims, losses, damages, costs or expenses, including attorneys' fees caused directly or indirectly by any events, actions or omissions, without limitation, claims, losses, damages, costs and expenses, including attorney's fees, resulting from civil unrest, war, insurrection, international intervention, governmental action) including, without limits, exchange controls, forfeitures, devaluations and nationalizations), natural disasters, acts of God, market conditions, communication problems or any delay, disruption, failure of any transmission or communication system or computer hardware or software application whether supplied and belonging to SmartFX or from a third party vendor that the Customer and SmartFX relies on to conduct execution and reporting services.
- 10. Effect of "Leverage" or "Gearing".** Margin accounts and contracts carry a high degree of risk. The amount of initial margin is small relative to the value of the contract so that transactions are "leveraged" or "geared". A relatively small market movement may have a proportionately larger impact on the funds Customer has deposited or will have to deposit. This may work against Customer as well as for Customer. Customer may sustain a total loss of initial margin funds and any additional funds deposited with the firm to maintain Customer's position.
- 11. Risk reducing orders or strategies.** Placing contingent orders, such as "stop loss" or "limit" orders, particularly in volatile market conditions, will not necessarily limit Customer's losses to the intended amounts, since market conditions may make it impossible to execute such orders. Strategies using combinations of positions, such as "spread" and "straddle" positions may be as risky as taking simple "long" or "short" positions.
- 12. Charges.** Before Customer begins to trade, Customer should obtain a clear understanding of all charges for which Customer may be liable. These charges will affect Customer's net profit (if any) or increase Customer's loss.
- 13. Electronic trading.** Trading on an electronic trading system may differ not only from trading in an open outcry market but also from trading on other electronic trading systems. If Customer undertakes transactions on an electronic trading system, Customer will be exposed to risks associated with the system including any failure of hardware and software. The result of any system failure may be that Customer's order is either not executed according to Customer's instructions or not executed at all. Since SmartFX does not control signal power, its reception or routing via Internet, configuration of Customer's equipment or reliability of its connection, SmartFX cannot be responsible for communication failures, distortions or delays

when trading online (via Internet). In no event shall SmartFX be liable for speculative or expectancy damages for potential future lost profits.

- 14. Limitation of liability.** Customer accepts any trading system provided by SmartFX "as it is" and without warranties, express or implied, including, but not limited to, the implied warranties of merchantability or fitness for a particular use, purpose or application; timeliness; freedom from interruption; or any implied warranties arising from trade usage, course of trading or course of performance. Under no circumstances shall SmartFX be liable for any punitive, indirect, incidental, special or consequential loss or damages, including loss of business, profits or goodwill. SmartFX shall not be liable to Customer by reason of delays or interruptions of service or transmissions, or failures of performance of SmartFX' or its affiliate systems, regardless of cause, including, but not limited to, those caused by hardware or software malfunction; regulatory action; acts of god; war, terrorism, or our intentional acts. Customer recognizes that there may be delays or interruptions in the use of our system, including, for example, those caused intentionally by SmartFX for purposes of servicing the system. SmartFX does not guarantee that alternative trading arrangements will be available at a particular time and SmartFX will not be held liable for delays in entering an order.
- 15. Margin.** SmartFX' margin policies require that Customer's Account be properly margined at all times. Failure to meet margin requirements may result in the liquidation of any open positions with a resultant loss. SmartFX reserves the right to liquidate all positions without notice if an Account falls below Customer's minimum margin requirement, in accordance with SmartFX' margin call policy.
- 16. Quoting errors.** Should quoting errors occur, which may include, but are not limited to, a mistype of a quote by SmartFX, a quote which is not representative of fair market prices, an erroneous price quote from a SmartFX employee, such as but not limited to a wrong big figure quote or an erroneous quote due to failure of hardware, software or communication lines or systems and/or inaccurate external data feeds provided by third-party vendors, SmartFX will not be liable for the resulting errors in Account balances. The foregoing list is not meant to be exhaustive and in the event of a quoting error, SmartFX reserves the right to make the necessary corrections or adjustments on the Account involved. Any dispute arising from such quoting errors will be resolved in accordance with required regulations if such regulations exist. In the event of a system error where interest is not charged or credited as scheduled, SmartFX reserves the right to apply the missed interest to the Account at any time.
- 17. Third-Party Authority.** In the event that Customer grants trading authority or control over Customer's Account to a third party trading advisor, such as a Money Manager, whether on a discretionary or non- discretionary basis, SmartFX shall in no way be responsible for reviewing Customer's choice of such trading advisor, or for making any recommendations with respect thereto. SmartFX makes no representations or warranties concerning any trading advisor; SmartFX shall not be responsible for any loss to Customer occasioned by the actions of the trading advisor; and SmartFX does not, by implication or otherwise, endorse or approve of the operating methods of any trading advisor. If Customer gives a Money Manager authority to exercise any rights over Customer's Account, Customer does so at Customer's own risk. Customer should regularly review the activity in Customer's Account to ensure that Customer approves of the transactions placed on Customer's behalf by Customer's Money Manager.

- 18. Disclosure Regarding Bankruptcy Protections.** The transactions Customer is entering into with Smart Securities and Commodities are not traded on an exchange. Therefore, Customer's funds may not receive the same protections as funds used to margin or guarantee exchange traded futures and options contracts, which may receive a priority in bankruptcy. Since that same priority has not been given to funds used for trading, if Smart Securities and Commodities becomes insolvent and Customer has a claim for amounts deposited or profits earned on transactions with Smart Securities and Commodities, Customer's claim may not receive a priority. Without a priority, Customer is a general creditor and Customer's claim will be paid, along with the claims of other general creditors, from any monies still available after priority claims are paid. Even customer funds that Smart Securities and Commodities keeps separate from its own operating funds may not be safe from the claims of other general and priority creditors.
- 19. Volatile Market Conditions.** Trading at times of extraordinarily volatile market conditions, e.g. key news announcements may expose the Customer to additional risks, including the risk that the Customer may not get the price him or her requests. Smart Securities and Commodities cannot and does not guarantee its prices in times of extraordinary market volatility.
- 20. Simulated Conditions.** Simulated conditions may differ from real conditions. Therefore, Customers who trade on demo Accounts should not necessarily expect the same results from live trading.
- 21. Referring Parties.** If you were referred to SmartFX by an Introducing Broker, referring party or third party advisor (each, an "IB"), please be advised that SmartFX and your IB are wholly separate and independent from one another and there exists no joint venture or partnership relationship between the parties. Additionally, neither IB nor any other employee or agent of IB is an agent or employee of SmartFX.
- a)** SmartFX does not control, and cannot endorse or vouch for the accuracy or completeness of any information or advice Customer may have received or may receive in the future from Customer's IB or from any other person not employed by SmartFX regarding trading or the risks involved in such trading.
  - b)** SmartFX provides risk disclosure information to all new Customers when they open Accounts. Customer should read that information carefully, and should not rely on any information to the contrary from any other source.
  - c)** Customer acknowledges that no promises have been made by SmartFX or any individual associated with SmartFX regarding future profits or losses in Customer's Account. Customer understands that trading is very risky, and that many people lose money trading.
  - d)** If an IB or any other third party provides Customer with information or advice regarding trading, SmartFX shall in no way be responsible for any loss to Customer resulting from Customer's use of such information or advice.
  - e)** To the extent Customer has previously been led to believe or believes that utilizing any third party trading system, course, program, research or recommendations provided by IB or any other third party will result in trading profits, Customer hereby acknowledges, agrees and understands that all trading, including trading done pursuant to a system, course, program, research or recommendations of IB or another third party involves a substantial risk of loss. In addition, Customer hereby acknowledges, agrees and understands that the use of a trading system, course, program, research or recommendations of IB or another third party will not necessarily result in profits, or will avoid losses or limit losses.

f) Because the risk factor is high in trading, only genuine risk capital should be used. If Customer does not have capital which the Customer can afford to lose, Customer should not trade.

g) Customer understands and acknowledges that SmartFX may compensate Customer's IB for introducing Customer to SmartFX and that such compensation may be on a pertrade basis or other basis.

h) Customer understands and agrees that if Customer's Account with SmartFX is introduced by an IB, that IB shall have limited access to information regarding Customer's SmartFX Account, but the IB shall not have the right to enter into any trades on Customer's SmartFX Account unless authorized by Customer under a power of attorney between Customer and IB granting such IB the right to trade on Customer's Account.

i) Customer understands and acknowledges that Customer may have only one IB, a party that originally referred Customer to SmartFX.

j) Customer may terminate Customer's relationship with an IB by providing written notice to SmartFX. Customer understands and acknowledges that Customer cannot be considered the client of any other IB. Should you have any questions regarding the risks of trading, please contact your Account representative.

**22. Privacy Policy.** Information Collected by SmartFX. The categories of nonpublic personal information which SmartFX shall collect include: (1) information provided by the customer when opening an Account, or to process a transaction, such as name, address, assets, bank information, prior trading experience, etc.; (2) information used to verify the identity of the customer, including copies of government issued identification materials such as passports, drivers licenses, and credit reports; (3) Information resulting from transactions between the customer and SmartFX or an affiliate of SmartFX, such as withdrawal and deposit forms; (4) Information derived from customer's navigation and usage of SmartFX' website and online platforms, including Account trading statements.

**23. Information Disclosed by SmartFX and To Whom SmartFX Discloses the Information.** SmartFX does not share nonpublic personal information about our clients or former customers to anyone, except as permitted by law. For example, SmartFX may provide information to non-affiliated third parties, as permitted by law, in providing financial services to you. This includes a consumer reporting agency that prepares your credit report. Furthermore, SmartFX may provide information, as permitted by law, to government or regulatory agencies and to comply with a legal summons, court order, subpoena or a similar legal process, audit or investigation. We may also disclose your nonpublic personal information if you authorize such disclosure.

**24. Confidentiality and Security Procedures.** Only those personnel for whom the information is necessary to complete a given transaction shall possess the authority to access the information. SmartFX, its personnel, and its affiliates shall strictly adhere to security practices and procedures to ensure the confidentiality of its customers' information. SmartFX maintains numerous safeguards that comply with regulations to guard your nonpublic personal information. SmartFX will continue to protect the privacy of former customers' nonpublic personal information in the same manner as when they were customers. Unlike continuing customers, however, former customers will not receive annual privacy notices. SmartFX will provide a notice of our privacy policy annually, as long as the customer maintains an Account with SmartFX. SmartFX reserves the right to make changes to this policy. This policy may always be reviewed on [www.Smartfx.com](http://www.Smartfx.com).

## J. CONSENTS AND FURTHER AGREEMENTS

**1. CONSENT TO ELECTRONIC TRANSMISSION OF CONFIRMATIONS & ACCOUNT STATEMENTS.** Customer hereby consents to have Customer's Account information and trade confirmations available on the Internet, in lieu of having such information delivered to Customer via mail or email, as specified in paragraphs labeled "Statements and Confirmations" and "Communications" of the Customer Agreement.

**2. AUTHORIZATION TO TRANSFER FUNDS.** Customer hereby agrees that SmartFX may, at any time and from time to time, in the sole discretion of SmartFX, apply and transfer from any of Customer's Accounts with SmartFX to any of Customer's other accounts, whether held at SmartFX or other approved financial institutions, any of the Contracts, currencies, securities or other property of Customer held either individually or jointly with others to another account.

**3. SOCIAL SECURITY / TAX ID CERTIFICATION.** Customer hereby certifies, under penalty of perjury, that (1) the number provided on the Customer Application is Customer's correct Social Security or Taxpayer Identification Number and (2) the ownership, or beneficiary, of Customer's Account is not subject to backup withholding under Section 3406(a)(1)(C) of the Internal Revenue Code.

**4. ARBITRATION AGREEMENT.** Any dispute, claim or controversy between Customer, on one hand, and Smart Securities and Commodities and/or its officers, directors, agents or employees, on the other hand, arising out of or relating to the Customer Agreement, Customer's Account with SmartFX or any other trading between Customer and SmartFX shall be resolved by binding arbitration. The forum of the arbitration may be American Arbitration Association ("AAA"), within the United States of America ("USA"), in accordance with the AAA arbitration rules in effect at the time such arbitration is commenced, or another appropriate arbitration forum within the United States. If the forum of arbitration is outside of the USA, any dispute between the Customer and SmartFX shall be resolved in the international division of AAA, the International Centre for Dispute Resolution ("ICDR"), in accordance with the International Arbitration Rules in effect at the time such arbitration is commenced. The award in such arbitration proceeding shall be final and binding, and may be entered in any court having jurisdiction thereof. The arbitration shall be held unless the forum is not reasonably convenient for the Customer, at which time an alternate forum shall be determined by the arbitrator. Customer and SmartFX agree to take all steps and execute all documents necessary for the implementation of arbitration proceedings. All statutes of limitations applicable to any dispute apply to any Arbitration between Customer and SmartFX. The provisions of this Arbitration Agreement shall survive termination, amendment or expiration of Customer's Account relationship or the governing SmartFX Customer Agreement or any other relationship between Customer and SmartFX. Either Customer or SmartFX may require the submission of the dispute to binding arbitration at any reasonable time, notwithstanding that a lawsuit or other proceeding has been commenced. Neither Customer nor SmartFX shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or of a private attorney general. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or result of any arbitration hereunder without prior written consent of both parties.

## K. TRADING RULES AND PROCEDURES

The following Trading Rules and Regulations will outline procedures and policies regarding trading and setting up an Account with SmartFX. All Customers are required to read, understand and adhere



to these rules and regulations. SmartFX reserve the right to change any rules or regulations at its sole discretion and at any time.

#### **1. TRADING HOURS:**

- a) The SmartFX' normal trading week begins at 19:00 (7:00 PM EST) on Sunday and ends at 16:00 (4:00 PM EST) on Friday (time are subject to change.)
- b) SmartFX will announce and display on a best efforts basis a holiday schedule on the <http://www.Smartfx.com> website when trading will not take place.
- c) In the event of a holiday, SmartFX will on a best efforts basis pre announce the start up time when trading will resume in advance and display the information on the <http://www.Smartfx.com> website.
- d) SmartFX reserves the right at its sole discretion to conduct special technical maintenance times when trading electronically may not be available.

#### **2. DEPOSIT AND ACCOUNT INFORMATION:**

- a) Deposits can be made via a wire transfer. Funds are not available for trading until they clear at the bank and posted to the Customer's trading Account.
- b) All bank fees such as wire transfer fees into and out of the Account will be debited to the Customer's trading Account as they occur.
- c) In instances where the Customer is closing an Account with instructions to wire the remaining balances, the wire transfer fee will be deducted from the Final Account Balance forwarded to the Customer.
- d) All deposits are accepted in U.S. Dollars only unless otherwise agreed. Customers from foreign countries have the option to convert the foreign currency into US Dollars before wiring to the SmartFX clearing bank, or wire foreign currencies to our clearing bank at which point our clearing bank will convert the balances into US Dollars at their current conversion rate for that currency.
- e) Under NO CIRCUMSTANCES will SmartFX accept a payment or deposit into an Account by a person or entity other than the person or entity whose name appears on the Account.
- f) Under NO CIRCUMSTANCES will SmartFX make payment to a person or entity other than person or entity whose name appears on the Account.
- g) Under NO CIRCUMSTANCES will SmartFX transfer funds from one Account with SmartFX to another Account at SmartFX with different Account Authorization information.

**3. LIQUIDATION LEVEL.** SmartFX reserves the right to automatically liquidate the position and the Customer will be responsible for all losses as a result of the liquidation. When the Client reaches 30% of the Margin in the Client Account, his positions will start closing automatically (Stop Out level of 30%) starting with the most losing Order and the Company has the right to refuse new Orders. SmartFX reserve the right to change the Liquidation Level at its sole discretion.

**4. PRICES FROM SMARTFX ARE INDEPENDENT OF PRICES FOUND ELSEWHERE.** Customers acknowledge that the prices reported by SmartFX for buying and selling are independent and can differ from the prices displayed elsewhere or from other liquidity providers in the interbank changes in liquidity from interbank market makers to SmartFX, an unbalanced position or exposure at SmartFX, or differing expectations of price movements. SmartFX expects that in most cases the prices provided to its Customers will be in line with the general interbank market but does not warrant or imply that this will always be the case.

**5. ROLLOVER RATES FOR OPEN POSITIONS ARE DETERMINED BY SMARTFX AND ARE INDEPENDENT OF PRICES FOUND ELSEWHERE IN THE INTERBANK MARKET.** Customer acknowledges that when applicable, all existing Open Positions that remain open over the end of business day for SmartFX, defined as 5:00 PM EST/EDT, are automatically rolled over to the next available Spot Settlement Date at a net debit or credit to the Customer(s) Account as

determined by spot interest rates determined solely by SmartFX. Rollover debits and credits are also influenced by the number of days that the position has to be rolled. For positions that need to be rolled from a spot settlement date of Friday to Monday, the debit or credit will reflect rollover from Friday to Monday or three business days. For rollovers from Monday to Tuesday, Tuesday to Wednesday, Wednesday to Thursday and Thursday to Friday, the rollover debit or credit is for only one business day. If there is a holiday and SmartFX is closed, the rollover would take into consideration the holiday. For example, if Tuesday is a holiday, rollovers from Monday will be for two (2) business days (i.e. from Monday to Wednesday). Since rollover debits and credits are determined by the respective short-term spot interest, a large spread can cause a large debit or credit rollover amount. This spread can result, but is not limited to, a countries tightening of credit conditions in order to dissuade speculators from shorting one trading product versus another. SmartFX reserves the right to change the credits or debits at its sole discretion if the original amounts are in wrong due to an error or omission.

**6. SWEEP RATES FOR BALANCES OTHER THAN USD ARE DETERMINED BY SMARTFX AND MAY BE INDEPENDENT OF PRICES FOUND ELSEWHERE IN THE INTERBANK MARKET.** Profits that are calculated in a foreign currency are “swept” into dollars when the open positions are closed and the Profit and Loss realized. There is No Guarantee of Profit from Trading with SmartFX: Customer acknowledges that neither SmartFX nor any of its representatives guarantees to the Customer that they will profit from trading. Customer further acknowledges that they could sustain the loss of their entire Risk Capital deposited in their Account and are financially able to withstand any losses incurred.

**7. THERE IS NO GUARANTEE THAT SMARTFX WILL BE ABLE TO EXECUTE STOP LOSS ORDERS, LIMIT ORDERS OR OCO ORDERS AT THE CUSTOMER ENTERED PRICE.** Customer acknowledges and agrees that there may be market, liquidity or other conditions that will prevent SmartFX from executing Customers specific Stop Loss Orders, Limit Orders or OCO Orders at the Customer designated price. In some cases the orders will be executed at prices that are less favorable to the price entered and desired by the Customer. The Customer acknowledges and agrees that they are still responsible for trades executed at levels different from their orders and that SmartFX is not liable for failure to do so.

**8. THERE IS TECHNOLOGY RISK INHERENT IN TRADING ONLINE OR VIA A SOFTWARE APPLICATION.** Although SmartFX has invested a lot of resources developing, testing, configuring and integrating the Trading Platform and other relevant software and hardware, the Customer acknowledges and agrees that SmartFX does not guarantee that the Customer will be able to successful execute transaction, monitor their positions, or perform other essential tasks of SmartFX while using the public Internet and other technology from SmartFX or from third party vendors known or not known for which SmartFX may rely on. SmartFX cannot control, without limitation, the routing, Internet connectivity, reliability of customer or SmartFX equipment, network connections or any other technology hardware malfunction caused by SmartFX hardware, hardware and connectivity that makes up the public Internet, or hardware at the Customers location. Nor does SmartFX guarantee, although all effort has been made to the contrary, that the Trading Platform and Associated Back Office and Broker Software Interfaces nor any other code or application including but not limited to the interface with SmartFX liquidity provider(s) or the interface with the escrow Account institution or other technology application that would come under the heading software, are error free and would not lead to communications problems, computer software or hardware breakdowns, malfunctioning errors, and any and all problems or glitches associated with computer problems or any other technical cause or causes. Customer acknowledges and agrees that SmartFX provides Trading Platform and Associated Back Office and Broker Software Interfaces “as it is” without any warranties of merchantability, fitness for a particular purpose, or other express or implied warranties.



**9. SOURCE OF FUNDS.** The Customer Confirms to having sufficient funds and risk capital available for immediate transfer to support a margin based brokerage account with SmartFX, for over-the-counter and/or off exchange trading products. The Customer understands the high degree of risk associated with trading and waives SmartFX of any and all liability. The Customer understands that these funds act as a protection for any of their own customers who may take trading positions that result in loss, negative balance or margin call. Customer also hereby confirms that these funds are free of any liens or debts, are clean and noncriminal in origin and do not originate from the United States of America or any country on the Office of Foreign Assets Control (OFAC) List. As such, Customer agrees to comply with any request to provide additional documentation that is requested by Smart Securities and Commodities and its representatives.

**THIS IS A LEGALLY BINDING CONTRACT**

I hereby represent that the information provided by me is true and correct. I further represent that I will notify Smart Securities and Commodities of any material changes in writing. Smart Securities and Commodities reserves the right, but has no duty, to verify the accuracy of information provided, and to contact such bankers, brokers and others as it deems necessary.

**DO NOT SIGN UNTIL YOU HAVE CAREFULLY READ ALL OF THE FOREGOING COMPLETELY AND COMPLETED THE CUSTOMER ACCOUNT APPLICATION**

By signing this Customer Agreement, Arbitration Agreement, Risk Disclosure and Trading Rules and other related application documents (the "Agreement Documents"), I acknowledge that I have carefully read the terms and conditions of the Agreement Documents. The Agreement Documents are a legally binding contractual agreement and I agree to be bound by every term and condition, including the items listed above in these Agreement Documents. No modification of the Agreement Documents is valid unless accepted by SmartFX in writing. I confirm that I have received a full set of Account documents and I have not made any alterations or deletions to the Agreement Documents or any other application documents from the original forms. In the event that there are any alterations or deletions to any such documents, such alteration and deletions shall not be binding on SmartFX and said original forms shall govern Customer Account relationship with SmartFX. Finally, I confirm that I am aged 18 years or over and that the information provided by me in this application is accurate and correct.

I \_\_\_\_\_, agree to the above statements.

Date:

Print Name of Company: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_