

## XTB Limited Terms of Business

### 1. Introduction

We are XTB Limited (“**XTB Limited**”, “**we**”, “**us**” or “**our**”). XTB Limited is a company registered in England and Wales (Company Number 07227848) and authorised and regulated by the Financial Conduct Authority (“**FCA**”) (Firm reference number **522157**).

- 1.1 Where You are dealing with us in another name, such as through a white label arrangement, or you have been introduced to us by an intermediary, the services to be provided to You under this agreement will be provided by us. The intermediary is remunerated by us on the basis of the overall profits attributed to the business generated by their efforts. Any additional services provided, to You by them will not be provided by XTB Limited and will not be covered by this agreement.
- 1.2 These Terms of Business are part of the agreement between XTB Limited and its Client (“You” or “customer”) which governs our trading services and all Trades we conduct with You. The agreement between us relating to our trading services consists of the following documents:
  - Application Form;
  - Terms of Business;
  - **Specification Tables and Swap Points Table**, which provides the commercial details for each Financial Instrument, including Market Hours, Margin Factors, commissions, fees and other requirements for dealing in each Market. This is available on our Trading Platform or upon request in paper form;
  - Best Execution Policy;
  - Risk Warning Notice;
  - **The Website** – including our Trading Platform via which You or any third party will trade on-line with us.
  - **Notices and Policies** – the Declaration of Investment Risk, Risk Warning Notice, Best Execution Policy, Conflicts of Interest Policy, Complaints Procedure, Privacy Policy (together form “Notices and Policies”).
- 1.3 Together these are referred to as the “Agreement”. Copies of which can be located on the XTB Limited Website.
- 1.4 Nothing in this Agreement will exclude or restrict any duty or liability owed by us to You under the Financial Services and Markets Act 2000 or the FCA Rules. If there is any conflict between this Agreement and the FCA Rules, the FCA Rules will prevail.
- 1.5 This **Agreement** supersedes all previous Terms. Any amendments will be effective from the specified date or the date we acknowledge acceptance of Your Application Form.
- 1.6 Please read this Agreement and the Notices and Policies carefully and discuss with us anything which You do not understand. Unless You raise a specific issue, the Agreement will be regarded as setting out all the relevant terms concerning our trading services. Trades that we enter into with You under this Agreement are legally binding and enforceable. By signing the Application Form or by electronically submitting Your application on our Website, You confirm acceptance of the terms of this Agreement. Once the Account is opened, You will be bound by all terms of this Agreement.

### 2. Definitions

In this Agreement, certain words and expressions have the meanings set out below.

Account	an Account that You hold with XTB Limited which enables You to trade either Rolling Spot Forex, CFDs, Options or other derivatives. All Accounts have separate Account numbers. <b>Note that depending on the type of offer available on the particular market that XTB Limited is offering its services you will be able to choose one or more of particular Accounts offered by XTB Limited on the basis of the agreement. Details of the offer can be found on the XTB Limited Website. You should acquaint yourself with the particular Accounts available before applying for the account. You are hereby made aware that XTB Limited reserves itself the right at its sole discretion to refrain from signing an Agreement with You or opening a particular Account for You for any reason;</b>
Application Form	XTB Limited Application Form that relates to opening an account;

Base Currency	the currency in which the Client's Cash Account is maintained and all Trades are settled on this Account;
Basic Account	separate, independent Trading Account opened on the basis of this Agreement and instruction given by the Client, in which prices of CFDs, Equity CFDs, ETF CFDs, and Options are quoted and which allows the Clients to conclude the Transactions with specific Order's execution as specified in this Agreement;
Business Day	the days that XTB Limited is open for business;
Buy Price	the higher of the two prices set by XTB Limited for the same Financial Instrument;
Cash	the balances of Your Account after all credits and debits have been made (for example in respect of closed positions, but not open positions).
Cash Account	Account(s) opened and maintained for the Client, used to service the Operational Register and the Register of Financial Instruments within the Trading Platform;
Cash Instrument	Financial Instrument, for which the Underlying Instrument is an index of an organised market, quoted on the basis of the prices provided by the Reference Institutions;
CFD Price	a price based on the Market Price of an Underlying Instrument, as reported back by XTB Limited;
Client	a natural person, legal person or organisational entity without legal personality with whom XTB Limited signed the Agreement;
Closed Position/ Transaction	Open Trade for which a Reverse Trade was executed with an indication that it is a closing Trade for the particular Open Trade.
Company's Registered Office	registered office of XTB Limited;
Contract For Difference (CFD)	Contract For Difference (CFD) is a product that can be traded with the purpose of securing a profit or avoiding a loss by reference to fluctuations in the value or price of an Instrument.
Customer Services	XTB Limited Customer Services team;
Data	any information that XTB Limited holds about You;
Eligible Counterparty	has the meaning given to this term in the FCA Rules;
Equity	the balance of the Operational Register as specified by XTB Limited;
Equity CFD	a CFD specified in the Financial Instrument Specification Table which is a contract for difference with a specific execution as described in these Terms;
ETF CFD	a CFD specified in the Financial Instrument Specification Table which is a contract for difference with a specific execution as described in these Terms;
Expiration Day	the date on which rights and obligations of the parties under the Financial Instrument expire;
FCA	Financial Conduct Authority
FCA Rules	The obligations placed upon XTB Limited by the FCA as detailed in the FCA Handbook
Financial Counterparty	financial counterparty in the meaning of Article 2 point 8 of the Regulation (EU) no 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;
Financial Instruments	financial instruments other than money Markets instruments, units in undertakings for collective investments in transferable securities and securities, such as Rolling Spot Forex, CFD's, Equity CFD's and Option Financial Instruments in the meaning of the herein Terms;
Good 'Til Cancelled (GTC)	the order will remain effective until either: a) the order is executed, b) You cancel the order, c) the related position expires, d) You manually close the related position;

Instrument	any stock, share, futures contract, Option, Commodity, precious metal, Exchange Rate or index or any other investment in respect of which XTB Limited may offer to deal;
Instrument Price	the bid or ask price of a particular Financial Instrument published systematically by XTB Limited via Our Trading Platform. The bid or ask price is always quoted two-way with an appropriate Spread;
Login	Client's unique ID sequence of number or/and symbols necessary to execute Trades via the Trading Platform and deposit/withdraw funds;
Lot	a Trade unit of a particular type of Financial Instrument specified in the Financial Instruments Specification Tables;
Manifest Error	applies to any error, omission or misquote, (including any misquote by the dealer) which by fault of either XTB Limited or any third party is manifest when taking into account the market conditions and available quotes that prevailed at the time. This may include, wrong price, month or market or any error or lack of clarity of any information, source, commentator, official, official result or pronunciation
Margin	funds constituting collateral for an Open Position on Financial Instruments;
Margin Call	a request for payment when the Equity on a particular Account falls to a value calculated by XTB Limited in its sole discretion;
Margin Table	a list of funds constituting the Margin, subject to a blockade on the Cash Account at the time when the position is being opened;
Market / Markets	the markets from time to time made available by XTB Limited for Rolling Spot Forex, Options, CFD trading and/or Rolling Spot Forex trading and "Market" means any one of those markets.
Market Price	current price of Underlying Instrument on the Market indicated by XTB Limited or provided by the source indicated by XTB Limited in the Specification Tables;
Maximum Nominal Portfolio Value	maximum limit of the Nominal Portfolio Value, expressed in Euro, as specified in the Specification Tables;
Nominal Portfolio Value	total nominal value of Open Positions on all Client Accounts, expressed in Euro, excluding positions on Equity CFDs and ETF CFDs.
Operational Register	a subsidiary register of the Cash Account used to record an estimated valuation of current receivables and liabilities of the Client in respect of executed Trades, in particular to monitor current level of the Margin;
Over The Counter Derivative (OTC)	a type of a derivative financial instrument traded outside of the regulated market or a multilateral trading facility;
Option	Financial Instrument specified in the Specification Tables being an Option with specific execution as described in this Agreement;
Option Expiration Date	the date on which rights and obligations of the parties under the Option Financial Instrument expire;
Open Position	Trades on Financial Instruments which have not been yet closed,
Order	an order placed by the Client to execute a Trade on his Account;
Password	Client's personal password necessary to execute Trades on the Trading Platform, place Trade Orders and deposit/withdraw funds;
Power of Attorney	authority assigned by one person or party to another to act on behalf of the assigning party;
Product	The OTC derivatives that XTB Limited offers i.e. Rolling Spot Forex, Contracts for Difference and Options.
Professional "Pro" Account	separate, independent Trading Account opened on the basis of this Agreement and instruction given by the Client, in which prices of CFDs, Equity CFDs, ETF CFDs, and Options are quoted and which allows the Clients to conclude the Transactions with specific Order's execution as specified in this Agreement;
Professional Client	has the meaning given to this term in the FCA Rules;
Reference Institution	institutions listed in clause 7.2, being price providers of Underlying Instruments, indicated on the Website;
Reverse Trade	a Trade opposite to the currently held open Trade;
Swap Points Table	a list of swap points rates found on XTB Limited's Website;

Sell Price	the lower of two prices set by XTB Limited for the same instrument.
Settlement Account	a bank Account maintained for XTB Limited to make cash settlements of Closed Trades on Financial Instruments between XTB Limited and the Client and used to make payments and withdrawals of Client's funds;
Software	our computer systems;
Specification Tables	Specification Tables document found on XTB Limited Website revealing description of detailed conditions on which Trades are executed with reference to individual Financial Instruments, containing in particular the Spread level and Lot nominal value for individual Financial Instruments as well as all prices, commissions, fees and other important information relating to the Financial Instruments and Markets we offer.
Spread	the difference between the bid and ask price of a particular Financial Instrument;
Standard Account	separate, independent Trading Account opened on the basis of this Agreement and instruction given by the Client, in which prices of CFDs, Equity CFDs, ETF CFDs, and Options are quoted and which allows the Clients to conclude the Transactions with specific Order's execution as specified in this Agreement;
Supplementary Terms	additional term
Terms	These Terms of Business;
Trade/Transaction	a purchase or sale of a Financial Instrument via the Trading Platform;
Trade/Transaction Currency	the currency in which the nominal value of a Financial Instrument is specified;
Trade/Transaction Confirmation	information generated automatically in the Trading platform immediately after each operation is executed on the Client's Account, confirming the Trade execution, in particular a sale or a purchase of a particular Financial Instrument;
Trade Option Premium	the amount payable in respect of a purchase or sale of an Option Financial Instrument;
Trading Day	any day on which Trades can be executed via the Trading Platform;
Trading Platform	Internet application which is used to directly place Trade orders.
Underlying	Underlying Market on which the Market is based
Underlying Exchange	a regulated Market or a multilateral trading facility (MTF), where the Equity CFD Underlying Instrument is quoted;
Underlying instrument	an instrument whose Market price constitutes the basis to determine the Financial Instrument Price, in particular securities, currency rates, values of stock exchange indices, interest rates, futures and commodities;
Website	relevant XTB Limited website available through <a href="http://www.xtb.com">www.xtb.com</a>
XTB Limited Price	the XTB Limited Sell or Buy Price.

### 3. Services that we provide

- 3.1** This Agreement sets out the basis on which we will enter into Trades with You and governs each Trade entered into after this Agreement comes into effect.
- 3.2** We refer You to the Risk Disclosure Notice that forms part of the Agreement. You should ensure You fully understand such risks before entering into this Agreement with us. This Notice details some of the risks involved with trading Over-The-Counter (OTC) Derivatives but is by no means an exhaustive statement of those risks. Our FX, CFD and Options trading service carries a high level of risk and can result in losses that exceed Your initial deposit. Our trading service is not suitable for everyone. You should always calculate the "worst case" scenario before You trade and only trade if You are prepared to accept that degree of risk. By entering into this Agreement, You warrant that You have read and understood the Risk Disclosure Notice and understand that the act of placing a Trade with XTB Limited.
- 3.3 Client Categorisation** –We will treat You as a Retail Client (allowing You to receive FCA regulatory protections) unless You request to be categorised as a Professional Client or Eligible Counterparty, but

please be aware that we may decline such a request. If You do request a different categorisation and we agree to such a request, You may lose the protections offered under certain FCA rules.

- 3.4 Eligible Counterparty** - If we elect to treat You, or You request to be treated, as an Eligible Counterparty, the terms of this Agreement will be supplemented and modified by the Supplementary Terms for Eligible Counterparties, by which You hereby agree to be bound.
- 3.5 We act as principal** – XTB Limited deals with You on a matched principal basis. This means that we provide You with prices and volumes for Over the Counter Derivatives. We do not trade speculatively for You or for our own book in the Market. Trades will only be executed as a result of Your order to buy or sell at a set price or size. Once the Trade is complete, price, volume and terms are communicated through Trading platform. You will open each Trade with us, as principal, and not as agent for any undisclosed person. This means, unless we have otherwise agreed in writing, we will treat You as our client for all purposes, and this will include any trades placed by any authorised third party. You will be directly responsible for performing Your obligations under each Trade entered into.
- 3.6 On-Line Dealing** - Trades with XTB Limited are carried out on-line. We are an online broker; therefore, all instructions to enter into Trades must be given by You through the Trading Platform. We will make reasonable endeavour to provide You with telephone support and assistance however, You must be prepared to Trade with us on-line only. It is imperative that You have the facilities to enable You to use our Trading Platform (in particular internet access). At the date of publication of these Terms, all of our products can be traded by way of our Trading Platform.
- 3.7 Execution only service** - You agree that trading with XTB Limited will be carried out on an execution-only basis. Unless otherwise provided in this Agreement, we are under no obligation:
- to satisfy ourselves as to the suitability of any Trade for You;
  - to monitor or advise You on the status of any Trade;
  - to make Margin Calls.
- 3.8** We provide an execution-only service. In which case You will not be entitled to request any investment advice relating to a Trade and we will not make any statement of opinion or any recommendation to encourage You to open a particular Trade. We may, at our discretion, provide information:
- regarding procedures and risks attaching to that Trade and ways of minimising risk; and
  - factual Market information.
- 3.9** We are obliged under the Conduct of Business rules (**COBS**) to assess whether CFD, Rolling Spot Forex and Option trading is appropriate for You. To do this we will rely on You to provide accurate information when requested. If there is any material change to that information You must tell us as soon as practicable. If we consider from the information provided that Options, CFD trading and/or Rolling Spot Forex trading is not appropriate for You, we will provide You with an appropriate warning.
- 3.10** You are responsible for everything You do or omit to do. You must monitor Your open positions.
- 3.11** We have the right to close Open Positions in certain circumstances. If You wish to maintain Open Positions, You may be required to make payment to us at short notice if Your Account falls in to negative equity or if Variation Margin is due.
- 3.12** You consent to us communicating with You via electronic communications, such as via [the Website](#), our Trading Platform, or e-mail.
- 3.13** You agree to rely on Your own judgement in opening, closing, or refraining from opening or closing a Trade with us. Any information supplied to You will not constitute investment advice. If, a dealer employed by us nevertheless makes a statement of opinion (whether in response to Your request or otherwise) regarding any Instrument, You agree that it is not reasonable for You to, nor will You be entitled to, rely on such statement and that it will not constitute investment advice.
- 3.14** You agree to rely on Your own judgement in opening, closing, or refraining from opening or closing a Trade with us and that we will not, in the absence of fraud, wilful default or negligence be liable for any losses (including, without limitation, indirect or consequential losses or loss of opportunity or profits arising from any failure by You to make any anticipated profits), costs, expenses or damages suffered by You arising from any inaccuracy or mistake in any information given to You, including information relating to any of Your Trades with us.

- 3.15** We endeavour to take all reasonable steps to provide You with as much transparency as possible when explaining all commissions, fees, funding and other charges for which You will be liable. These charges will affect either Your trading net profits or increase Your losses.
- 3.16** We reserve the right to require You to pay, or reimburse, us for stamp duty in the event of a change in the basis of stamp duty rates or law.
- 3.17** When executing Trades we take all reasonable steps to provide You with best execution in accordance with the FCA rules and our Best Execution Policy. The process put in place to give You best execution is detailed in our Best Execution Policy a copy of which is provided on the XTB Limited Website. Unless You notify us to the contrary, You will be deemed to consent to our Best Execution Policy when this Agreement comes into effect. If You do not consent, we reserve the right to refuse to provide our services to You.
- 3.18** All amounts payable by You to XTB Limited must be paid in Your Base Currency; this includes Initial Margin, Variation Margin, commission, financing charges and losses. If You pay us in a currency other than Your Base Currency, the bank may convert Your funds in to Your Accounts Base Currency. You will be liable for any charges incurred.
- 3.19** Please note that for the purpose of calculating Your Cash and all other relevant matters we will convert any relevant currencies into Your Base Currency.
- 3.20** As an execution only broker we will not advise You of existing tax laws or changes to tax laws. It is Your obligation to obtain Your own tax advice. Your tax situation will depend on, for example, Your personal circumstances and the tax jurisdiction that applies to You. Tax treatment is subject to change in the future. You are responsible for any and all taxes (including stamp duty and capital gains tax) payable by You in connection with Your Trades. If we have to pay any of these on Your behalf, You must repay us.
- 3.21** Our Specification Tables contain product information, such as available Markets, trading hours, minimum and maximum trade sizes, commissions etc. The Specification Tables are available on [the Website](#).
- 3.22** The Website contains explanations detailing how Options, CFD and Rolling Spot Forex trading operates. Our sales team will also be able to provide You with working examples and explanations of terminology used.
- 3.23** When entering in Trades in Options, CFD and Rolling Spot Forex with us, You are trading in relation to XTB Limited Price movements. You acknowledge that You are not acquiring the Underlying Instrument or any delivery obligations in relation to it.
- 4. Authority to place Trades**
- 4.1** XTB Limited provides services to clients via an on-line trading platform. All Trades, Orders and other instructions must be placed on-line.
- 4.2** When placing an Order or giving any other instruction through the Trading Platform, You will be required to give Your name and Account number or Login and other information reasonably requested by XTB Limited to identify You. No Order or instruction will be accepted without this information. When amending or cancelling Orders by way of the Trading Platform, You will gain access to Your Account by use of Your Login and Password. Orders and instructions placed by way of the Trading Platform will only be treated as effective on receipt of and acceptance by XTB Limited. Orders placed via the Trading Platform will normally only be confirmed at the time of the Trade by electronic means broadcast over the Trading Platform. If during the process of placing any trade, order or instruction by way of the Trading Platform, there is a breakdown in communication leading to a cessation of connection between XTB Limited and You it is Your sole responsibility to contact immediately our Customer Services.
- 4.3** Your Login and Password should not be disclosed to any third party. You are required to immediately inform XTB Limited if You become aware of or suspect that an unauthorised third party has ascertained Your Login or Password, or that any person other than You is dealing on Your Account without authority. Please note that we will deal with anyone who provides us with Your Login and Password. You can access our platform from any domain and we will not recognise or verify the domain from which instructions are sent. In the case of telephone communication, we cannot be expected to recognise Your voice. You are responsible for everything done or omitted using the information referred to above (including positions opened or closed and Orders placed).

**4.4 Power of Attorney** - prior consent is required if You intend to authorise someone to operate Your Account. In such circumstances, You and the person seeking authority to operate Your Account shall be required to execute and deliver to XTB Limited a Power of Attorney, which authorises and appoints such person as "*an Attorney*" with authority to operate Your Account. You will be solely responsible for all acts and omissions of the Attorney.

## 5. Placing Trades

**5.1** To place an Order You first have to make us an offer to trade which is subject to acceptance by us. You will only have placed an Order if we accept Your offer. The following apply: -

- You can offer to place an "up" Order at the XTB Limited Buy Price if You speculate that the price will rise. If accepted it is known as a "buy" or a "long" position. In the case of Options if You place an "up" Order on a "Call" You will want the price to increase, but if You place an "up" trade on a "Put" You will want the price to fall.
- You can offer to place a "down" trade at the XTB Limited Sell Price if You speculate that the price will fall. If accepted it will be known as a "down" trade, also known as a "sell" or a "short" position. In the case of Options if You place a "down" trade on a "Call" You will want the price to fall, but if You place a "down" trade on a "Put" You will want the price to rise.
- Depending on the type of Account and Financial Instrument You are trading, Your offer to trade must be on a "direct deal" or "market order" basis, as follows: -
  - A. "direct deal" means that (if the offer to trade is accepted) You will have placed a trade at the XTB Limited Price current at the time You made the offer to trade. If (by the time we receive Your offer to trade) the XTB Limited Price is no longer valid, Your offer to trade will be rejected and You will need to make a further offer to trade at our then current XTB Limited Price;
  - B. "**market order**" means that (if the offer to trade is accepted) You will have placed a trade at the XTB Limited Price which is current at the time we execute Your trade. Please note that the XTB Limited Price may move between the time we accept Your offer to trade and execution. If You offer to trade on a "**market order**" basis You are accepting the risk in relation to those XTB Limited Price movements.

## 6. Our rights to refuse a trade

**6.1** All offers to trade are subject to acceptance by us. We are entitled to refuse to accept an offer to place a trade, but we will act reasonably. We are also entitled to reject Your trades in the following circumstances:

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- if accepting such a trade would immediately put the Account into negative Equity when the trade is valued against the current XTB Limited bid or offer as applicable.
- if any amount You owe (e.g. Variation Margin) is overdue;
- if any Initial Margin requirement relating to that trade has not been complied with;
- if the trade is not at the relevant XTB Limited Price in and/or within the appropriate minimum/maximum trade sizes;
- if we reasonably believe the trade would breach the Terms of this Agreement or any law (English or elsewhere) or the regulatory system or we have reasonable concerns regarding money laundering or insider dealing;
- if You become insolvent;
- You die or become a patient under relevant mental health legislation, or we have reasonable grounds to believe that You have done so;
- if we think it would not be commercially viable to accept that trade;
- if we think the trade is too large or too small. For example, we may hedge Your trades in the Underlying Instrument; depending on the size of Your proposed trade our exposure to the Underlying Instrument share/equity may amount to a declarable interest in the relevant company and/or require us to make a takeover offer if we think this may occur we are entitled to refuse the trade;
- if the opening of the Transaction causes an excess of the Maximum Nominal Portfolio Value

**6.2** You must contact us immediately if You have any concerns as to whether an Order or any other instruction placed through the Trading Platform has been accepted.

## 7. XTB Limited Price

**7.1** Current XTB Limited Prices are available on our Trading Platform.

**7.2** The following applies to our prices:

- our prices are set by us in our absolute discretion;

- we shall systematically quote on Trading Days the prices of the Financial Instruments on the basis of prices of corresponding Underlying Instruments quoted on the Interbank Market or other financial market on which the trading volume of the above mentioned Underlying Instruments is the highest and most liquid;
- Transaction prices shall be quoted on an ongoing basis on the Accounts, on the basis of current prices made available by the following institutions:
  - A. banks;
  - B. investment firms and brokers;
  - C. underlying instruments markets and derivatives markets;
  - D. prestigious information agencies;
- we shall use its best efforts to ensure that Transactions prices do not differ materially from the prices of Underlying Instruments made available in real time by the Reference Institutions, however we can change or withdraw the XTB Limited Price at any time and in particular can do so at any time before Your offer to trade on that XTB Limited Price has been accepted;
- You cannot trade on a XTB Limited Price which is no longer valid. Our Trading Platform will make clear if an XTB Limited Price has ceased to be valid (e.g. by giving a different XTB Limited Price or otherwise clearly indicating that it is no longer valid);
- we shall not quote prices of the Financial Instruments, accept Transaction Orders and/or execute Client's Instructions on days other than Trading Days, with the reservation that we may accept stop and limit Orders on selected trading platforms for selected Financial Instruments specified in the Specification Tables outside of the Trading Day;
- some XTB Limited Prices are just given for guidance purposes and You cannot trade on these.

**7.3** For each Market we quote XTB Limited Price as follows:

- the XTB Limited Buy Price, this is the higher price for the Market concerned (and with the exception of some Options, a trade placed at this price is an "up" trade);
- the XTB Limited Sell Price, this is the lower price for the Market concerned (and with the exception of some Options Markets a trade placed at this price is a "down" trade).

**7.4** The difference between the Buy and Sell XTB Limited Price on any given Financial Instrument is the Spread.

**7.5** Indications of Spreads on particular Markets can be found in the Specification Tables. When setting XTB Limited Prices we reserve the right to add the Spread of the Underlying Instrument to the XTB Limited Price, in particular in the case of an Event outside Our Control and/or a Market Disruption Event. We have the right to vary Spreads.

**Fixed Spread**

- For some Financial Instruments we apply a principle of quoting XTB Limited Prices with a fixed Spread specified in the Specification Tables.
- XTB Limited reserves the right, without the prior notice to the Client, to increase the above mentioned fixed Spread in the following circumstances:
  - A. higher than average volatility of prices of a particular Instrument;
  - B. low liquidity on the market of a particular Underlying Instrument;
  - C. unexpected political and economic events;
  - D. Force Majeure events.

**Floating Spread**

- For some Financial Instruments and some Accounts XTB Limited applies a principle of quoting XTB Limited Prices with the use of variable Spread which reflects the prevailing market conditions and volatility of Underlying Instruments' prices.
- For the floating spread Financial Instruments, the Spread will be constantly changing, as it reflects the prevailing market conditions and volatility of the Instruments' prices.

**Market Execution Prices**

- For Financial Instruments with market execution "market order", prices shown in the Account should be deemed as indicative and it is not guaranteed that the Client will deal at this quotation. The price of Client's Order execution will be based on the best price which XTB Limited can offer at the particular moment without obtaining any additional confirmations from the Client. The current price of a Financial Instrument with market execution at which the Transaction is concluded will be reported back by XTB Limited. The price of a concluded Transaction will be visible in the Account.
- Some offers, orders, prices or transactions coming or performed with foreign partners, information agencies, relevant markets or data vendors based on which Financial Instrument's price with market execution was determined, may be cancelled or withdrawn for reasons beyond XTB Limited's control. In such case, XTB Limited has the right to withdraw from respective Transaction on that Financial Instrument concluded by the Client. In such a situation, confirmation of withdrawal will be documented



and presented to the Client within two days after withdrawal or cancellation of an order, offer or transaction. XTB Limited bears no responsibility for damages caused by situations described in herein point

## **8. Minimum and maximum trades**

- 8.1** There are limits on the trade size of any trade You wish to place. You cannot place any trade unless it is within the relevant minimum and maximum trade size.
- 8.2** You must make sure You know the current minimum and maximum trade sizes applicable to any trade You wish to place. You must also ensure that You understand how to calculate maximum trade sizes. Please contact Your Account Manager or Customer Services.
- 8.3** If the size of your Order exceeds the maximum size as specified in the Specification Tables (e.g. a maximum Order value in Lots), We are entitled to request you meet additional requirements as well as offer special terms for the Transaction. We shall notify the you about such fact directly in the moment the Order is placed. You may accept the offered conditions solely at your own discretion.

## **9. Other charges and adjustments**

- 9.1** A financing charge applies to position based Rolling Spot Forex Trades and some CFD trades. Commission applies to some CFD trades. Adjustments also apply in the case of any Corporate Action.

## **10. Initial Margin**

- 10.1** Initial Margin is due to XTB Limited on each opening Trade You place. Initial Margin must be maintained in respect of all Open Positions.
- 10.2** Initial Margin (IM) is calculated differently for CFDs, Rolling Spot Forex and Options. You must make sure You know how IM is calculated and the relevant IM Factor for any trade You propose to place. IM Factors are in the Specification Tables located on the Website. If in doubt, please contact Your Account Manager or Customer Services.
- 10.3** XTB Limited can:
- waive Initial Margin in relation to any particular trade;
  - vary IM factors for any reason but particularly in respect of any Account/s that in XTB Limited's sole discretion is considered to have established large or excessive concentrated risk in respect of any instrument. Please note that changes to the IM Factor applies to open positions so additional Margin may become due to maintain open positions.

## **11. Variation Margin**

- 11.1** Variation Margin is immediately due and payable when as result of Your Trades or changing market conditions the Equity or Balance on Your Account might fall below 30% of the current Margin blocked on the Account. This is calculated by the deduction of the total negative factors of the Your Account from the total positive factors. If in the result of Your Trades the Equity or Balance becomes equal or lower than 30% of the current Margin blocked on Your Account than XTB Limited is authorized but not obliged to close any or all Open Positions, in whole or in part, as specified in point 11.5 of herein Terms.
- 11.2** Variation Margin is **not** the total extent of Your financial liability to XTB Limited and You are bound by this Agreement to make good the entirety of any losses You may suffer and any other payments due hereunder.
- 11.3** Variation Margin is immediately payable whether or not demanded and whether or not a Margin Call is made. It is therefore Your responsibility to ensure that You understand how Variation Margin is calculated and it is also Your responsibility, and not XTB Limited, to monitor Your open positions and all other relevant factors used to calculate Variation Margin payable. You are required to notify us immediately if You cannot, or believe You will not be able to, meet a Variation Margin payment when due.
- 11.4** XTB Limited is not obliged to make Margin Calls to You or within any specific time period and we shall not be liable to You for any failure by us to contact You or attempt to contact You. Margin Call can be made at any time and by any method of communication. Where a Margin Call has been made by one or more method of communication it shall be deemed to have been made at the earliest time such communication is deemed served as referred.

- 11.5** In the event of any of the following, XTB Limited reserves the right (but is not obliged) to close any or all, in whole or in part, of Your Open Positions (including those held on a joint Account with others) on the basis of current XTB Limited Price (or next available), to exercise its rights of combination consolidation and set off hereunder, to close Your Account and not accept any further Orders from You, in each case with or without notice to You, XTB Limited reserves the right to effect closures at any time:
- if any method of payment employed by You to make payment to XTB Limited is not met on first presentation or is subsequently dishonoured;
  - if XTB Limited considers, in its absolute discretion, that You have materially breached any of the clauses contained within this Agreement as may be amended from time to time;
  - if any representation or warranty made by You in relation to this Agreement is found to be, or becomes, untrue, inaccurate or misleading in any respect;
  - if You become subject to insolvency;
  - if You should die, be committed as a patient under relevant mental health legislation or any court order is made in respect of You under relevant mental health legislation or XTB Limited suspects or believes the same to be true;
  - if we are in dispute in relation to any order, bet or instruction, save that in such case we may close all but not part only of the actual or alleged bet in dispute whether or not such action is considered desirable for minimising the amount in dispute;
  - if there occurs any other event or any other circumstance exists, where we reasonably believe that it is necessary or desirable to take any of the above actions in order to protect ourselves or any or all of our other clients;
  - if any regulatory body of XTB Limited business, or the rules of such a body, require XTB Limited to do all or any of the foregoing;
  - If the Equity or Balance is equal or lower than 30% of the current Margin blocked on Your Account.
- 11.6** XTB Limited reserves the right to exercise all or any of the rights referred to above at any time after the occurrence of any of the events therein referred to and regardless of when the Underlying may close.
- 11.7** XTB Limited shall have the right to change the amount of the Margin and such changes shall be immediately notified to the Client.

## **12. Position Closure**

- 12.1** An open trade will continue until its expiry date or after 365 days from the date of the position opened or the occurrence of a relevant event such as a Corporate Action; it will then be automatically closed at the first Financial Instrument price provided by XTB after that period. However, this is subject to: -
- Your right to close the Trade before Expiration Date;
  - our right to close the Trade;
  - execution of any Order that closes the Trade.
  - exception applies on Equities CFDs and ETFs CFDs open positions, see clause 12.2.
- 12.2** An Open Position on Equity CFD and ETF CFD shall be closed without Client's consent after 365 days from the date of opening of the position in the situation where the value of Equity is lower than the value of commission on transaction closing this position.
- 12.3** You may close Trades by:
- either closing a "sell" Trade by buying at the XTB Limited Buy Price current on closing; or,
  - You close a "buy" Trade by selling at the XTB Limited Sell Price current on closing.
- The above applies regardless of XTB Limited Prices or Spreads current on opening. In addition: -
- unless we specifically agree, You can only close during our trading hours for the Market;
  - Your maximum trade size (on closing) will be limited to that applicable on closing, regardless of the maximum trade size that applied on opening. Consequently, You may need to execute more than one closing trade in order to completely close an open trade and the XTB Limited Price of each closing trade may vary considerably.
- 12.4** In case of Financial Counterparty, XTB calculates results in the following way:
- Financial Counterparty's unrealized loss is settled by the XTB in real time by adjusting the Free Margin on Financial Counterparty's Account;
  - Financial Counterparty's unrealized profit will be settled if the unrealized profit on all currently opened Positions exceeds EUR 500.000. If at the end of the day the unrealized profit exceeds EUR 500.000 then XTB will roll over Financial Counterparty's Open Positions by closing all Financial Counterparty's Positions, transfer of the unrealized profit on the Financial Counterparty's Account and reopen of the closed Position at the closing prices;
  - the amount EUR 500.000 will be exchanged to the Account Currency at the rate published by Polish National Bank on the day when the aforementioned level was exceeded.

### 13. Orders

- 13.1 A position shall be opened by placing a Trade Order, directly on our Trading Platform, which contains all necessary parameters and following its acceptance by XTB Limited.
- 13.2 We accept Orders on all Markets identified in the Specification Tables.
- 13.3 Orders can only be executed when there are sufficient funds on the Cash Account to establish the Margin.
- 13.4 The following apply to all Orders:-
- All terms and conditions that apply to placing trades must be complied with both when You place an Order and when that Order is due to be executed.
  - All Orders must be placed only on the Trading Day, with the reservation that XTB may accept stop and limit Orders on selected trading platforms for selected Financial Instruments specified in the Specification Tables outside of the Trading Day
  - we have the same right to refuse to accept or execute an Order as we have to refuse to accept a trade. If being entitled to do so we refuse to execute an Order, that Order may be deemed automatically cancelled;
  - all Orders must be at an execution price set by You and agreed by us;
  - all Orders are deemed "Good 'Till Cancelled" or "GTC".
  - all Orders are deemed "XTB Limited Price"
  - the price at which we execute Orders is not guaranteed unless clearly specified otherwise;
  - all Orders will be executed unless You specifically cancel the Order You have placed.

### 14. Different Order Types

- 14.1 Depending on the type of the Account or the type of Financial Instrument the following Order types can be placed by You:
- market Order at a current price of a Financial Instrument published in the Account;
  - instant Order "direct deal" at a current price of a Financial Instrument published in the Account;
  - limit Order to execute a Transaction (buy limit; sell Limit; take profit "t/p");
  - stop Order to execute a Transaction (buy stop; sell stop; stop loss "s/l").
  - an Order to execute a Trade on Option may be also placed by placing a question about the price of the Option.
- 14.2 You must make sure You know the current Order types available to any trade You wish to place. You must also ensure that You understand how to place particular Order types. Please contact Your Account Manager or Customer Services in case of any doubts.

### 15. Execution of Orders

- 15.1 The following applies to execution of Orders:
- Orders will be executed by XTB Limited when it is reasonably able to do so at the first XTB Limited Price we are reasonably able to offer. Orders cannot be executed outside XTB Limited trading hours for the relevant Market. So if the Underlying trades outside our trading hours, the XTB Limited Price at which an Order may be executed may be very different to the agreed execution price of the Order;
  - In times of volatility of the Underlying and at the opening and closing of an Underlying, the XTB Limited Price at which an Order may be executed may be considerably different to the agreed execution price of the Order;
  - if the Underlying opens through or trades through the agreed execution price of an Order (known as "gapping"), we will execute at the first XTB Limited Price we are reasonably able to offer;
  - in relation to Markets quoted outside the trading hours of the Underlying, Orders may be filled at the XTB Limited Price we consider reasonable.
- 15.2 The following applies to execution of CFD Orders on Basic Accounts:
- Stop Orders and limit Orders cannot be placed if the absolute value of the difference between the price of the Order's activation and the current, and in case of placing stop Orders and limit Orders outside of the Trading Day last price of the Financial Instrument is lower than the minimum limit for the stop Orders for a given Financial Instrument. These limits are available on the XTB's Website. The limits can be raised in case of the economic data publication (defined in the Calendar section available on the XTB's Website) or in case of a high market volatility on a given Financial Instrument.
  - Limits for stop and limit Orders are enlarged when the market opens on Sunday at 11 pm. Limits are restored to fixed values as fast as the liquidity and volatility on the underlying markets allow. Usually the

process takes from 10 to 20 minutes, however, in cases of limited liquidity and enlarged volatility this period may last longer.

- An Order to execute a Transaction on CFD on the Basic Account may be placed in the following manner:
  - A. by placing an instant Order at a current price of a CFD published in the Trading Account;
  - B. by placing a limit Order to execute a Transaction (buy limit; sell limit; take profit "t/p");
  - C. by placing a stop Order to execute a Transaction (buy stop; sell stop; stop loss "s/l").
- Instant Orders on Basic Account on CFDs are executed at the price indicated in the Order with the provision that XTB may reject the Order, if prior to conclusion of the Transaction, the Financial Instrument Price has changed significantly comparing to the price from the Order.
- Limit Orders on Basic Account on CFD are executed at the price indicated by the Client or better.
- Stop loss "s/l" Orders during Trading Hours on the open market on Basic Accounts for CFDs are guaranteed to be executed at the price indicated by the Client. This does not apply to buy stop and sell stop Orders.

### 15.3 The following applies to execution of CFD Orders on Standard Accounts:

- An Order to execute a Transaction on CFD on the Standard Account may be placed in the following manner:
  - A. depending on the offer available to the Client, as described on XTB's Website or in the Specification Tables, by placing an instant Order at a current price of a CFD published in the Trading Account or by placing a market Order at a current price of a CFD published in the Trading Account;
  - B. by placing a limit Order to execute a Transaction (buy limit; sell limit; take profit "t/p");
  - C. by placing a stop Order to execute a Transaction (buy stop; sell stop; stop loss "s/l").
- Instant Orders on Standard Account on CFDs are executed at the price indicated in the Order with the provision that XTB may reject the Order if prior to conclusion of the Transaction, the Financial Instrument Price has changed significantly compared to the price from the Order.
- Market Orders (market execution) on Standard Account on CFD are executed at VWAP (Volume Weighted Average Price). Prices shown in the Trading Account before placing an Order for market execution are only indicative and are not a binding execution price which will be shown after the effective execution of the Transaction.
- Limit Orders on Standard Account on CFD are executed at the price indicated by the Client or better.
- Stop Orders on Standard Account on CFD are executed at market prices at the moment of a given stop level activation.

### 15.4 The following applies to execution of CFD Orders on Pro Accounts:

- An Order to execute a Transaction on CFD on the Professional Account may be placed in the following manner:
  - A. by placing a market Order at a current price of a CFD published in the Trading Account;
  - B. by placing a limit Order to execute a Transaction (buy limit; sell limit; take profit "t/p");
  - C. by placing a stop Order to execute a Transaction (buy stop; sell stop; stop loss "s/l").
- Orders on Professional Account on CFD (market execution) are executed at VWAP (Volume Weighted Average Price). Prices shown in the Trading Account before placing an Order for market execution are only indicative and are not a binding execution price which will be shown after the effective execution of the Transaction.
- Limit Orders on Professional Account on CFD are executed at the price indicated by the Client or better.
- Stop Orders on Professional Account on CFD are executed at market prices at the moment of a given stop level activation.

### 15.5 Specific rules for Equity CFDs and ETF CFDs.

- Due to its characteristics rules of placing and executing Orders for Equity CFD and ETF CFD may differ in some aspects from normal CFD rules as specified above. Prior to entering into any Equity CFD or ETF CFD Transaction You should become aware of how different Order types are executed for these Financial Instruments and how it may influence the price of a Transaction.
- An Order to execute a Transaction on Equity CFD or ETF CFD may be placed in the following manner:
  - A. by placing a market Order at a current price of an Equity CFD or ETF CFD;
  - B. by placing a limit Order to execute a Transaction (buy limit; sell limit; take profit "t/p");
  - C. by placing a stop Order to execute a Transaction (buy stop; sell stop; stop loss "s/l").
- Stop Orders described in point c above are executed as market Orders in the moment of a given price limit activation or stop level. XTB does not guarantee the execution of such Orders exactly at the price indicated by the Client.
- Limit Orders on Equity CFDs or ETF CFDs are executed at the price indicated by the Client or better.
- In-the-money limit Orders on Equity CFDs or ETF CFDs are not allowed. For buy Orders the highest possible limit is the current Ask price. For sell Orders the lowest possible limit is the current Bid price.
- Stop Orders on Equity CFDs or ETF CFDs are executed on conditions laid down by the Underlying Exchanges.

- Unexecuted stop Orders and limit Orders on Equity CFD or ETF CFD, placed without the specified time limit, shall be considered as Orders valid until the end of a given session.
- In some cases of limit or stop Orders on Equity CFDs or ETF CFDs XTB may block the applicable Margin at the moment of placing an Order or Instruction.
- Market orders are not subject to requote which means that by using “sell at market” or “buy at market” Client wishes to sell or buy Equity CFD or ETF CFD at the price reflecting current market price and/or liquidity of the Underlying Instrument.
- If Client wishes to execute a market Order for an Equity CFD or ETF CFD and relevant Underlying Instrument is currently suspended from trading (frozen) for any reason, then Client's Order will be rejected by the Underlying Exchange or remain active in accordance with the trading rules of the Underlying Exchange.

**15.6** The exceptions to the above are, if we have agreed something different with You.

## **16. Our right to close Your Account**

**16.1** The notice we give You before closing Your Account depends on the situation of the closure. However, we may be prevented by law or regulatory rule from giving You notice.

**16.2** Reasons with which we can close Your Account:

- You die or become a patient under relevant mental health legislation, or we have reasonable grounds to believe that You have done so;
- an insolvency event occurs in relation to You. In the above two bullet points we are not obliged to give You any prior notice, but we would tell You that we had closed Your Account.
- anything You owe us under the Terms (for example Variation Margin or realised losses) has not been paid within 30 days of the day it should have been paid. In the above case, we will give You at least 14 days' written notice prior to closing Your Account.
- Your dealings are of such a type (e.g. size or nature) that we no longer wish to deal with You. In the above case we would give You at least 30 days' written notice prior to closing Your Account.
- we have other good grounds for doing so.

**16.3** During the notice period on Your Account before closure:

- we will not close Your open Trades;
- You will not be able to place any new Trades or Orders nor give any other instruction, except insofar as necessary to close a Trade. In particular, You will not be entitled to place a closing Trade or any Order in such a size that would result in a new Trade being opened;
- All Trades will be closed and all Orders cancelled on the same day that Your Account is closed (or as soon as reasonably practicable thereafter);
- all Trades will be closed at the XTB Limited Price;
- we can effect closures at any time, but closure will generally be effected approximately one hour before the close of the Underlying or our trading hours for the Market in question;

## **17. Our right to suspend Your Account**

**17.1** We reserve the absolute right to suspend Your Account.

**17.2** Due to law and the Regulatory System, there may be circumstances which we are unable to provide notice to You before suspending Your Account.

**17.3** Once Your Account is suspended:

- Orders (in place prior to the suspension) will not be affected;
- You will not be able to place any new Orders nor to give any other instruction, except insofar as necessary to close a Trade or to cancel an Order in place before the suspension. In particular, You will not be entitled to place a closing Trade or any Order in such a size that would result in a new Trade being opened.

**17.4** We retain the right to suspend Your Account at any time for any good reason. However, we will endeavour to notify You before taking such action. Circumstances in which we can suspend Your Account are shown below and in each of the below we can suspend either with or without giving notice. If we give notice, it will be given via an email. If we do suspend without giving You notice, we will notify You by email (as soon as reasonably practicable) that we have done so. Some circumstances in which we can suspend are as follows:

- if we have reasonable concerns in relation to breach of any relevant law (whether English or otherwise) or the Regulatory System;

- if we have reasonable concerns relating to money laundering;
- if You do not provide information requested in relation to any credit checks;
- if You have failed to provide us with the originals of any Account opening documentation (including in relation to money laundering regulations), if You only supplied us with copies when we opened Your Account;
- if we have reasonable grounds to believe that any material warranty or representation You have made to us is not true or is misleading in some material respect;
- if we have reasonable grounds to believe that You will not be able to pay us anything You owe us, when the time comes for payment;
- if any amount You owe us (including Variation Margin) has not been paid on time;
- if we have exercised our rights to close, cancel or void Your, Trades or Orders;
- if we have reasonable grounds to believe that You are in a material breach of these Terms;
- You die or become a patient under relevant mental health legislation, or we have reasonable grounds to believe that You have done so;
- an insolvency event occurs in relation to You;
- If You are persistently abusive when You deal with us.

## 18. Our right to close or void Your Trades or to cancel Orders

**18.1** We set out the circumstances in which we can close or void Your Trades and cancel Orders. We also set out below the notice we may give. However, please note that we may be prevented by law or the Regulatory System from giving You notice. In addition, the law and the Regulatory System may determine when and how much notice we can give You.

**18.2** We can: -

- close all open positions on Your Account and cancel all Orders.
- close any short (or long) Open Position, Trade relating to an Underlying Instrument, if we are obliged to close any hedging position we have taken in relation to that Trade (for example, if the Underlying Instruments are unavailable and/or a buy-in notice is enforced by the relevant exchange);
- close any or all of Your open Trades and cancel any or all of Your Orders, in whole or in part if:
  - A. any payment due under the Terms has not been received in full on the due date and we have given You at least 7 days' notice to pay the amount due;
  - B. any instrument of payment You use to pay amounts to us is not honoured on first presentation;
  - C. an insolvency event occurs in relation to You;
  - D. You die or become a patient under mental health legislation or we have reasonable grounds to believe You have done so;
  - E. law or the Regulatory System requires or permits us to do so.
  - F. In the above circumstances, we can close Your open Trades and cancel Your Orders with or without giving You notice. If we exercise our rights without giving You prior notice, we will tell You (as soon as reasonably practicable) that we have done so.

**18.3** When we exercise any of our rights under the Terms to close Your Trades:

- closure will be on the basis of the XTB Limited Price;
- we can affect closures at any time.

**18.4** When counteracting of systematic concluding Transactions based on erroneous prices:

- If, on the basis of Client's Transactions, XTB notices that Transactions are concluded by the Client systematically on erroneous prices, XTB reserves the right to:
  - A. terminate the Agreement with an immediate effect;
  - B. particularly supervise each Order or Instruction of the Client;
  - C. withdraw from each Transaction concluded with the use of practises described in herein clause;
  - D. close any Trading Account of the Client with immediate effect. In such case, it is hereby confirmed that this Agreement shall be terminated in respect to that particular Trading Account and in that regard provisions relating termination of the Agreement with immediate effect shall apply accordingly.

In particular clause 18.4 applies to situations where the Client deliberately uses, by means of a software or other, a practice which systematically takes advantage of: price slippages, price delays, delays in Order execution and any other situations where the Financial Instrument Price in the moment of Transaction conclusion may deviate in any manner from the Underlying Instrument's Price.

## 19. Calculation of Profit and losses

**19.1** Profit and losses are calculated differently for each product that we offer. You must make sure You know the way the profits and losses are calculated on particular product You chose.

- 19.2** The following apply to profits and losses: -
- profits on closed positions will be credited to Your Equity;
  - losses on closed positions will be debited from Your Equity.
- 19.3** All amounts payable by You to us will be deducted from Your Equity. Likewise, we can credit to Your Equity any amounts we owe You or any adjustments to which You are entitled.
- 19.4** It is in Your own best interest to make sure You know how to calculate profits and losses and what amounts will be added or deducted in relation to Your Trades. All the information You need to do so is available from the Specification Tables and Trading Platform. If You are in any doubt, please contact our Customer Services team.

## **20. Payments of Profits and Losses**

- 20.1** We retain the obligation to:
- hold any amount You owe us in respect of the Account e.g. realised losses, Initial Margin and Variation Margin;
  - any other amounts You owe us under these Terms;
  - any and all amounts on Your Account pending receipt by us of the originals of any Account opening documentation (including in relation to money laundering regulations), if You only supplied us with copies when we opened Your Account;
  - any amount You owe us in relation to any other Account You have with us or on any other grounds.
- 20.2** If You have negative Equity, that negative sum is due and payable by You to us immediately.
- 20.3** The following applies to all payments by You to XTBLIMITED: -
- all payments must be made in Your Base Currency. If You pay us in any other currency, we can charge You the cost of conversion into that Base Currency;
  - You will only be credited for the net amount received after all deductions, (i.e. bank charges and any other costs of transfer);
  - we do not accept cheques;
  - we do not accept payments in cash;
  - in the case of payment of Variation Margin, we only accept payment by bank transfer.
- 20.4** We retain the right to charge interest on late payments.
- 20.5** XTBLimited do not permit the payment to clients of unrealised profits and in no circumstances will such unrealised profits be made available for any form of payment including electronic withdrawal.

## **21. Administrative Provisions**

- 21.1** We will report all dealings to You via:
- the Trading Platform which will contain full details of all the matters relating to Your Account so that You can check the status of Trades and Orders;
  - we will provide You with a confirmation of each Trade in a daily summary on request.
- 21.2** It is Your responsibility to regularly access the Trading Platform to check on all dealings. If You think a mistake has been made (i.e. a Trade has been recorded that You think is not yours), contact us immediately, either by e-mail using [ukservice@xtb.co.uk](mailto:ukservice@xtb.co.uk) or by telephoning our Customer Services team. The sooner we are made aware of a potential problem, the easier we will be able to investigate. If You delay in reporting issues, it may make it problematic to resolve issues.

## **22. Client re-categorisation**

- 22.1** Re-categorisation will only be initiated if we comply with the Regulatory System. This involves obtaining Your written consent or entering into a written agreement with You, if required. We will give You at least 14 days' written notice of any re-classification unless we are required by law or regulation to give less.
- 22.2** You may request a different client categorisation at any time.

## **23. Specifications and rules**

**23.1** Particular Markets will have specifications and rules that apply to that Market. We retain the right to vary any of those specifications at our discretion with or without giving You notice. No change will apply to any Trade or Order current prior to the date on which the change is to become effective.

## **24. Interest on late payments and costs**

**24.1** If You do not pay on time any amount You owe us, we are entitled to charge You interest. The rate of interest will be 4% above the base rate of our bank from time to time. We will charge You this interest until You have paid the amount in full.

**24.2** You must pay to us all costs and expenses (i.e. bank charges, court fees, legal expenses and the like) we pay or incur due to Your failure to pay amounts owed on time, or which we incur in enforcing our rights against You.

**24.3** Interest, costs and expenses are debts You owe us. We are entitled to deduct them from Your Account.

## **25. Interest**

**25.1** It is not XTB Limited policy to pay interest on any of Your funds that we may hold and by signing this Agreement You acknowledge that You are waiving any entitlement to interest on any funds that we may hold for You from time to time.

## **26. Netting**

**26.1** All Trades between You and XTB Limited will be entered into in consideration of each other and constitute a single contract between You and us. XTB Limited reserves the right in its sole discretion at any time and from time to time and with or without notice to You to combine and consolidate or to set off against each other in or towards satisfaction of liabilities, all positive and negative balances of whatever nature in respect of any account in which You have a part, or management function, or oversight interest.

**26.2** This includes for the avoidance of doubt, but are not necessarily limited to, Your open Trades and any other right or liability mentioned in this Agreement or arising as between XTB Limited and You, and whether XTB Limited exercises its rights hereof or not, and whether any such balance be actual, contingent, primary, collateral, several or joint and the resultant balance would represent the single obligation payable by the obliged party.

**26.3** In the event of default, bankruptcy, liquidation or similar circumstances resulting in the termination of this agreement, the parties agree that there shall be a single obligation in the base currency of the customer's foremost XTB Limited Account to pay a net sum of cash in respect of all aforesaid positive and negative balances. Any such balance in Your favour shall be held by You as security for all balances in XTB Limited favour.

## **27. Currency**

**27.1** We will convert into Your Base Currency –

- any profit, loss or other liability;
- any money owed by us to You, or You to us;
- any money paid by You to us.

**27.2** Please note that for the purpose of calculating Your Cash and all other relevant matters we will convert any relevant currencies into Your Base Currency.

**27.3** If You pay us in any currency other than Your Base Currency, we will charge You any costs we incur in converting currency into to Your Base Currency.

## **28. Compliance with law**

**28.1** If any provision (or part of a provision) of these Terms is invalid or unenforceable, such will not render all remaining Terms shall remain in full force and effect.



## 29. Market Disruption

- 29.1** Market disruption is caused by exceptional, unusual or emergency market conditions which may prevent XTB Limited from performing any or all of its obligations. In the event of Market Disruption which is outside our control, we can:
- close any open Trades;
  - cancel or execute any Orders;
  - adjust the XTB Limited Price or size of any open Trades;
  - adjust the agreed execution price or size of any Orders;
  - suspend trading and alter trading times;
  - refuse all Trades and Orders;
  - vary Initial Margin requirements, IM factors, minimum and maximum trade sizes and XTB Limited Prices;
  - immediately require payment of all amounts You owe us such as Variation Margin;
  - void any trade, in cases where the XTB Limited Price is based on the price of an Underlying Instrument and Trades relevant to the XTB Limited Price are cancelled by a relevant regulatory body, exchange or other third party;
  - do or omit to do anything, if we think it reasonable to protect ourselves and our Clients as a whole.
- 29.2** We are within our rights to do anything listed in 29.1, with or without giving You notice, but if we exercise without giving You notice we will notify You, as soon as reasonably practicable, that we have done so.
- 29.3** In the case of an event outside our control, You may not be able to access the Software, nor the Trading Platform or [Website](#) and You may not be able to contact us by telephone.

## 30. Force Majeure Events

- 30.1** We may, in our reasonable opinion, determine that an emergency or an exceptional market condition exists (a "Force Majeure Event"). A Force Majeure event is any event which prevents XTB Limited from making orderly markets in any contract normally quoted by XTB Limited for the purposes of making Trades. In such case we will, in due course, inform the FCA and take reasonable steps to inform You. A Force Majeure Event will include, but is not limited to, the following:
- the suspension or closure of any market or the failure of any event on which we base, or to which we in any way relate, our quote, or the imposition of limits or special or unusual terms on the trading in any such market or on any such event;
  - the occurrence of an excessive movement in the level of any Trade and the Underlying Market or our anticipation (acting reasonably) of the occurrence of such a movement;
  - any breakdown or failure of transmission, communication or computer facilities, interruption of power supply or electronic or communications equipment failure;
  - failure of any relevant supplier, intermediate broker, agent or principal of ours, custodian, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations.
- 30.2** If we determine that a Force Majeure Event exists, we may, at our absolute discretion, without notice and at any time, take one or more of the following steps:
- increase Your Margin requirements;
  - close all or any of Your open Trades at such closing level as we reasonably believe to be appropriate;
  - suspend or modify the application of all or any of the Terms of this Agreement to the extent that the Force Majeure Event makes it impossible or impracticable for us to comply with the Term or Terms in question; or
  - alter the trading time for a particular Trade.

## 31. Errors

- 31.1** In order to be valid, a contract note, or any other form of Trade confirmation, must accurately reflect the relevant Trade struck via the Trading Platform. Erroneous contract notes or Trade confirmations will not affect the validity of the Trade that was struck and will not entitle the client to enforce whatever is inaccurately recorded in the contract note or Trade confirmation.
- 31.2** XTB Limited reserves the right to refuse, void or amend any Trade involving or deriving from a Manifest Error. Any amendment of such a Trade shall reflect what XTB Limited considers in its sole discretion, acting in good faith and in line with the Best Execution Policy, to be the correct or fair details of such a Trade absent such Manifest Error.

- 31.3** The term "Manifest Error" applies to any error, omission or misquote, (including any misquote by the dealer) which by fault of either XTB Limited or any third party is manifest when taking into account the Market conditions and available Reference Institution quote or quotes that prevailed at the time. This may include, wrong price, Market or any error or lack of clarity of any information, source, commentator, official result or pronunciation.
- 31.4** In the event of a Manifest Error, XTB Limited may take into account all information in its possession including information concerning the expertise of the Client and the Market conditions that prevailed at the time of such error. When making a determination as to whether a situation amounts to a Manifest Error, XTB Limited will act fairly towards the Client and the Client must equally not gain any unfair advantage by such Manifest Error. The fact that a Client may have entered into, or refrained from entering into, a corresponding financial commitment, contract or trade in reliance on a Trade placed with XTB Limited is deemed irrelevant as a factor and shall not be taken into account by XTB Limited in determining whether a situation amounts to a Manifest Error.
- 32. Corporate Action**
- 32.1** Where a Corporate Action takes place we are entitled to:
- change XTB Limited Prices;
  - change our Spreads;
  - change IM factors;
  - change minimum and maximum Trade sizes;
  - suspend the acceptance of or refuse to accept Trades or Orders for any affected Market.
- 32.2** We can exercise the above rights with or without notice depending on the nature of the Corporate Action concerned. If we exercise before we have given notice, we will inform You as soon as reasonably practicable that we have done so.
- 32.3** In addition, if a Corporate Action occurs we can do any of the following in relation to a Trade or Order You have placed that is directly or indirectly affected by the Corporate Action and that was in place prior to the relevant Corporate Action: -
- change the opening XTB Limited Price of the Trade;
  - change the agreed execution price of the Order;
  - close any open Trade and cancel any Order;
  - open a new Trade or Order in the relevant Market. This might be necessary in the case of a rights issue, if You have a short position in the relevant Market;
  - make an appropriate credit or debit to Your Account.
- 32.4** The following terms and conditions shall apply when particular corporate events occur in respect of a Client's position on a given Equity CFD, ETF CFD or a CFD based on the Cash Instrument:
- dividends: on the ex-date (the first day without a right to the dividend) each Client holding a long position on a relevant Equity CFD or ETF CFD will be credited with the amount equal to dividend and each Client holding a short position will be debited with the amount equal to dividend. Dividends are calculated in respect of the number of Equity CFDs or ETF CFDs (equivalent to number of Underlying Instruments) held in the relevant Account. Credits and debits associated with dividend settlement shall be made through crediting or debiting the relevant Trading Account; on the day before the first day without a right to the dividend (ex-date) Open Positions on a CFD based on the Cash Instrument will be credited or debited with the amount equal to the dividend adjusted according to the weight in the Cash Instrument and the relevant Trading Account and Trading Account register will be adjusted accordingly;
  - stock splits, reverse stock splits, rights issues and spinoff: the amount of Equity CFDs, ETF CFDs or equivalent of funds registered on the relevant Trading Account will be adjusted or particular Trading Account registers will be adjusted on the day when split or reverse split takes place, first day of Underlying Instrument's quotation without the right to dividend or rights or on the spinoff day accordingly;
  - the right to vote, offering rights or similar rights connected with Underlying Instrument: The Client opening a position on an Equity CFD or ETF CFD cannot exercise the above-mentioned rights.
  - other corporate actions: XTB will strive to reflect any other corporate actions onto Clients' Equity CFD or ETF CFD positions, or Client's particular Account so that a position in Equity CFD or ETF CFD reflects economic aspects of having a position in the Underlying Instruments.
- 32.5** In the case of adjustments to index CFD Trades, the rate of adjustment will be determined by XTB Limited.
- 32.6** We may terminate or vary the dividend adjustment subject to changes in law, the Regulatory System, rates of tax and in particular the withholding tax requirements of the relevant tax authority.

- 32.7** We reserve the right not to credit or debit any amounts in respect of a dividend adjustment, if the amount concerned is equal to or less than £1.00.
- 32.8** Under some circumstances transactions or orders on the Underlying Exchange being the basis of determining of Financial Instrument's Price may be cancelled or withdrawn. In such case, XTB shall have the right to withdraw from the relevant Transaction with the Client. In such case, declaration of withdrawal from the Transaction will be documented and delivered to the Client within two days following the day after the day the cancelation or withdrawal from the Underlying Instrument transaction on the Underlying Exchange took place.
- 32.9** In some cases of limit Orders or stop Orders on Equity CFDs or ETF CFDs XTB may block the applicable Margin at the moment of placing the Order or the Instruction.
- 32.10** If the Underlying Instrument for the Equity CFD or the ETF CFD is being delisted from the Underlying Exchange, XTB shall have the right to close position opened on such a Equity CFD or ETF CFD on the last trading day, or after delisting of Underlying Instrument, and at the same time XTB shall inform the Client if such circumstances occur.
- 32.11** When trading Equity CFDs or ETF CFDs, Clients acknowledge that trading in some Underlying Instruments may be temporarily suspended or put on hold. In such cases Clients may not be able to trade or place the Orders or the Instructions concerning such Equity CFDs or ETF CFDs and their Orders or Instructions may be cancelled.
- 32.12** In some cases, Underlying Instruments for Client's short position in Equity CFDs or ETF CFDs may be recalled by the lending counterparty. In such cases XTB will have to close Client's short position in Equity CFDs or ETF CFDs, in order to close the short position on counterparty account. Such cases may occur if the exchange short selling rules change or a financial authority applies special conditions for short selling, lending counterparty will withdraw the possibility of short selling on a given Underlying Instrument or given Underlying Instrument becomes hard to borrow due to low liquidity, high lending costs or due to other circumstances that are beyond XTB's control.
- 32.13** XTB shall not be liable for damages caused by situations described in clauses 32.8 – 32.12. In such cases XTB shall proceed in accordance with the Orders' Execution Policy as to gain the best results for the Client.
- 32.14** In case of taking a short position on part of Equity CFDs or ETF CFDs, XTB may incur additional borrowing costs for a Client, related to the borrowing of the Underlying Instrument. The amount of this related cost is beyond control of XTB. The aforementioned costs shall be collected from the Client at the end of Trading Day and shown in Trading Account as swap points and may significantly influence the costs charged for a short position on Equity CFDs or ETF CFDs. The cost is taken into account while calculating swap points value of the Financial Instrument. The cost will be indicated in the Specification Tables, however, may be changed with immediate effect depending on borrowing costs of the Underlying Instrument.

### **33. Client Money**

- 33.1** You are hereby informed that if You are categorized by us as a Retail Client the FCA Client Money Rules will apply to You.
- 33.2** All monies belonging to Clients are held in a separate client account that is identified as a trust account. All clients' money is segregated from the funds belonging to XTB Limited.
- 33.3** **In the event of XTB Limited insolvency** You may make a compensation claim to the Financial Services Compensation Scheme (FSCS). Full details of the scheme can be found on the FSCS web site at [www.fscs.org.uk](http://www.fscs.org.uk).
- 33.4** You agree that we may cease to treat Your money as client money if there has been no movement on Your balance for six years. We shall write to You at Your last known address informing You of our intention of no longer treating Your balance as client money.

### **34. Complaints and Disputes**

- 34.1** We have a complaints handling procedure listed on the Website. We can also supply a copy on request.

- 34.2** You should raise complaints and disputes as soon as You become aware of them, ideally within 4 Business Days of the date of the relevant Trade or other matter.
- 34.3** If You have a complaint or dispute, You must refer this in writing to us. If our Customer Services team does not deal with the matter to Your satisfaction, You can refer to it to our compliance officer.
- 34.4** Retail Clients may also refer matters to The Financial Ombudsman Service, Exchange Tower London E14 9SR. Clients who are not Retail Clients do not have this right.
- 34.5** You can access information and rules relating to the Financial Ombudsman Service on [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). You can access information and rules relating to the FCA (in particular COBS) on [www.fca.org.uk](http://www.fca.org.uk).

## **35. Representations and Warranties**

- 35.1** You make the following representations and warranties to us when You submit Your Application Form, enter into the Terms and each time You place a Trade or Order, or given any other instructions: -
- that You are acting in person or (if You are not a natural person) by someone duly authorised to act for You;
  - that all the information You have provided to us, both in Your Application Form and otherwise, is true accurate and complete in all material respects;
  - that You signed Your Application Form or (if You are not a natural person) someone signed it who was duly authorised to do so;
  - that You agree to the Terms, all Notices and Policies, in particular Risk Warning Notice and the Best Execution Policy;
  - that the Terms bind You;
  - that You act as principal.

## **36. Regulatory Requirements**

- 36.1** You are responsible for compliance with all laws and regulatory rules (whether English or elsewhere) in relation to Your trades, including those of the FCA, The Panel on Takeovers and Mergers and any other relevant regulatory body.

## **37. Market Abuse**

- 37.1** XTB Limited will frequently hedge its liability to You by opening simultaneous positions with other institutions. A consequence of XTB Limited doing so is that if Your Trades or Orders relate to Underlying Instruments, Your Trades or Orders can through our hedging exert a distorting influence on the Underlying, in addition to any impact on XTB Limited Prices. This creates a possibility of market abuse and the function of this clause is to prevent such abuse and to enable us to take appropriate action.
- 37.2** You represent and warrant to us and agree that each such representation and warranty is deemed repeated each time You open and close a Trade and each time You place and cancel an Order that: -
- You will not place and have not placed any Trade and/or Order with us or otherwise (when You deal with us) behaved nor will You behave in a manner that would amount to market abuse and/or market manipulation by You. For the purpose of assessing whether You have done so, You may be deemed to have dealt directly in the Underlying to which Your trade and/or Order relates. For Your information, market abuse means as specified by **s118 FSMA 2000** and the Market Abuse Directive. Further information can be obtained from the FCA website at [www.fca.org.uk](http://www.fca.org.uk).
  - You will not place and have not placed a Trade and/or Order that contravenes any primary or secondary legislation or other law or regulatory rules including in relation to insider dealing. For the purposes of this clause You agree that we may proceed on the basis that when You open or close a Trade and/or place an Order with us relating to a share/equity You may be treated as if You were dealing in securities within the meaning of Part V of the Criminal Justice Act 1993.
- 37.3** In the event that You breach any of the representations or warranties stated in clause above, or we have grounds for suspecting that You have done so, we may in our absolute discretion (and with or without giving notice to You) and without being under any obligation to inform You of our reason for doing so, close that Trade and/or Order and any other Trades and/or Orders that You may have open at that time and also in our absolute discretion:-
- enforce the Trade(s) against You if it is a trade under which You have made losses; and
  - treat Your Trade(s) closed under this clause as void if under which You have made profits, unless and until You produce evidence that You in fact have not committed the breaches. If You do not produce

such evidence within the period of six months from the date of closure, all such Trades will be finally null and void as between us. Trades closed under this clause will be closed at the XTB Limited Price.

**37.4** We are entitled to report to any relevant regulatory authority any Trade, Order or other instruction undertaken by You which may constitute a breach by You of this clause.

**37.5** The exercise by XTB Limited of any of its rights under this clause in respect of any Trade and/or Order shall not affect any other right of XTB Limited (under the Terms or at law) whether in respect of that Trade and/or Order or any other Trade and/or Order.

### **38. Data Protection**

**38.1** For the purpose of the Data Protection Act (**DPA**) we are the data controller in relation to Your Data.

**38.2** You agree that we can:-

- use and rely on Your Data when dealing with You; and
- our associated companies can store and process Your Data in any way whatsoever, including in manual and electronic form (for example on our/their computers and data bases).

**38.3** You consent to the transfer of Your Data outside the UK. We will only do this in order to perform the contract between us and to supply services to You or for administrative or marketing purposes. In addition, we will ensure that the person to whom we transfer Your Data will treat it with the same level of confidentiality and security as if we were dealing with it.

**38.4** You agree to us and/or our associated companies using, analysing, dealing with and assessing Your Data as permitted by law and to: -

- identify You when You contact us;
- consider and process any applications made by You;
- establish and manage Your Account and to administer services provided to You;
- recover debts;
- review Your on-going needs;
- comply with all applicable laws and regulations including the Regulatory System;
- undertake market research and to review and develop our products and services;
- keep You informed of our products and services and the products and services of our associated companies unless You tell us otherwise in accordance with clause;
- run competitions or other promotional activities;
- process and deal with any complaints made by You about us;
- verify the accuracy of information supplied by You;
- deal with and/or in connection with regulatory reporting, fraud and crime prevention and detection, financial risk assessment, money laundering checks and compliance (including for example, making enquiries at fraud prevention agencies, making enquiries of other providers of , CFD and/or Rolling Spot Forex services, undertaking searches at the electoral register and with credit reference agencies, performing credit and identity checks, obtaining bankers' references and making any other enquiries as reasonably thought fit); and
- respond to enquiries made by other persons (including other providers of, Option, CFD and/or Rolling Spot Forex services) in relation to the matters referred to in the above bullet point.

**38.5** Please note that third party agencies (for example fraud prevention, credit reference agencies and other providers of Option, CFD and/or Rolling Spot Forex services) may maintain records of any enquiry and information given to them. They may share Your Data (and the results of any searches) with us, our associated companies and other organisations to, amongst other things, recover or retrace debts and for credit, fraud, crime prevention and money laundering purposes.

**38.6** We may disclose Your Data as permitted by law and as follows:

- if You are a joint applicant, to the other applicant;
- to our associated companies;
- to any regulator of our business, including the FCA;
- to Your employer, whether Your employer is authorised or exempt under the FSMA, including sending contract notes and statements to Your employer's compliance officer;
- to introducing brokers or our other business partners.
- to our service providers and/or the service providers of our associated companies who provide us/our associated companies with administrative, financial, legal, insurance or other services (including any data processors that we/our associated companies engage) on the understanding that they will keep Your Data confidential;

- to anyone to whom we transfer all or any of our rights and/or obligations in relation to You;
  - to comply with legal obligations;
  - to protect our rights, property, safety, customers or others. This includes exchanging information (including Your Data) with other companies and organisations for the purposes of fraud protection and credit risk reduction;
- 38.7** We will use Your Data to keep You informed of our products and services by letter, telephone (including text messages), electronically (including e-mail) or otherwise. Our associated companies will also be able to contact You in these ways about their products and services. You consent to the use of Your Data in this way unless You tell us that You do not wish us or our associated companies to use Your Data in this manner. In order to do so, please contact us.
- 38.8** The Website and the Trading Platform may from time to time contain links to and from the websites of our partner networks, advertisers and associated companies. If You follow a link to any of these websites, please note that these websites have their own privacy policies and that we do not accept any responsibility or liability for these policies. Please check these policies before You submit Your Data to these websites.
- 38.9** The DPA gives You the right to access Your Data. Any access request may be subject to a fee permitted by the DPA.
- 38.10** You must notify us of any inaccuracies in any information we hold in relation to You. In addition You should inform us if any of Your personal details change, so that we can keep our records up to date.
- 38.11** We may use cookies in relation to the Website and/or our Trading Platform. A cookie is, a message (in electronic form) given to Your hardware or web browser by the Website and/or Trading Platform. Cookies enable us, for example, to do the following in relation to the Website and/or the Trading Platform: identify users, identify advertising sources (i.e. how You came to contact us) and to identify You (if relevant) as the sales lead of a particular sales person of ours.
- 38.12** You have the ability to accept or decline cookies by modifying the setting of Your web browser. However, if You disable cookies, You may not be able to use all interactive features of the Website and/or the Trading Platform.
- 38.13** Without limiting the foregoing, XTB Limited, a regulated U.K. Investment Firm by the Financial Conduct Authority (FCA), is required to comply based on the Intergovernmental Agreement between the U.K. and the United States and has taken all reasonable steps to be considered in Compliance with FATCA and UK FATCA. The client acknowledges and accepts that XTB Limited, as a Foreign Financial Institution (hereafter "FFI"), is required to disclose information in relation to any US reportable persons to the relevant authorities, as per the reporting requirements of FATCA. The client may contact XTB Limited for additional information and/or clarifications prior to the signing of this Agreement. The UK has also entered into a similar agreement, UK FATCA, with the Crown Dependencies and Overseas Territories in relation to offshore accounts held by UK Residents, the client also acknowledges and accepts that XTB Limited is required to disclose information in relation to any reportable persons to the relevant authorities, as per the reporting requirements of UK FATCA.
- 39. Software**
- 39.1** We hereby grant You a non-exclusive and non-transferable licence to use the Software for as long as Your Account is open. We are entitled to disable Your use of the Software as soon as Your Account has been closed. The licence granted will terminate as soon as Your Account is closed.
- 39.2** You shall not: -
- copy, alter, adapt, create derivative work, decompile, disassemble, modify, reverse engineer or make error corrections to the Software, or any part of it, or permit, authorise or otherwise encourage any third party to do so. No licence is granted in respect of and You do not have the right to obtain or use any source code for the Software;
  - rent, lease, sub-licence, sell, assign, pledge, transfer or otherwise dispose of in whole or in part the Software and/or the licence granted to You in respect of the Software or otherwise provide or make available the Software (in whole or in part) in any form whatsoever to any person not authorised by us;
  - allow the Software to be combined with, or to become incorporated or integrated in, any other program, software or hardware;
  - delete, obscure or tamper with copyright or other proprietary notices we, any associated company and/or any third party provider may have put on the Software;
  - use the Software in any manner not permitted by this Agreement;

- load or transmit through the Software any computer virus or anything designated to interrupt and disrupt the proper operation of the Software.

**39.3** We can suspend use of the Software, or access to the Trading Platform and/or the Website, to carry out maintenance, upgrades, developments or the like for any other good reason. We will endeavour to give You notice, but this may not always be practicable, for example in the case of an emergency.

**39.4** It is Your responsibility to:-

- install and keep up to date virus-checking software for Your hardware and software systems;
- ensure that Your information technology is compatible with ours;
- ensure that any hardware, software or communication link You may use is sufficient and appropriate.

#### **40. Alteration of Terms**

**40.1** In addition to the rights we have reserved elsewhere in the Terms to make changes, we may from time to time alter or replace the Terms in whole or in part by providing at least 10 Business Days written notice to You.

**40.2** The changes: -

- will apply (including to all open Trades and unfilled Orders) as at and after the effective date of the change;
- will not apply if You give us notice in writing that You object to the changes, within 10 Business Days of the date we give You notice of the proposed change. However, in this case You will be required to close Your Account as soon as reasonably practicable and You will only be permitted to trade and/or place Orders in order to do so.

#### **41. Communications**

**41.1** These Terms will be supplied to You in English and we will communicate with You in English.

**41.2** You can only open and close Trades, place and cancel Orders and otherwise give instructions in relation to Your trades by the Trading Platform.

**41.3** When we refer to serving a notice (including a written notice) on You under these Terms, it can be carried out by any of the methods referred to in clauses 41.5 and 41.6, unless specifically specified elsewhere in this Agreement.

**41.4** We can use any of these methods to make a Variation Margin Call or other request for payment. If more than one method is used, the notice will be regarded as served at the earliest time referred to in these clauses.

**41.5** We must send notices to You to Your last known home or e-mail address, place of work, fax, telephone or pager number.

**41.6** We can both serve notices on each other under these Terms by any of the following methods:

- verbally by telephone.
- post to Your home address by XTB Limited or to our offices from You. The letter is seen as being served 2 business days after the sent date.
- e-mail (provided no "not sent" or "not received" message is received from the relevant email providers). The email is served once it has been successfully sent to the recipient.
- published on the Website 24 hours after publication.
- sent via the Trading Platform (1 hour after sending).

**41.7** We are entitled to record all our telephone conversations with You and You specifically agree to this. We also maintain a log of all Your dealings with us via the Trading Platform or any other electronic medium. All these recordings and logs will be our property and we may use them in the case of a dispute. We will also keep a copy of Your Application Form and the Terms.

#### **42. Termination**

**42.1** These Terms came into force on the day we allocate You an Account number or Login. The Terms continue after that time (with no minimum duration) subject to: -

- termination as provided in these Terms;

- cancellation by You giving us written notice of cancellation (and closure of Your Account within 14 days of the date we allocate You an Account number or Login (You should send that notice to our Customer Services. If You do not cancel, the Terms will continue but You still have a separate and independent right to terminate as mentioned below;
- by You giving us a written notice to close Your Account;
- by us giving You not less than 5 days' written notice that we will close Your Account.

**42.2** If any notice is given to cancel or terminate these Terms or to close Your Account, You will only be able to deal insofar as necessary to close Your Account. In particular You will not be able to place any new, Trades or Orders nor to give any other instruction, except insofar as necessary to close a Trade or to cancel an Order in place before the notice of cancellation or termination was given. For example, You will not be entitled to place a closing bet/Trade or any Order in such a size that would result in a new bet/trade being opened.

**42.3** Cancellation or termination of these Terms and the closure of Your Account will not affect: -

- any rights, obligations or liabilities that have arisen on or prior to cancellation, termination or closure including in relation to any open or closed, Trades or Orders. This means, in particular, that we will both continue to be liable to pay each other amounts payable;
- any provision of these Terms which expressly or by implication is intended to survive cancellation, termination or closure – for example to deal with closing or Trades or to calculate amounts payable

### **43. Limitation and Liability**

**43.1** Nothing in these Terms will exclude or limit: -

- our liability to pay You amounts we owe You under these Terms
- our liability to You for our fraud, fraudulent misinterpretation, wilful default or negligence;
- any liability or duty we have to You under the Regulatory System, unless we are permitted to do so by the Regulatory System and have expressly excluded or limited such liability or duty in accordance with the Regulatory System.

**43.2** we shall not be liable to You for any losses, costs, claims, damages or expenses which are not reasonably foreseeable. We are not liable for the following whether or not reasonably foreseeable:-

- loss of profit;
- loss of opportunity (for example in relation to subsequent Market movements);
- loss of goodwill or reputation.

**43.3** We shall not be liable to You for any losses, costs, claims, damages or expenses which are reasonably foreseeable as a result of:-

- the exercise of any of our rights under the Terms, law and/or the Regulatory System;
- an event outside our control;
- Manifest Error;
- a Corporate Action;
- an Insolvency Event or a Market Disruption Event;
- the acts, omissions or negligence of any third party or any third party software including, but not limited to, expert advisors, signal providers, social trading platforms, and virtual private networks.
- any Trades You make or refrain from making with any other person;
- the Website, the Trading Platform and/or the Software being inaccessible and/or unusable in whole or in part (including You being unable to place a Trade or Order or give any other instructions) for any reason including by reason of an Event Outside Our Control and/or by reason of any maintenance upgrades developments or the like, provided that we have (in the case of an Event Outside Our Control where reasonably practicable and maintenance upgrades developments or the like) used our reasonable endeavours to make the same accessible and usable within a timescale that is reasonable in the circumstances;
- You being unable to communicate with us for any reason, for example due to failure of internet, telephone or any other communication system;
- the unauthorised access by any person to the Trading Platform or the corruption of data sent to or by us or any unauthorised access to or dealings on Your Account (by the Trading Platform, or otherwise).

**43.4** If the limitations and exclusions in this clause are not acceptable to You, You should not deal with us and should close any Account You may have opened.

### **44. Waiver**



- 44.1** If You or we delay in exercising or fail to exercise any right or remedy, that will not be a waiver of that right or remedy. Also it will not prevent any future exercise of that right or remedy.
- 44.2** No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that right or remedy.
- 44.3** A waiver or consent only applies in the circumstances for which it was given and does not prevent the party who gave that waiver or consent from subsequently requiring compliance with any provision it has waived or in respect of which it consented to non-compliance.
- 44.4** If You or we waive a particular breach, that will not be a waiver of any other breach and will not affect any other Terms.
- 44.5** We can in particular waive or relax any of the obligations You owe to us, for example in relation to minimum and maximum stake/trade sizes, Initial Margin and Variation Margin. However, if we do this we can subsequently require full compliance with the relevant obligation.
- 44.6** If either of us agrees any release, postponement or settlement of any liability of the other owed to it, that will not affect or prejudice any of the other liabilities owed to it or its other rights.
- 45. Cumulative Rights**
- 45.1** XTB Limited has absolute discretion in the exercise of its rights. No right or remedy under these Terms excludes any other right or remedy at law or otherwise.
- 46. Whole Agreement**
- 46.1** This Agreement sets out all the Terms that have been agreed between us in relation to Your Account.
- 46.2** Nothing (apart from the Terms) is part of the Agreement between us unless we have specifically agreed in writing that it is binding between us.
- 46.3** All other terms, conditions and warranties implied by statute or common law are excluded to the fullest extent permitted by law.
- 47. Law and Jurisdiction**
- 47.1** This Agreement shall be governed by and construed in accordance with the laws of England.
- 47.2** Except for the right of XTB Limited, the courts of the United Kingdom will have exclusive jurisdiction over any claim or matter arising under or in connection with these Terms and the legal relationships established by this Agreement. Nothing in this clause shall limit the right of XTB Limited to take proceedings against the Client in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdictions.
- 47.3** You irrevocably consent to any process in any legal action or proceedings arising out of or in connection with these Terms being served on You by post in accordance with clause 41. Nothing in these Terms will affect the right of either party to serve process in any other manner permitted by law.
- 48. Regulation of XTB Limited**
- 48.1** XTB Limited main business is the provision of Rolling Spot Forex, CFDs and Option products and services.