

## **CGS-CIMB's Terms and Conditions for Contracts for Difference**

**THIS AGREEMENT** states the terms and conditions which govern the relationship between CGS-CIMB Futures Sdn. Bhd. ("**CGS-CIMB**") and the applicant for the Account (as hereafter defined) (the "**Client**").

### **Part A: Definitions**

#### **1. Definitions**

1.1. Unless the context otherwise requires, the following words or expressions in these Terms and Conditions shall have the following meanings:

"**Account**" means such account, including any sub-account, as may be necessary and expedient for the performance of Transactional Services which the Client may have with CGS-CIMB or any of its Affiliates;

"**Agreement**" means (i) these Terms and Conditions, as may be amended, modified, supplemented and/or varied from time to time; and (ii) the application form submitted by the Client for account opening including the declarations therein;

"**Affiliates**" means (i) a related corporation (as defined in the Companies Act 2016) of CGS-CIMB, (ii) CGS-CIMB Securities International Pte Ltd and its related corporations (as defined in the Companies Act 2016), (iii) a member of the CGI Group, and/or (iv) a member of the CIMB Group;

"**Authorised Person**" means a person authorised in writing by the Client to provide instructions to CGS-CIMB in relation to Transactions on behalf of the Client, whose instructions will be accepted by CGS-CIMB and which instructions are binding on the Client;

"**Authorised Disclosees**" has the meaning given to the term in Clause 54.1(a) below;

"**Banking Day**" means a day on which banks in Kuala Lumpur are open for business;

"**Base Currency**" means, in relation to an Account, the currency in which such Account is denominated from time to time;

"**Bursa Clearing**" means Bursa Malaysia Derivatives Clearing Berhad and includes its successors in title;

"**Bursa Derivatives**" means Bursa Malaysia Derivatives Berhad and includes its successors in title;

"**Bursa Securities**" means Bursa Malaysia Securities Berhad and includes its successors in title;

"**Business Close**" means the time at which the market of the Relevant Exchange closes on a Business Day;

"**Business Day**" means a day on which CGS-CIMB is open for business or on which the Relevant Exchange is open for trading;

"**Calculation Agent**" means CGS-CIMB or any party appointed by CGS-CIMB in its sole discretion to act as such. Any reference to CGS-CIMB in these Terms and Conditions includes a reference to CGS-CIMB (or any party appointed by CGS-CIMB to act) as Calculation Agent unless otherwise specified;

"**CFD**" means contract for difference. A contract made between a buyer and a seller to gain exposure in the allowable underlying instrument (as set out in the Guidelines on Contracts for Difference issued by the Securities Commission Malaysia dated 6 April 2018, as may be amended from time to time) whereby differences in settlement are made through cash payments;

"**CFD Currency**" means, in relation to a CFD, the currency of the Underlying Instrument or such other currency, as may be designated by CGS-CIMB;

**“CFD Margin Call”** means a demand by CGS-CIMB to the Client, to top up any shortfall of funds in the Account;

**“CGI Group”** means China Galaxy International Financial Holdings Limited and its related corporations (as defined in the Companies Act 2016);

**“CIMB Group”** means CIMB Group Sdn. Bhd. and its related corporations (as defined in the Companies Act 2016);

**“Client’s Monies”** shall have the meaning ascribed to it in Clause 13.2;

**“Client’s Segregated Account”** means any trust account maintained by CGS-CIMB in accordance with the Capital Markets and Services Act 2007 and includes the Multi-Currency Segregated Account;

**“Closing Date”** means, in relation to a CFD, the date on which the Client accepts the Closing Price of the Underlying Instrument or on which CGS-CIMB elects to close the CFD;

**“Closing Price”** means the Underlying Instrument Price as determined by the Calculation Agent at the time CGS-CIMB receives or issues the Closing Notice;

**“Closing Notice”** means the notice given by one party to the other to close any CFDs under Clause 7;

**“Closing Value”** means the Closing Price multiplied by the Contract Quantity;

**“Collateral”** means the (a) deposit of cash, monies (whether in Malaysian Ringgit or any other currency), CFDs and/or all other property of the Client held by CGS-CIMB or its Affiliates or in the custody or control of CGS-CIMB or its Affiliates from time to time; (b) Securities listed on a securities exchange; and (c) such other Securities or instruments or asset, in whatever form, as CGS-CIMB may from time to time prescribe, together with all attendant rights and interests under any contract (where applicable) for the sale, purchase, custody or management of such asset and to the income, dividends, interests thereon, whether now or hereafter held by CGS-CIMB or in transit to CGS-CIMB or to CGS-CIMB’s nominee;

**“Confirmation”** means in relation to any CFD one or more documents, statements (including statements of account), contract note or other confirming evidence exchanged between CGS-CIMB and the Client, confirming all the terms of the CFD;

**“Conflict of Interest”** shall include, without limitation, the following situations: (a) CGS-CIMB or its Affiliates undertaking Proprietary Activities resulting in CGS-CIMB or its Affiliates taking positions identical, similar or related to that transacted by CGS-CIMB or its Affiliates with or for the Client; (b) CGS-CIMB or its Affiliates, as principals, being a party to transactions with the Client; (c) CGS-CIMB or its Affiliates undertaking Proprietary Activities, including without limitation hedging transactions, which are related to transactions undertaken by CGS-CIMB or its Affiliates with or for the Client that may adversely affect the market price, rate, index, value or other market factors in relation to the transactions entered into by CGS-CIMB or its Affiliates with or for the Client; or (d) CGS-CIMB or its Affiliates having commercial relationships with and access to information from the issuers of the Securities, or provider of Investment Products and/or Services transacted by the Client with or through CGS-CIMB or its Affiliates;

**“Contract Quantity”** means the number of Underlying Instrument to which the CFD relates;

**“Contract Value”** means the Underlying Instrument Price multiplied by the Contract Quantity;

**“Corporate Event”** means the occurrence of any of the following in relation to the issuer of the Underlying Instrument to which the CFD directly or indirectly relates:

- (a) a subdivision, consolidation or reclassification of shares, or a free distribution of shares to existing holders by way of bonus, capitalization or similar issue;

- (b) a distribution to existing holders of the underlying shares of additional shares, other share capital or securities granting the right to payment of dividends and/or proceeds of liquidation of the issuer;
- (c) holders of the underlying shares, securities, rights or warrants granting the right to a distribution of shares or to purchase, subscribe, or receive shares, in any case for payment at less than the prevailing market price per share as determined by the Calculation Agent;
- (d) any event in respect of the shares analogous to any of the foregoing events or otherwise having a dilutive or concentrative effect on the market value of the shares; and
- (e) any other event in respect of which CGS-CIMB (in its absolute discretion) decides an adjustment is appropriate;

**“Client’s information”** means any data regarding the Client; and includes any information obtained at the time of account opening, trading details, funds, and any other information available at CGS-CIMB;

**“Designated Bank Account”** means such bank account maintained by Client with the Licensed Financial Institution and designated by the Client to CGS-CIMB as the bank account for effecting payment via Electronic Payment;

**“Early Closing Date”** has the meaning set out in Clause 7.6(a);

**“Early Closing Notice”** has the meaning set out in Clause 7.6;

**“Electronic Communication”** means any electronic or interactive product or service offered by CGS-CIMB, which allows the Client to communicate with CGS-CIMB or its Affiliates or with any third party service provider. Such electronic services include but are not limited to services which allow electronic data communications to be transmitted between parties through the use of personal, home or business computers and the like, connected by a modem or other device to the internet or a telecommunications network;

**“Electronic Payment”** means the payment by or to the Client for the Transactions or other sums due and owing by or to the Client effected through telegraphic transfer, direct debit or any other electronic means offered by a Licensed Financial Institution;

**“Electronic Payment Service”** means the service involving trading of CFDs whereby payments are facilitated via Electronic Payment or payments by CGS-CIMB to the Client via Electronic Payment;

**“Event of Default”** means any or all of the following:

- (a) where the Client is an individual, immediately upon the death or the filing of a petition of bankruptcy or the bankruptcy of the Client or upon the Client petitioning for a voluntary arrangement under the Insolvency Act 1967 (or any revision or supplemental act thereto) or upon the Client becoming of unsound mind;
- (b) where the Client is a corporation, immediately upon the Client convening a meeting of its creditors or the making of a proposal for a voluntary arrangement or the making of a proposal for any other composition, scheme of arrangement with (or assignments for the benefit of) its creditors or upon the Client being unable, or admits inability, to pay its debts within the meaning of the Companies Act 2016 or becoming insolvent an application is made for the judicial management of the Client or upon the appointment of a manager, trustee, custodian, liquidator (provisional or otherwise), administrator, nominee, supervisor, administrative receiver, receiver and/or receiver manager, judicial manager or similar officer in respect of all or any part of the business or assets of the Client or upon the presentation of a petition or the convening of a meeting for the purposes of considering a resolution or other steps being taken for the winding-up or dissolution of the Client or for the making of an administration order or any encumbrancer takes possession of or sells, all or any part of the Client’s business or assets, upon a material

adverse change in the Client's financial position which in CGS-CIMB's opinion, may affect the Client's ability to perform his obligations under these Terms and Conditions or any Transaction or the value of the assets of the Client is less than its liabilities (taking into account contingent and prospective liabilities);

- (c) any representations or warranties made by the Client being or becoming incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated;
- (d) the Client being unable to pay debts as they fall due and admitting to CGS-CIMB its inability to, or its intention not to, perform any of its obligations hereunder and/or in respect of any loan, debenture, mortgage or agreement;
- (e) any of the assets of the Client being transferred or ordered to be transferred to a trustee by a regulatory authority pursuant to any legislation or seized, nationalized, expropriated or compulsorily acquired by any government or agency; or
- (f) the Client failing to perform any of its other obligations hereunder and (if capable of remedy) such failure is not remedied within such time period as may be specified by CGS-CIMB at its absolute and unfettered discretion whether in writing or otherwise;

**"Force Majeure Event"** shall have the meaning ascribed to it in Clause 47.1;

**"Foreign Agents"** shall have the meaning ascribed to it in Clause 31.1(a) ;

**"Foreign Rules"** means all relevant rules, bye-laws, customs, practices, notices, directives and regulations for the time being of any foreign exchange or any governmental or regulatory authorities of any foreign country, whether having the force of law or not, and all applicable laws in such foreign country which CGS-CIMB and/or the Client may be bound or which applies to any of the Transactions and Transactional Services;

**"Foreign Transactions"** shall have the meaning ascribed to it in Clause 31.1;

**"Free Equity"** means the GLV of the Client's Account less the Margin in connection with a CFD, calculated by CGS-CIMB in the base currency of the Account on an aggregate basis across all open CFD positions;

**"General Information"** shall have the meaning ascribed to it in Clause 22.2;

**"Gross Liquidation Value"** or **"GLV"** means the balance of the Account if the Client were to close out all CFDs at the current market price (before deducting any commission, transaction charges or adjustments), calculated by CGS-CIMB in the base currency of the Account on an aggregate basis across all open CFD positions;

**"Insolvency Event"** in relation to a party, includes:

- (a) the passing of a resolution or the making of an order for the winding up or dissolution, the making of an administration order, the appointment of a receiver, receiver and manager, judicial manager, administrator, manager, administrative receiver or similar officer, or if any encumbrancer takes possession of or sells, all or any part of the party's business or assets, the making of an arrangement or composition with the party's creditors generally or the making of an application to court for protection from the party's creditors generally under the Companies Act 2016 (or equivalent provisions in a foreign jurisdiction);
- (b) if an encumbrancer takes possession of or sells all or any part of the party's business or assets, the making of an arrangement or composition with the party's creditors generally, the making of a bankruptcy order;
- (c) in the case of an individual, a bankruptcy petition is filed against him or a bankruptcy order is made; and/or

- (d) (in any case) becoming insolvent or otherwise being unable to pay debts as they fall due, or any act of insolvency or similar or analogous event (to those set out in paragraphs (a), (b) and (c) above) occurring or action taken in respect of the party;

**“Investment Products and/or Services”** means any capital market products, any other products as may be prescribed by the Securities Commission Malaysia, Bursa Securities, Bursa Derivatives and/or other governmental or regulatory authorities from time to time and any other products and services which CGS-CIMB may provide to the Client from time to time, including CFDs;

**“Licensed Financial Institution”** means a financial institution licensed by Bank Negara Malaysia under the Financial Services Act 2013, Islamic Financial Services Act 2013 or a foreign financial institution licensed by the relevant regulator in its home jurisdiction;

**“Long Dividend Amount”** means, in respect of any CFD, a synthetic dividend or distribution amount to be credited to the Client’s Account. A Long Dividend Amount is determined by the Calculation Agent in its absolute discretion and is calculated by reference to, among other things, the net dividend or distribution payable to a holder of the Underlying Instrument after any applicable withholding tax, other local taxes or other charges;

**“Long Party”** means the party identified as having notionally bought the Underlying Instrument;

**“Malaysian Rules”** means all relevant rules, bye-laws, customs, practices, notices, directives and regulations for the time being of the Securities Commission Malaysia, Bursa Securities, Bursa Clearing, Bursa Derivatives, Bank Negara Malaysia and all other governmental or regulatory authorities, whether having the force of law or not, and all applicable laws in Malaysia including but not limited to Capital Markets and Services Act 2007 and the Securities Commission Act 1993 and all rules, regulations, notices promulgated under thereunder. References to any rules, practices, notices, directives and regulations and/or applicable law shall be deemed to include references to such rules, practices, notices, directives and regulations or applicable law as re-enacted, amended or extended and any subordinate legislation (as the case may be) enacted from time to time under it;

**“Manifest Error”** means any error, omission or misquote (whether an error of CGS-CIMB or any third party) which is manifest or palpable including a misquote by the Registered Representative taking into account the current market and currently advertised quotes, for example, wrong price or market, or any error or lack of clarity of any information, source, commentator, official, official result or pronouncement. 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 CGS-CIMB (or that the Client has suffered or may suffer any loss whether direct, indirect consequential or otherwise) is deemed irrelevant as a factor and shall not be taken into account in determining whether a situation amounts to a Manifest Error;

**“Margin”** means the amount required to be deposited by the Client with CGS-CIMB, to facilitate trading, in according with Clause 5;

**“Market Disruption Event”** means any of the following events:

- (a) if the Underlying Instrument on which the Client’s CFD trade is based, whether directly on the Underlying Instrument or indirectly, for example, on a future of such Underlying Instrument, is the subject of a take-over offer or a merger offer or the issuer of such equity has entered into or is the subject of insolvency or liquidation proceedings (or any Insolvency Event has occurred in relation to such issuer, mutatis mutandis);
- (b) if trading in respect of the Underlying Instrument or Relevant Exchange on which the CFD prices are based is suspended or limited for any reason whatsoever, including by reason of movements in price exceeding limits permitted by the Relevant Exchange or if limits or special or unusual terms are imposed on the trading of such Underlying Instrument or Relevant Exchange by the Relevant Exchange;

- (c) an unusual movement in the level of, or the unusual loss of liquidity in respect of, the Underlying Instrument or Relevant Exchange on which the CFD prices are based or CGS-CIMB's reasonable anticipation of the occurrence of the same; and/or
- (d) the occurrence of any other event which causes a material market disruption in respect of the Underlying Instrument or Relevant Exchange on which the CFD prices are based;

**"Merger Event"** means, in respect of any Underlying Instrument,

- (a) reclassification or change of such Underlying Instrument that results in a transfer of or an irrevocable commitment to transfer all of such Underlying Instrument outstanding to another entity or person;
- (b) consolidation, amalgamation, merger or binding share exchange of the issuer of the Underlying Instrument with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such issuer is the continuing entity and which does not result in a reclassification or change of all of such Underlying Instrument outstanding); or
- (c) takeover offer, tender offer, exchange offer, solicitation, proposal or other event by any entity or person to purchase or otherwise obtain 100% of the outstanding Underlying Instrument of the issuer that results in a transfer of or an irrevocable commitment to transfer all such Underlying Instrument (other than such Underlying Instrument owned or controlled by such other entity or person);

**"Multi-Currency Segregated Account"** means the Client's Segregated Account maintained by CGS-CIMB in accordance with Part C of these Terms and Conditions;

**"Online Services"** means the internet based electronic facility(ies) that CGS-CIMB makes available from time to time to the Client that will enable the Client to effect the Transactions and/or obtain market information and data, news, quotations, research information and analysis, alerts and any other information or publication whether in respect of the Transactions or otherwise;

**"Open Contract Value"** means the Contract Value at the time the CFD is opened;

**"Proprietary Activities"** shall mean dealings in CFDs undertaken by CGS-CIMB or its Affiliates for its own benefit;

**"Registered Representative"** means a holder of a capital markets services representative's license for dealing in derivatives pursuant to the Capital Markets and Services Act 2007;

**"Relevant Exchange"** means, in the case of Malaysian Underlying Instruments, any securities exchange owned, operated and/or maintained by Bursa Securities, and in the case of foreign Underlying Instruments, the relevant securities exchange on which the relevant Transactions are effected;

**"Proceeds"** means the proceeds arising from the Transactions;

**"Secured Indebtedness"** shall have the meaning ascribed to it in Clause 15.1;

**"Securities"** means (a) debentures, stocks or bonds issued or proposed to be issued by any government; (b) shares in or debentures of, a body corporate or an unincorporated body; (c) unit trusts or prescribed investments, and includes any right, option or interest in respect thereof; and/or (d) such securities as stipulated from time to time under the Capital Markets and Services Act 2007;

**"Security Information"** shall have the meaning ascribed to it in Clause 40.1;

**“Short Dividend Amount”** means, in respect of any CFD, a synthetic dividend or distribution amount to be debited by CGS-CIMB from the Client’s Account. A Short Dividend Amount is determined by the Calculation Agent in its absolute discretion by reference to, among other things, the gross dividend or distribution payable to a holder of the Underlying Instrument after any applicable withholding tax, other local taxes or other charges;

**“Short Party”** means the party identified as having notionally sold the Underlying Instrument;

**“Sophisticated Investor”** shall have the meaning ascribed to it in the Guidelines on Contracts for Difference issued by the Securities Commission Malaysia dated 6 April 2018, as may be amended from time to time;

**“Terms and Conditions”** means these Terms and Conditions which govern the provision of the services as set out herein and as supplemented, modified or amended from time to time;

**“Traded Currency”** shall have the meaning ascribed to it in Clause 26.2;

**“Transactional Services”** means any services provided to the Client by CGS-CIMB under these Terms and Conditions and/or such other terms and conditions as CGS-CIMB may from time to time prescribe;

**“Transactions”** means transaction of CFDs undertaken by or on behalf of the Client under these Terms and Conditions;

**“Underlying Instrument”** means the underlying reference instrument or security that forms the subject of the CFD that meets the requirements in Chapter 3 of the Guidelines on Contracts for Difference issued by the Securities Commission Malaysia dated 6 April 2018, as may be amended from time to time. Such Underlying Instrument may include, among other things, equities and indices;

**“Underlying Instrument Price”** means the current price of the Underlying Instrument as quoted on the Relevant Exchange or as otherwise determined by the Calculation Agent;

**“Website”** means the website owned, operated, maintained and/or designated by CGS-CIMB and accessible at the internet uniform resource locator (URL) designated by CGS-CIMB from time to time, that will enable the Client to gain access to the Online Services.

- 1.2. Words importing only the singular number include the plural number and vice versa. Words importing the masculine gender include the feminine and neuter genders and vice versa. References to clauses are references to clauses of these Terms and Conditions. Headings in these Terms and Conditions are inserted for ease of reference and shall not affect the interpretation thereof. References to any statute, legislation, law, rules, regulations, guidelines, practices, notices or directives include any modification, re-enactment or amendments, practice notes and new guidelines issued pursuant thereto and any subordinate legislation (as the case may be) enacted from time to time under it.

## **Part B: Terms Applicable Generally**

### **2. General**

- 2.1. The Client expressly acknowledges that CGS-CIMB acts as principal to the Client with respect to CFD trading by the Client.
- 2.2. CGS-CIMB may, without the consent of the Client, engage third parties or sub-contract certain functions, for the performance of its services under these Terms and Conditions.

### **3. Opening, Closing or Suspending of Account**

- 3.1. At the Client’s request, CGS-CIMB may, in its sole discretion, open an Account in the name of the Client, through which the Client may effect CFDs.

- 3.2. CGS-CIMB may set an account limit that may be varied from time to time according to the Client's credit status and the amount of funds deposited with CGS-CIMB. CGS-CIMB may, in its absolute discretion, apply a limit to:
- (a) The size of any order or series of orders which the Client may enter into; or
  - (b) The amount of any loss or liability to which the Client may be exposed including in relation to stop loss measures and force closure of positions.
- 3.3. The Client agrees that he will at all times comply with and observe all the Malaysian Rules and/or the Foreign Rules. The trading (and continued trading) of CFDs under the Account is at the discretion of CGS-CIMB and subject to compliance of these Terms and Conditions by the Client.
- 3.4. All transactions by CGS-CIMB on the Client's behalf shall be subject to the Malaysian Rules and/or the Foreign Rules.
- 3.5. The Client may be required to place a deposit with CGS-CIMB before the Client can begin utilising the Account. CGS-CIMB has the right to use such deposit to set-off any sums owed to it by the Client and shall return the balance of such deposit, if any, free of interest upon the termination of the Account.
- 3.6. Without prejudice to any of CGS-CIMB's rights under these Terms and Conditions, CGS-CIMB reserves the right to close or suspend an Account or vary any trading limit or impose any restrictions on dealing in any CFDs in respect of the Account at any time that CGS-CIMB or its authorized representatives considers appropriate for any purpose, with or without notice to the Client including, without limitation, if:
- (a) CGS-CIMB has reasonable concerns in relation to credit worthiness, financial status, verification of identity, money laundering or any breach of applicable laws or regulatory rules;
  - (b) the Client is in breach of any of these Terms and Conditions and in the event of a breach capable of being remedied, the Client fails to remedy the breach within five (5) Business Days of a notice from CGS-CIMB requesting Client to remedy the breach;
  - (c) the Client has failed to pay any amount due to CGS-CIMB in respect of any CFD on time;
  - (d) CGS-CIMB has reasonable concerns that the Client does not have a sufficient understanding of the nature of CFD trading;
  - (e) the Client has made any material misrepresentation to CGS-CIMB;
  - (f) the Client acts in an abusive manner;
  - (g) the Client fails to provide information requested in relation to any credit check undertaken by CGS-CIMB;
  - (h) the existence of the Account is in contravention of any applicable law;
  - (i) the Client's trading is of such a size that CGS-CIMB no longer wishes to deal with the Client;  
or
  - (j) CGS-CIMB is unable for any reason to send Confirmation to the Client via email.

## **Part C: CFD Transactions**

### **4. Entering into a CFD**

- 4.1. The Client may only place orders with CGS-CIMB by telephone, Electronic Communication acceptable to CGS-CIMB or the Online Services. On any Business Day during the trading hours of the Relevant Exchange:



- (a) The Client may request CGS-CIMB by telephone, Electronic Communication acceptable to CGS-CIMB or access the Online Services to obtain a quote for the price of an Underlying Instrument at which CGS-CIMB may be prepared to enter into a CFD in respect of that Underlying Instrument. If CGS-CIMB provides a price quotation as requested, this does not constitute CGS-CIMB's acceptance of any order from the Client to enter into or close a CFD.
  - (b) Immediately upon receiving the quote and during the trading hours of the Relevant Exchange, the Client may by telephone or via Electronic Communication acceptable to CGS-CIMB, inform CGS-CIMB that the Client wishes to enter into the CFD at the quoted price or place the order via Online Services. If, under the rules of the Relevant Exchange, the Underlying Instrument can only be transacted in a specified amount or in multiples thereof, the Client must ensure that the Contract Quantity of the CFD set out in the Client's offer is in the specified amount or a multiple thereof as applicable.
  - (c) The Contract Value of a CFD, all debits and credits in respect of a CFD and the Closing Value of a CFD are denominated in the CFD Currency.
  - (d) Once an order is received by CGS-CIMB, such order is binding on the Client. The Client may give an order to withdraw, cancel, revoke or vary a previous order, but CGS-CIMB shall not be obliged to execute such withdrawal, cancellation, revocation or variation until the Client confirms with CGS-CIMB that the previous order has not been executed, and that the withdrawal, cancellation, revocation or variation, as the case may be, will not prejudice CGS-CIMB's position.
  - (e) The Client shall not acquire any right, title or interest to or in the Underlying Instrument.
- 4.2. CGS-CIMB is under no obligation to enter into a CFD with the Client, and without limitation, CGS-CIMB's acceptance of any such order from the Client is subject to:
- (a) the Client having available and sufficient Free Equity in the Account; and
  - (b) CGS-CIMB's receipt of the Margin required in respect of that CFD.
- 4.3. Nothing in these Terms and Conditions obliges CGS-CIMB to accept or act on any order from the Client to enter into any CFD, and CGS-CIMB at any time may refuse to accept or otherwise act on any order in respect of a CFD, or limit the purchase or sale ordered by the Client without giving any reason whatsoever for CGS-CIMB's refusal .
- 4.4. CGS-CIMB shall bear no liability whatsoever for failing to comply with any order of the Client or for exercising or failing to exercise any discretion, power or authority conferred upon CGS-CIMB under these Terms and Conditions.
- 4.5. If CGS-CIMB decides to act on any order or is otherwise under an obligation to act on any order, CGS-CIMB shall be allowed such amount of time to act and implement the order as may be reasonable, having regard to the systems and operations of CGS-CIMB and the other circumstances then prevailing, and shall not be liable for any loss arising from any delay on the part of CGS-CIMB in acting on the order.
- 4.6. If CGS-CIMB accepts the Client's order to enter into a CFD and such CFD is in fact entered into, CGS-CIMB will issue to the Client a Confirmation of that CFD by no later than the next Business Day but failure by CGS-CIMB to issue a Confirmation will not prejudice or affect that CFD. CGS-CIMB will not have any liability as a result of a failure to issue a Confirmation.
- 4.7. The Client may appoint a person to act as an Authorised Person to enter into a CFD on the Account subject however to CGS-CIMB's right to reject such appointment at its sole discretion. CGS-CIMB will require the same information, including verification of identity, from the Authorised Person as it requires from the Client in order to open the Account. Both the Client and the Authorised Person will be required to execute and deliver to CGS-CIMB a third party written authorisation in the form required by CGS-CIMB, authorising and appointing the Authorised Person to place orders in CFDs. The Client will be fully responsible for all acts and omissions of the Authorised Person including all

orders placed by such Authorised Person as if such acts, omissions and orders were done, made or given by the Client and as if the Authorised Person were the Client. CGS-CIMB shall be entitled to accept orders from such Authorised Person within three (3) Business Days after receipt of the Client's written notice revoking the Authorised Person's authority. Such written notice (to be effective) must be sent to CGS-CIMB by post or by personal delivery or other modes of communication deemed to be acceptable to CGS-CIMB. Notwithstanding the above, CGS-CIMB may (by giving due notice) refuse to accept orders from any such Authorised Person and to treat the appointment of such Authorised Person as terminated.

- 4.8. When placing an order using the telephone, the Client may be required to give the Account name and Account number. CGS-CIMB may refuse to accept an order without this information.
- 4.9. CGS-CIMB may treat the Client as having placed an order using the telephone if CGS-CIMB accepts an order in good faith from an Authorised Person. CGS-CIMB cannot be expected to recognise the Client's voice or that of any authorised third party in any circumstances and CGS-CIMB is under no duty to enquire about or verify the identity of the Client or the Authorised Person.
- 4.10. If the Client is in any doubt whatsoever as to the validity of any orders for any reason, including (but not limited to) by reason of a breakdown in communication leading to a cessation of connection between CGS-CIMB and the Client, it is the Client's sole responsibility to contact CGS-CIMB immediately by telephone in order to obtain clarification as to the validity of the order.
- 4.11. CGS-CIMB may, in its absolute discretion, limit the value of CFDs the Client may have outstanding under these Terms and Conditions:

(a) beyond which if the Client wishes to enter into any further CFDs, the Client must seek and obtain approval from CGS-CIMB; and

(b) beyond which the Client may not enter into any further CFDs whatsoever.

CGS-CIMB may vary this limit imposed by CGS-CIMB pursuant to this Clause 4.11 at any time by notice to the Client.

- 4.12. The Client acknowledges that he is not entitled to and shall not hold simultaneous opposing CFD positions on the same underlying financial instrument. For example, if the Client originally placed a sell order and subsequently placed a buy order for a CFD on the same underlying financial instrument, this will close all or part of the Client's original sell trade and may create a new open position. If the Client has more than one open CFD position on the same underlying financial instrument, such trades (or part thereof) will be closed in the order "First In First Out" ("**FIFO**").

## **5. Margin Requirements**

- 5.1. Before the Client is permitted to enter into a CFD, CGS-CIMB may require the Client to deposit with CGS-CIMB cleared funds (in such amounts as CGS-CIMB may prescribe from time to time) as Margin. Both the amount of such Margin and the time of its CFD Margin Call shall be within the absolute discretion of CGS-CIMB, which is under no obligation to allow any offset of any Margin requirement. This is in addition to payments to be made under Clause 6 ("**Payments for Difference**"). CGS-CIMB may increase the Margin requirements for any CFD at any time.
- 5.2. CGS-CIMB may at any time in its absolute discretion require the Client to place additional Margin during the term of the CFD (including, without limitation, if the GLV in the Client's Account falls below **MYR 2,000** or its equivalent (as determined by CGS-CIMB in its sole discretion) by depositing with CGS-CIMB such amounts as CGS-CIMB may determine.
- 5.3. CGS-CIMB shall have sole, absolute and unfettered discretion, as to the exercise of any power or right under this Clause 5, including, without limitation to the calling of any Margin, which shall be binding on the Client.
- 5.4. CGS-CIMB may refuse any request by the Client to enter into any further CFDs until CGS-CIMB has confirmed receipt of any CFD Margin Call in cleared funds.

- 5.5. No previous margin levels shall set a precedent or bind CGS-CIMB. CGS-CIMB reserves the right to close out any or all the Client's open CFD positions if the Client fails to immediately deposit the required additional Margin.
- 5.6. Margin deposited by the Client will not fall due for repayment to the Client until the Client's obligations under these Terms and Conditions and any of Client's accounts with CGS-CIMB or its Affiliates is satisfied in full. Until this time, this Margin will neither constitute a debt due from CGS-CIMB to the Client nor will the Client have any right to receive payment of these funds.
- 5.7. Subject to Clause 14, CGS-CIMB may allow the Client to withdraw from the Client's Account any Free Equity, as long as the balance remaining in the Client's Account does not fall below **MYR 2,000** or such other minimum amount as CGS-CIMB may stipulate. Any withdrawal will be without prejudice to the provisions of the clause in respect of the balance of any Margin deposited with CGS-CIMB.
- 5.8. The Client's liability in respect of CFD Margin Calls is not limited to the amount, if any, deposited with CGS-CIMB.
- 5.9. The Client acknowledges that the Margin may be held and used to secure the performance of the Client's obligations as well as for such other purposes as the applicable laws may permit or stipulate for the CFDs traded. All Margin held as continuing security, notwithstanding any provision or instructions to the contrary, and shall be subject to a general lien and right of set-off in favour of CGS-CIMB and its Affiliates for any and all of the Client's liabilities to CGS-CIMB and its Affiliates, whether contingent or actual, under these Terms and Conditions or otherwise, and CGS-CIMB may realise any of the Margin of the Client as provided for in these Terms and Conditions.
- 5.10. All Margins shall be in such form as CGS-CIMB may stipulate and the value of any such Margin shall be determined by CGS-CIMB in its sole and absolute discretion. CGS-CIMB shall be entitled to deposit, any Margin in whatever form provided to CGS-CIMB and shall not be under any obligation to account to the Client for any interest, income or benefit that may be derived therefrom.
- 5.11. The liability to pay Margin accrues at the time the margin requirement comes into existence regardless of when a CFD Margin Call is made. CGS-CIMB is not obliged to make CFD Margin Calls of the Client at all or within any specific time period. CGS-CIMB shall not be liable to the Client for any failure by CGS-CIMB to contact the Client or attempt to contact the Client.
- 5.12. Without prejudice to the Client's obligation to place Margin immediately the same becomes due, the Client must notify CGS-CIMB immediately if the Client cannot, or believes he would not be able to, meet a Margin payment when due. CGS-CIMB shall have the discretion to extend the time within which the Client must meet its obligation to place Margin when due.
- 5.13. It is the Client's responsibility, and not CGS-CIMB's, to (i) understand how Margin is calculated; and (ii) monitor any open CFD positions and all other relevant factors used to calculate Margin payable.
- 5.14. If CGS-CIMB makes a CFD Margin Call, the Client must place the amount of Margin immediately or within a specified period of time which may be less than two (2) Business Days after the giving of such notice by CGS-CIMB. In all respect, time shall be of the essence for all payment obligations of the Client.
- 5.15. CFD Margin Calls may be made to the Client at any time either orally or in writing and such CFD Margin Calls shall be deemed to have been made in accordance with the timescales set out in this Clause 5.15. CGS-CIMB shall be deemed to have made a CFD Margin Call on the Client if CGS-CIMB has left a message (via any of the foregoing methods of communication) requesting the Client to contact CGS-CIMB and such CFD Margin Call shall be deemed to have been made in accordance with the timescales set out in this Clause 5.15. Such CFD Margin Call will be deemed to have been made even if the Client has not returned any message CGS-CIMB may have left requesting the Client to contact CGS-CIMB. If a CFD Margin Call is made by more than one method of communication, it shall be deemed to have been made at the earliest time such communication is deemed served. A CFD Margin Call shall also be deemed to have been made if CGS-CIMB is

unable to leave a message for the Client and has used reasonable endeavours to contact the Client. All references in these Terms and Conditions to a CFD Margin Call shall be deemed to include reference to a deemed CFD Margin Call. Any message CGS-CIMB leaves for the Client requesting the Client to contact CGS-CIMB should be regarded as extremely urgent. If CGS-CIMB leaves a message, it will usually not reveal its company name or the nature of the call; however, it may, without liability to the Client, do so, if CGS-CIMB in its absolute discretion so decides and in particular, CGS-CIMB may leave its company name if the Client does not return any previous messages.

- 5.16. Margin is not the total extent of the Client's financial liability to CGS-CIMB, as the Client must make good in accordance with these Terms and Conditions any losses suffered and any other payments due hereunder.
- 5.17. Margin payments must be settled in such currency as CGS-CIMB may require from time to time.
- 5.18. Without prejudice to the other provisions of this Clause 5.18 or any other provision of these Terms and Conditions (and in particular CGS-CIMB's rights), CGS-CIMB reserves the right (but is not obliged) to close any or all, in whole or in part, of the Client's open CFDs on the basis of the current (or next available) market quotations obtained by CGS-CIMB, to combine or consolidate any of the Client's Accounts or any further trades, in each case with or without notice to the Client:
- (a) if Margin is due, and the Client fails to top up such Margin in full in accordance with the terms mentioned earlier;
  - (b) if any payment due hereunder (including Margin) is not duly and punctually paid to CGS-CIMB as and when it becomes due;
  - (c) if any instrument of payment used by the Client to make payment to CGS-CIMB is not met on first presentation or is subsequently dishonoured;
  - (d) if any representation or warranty made by the Client in relation to these Terms and Conditions is or becomes untrue, inaccurate or misleading in any respect;
  - (e) if CGS-CIMB, in its absolute discretion, considers that the Client is unlikely to meet any Margin or other payment when due;
  - (f) if CGS-CIMB considers, in its absolute discretion, that the Client has materially breached any of these Terms and Conditions;
  - (g) if an Insolvency Event or Event of Default occurs;
  - (h) if the Client dies or become a patient under or any court order is made in respect of the Client under relevant mental health legislation or CGS-CIMB believes or suspects the same to be true;
  - (i) if any regulator of CGS-CIMB's business or its rules requires CGS-CIMB to do all or any of the foregoing;
  - (j) if CGS-CIMB is in dispute with the Client over any instruction or any trade. For the avoidance of doubt, CGS-CIMB may close all, and not only the parts of the actual or alleged trade in dispute; or
  - (k) if there occurs any other event or any other circumstance exists, where CGS-CIMB reasonably believes that it is necessary or desirable to take any of the above actions in order to protect itself or any or all of its other Clients.

- 5.19. CGS-CIMB reserves the right to amend the list of available tradable CFDs, which in some instances, may change on a daily basis. Any such decision by CGS-CIMB is final, conclusive and binding on the Client for all purposes. CGS-CIMB will endeavour (but is not obliged) to make this information available to the Client through such means as CGS-CIMB thinks fit. In instances where the list of available CFDs have to be amended or reduced (including but not limited to, non-availability of the stock), the only trading activity permissible in those CFDs is the closing of an open position.

## **6. Payments for Differences**

- 6.1. Following Business Close on each Business Day during the term of a CFD, the Calculation Agent will determine the Contract Value of the CFD as at Business Close.
- 6.2. If the Contract Value determined under Clause 6.1 is higher than the Contract Value determined by the Calculation Agent in respect of the previous Business Close, then the Short Party must pay to the Long Party the difference.
- 6.3. If the Contract Value determined under Clause 6.1 is lower than the Contract Value determined by the Calculation Agent in respect of the previous Business Close, then the Long Party must pay to the Short Party the difference.
- 6.4. The Contract Value determined under Clause 6.1 will ordinarily be the Closing Price of the Underlying Instrument quoted by the Relevant Exchange. Where the Calculation Agent determines that the Contract Value of a CFD at Business Close cannot be determined on that basis for any reason, the Contract Value at Business Close will be the value determined by the Calculation Agent in its sole discretion.
- 6.5. Without limiting this Clause 6.5, if at any time, trading on a Relevant Exchange is suspended or halted in any Underlying Instrument, the Calculation Agent will, in determining the Contract Value for the purposes of Clause 6.1, at its discretion have regard to the last traded price before the time of suspension or halt.
- 6.6. For the avoidance of doubt, all CFDs shall be cash settled.

## **7. Closing a CFD**

- 7.1. During the trading hours of the Relevant Exchange on any Business Day, the Client may in the prescribed mode give CGS-CIMB notice of the Client's wish to close any CFD (whether in whole or in part) specifying the Underlying Instrument and the proportion of such CFD that the Client wishes to close. CGS-CIMB will use its reasonable endeavours to accept such request.
- 7.2. Following receipt of a Closing Notice, CGS-CIMB will use reasonable endeavours to ascertain and obtain a quote for the Closing Price and notify the Client thereof by telephone or otherwise. The Client shall forthwith notify CGS-CIMB by telephone or otherwise and during the trading hours of the Relevant Exchange whether or not the Client is willing to accept the Closing Price. If the Client accepts the Closing Price, the CFD (or, if applicable, the relevant proportion) will be closed on the Closing Date.
- 7.3. At Business Close on the Closing Date, the difference (if any) between the Closing Value and the Contract Value of the CFD (or that part of it closed under Clause 7.2) must be accounted for as follows:
- (a) if the Closing Value is greater than the Contract Value determined at the last Business Close pursuant to Clause 6.1, the Short Party must pay to the Long Party the difference; and
  - (b) if the Closing Value is less than the Contract Value determined at the last Business Close pursuant to Clause 6.1, the Long Party must pay to the Short Party the difference.

For purposes of this Clause 7.3, if the Closing Date is also the Business Day on which the CFD is entered into, the Contract Value “determined at the last Business Close” is determined using the Underlying Instrument Price at which the CFD was entered into.

- 7.4. Notwithstanding Clauses 7.1 to 7.3 above, CGS-CIMB may decide in its absolute discretion not to close out a CFD if there is a suspension of trading or a trading halt in respect of the Underlying Instrument.
- 7.5. The Client acknowledges that CGS-CIMB reserves the right to terminate and close out a CFD upon the occurrence of certain events as determined by CGS-CIMB in its sole discretion. The Client agrees not to hold CGS-CIMB liable under such circumstances.
- 7.6. Without limiting any other provision of these Terms and Conditions, CGS-CIMB may, in their absolute discretion, elect to terminate the relevant CFD by providing written notice to the Client (“**Early Closing Notice**”). If CGS-CIMB elects to do so then:
- (a) the Closing Date will be the date on which CGS-CIMB notifies the Client of such election (the “**Early Closing Date**”);
  - (b) the Client will be deemed as having been given notice on the Early Closing Date at the time CGS-CIMB notifies the Client of such election to terminate the CFD; and
  - (c) no further acceptance is required on the part of the Client in relation to such closing of the CFD and unless otherwise stated in these Terms and Conditions, the Closing Price shall be determined by the Calculation Agent to be the market value of the Underlying Instrument as at the Early Closing Date.
- 7.7. Where the Calculation Agent determines that the Closing Value of a CFD cannot be calculated on the Closing Date for any reason, the Closing Value will be the value determined by the Calculation Agent in its sole discretion.
- 7.8. CGS-CIMB will not be obliged to check or have regard to (i) any assumption made or expressed by the Client as to the effect of any trade on the Client’s existing or overall positions with CGS-CIMB; or (ii) the Client’s comments that any trade placed is a trade to close all or part of an open position. CGS-CIMB will treat all trades as a buy or a sell regardless of whether the trade has the effect of opening a new position or closing an existing one.
- 7.9. All determinations and calculations made by CGS-CIMB or the Calculation Agent pursuant to these Terms and Conditions will be binding on the Client in the absence of Manifest Error.

## **8. CFD Orders**

- 8.1. CGS-CIMB shall be entitled to reject any request from the Client to establish any orders (including but not limited to stop loss, good-till-cancel (“**GTC**”) and good-till-date (“**GTD**”) orders) in its sole discretion.
- 8.2. All orders the Client places with CGS-CIMB shall be:
- (a) at levels and on terms acceptable to CGS-CIMB;
  - (b) for stop loss, GTC and GTD orders, it is subject to the Relevant Exchange permitting this; and
  - (c) subject to CGS-CIMB agreeing to this in its sole discretion.
- 8.3. All terms and conditions relevant to the Client placing any trade (which includes opening or closing any position) must be complied with both at the time any order is placed and on its execution. CGS-CIMB is entitled to refuse to accept or fulfill any order if such terms and conditions are not complied with.

- 8.4. No orders are guaranteed, and orders may be filled by CGS-CIMB when it is reasonably able to do so.
- 8.5. It is the Client's responsibility specifically and expressly to cancel any existing order placed which, unless the Client has done so, may be filled by CGS-CIMB in accordance with the existing order made by the Client (irrespective of whether the Client has closed any of its positions or opened any new positions).
- 8.6. CGS-CIMB is not obliged to inform the Client of the "fill" on any order but will issue a Confirmation.
- 8.7. A GTD order will be effective during the market hours of the Relevant Exchange and until close of the Relevant Exchange at a specified date.
- 8.8. A GTC order will remain in effect until the GTC order is filled or the Client cancels the GTC order. The GTC order in question will be effective during the market hours of the Relevant Exchange each day during the lifetime of the GTC order.
- 8.9. CGS-CIMB reserves the right to limit any orders or positions, as it deems necessary, to minimize concentration risk, or in keeping with the Client's financial position/history, or any other reason CGS-CIMB may deem appropriate.

## **9. Errors**

- 9.1. A Confirmation which does not accurately reflect the terms of the relevant CFD:
  - (a) does not affect the validity of the CFD entered into; and
  - (b) does not entitle the Client to enforce whatever is inaccurately recorded in the Confirmation.

The foregoing is subject to Clauses 9.2 to 9.4 below.

- 9.2. CGS-CIMB reserves the right to void from the outset any CFD involving or deriving from a Manifest Error or to amend the details of such a CFD to reflect that which CGS-CIMB considers in its sole discretion acting in good faith to be the correct or fair details of such a CFD absent from Manifest Error. Clients shall not be entitled to gain an unfair advantage by Manifest Error.
- 9.3. Without prejudice to the generality of the other terms mentioned herein, and in the absence of fraud, CGS-CIMB shall in no circumstances be liable to the Client for any loss, cost, claim, damage, demand or expense of whatsoever nature the Client may suffer or incur in connection with any Manifest Error and howsoever arising whether from direct or indirect, special, consequential or arising otherwise howsoever including loss of profit and loss of opportunity and even if CGS-CIMB had been advised of the possibility of the same arising or the same were reasonably foreseeable.
- 9.4. The exclusions and limitations of liability contained in the Clause 9.3 above shall also apply to any loss or damage referred to therein arising by reason of the negligence of CGS-CIMB.

## **10. Adjustments, Corporate Events and Merger Events**

- 10.1. If any Underlying Instrument becomes subject to possible adjustment as a result of a Corporate Event, the Calculation Agent shall determine the appropriate adjustment, if any, to be made to the Contract Value of that Underlying Instrument and/or the related Contract Quantity to account for the dilutive or consolidative effect necessary to preserve the economic equivalent of the right and obligations of the parties under the relevant CFDs immediately prior to that event. The adjustment will take effect as of the time determined by the Calculation Agent. Notice of any adjustment or amendment under this Clause 10.1 shall be given to the Client as soon as reasonably practicable after the determination thereof and shall be conclusive and binding on the Client in the absence of Manifest Error. For the avoidance of doubt, nothing in this Clause 10.1 shall be construed as imposing any obligation on the Calculation Agent to provide any notice of any adjustment or amendment under this Clause 10.1 prior to the determination thereof.

- 10.2. The Client acknowledges that the Client is aware of all Corporate Events with regards to the CFDs traded. CGS-CIMB will process the Corporate Event to the best of CGS-CIMB's ability and the Client agrees that the Client is prepared to assume the risks of delayed processing due to market conditions, differences in time zones, or circumstances beyond CGS-CIMB's control (including but not limited to any acts or omissions of CGS-CIMB's Registered Representative). The Client agrees to bear any and all charges incurred due to the processing of the Corporate Events with regards to the relevant CFDs.
- 10.3. If at any time a Corporate Event occurs and the Calculation Agent determines (in its absolute discretion) that it is not reasonably practicable to make an adjustment under Clause 10.1, CGS-CIMB may give written notice of its intention to close out the CFD, in which event CGS-CIMB is deemed to have given an Early Closing Notice to the Client under Clause 7 and the procedures in Clause 7 will apply. The Closing Price will then be the price reasonably determined by the Calculation Agent to be the market value of the Underlying Instrument as at the date on which CGS-CIMB is deemed to have given an Early Closing Notice to Client.
- 10.4. The Client acknowledges that in certain circumstances, CGS-CIMB may not release funds on the closing out of a CFD if the CFD is subject to a Corporate Event at the time of close out. In such circumstances Client's funds may not be released until the Calculation Agent has determined the treatment of the relevant Corporate Event.
- 10.5. If a Merger Event occurs in respect of an Underlying Instrument, CGS-CIMB may give Client notice of its intention to procure a close out of the CFD as of the date the Merger Event takes place or comes into force. If that happens, CGS-CIMB is taken to have given an Early Closing Notice under Clause 7 on that date. The Closing Price will then be the price reasonably determined by the Calculation Agent to be the market value of the Underlying Instrument as at the date on which CGS-CIMB is deemed to have given an Early Closing Notice to Client.
- 10.6. Notwithstanding the foregoing, CGS-CIMB reserves the right to close all open positions relating to the Underlying Instrument before the occurrence of a Corporate Event or a Merger Event.

## **11. Account Adjustment for Dividends**

- 11.1. If the Client is the Long Party, the Client's Account will be credited with any Long Dividend Amounts which CGS-CIMB receives as soon as practicable after such receipt.
- 11.2. If the Client is the Short Party, the Calculation Agent will notify the Client of the amount of any Short Dividend Amount and the time that each Short Dividend Amount is payable and the Client's Account will be debited accordingly. Short Dividend Amounts are usually payable on the Business Day immediately preceding the ex-dividend date of the Underlying Instrument.
- 11.3. If CGS-CIMB reasonably determines that there has been, within the term of a CFD or twelve (12) months following the date of any dividend in respect of the Underlying Instrument, a change that would have had the effect of reducing or increasing the amount of the ordinary cash dividend per unit of CFD, CGS-CIMB may adjust the dividend amount immediately by giving notice of such adjustment. Further, if any such change is to take effect prior to the date upon which CGS-CIMB gives such notice, CGS-CIMB may make such adjustments to the payment obligations of the parties in respect of any CFD to which it considers such change applicable.

## **12. Records of Instructions**

- 12.1. The Client agrees that all orders made through the telephone or Electronic Communication or Online Services shall be deemed to be confirmed and binding on the Client without any requirement for further scrutiny by CGS-CIMB. In this regard, CGS-CIMB may operate the Client's Account and execute trades upon receipt of either the Client's oral or written instructions believed by CGS-CIMB to be authentic or genuine and to have been given by such one or more person(s) as notified by the Client from time to time in writing. CGS-CIMB is entitled (but not obliged) to seek further evidence to confirm or verify the authenticity of any instructions given or purported to be given by the Client, without incurring any liability in that respect.



- 12.2. The Client should assume that CGS-CIMB's telephone lines may be recorded and agrees to the recording of such conversations. Where any dispute arises between the Client and CGS-CIMB in connection with or relating to the instructions or communications, whether electronic or otherwise, given by the Client or the Authorised Person in relation to the Transactional Services, CGS-CIMB's record of such instructions or communications shall be accepted by the Client as final and conclusive evidence of such instructions or communications from the Client. Notwithstanding the foregoing, the Client should keep its own timed and dated written records of transactions and dealings with CGS-CIMB.
- 12.3. The Client agrees to do such acts and deeds and to execute such documents as are necessary or are in the opinion of CGS-CIMB desirable to ratify or confirm anything done by CGS-CIMB in the proper exercise of any right or power conferred by these Terms and Conditions or any other agreement entered into pursuant to these Terms and Conditions or relating to the Account.

### **13. Interest**

- 13.1. Except as otherwise provided in these Terms and Conditions, the Client agrees to pay interest on all sums due to CGS-CIMB at a rate as may be prescribed by CGS-CIMB from time to time depending on the currency involved, for all outstanding sums due from the due date to the date of full payment.
- 13.2. The Client acknowledges and agrees that CGS-CIMB may retain, for the benefit of CGS-CIMB and without any obligation to account to the Client, any interest that may be earned on the Client's monies deposited in the Client's Segregated Account (the "**Client's Monies**"). The Client further consents to CGS-CIMB withdrawing the Client's Monies and any interest received on the Client's Monies from the Client's Account, to the extent permitted by applicable laws, including but not limited to paying out such interest. CGS-CIMB may in its sole and absolute discretion, taking into account any withholding tax and any administrative expenses incurred by CGS-CIMB in maintaining the Client's Segregated Account, pay any interest received on the Client's Monies to the Client. The Client agrees and acknowledges that any interest, if any, paid by CGS-CIMB to the Client may be less than that received by CGS-CIMB.

### **14. Set-Off and Lien**

- 14.1. The Client agrees that the assets forming the Collateral will serve as collateral for the Secured Indebtedness to CGS-CIMB.
- 14.2. Notwithstanding any other security which CGS-CIMB may have over the Collateral, CGS-CIMB shall at all times have a general and continuing lien over all or any of the Collateral and cash amounts and CFDs in its custody to secure the payment of all monies now or later due and payable actually or contingently whether under these Terms and Conditions or otherwise howsoever. CGS-CIMB is entitled to combine and consolidate all the Client's accounts which the Client may have with CGS-CIMB or any of its Affiliates, and/or to set-off any amount standing to the credit of any of the Client's accounts which the Client may have with CGS-CIMB or any of its Affiliates against the Secured Indebtedness.
- 14.3. If an Event of Default occurs or is threatened against the Client, the Client authorises CGS-CIMB, without prior notice to the Client, to realise and liquidate at any time any of the Collateral, to the extent permitted by applicable law. The Client is fully aware and acknowledges that the Collateral (and/or the proceeds of sale thereof) may be immediately set-off in or towards satisfaction of the Secured Indebtedness (whether in whole or in part) if an Event of Default occurs.
- 14.4. In so far as any Secured Indebtedness to CGS-CIMB are contingent or future liabilities, CGS-CIMB's liability to the Client in respect of the sum(s) standing to the credit of any of the Client's Accounts and all other payments due to the Client, shall to the extent necessary to cover such Secured Indebtedness, be suspended, until the happening of the contingent or future event and such sum(s) is, in the absolute discretion of CGS-CIMB, applied in satisfaction of the Secured Indebtedness.

- 14.5. The security hereby created over the Collateral by this Clause 14 shall be a continuing security for the discharge of the Secured Indebtedness that may now or hereafter be due, owing, incurred or payable by the Client to CGS-CIMB and shall not prejudice any other security rights which CGS-CIMB may have in respect of the Collateral.
- 14.6. The Client authorises CGS-CIMB to deal in any manner including without limitation the utilisation of all or any Collateral standing to the credit of the Client's Account at any time without notice to the Client and utilise any Proceeds to set off and discharge any or all the Client's Secured Indebtedness and obligations due and owing to CGS-CIMB.
- 14.7. The Client also agrees that CGS-CIMB may at its absolute discretion refuse to act on the Client's instruction to effect the transfer/withdrawal of Client's Monies held in the Client's Account in the event there is an outstanding debt or Secured Indebtedness due to CGS-CIMB in the Client's Account.

## 15. Continuing Security

- 15.1. All the Collateral shall be charged to CGS-CIMB by way of equitable charge as a continuing security for the payment of all sums that may from time to time become due to CGS-CIMB or any other party so appointed by CGS-CIMB whether under or by virtue of these Terms and Conditions or otherwise, including all fees, commissions, brokerage charges, principal, interest, costs (including legal costs on a solicitor and client basis), expenses and/or all other amounts due to CGS-CIMB or otherwise arising under or in respect of (i) any of the Transactional Services or the Transactions; or (ii) the performance of any of the Client's obligations to CGS-CIMB, whether under or by virtue of these Terms and Conditions or otherwise, (collectively, the "**Secured Indebtedness**") and so that subject as aforesaid:
- (a) the charge hereby created shall be free from all encumbrances and adverse interests and shall to the extent permitted by law take priority over all other interests in the Collateral;
  - (b) if the Client shall default in discharging on demand any sum hereby secured or after an Event of Default, CGS-CIMB may at any time thereafter immediately upon giving notice to the Client, retain, deal with, apply, sell or otherwise dispose of or cause to be sold or otherwise dispose of all or any of the Collateral charged in accordance with this Clause 15.1 and apply the net proceeds thereof in or towards the discharge of the Secured Indebtedness at such time or times and in such manner and generally on such terms as CGS-CIMB may in its absolute discretion think fit for which purposes CGS-CIMB may convert any monies or proceeds into any currency at such rate of exchange as it may in its discretion think fit;
  - (c) by these Terms and Conditions, the Client authorises CGS-CIMB to execute all documents and do all acts and things necessary or appropriate to sell or dispose of or complete the sale or disposal of all rights, title and interest to and in any of the Collateral liable to be sold or disposed of under Clause 15.1(b); and
  - (d) the charge hereby created shall be in addition and without prejudice to any lien, rights of retention or other rights to which CGS-CIMB is or may become entitled under the law or by virtue of these Terms and Conditions or otherwise.
- 15.2. The security created by Clause 15 shall become immediately enforceable and the power of sale and other powers conferred by applicable laws, rules and regulations (as varied and extended by Clause 15) and all the other powers conferred on the Client by Clause 15 shall be immediately exercisable at any time after the Client shall have failed to pay or satisfy when due and in the manner provided in these Terms and Conditions any part or parts of the Secured Indebtedness or after an Event of Default.

## 16. Exclusions

- 16.1. Except as expressly provided in these Terms and Conditions, CGS-CIMB does not make any other representations and warranties.

## 17. Limitation of Liability

- 17.1. Except as otherwise provided in these Terms and Conditions, and to the fullest extent permitted by the law, the provisions in this Clause 17 sets out CGS-CIMB's entire liability (including any liability for the acts and omissions of its Affiliates, and the respective officers, employees and agents of CGS-CIMB and its Affiliates) to the Client, including matters in respect of:
- (a) any breach of its obligations in relation to or in connection with or arising under these Terms and Conditions including without limitation any loss or damage resulting from or due to (i) any errors or defaults of any kind in accepting or acting on or executing any instructions given by the Client or an Authorised Person or in relation to or in connection with any matter relating to Transactions or the provision of the Transactional Services or any transaction made or purported to be made or the payment and crediting of funds or monies; (ii) any act, failure or omission or delay on the part of CGS-CIMB, its nominee, agent, sub-agent, officer, employee or other authorised person in the provision of any of the Transactional Services; and
  - (b) any representation, statement or tortious act or omission (except fraud and fraudulent misrepresentation) including negligence arising under or in connection with these Terms and Conditions.
- 17.2. CGS-CIMB's maximum liability (including, without limitation, tortious liability (if any)) for damages, losses, costs or expenses (including costs and expenses of or incidental to the negotiation, presentation and settlement of any claim for breach of CGS-CIMB's obligations under these Terms and Conditions) suffered or incurred by the Client, including but not limited to those arising under or in connection with the matters set out in Clauses 17.1(a) and 17.1(b) shall be limited to the amount of RM5,000.
- 17.3. CGS-CIMB shall not be liable to the Client in respect of any (i) direct loss or damage, including but not limited to any costs, charges or expenses (but only to the extent CGS-CIMB is permitted to exclude such liability at law) or (ii) indirect, incidental, punitive, special or consequential loss or damage (including but not limited to loss of investment opportunity, failure to make a profit, loss of profits or goodwill) suffered by the Client or any other party (no matter how caused) arising in connection with:-
- (a) any action taken by CGS-CIMB or CGS-CIMB's agents or any of their respective Affiliates to comply with Malaysian Rules and Foreign Rules, including, without limitation, any liquidation, in whole or in part, of any of the Client's positions or any action taken at the request or directive of a relevant stock exchange, clearing organization or regulator;
  - (b) any oral or written instructions believed by CGS-CIMB to be authentic or genuine and given by the Client or an Authorised Person (even if such instructions are subsequently shown not to be authentic or genuine);
  - (c) any action brought by a third party (even if the relevant losses, damages, costs or expenses are reasonably foreseeable or CGS-CIMB had been advised of the possibility of the Client incurring the same);
  - (d) any exercise of CGS-CIMB's rights to vary any trading limit applicable to the Account, or to suspend or close the Account;
  - (e) any acts or omissions of any Registered Representative or any custodians;
  - (f) any use of or reliance or any loss or interruption of service, unavailability of any network or system, data corruption, denial-of-service attacks, infection by malicious code or malware, interception, tampering or the actions or fraud of third parties relating to the Online Services, the Website and/or any electronic instruction;
  - (g) any failure by Licensed Financial Institution to credit payment of any Proceeds into the Client's Designated Bank Account;

- (h) any exercise by CGS-CIMB of any of its rights pursuant to a Force Majeure under Clause 47.2 and/or a Market Disruption Event under Clause 47.3;
  - (i) any malfunction or partial or total failure of any machine, data processing system, electronic transmission or communications system; or
  - (j) termination of the Account or any Transactional Services by CGS-CIMB.
- 17.4. The Client is aware that circumstances could arise in which the Client's remedies set forth in these Terms and Conditions may be or appear insufficient to the Client. The Client agrees that the limitations on liability specified in this Clause 17 shall survive and apply even under such circumstances. In the light of the overall agreement reached hereunder, the Client has agreed that the remedies and limitations on liabilities set out herein are part of a reasonable allocation of the risks and benefits of the agreement between the parties taking all relevant factors into consideration including the fees, commission, brokerage charges and other charges payable in accordance with these Terms and Conditions and the availability and costs of insurance with respect to the said risks.

## **18. Client's Successor**

- 18.1. If the Client is an individual, the Client's executor(s) or administrator(s) shall be the only persons recognised by CGS-CIMB as being the Client's successor(s) in the event of the Client's death or incapacity. Upon the Client's death, CGS-CIMB is entitled to retain any CFDs or sums standing in credit in the Account(s) until such time that the Client's successor(s) produces to CGS-CIMB evidence, to the satisfaction of CGS-CIMB, that the Malaysian courts have appointed the Client's successor(s) to deal with the Client's affairs and property.

## **19. Terms to Govern Once Any Facility is Used**

- 19.1. Regardless of whether the Client has executed the required documentation, the Client will be deemed to have agreed to these Terms and Conditions herein if the Client commences to trade through CGS-CIMB or to use any of the Transactional Services. For the avoidance of doubt, all such Transactions executed on the instructions of the Client or any Authorised Person, will be governed by these Terms and Conditions.

## **20. Conflicts of Interest**

- 20.1. CGS-CIMB or its Affiliates may from time to time deal in CFDs with or for the Client in circumstances where CGS-CIMB or its Affiliates has a direct or indirect interest or a relationship of any description with a third party that may involve or result in a Conflict of Interest with the Client.
- 20.2. Neither CGS-CIMB nor its Affiliates shall be liable to account to the Client for any profit, commission or other benefits made or received by it or for any loss, damage or expenses incurred by the Client in relation to such circumstances.
- 20.3. Where CGS-CIMB acts as principal in any Transaction (apart from a Transaction of sale or purchase of an odd lot of CFDs), CGS-CIMB will inform the Client that it acts as principal in the Transaction before the Transaction is effected.
- 20.4. Except as expressly stated in this Clause 20, neither CGS-CIMB nor its Affiliates is obliged to disclose any information connected with or relating to a Conflict of Interest situation to the Client at any time.

## **21. Acknowledgement of Risks**

- 21.1. The Client acknowledges, recognizes and understands the risks associated with CFDs, and CFD trading is subject to investment and market risks, including the possible loss of more than the entire principal amount invested. The Client will not engage in CFD trading without being certain of the true extent of the exposure to the risk of loss. The Client acknowledges and agrees that he understands and is fully aware of the risks involved in trading in CFDs and will not hold CGS-CIMB

liable for any losses whatsoever (direct, indirect, special, consequential, punitive or otherwise), loss of investment opportunity or failure to make a profit suffered or incurred by the Client as a result of or in connection with such Transactions or investments. The Client acknowledges and accepts that the Risk Statement as set out in CGS-CIMB's Contracts For Difference account application Form (either individuals or corporates) (which discloses only some of the major risks associated with CFD trading. The Client should seek, and will be assumed by CGS-CIMB as having sought and obtained, independent advice to resolve and clarify any doubts he may have.

- 21.2. In addition to Clause 21.1 above, as set out in the risk disclosure statement to be signed by the Client before the provision of any Investment Products and/or Services by CGS-CIMB, the Client acknowledges that he understands the nature of the Investment Products and/or Services and the extent of his exposure to risk and has considered the appropriateness and suitability of trading and investing in light of his experience, objectives, financial and other relevant circumstances.

## **22. Disclaimers relating to Information and Advice**

- 22.1. Without prejudice to or detracting from any other provision of these Terms and Conditions, the recommendation or advice the Client may receive from any of CGS-CIMB's duly authorised employees, representatives or officers may be general or specific and the Client understands and notes the different implications of each type of advice received.

- 22.2. In relation to any information relating to the CFDs and any other Investment Products and/or Services provided by CGS-CIMB to the Client that is general and non-specific in nature (the "**General Information**"), the Client acknowledges and agrees that:

- (a) the General Information is meant for the Client's general knowledge only;
- (b) in providing the General Information, CGS-CIMB:
  - (i) did not take into account the Client's investment objectives, financial situation and particular needs;
  - (ii) does not make any recommendations to the Client in respect of any CFDs and any other Investment Products and/or Services;
- (c) it is the Client's responsibility to seek independent financial, legal or other professional advice with respect to any dealing in any CFDs or any other Investment Products and/or Services;
- (d) any dealings in CFDs or other Investment Products and/or Services is solely and exclusively based on the Client's own judgement and after the Client's own independent evaluation into the merits and risks in relation to such dealings or investments;
- (e) the General Information although based upon information obtained from sources believed by CGS-CIMB to be reliable, are opinions only, and may be inaccurate, incomplete and unverified; and
- (f) CGS-CIMB makes no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy or completeness of, or the Client's reliance upon, the General Information. In the circumstances, the Client acknowledges and agrees that CGS-CIMB is not responsible for and liable to the Client for any loss that he may suffer by reason of or arising out of or in connection with the provision of the General Information by CGS-CIMB to him.

- 22.3. The Client understands and acknowledges that any trading recommendations and market or other information communicated by CGS-CIMB to the Client are incidental to the provision of services by CGS-CIMB to the Client under these Terms and Conditions and do not constitute an offer to sell or the solicitation of an offer to buy any CFD or Investment Products and/or Services. Such recommendations and information although based upon information obtained from sources believed by CGS-CIMB to be reliable, may be incomplete, may not have been verified and may be changed without notice to the Client. No representation, warranty or guarantee is made by CGS-CIMB as to the accuracy or completeness of any market or other information or trading

recommendations furnished to the Client or as to the tax consequences of the Client's Transactions.

### **23. Fees and Charges**

- 23.1. CGS-CIMB may in its absolute discretion charge a service fee for the maintenance of an Account and debit the same to such Account. CGS-CIMB may at any time set-off any monies and/or CFDs in the Account against such service fee in accordance with these Terms and Conditions. In the event that there are no monies or CFDs in such Account, CGS-CIMB may, notwithstanding anything in Clause 59, terminate such Account without giving notice to the Client.
- 23.2. The Client hereby agrees to pay CGS-CIMB for the provision of the Transactional Services, such fees, commission, brokerage charges and other charges at such rates as may be determined by CGS-CIMB from time to time, including all expenses incurred by CGS-CIMB or its agents with respect to the Transactional Services.
- 23.3. CGS-CIMB shall be entitled to convert any sum received by it (whether for credit into the Account or in payment of any sum due to CGS-CIMB) to the currency of the Account or (as the case may be) the currency in which payment is to be made, at a rate of exchange determined by CGS-CIMB. CGS-CIMB shall also be entitled to convert any amounts in the Account or otherwise standing to the Client's credit to any other currency for the purpose of carrying out his instructions or exercising CGS-CIMB's rights under these Terms and Conditions. The Client agrees that any exchange rate losses and costs of conversion shall be fully borne by him.
- 23.4. Any sales and services tax, other taxes, stamp duty or levies imposed by law or required to be paid in respect of any monies payable to or received or receivable by CGS-CIMB or any expenses incurred by CGS-CIMB, shall, except to the extent prohibited by law, be borne and paid by the Client and CGS-CIMB shall be entitled to debit the Account. Further, where applicable, CGS-CIMB may issue, transmit or make available tax invoices to the Client by electronic means and the Client hereby agrees and consents to receiving such electronically transmitted tax invoice.
- 23.5. The Client acknowledges that from time to time, CGS-CIMB may receive commissions, discounts, fees or otherwise in connection with or in relation to dealings in respect of or relating to any CFDs or Investment Products and/or Services for the Client. The Client agrees that CGS-CIMB may retain for the benefit of CGS-CIMB and without any obligation to account to the Client any commission, discounts, fees, or other monies which CGS-CIMB may receive from any providers of Investment Products and/or Services or other persons in connection with or in relation to transactions done or carried out by the Client with or through CGS-CIMB or any other dealings in respect of the CFDs or Investment Products and/or Services.

### **24. Payment/Receipt of Monies**

- 24.1. All payments which the Client is liable to pay under these Terms and Conditions (or any agreement entered into pursuant to these Terms and Conditions) shall be made in immediately available and freely transferable cleared funds, without set-off, counterclaim or other deductions or withholdings of any nature whatsoever and shall be made free and clear and without deduction for any present or future taxes. If any deduction or withholding is required for or on account of any taxes, the Client shall pay such additional amount as is necessary to ensure that CGS-CIMB receives the full amount which it would otherwise have received had no such deduction or withholding been required. The Client shall further pay the full amount of such deduction to the relevant taxation authority in accordance with any applicable law. Where the Client makes payment by cheque, cashier's order, bank draft, in any other negotiable instrument or through Electronic Payment, the date of payment shall be the date when such instrument is cleared and full payment is finally received by CGS-CIMB.
- 24.2. Registered Representatives are not authorised to accept payment from the Client nor hold the Client's assets in the Registered Representative's name. The Client acknowledges that if the Client chooses to effect payment or to deposit Securities by delivering a cheque or Securities to his Registered Representative, such Registered Representative shall be deemed to be the Client's agent. Any payment or deposit of Securities shall be deemed to be made only when CGS-CIMB

receives the cheque or Securities from the Registered Representative and not when the cheque or Securities are delivered to the Registered Representative.

24.3. The Client agrees and hereby irrevocably consents that in the event where:

- (a) payments are made prior to the date of entering into a CFD;
- (b) CGS-CIMB receives monies from, or on account of, the Client for the holding of CFDs, or the maintenance of any Account by the Client;
- (c) CGS-CIMB receives monies for the Account of the Client in respect of a Transaction;
- (d) CGS-CIMB receives monies from, or on account of, the Client for the purposes of managing the Client's funds via Client's Segregated Account; or
- (e) CGS-CIMB receives monies from, or on account of, the Client in the course of CGS-CIMB's business,

CGS-CIMB shall deposit such monies into the Client's Segregated Account. The Client agrees that CGS-CIMB may, for the purpose of depositing monies received on account of the Client which are denominated in a foreign currency in a Client's Segregated Account, maintain the Client's Segregated Account with a custodian outside Malaysia which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained.

24.4. All Securities delivered or to be delivered to CGS-CIMB from time to time for custody must be in the required or regular form in board lots and/or odd lots (as the case may be) in good delivery order.

## 25. Payment by CGS-CIMB

25.1. Any payment by CGS-CIMB to the Client shall be less any fees, commission, brokerage charges or expenses incurred in connection with the Transactional Services or any other sums which may be owed to CGS-CIMB and/or its Affiliates by the Client. Such payment shall be made by way of cheque or by Electronic Payment or in accordance with any instructions signed or made or purporting to be signed or made by the Client or the Client's Authorised Person and will discharge CGS-CIMB from any liability to the Client or to any other party. Erroneous payments (as evidenced by the records of CGS-CIMB) made by CGS-CIMB to the Client will immediately constitute a debt owing to CGS-CIMB by the Client which must be immediately repaid to CGS-CIMB and which at the option of CGS-CIMB may also be recovered by way of set-off from future amounts held by CGS-CIMB for and on behalf of the Client or owing by CGS-CIMB to the Client.

## 26. Foreign Exchange Risks

26.1. All Transactions for any Account or any of the Transactional Services or relating to or arising out of any of the Transactional Services, including but not limited to any fees, commission, brokerage charges or expenses incurred in relation to any of the foregoing, will be settled in Ringgit Malaysia or such other foreign currency as may be designated by CGS-CIMB at a rate of exchange determined by CGS-CIMB. The Client will bear all losses, damages, or costs that result from any currency conversion connected with any Transaction for the Account or any of the Transactional Services.

26.2. The Client further agrees and acknowledges that where the Client directs or instructs CGS-CIMB to carry out a set-off in relation to any CFDs denominated in a foreign currency (the "**Traded Currency**"), CGS-CIMB may in its absolute discretion effect such set-off in either the Traded Currency or the Base Currency, and where such set-off is effected in the Traded Currency, settle such set-off with the Client in the Base Currency at a rate of exchange determined by CGS-CIMB.

## **27. Agents**

- 27.1. CGS-CIMB is authorised to employ agents to perform all or any part of CGS-CIMB's duties hereunder and to provide information regarding the Account to such agents. At the Client's costs, CGS-CIMB may seek, and act on, an opinion or advice from any lawyer, accountant, consultant, information technology or services specialist, or other expert in respect of any obligations or performance of any duty or any other matter referred to in these Terms and Conditions and shall not incur any liability to the Client by acting upon such opinion or advice.

## **28. Registered Representatives**

- 28.1. Unless otherwise notified to the Client in writing by CGS-CIMB, the Client acknowledges and agrees that, in respect of the Transactional Services, the Registered Representative shall be deemed to be the Client's agent whether or not such Registered Representative is deemed to be engaged or employed by the Client in law.
- 28.2. The Client acknowledges and agrees that there could be cases where a Registered Representative may be required to undertake the provision of services to the Client outside the premises of CGS-CIMB.

## **29. Counterparty Risks**

- 29.1. Where CGS-CIMB is the counterparty to the Transactions (without prejudice to CGS-CIMB's right to hedge its risks with another counterparty), the Client must note that CGS-CIMB deals with the Client at arm's length as his counterparty in relation to the said Transaction. In such a case, unless CGS-CIMB agrees in writing or unless otherwise required by law, CGS-CIMB is not the Client's fiduciary, nor is it willing to accept any fiduciary obligations to the Client. Any dealing, trading or engagement or transaction with CGS-CIMB by the Client could result in a loss to the Client and a gain to CGS-CIMB. CGS-CIMB does not and will not give the Client any advice whether written or oral other than any representations expressly set forth in any relevant agreement and any confirmation which may be signed or executed by the Client after negotiations with CGS-CIMB as the counterparty. The Client's net returns from a transaction would also be affected by the transaction costs (which include, but which are not limited to, commission, fees and other charges) charged by CGS-CIMB. The Client should consider these costs in any risk assessment made by the Client. The Client should be aware that CGS-CIMB is engaged in customer-driven and proprietary activities in many markets. These general activities, as well as CGS-CIMB's hedging activities which are related to certain Transactions entered into with the Client, may adversely affect the value of such Transactions.

## **30. Multi-Currency Segregated Account**

- 30.1. CGS-CIMB may from time to time, open and maintain a Multi-Currency Segregated Account and deposit and retain all Proceeds.
- 30.2. The Client may from time to time make further deposits into the Multi-Currency Segregated Account.
- 30.3. The Client irrevocably authorises CGS-CIMB to use monies in the Multi-Currency Segregated Account towards satisfaction of Secured Indebtedness, including the following liabilities as and when they may fall due:
- (a) Margin payment;
  - (b) any charges, brokerage, clearing fees, registration fees, conversion fees, transfer fees, custody/nominees fees, stamp duties, administrative fees, corporate action handling fees and any other disbursements due on any Account;
  - (c) interest incurred on open positions and/or trading losses;
  - (d) any bank charges; and



- (e) any trading losses incurred by the Client.
- 30.4. The Client further agrees and authorises CGS-CIMB to apply monies in the Multi-Currency Segregated Account towards the recovery of erroneous payments (as evidenced by the records of CGS-CIMB) previously made to the Client.
- 30.5. CGS-CIMB reserves the right at its absolute discretion (but is not obliged to), where the Secured Indebtedness and the monies in the Multi-Currency Segregated Account are not in the same currency, and without the prior consent of the Client, to effect any necessary conversion from one currency to another at such rates of exchange as CGS-CIMB may determine at its absolute discretion on the basis of the then prevailing foreign exchange rates between such currencies.
- 30.6. The Client shall give CGS-CIMB two (2) Banking Days' prior notice with respect to any proposed withdrawal from the Multi-Currency Segregated Account.

#### **Part D: Transactions In Foreign Jurisdictions**

##### **31. Use of Foreign Agents**

- 31.1. The Client acknowledges and agrees that in Transactions involving Underlying Instruments which are listed on a Relevant Exchange outside of Malaysia (the "**Foreign Transactions**"):
- (a) CGS-CIMB may employ the services of agents (the "**Foreign Agents**") in order to effect such Foreign Transactions; and
  - (b) these Foreign Transactions will be subject to terms and conditions that are imposed by the Foreign Agents.

##### **32. Undertaking on Costs**

- 32.1. The Client undertakes to pay CGS-CIMB promptly any fees or other charges imposed; any taxes imposed by any competent authority on any accounts opened or transaction effected for the Client; and any fines or other penalties imposed by any competent authority except to the extent that such fines or other penalties may be imposed due to CGS-CIMB's gross negligence or wilful misconduct.

##### **33. Foreign Transactions Rules**

- 33.1. All Foreign Transactions are subject to the Foreign Rules and Malaysian Rules.
- 33.2. In the event of any conflict between these Terms and Conditions and the Malaysian or Foreign Rules, these Terms and Conditions shall be modified or superseded to the extent necessary to eliminate such conflict, but shall in all other respects continue in full force and effect.
- 33.3. CGS-CIMB and the Foreign Agent are entitled, and are hereby authorised by the Client, to take any action or refrain from taking any action (including the disclosure of any information relating to the Client or the Foreign Transactions) which CGS-CIMB or the Foreign Agent (as the case may be) considers appropriate for the purpose of complying with the Foreign Rules in relation to Foreign Transactions. Neither CGS-CIMB nor the Foreign Agent nor any of their respective officers, directors or employers shall be liable as a result of taking or refraining from taking any action in good faith in the circumstances contemplated by this Clause 33.3.

#### **Part E: Electronic Communications**

##### **34. Authority, Authenticity and Security**

- 34.1. The Client acknowledges and agrees that the Client accepts full responsibility for the security and authenticity of all communications sent via the Electronic Communications to CGS-CIMB or its Affiliates and the Client agrees to be bound by all such communications. CGS-CIMB shall be entitled to assume that all instructions or communications received and which bear the Client's user

identification are that of the Client's and CGS-CIMB shall be under no obligation whatsoever to verify that such instructions or communications is in fact that of the Client's.

### **35. Use of Electronic Communications**

35.1. The Client understands and accepts that:

- (a) CGS-CIMB is not responsible for order-routing and CGS-CIMB cannot execute any order that it has not received;
- (b) orders transmitted via the Electronic Communications may not be executed immediately or according to time priority; and
- (c) an order can be cancelled (i) if the Client's request to cancel the order is received before the order is executed, or (ii) at the discretion of CGS-CIMB.

35.2. In the event that either party suspects that the other is not receiving the correct communication via the Electronic Communications, that party shall communicate with the other using telephone, facsimile, telegraphic and such other devices as may be necessary to ensure that the other party receives the first party's communication.

### **36. Risks Relating to Electronic Communications**

36.1. The Client confirms that neither CGS-CIMB nor its Affiliates make any representations or warranties whatsoever concerning the Electronic Communications and that all terms, representations, warranties and conditions relating to the same are hereby excluded to the fullest extent permitted by law. The Client agrees that the Client will use the Electronic Communications at his own risks and will satisfy himself as to whether the Electronic Communications meet his requirements.

### **37. Withdrawal of Electronic Communications**

37.1. CGS-CIMB reserves the right to alter the mode of receipt or cease to accept the Client's instructions given via the Electronic Communications.

## **Part F: Online Services**

### **38. Provision of Online Services**

38.1. Subject to the provisions of Part E of these Terms and Conditions, CGS-CIMB will, at the Client's request, make the Online Services available to the Client at CGS-CIMB's sole discretion. These Online Services are subject to these Terms and Conditions relating to their use, and the terms and conditions of use of any website, electronic trading platform or electronic system or service used or provided by CGS-CIMB to facilitate the Client's use of the Online Services shall apply accordingly.

38.2. If the Client trades in CFDs using the Online Services, the Client will be given access to the Account by the Account number. CGS-CIMB passwords are only obtainable from CGS-CIMB on request.

38.3. CGS-CIMB may, in its sole and absolute discretion, determine and vary the frequency, manner of use or availability of the Online Services from time to time. CGS-CIMB may also make changes to the Website(s) and the contents thereof from time to time. CGS-CIMB shall only use reasonable endeavours to provide the Online Services. Any transmissions made by either the Client to CGS-CIMB or CGS-CIMB to the Client using the Online Services shall be on a "reasonable endeavours" basis and consequently, CGS-CIMB shall be under no obligation to give effect to any such transmission and may refuse to carry out such transmission without giving a reason for such refusal.

38.4. The Client shall be responsible for acquiring and maintaining any and all equipment necessary for utilising the Online Services. CGS-CIMB may from time to time stipulate the minimum specifications for the equipment necessary to access the Online Services but accepts no responsibility for the

Client's inability to access the Online Services by reason of any deficiency in the Client's equipment.

- 38.5. The Client acknowledges that the Client's use of some Links (as defined below) may be governed by additional terms and conditions. In the event the Client chooses to visit or view any other website established through these Links, those additional terms and conditions:
- (a) will apply to the Client's use of such Links in addition to these Terms and Conditions; and
  - (b) will prevail over these Terms and Conditions to the extent of any inconsistency but only to the extent of those other websites.
- 38.6. The Client further agrees that:
- (a) CGS-CIMB may (in its sole discretion) only establish a Link for the Client to access into the Third Party Content (as defined below), which shall be on another website;
  - (b) CGS-CIMB shall at no time be obliged to edit or manage (except to provide the Link) the Third Party Content nor verify the accuracy thereof;
  - (c) CGS-CIMB shall be entitled to exclude any liability in respect of the Third Party Content by the automatic appearance of an express disclaimer to that effect on the Website; and
  - (d) CGS-CIMB shall not be responsible for the Client's inability to use or access the Online Services due to the Client's use of any software, hardware, system or network, that has not been approved by CGS-CIMB, or which might otherwise be incompatible with the CGS-CIMB systems or the Online Services.
- 38.7. In this Clause 38:
- (a) "**Link**" means any and all means by which one web page may permit its users/visitors to connect to or view another web page, including, by creating hypertext, logo or other graphical links or by "framing" the content of the other web page within the window or frame of a browser or other application.
  - (b) "**Visitors**" means any visitor, user, subscriber or viewer of the i\*Trade@CGS-CIMB Portal.
  - (c) "**Third Party Content**" means any other information or content provided by any party other than CGS-CIMB on i\*Trade@CGS-CIMB.
- 38.8. In order to utilise the Online Services, it may be necessary for CGS-CIMB to supply software to enable the Client to utilise the Online Services. If such software is supplied, the Client acknowledges that it only has a non-exclusive and non-transferable licence to use such software and CGS-CIMB may impose such further terms and conditions on the use of such software that it in its sole and absolute discretion deems fit. Upon termination of the Client's use of the Online Services, any software so licensed to Client shall be returned to CGS-CIMB and all copies and documentation in respect thereof in the Client's possession or control shall be returned to CGS-CIMB or destroyed.
- 38.9. Orders placed via the Online Services will be treated as effective upon acceptance by CGS-CIMB and will normally be confirmed via a Confirmation.
- 38.10. In the case of orders placed through the Online Services, CGS-CIMB is under no obligation to recognise the domain from which the Client's business originates.
- 38.11. Upon receipt of any order to trade placed through the Online Services, CGS-CIMB may in its absolute discretion reject or accept that proposed trade.

38.12. CGS-CIMB cannot guarantee that the Online Services will be free from any virus. The Client is responsible for configuring its information technology, computer programs and platforms to ensure compatibility with the Online Services and the Client must use its own virus protection software. CGS-CIMB does not warrant that the Online Services will always be available or accessible or that access to it will be uninterrupted or that it will be free from errors. CGS-CIMB reserves the right to close or suspend provision of the Online Services and/or any of the services on the Online Services for any purposes including repair, maintenance or development and either with or without notice to the Client. Access to the Online Services and/or operation of any of the Online Services may be interrupted by circumstances beyond CGS-CIMB's reasonable control. CGS-CIMB will not be liable if, for any reason, the Online Services and/or any of the services thereon are unavailable for any period of time. CGS-CIMB disclaims and excludes unless expressly prohibited by applicable mandatory law, all terms and conditions and warranties implied by statute or common law in relation to the Online Services including but not limited to merchantability, satisfactory quality, suitability or fitness for any particular purpose. Technical difficulties may be encountered in connection with the Online Services. Such difficulties may include, but not be limited to, malfunctions, failures, delays, hardware damages or software erosion. Such difficulties could be the result of hardware, software or communication link inadequacies or any other cause and such difficulties could lead to possible economic and/ or data loss.

### **39. Deposit and Charges**

39.1. The Client may be required to place a deposit with CGS-CIMB before the Client can begin utilising the Online Services. CGS-CIMB may use such deposit to set-off against any sums owed to it by the Client and shall return the balance of such deposit, if any, free of interest upon the termination of the Online Services.

39.2. The Client agrees to pay for all fees and charges associated with the use of the Online Services, including, without limitation, those of any third party service providers whose services are accessed through the Online Services.

### **40. Password and Security**

40.1. The Client agrees that he accepts full responsibility for the secrecy and confidentiality of the user identification code and password (collectively, the "**Security Information**") issued, to be issued to him or selected by him by CGS-CIMB for the purposes of gaining access to the Online Services. The Client undertakes to safeguard the Security Information provided by CGS-CIMB.

40.2. CGS-CIMB may assume that any person using a Website with the user name and password of the Client is either the Client or is authorised to act for the Client. CGS-CIMB reserves the right to deactivate or revoke the Client's access to and use of the Online Services if CGS-CIMB suspects or has reason to believe that the instructions issued using the Client's user name and/ or password are or have not been duly authorised by the Client. In this regard, the Client agrees that CGS-CIMB shall not be liable for any losses, costs and expense incurred by the Client as a result of any unauthorised use of Security Information or any loss arising from the deactivation or revocation of the Client's access to and use of the Online Services. In the event the Client suspects or has reason to believe there has been an unauthorised use of the Client's user name and password, the Client must immediately notify CGS-CIMB in writing or by electronic means.

### **41. No Representation**

41.1. The Client acknowledges that the Online Services are made available to the Client by CGS-CIMB on an "as is" and "as available" basis without any representations, warranties, conditions or undertakings of any kind, whether expressed or implied, and confirms that CGS-CIMB has not given any such representations, warranties, conditions or undertakings in respect of any part of the Online Services or the reliability or quality thereof.

## **42. No Offer or Solicitation**

- 42.1. The content of the Website(s) shall not be used or considered to be an offer to sell or a solicitation to buy CFDs or any other instruments or products from CGS-CIMB or its Affiliates. It shall be the Client's responsibility to ensure that he does not contravene any Malaysian Rules and/or Foreign Rules before using the Online Services or dealing in any product referred to on the Website(s). The Client shall be deemed to have complied with all applicable Malaysian Rules and Foreign Rules when he continues to access the Website(s).

## **43. Provision and Publication of Information**

- 43.1. The Client agrees that CGS-CIMB does not guarantee nor warrant the accuracy, completeness, timeliness of any information provided by CGS-CIMB through the Online Services and that such information is for the Client's personal use only and that the Client will not make copies, retransmit, redistribute or republish or resell such information in any form. Without prejudice to the above, any information obtained from the Online Services that purports to provide up to-date information (including but not limited to foreign exchange rates or other quotations or rates) are indicative rates only and may differ from actual prevailing quotations or rates.
- 43.2. The Client agrees that he cannot delete copyright or other intellectual property rights notices from printouts of electronically accessed information.
- 43.3. CGS-CIMB gives no warranty or guarantee on the authenticity, identity, competence or otherwise of any third party who created, displayed, supplied or transmitted information on or through CGS-CIMB and/or the Website(s).

## **44. Disruption, Suspension and Termination of Services**

- 44.1. The Client agrees that CGS-CIMB has the sole and absolute discretion to restrict, suspend or terminate the Client's access to any part of the Online Services without giving reason and/or prior notice to the Client.
- 44.2. The Client also agrees that use of Online Services may be delayed or affected by:
- (a) the failure or interruption of any telephone network, computer network or other system that is necessary for the use of the Online Services;
  - (b) system maintenance or system upgrades; and
  - (c) any other event or circumstance beyond the control of CGS-CIMB, including but not limited to that in Clause 47.
- 44.3. The Client must give CGS-CIMB seven (7) Business Days' notice in writing to terminate the Online Services. Such notice to terminate the Online Services shall be deemed to be received by CGS-CIMB only upon actual receipt thereof by CGS-CIMB and the termination thereunder shall take effect only upon the expiry of the notice given thereunder and shall not release the Client and/or CGS-CIMB from fulfilling obligations incurred prior to the notice of termination becoming effective and these obligations shall continue to be governed by these Terms and Conditions until the receipt of the notice of termination, the expiry of the notice period for termination, or until the full and effective performance or conclusion of such obligations, whichever is the latest.

## **45. Confidentiality and Intellectual Property**

- 45.1. The Client agrees with and covenants to CGS-CIMB that the Client shall not:
- (a) modify, reproduce or create in any manner any derivative works of the content in, under or to the Website for use, transmission, distribution or display on the Website or any other websites without CGS-CIMB's prior written consent;

- (b) retransmit, disseminate, sell, distribute, publish, broadcast, circulate or commercially exploit the information contained in, on or under the Website in any manner whatsoever without CGS-CIMB's prior written consent; or
- (c) use the information contained on the Website for any illegal purposes or in such a manner as to encourage illegal activities.

45.2. The Client:

- (a) agrees to keep all information relating to the Services extended to the Client herein (including any reports sent to the Client by CGS-CIMB) secure and confidential and not allow any person to have access to them other than CGS-CIMB's authorised personnel who require such access to operate the Transactional Services extended to the Client;
- (b) acknowledges that CGS-CIMB is the owner of all copyrights, designs, logos, trade names, trademarks, service marks and all other intellectual property (collectively "**Intellectual Property**") in relation to the Transactional Services and the Online Services, the Website and the content contained in the Website which shall at all times remain vested in CGS-CIMB;
- (c) confirms that the Client does not own any of Intellectual Property and that nothing in these Terms and Conditions nor through the usage of the Transactional Services and Online Services herein shall confer any right, title or interest to the Intellectual Property in the Client's favour;
- (d) agrees that the Client will not tamper with nor do anything that will infringe CGS-CIMB's rights to the Intellectual Property (such as delete, obscure or otherwise tamper with in whole or in part any copyright notices or other indications of protected intellectual property rights and/ or ownership from the Transactional Services and Online Services, any software forming part thereof and/or any materials supplied to the Client by CGS-CIMB and/or that the Client prints or downloads from the Online Services) and shall safeguard and protect the Intellectual Property at all times; and
- (e) the Client shall immediately on demand by CGS-CIMB return to CGS-CIMB, in good repair and condition, all media, documents and other physical items relating to the Transactional Services and Online Services that have been supplied to the Client. In the case of software supplied to the Client, the Client shall if so requested by CGS-CIMB, return the same to CGS-CIMB and/ or permanently delete and uninstall the same from any computers or other equipment upon which the Client has installed the same and the Client shall not keep any copies of the same.

**Part G: Electronic Payment**

**46. Electronic Payment**

- 46.1. The Client may from time to time effect payment for Transactions or any sum that may be due and owing to CGS-CIMB through the Electronic Payment. In order for the Client to utilise the Electronic Payment Service, the Client shall execute such forms and/or documents that CGS-CIMB may require from time to time.
- 46.2. CGS-CIMB shall in its discretion be entitled from time to time to pay the Proceeds effected through the Account to the Client's Designated Bank Account via Electronic Payment. CGS-CIMB may, at its option, elect to pay the Proceeds to the Client by cheque and such election shall be binding on the Client. No payments will be made by CGS-CIMB to the Designated Bank Account through the Electronic Payment Service on a non-Banking Day.
- 46.3. CGS-CIMB shall in its discretion be entitled at any time to:
  - (a) treat any payments made by the Client from time to time through the Electronic Payment as being paid on a Business Day following the date of such payment; or

- (b) apply the amounts received through the Electronic Payment in payment of any amount owing under the Transactions or in respect of any other amounts that may be due and owing by the Client to CGS-CIMB before applying such payment or any part thereof in respect of the Transactions.
- 46.4. CGS-CIMB is not responsible for any errors, inaccuracies or omissions in the information that may be displayed or transmitted by the Licensed Financial Institution to the Client for the purpose of utilising the Electronic Payment Service. Such errors, inaccuracies or omissions shall not prejudice or affect in any way the Client's obligation to pay all and any amounts owing to CGS-CIMB.
- 46.5. An instruction given by the Client to the Licensed Financial Institution to debit the Client's bank account and/or to transfer any amount from the Client's Designated Bank Account to CGS-CIMB shall not constitute payment to CGS-CIMB. Until such time that CGS-CIMB has received payment in respect of the Transactions in full or any or all sums owing to it by the Client, CGS-CIMB shall be entitled to exercise its full rights under these Terms and Conditions or at law without reference to the Client.

## **Part H: Miscellaneous Provisions**

### **47. Force Majeure and Market Disruption**

- 47.1. CGS-CIMB shall not be held liable to the Client for or be liable to the Client for any claims, costs, damages or losses (direct, indirect, lost profits, lost savings, consequential, special, punitive or otherwise) whatsoever that may arise or that may be suffered or incurred by the Client as a result of any partial performance, delay in performance, or non-performance of any of its obligations under any agreement with the Client by reason of any cause beyond CGS-CIMB's reasonable control, including but not limited to any breakdown, failure, interruptions, omission, errors or delay of transmission, communication, computer facilities or modem connection, malicious code, cyberattacks, postal strikes, lockouts, labour disputes, strike or other industrial actions, power failure, the failure of any Relevant Exchange, market or clearing house, or failure of any relevant correspondent or other agent for any reason to perform its obligations, any act or omission of CGS-CIMB's support or solutions partners or any other disturbances, war, terrorist attacks or events, hostility, riot (insurgency or otherwise), civil commotion, requisition by any government or any regional or local authority, or any agency thereof, or any law, regulation, edict, executive order or mandate of any such body or any act of God such as fire, flood, frost, storm, explosion, lightning, tsunami, earthquake, typhoon, tornado or landslide ("**Force Majeure Event**"). For the avoidance of doubt, where CGS-CIMB's ability to offer CFD trading services is dependent on a third party's systems (electronic or otherwise) or any other services offered by a third party and such systems or services are not or cease to be available for any reason, this will be considered a "Force Majeure Event".
- 47.2. If CGS-CIMB determines in its reasonable opinion that a Force Majeure Event exists then CGS-CIMB may in its absolute discretion (without prejudice to any other rights CGS-CIMB may otherwise have):
- (a) withdraw or discontinue CFD trading services immediately;
  - (b) cease or suspend trading of CFDs and/or alter trading times for all or any markets;
  - (c) vary Margin percentages, commission rates, the financing fee and/or any buying and/or selling spreads;
  - (d) close any or all open trades, refuse any trades, cancel and/or fill any orders in each case at such level as CGS-CIMB consider in good faith to be appropriate in all the circumstances;
  - (e) immediately require payment of Margin and/or any other amounts the Client may owe CGS-CIMB;
  - (f) vary maximum and/or minimum order size;

- (g) suspend or modify the application of any or all of the provisions in these Terms and Conditions to the extent that it is impossible or not reasonably practicable for CGS-CIMB to comply with them; and
  - (h) take or omit to take all such other actions as CGS-CIMB deems appropriate in the circumstances to protect itself and its clients as a whole.
- 47.3. If a Market Disruption Event occurs, CGS-CIMB may at its absolute discretion without prejudice to any other rights it may otherwise have, exercise all or any of the rights referred to in Clauses 47.2(a) to (h) inclusive. In addition, if any trades in relation to any financial instruments on which the CFD prices are based are for any reason cancelled by the Relevant Exchange on which they are traded, then CGS-CIMB shall be entitled (without prejudice to any other rights it may otherwise have) to cancel the CFD trades relating thereto.
- 47.4. CGS-CIMB shall be entitled to do any act or anything permitted by Clauses 47.2 or 47.3 either with or without notice to the Client. If CGS-CIMB gives any such notice, it may be given by any of the methods referred to in Clause 51.
- 47.5. In addition to any other rights conferred on CGS-CIMB under these Terms and Conditions, in the event of a suspension of trading in the Underlying Instrument, CGS-CIMB shall have the right, at its discretion, to:
- (a) require open CFD long positions to be settled in full from the date of suspension or such date(s) as determined by CGS-CIMB;
  - (b) suspend or close the Account as if upon the occurrence of an Event of Default or Insolvency Event in accordance with Clause 60 below.

#### **48. Funding Amount, Interest and Commissions**

- 48.1. On the same Business Day after the parties have entered into a CFD, the Client's Account will be debited with the commission fees, as set out in the Confirmation thereof. This fee is in addition to any and all other payment obligations in relation to a CFD.
- 48.2. Commission will be payable upon the open and close of each CFD.
- 48.3. (a) Where applicable or relevant in respect of each CFD where the Client is the Long Party, the Client's Account will be debited with the financing fees and where the Client is the Short Party, Client's Account will be credited with the financing fees. The financing fees is calculated, accrued and paid daily on a notional amount equal to the Contract Value on each day from the date the CFD is entered into until the Closing Date.
- (b) For purposes of Clauses 48.3(a), the Contract Value on a day that is a Business Day shall be determined as at the close of trading of that Business Day, and the Contract Value on a day that is not a Business Day shall be determined as at the close of trading on the last preceding Business Day.
- (c) In respect of certain currencies, the financing rate which applies to such currency may be a negative rate. Accordingly, the financing fee will be debited from the Client's Account.
- (d) Payments shall be settled by debiting or crediting the Client's Account. If there is insufficient Free Equity in the Client's Account, any amount due under this Clause 48 is a debt due and owing by the Client.
- 48.4. CGS-CIMB reserves the right from time to time in its absolute discretion (including during the lifetime of any CFD) to vary commission rates and/or financing rate. It is the Client's responsibility to ensure that he is aware of currently applicable commission and financing rate.



- 48.5. The Client shall promptly pay (i) all financing fees, commissions and other fees and charges at such rates and in such manner as CGS-CIMB may in its sole and absolute discretion impose and stipulate from time to time with respect to the execution, performance and/or settlement of any CFD or otherwise for the maintenance of the Account; and (ii) any outstanding sum on the due date of the relevant CFD, or upon demand by CGS-CIMB as provided for in these Terms and Conditions.

#### **49. Netting Provisions, Currency Conversion and Payments Generally**

- 49.1. All CFDs between the Client and CGS-CIMB will be entered into in consideration of each other and constitute a single contract between CGS-CIMB and the Client.
- 49.2. If CGS-CIMB exercises any rights of combination, consolidation and/or set-off pursuant to Clause 49.3, it may also, at the same time, without notice to the Client and in its absolute discretion, close, combine, consolidate and/ or set-off any or all open positions which shall be or shall be deemed to be immediately closed as CGS-CIMB reasonably sees fit and accordingly the rights contained in Clause 49.3 shall apply to all open positions.
- 49.3. Without prejudice to any other rights and remedies available to CGS-CIMB (at law or under these Terms and Conditions), CGS-CIMB reserves the right, from time to time, without notice to the Client and in its absolute discretion, to combine and consolidate any or all of the Client's Accounts (of whatever nature or type the Client holds with CGS-CIMB) and positive and negative exposures and/or to set-off all of the Client's Account balances, cash deposits, realised profits, profits on open positions and any other amounts of whatsoever nature which may be due or payable from CGS-CIMB (in respect of any CFD) to the Client against all interest, costs, expenses, fees, charges, realised losses, Margin, negative positions and any and all other liabilities owed by the Client to CGS-CIMB. If CGS-CIMB exercises such rights of combination, consolidation and/or set-off, all obligations for payment in respect of all the foregoing will be cancelled and simultaneously replaced by a single obligation to pay a net sum of cash to CGS-CIMB or (if a net amount is payable to the Client) to the Client.
- 49.4. CGS-CIMB may apply the above rights regardless of the currency of any amount payable by CGS-CIMB to the Client or by the Client to CGS-CIMB.
- 49.5. CGS-CIMB may (whether in connection with the exercise of any rights under Clause 49.2 or otherwise) convert money standing to the Client's credit on the Account or any other profit, loss, exposure or liability or any money received from the Client or due to be paid by the Client to CGS-CIMB or by CGS-CIMB to the Client from one currency to another at such rates of exchange as CGS-CIMB may determine at its absolute discretion on the basis of the then prevailing foreign exchange rates between such currencies. CGS-CIMB shall be entitled to charge the Client all commissions, costs and charges incurred in connection with the foregoing.
- 49.6. In respect of any payments due under Clause 7 or the close out of a CFD, on the date of such calculation, the aggregate amounts owing by each party to the other are the same, then on such date, each party's obligation to make payment of such amounts will be automatically satisfied and discharged. If the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

#### **50. Confirmation and Query of Account**

- 50.1. CGS-CIMB will send the Client Confirmations at such other intervals as CGS-CIMB deems fit or as otherwise mutually agreed between CGS-CIMB and the Client.
- 50.2. The Client consents to the receipt of Confirmations from CGS-CIMB in the form of an electronic record through Electronic Communications. In the case of electronic records of Confirmations dispatched to the Client by electronic mail, the Client shall be deemed to have received such electronic records immediately after dispatch of such electronic records from CGS-CIMB's electronic mail server. In the case of electronic records of the Confirmations posted on any website through which the Client may access the Online Services, the Client shall be deemed to have

received such electronic records immediately after it has been posted on such website for the Client to retrieve.

- 50.3. It is the Client's responsibility to be fully informed and up to date in respect of its Transactions. As soon as the Client receives any Confirmation, the Client must check it to ensure that it is correct. If the Client believes that any Confirmation contains any error or omission, the Client must notify CGS-CIMB within two (2) Business Days of receipt of the same.
- 50.4. The Client must notify CGS-CIMB immediately if: (i) a Confirmation is received by the Client for a Transaction not transacted by or for the Client (or which the Client alleges was not transacted by or for itself); (ii) the Client does not receive a Confirmation for a trade placed (or believe to have placed); or (iii) the Client has not received a Confirmation for an order the Client believes CGS-CIMB has filled for the Client.
- 50.5. Any query or dispute in respect of any Transaction/alleged Transaction or conversation/alleged conversation (together with details of the time and date thereof) must be raised with CGS-CIMB as soon as the Client becomes aware of the same and in any event within two (2) Business Days of the date thereof (inclusive of the date of the Transaction/alleged Transaction/conversation/alleged conversation). Notwithstanding any such dispute, the Client will continue to satisfy the Client's obligation to pay CFD Margin Calls made by CGS-CIMB in respect of the relevant CFD as if the details contained in the Confirmation were correct and not the subject of dispute.
- 50.6. The Client should keep its own record of the times and dates of its Transactions and dealings with CGS-CIMB. CGS-CIMB is only able to effectively investigate any Transaction/conversation or alleged Transaction/conversation if the Client is able to give the time and date of the relevant matter. If the Client is unable to do so, CGS-CIMB will take reasonable steps to investigate, but the Client should be aware that CGS-CIMB may not be able to locate relevant records and/or tapes of trades/conversations in the absence of reasonable time and date details.

## **51. Service of Documents and Notices**

- 51.1. Any notices, instructions or other communications given hereunder or in connection with the Account may be verbal unless otherwise required by these Terms and Conditions, the rules, regulations and by-laws of any Relevant Exchange to be in writing.
- 51.2. Further to Clause 12, CGS-CIMB may (but is not obliged to) request confirmation in writing from the Client in respect of orders made through the telephone or any Online Services or Electronic Communication by the Client. If such confirmation in writing is requested by CGS-CIMB, CGS-CIMB will not be obliged to act on any verbal notices, instructions or communications until receipt of the requested confirmation in writing by CGS-CIMB. All notices, instructions or other communications sent by the Client to CGS-CIMB shall not be effective until actual receipt thereof by CGS-CIMB.
- 51.3. Subject to Clause 51.2, all notices, instructions and other communications given by letter, fax transmission or other electronic means (including e-mail and text messages sent through any short message service or any messaging application including but not limited to WhatsApp) must be sent to or left at, in the case of CGS-CIMB, the e-mail address or contact number of its officers, employees or agents, or the business address (in the case of letters) of CGS-CIMB (as applicable) at the relevant time and in the case of the Client, at the address or contact number (as applicable) stated in any agreements entered into between CGS-CIMB and the Client or as notified in writing to CGS-CIMB by the Client from time to time. Notices, instructions and other communication may also be notified to the Client via a posting on the Website. All such notices, instructions or other communications given by CGS-CIMB to the Client as aforesaid shall be deemed to have been duly received by the Client upon delivery if delivered by hand, or if by post three (3) days after posting, in the case of delivery by fax transmission or other electronic means upon transmission, or in the case of notification via the Website, at the time when the notice is posted on the Website.

51.4. The Client agrees that personal service of a writ of summons or other originating process or sealed copy thereof of pleadings or other documents may be effected on the Client by leaving the same at the place of business or abode or the address in Malaysia of the Client last known to CGS-CIMB (and in this connection CGS-CIMB shall be entitled to rely on the records kept by it or that of any registry or government or statutory authority) and if the last known address of the Client shall be a postal box or other hold mail address then personal service may be effected by posting the same to such address or addresses and the Client irrevocably confirms that service of such writs of summons, originating process, pleadings or documents in the manner aforesaid shall be deemed good sufficient personal service on the Client.

## **52. Waiver**

52.1. The waiver by CGS-CIMB of a breach or default in or non-compliance with any of the provisions of these Terms and Conditions or any continued course of such conduct by the Client shall not be construed or constituted as a waiver of any succeeding breach or default or non-compliance of the same or other provisions, nor shall any delay or omission on the part of CGS-CIMB to exercise or avail itself of any right, power, privilege or remedies that it has or may have hereunder operate as a waiver of any breach or default or non-compliance by the Client.

## **53. Severability**

53.1. If any provision of these Terms and Conditions is found by any court of competent jurisdiction to be invalid, unenforceable, illegal or otherwise, the invalidity, unenforceability or illegality of such provision shall not affect or impair the other provisions of these Terms and Conditions, and all provisions not affected by such invalidity, unenforceability or illegality shall remain in full force and effect.

## **54. Disclosure of Information**

54.1. The Client hereby expressly authorizes and permits CGS-CIMB and each of its authorised representatives (including but not limited to its officers, employees and agents) to divulge, reveal or disclose any or all of the particulars of the Client's Account, including but not limited to information relating to any transaction or dealings between the Client and CGS-CIMB (except that where such information contains personal data regulated by the Personal Data Protection Act 2010, such personal data shall be disclosed in accordance with Clause 55 below):

- (a) to any current or future Affiliate, or entity currently or which in the future may be associated with us or our Affiliates, including representative and branch offices, and their respective authorised representatives (including but not limited to its directors, employees and agents) ("**Authorised Disclosees**");
- (b) to the auditors, legal advisors and other professional advisors of CGS-CIMB and the Authorised Disclosees;
- (c) to any person or organisation participating in the provision of electronic or, without limitation, other services in connection with services utilised by the Client, whether in Malaysia or elsewhere for the purpose of the operation of the services provided to the Client by CGS-CIMB including but not limited to investigating discrepancies or claims;
- (d) to any third party with which or with whom CGS-CIMB may have entered into any contract or arrangement relating to, or in connection with, the offering of the Transactional Services to the Client.
- (e) to any third party printer, agent or storage or archival service provider (including but not limited to any provider of microfilm service or any electronic storage, archival or recording facility) for the purpose of making, printing, mailing, storing, microfilming and/or filing personalised statements of accounts, labels, mailers or any other document or items on which the Client's name and/or other particulars appear, or any data or record of any document whatsoever;

- (f) to the police or any other public officer or any representative of any governmental or regulatory body conducting an investigation in connection with any offence;
- (g) to any Relevant Exchange, government or regulatory body or governmental (including quasi-governmental) authority or tribunal or courts of Malaysia or other jurisdictions, including the jurisdictions in which the Client has traded or where any of CGS-CIMB's overseas business operations are situated;
- (h) to any person to whom disclosure is required or permitted to be made pursuant to due legal process, any applicable laws or rules or regulations or any order of court;
- (i) to any of the Authorised Disclosees for risk management purposes, for monitoring credit exposure of CGS-CIMB and/or any of its Affiliates, for purposes of centralisation of operations within CGS-CIMB and/or any group in which CGS-CIMB or any of its Affiliates is a member thereof, for purposes in connection with business planning, restructuring and strategy and for the purpose of promoting, marketing or cross-selling of financial products and services to the Client;
- (j) to any credit bureau (including the members of such credit bureau of which CGS-CIMB is a member), rating agency, insurer, or any other provider of credit protection to CGS-CIMB and/or any of the Authorised Disclosees;
- (k) to any counterparty transacting with CGS-CIMB or any of the Authorised Disclosees for the purposes of or in connection with any Transaction ;
- (l) to any assignee or transferee or prospective assignees or transferees of CGS-CIMB's credit facilities, business and undertakings or such part thereof;
- (m) to any person with whom CGS-CIMB may enter into (or may potentially enter into) any participation or sub-participation in relation to any Transaction or service under, pursuant or otherwise in connection with, these Terms and Conditions;
- (n) to any person or entity participating in the merger/acquisition or proposed merger/acquisition of CGS-CIMB or its holding company with/by another company; and
- (o) to any other person or entity at any time :
  - (i) which CGS-CIMB or any of its authorized representatives considers appropriate for any purpose in connection with these Terms and Conditions; or
  - (ii) where such particulars of the Client's account was inadvertently divulged, revealed or disclosed to/or accessed by such persons or entities through no wilful default of CGS-CIMB or its authorised representatives,

54.2. The Client recognizes and acknowledges that CGS-CIMB is irrevocably authorized to disclose to the Client's Registered Representative (whether present or in future) appointed by the Client, authorized officers and CGS-CIMB's employees or any other person as CGS-CIMB may think fit or necessary, information in relation to all the Client's accounts, details of any Transactions, as well as shareholdings held beneficially or owned by the Client (including but not limited to providing such persons with statements of account pursuant to any balance enquiries and/or requests for such statements).

For the avoidance of doubt, this authorization in Clause 54.2 will remain in full force unless revoked by the Client in writing to CGS-CIMB (with a copy of such revocation given to CGS-CIMB).

AND the Client hereby agrees that the Client will not hold CGS-CIMB and its officers, employees, agents, representatives or Registered Representatives responsible or liable for disclosure of such information, or for any loss or damage arising out of such disclosure, whether by reason of any misstatement, error, negligence, omission, delay or any matter in connection thereto.

- 54.3. The Client hereby authorises CGS-CIMB to make such enquiries and carry out such credit checks on the Client, the Authorised Person(s) and the Client's affiliates, shareholders and beneficial owners and to obtain from any third party (including any credit bureau or credit agency) any and all of the Client's, the Authorised Persons', and the Client's affiliates, shareholders and beneficial owners information with such third party as CGS-CIMB may in its sole and absolute discretion deem fit, and undertake to execute and deliver such document as CGS-CIMB may require for the purposes of such enquires, credit checks and assessments and the obtaining of such information, including but not limited to, a letter of authorisation in such form as CGS-CIMB may require.
- 54.4. The Client agrees to provide any information as CGS-CIMB may require and/or as is necessary to verify the Client's identity and do all things necessary to enable CGS-CIMB to comply with applicable anti-money laundering and "know-your-client" laws and regulations. Without prejudice to any provision herein, the Client agrees that CGS-CIMB shall be held harmless against any loss arising as a result of any delay or failure to process any application or transaction if such information and documentation as has been requested by CGS-CIMB has not been provided by the Client.

## **55. Personal Data**

- 55.1. To process, administer and/or manage the Client's relationship and/or account with CGS-CIMB, and to provide the Client with the services and products of CGS-CIMB on a continuing basis, CGS-CIMB will necessarily need to collect, use, disclose and/or process:
- (a) the personal data of the Client, including data relating to the Transactions, the Client's financial condition, and information in connection with the Account;
  - (b) where the Client is an individual, the personal data of the Client's next of kin, individual guarantors and dependents (if applicable); and/or
  - (c) where the Client is a corporation, the personal data of the Client's directors, individual shareholders, officers, personnel, individual guarantors and security providers (if applicable).
- 55.2. Such personal data will be collected, used, disclosed and/or processed by CGS-CIMB for one or more of the following purposes:
- (a) processing the Client's enquiries and application for account opening, services and products by CGS-CIMB;
  - (b) providing the Client with the services and products of CGS-CIMB and CGS-CIMB's Affiliates, business partners and related companies;
  - (c) administering and/or managing the Client's relationship with CGS-CIMB and/or the Account;
  - (d) carrying out the Client's instructions or responding to any enquiries by the Client;
  - (e) carrying out due diligence, monitoring or other screening activities (including background checks) in accordance with legal or regulatory obligations, internal compliance requirements or risk management procedures (including but not limited to those designed to combat financial crime, "know-your-customer", anti-money laundering, counter-terrorist financing or anti-bribery), that may be required by law or that may have been put in place by CGS-CIMB, its Affiliates or their respective associate companies;
  - (f) dealing in any matters relating to the services and/or products which the Client is entitled to under these Terms and Conditions (including the printing and mailing of correspondence, statements, invoices, confirmations, advices, information, reports or notices to the Client, which could involve disclosure of certain personal data about the Client or the Client's personnel to bring about delivery of the same as well as on the external cover of envelopes/ mail packages);
  - (g) the recovery of any and all sums that may from time to time become due to CGS-CIMB or any other party appointed by CGS-CIMB including all fees, commissions, brokerage charges, principal, costs (including legal costs on a solicitor and client basis), expenses and other

amounts owing to CGS-CIMB arising under or in respect of (i) the services provided to the Client by CGS-CIMB under this Agreement or such other agreement as CGS-CIMB may from time to time prescribe or (ii) the performance or non-performance of any of the Client's obligations to CGS-CIMB, whether under these Terms and Conditions or otherwise;

- (h) the process of reviewing and approving the Client's Account, and the conduct of initial and anticipatory credit checks and assessments, relevant checks, ongoing assessment and verification of ongoing credit worthiness and standing;
- (i) preventing, detecting and investigating fraud, misconduct, any unlawful action or omission, whether relating to the application or any other matter relating to the Client's account with CGS-CIMB, and whether or not there is any suspicion of the aforementioned;
- (j) managing CGS-CIMB's infrastructure and business operations, and complying with policies and procedures that may be required by law or that may have been put in place by CGS-CIMB, including those relating to auditing, finance and accounting, billing and collections, IT systems, data and website hosting, training, testing, business continuity, and records, document and print management;
- (k) security, surveillance and/or identity verification purposes and managing the security of CGS-CIMB's premises including but not limited to carrying out CCTV surveillance, audio recordings of the Client's instructions or conversations over the telephone or during face to face communications with CGS-CIMB's employee;
- (l) if consented to by the Client or any Authorised Person (as may be applicable) via the Client's registration or participation in any contest, lucky draw, campaign, promotion, event, survey or questionnaire, to administer and facilitate the Client's participation in such activities. Some of these activities are governed by additional terms and conditions, which could contain additional information about how CGS-CIMB uses and discloses the Client's personal data or that of the Client's personnel (where applicable), so the Client should read these carefully;
- (m) complying with applicable law in administering and managing the Client's relationship with CGS-CIMB; and/or
- (n) if consented to by the Client in the application form(s), account opening document(s) and/or other methods of consent notification, provide for the despatch of marketing information relating to financial or investment services or products offered by CGS-CIMB and its Affiliates, business partners and related and associated companies (whether by CGS-CIMB, its Affiliates, business partners or related and associated companies) which CGS-CIMB thinks is of benefit or interest to the Client via the Client's agreed methods of communication,

(collectively, the "**Purposes**").

55.3. Without prejudice to anything else in these Terms and Conditions, in carrying out one or more of the above Purposes, CGS-CIMB may need to disclose the Client's personal data and/or (where applicable) the personal data of the Client's next of kin, individual guarantors and dependents (where Client is an individual) or personal data of the Client's directors, individual shareholders, officers, personnel, individual guarantors and security providers (where the Client is a corporation) to certain third parties, whether located within or outside Malaysia, as such third parties would then be processing such personal data for one or more of the above Purposes. The Client confirms that it/he/she has obtained their consent or is otherwise entitled to provide their personal data and information to CGS-CIMB and hereby acknowledges and agrees that such personal data will/may be disclosed by CGS-CIMB to the following third parties (whether located within or outside Malaysia) for one or more of the above Purposes and for the said third parties to subsequently process such personal data for one or more of the above Purposes:

- (a) CGS-CIMB's Affiliates and between each of them;

- (b) CGS-CIMB's (or any of its Affiliates') third party service providers or agents including but not limited to those who provides administrative, telecommunications, computer, payment or securities clearing or other services to CGS-CIMB in connection with the operation of its business, mailing houses, telecommunication companies, marketing agents, call centres, data processing companies and information technology companies;
  - (c) any credit reference agency, rating agency, business partner, insurer or insurance broker, direct or indirect provider of credit protection, bank or financial institution, and, in the event of default, to debt collection agencies;
  - (d) any fund management companies, private equity companies and managers, other financial companies (e.g. for structuring/ provision of services), external asset managers, service providers (e.g. alternative investment service providers) and financial service providers;
  - (e) any credit bureau and/or its compliance committee and for such credit bureau and/or its compliance committee to disclose the personal information to third party or parties, including but not limited to its member banks or financial institutions;
  - (f) CGS-CIMB's (or any of its Affiliates') auditors and professional advisors including its solicitors;
  - (g) any person to whom CGS-CIMB is under an obligation to make disclosure under the requirements of any law binding on CGS-CIMB or any of CGS-CIMB's Affiliates or branches or under and for the purposes of any guidelines issued by regulatory or other authorities with which CGS-CIMB or any of CGS-CIMB's Affiliates or branches are expected to comply with;
  - (h) any person to whom disclosure is permitted or required by any statutory provision or law;
  - (i) any permitted assigns;
  - (j) CGS-CIMB's successors in title; and/or
  - (k) any local or foreign regulatory body, government agency, statutory board, ministry, departments or other government bodies and/or its officials.
- 55.4. If the Client (or where applicable, any of the Client's next of kin, individual guarantors and dependents (where the Client is an individual) and/or the Client's directors, individual shareholders, officers, his personnel, individual guarantors and security providers (where the Client is a corporation) does not wish for CGS-CIMB to use the submitted personal data or disclose the submitted personal data for any of the above Purposes, the Client may withdraw the consent at any time by written notice to CGS-CIMB, pursuant to the Personal Data Protection Act, however, depending on the circumstances and the nature/extent of the withdrawal, the withdrawal of consent may result in CGS-CIMB's inability to provide the Client with the Transactional Services and hence may result in the termination of the Client's relationship and/or Account(s) with CGS-CIMB or other consequences of a legal nature which may arise by virtue of the Client's legal relationship with CGS-CIMB.
- 55.5. The Client agrees to ensure the personal data and information of third parties furnished to CGS-CIMB are accurate and agrees to update CGS-CIMB in writing in the event of any change to such personal data and information. To the extent that the applicable law allows, the Client may request access to, and correction of, the personal data. The Client acknowledges that some personal data may be exempt from such access and correction rights in accordance with local personal data protection laws. The Client may wish to contact CGS-CIMB at 03-2635 6868 or email should the Client wish to request such access to, and/or correction of, the Client's personal information.
- 55.6. The Client hereby confirms that the Client has read, understood and agrees to be bound by CGS-CIMB's group privacy notice (which is available at [www.itradecimb.com.my](http://www.itradecimb.com.my)) (the "**Privacy Notice**"), including but not limited to the clauses in the Privacy Notice which may relate to the processing of the Client's personal information. The Client agrees that the Privacy Notice shall be deemed to be incorporated into this Agreement.

- 55.7. For the avoidance of doubt, in the event that Malaysian personal data protection law permits an organisation such as CGS-CIMB to collect, use or disclose the Client's personal data without the Client's consent, such permission granted by the law shall continue to apply.
- 55.8. The Client agrees that where the Client's written permission is required by law or otherwise for any such disclosure by CGS-CIMB, the signing of the application form(s), account opening document(s), and/or any other methods of consent notification, as well as in any other manner permitted by law shall constitute and be deemed to be sufficient written permission for such disclosure.
- 55.9. CGS-CIMB's rights under this Clause 55 shall be in addition to and without prejudice to CGS-CIMB's other rights of disclosures available pursuant to any other statutory provision and in law and nothing herein is to be construed as limiting any of these other rights.

## **56. Unclaimed Property**

- 56.1. If there are any monies (generally to be hereafter referred to as "**property**") in the Account which is unclaimed by the Client seven (7) years after CGS-CIMB receives such property and CGS-CIMB determines in good faith that it is not able to trace and/or contact the Client, the Client hereby agrees that during the seven (7) year period in which CGS-CIMB holds such property and to the extent permitted by law, for each subsequent year after the seventh (7<sup>th</sup>) year, CGS-CIMB shall be entitled to charge a fee in respect thereof, in such amount as CGS-CIMB may determine in its absolute discretion, which fee shall immediately be an amount due to CGS-CIMB. The Client agrees that such fees shall be applied against the property where possible, or, at CGS-CIMB's sole and absolute discretion, against such property in CGS-CIMB's custody or standing to the credit of any of the Client's Accounts with CGS-CIMB, and accordingly, the property shall be reduced by an amount equal to such fees.
- 56.2. CGS-CIMB may, at its sole discretion and to the extent permitted by law, appropriate to itself all property then standing to the credit of the Account together with such property as may from time to time continue to accrue to that Account.

## **57. General Warranties, Representations and Undertakings**

- 57.1. In addition to such other warranties, representations and undertakings which the Client has made in these Terms and Conditions, the Client warrants, represents and undertakes to CGS-CIMB (on a continuing basis and which representations and warranties are deemed to be repeated each time an instruction is issued by the Client or an Authorised Person to CGS-CIMB and to the intent that such representations, warranties and undertakings shall survive the completion of any transaction contemplated herein and/or the termination of these Terms and Conditions) that:
- (a) where the Client is a corporation the Client is validly constituted under the laws of the jurisdiction of incorporation and that the Client is conducting its business in accordance with applicable laws and with its constitutive documents; and
  - (b) the Client has the power and the capacity to enter into, execute, deliver and perform his obligations under these Terms and Conditions or a Transaction and such obligations are valid and binding on the Client and are enforceable in accordance with their respective terms;
  - (c) the entry into, execution and delivery of these terms and conditions or a Transaction does not require any consent or approval of any person which has not already been obtained ;
  - (d) the entry into, execution and delivery of these Terms and Conditions and any CFD does not violate or contravene any regulation or law or any order or judgment of any court or other government agency applicable to the Client or any of its assets nor any contractual restriction binding on or affecting the Client or any of its assets nor (where the Client is a corporation) its constitutive documents, and all governmental and other consents and authorisations necessary for the entry into, performance of and delivery under these Terms and Conditions and/or the CFDs have been obtained or will have been obtained by the time a CFD is entered



into and are, or will be, in full force and effect and all conditions of any such consents have been, or will be, complied with;

- (e) the Client shall cause to be filed and/or registered and/or lodged with any relevant authorities such statements of prescribed particulars, forms and/or other documents whatsoever as may be required under any applicable law to enter into a Transaction;
- (f) there has been no material adverse change in the financial position of the Client, the Client is not in default in respect of any obligation under any contract or other agreement by which he is bound and will not be in default or potential default as a result of the Client's agreement to the provisions in these Terms and Conditions or any CFD, and there is no litigation or other court proceedings against or threatened against the Client, that is likely to affect its ability to perform its obligations under these Terms and Conditions or any CFD;
- (g) the Client's obligations under these Terms and Conditions and each CFD, when entered into, constitute and will constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, insolvency, or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application);
- (h) no Event of Default or Insolvency Event has occurred or which, with the passage of time or the giving of notice, or both, has occurred or is continuing or would occur in consequence of the Client entering into these Terms and Conditions or a Transaction;
- (i) the Client is the beneficial owner of the Collateral placed or to be placed with CGS-CIMB, its agents or nominees from time to time free and clear of all encumbrances or third party rights (except the security created in favour of CGS-CIMB) and that such Securities are fully paid for;
- (j) all the particulars and information given to CGS-CIMB are accurate, true, correct and complete and shall remain accurate, true, correct and complete;
- (k) the Client has not withheld and will not withhold any material fact or information from CGS-CIMB and the Client shall furnish CGS-CIMB promptly with such further additional and/or material change of information as CGS-CIMB may require at any time or from time to time;
- (l) the Client will notify CGS-CIMB in writing immediately should there be any change in the particulars given in connection with these Terms and Conditions and any other agreements entered into between the Client and CGS-CIMB, including but not limited to change in address, contact particulars and residency tax status;
- (m) that either (i) the Client is the underlying principal of the Account and is acting for itself/himself/herself and not as nominee, custodian, trustee and/or for and on behalf of any other person and that no person other than itself/himself/herself has or will have any interest in the Account or (ii) where the Client acts as nominee, custodian, trustee and/or for and on behalf of any other person, the Client acts as principal, but on behalf of the trust that it acts as trustee of, and for the benefit of the relevant beneficiaries, and the Client warrants and undertakes that the entering into or the performance of its obligations under any transaction entered into in respect of this Agreement and the giving of any instruction to CGS-CIMB will not breach or cause to be breached any trust deed, undertaking, agreement, contract, bye-law or other organizational document or any applicable laws, and will not conflict with or constitute a default or exceed any limitation under any trust deed, applicable laws, licence, consent or regulation applicable to it, any provision or any powers granted under its constitutive documents (if applicable) or any agreement or instrument binding upon the Client or any of the relevant assets. The Client warrants and undertakes that the Client has verified and will continue to verify the existence, identity and address of each of the Client's customers and/or where applicable the underlying beneficial owners of such customers. The Client shall obtain all necessary information and documentation to satisfy CGS-CIMB of the same and shall provide such information and/or documentation to CGS-CIMB upon request;

- (n) the use of the monies paid to CGS-CIMB or used in the Transactions by the Client does not contravene any Malaysian Rules or Foreign Rules;
- (o) no bankruptcy or no winding-up proceedings have commenced or an application is made for a judicial management against the Client;
- (p) the Client shall confirm the accuracy of all personal details and other particulars within fifteen (15) days of notice by CGS-CIMB that the Client's Account has been first opened and in all other cases, promptly as and when requested by CGS-CIMB;
- (q) the Client is a Sophisticated Investor; and
- (r) the Client is familiar with all relevant Malaysia Rules and Foreign Rules.

57.2. The Client authorises CGS-CIMB to verify, in any manner including as described in Clause 54.3, with any third party, the information furnished herein or from time to time as CGS-CIMB may deem fit. The Client also authorises CGS-CIMB to make any checks and/or obtain any information and/or confirmation, with or from any credit reference agencies, and/or from any financial institutions, on the Client or any other person, individual and/or entity as CGS-CIMB may deem fit, for any purposes which CGS-CIMB may deem fit. Notwithstanding this Clause 57.2, the Client's representations, warranties and undertaking are given irrespective of whether CGS-CIMB has carried out the aforesaid verification and/or checking, such verification and/or checking shall not be in any way affect the Client's representations, warranties and undertaking or prejudice any claim by CGS-CIMB under the Client's representations, warranties and undertaking.

## **58. Indemnity**

58.1. The Client undertakes to fully and effectively indemnify CGS-CIMB and its Affiliates, and keep CGS-CIMB and its Affiliates, indemnified and hold harmless from and against and in respect of all liabilities, losses, costs, charges, expenses (including but not limited to legal fees and costs on a full indemnity basis), claims, demands, actions and proceedings whatsoever which may be taken against or incurred or sustained by CGS-CIMB and/or its Affiliates directly or indirectly from or by reason of or in relation to or arising from or in connection with the provision of the Transactional Services, the use of the Electronic Payment by the Client, the use of the Online Services or the breach of these Terms and Conditions on the part of the Client or its Authorised Person or any third party rights, including but not limited to any infringement of intellectual property rights and the Client shall pay and reimburse the same to CGS-CIMB on demand at any time or from time to time.

## **59. Termination**

59.1. The Transactional Services may be terminated:

- (a) for any reason whatsoever by the Client and/or CGS-CIMB giving seven (7) days' notice in writing; or
- (b) by CGS-CIMB immediately upon the occurrence of an Event of Default or Insolvency Event.

59.2. Any termination of the Transactional Services offered by CGS-CIMB pursuant to Clause 59 shall be without prejudice to accrued rights and remedies and the existence and enforceability of any open trades and/or orders (which shall continue until closed, filled or cancelled in accordance with these Terms and Conditions). Any such notice of termination shall be served in accordance with Clause 51. Without prejudice to the generality of the foregoing:

- (a) the termination of the Transactional Services offered by CGS-CIMB shall not affect any liabilities of whatsoever nature the Client may have under these Terms and Conditions (whether actual, current and/or contingent); and

- (b) following termination of the Transactional Services offered by CGS-CIMB, the Client shall not be entitled to place any trade or otherwise deal as a Client save only insofar as necessary to close any CFDs open prior to termination. If the CFD trading services offered by CGS-CIMB is terminated, the Client must give a Closing Notice in respect of all existing CFDs within five (5) Business Days of the date of termination. If the Client fails to close the CFD within that five (5) Business Days period or such other time agreed between the Client and CGS-CIMB, CGS-CIMB may close out that CFD in accordance with Clause 60 as if that failure were an Event of Default. CGS-CIMB will accept close orders only during this five (5) Business Day period.
- 59.3. The termination of the Transactional Services shall not prejudice, impair or otherwise adversely affect any of CGS-CIMB's rights over any Collateral or the repayment of any or all outstanding obligations of the Client until such time as all the obligations and liabilities of the Client to CGS-CIMB is discharged and paid in full.
- 59.4. Upon or at any time after the termination of the Transactional Services, provided that any and all outstanding sums owed to CGS-CIMB by the Client shall have been discharged and paid in full and CGS-CIMB shall have executed a full and proper acknowledgement and discharge in respect thereof, CGS-CIMB shall transfer the Collateral which are then held by CGS-CIMB or such person as per the Client's written instruction. In the absence of such notification by the Client to CGS-CIMB or upon the expiry of the notice to terminate the Transactional Services, CGS-CIMB is authorised to dispatch the same to the Client at the Client's risk and expense to the address of the Client by registered post or in the case of book-entry securities, CGS-CIMB shall be entitled to transfer such securities to any account of the Client with the applicable central depository or custodian. Upon such posting and/or transfer, CGS-CIMB shall have no further liability for the delivery and/or transfer of such Collateral.
- 59.5. Without prejudice to any other rights or remedies which CGS-CIMB may have at law or in equity or under these Terms and Conditions, upon termination of the Transactional Services, CGS-CIMB shall be entitled to sell any or all Securities held or carried for the Client at the Client's cost and exercise all rights over and in respect of any other Collateral including but not limited to selling any or all of the non-cash Collateral in such manner and at such times as CGS-CIMB deems fit with only such notice which is required by applicable law and which cannot be waived, and the sale of such Collateral to CGS-CIMB or any of its Affiliates, will transfer the title to ownership of such Collateral free from any claim or right of any kind, including any equity interest of the Client, such right and equity being hereby expressly waived and released.
- 59.6. Notwithstanding anything contained in Clause 51, service of notice of termination by the Client to CGS-CIMB shall be effective only upon actual receipt thereof by CGS-CIMB.
- 59.7. Any fees, commissions, expenses, costs and other charges of CGS-CIMB accrued or incurred up to the effective date of termination shall be paid by the Client.
- 59.8. After the termination of the Transactional Services, CGS-CIMB shall close the Account at such time that it deems appropriate.

## **60. Default**

- 60.1. Without prejudice to any other rights of CGS-CIMB hereunder or otherwise at law, if an Event of Default occurs or is threatened in relation to a Client, CGS-CIMB may (but is not obliged to) in its sole discretion immediately or at any time thereafter, do any one or more of the following:
- (a) suspend (indefinitely or otherwise) or terminate the Account, or CGS-CIMB's relationship with the Client (including all other Accounts) and accelerate any and all liabilities of the Client to CGS-CIMB so that they shall become immediately due and payable;
  - (b) close out all or any of the Client's CFD open positions as if the Client had given a Closing Notice under Clause 7 and had accepted the Closing Price given by CGS-CIMB;
  - (c) cancel any of the Client's outstanding orders;

- (d) apply any amounts of whatsoever nature standing to the credit of the Client against any amounts which the Client owes to CGS-CIMB in respect of any CFD of whatsoever nature and howsoever arising, including any contingent amounts, or generally to exercise CGS-CIMB's right of set-off against the Client (including, without limitation, to exercise any right of set-off against the Account and all other Accounts of the Client as provided for under these Terms and Conditions);
- (e) demand any shortfall from the Client, hold any excess pending full settlement of any other obligations of the Client, or pay any excess to the Client; and/or
- (f) exercise such other authority and powers that may have been conferred upon CGS-CIMB by these Terms and Conditions.

In relation to CGS-CIMB's right to close out all or any of the Client's open CFD positions under Clause 60.1(b), the Client accepts that CGS-CIMB may close out which of the Client's positions and in what proportion and price that it decides in its absolute discretion.

Notwithstanding any other provision of these Terms and Conditions, if an Insolvency Event occurs or is threatened in relation to a Client, upon the close out of all CFDs and upon the occurrence of an Insolvency Event, the amounts payable under Clause 7.3 in respect of such CFDs shall be netted off and the net amount shall be payable by the relevant party to the other. Where the net amount is payable by the Client, such amount may be satisfied out of any Margin or any other amount standing to the credit of the Client's Account and, if insufficient, Client shall pay such shortfall immediately to CGS-CIMB. Where the net amount is due to the Client, CGS-CIMB shall use reasonable efforts to procure such amount be paid to the Client.

- 60.2. CGS-CIMB may, concurrently or following the determination of such net amount exercise any or all of the powers specified in Clause 60.1 above to the extent that the exercise of such rights is not inconsistent with Clause 60.2.

## **61. Electronic Records of Confirmations**

- 61.1. The Client agrees and consents to the receipt of Confirmations from CGS-CIMB in the form of an electronic record through the Electronic Communications ("**Electronic Document**") should CGS-CIMB in their discretion make these available to the Client. The Client is required to give seven (7) calendar days' written notice to CGS-CIMB if the Client no longer wishes to receive Confirmations in the form of an Electronic Document.
- 61.2. In the case of Electronic Documents transmitted to the Client by electronic mail, the Client will be deemed to have received such Electronic Documents immediately after despatch of such Electronic Documents from CGS-CIMB's electronic mail server. In the case of Electronic Documents posted on the Website(s), the Client shall be deemed to have received such electronic records immediately after it has been posted on the Website(s) for the Client to retrieve.
- 61.3. In the event CGS-CIMB is unable to successfully send any Electronic Documents due to any reason whatsoever to the Client after two (2) continuous attempts, CGS-CIMB will have the discretion to send to the Client the Electronic Documents by any other method, including by regular post.
- 61.4. The Client acknowledges and agrees that any information transmitted electronically to the Client cannot be guaranteed to be secure or virus or error free and consequently such information could be intercepted, corrupted, lost, stolen, destroyed, delayed or incomplete or otherwise be adversely affected or unsafe to use. CGS-CIMB shall not be liable to the Client in respect of any error, omission, theft or loss of confidentiality arising from or in connection with the electronic communication of information to the Client. As such, the Client shall be responsible for protecting his/her own systems and interests in relation to electronic communications.

## **62. Electronic Records and Admissibility**

62.1. The Client agrees to the admission of electronic records, whether owned or maintained by CGS-CIMB (including any records owned or maintained by a third party service provider or agent for and on behalf of CGS-CIMB) or any Relevant Exchange, and any part thereof as evidence in Court, in any tribunal or body having quasi-judicial function, and further agrees not to challenge or dispute the authenticity, admissibility or accuracy of such electronic records.

## **63. Malaysian Rules**

63.1. In respect of CFDs involving shares traded on Bursa Securities, these Terms and Conditions shall be read with the Malaysian Rules.

63.2. In the event of any conflict between these Terms and Conditions and any law, rule, requirement or other provision such as is referred to in Clause 63.1, these Terms and Conditions shall be modified or superseded to the extent necessary to eliminate such conflict, but shall in all other respects continue in full force and effect.

63.3. Where the Transactional Services are made available on separate or additional terms, those terms shall be read in conjunction with these Terms and Conditions. In the event of any conflict between these Terms and Conditions and such separate or additional terms, such separate or additional terms shall prevail.

## **64. Laws and Jurisdiction**

64.1. The Client agrees to submit to the exclusive jurisdiction of the Courts of Malaysia, but CGS-CIMB will be at liberty to proceed against the Client in any court in any jurisdiction. All transactions and agreements between the Client and CGS-CIMB shall unless otherwise agreed be governed by and interpreted in accordance with the laws of Malaysia.

## **65. No Assignment**

65.1. The Client shall not charge, assign or transfer all or any of its rights, title, interest or obligations hereunder or under any Account or these Terms and Conditions without the prior written consent of CGS-CIMB.

65.2. CGS-CIMB may assign or transfer any or all of its rights, title, interest and obligations hereunder or under any Account to any person CGS-CIMB deems fit, or change the office through which any transaction is booked, or through which CGS-CIMB makes or receives payments or deliveries for the purpose of any transaction.

65.3. These Terms and Conditions shall be binding on the Client and its successors in title, permitted assigns, heirs, executors, administrators, personal representatives, receivers, judicial managers, liquidators and trustees in bankruptcy. These Terms and Conditions shall also continue to be binding on and survive the Client notwithstanding any change in its name, constitution or business/organisation or the name or constitution of CGS-CIMB, or the consolidation, amalgamation or otherwise of the Client into or with any other entity, or the consolidation, amalgamation or otherwise of CGS-CIMB into or with any other entity (in which case the terms shall be binding on the successor entity).

## **65A. Anti-Bribery and Anti-Corruption**

65A.1 CGS-CIMB and the Client respectively undertake not to (whether by itself/himself/herself or through any of its directors, officers, employees or agents, as is applicable) offer, promise, give, authorise, solicit or accept any gift, favour, kickback, or other improper payment or consideration to or from (or imply that they will or might do any such thing in future) any person, in order to secure assistance, influence, business or other improper advantage in connection with any of the services or transactions provided, received and/or executed under these Terms and Conditions, whether in Malaysia or elsewhere.

65A.2 CGS-CIMB and the Client respectively shall and shall procure that its directors, officers, employees or agents, as is applicable (who are involved in the services or transactions provided, received and/or executed under these terms and conditions) shall, comply with all applicable laws and regulations relating to anti-bribery and anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009 in connection with the services or transactions provided, received and/or executed under these Terms and Conditions.

## **66. Entire Agreement and Amendments**

66.1. These Terms and Conditions, constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties, whether written or oral, relating to the same subject matter.

66.2. The Client acknowledges and agrees that the Client will always abide by all terms and conditions imposed by CGS-CIMB relating to the services extended to the Client herein and the Client's Account and that CGS-CIMB may at any time and from time to time add to, amend, modify, supplement and/or vary such terms and conditions in CGS-CIMB's sole and absolute discretion. Upon the imposition, amendment, modification, supplemental and/or variation being posted by CGS-CIMB on the Website or being notified to the Client via the mail, notice of the same shall be deemed to have been effected at the time when the notice is posted on the Website and/or email notification or within three (3) days of mailing of the notice (as the case may be).

By the Client continuing to trade or give any order(s) for trade subsequent to the effective date of notice or continuing to maintain the Account with CGS-CIMB, the Client shall be deemed to have agreed to and accepted the new or amended, modified, supplemented and/or varied terms and conditions imposed by CGS-CIMB whereof these provisions shall be binding upon the Client from the date of posting. The relevant provisions of these Terms and Conditions shall thereafter be deemed to have been amended, modified, supplemented and/or varied accordingly and shall be read and construed as if such amendments, modification, supplements and/or variations had been incorporated in and had formed part of this Agreement at the time of execution hereof.

66.3. In the event of any inconsistency between terms applicable generally and the specific accounts or services, the provisions which on interpretation are most favourable to CGS-CIMB shall prevail.

*[The rest of this page has been intentionally left blank]*