

客戶協議  
Client Agreement







**KGI**

CHINA  
DEVELOPMENT  
FINANCIAL

**KGI FUTURES (HONG KONG) LIMITED**

**凱基期貨（香港）有限公司**

**CLIENT AGREEMENT**

**客戶協議**

**SFC LICENCE CE NUMBER**

**證監會中央編號**

**ADW991**

**REGISTERED ADDRESS**

**註冊地址**

**41/F CENTRAL PLAZA, 18 HARBOUR ROAD, WANCHAI, HONG KONG**

**香港灣仔港灣道十八號中環廣場四十一樓**

## STANDARD TERMS AND CONDITIONS FOR FUTURES AND OPTIONS TRADING

In consideration for the provision of futures and options trading and related services by KGI FUTURES (HONG KONG) LIMITED ("KGI", which expression shall include the head office and each and every branch of KGI wherever situate, its successors in title and assigns), the client identified in the Account Opening Form and at whose request or on whose behalf one or more account(s) are opened with KGI agrees to accept and be bound by the provisions of this Client Agreement, which said provisions of the Client Agreement shall apply to all of the said services provided to such client ("Client", which expression shall include its heirs, executors, administrators, personal representatives and successors as the case may be), unless otherwise expressly agreed in writing by KGI. If the Client utilizes or continues to utilize the services of KGI, this shall constitute the Client's acceptance of KGI's terms and conditions which form part of KGI's agreement with the Client and constitute a legally binding contract between the Client and KGI. The Client Agreement shall be in substitution for and to the exclusion of any prior terms of business between the Client and KGI relating to the subject matter of this Agreement.

Services that the Client may request will be provided to the Client following the entering into of the Client Agreement and the provision of all requisite documentation as may be required by KGI and upon verification of those identity documents of the Client as may be required by KGI and/or the Market Requirements (as defined below). All requests for any services from the Client under the Client Agreement at any time or from time to time will be subject to KGI's acceptance (which will be deemed to occur upon the opening of the relevant account(s) for the requested services to be provided by KGI to the Client) as well as any terms and conditions imposed by KGI.

### 1 Interpretation

In this Agreement, unless the context otherwise requires, the following terms and expressions shall have the following respective meanings given to them:-

"Access Codes" means the Client's personal identification (such as a login name or user ID) used in conjunction with the personal password(s) to gain access to the Electronic Services or such other codes as may be notified to the Client in respect of its access to the Electronic Services;

"Account(s)" means (an) account(s) (whether designated by name, number or otherwise) opened and maintained by the Client with KGI from time to time for the purpose of KGI providing trading and related services including holding of funds relating to any purchases, sales, holdings and other dealings in Futures Contracts and Option Contracts as the Client may from time to time instruct KGI to effect and the term "Account" shall be construed accordingly;

"Account Opening Form" includes but is not limited to the account opening form or such other documents as may be prescribed by KGI from time to time which contain such information about the Client as KGI may require for the purpose of opening one or more Account(s) with KGI and the Account Opening Form shall constitute a part of the Client Agreement;

"Affiliate" means, in relation to a party, an individual, corporation, partnership or any other form of entity directly or indirectly controlling, controlled by or under common control with such party or any of such entities' directors, officers or employees;

"Authorized Persons" means those person(s) who have been designated by or duly authorized by the Client pursuant to necessary corporate or other action (which shall be evidenced by appropriate documentation submitted and acceptable to KGI) to act on behalf of the Client in connection with the Client Agreement. Such person(s) shall continue to be Authorized Person(s) until such time as KGI has received from the Client written revocation of the authority of such person(s). In the case of a Client being an individual, the Authorized Person(s) shall include the Client itself unless the Client has notified KGI otherwise;

"Business Day" means a day (other than a Saturday, Sunday or public holiday) on which licensed banks are generally open for business in Hong Kong throughout their normal business hours or (if the context so requires in this Client Agreement) a day on which the Exchange or Clearing House through which the relevant transaction is to be executed or cleared and settled is open for business;

"Clearing House" means, in relation to HKFE, the body appointed by or established and operated by HKFE to provide clearing services to participants of HKFE in respect of HKFE Contracts and, in relation to any other Exchange, any clearing house providing clearing services for any contract traded through or on that Exchange;

"Clearing Regulations" means the general regulations and procedural manuals and practices of the clearing house providing clearing services to participants of HKFE for HKFE Contracts or, in respect of other Exchanges, to members or participants of such other Exchanges for Contracts traded through or on such other Exchanges;

"Client Agreement" or "Agreement" means these Standard Terms and Conditions together with the Account Opening Form, the Risk Disclosure Statements and Disclaimers and any other terms and conditions which KGI may impose from time to time, as the same may be replaced, amended or supplemented by KGI from time to time;

"Client Money Rules" means the Securities and Futures (Client Money) Rules, Chapter 571I, Laws of Hong Kong, as amended or substituted from time to time;

"Closing out" in relation to a Contract held by KGI on behalf of the Client, means entering into a second Futures Contract or Option Contract (as the case may be) on identical terms to the first-mentioned Contract, except that:

- (i) the price may not be the same as the price specified in the first-mentioned Contract, and
- (ii) the Client takes the opposite side to the side he holds under the first-mentioned Contract,

for the purpose of crystallizing the profit or loss on the first-mentioned Contract, and the expression "close out" and "closed out" shall be construed accordingly;

"Code" means the Code of Conduct for Persons Licensed by or Registered with the Commission made under the SFO in force from time to time;

"Commission" means the Securities and Futures Commission of Hong Kong and its successors and assigns;

"Commodity" or "Commodities" means any item and includes, without limitation, agricultural commodities, metals, currencies, shares, interest rates, indices (whether stock market or otherwise), or other financial contracts, energy, right or authority, and shall where the case requires include a Contract in respect of any of the above and in each case whether or not the item is capable of being delivered;

"Contract" means a Futures Contract and/or Option Contract as the context may require;

"Correspondent Broker" means any member or participant of an Exchange and/or Clearing House of which KGI may not be a member or participant who, as KGI's agent, enters into a Contract on such Exchange and/or clears the same, as the case be;

"Electronic Services" means any facilities and/or services provided by KGI which enable the Client to give instructions by electronic means and/or gain access to and/or use from time to time account opening facilities, trading facilities, information relating to the Account and transactions under the Account, market data and information services and/or other services provided by KGI in electronic means, including but not limited to internet trading and/or other electronic trading;

"Exchange" means and includes HKFE or any other exchange, market or association of dealers in any part of the world on or through which Contracts are traded and any automated trading system administered by an exchange, market or association of dealers;

"Futures Contract" means a contract executed on any Exchange, the effect of which is that:

- (i) one party agrees to deliver to the other party at an agreed future time an agreed Commodity or quantity of a Commodity at an agreed price; or
- (ii) the parties agree to make an adjustment between them at an agreed future time according to whether the agreed Commodity is worth more or less or, as the case may be, stands higher or lower at that time than a level agreed at the time of making the contract, the difference being determined in accordance with the rules of the Exchange on which the contract is made;

"HKEX" means Hong Kong Exchanges and Clearing Limited and its successors and assigns;

"HKFE" means Hong Kong Futures Exchange Limited and its successors and assigns;

"HKFE Contract" means a Contract approved by the Commission and HKFE for trading on any market established or operated by HKFE pursuant to the HKFE Rules;

"HKFE Rules" means the Rules, Regulations and Procedures of HKFE as revised, amended or substituted from time to time;

"Information Sources" means information suppliers including but not limited to HKEX Information Services Limited, HKFE, The Stock Exchange of Hong Kong Limited, any other Exchanges and their respective relevant Affiliates and data providers whose information is contained within the Electronic Services;

"KGI's Website" means the internet website at [www.kgiworld.com](http://www.kgiworld.com) operated and/or maintained by or on behalf of KGI and/or other website(s) as may be designated by KGI from time to time (including any successor or replacement thereof);

"Margin" means such amount in such currency and such other security whatsoever as KGI may from time to time demand in accordance with the Client Agreement from the Client by way of margin, variation adjustments or cash adjustments in relation to Contracts;

"Market Requirements" means (i) any applicable laws, rules, regulations, statutory provisions or orders of any relevant jurisdictions, and (ii) any applicable requirements, restrictions, limitations (including any trading limits and position limits), requests, constitutions, by-laws, rules, regulations, customs, directions, guidelines, codes or policies (whether or not having the force of law) of any regulators, law enforcement agencies, governmental bodies, tax authorities, Exchanges, markets, Clearing Houses, brokers, Correspondent Brokers, custodians, depositories or other competent bodies or authorities in any relevant jurisdictions;

"Omnibus Account" means (an) Account(s) opened with KGI by the Client in respect of which KGI is notified that the Account is to be operated for a customer, or a number of customers, of the Client and not the Client itself;

"Open Contract" means a Contract which has not been closed out;

"Option Contract" means a contract executed on any Exchange under which one party (the "first party") grants to another party (the "second party") the right, but not the obligation, exercisable by the second party either on or (as the case may be) on or before an agreed future date to buy from or (as the case may be) sell to the first party an agreed Commodity, or quantity of a Commodity, at an agreed price and, in the event that the second party exercises such right, the first party is obliged to deliver or (as the case may be) take delivery of the Commodity at the agreed price; or the second party receives a payment referable to the amount (if any) by which the Commodity is worth more than the agreed price or (as the case may be) by which the agreed price is worth more than the Commodity, such payment being determined in accordance with the rules of the Exchange on which the contract is made;

"PDPO" means the Personal Data (Privacy) Ordinance, Chapter 486, Laws of Hong Kong, as amended or substituted from time to time;

"Risk Disclosure Statements and Disclaimers" means the risk disclosure statements and disclaimers provided by KGI to the Client before the opening of the Account and/or from time to time; and

“SFO” means the Securities and Futures Ordinance, Chapter 571, Laws of Hong Kong and any subsidiary legislation made thereunder, as amended or substituted from time to time.

In this Agreement, words denoting the singular number only include the plural and vice versa and words importing one gender include every gender.

## 2 Instructions

- 2.1 The Client may from time to time instruct KGI, acting as the Client’s agent, to enter into, close out or give-up any Contract for the Account. KGI may decline to accept any instruction from the Client in its absolute discretion and without assigning any reason, whether in relation to the entering into, closing out or give-up of any Contract, or the exercise of any rights thereunder. In such event, KGI will endeavour to notify the Client accordingly, but KGI shall not in any circumstances whatsoever be liable in any way for any loss of profit or gain, damage, liability, cost or expense suffered or incurred by the Client arising out of or in connection with KGI declining to act on such instruction or omitting so to notify the Client. KGI may also in its absolute discretion place limits and restrictions on the Client’s trading and contract positions and impose conditions subject to which KGI may accept the Client’s instruction to enter into, close out or give-up any Contracts for the Account. The Client shall be fully liable for any and all obligations and liabilities arising out of or related to the Contracts entered into, closed out or given up by KGI for the Account.
- 2.2 Instructions may be given orally, in writing or electronically, and shall be irrevocable once given. KGI shall be entitled to rely and act upon any instruction which purports or which KGI believes in good faith to have been given by the Client or by an Authorized Person. Subject to prior written agreement with KGI, the Client may limit the powers and authorities of individual Authorized Persons. Amendments to the list of Authorized Persons shall take effect only when KGI has received and accepted written notification from the Client.
- 2.3 The Client expressly acknowledges and agrees that KGI neither makes nor implies any representation or warranty as to the value, merit or suitability for the Client of any Contract entered into by KGI on behalf of the Client and the Client shall, independently and without reliance on KGI, make the Client’s own judgment and decision with respect to the entering into, closing out and give-up of each Contract.
- 2.4 If KGI or the Correspondent Broker shall not be able to enter into such number of Contracts on behalf of the Client as may have been specified in the Client’s instruction, KGI or the Correspondent Broker may enter into any number of Contracts less than the number specified in such instruction as it may be able to do so after having taken reasonable steps, and the Client shall be bound by such Contracts so entered into. Without prejudice to the generality of the foregoing, the Client acknowledges and accepts that the rapid and frequent changes in spot and future prices, general market conditions, and/or the restrictions or limits imposed by any relevant Exchange may make it impossible or impracticable for KGI to carry out the Client’s instructions, or to conclude a transaction on behalf of the Client at the prices quoted at any specific time. Neither KGI nor such Correspondent Broker (as the case may be) shall have any obligation or liability whatsoever and howsoever in respect of any failure to enter into Contracts as specified in the Client’s instruction.
- 2.5 The Client agrees to observe and comply with all the terms and conditions of the Client Agreement and all Market Requirements. The Client’s instructions and all Contracts entered into by KGI on behalf of the Client shall be subject to the terms and conditions of the Client Agreement and to the Market Requirements. In the event of any conflict or inconsistency between the Market Requirements and the Client Agreement, the Market Requirements shall prevail to the extent necessary to resolve such conflict or inconsistency, and KGI may in its absolute discretion take or refuse to take any action, or demand that the Client shall take or refrain from taking any action, to ensure compliance with the same.
- 2.6 After any Contract has been entered into by KGI on behalf of the Client, KGI shall notify the Client of the details of such Contract in such form, containing such details and provided to the Client within such time limit as KGI may determine, subject to the Market Requirements.
- 2.7 If any relevant Exchange, Clearing House, broker and/or Correspondent Broker on which or through whom any Contract has been entered into by KGI on behalf of the Client requires any alteration in any terms and conditions of any such Contract, KGI may take all such actions on behalf of the Client as KGI may in its absolute discretion consider necessary or desirable to comply therewith or as a result thereof, or to avoid or mitigate loss thereunder, and all such actions shall be binding upon the Client.

## 3 Electronic Trading and Services

- 3.1 KGI may provide the Client with Electronic Services and they will be provided upon and subject to the provisions of the Client Agreement and other terms and conditions as may be specified, amended or supplemented by KGI from time to time pursuant to Clause 14.
- 3.2 When using the Electronic Services, the Client agrees that the Client is the only authorized user of its Access Codes and the Electronic Services under the Client Agreement. The Client shall be wholly and solely responsible for the confidentiality, security and the use of the Access Codes issued to the Client by KGI and for all instructions placed and all transactions conducted with the use of its Access Codes. The Client undertakes to use its Access Codes with caution.
- 3.3 The Client further acknowledges that the Electronic Services, KGI’s Website, and the software comprised in them, are proprietary to KGI, its Affiliates and/or licensors. The Client undertakes and warrants that the Client shall not, and shall not attempt to, tamper with, modify, decompile, reverse engineer, damage, destroy or otherwise alter in any way, and shall not attempt to gain unauthorized access to, any part of the Electronic Services, KGI’s Website and any of the software comprised in them. The Client agrees that KGI shall be entitled to close any or all of the Account(s) immediately without notice to the Client, and the Client acknowledges that KGI may take legal action against the Client, if the Client at any time breaches this warranty or undertaking or if KGI at any time reasonably suspects that the Client has breached the same. The Client undertakes to notify KGI immediately if the Client becomes aware that any of the actions described above in this Clause 3.3 is being perpetrated by any person.

- 3.4 (a) The Client acknowledges and confirms that where the Client accepts the Client Agreement or any other contractual documents provided or offered for acceptance by KGI to the Client in electronic form by using an electronic signature or a digital signature or clicking an acceptance button or a similar act or action on KGI's Website or other electronic media as indicated by KGI on such media, the Client agrees to be legally bound by the terms and conditions of such documents in the same manner as if the Client had manually signed the same. If the person or individual who electronically signed such documents did so on behalf of a corporation or other entity, such person or individual represents and warrants that such person or individual has all the necessary power and authority to enter into the same on behalf of such corporation or entity.
- (b) As and when KGI allows the Client to open an account online with KGI through the internet, in addition to completing and returning the Client Agreement together with the Account Opening Form through the internet, where required by KGI, the Client agrees to return to KGI the original copy of the Client Agreement together with the Account Opening Form duly completed and signed by the Client before or certified by such professional person as may be acceptable to KGI from time to time. Without prejudice to the other provisions of the Client Agreement and such other requirements as may be imposed by KGI from time to time, KGI shall be entitled to refuse to execute the Client's instructions until KGI has received such duly completed and signed original copy of the Client Agreement together with the Account Opening Form. Notwithstanding any contrary provision of the Client Agreement, KGI reserves the absolute right to reject any account opening application without giving any reason.
- 3.5 Unless otherwise agreed by KGI, KGI will not execute the Client's instructions until there are sufficient cleared funds or securities or other property in the Account to settle the Client's transactions.
- 3.6 KGI will not be deemed to have received the Client's instructions or executed its instructions unless and until the Client is in receipt of KGI's message acknowledging receipt or confirming execution of the Client's instructions. The Client agrees to immediately notify KGI if it does not receive KGI's message acknowledging receipt or confirming execution of its instructions, or the Client is in receipt of any messages in respect of instructions or transactions which it did not instruct, or it becomes aware of any unauthorized use and/or disclosure of its Access Codes or any unauthorized transaction conducted.
- 3.7 The Electronic Services provide the Client with an additional means to place instructions to KGI. The Client may also do so by calling one of KGI's sales representatives direct. If the Client experiences any problems in reaching KGI through the Electronic Services, the Client may use other methods to communicate with KGI and inform KGI of the difficulty the Client is experiencing. The Client acknowledges and agrees that if the mode of communication used by the Client in the course of the Electronic Services becomes temporarily unavailable, the Client can during such period continue to operate the relevant Account(s) subject to the right of KGI to obtain such information regarding the verification of the Client's identity as it may from time to time think fit.
- 3.8 The Client agrees to review every instruction before placing it as it may not be possible to change or cancel its instructions once given.
- 3.9 The Electronic Services may provide, for informational purposes only, data about securities, derivatives, collective investment schemes, mutual funds and other investment products published by third parties. Owing to market volatility and possible delay in the data-transmission process, the data may not be real-time market quotes for the relevant products. KGI has no independent basis to verify or contradict the accuracy or completeness of the information provided. No recommendation or endorsement from KGI shall be inferred from such data.
- 3.10 (a) Information provided under the Electronic Services is provided on an "as is", "as available" basis and the Client's use of the information provided is at its sole risk. Neither KGI nor any third party gives any express or implied warranties (including but not limited to warranties of merchantability or fitness for any particular use) with respect to such information. KGI and/or the Information Sources endeavour to ensure the accuracy and reliability of the information provided but do not guarantee its accuracy or reliability and accept no liability (whether in tort or contract or otherwise) for any loss or damage arising from any inaccuracy or omission or from any decision, action or non-action based on or in reliance upon the information or any part thereof. Neither KGI nor the Information Sources shall be liable to the Client or anyone else for any direct, indirect, consequential or incidental loss, costs or damages, nor any special or punitive damages, or injury caused in whole or in part by KGI's or the Information Sources' negligence in procuring, compiling, interpreting, editing, reporting or delivering any such information. In no event will KGI or the Information Sources be liable to the Client or anyone else for any indirect, consequential, incidental, special or punitive damages, including any lost profits or lost savings, or for any third party claim of any nature whatsoever related to the provision of such information or its use.
- (b) The Client acknowledges that information provided under the Electronic Services is proprietary to and/or the copyright of KGI, its Affiliates and/or the Information Sources and is for use solely by the Client, and such information may not be copied, manipulated, republished or redistributed to third parties in any form or by any means without the prior written consent of KGI and, where necessary, the Information Sources. The Client shall not use or permit the use of such information or any part thereof for any illegal purpose or any other purpose not allowed under the Client Agreement. The Client shall not use such information other than in the ordinary course of its own business (which shall not include any dissemination to third parties).
- 3.11 Notwithstanding any other provisions contained in the Client Agreement, where the Client is provided with Electronic Services, following execution of the Client's trading orders, the Client accepts that KGI may send to the Client and the Client agrees to receive contract notes and statements of the Client's transactions through electronic posting to the Account or the Client's e-mail address or other electronic means in lieu of printed confirmations. Any such information will be freely accessible by the Client after such sending by KGI and the Client shall print out such electronic contract notes and statements or make its own



arrangements forthwith without delay to maintain its own records if necessary. Thereafter, KGI will send to the Client relevant periodic statements summarizing entries in the Account by mail or electronic means or otherwise.

- 3.12 The Client hereby confirms that due to unpredictable traffic congestion and other reasons, the Electronic Services may not be a reliable medium of communication and that such unreliability is beyond the control of KGI. This may give rise to situations including delays in transmission and receipt of the Client's instructions or other information, delays in execution or execution of the Client's instructions at prices different from those prevailing at the time the Client's instructions were given, misunderstanding and errors in any communication between the Client and KGI and so on. Whilst KGI will take every possible step to safeguard its systems, client information, accounts and assets held for the benefit of KGI's clients, the Client accepts the risk of conducting financial and other transactions via the Electronic Services. The Client agrees that KGI shall not be liable for any loss or damage to the Client or any other person that the Client or such other person may suffer or incur as a result of using or attempting to use the Electronic Services including but not limited to any loss or damage due to any system or software or hardware failure or any interruption or failure of communication lines or devices for any reason, unless such loss or damage is caused by any wilful default or gross negligence on the part of KGI. The Client further undertakes to indemnify KGI, on a full indemnity basis, for any loss or damage KGI may suffer or incur as a result of the Client's use of the Electronic Services except to the extent that such loss or damage is outside the Client's reasonable control.
- 3.13 KGI makes no warranties, express or implied, concerning the Electronic Services. The Client acknowledges that the system of the Electronic Services has not been developed for the Client's individual needs and is used by the Client on an "as is", and "as available" basis at the Client's own volition and risk and that KGI shall bear no responsibility whatsoever for any consequences arising from the Client's choice or use of the Electronic Services.
- 3.14 KGI may, from time to time in its sole discretion and without prior notice to the Client, suspend, prohibit, terminate or impose such restrictions or limits on the Client's use of the Electronic Services or on the type of instructions or other communications which the Client may transmit to KGI, and which KGI may accept, via the Electronic Services.
- 3.15 KGI may in its sole discretion refuse to accept an instruction from the Client to execute a Contract for give-up to another clearing broker specified by the Client unless the Client and such other clearing broker have previously entered into a written agreement with KGI with respect to such give-up on terms acceptable to KGI and subject to the Market Requirements.
- 3.16 Where KGI accepts an instruction from the Client to execute a Contract for give-up to another clearing broker specified by the Client: (a) if such other clearing broker accepts the give-up, KGI shall (without prejudice to any claim KGI may have for commission or other payment with respect to such Contract) upon such acceptance cease to be a party to the Contract and shall have no obligation to the Client for its performance; and (b) if such clearing broker declines to accept the give-up, KGI shall be entitled at its option either to confirm the Contract with the Client or to close out such Contract in such manner as KGI may in its sole discretion determine. Without prejudice to KGI's rights under the Client Agreement or otherwise, any balance resulting from such closing out shall be promptly settled between the Client and KGI.

#### 4 Charges and Costs

- 4.1 In respect of the making of each Contract by KGI as agent on behalf of the Client, and in respect of the closing out, give-up or (in the case of an Option Contract) exercise thereof, KGI shall charge the Client a commission calculated at such rate and on such basis as KGI may from time to time determine and notify the Client. In addition, the Client shall pay or reimburse KGI and its associated entities forthwith on demand all commission, brokerage, levies, fees, duties and taxes and all other charges and expenses suffered or incurred by KGI and its associated entities arising out of or in connection with any purchase or sale, closing out or give-up of Contracts entered into by KGI on behalf of the Client or otherwise arising out of or in connection with the performance of any of KGI's and its associated entities' duties under the Client Agreement. All such amounts may be deducted from the Account and any other accounts maintained by the Client with KGI. The Client agrees that KGI may notify the Client the rates and the basis on which KGI may charge such amounts from time to time in the manners provided in Clause 16.
- 4.2 The Client agrees to pay interest on all overdue balances owing to KGI (after as well as before any judgement), at such rate(s) to be notified by KGI from time to time, which shall accrue daily and be calculated and payable on the last day of each calendar month or upon any demand being made by KGI. In the absence of such notification from KGI, the Client's Hong Kong dollars overdue balances will be charged interest at an annual rate of the higher of (i) eight per cent above the prime lending rate on Hong Kong dollars quoted by the Standard Chartered Bank; or (ii) ten per cent above the prevailing one-month HIBOR. In the case of foreign currency overdue balances, the annual interest rate will be ten per cent over the cost of funds of KGI to be quoted by KGI whether or not it has actually borrowed the funds.
- 4.3 Without prejudice to any other rights and remedies available to KGI, KGI may charge a monthly maintenance fee of such amount in such currency as KGI may determine from time to time on the dormant Account if the Client has no trading activity for six months or more. Payment of such fees will be automatically deducted from the Account.

#### 5 Margin

- 5.1 In respect of all Contracts entered into by KGI as agent on behalf of the Client, the Client shall before the relevant Contract is entered into or otherwise immediately upon demand provide KGI with such Margin together with such guarantees and other security in such form and amount and on such terms as KGI may in its absolute discretion require from time to time. Such Margin shall be maintained with KGI and the Client shall not withdraw the same until the Open Contract to which it relates has been closed out. The Margin required by KGI may exceed any margin requirements prescribed by any Exchange, Clearing House, broker or Correspondent Broker and may be changed by KGI with immediate effect without prior notice to the Client. KGI shall be entitled to refuse to execute the Client's instruction unless the Margin required by KGI has been provided to KGI.
- 5.2 KGI shall be entitled to demand from the Client from time to time such additional Margin as KGI shall think fit in its absolute discretion, whether to comply with any requirement imposed by law or by any Exchange, Clearing House, broker or



Correspondent Broker or otherwise whatsoever or howsoever, and the Client shall immediately upon demand provide KGI with such additional Margin.

5.3 Margin in the form of assets other than cash will only be accepted by KGI in its absolute discretion. Where shares, stocks and/or other valuables are deposited as Margin, KGI shall have an absolute discretion to assign a notional value (which need not correspond to the market value) to the asset for Margin purpose, which value may change from time to time as determined by KGI in the light of the prevailing market value of the asset or otherwise.

5.4 Without prejudice and in addition to any other rights and remedies of KGI hereunder, the Client hereby irrevocably authorizes KGI, without prior notice to the Client, to apply all or any part of any cash deposit or other property held for the account of the Client by KGI or its Affiliate on any account whatsoever and whether or not relating to trading in Contracts:-

- (a) in or towards the provision of any Margin or additional Margin demanded by KGI pursuant to Clause 5.1 or 5.2;
- (b) in payment to any Exchange, Clearing House, broker and/or Correspondent Broker in or towards satisfaction of any liability to provide margin demanded or required by such Exchange, Clearing House, broker or Correspondent Broker in respect of any Contract entered into by KGI on behalf of the Client, or towards provision of security (whether in the form of mortgage, deposit, charge, pledge or otherwise) in favour or to the order of any Exchange, Clearing House, broker and/or Correspondent Broker, without prior notice to the Client and free of any beneficial interest of the Client or of any other person in the margin, as security for KGI's obligations to (and upon terms specified by) the Exchange, Clearing House, broker and/or Correspondent Broker in respect of any Contract entered into by KGI on behalf of the Client, with power to such Exchange, Clearing House, broker and/or Correspondent Broker to enforce the security in satisfaction of any obligations of KGI, provided that the Client's deposit or property shall not be applied to finance or act as security for any Clearing House margin requirements or trading liabilities in respect of Contract entered into by KGI on behalf of any other client (and in either event, such deposit or property will be dealt with according to the rules and regulations of the relevant Exchange, or Clearing House, or the terms of trading of the broker or Correspondent Broker);
- (c) in satisfaction of any other obligations of KGI to any party insofar as such obligations arise in connection with or incidental to any Contract entered into by KGI on behalf of the Client; and/or
- (d) in or towards payment of money properly required to meet commissions, brokerage, levies or other proper charges directly relating to any Contract entered into by KGI on behalf of the Client;

notwithstanding that any such application may result in the Client being required by KGI to provide additional Margin.

5.5 Margin calls must be met on demand (or such other time limit as may be specified by KGI from time to time – however, never later than the time the relevant Exchange requires client margin to be met). Without prejudice to the provisions of Clause 10, failure to meet such calls may result in KGI being entitled or obliged by the rules or regulations of the relevant Exchange and/or Clearing House to close out the Open Contracts held on behalf of the Client in respect of which any Margin calls are not met within the period specified by KGI or at the time of making such call(s), and/or to notify the relevant Exchange, Clearing House, broker or Correspondent Broker particulars of such Open Contracts. In particular, KGI may be required to report to HKFE and the Commission particulars of all open positions in respect of which two successive Margin calls are not met by the Client within the period specified by KGI.

5.6 Unless specifically instructed by the Client, Contracts held in the Account which the Exchange allows to be set off for margin purpose will automatically be set off for the determination of Margin without reference to the Client, but these Contracts will not be closed out or treated as netted off for any other purpose.

5.7 If KGI specifically requires that the Client can only maintain a cash account with KGI for Option Contracts, only long Option Contract positions can be carried in the account. The Client shall pay KGI the full cash value of the premium of the Option Contract on the date of the Client's instruction to KGI to purchase the Option Contract.

## 6 Settlement

6.1 Subject to Clause 6.5, in respect of each Open Contract for the Client's account which remains subsisting on the maturity date for its settlement, KGI and the Client shall each have an obligation to make or take delivery (as the case may be) of the Commodity the subject matter of the Contract on the maturity date, provided that where, according to the rules of the relevant Exchange, the outstanding obligations of the buyer and seller of an Open Contract shall be satisfied solely by cash settlement based on a difference in price or value, KGI or the Client (as the case may be) shall settle the Open Contract by paying the relevant difference to the other on the maturity date of the Open Contract. The Client shall take all necessary actions to enable KGI to effect due settlement of each Open Contract on behalf of the Client in accordance with the Market Requirements.

6.2 Subject to the terms of the Client Agreement and to the Market Requirements, the Client may, at any time before the last trading day of a Contract, request KGI to close out the same. Any amount payable by the Client arising out of the closing out of any Contract shall become immediately due and payable to KGI upon the closing out.

6.3 To exercise an option pursuant to an Option Contract entered into by KGI on the Client's behalf, the Client shall deliver to KGI a notice of exercise at least 24 hours before the cut-off date for the tender of exercise instructions prescribed by the writer of the option or the relevant Exchange, Clearing House, broker or Correspondent Broker (whichever prescribes the earliest cut-off date). Unless required by the rules of the relevant Exchange or otherwise agreed between KGI and the Client that the outstanding obligations of the buyer and seller of an Option Contract are satisfied solely by cash settlement based on a difference in price or value, a notice of exercise from the Client shall only be considered to be valid when accompanied:-

- (a) in the case of a put option, with the underlying Commodity or document of title thereof for making delivery; and

(b) in the case of a call option, with sufficient immediately available funds to take delivery of the Commodity.

Unless specifically instructed by the Client and subject to the terms of the Client Agreement, KGI shall not have any responsibility whatsoever to tender any exercise instructions on behalf of the Client in respect of any Option Contract on or before the relevant cut-off date applicable to the Option Contract.

- 6.4 Where the Client holds a short position under an Option Contract and the option is exercised (or deemed to be exercised on expiry or otherwise), the Client shall on demand pay KGI in cash the settlement amount payable by the Client or make or take delivery (as the case may be) of the Commodity the subject matter of the Option Contract pursuant to the terms of the Option Contract.
- 6.5 If KGI or the Correspondent Broker (as the case may be) shall for any reason whatsoever and howsoever fail to receive payment of all or any part of any amount or to receive delivery of all or any part of any amount of any Commodity (whether from the relevant Exchange, Clearing House, and/or any other person) due to be paid or delivered to the Client in respect of any Contract entered into by KGI on behalf of the Client on the due date for payment or delivery thereof in accordance with the rules and regulations of the relevant Exchange and/or Clearing House and/or any applicable laws, KGI's obligations to make payment or to deliver any Commodity to the Client in respect of such Contract shall thereupon and by virtue of such failure become obligations to make payment of such amount or delivery of such quantity of such Commodity as is equal to such payment or such quantity as is actually received by KGI in respect thereof.
- 6.6 KGI may in its absolute discretion but shall not be bound to act on any instruction from the Client to take any action whatsoever or howsoever against any Exchange, Clearing House and/or any other person in respect of any failure by such Exchange, Clearing House and/or other person to make any payment or to deliver any amount of any Commodity in respect of any Contract entered into by KGI on behalf of the Client as provided in Clause 6.5, provided that if any such action is taken by KGI, the Client shall fully indemnify KGI on demand in respect of all costs, claims, demands, damages and expenses arising out of or in connection with the taking of such action.
- 6.7 Any statement or confirmation signed by any authorized signatory of KGI stating the price or value at which any Futures Contract or Option Contract is entered into or closed out, or the exchange rate applicable in any currency conversion, or the amount owing by the Client to KGI at any given time, shall (in the absence of manifest error) be binding on the Client as to the particulars stated.

## 7 Payment

- 7.1 The Client shall pay KGI forthwith upon demand by KGI at any time the full amount of all losses, debit balances and deficiencies resulting from any transaction between the Client and KGI, or from the operation of the Client's Account. Payment shall be made in such currencies as KGI may from time to time prescribe.
- 7.2 Without prejudice to the Client's obligation to effect payment on demand, each payment (whether by way of direct payment, transfer, debit or credit) to be made by the Client to KGI in relation to the Client Agreement shall be made not later than the close of business (Hong Kong time) on the date on which payment is required to be made.
- 7.3 The Client will be responsible to KGI for any losses, costs, fees and expenses in connection with the Client's failure to meet the Client's obligations by the due settlement date as described above.
- 7.4 All payments by the Client for transactions or otherwise in connection with the Client Agreement shall be made in cleared funds in the currency and at the place specified by KGI, (i) free of any restrictions, conditions or equities, (ii) free and clear and without any deduction or withholding on account of any taxes, and (iii) without deduction or withholding on account of any other amount, whether by way of set-off, counterclaim or otherwise.

## 8 Dealings

- 8.1 KGI or its Affiliates, may have an interest, relationship or arrangement that is material in relation to any instruction received or transaction effected for the Client. In particular, KGI and its Affiliates may, without reference to the Client:-
- (a) effect transactions for the Client with or through an Affiliate or any Correspondent Broker;
  - (b) effect transactions with the Client as principal for KGI's or its Affiliate's own account;
  - (c) effect transactions where KGI or its Affiliates have a position in the Contract; and/or
  - (d) match the Client's orders with those of other clients;

and neither KGI nor any of its Affiliates shall be obliged to account to the Client or any third party for any profits or benefits received in connection therewith.

- 8.2 Nothing herein shall place KGI under any duty to disclose to the Client any information which may come to the notice of KGI in the course of acting in any capacity for any other person, nor shall KGI be under any obligation to the Client to see that any information pertaining to any Contract acquired by KGI be given either before or at the same time as such information is made available to other clients. However, KGI shall take all reasonable steps to avoid conflicts of interest and where such conflicts cannot reasonably be avoided, take all reasonable steps to ensure that clients are at all times treated fairly.
- 8.3 The Client acknowledges that due to the trading practices of the exchanges or other markets in which transactions are executed, it may not always be able to execute orders at the prices quoted at a particular time or "at best" or "at market" and the Client agrees in any event to be bound by transactions executed following instructions given by the Client or its agent. The Client agrees that KGI shall not be under any liability for any loss incurred as a result of transactions which take place in the circumstances contemplated in this clause.

- 8.4 For the purposes of carrying out the Client's instructions or exercising any of KGI's rights under the Client Agreement or under any of the Accounts, KGI may, at any time in its sole and absolute discretion and without any obligation, convert funds in any Account or standing to the Client's credit to and from any foreign currencies at such reasonable rates of exchange as KGI may determine in KGI's sole discretion. The Client acknowledges that any profit or loss arising from a fluctuation in the exchange rate of the relevant currency will be for the Client's account.
- 8.5 Unless indicated by KGI in the relevant contract note or otherwise, KGI acts as the Client's agent in respect of transactions executed pursuant to the Client Agreement.
- 8.6 All relevant client money in relation to the Client from time to time received or held in Hong Kong by or on behalf of KGI or its associated entity shall be treated and dealt with in compliance with the Client Money Rules and accordingly such client money received shall be paid into one or more segregated accounts for client money established and maintained in Hong Kong by KGI or its associated entity with authorized financial institutions or any other person approved by the Commission, each of which segregated accounts shall be designated as a trust account or client account. Except as may be expressly agreed between the Client and KGI or its relevant associated entity otherwise, the Client understands and accepts that no interest will accrue to the Client on any amounts held in the Account or for the Client and KGI or its relevant associated entity has the right to retain for its own benefit any and all amounts derived by way of interest on the Client's money.
- 8.7 Subject to the provisions of the SFO, KGI and its Affiliates shall have the Client's standing authorization given on behalf of the Client itself and its Affiliates to (without being obliged so to do) set-off or effect fund transfers between any two or more of the Client's and its Affiliates' accounts maintained with KGI and its Affiliates (of whatever nature and whether individually or jointly with others) for the purpose of discharging or reducing the Client's or any of its Affiliates' obligations or indebtedness towards KGI or its Affiliates and without further consent from or any notice to the Client or its Affiliates.
- 8.8 Client Consent to Retention of Soft Dollars, Cash or Money Rebates or Other Benefits
- (a) The Client understands that KGI and its Affiliates may, from time to time, receive and retain (to the extent not prohibited by the Market Requirements including the Code) any soft dollars and cash or money rebates or other benefits or provide to a third party such soft dollars and cash or money rebates or other benefits in relation to any of the transactions contemplated under the Client Agreement or the Account, and subject to Clause 8.8(b), the Client hereby consents to KGI and its Affiliates providing, receiving and/or retaining such soft dollars and cash or money rebates or other benefits.
- (b) Soft dollars received or provided by KGI and its Affiliates may include research and advisory services, economic and political analysis, portfolio analysis (including valuation and performance measurement), market analysis, data and quotation services, computer hardware and software incidental to the above goods and services, clearing and custodian services and investment related publications. The goods and services (i.e. soft dollars) may not include travel, accommodation, entertainment, general administrative goods or services, general office equipment or premises, membership fees, employee salaries, or direct money payments.
- (c) Upon the request of the Client and/or in accordance with the requirements of the Market Requirements including the Code, KGI will make available to the Client all relevant information relating to the receipt, existence and nature of the soft dollars and cash or money rebates or other benefits (if any) and the circumstances under which such benefits were or may be received and retained by KGI and/or its Affiliates by giving notice to the Client or publication on KGI's Website of such information.
- 9 Priority
- 9.1 The Client understands that, subject to the Market Requirements, KGI will handle its clients' orders fairly, due regard being had to the sequence in which such orders were received, provided always that orders of clients should have priority over orders for the account of KGI or any account in which KGI has an interest or the account of any employee or agent of KGI.
- 9.2 KGI may, without prior reference to the Client, combine for execution the Client's orders with the orders of other clients, with KGI's own orders or the orders of KGI's Affiliates. This may result in a more favourable or less favourable price being obtained for the Client than would have been achieved had the orders been executed separately. Where there are insufficient Contracts to satisfy orders so combined, the transactions shall be allocated between clients in such manner considered to be fair by KGI, with due regard being given to the sequence in which such orders were received, provided always that priority shall be given to satisfy the orders of clients over those of KGI or its Affiliates.
- 10 Unilateral Closing Out
- 10.1 KGI shall be entitled to exercise its powers under Clause 10.2 upon or at any time after the occurrence of any of the following events:-
- (a) the Client fails to pay on demand or when due any sum (in particular, any Margin) due to KGI or any Affiliate of KGI, or fails to perform any of the Client's other obligations under the Client Agreement;
- (b) the Client fails to make payment in respect of any loan, guarantee, indemnity or other indebtedness or obligation for borrowed money on the due date for payment, or any such loan, guarantee, indemnity or other indebtedness or obligation for borrowed money becomes, or is declared, or becomes capable of being declared, due prematurely for any reason;
- (c) any information supplied by the Client to KGI, whether in the Account Opening Form or otherwise, or any warranty made by the Client in the Client Agreement, is incorrect or misleading in any material respect;

- (d) any attachment or sequestration is levied against any account of the Client with KGI or any Affiliate of KGI, or any injunction, prohibition order or similar order is declared on any of the Client's assets, or execution, distress or similar process is levied against any of the Client's assets;
  - (e) a judicial declaration of incompetence is made in respect of the Client, or the Client dies;
  - (f) it shall become unlawful for the Client to maintain the Account or to perform any of the Client's obligations under the Client Agreement, or any authorization, consent, approval or licence necessary for the Client to continue the Account or to perform any of its obligations under the Client Agreement shall be revoked or otherwise cease to be in full effect;
  - (g) there occurs a material adverse change in the business, assets or general condition of the Client which, in the absolute opinion of KGI, may adversely affect the due performance by the Client of its obligations under the Client Agreement; or
  - (h) where KGI determines in its absolute opinion that the exercise by KGI of any powers conferred by Clause 10.2 is necessary for compliance with any rules, regulations or requirements of any Exchange, Clearing House, broker and/or Correspondent Broker; in particular, if the HKFE prohibits or restricts KGI from carrying short position on behalf of Clients.
- 10.2 Upon or at any time after the occurrence of any of the events specified in Clause 10.1, KGI shall forthwith be entitled, without any demand or demand for additional Margin, without notice to the Client and notwithstanding any prior Margin call which has been made, to do any of the following things in its absolute discretion:-
- (a) close out, give-up, perform or maintain any Open Contract in the Account and, for this purpose, make or take delivery of the underlying Commodity in respect of any such Contract, sell any Contract, initiate new long or short positions to establish a spread or straddle, or do a combination of any of the foregoing;
  - (b) cancel any outstanding order or other commitments made on behalf of the Client;
  - (c) borrow or purchase any Commodity required to make delivery on behalf of the Client; and/or
  - (d) exercise any options (put or call) arising from any Option Contract held by KGI on behalf of the Client.
- 10.3 KGI shall have absolute discretion to choose which (if not all) Open Contracts to close out, give-up or (in respect of Option Contracts) to tender exercise instructions, and may sell any security on a single or collective basis. The Client hereby waives all claims and demands (if any) against KGI in respect of any loss, involuntary or otherwise, directly or indirectly arising from the exercise by KGI of the powers conferred by the Client Agreement, howsoever such loss may have been caused (other than through the wilful misfeasance or gross negligence of KGI, or the reckless disregard of the obligations of KGI under the Client Agreement), whether in relation to the timing or manner of the exercise of powers or otherwise. The Client specifically acknowledges and accepts that:-
- (a) nothing in Clause 10.2 shall impose any obligation on KGI to close out or give-up any Open Contract or exercise any option on behalf of the Client; and
  - (b) in view of the frequent and rapid changes in spot and future prices, KGI is not under any obligation to assess price movement or market trend in exercising its powers under Clause 10.2 (in particular, in determining the timing for the exercise of such powers), nor to limit or mitigate any loss which the Client may incur as a result of the market position moving against the Client's favour, and the market condition may render it impossible or impracticable to close out or give-up any of the Client's open positions within any given time.
- 10.4 Without prejudice to the generality of the foregoing, upon the occurrence of any of the following in relation to the Client:
- (a) an order is made by a competent court or a petition is presented or a resolution passed for the winding-up, bankruptcy, official management or dissolution (other than pursuant to a consolidation, amalgamation or merger) of the Client or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights; or
  - (b) a receiver, administrator, provisional liquidator, conservator, trustee, or similar official is appointed for the Client or over the whole or a substantial part of the Client's assets,
- each Open Contract in the Account shall be immediately terminated and of no further effect and the only obligations thereafter in respect of such Open Contract shall (subject as provided in Clause 13) be the obligation on the part of either KGI or the Client to pay such sum as shall be determined by:-
- (aa) calculating the amount of profit or loss that would arise in respect of such Open Contract, as if it had been closed out immediately upon the occurrence of the relevant event at the then prevailing market rate;
  - (bb) converting any such amount arising in a currency other than Hong Kong dollar to Hong Kong dollar by reference to the then prevailing spot market rate;
  - (cc) discounting to present value at the prevailing interest rates for the deposit of a comparable amount quoted by the Standard Chartered Bank each such amount to take account of the period between the date of such close out and the applicable settlement date; and
  - (dd) setting off the aggregate of all the amounts so arising in favour of KGI against the aggregate of all amounts arising in favour of the Client.

If the net sum so produced is in favour of KGI, the sum shall be payable forthwith by the Client. If the net sum is in favour of the Client, the sum shall be payable forthwith by KGI.

## 11 Set-off, Charge and Lien



- 11.1 Subject to the Market Requirements including, without limitation, the provisions of the SFO, KGI shall be entitled and authorized to, for itself or as agent for its Affiliates, at any time or from time to time and without notice to the Client, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of the accounts of the Client and/or its Affiliates (including the Account) maintained with KGI and/or any of its Affiliates (of whatever nature and whether held individually or jointly with others) and set-off or transfer any monies (in any currency), securities, Commodities and/or other assets or property in or standing to the credit of any one or more of such accounts in or towards satisfaction of any of the Client's or any of its Affiliates' indebtedness, obligations or liabilities to KGI and/or any of its Affiliates whether such indebtedness, obligations or liabilities be present or future, actual or contingent, primary or collateral, several or joint and secured or unsecured. Where such set-off, consolidation, combination or transfer requires the conversion of one currency into another, such conversion shall be calculated at the rate of exchange conclusively determined by KGI to be applicable.
- 11.2 The Client as beneficial owner hereby charges in favour of KGI and each of its Affiliates (including but not limited to KGI Limited) by way of first fixed charge all monies (in any currency), securities, Commodities and/or other assets or property, including Margin, from time to time deposited by or on behalf of the Client with KGI or purchased for or otherwise being held in or by or under the order or control of KGI for the Account or any other account whatsoever, including any and all rights, title and interest, present and future, therein (collectively, "Charged Property") as continuing security for all of the Client's liabilities and obligations due, owing or incurred towards KGI and each of its Affiliates (including but not limited to KGI Asia Limited) of whatever nature and from time to time and the Client hereby assigns and releases to KGI and each of its Affiliates all such monies, securities, Commodities or other assets or property as aforesaid. In the event of the Client failing to pay any indebtedness or outstanding amount due, owing or incurred to KGI or any of its Affiliates (including but not limited to KGI Asia Limited) when due or on demand by the relevant company, or an order is made or petition presented or resolution passed for the bankruptcy, winding up or dissolution of the Client, or the Client is declared incompetent or dies, subject to the Market Requirements including, without limitation, the provisions of the SFO, KGI shall be entitled to sell or, as the case may be, the relevant Affiliate shall be entitled to direct KGI to sell, at the absolute discretion of the relevant company both as to manner and time of sale and consideration, any of the Charged Property whether or not held in mutuum and whether or not the delivery of any property comprised in the Charged Property shall have been required pursuant to any instruction from the Client or any Authorized Person and to deduct from the sale proceeds such amount as is necessary to discharge the indebtedness or outstanding amount and pay the same to the relevant company. For this purpose, a certificate issued by KGI or any of its Affiliates certifying the amount of indebtedness or outstanding amount due to it by the Client at any time and that the Client has failed to pay the same to it shall be final, conclusive and binding on the Client.
- 11.3 All of the Client's interest in any monies, securities, Commodities and other assets or property (either individually or jointly with others) held or acquired by or in the possession of or under the order or control of KGI at any time or from time to time shall be subject to a charge and/or general lien and security interest in favour of KGI as continuing security to offset and discharge any or all of the Client's obligations and liabilities arising from transactions contemplated under the Client Agreement or otherwise.
- 11.4 The provisions of this Clause 11 shall be without prejudice to any rights to which KGI may be entitled to by law or under the Client Agreement or the Market Requirements.
- 12 Representations, Warranties and Undertakings
- 12.1 The Client warrants that it has full and unrestricted power to enter into the Client Agreement and that it has obtained all necessary consents and has taken all necessary actions (including, where appropriate, any action required under its corporate or other organizational documents) to authorize it to enter into the Client Agreement and to perform its obligations hereunder.
- 12.2 In relation to all transactions entered into pursuant to the Client Agreement, the Client warrants and undertakes that it will obtain, and maintain in effect, all necessary consents of any governmental or other regulatory body or authority applicable to each such transaction and that it will comply with the terms of the same and all applicable laws, regulations and directives. The Client shall, forthwith on demand by KGI, deliver to KGI copies of all such consents or such other evidence of any such consents and such evidence of compliance (including certifications of the Client) with the terms of such consent and with any such laws, regulations and directives as KGI may from time to time require.
- 12.3 Except where KGI is notified in writing and such is expressly approved by KGI, the Client represents and warrants that the Client is the beneficial owner of all monies, securities, Commodities, and other assets or property (including the Margin) in or standing to the credit of the Account (except where the Account is an Omnibus Account) free from any lien, charge, equity or encumbrances save as created by or under the Client Agreement. The Client agrees not to charge or pledge, or allow to subsist any charge or pledge over, the Margin or any property or rights forming part of the Account without KGI's agreement or to sell, grant an option over, or otherwise deal in any way with or propose to sell, grant an option over or deal with the same.
- 12.4 The Client confirms that the Account Opening Form in relation to the opening of the Account has been duly completed and that the information therein is true, complete and accurate. KGI is entitled to rely fully on such information and representations for all purposes. KGI is authorized at any time to contact anyone, including the Client's banks, brokers or any credit agency, for the purpose of verifying the information provided in the Account Opening Form.
- 12.5 The Client represents and warrants that it is the person or entity (legal or otherwise) ultimately responsible for originating the instruction in relation to each transaction in the Account and the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of each transaction in the Account and/or bear its commercial or economic risk. The Client will also ensure that only the Client or an Authorized Person will place an instruction with KGI in relation to the Account. If, in relation to any particular transaction in the Account, the Client is not such a person or entity, the Client undertakes and agrees to provide information on the identity, address and contact details of such person or entity to KGI before giving the instruction to KGI and KGI may refuse to accept such instruction. The Client also undertakes and agrees to provide such information directly to

the relevant exchanges, government agencies or regulators within two days of KGI's written request and such undertaking and agreement will survive any termination of the Client Agreement.

- 12.6 Where the Client is acting as an investment manager of any collective investment schemes, discretionary accounts or trusts, if there are any transactions in which the Client's investment discretion is overridden, the Client agrees that it will advise KGI of such fact and provide information on the identity and contact details of the person overriding its investment discretion before giving the instruction to KGI. The Client also undertakes and agrees that it will disclose such information to the relevant exchanges, government agencies or regulators direct within two days of KGI's written request and such undertaking and agreement will survive any termination of the Client Agreement.
- 12.7 The Client represents and warrants that the Client is not resident in a country where there is any restriction on the Client's purchase or holding of any Contracts. If the Client becomes resident of such country, the Client will inform KGI immediately and will if so required by KGI close out, sell or give-up any such restricted Contracts, failing which KGI may at its absolute discretion and is authorized but without any obligation or liability on its part to close out, sell or give-up any such restricted Contracts on behalf of the Client.
- 12.8 The Client when purchasing or dealing in any Contracts will ensure that the Client is not subject to, and is not acting on behalf of any person who is subject to, any prohibition against the purchase or dealing in any such Contracts.
- 12.9 The Client represents and warrants that the Client is not a citizen or resident of the U.S., nor is the Client a non-U.S. citizen with a substantial presence in the U.S. under Section 61 of the U.S. Internal Revenue Code, or if the Client is a corporate entity, its underlying shareholders are not citizens or residents of the U.S., nor are any of them non-U.S. citizens with a substantial presence in the U.S. under Section 61 of the U.S. Internal Revenue Code and the Client will give specific written notice to KGI if this is not the case or upon any subsequent change to such status. The Client further undertakes to inform KGI forthwith if there is any change in circumstances which, under applicable U.S. tax regulations, modifies the Client's status as a "non-U.S. person" and causes the Client to acquire the status of a "U.S. Person for Tax Purposes", or vice versa.
- 12.10 The Client acknowledges it has to understand the nature and risks of the products in which it is trading and has sufficient net worth to be able to assume the relevant risks and bear the potential losses of trading in such products.
- 12.11 The Client represents and warrants that the Client's funds for investing in Contracts in the Taiwan market are not sourced from the Mainland China or Taiwan.
- 12.12 The above representations and warranties shall be deemed to be repeated immediately before each transaction or dealing is carried out for or on behalf of the Client.

### 13 Indemnity and Liability

- 13.1 The Client agrees that KGI, its directors, officers, employees and agents are not liable for any losses, including loss of profits, costs or expenses suffered or incurred by the Client as a direct or indirect result of or in connection with any Contract entered into by KGI as agent on behalf of the Client or the provision of services by KGI, or any failure or delay to provide the same, unless, and then only to the extent that, such losses, costs or expenses are caused by the gross negligence, wilful default or fraud on the part of KGI, its directors, officers, employees or agents in the provision of such services.
- 13.2 Without prejudice to any other rights KGI may have under the Client Agreement or otherwise, the Client agrees to indemnify fully and keep fully indemnified each of KGI, its directors, officers, employees, Affiliates and agents against any cost, expense, damage, loss or liability whatsoever which may be suffered or incurred, whether directly or indirectly, in connection with the provision of services under the Client Agreement or arising out of any breach by the Client of any term of the Client Agreement including any representation, warranty or undertaking given by the Client.

### 14 Amendment and Transfer

- 14.1 KGI may from time to time, at its absolute discretion, amend or supplement (whether by the addition of schedules to the Client Agreement or otherwise) any of the terms and conditions of the Client Agreement by notifying the Client in any manner provided in Clause 16. If the Client does not accept the same, the Client may terminate the Client Agreement by notifying KGI in writing within fourteen (14) Business Days from the date of Client's receipt or deemed receipt of the relevant notice in accordance with Clause 16, whichever is the earlier notice. If the Client does not terminate the Client Agreement within such time or if the Client continues to operate the Account after receipt or deemed receipt of the relevant notice, whichever is the earlier notice, the Client shall be deemed to have accepted such amendments or supplements and shall continue to be bound by the Client Agreement as so amended or supplemented from time to time.
- 14.2 The amendments or supplements mentioned in the above Clause 14.1 shall take effect on the date stated in the relevant notice.
- 14.3 KGI shall have the right to assign, transfer or otherwise dispose of all or any of its rights, interest or obligations in or under the Client Agreement to any third party as KGI thinks fit and without having to notify the Client or obtain the Client's consent.
- 14.4 The Client shall not be entitled to assign, transfer or otherwise dispose of its rights, interest or obligations in or under the Client Agreement to any third party without the prior written consent of KGI.

### 15 Termination

- 15.1 Either party may terminate the Client Agreement at any time by giving to the other not less than two Business Days' prior written notice, except that however, the Client shall have no right to terminate the Client Agreement if the Client has Open Contracts or outstanding liabilities or obligations. This shall not affect any undertakings or indemnities given by the Client under the Client

Agreement or any rights or obligations under the Client Agreement outstanding as at the date of termination, all of which shall survive such termination. Without prejudice to the foregoing, any termination shall not affect the rights or liabilities of either party arising out of or in connection with any Open Contracts at the time of such termination, including as to Margin, until all such Contracts have been closed out or settlement and/or delivery has been effected and all such liabilities fully discharged. The provisions of the Client Agreement which, by their nature, survive any termination of the Client Agreement shall survive and remain in full force and effect notwithstanding any such termination.

15.2 In case of any remaining cash balances in the Account upon termination of the Client Agreement, the Client agrees to withdraw such balances within seven days from the date on which all Open Contracts have been closed out or any other period as may be specified by KGI. If the Client does not do so, KGI may send the Client KGI's cheque representing the credit balances in the Account to the last known address of the Client at the sole risk of the Client.

15.3 KGI may terminate the Client Agreement by notice in writing to the Client with immediate effect if over one year has elapsed since the last transaction in any Contract for the Account.

## 16 Notices and Communications

16.1 The Client expressly agrees that other than delivery by hand or sending by post, KGI may choose to issue or send any notices, correspondence, contract notes, confirmations, statements of account, receipts, regulatory disclosures and communications to the Client in electronic form by or through facsimile transmission, SMS, email, posting on KGI's Website or any other kind of electronic communication ("Electronic Communication"). Without limiting the generality of the foregoing, the Client also consents to KGI notifying the Client from time to time of information about product or contract specifications, prospectus or offering documents of any Contracts, disclaimers, trading limits, position limits, large open position reporting and any other matters pursuant to requirements under the HKFE Rules or other Market Requirements by electronic means including, without limitation, through emails, posting on KGI's Website or providing links to HKEX's website or relevant third parties' websites for accessing such information. The Client agrees to accept and bear all the risks associated with the sending and receiving of the Electronic Communication, including but not limited to the following risks:

(a) Electronic Communication conducted through the internet or other electronic media is inherently an unreliable medium and may be subject to interruption, transmission blackout, or may cause a delayed transmission or incorrect data transmission due to (where applicable) unpredictable traffic congestion, the public nature of the media used or other reasons;

(b) Electronic Communication conducted through the internet or other electronic media may not be executed; and

(c) sending and receiving personal data through the internet or other electronic media may not be secured and may be exposed to numerous risks including but not limited to the risk of access by unauthorized third parties,

and the Client acknowledges and agrees that none of KGI and its Affiliates and their respective shareholders, directors, officers, employees, representatives or agents (collectively "Relevant Persons") assumes any liability or responsibility to the Client or to any other person for any consequences arising therefrom or in connection therewith and hereby waives all the rights of making any claims against KGI and the Relevant Persons in connection therewith.

16.2 KGI shall not be liable for any loss suffered or incurred by the Client directly or indirectly as a result of KGI's inability to obtain the Client's instructions despite reasonable endeavours having been made on the part of KGI.

16.3 Any communications from KGI to the Client delivered personally, sent by post or sent by facsimile transmission, SMS, email or posting on KGI's Website or any other kind of electronic communication shall be deemed to have been received by the Client (where delivered personally) at the time of personal delivery or on leaving it at the address last notified in writing by the Client to KGI or the Client's last known address, (where sent by post) 48 hours after posting if such address is in Hong Kong and five days after posting if such address is outside Hong Kong or (where sent by facsimile transmission, SMS, email, posting on KGI's Website or other kind of electronic communication) immediately after transmitting to the facsimile number, phone number, email address or other contact details last notified in writing by the Client to KGI or posting by KGI on KGI's Website.

16.4 Any notice or communication (including but not limited to instructions) made or given by the Client to KGI shall be made or given at the Client's own risk and shall only take effect upon actual receipt by KGI.

16.5 The Client agrees to keep its information in relation to its Account up-to-date, and to notify KGI of any change within two Business Days of such change. The Client understands, for the security and integrity of its Account, that KGI may temporarily or permanently disable or restrict access or certain functionalities (including dealing and settlement) of the Account, if and when the communication to the Client becomes undeliverable or is returned as a result of the Client's failure to provide update and/or notify KGI with the most current and accurate information in relation to the Account.

## 17 Information and Changes

17.1 The Client understands that KGI is required by applicable laws and regulations to obtain information about KGI's clients at the time an account is opened with KGI. The Client represents that the information contained in the Account Opening Form is complete, true and correct, and KGI is entitled to rely on such information for all purposes unless and until KGI receives written notice from the Client of any changes thereto. The Client hereby undertakes to give such notice in the event of any changes to such information. The Client hereby authorizes KGI to conduct a personal credit inquiry or check on the Client for the purpose of ascertaining the Client's financial situation and investment objectives. Subject to the provisions of the PDPO (to the extent applicable), such information (and other information acquired about the Client) may be used by KGI for credit control purposes and for the purposes of marketing products and services to the Client. The Client understands that KGI may, prior to providing any services hereunder, or at any time, require a personal guarantee from the shareholders and/or directors of a corporate client.



- 17.2 The Client understands that KGI is subject to the PDPO, which regulates the use of personal data concerning individuals. The Client understands that KGI has appointed a Data Protection Officer, and further information on KGI's policies and practices relating to personal data is available on written request to such officer and on KGI's Website. The Client understands that as an individual client the Client is entitled, by written request to the Data Protection Officer, to access the personal information held about the Client and, if applicable, to correct any inaccuracies in that information. Subject to the provisions of the PDPO (to the extent applicable), unless the Client sends a written request to the contrary to the Data Protection Officer, the information KGI acquires about the Client may be used for the purposes of marketing products and services which may be of interest to the Client. The Client agrees that KGI may disclose his personal information to such persons or classes of persons and use his personal information for such purposes as may be set out in KGI's policies and practices relating to personal data from time to time.
- 17.3 The Client understands that his personal information may be supplied to credit reference agencies and in the event of default, debt collection agencies. The Client shall be entitled, upon request, to be informed which items of information are routinely so disclosed, and be provided with further information to enable the making of an access and correction request to the relevant credit reference agencies or debt collection agencies, as the case may be.
- 17.4 KGI and the Client each undertakes to notify the other in the event of any material change to the relevant information (as specified in paragraphs 6.2(a), (b), (d), (e) and (f) of the Code) provided in the Client Agreement.

## 18 Confidentiality

- 18.1 Whilst the Client expects KGI to keep confidential information relating to the Client and the Account, the Client hereby expressly agrees that KGI is authorized to disclose or transfer such information to the relevant Exchanges, Clearing Houses, regulators, tax authorities, government or law enforcement agencies or to any persons whether in Hong Kong or any other jurisdictions outside Hong Kong as may be required under any court orders, the Market Requirements or other commitments binding on KGI without further consent from or notification to the Client, including without limitation the names and ultimate beneficiary of the Client or transactions in the Account and the Client shall not hold KGI or any of its agents liable for any consequences arising out of any such disclosure and the Client shall reimburse KGI and any of its agents on demand all costs and expenses (if any) incurred in complying with requests for such disclosure.
- 18.2 The Client shall ensure that all information provided by the Client to KGI from time to time shall be true, complete and accurate and not misleading. The Client undertakes to inform KGI promptly in writing if any such information is changed or becomes untrue, incomplete, inaccurate or misleading. The Client further undertakes to respond promptly to any request from KGI for provision of information relating to the Client or the Account.
- 18.3 Where any information provided by the Client to KGI relates to any third parties, the Client confirms that such third parties whose information has been provided to KGI have been notified of and consented to the disclosure or transfer of their information by KGI in the manner described in Clause 18.1.
- 18.4 Where the Client fails to provide any information reasonably requested by KGI or the Client and/or the relevant third parties withhold or withdraw any consent that KGI needs to disclose or transfer the information in the manner described in Clause 18.1 above, KGI may be unable to provide any new or continue to provide all or part of the services to the Client and reserves the right to terminate the relationship with the Client. In addition, if the Client fails to supply promptly the documentation and information relating to Client's or any relevant third party's tax status/residency as may be reasonably requested by KGI, KGI may make its own judgment with respect to the Client's or the relevant third party's tax status/residency including whether the Client or the relevant third party is reportable to any tax authority whether in Hong Kong or in any other jurisdictions outside Hong Kong.

## 19 Specified Provisions

- 19.1 Without prejudice and in addition to any other provisions of the Client Agreement, the following provisions shall also apply (and for the purposes of this Clause 19, unless otherwise specified, the defined terms and expressions set out below have the meanings assigned to them under the HKFE Rules):-
- (a) every HKFE Contract shall be subject to the charge of an Investor Compensation Fund levy and a levy pursuant to the SFO, the cost of both of which shall be borne by the Client;
  - (b) if the Client suffers pecuniary loss by reason of KGI's default, the liability of the Investor Compensation Fund will be restricted to valid claims as provided for in the SFO and the relevant subsidiary legislation and will be subject to the monetary limits specified in the Securities and Futures (Investor Compensation – Compensation Limits) Rules and accordingly there can be no assurance that any pecuniary loss sustained by reason of such a default will necessarily be recouped from the Investor Compensation Fund in full, in part or at all;
  - (c) KGI and any of its directors, officers or employees may trade on their own respective account and KGI may trade on the account of any of its Affiliates;
  - (d) transactions related to Futures Contracts and Option Contracts shall be subject to the rules of the relevant markets and Exchanges. KGI is required, upon the request of HKFE or the Commission, to disclose the name, beneficial identity and such other information concerning the Client as HKFE or the Commission may require and the Client agrees to provide such information concerning the Client as KGI may require in order for KGI to comply with this requirement and in the event KGI fails to comply with the disclosure requirement under Rule 606(a) or 613(a) of the HKFE Rules, the Chief Executive may require the closing out of positions on behalf of the Client or the imposition of a Margin surcharge on the positions of the Client;
  - (e) the Client may have varying level and type of protection in relation to transactions on different markets and exchanges;

- (f) to the extent that KGI for the account of the Client enters into a transaction for Contracts traded on the New York Mercantile Exchange on the automated trading system operated by such exchange for the trading of certain of such Contracts:-
  - (i) the transactions are subject to the rules of such exchange; and
  - (ii) if the Client is dealing in such Contracts for the benefit of another person, the Client shall ensure that in its agreement with that other person there shall be a provision to the effect of sub-paragraph (i) and this sub-paragraph (ii);
- (g) KGI MAY, SUBJECT TO THE PROVISIONS OF THE SFO AND ANY APPLICABLE LAW, TAKE THE OPPOSITE POSITION TO THE CLIENT'S ORDER IN RELATION TO ANY EXCHANGE TRADED FUTURES AND OPTIONS CONTRACTS, WHETHER ON KGI'S OWN ACCOUNT OR FOR THE ACCOUNT OF ITS ASSOCIATED COMPANY OR OTHER CLIENTS OF KGI, PROVIDED THAT SUCH TRADE IS EXECUTED COMPETITIVELY ON OR THROUGH THE FACILITIES OF HKFE IN ACCORDANCE WITH THE HKFE RULES OR THE FACILITIES OF ANY OTHER COMMODITY, FUTURES OR OPTIONS EXCHANGE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF SUCH OTHER EXCHANGE;
- (h) the Client acknowledges that the Clearing House may do all things necessary to transfer any open positions held by KGI on the Client's behalf and any money and security standing to the credit of the Client's account with KGI to another exchange participant of HKFE in the event the rights of KGI as an exchange participant of HKFE are suspended or revoked;
- (i) all monies, securities and other property received by KGI from the Client or from any other person (including a Clearing House) for the account of the Client shall be held by KGI as trustee and segregated from KGI's own assets. These assets so held by KGI shall not form part of the assets of KGI for insolvency or winding up purposes but shall be returned to the Client promptly upon the appointment of a provisional liquidator, liquidator or similar officer over all or any part of KGI's business or assets;
- (j) any monies, approved debt securities or approved securities received by KGI from the Client or from any other person (including the Clearing House) are held in the manner specified under paragraphs 7 to 12 of Schedule 4 to the Code and the Client authorizes KGI to apply any such monies, approved debt securities or approved securities in the manner specified under paragraphs 14 to 15 of Schedule 4 to the Code and, in particular, KGI may apply such monies, approved debt securities or approved securities in or towards meeting KGI's obligations to any party insofar as such obligations arise in connection with or incidental to the business of dealing in Futures Contract or Option Contract transacted on the Client's behalf;
- (k) the Client acknowledges that in respect of any account of KGI maintained with the Clearing House, whether or not such account is maintained wholly or partly in respect of the business of dealing in Futures Contract or Option Contract transacted on behalf of the Client, and whether or not monies, approved debt securities or approved securities paid or deposited by the Client has been paid to or deposited with the Clearing House, as between KGI and the Clearing House, KGI deals as principal and accordingly no such account is impressed with any trust or other equitable interest in favour of the Client and monies, approved debt securities and approved securities paid to or deposited with the Clearing House are thereby freed from the trust referred to in Clause 19.1(i);
- (l) the Client acknowledges that KGI is bound by the HKFE Rules which permit HKFE to take steps to limit the positions or require the closing out of contracts on behalf of such clients who in the opinion of HKFE are accumulating positions which are or may be detrimental to any particular Market or Markets, or which are or may be capable of adversely affecting the fair and orderly operation of any Market or Markets as the case may be; and
- (m) KGI shall provide to the Client upon request product specifications and any prospectus or other offering document covering derivative products, including futures contracts or options.

19.2 The Client agrees that KGI may withdraw from a segregated debt securities account:

- (a) approved debt securities required to meet obligations of KGI to the Clearing House or an executing agent arising in connection with F.O. Business transacted by KGI on the instructions of one or more clients provided that no withdrawal may be made which would have the effect that Clearing House margin, variation adjustment requirements or other trading related liabilities in respect of F.O. Business conducted on behalf of any client are thereby financed by other clients' approved debt securities;
- (b) approved debt securities which are transferred to another segregated debt securities account; and
- (c) approved debt securities returned to or in accordance with the directions of the Client, but in such a case notwithstanding the Client's directions, no approved debt securities may be deposited into another account of KGI unless that account is a segregated debt securities account.

19.3 Subject to KGI having obtained from its clients specific written authority and such other consent(s) as may be required under applicable laws, rules and regulations, the following may be withdrawn from a segregated securities account:

- (a) approved securities required to meet the obligations of KGI to the Clearing House or an executing agent arising in connection with F.O. Business transacted by KGI on the instructions of one or more clients provided that no withdrawal may be made which would have the effect that Clearing House margin, variation adjustment requirements or other trading related liabilities in respect of F.O. Business conducted on behalf of any client are thereby financed by other clients' approved securities;
- (b) approved securities which are transferred to another segregated securities account; and

- (c) approved securities returned to or in accordance with the directions of the Client, but in such a case notwithstanding the Client's directions, no approved securities may be deposited into another account of KGI unless that account is a segregated securities account.
- 19.4 In relation to any Omnibus Account held with KGI by the Client, the Client hereby represents, warrants and undertakes to KGI at all times as follows:-
- (a) that unless otherwise exempted under the laws applicable to the Client, the Client has obtained and shall maintain all the necessary authorizations, licences, registrations and consents under the laws of Hong Kong and/or other relevant jurisdictions to open and operate the Omnibus Account and shall provide evidence of such authorizations, licences, registrations and consents to KGI to its satisfaction when opening any Omnibus Account with KGI;
  - (b) that forthwith on demand by KGI, the Client shall immediately disclose to KGI or to HKFE or the Commission or any other regulators directly the names, details and such other information as KGI, the HKFE or the Commission or such other regulators may require of those persons who are ultimately beneficially interested in the Omnibus Account and those persons or entities who are ultimately responsible for originating the instruction in relation to a transaction conducted by KGI on the Client's behalf or shall procure that such persons or entities immediately disclose such information to KGI or to HKFE or the Commission or such other regulators directly. Such obligations of the Client shall survive the termination of the Client Agreement or any closure of the Omnibus Account;
  - (c) that the Client (if it is not an exchange participant of HKFE) will, in its dealings with the person(s) from whom the Client receives instructions in relation to Exchange Contracts (as defined in the HKFE Rules) with respect to the Omnibus Account, comply with and enforce the margin and variation adjustment requirements and procedures as stipulated in the HKFE Rules as though the Client were an exchange participant of HKFE and as though the person(s) for whose account or benefit such instructions are given were clients;
  - (d) that the Client will cause Exchange Contracts to be entered into in fulfillment of such instructions with respect to the Omnibus Account, so that there shall in no circumstances be any dealing with the instructions in a manner which constitutes unlawful dealing in differences in market quotations of commodities under the laws of Hong Kong or any other applicable jurisdiction or in a manner which constitutes or involves betting, wagering, gaming or gambling with respect to such items in contravention of Hong Kong laws or any other applicable laws; and
  - (e) that the Client will ensure that the person(s) from whom the Client receives instructions in relation to Exchange Contracts comply with the margin and variation adjustment requirements as stipulated in the HKFE Rules, with the result that, as between HKFE and KGI, KGI should be responsible for ensuring that such requirements are complied with by all persons through whom instructions pass with respect to the Omnibus Account as if each in turn was the client for whom such Omnibus Account was operated.
- 19.5 Where an account opening procedure other than a face-to-face approach is used and in the case where the Client (other than corporate entities) wishes to adopt the alternative verification approach below:
- (a) the Client to send to KGI a signed physical copy of the Client Agreement (including the duly completed Account Opening Form) together with a copy of the Client's identity document (identity card or relevant sections of the Client's passport) for verification of the Client's signature and identity;
  - (b) KGI to obtain and encash a cheque (amount not less than HK\$10,000 or such other minimum cheque amount in HK\$ as may otherwise be required by KGI and bearing the Client's name as shown in his identity document) issued by the Client and drawn on the Client's account with a licensed bank in Hong Kong;
  - (c) the signature on the cheque issued by the Client and the signature on the said Account Opening Form being the same;
  - (d) the Client confirms and acknowledges the conditions which this non-face-to-face account opening procedure imposes, in particular the condition that the Account(s) will not be activated until the relevant cheque is cleared; and
  - (e) proper records are kept by KGI to demonstrate that the client identification procedures have been followed satisfactorily, the Account(s) will not be activated until the verification procedures above have been satisfactorily completed and the cheque issued by the Client (as part of the non-face-to-face account opening procedure) has been cleared.
- 20 Miscellaneous
- 20.1 The Client understands and agrees that KGI may use a telephone recording system to record conversations with the Client and its Authorized Persons. The Client acknowledges and warrants that each Authorized Person also consents to such recording.
- 20.2 Any term, stipulation or undertaking in the Client Agreement which is declared by any court or tribunal of competent jurisdiction to be illegal, invalid or unenforceable shall, to the maximum extent permitted by applicable law, be severed from the Client Agreement without affecting the remaining provisions of the Client Agreement, which shall remain fully effective.
- 20.3 If the Client comprises joint account holders, the obligations and liabilities of each such joint account holder under the Client Agreement shall be joint and several and KGI may in its absolute discretion take recourse against any one or all of the joint account holders. Unless terminated in accordance with the Client Agreement, the death of one joint account holder does not operate to terminate the Client Agreement. Any notice, payment or delivery by KGI to either or any one of the joint account holders shall be a full and sufficient discharge of KGI's obligations to notify, pay or deliver under the Client Agreement. KGI is also authorized by the Client to accept or carry out instructions from either or any one of the joint account holders.

- 20.4 The Client hereby confirms that it has received and read the Agreement in a language of the Client's choice (English or Chinese) and that the Client understands and accepts the terms set out in the Agreement. In the event of discrepancy between the Chinese text and the English text of the Agreement, the English version shall prevail.
- 20.5 Risk disclosure statements as specified in Schedule 1 to the Code will be attached.
- 20.6 No provisions of the Client Agreement shall operate to remove, exclude or restrict any rights of the Client or obligations of KGI under the laws of Hong Kong Special Administrative Region of the People's Republic of China.
- 20.7 KGI is a Futures Commission Merchant of the HKFE licensed to trade such products as may be approved by the HKFE from time to time and a Clearing Participant of the HKFE Clearing Corporation Limited. Furthermore, KGI's CE number is ADW991 and KGI is licensed to conduct Type 2 (dealing in futures contracts) and Type 5 (advising on futures contracts) regulated activities under the SFO.
- 20.8 Physical Settlement
- (a) KGI is not under any obligation to effect physical settlement for the Client in respect of any physical delivery Contract. Any physical settlement in respect of a physical delivery Contract at the request of the Client is entirely at KGI's absolute discretion. For all physical delivery Contracts in respect of which KGI has not expressly agreed to effect physical settlement, the Client shall (a) at least five (5) Business Days prior to the relevant first notice day or last trading day (whichever is the earlier) in the case of long positions of Futures Contracts, (b) at least five (5) Business Days prior to the relevant last trading day in the case of long positions of Options Contracts, and (c) at least five (5) Business Days prior to the relevant last trading day in the case of short positions of Futures Contracts and Options Contracts, give KGI timely instructions to close out such Contracts to avoid physical settlement or delivery. If such timely instructions are not received by KGI by the above relevant deadline date, KGI shall be entitled (but not obliged) in its absolute discretion to, without notice to the Client and entirely at the Client's risk and for the Client's account, either close out such Contracts or make or take delivery on behalf of the Client at any time upon such terms and in such manner as KGI may deem fit.
- (b) If the Client requests and KGI expressly agrees to effect physical settlement in respect of a certain physical delivery Contract, the Client shall, at least two (2) Business Days prior to the relevant delivery date (or such earlier date as may be prescribed by KGI in each case), take all necessary actions to enable KGI to effect due physical settlement of such Open Contract on behalf of the Client in accordance with the Market Requirements. Without prejudice and in addition to any other rights and remedies of KGI under the Client Agreement, if the Client fails to take all such actions by such deadline date, the Client will be or be held responsible to KGI for any and all losses, liabilities, costs, fees and expenses relating to or in connection with such failure of the Client.
- 20.9 Under no circumstances will KGI advise the Client, nor be deemed to be under any duty to advise the Client, of any taxation, legal, regulatory or accounting consequences to the Client of any business or transaction carried on for or with the Client.
- 20.10 The Client shall be fully responsible for payment of all taxes, withholding taxes, duties or levies and assessments (howsoever designated or computed), for the making of any and all claims in relation to any such taxes, withholding taxes, duties or levies and assessments to which KGI and/or the Client is/are may be subject (excluding taxes and duties based upon KGI's net income), whether for exemption from or reduced rate of withholding taxes or otherwise, for filing all tax returns and for providing any relevant tax authorities with all necessary information in relation to any business or transaction KGI carries on for or with the Client or any cash or other assets which KGI holds on behalf of the Client. The Client shall indemnify and hold harmless KGI on demand against any loss, damage or liability which KGI may suffer or incur as a result of any failure of the Client to comply with this paragraph.
- 20.11 The Client has been fully informed and has agreed to cooperate fully with and hereby gives relevant consent to KGI's measures taken and to be taken in compliance with any applicable tax laws (including without limitation, the U.S. Foreign Account Tax Compliance Act ("FATCA")), the laws of Hong Kong, any relevant international treaties or intergovernmental agreements and any applicable laws, rules and regulations that require or facilitate the collection, reporting, transmission and/or automatic exchange of financial account information between different tax jurisdictions (the "AEOI Requirements"). Such measures may include without limitation a nationality and taxpayer identity investigation over the Client or the beneficial owners of entity clients, disclosure of tax information and account information to relevant tax, governmental or other authorities (such as the Hong Kong government and the U.S. government), and tax withholding or service termination for a cause against the Client provided that the nationality and taxpayer identity investigation indicates that the relationship between the Client and KGI meets certain conditions set forth in any such laws, rules, regulations, international treaties or intergovernmental agreements (such conditions may include without limitation, the Client or its beneficial owner failing to provide information necessary in the aforementioned investigation, failing to represent and warrant the truthfulness of the forms and documents or any information provided regarding the Client's or its beneficial owner's status under FATCA or the relevant AEOI Requirements, or failing to give or revoking consent to KGI's disclosure of the aforementioned information to the Hong Kong government, the U.S. government and/or other relevant authorities). Client acknowledges that KGI has registered with U.S. Department of the Treasury, Internal Revenue Service ("IRS") as a Foreign Financial Institution ("FFI") and, as such, KGI is subject to the terms of an agreement with the IRS concerning the maintenance of KGI's status as an FFI (the "FFIA"). Notwithstanding any contrary provision of the Client Agreement, the Client hereby:
- (a) agrees to provide KGI with all information deemed necessary from time to time and at any time by KGI, in its sole discretion and judgment, and consents to KGI's disclosure of all such information to the relevant regulators, tax authorities, government or law enforcement agencies and KGI's Affiliates and agents whether in Hong Kong or any other jurisdictions outside Hong Kong for the purpose of facilitating or assisting KGI in complying with any or all of its obligations under the FFIA or the relevant AEOI Requirements, as the same may be amended, modified or replaced from time to time;



- (b) waives any provision of Hong Kong law, or the law of any other jurisdiction, that would, absent such a waiver, prevent, hinder, or impede compliance with the FFIA or the relevant AEOI Requirements and further agrees, immediately upon request of KGI, to execute any document presented to Client by KGI evidencing such waiver;
  - (c) acknowledges that if Client fails to immediately provide any such information requested by KGI under this Clause 20.11, then Client may be liable to a withholding tax of 30% or at such other rate or percentage as may be prescribed by the relevant regulations on any payments received in the Client's Account which qualify for such withholding under FATCA and/or liable to bear any other adverse consequences;
  - (d) further acknowledges that if Client fails to comply with any of its obligations under this Clause 20.11, then such non-compliance shall be considered an event specified in Clause 10.1 of the Client Agreement, entitling KGI to exercise any or all of its rights and remedies under Clause 10 of the Client Agreement; and
  - (e) agrees to indemnify, defend and hold KGI harmless from any Loss, cost, expense, fee, fine, tax, imposition, duty or penalty imposed upon or incurred by KGI relating in any manner to Client's failure to perform its obligations under this Clause 20.11, and further acknowledges and agrees that the terms of this indemnity shall survive the termination of the Client Agreement.
- 20.12 The Client acknowledges that the Client shall be solely responsible for compliance with all obligations of disclosure under the relevant provisions of Part XV of the SFO and the Codes on Takeovers and Mergers and Share Buy-backs, and any other applicable laws, rules and regulations relating to disclosure of interests in Hong Kong or any other relevant countries, each as amended from time to time. KGI shall not be obliged to give notice of holdings to the Client in any form or by any time limit for such purpose save any notice or statement to be issued as expressly set out in the Client Agreement or as required by the Market Requirements.
- 20.13 Save and except where the Client is (i) a professional investor falling under any of paragraphs (a) to (i) of the definition of professional investor in section 1 of Part 1 of Schedule 1 to the SFO; or (ii) a professional investor falling under any of sections 3(a), (c) and (d) of the Securities and Futures (Professional Investor) Rules (Chapter 571D of the Laws of Hong Kong) who, to the reasonable satisfaction of KGI, meets the criteria under paragraph 15.3A(b) of the Code in relation to the relevant products and/or markets and KGI has complied with paragraph 15.3B of the Code, if KGI solicits the sale of or recommend any financial product (having the meaning assigned to it under the SFO and in the context of regulated activities carried on by KGI) to the Client, KGI shall ensure that the financial product must be reasonably suitable for the Client having regard to the Client's financial situation, investment experience and investment objectives. No other provision of the Client Agreement or any other document which KGI may ask the Client to sign, and no statement KGI may ask the Client to make derogates from this Clause 20.13.
- 20.14 Contract Limits and Large Open Positions
- (a) In respect of Futures Contracts and Option Contracts traded on any Exchanges, the Client shall comply with all applicable position limits, trading limits and reporting requirements under the Market Requirements including, without limitation, the Securities and Futures (Contract Limits and Reportable Positions) Rules (Chapter 571Y of the Laws of Hong Kong), the related guidance notes issued by the Commission from time to time and the HKFE Rules. Without limiting the generality of the foregoing, the Client acknowledges and agrees to comply with the detailed requirements posted from time to time on HKEX's website at [www.hkex.com.hk](http://www.hkex.com.hk) (Services \ Trading \ Derivatives \ Overview \ Trading Mechanism \ Large Open Positions and Position Limits) (or such other websites specified by HKEX from time to time). The Client acknowledges that it is the responsibility of each person holding or controlling the reportable position to fulfil its obligation under the relevant reporting requirements. Unless otherwise required by the Market Requirements or agreed by KGI in writing, KGI shall not be responsible for any reporting obligations of the Client under such reporting requirements. The Client acknowledges that such reporting requirements may apply to all positions held or controlled by any person for its own account or any other persons. The Client undertakes to inform KGI if the Client is required to file any reports under any such reporting requirements and if the Client holds or controls any positions of Contracts for any other persons in any accounts held with KGI and provide information that KGI may require to make any necessary reports to the relevant Exchanges, Clearing Houses, government agencies and regulators including, without limitation, the identities of such other persons and the number of Contracts held by such other persons.
  - (b) The Client shall not hold or control positions that exceed the position limits (including, without limitation, position delta limits) and trading limits imposed by KGI in its absolute discretion or the relevant Exchanges, Clearing Houses, government agencies or regulators from time to time. KGI may in its absolute discretion close out or give-up any Contracts in the Account in order to ensure that such limits are complied with. The Client agrees that such closing out or give-up may be made on any Exchange and in such manner as shall be decided by KGI and KGI shall not be liable for any loss directly or indirectly arising from such closing out or give-up for whatsoever cause (other than through the wilful misfeasance or gross negligence of KGI), whether in relation to the timing or manner of such closing out or give-up or otherwise.
- 20.15 A person who is not a party to the Client Agreement (except any successor(s) and assignee(s) of KGI) has no right under the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong) to enforce or to enjoy the benefit of any term of the Client Agreement, save that any Affiliate of KGI shall have the benefit of rights conferred on such Affiliate by the Client Agreement. The consent of any such Affiliate or any other third party shall not be required for any amendment, variation or termination of the Client Agreement.
- 21 Governing Law
- 21.1 The Client Agreement and all rights, obligations and liabilities hereunder shall be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China and may be enforced in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China.

- 21.2 If the Client is an individual or a company domiciled outside Hong Kong, the Client shall, immediately upon demand by KGI, appoint a person or agent in Hong Kong to the Client's process agent to receive all notices and communications relating to any legal proceedings involving the Client, and the Client agrees that any service of any legal process on the process agent shall constitute sufficient service on the Client for the purpose of legal proceedings in the courts of the Hong Kong Special Administrative Region of the People's Republic of China.
- 21.3 The Client irrevocably agrees to submit to the non-exclusive jurisdiction of courts of the Hong Kong Special Administrative Region of the People's Republic of China.

## 22 Arbitration

At the sole option of KGI and at its absolute discretion, any dispute, controversy, difference or claim arising out of or relating to the Client Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre ("HKIAC") under the HKIAC Administered Arbitration Rules in force at the time when KGI notifies the Client that the relevant dispute, controversy, difference or claim shall be settled by arbitration as may be amended by the rest of this Clause 22. The appointing authority shall be HKIAC. The place of arbitration shall be in Hong Kong at HKIAC. There shall be only one arbitrator. The language to be used in the arbitral proceedings shall be English. Notwithstanding the above, where the Client is an eligible claimant, the Client shall be able to elect for any such disputes to be managed and resolved under the Financial Dispute Resolution Scheme administered by the Financial Dispute Resolution Centre.

(2008)

# 期貨及期權交易標準條款

(中文版本, 只供參考)

鑒於凱基期貨(香港)有限公司(“凱基”), 此名稱包括凱基的總行及不論位於何處的各分行, 以及凱基的權益繼承人及受讓人) 所提供的期貨及期權買賣及有關的服務, 在開戶表上識別為客戶或由凱基核准的有關客戶, 並按該客戶的要求或為其於凱基開立一個或以上帳戶的該客戶同意接受及受本客戶協議的條款所約束。除非凱基另有明確的書面協議, 否則上述客戶協議的條款適用於所有上述向該客戶(“客戶”), 此名稱視屬何情況而定包括客戶的繼承人、遺囑執行人、遺產管理人、遺產代理人及繼任人) 提供的服務。如果客戶使用或繼續使用凱基的服務, 這將會構成客戶接納凱基的條款(有關條款將成為凱基與客戶的協議的一部份)及構成為客戶與凱基之間的一份具法律約束力的合約。客戶協議將會取代及排除客戶與凱基就本協議的標的事宜而先前達成的任何業務條款。

隨訂立客戶協議以及提供所有凱基可能要求之必需文件並待凱基核實凱基及/或市場規定可能要求之身分文件後, 凱基將會向客戶提供客戶請求之服務。全部客戶於任何時間或不時根據客戶協議提出任何服務之請求須經凱基接納(將視作凱基就客戶所請求之服務開立有關帳戶時發生)以及受凱基施加之任何條款及條件的規限。

## 1. 釋義

除非文意另有所指, 以下各詞及用語於本協議中有以下個別的涵義:-

“登入密碼”指連同個人密碼以登入電子服務之客戶個人身分識別(例如登入名稱或用戶身分識別資料)或就客戶登入電子服務向其知會之其他代碼。

“帳戶”指客戶不時於凱基開立及維持以凱基提供與客戶不時指示凱基執行任何期貨合約及期權合約買賣、持有及其他交易相關之交易及相關服務(包括持有資金)為目的之帳戶(不論是以名稱、數字或其他方式指明之帳戶)及「帳戶」須據此進行解釋。

“開戶表”指包括但不限於凱基可能不時規定之開戶表格或其他文件, 當中載有為在凱基開立一個或多個帳戶凱基可能要求之客戶相關資料, 而開戶表格須構成客戶協議之一部分。

“聯屬人”就任何一方而言, 指其直接或間接擁有的任何實體; 任何直接或間接擁有該方的實體; 任何與該方一樣直接或間接地由同一擁有人所擁有的實體; 或任何該等實體的董事、高級職員或僱員。

“獲授權代理人”指客戶根據必要的公司或其他行動(須通過向凱基提交合適文件予以證明且凱基接納有關文件)指定或正式授權之人士, 以就客戶協議代表客戶行事。該等人士須持續作為獲授權代理人, 直至凱基已收到客戶書面撤銷該等人士之授權時為止。倘客戶為個人, 則獲授權代理人須包括客戶自身, 除非客戶已另行通知凱基則作別論。

“營業日”指香港之持牌銀行於其整段正常營業時間一般開門營業之日(星期六、星期日或公眾假期除外)或(按本客戶協議文意所須)透過其執行或結算有關交易之交易所或結算所開門營業之日。

“結算所”就香港期交所而言, 指由香港期交所委任或由其成立及營辦以便向該所的參與者就期交所合約提供結算服務的機構; 及就其他交易所而言, 指任何為透過或在該等交易所交易的合約而提供結算服務的結算機構。

“結算所規例”指向香港期交所參與者就期交所合約提供結算服務的結算所的一般規例、程序手冊及慣例; 或就其他交易所而言, 就透過或在該等交易所交易的合約而向該等交易所的會員或參與者提供結算服務的結算所之一般規例、程序手冊及慣例。

“客戶協議”或“協議”指本標準條款連同開戶表及風險披露聲明及免責聲明, 以及凱基可不時施加之任何條款及條件(可由凱基不時取代、修訂或補充)。

“客戶款項規則”指香港法例第 571I 章《證券及期貨(客戶款項)規則》(經不時修訂或替代)。

“平倉”就凱基代客戶持有的一張合約而言, 指根據與該合約相同的條款, 由凱基所訂立的第二張期貨或期權合約(視乎何種情況而定), 除了:

- (i) 有關價格可能未必相等於首述合約所指明的價格; 及
- (ii) 客戶在該份合約的持倉與其在首述合約的持倉是相反的;

從而釐定在首述合約中的利潤或損失, 而“平倉”這個用語須按此詮釋。

“操守準則”指按證券及期貨條例訂立而不時生效的《香港證券及期貨事務監察委員會持牌人或註冊人操守準則》。

“證監會”指香港證券及期貨事務監察委員會及其權益繼承人及受讓人。

“商品”指任何東西, 包括但不限於農產品、金屬、貨幣、證券、利率、指數(無論是否與股票市場有關)及其他金融合約、能源、權利或權力及(按個別情況所須)包括上述任何東西的合約及於每種情況下無論該東西是否可被交付。

“合約”按文意所須, 指期貨合約及/或期權合約。

“代理經紀”指以凱基代理人的身份在一間凱基可能並非為其會員或參與者的交易所及/或結算所訂立合約及/或結算該合約的該間交易所及/或結算所的任何會員或參與者(視乎何種情況而定)。

“電子服務”指凱基提供之任何設施及/或服務, 讓客戶可以不時通過電子方式發出指示及/或登入及/或使用開立帳戶設施、交易設施、帳戶及帳戶下交易有關的資料、市場數據及資訊服務及/或凱基以電子方式提供之其他服務, 包括但不限於互聯網交易及/或其他電子交易。

“交易所”指並且包括香港期交所或在世界其他任何地方的其他交易所、市場或交易商組織, 而客戶協議所述的合約是在或透過該交易所、市場或交易商組織交易的, 與及交易所、市場或交易商組織管理的任何自動交易系統。

“期貨合約”指一種於任何交易所執行的合約, 其生效即表示:

- (i) 一方同意以協定的價格, 於將來某協定時間向另一方交付一項協定商品或協定的商品數量; 或
- (ii) 雙方會於將來某協定時間, 視乎該協定商品與訂立合約時相比, 價值較高或較低或(視乎情況而定)水平較高或較低而作出調整, 有關的價值或水平差異須按照合約訂立時依據的交易所的規則釐定。



“香港交易所”指香港交易及結算所有限公司及其權益繼承人及受讓人。

“香港期交所”指香港期貨交易所有限公司及其權益繼承人及受讓人。

“期交所合約”指由證監會及香港期交所批准，並依據香港期交所規則在香港期交所成立或營辦的任何市場上交易的合約。

“香港期交所規則”指香港期交所的規則、規例及程序（可不時被作出更改、修訂或取代）。

“資料來源”指所有內容提供者，包括但不限於香港交易所資訊服務有限公司、香港期交所、香港聯合交易所有限公司、任何其他交易所及彼等各自之相關聯屬人士以及數據提供者，而其所提供的内容載於服務之內。

“凱基網站”指由凱基或代其操作及 / 或維護之互聯網網站 [www.kgieworld.com](http://www.kgieworld.com) 及 / 或其他凱基不時指定之網站（包括其任何繼承或替代網站）。

“保證金”（俗稱孖展）指凱基就有關合約以保證金、變價調整或現金調整方式根據客戶協議可不時向客戶所要求的貨幣及款額及任何其他抵押品。

“市場規定”指 (i) 任何有關司法管轄區之適用法律、規則、規例、法律條文或法令，及 (ii) 任何監管機構、執法機構、政府機構、稅務機關、交易所、市場、結算所、經紀、代理經紀、保管機構、託管機構、或其他具管轄權之機構或主管機關的任何適用規定、規限、限制（包括任何交易限額及持倉限額）、請求、憲章、附例、規則、規例、慣例、指示、指引、守則或政策（不論是否具有法律效力）。

“綜合戶口”指客戶於凱基開立的一個（或多個）賬戶，就此，凱基獲得通知，該賬戶乃為該客戶的一名或數名顧客，而非為該客戶本身運作。

“未平倉合約”指一張仍未平倉的合約。

“期權合約”指在任何交易所協議的一項合約，就此一方（「第一方」）向第二方授予權利，但並非責任，讓第二方可行使權利於協定未來日期或（視乎情況而定）於協定未來日期或之前以協定價格向第一方購入或（視乎情況而定）沽售一項協定商品，或一項商品的協定數量，倘第二方行使其購買或（視乎情況而定）沽售權利，第一方必須按協定價格交付或（視乎情況而定）接收商品；或第二方將收取經參考商品價值較協定價格為高或（視乎情況而定）協定價格較商品價值為高的金額（如有）而釐定的款項，該款項根據合約涉及的交易所規則釐定。

“個人資料（私隱）條例”指香港法例第 486 章的《個人資料（私隱）條例》（可不時被修訂或替代）。

“風險披露聲明及免責聲明”指在客戶於凱基開戶之前及 / 或不時由凱基向客戶提供的風險披露聲明及免責聲明。

“證券及期貨條例”指香港法例第 571 章的《證券及期貨條例》及根據其制定的任何附屬法例（可不時被修訂或替代）。

在本協議中，祇含單數意思的用字包括眾數而相反亦言，及含單性意思的用字包括任何性別。

## 2. 指示

- 2.1 客戶可不時指示凱基（作為客戶的代理人）為其訂立合約、為其將合約平倉或過戶。凱基可根據其酌情權及無需給予任何理由拒絕接受客戶的任何指示（不論有關指示是關乎任何合約的訂立、平倉或過戶，或該等合約之下的權利的行使）。在這個情況下，凱基將會致力就此知會客戶，但無論如何凱基將毋須對客戶因凱基拒絕執行其指示或遺漏向客戶作出知會而導致或招致的任何利潤或盈利的損失、損失賠償、責任、費用或開支而負上任何責任。凱基還可按其絕對酌情權決定對客戶的交易和合約設定限額和限制，並對凱基可接受有關合約訂立、平倉或過戶的客戶指示施加條件。客戶應對凱基為其帳戶訂立、平倉或過戶的合約所產生的任何及所有義務和負債承擔全部責任。
- 2.2 指示可以口頭、書面或電子形式作出，而作出後即屬不可撤回。凱基將會有權依賴任何據稱或凱基真誠地相信是由客戶或獲授權代理人所作出的任何指示及據此行事。在與凱基達成事先的書面協議後，客戶可限制個別獲授權代理人的權力及權限。只有在凱基從客戶收到書面通知及凱基已接受有關的書面通知後，獲授權代理人名單的修訂方可生效。
- 2.3 客戶明確地確認及同意凱基就其替客戶訂立的任何合約而言，凱基並沒有作出或隱含地作出任何有關價值、優點或對客戶的適切性的陳述或保證，以及客戶將會獨立地及無須依賴凱基而就每張合約的訂立、平倉及過戶作出其本身的判斷及決定。
- 2.4 如果凱基或代理經紀未能依照客戶的指示替客戶訂立其指定數目的合約，凱基或代理經紀可於採取合理步驟後於可行的情況下訂立任何少於該項指示的指定數目的合約，而客戶必須受該等已訂立的合約所約束。在不影響前述的概括原則下，客戶確認及接納現貨及期貨市場的迅速及經常的轉變、一般的市場狀況及 / 或由任何有關交易所所施加的約束或限制，可能令凱基無法或無法以可行的方法執行客戶的指示，或為客戶以在任何指明的時間所報的價格完成一項交易。無論如何，凱基或任何該等代理經紀（視乎何種情況而定）將不會因任何未有依照客戶指示去訂立指明的合約而需承擔任何義務或責任。
- 2.5 客戶同意遵照並遵守客戶協議的所有條款和條件以及所有適用的市場規定。客戶的指示及凱基替客戶訂立的所有合約均須受客戶協議的條款及市場規定的約束。如果市場規定及客戶協議之間出現矛盾或不一致的情況，則概以市場規定為準，但以解決該等矛盾及不一致的地方為限，而凱基可依照其絕對酌情權採取或拒絕採取任何行動，或要求客戶採取或限制採取任何行動以符合上述規定。
- 2.6 凱基代客戶訂立任何合約之後，凱基將會就市場規定的限制，以其決定的方式、詳情及時限之內，知會客戶有關該等合約的細節。
- 2.7 如果任何有關的交易所、結算所、經紀及 / 或代理經紀（凱基代客戶在其或透過其訂立任何合約）要求就任何該合約的條款作出任何改變，凱基可依照其絕對酌情權認為有需要或適切地採取所需行動，從而遵守有關改變，或因此原因或為此避免或減輕所導致損失，而所有該等行動將會對客戶有約束力。

## 3. 電子交易及服務

- 3.1 凱基可向客戶提供電子服務，及該服務的提供將按照客戶協議的條款及凱基根據第 14 條不時指定、修訂或補充的其他條件及條款而進行。
- 3.2 當使用凱基的電子服務時，客戶同意其為有關的登入密碼及客戶協議項下的電子服務的唯獲授權使用者。客戶須對凱基發給予客戶之登入密碼之保密、安全及使用以及藉著或透過使用客戶登入密碼發出之所有指示及完成之所有交易自行承擔全部責任。客戶保證會於使用其登入密碼時提高警覺。

- 3.3 客戶進一步確認，電子服務、凱基網站以及構成前述服務之軟件均歸凱基、其聯屬人及 / 或授權人專有。客戶承諾並保證不會及不會嘗試干擾、修改、反編譯、反向編程、破壞、毀壞或以其他方式更改，以及不會嘗試未經授權登入電子服務之任何部分、凱基網站以及構成前述服務之任何軟件。倘客戶於任何時間違反本承諾或保證或凱基於任何時間合理懷疑客戶有上述違反時，客戶同意凱基有權不經通知客戶立即關閉任何或全部帳戶，客戶亦確認凱基可對其採取法律行動。客戶承諾在知悉任何人士作出本第 3.3 條所述之任何行動時，立即通知凱基。
- 3.4 (a) 客戶承諾及確認，若客戶於凱基網站或其他電子媒介根據凱基於該媒介之指示使用電子簽署或數碼簽署或選按接受按鈕或作出類似行為或動作接受客戶協議或任何其他由凱基向客戶提供或要約接受之電子形式之合約文件，客戶同意受有關文件的條件及條款所約束如同客戶以人手方式簽署一樣。若以電子方式簽署文件之人士或個人是代表法團或其他實體如此簽署有關文件，該人士或個人聲明及保證其擁有一切所須權力及權限以代表該法團或實體訂立有關文件。
- (b) 當凱基允許客戶通過網上與凱基開戶時，除透過在互聯網上填妥及交回客戶協議連同開戶表格外，若凱基有此要求，客戶同意向凱基交回經其填妥及簽署並經凱基可不時接受之專業人士所見證或核證之客戶協議連同開戶表格之正本。在不影響客戶協議之其他條文及凱基可不時施加之其他規定前提下，凱基有權拒絕執行客戶之指示，直至其已收到前述客戶協議連同開戶表格之經填妥及簽署之正本。儘管客戶協議有任何相反規定之條文，凱基保留拒絕任何帳戶開戶申請而毋須提供任何原因之權利。
- 3.5 除非客戶的帳戶有足夠的已結算款項或證券或其他財產以交收客戶的交易，否則凱基不會執行客戶的指示，但凱基同意者除外。
- 3.6 除非及直至客戶已收到凱基的信息表示收到或確認已執行其指示，否則凱基不得被視為已收到客戶的指示或已執行其指示。客戶同意如果客戶沒有收到凱基就客戶的指示而發出的信息，或收到涉及並非由客戶作出的指示或其指示的交易的任何信息，或發現任何有關客戶的登入密碼的未獲授權的使用及 / 或披露或任何未獲授權的交易，客戶會即時通知凱基。
- 3.7 凱基的電子服務為客戶提供額外的途徑以便向凱基發出指示。客戶亦可直接致電凱基的營業員發出指示。如果客戶透過凱基的電子服務聯絡凱基時遇到困難，可以使用其他方法與凱基聯絡，並通知凱基客戶所遇到的困難。客戶確認並同意，倘客戶於電子服務過程中使用之通訊模式暫時不可用，客戶可於該期間內繼續操作有關帳戶，惟受限於凱基關於核實客戶身分獲得按其不時認為適當所須資料之權利。
- 3.8 客戶同意在輸入每個指示之前會加以覆核，因為客戶的指示一經作出，便可能無法被更改或取消。
- 3.9 凱基的電子服務純粹是為著提供參考信息而向客戶提供由第三者所發佈的有關證券、衍生產品、互惠基金或其他投資產品的信息。由於市況波動及數據傳送過程可能出現的阻延，有關的報價可能並非該等產品的實時市場報價。凱基沒有任何獨立的基礎可以核證或反駁有關方面所提供的信息的準確性和完整程度。任何人士不得從該等信息來推論凱基對該等信息作出推存或認可。
- 3.10 (a) 凱基的電子服務所提供的信息是按照“現況”及“現時所供應”的基礎而提供的，客戶自行單獨承擔與使用信息相關之風險。就該等信息而言，凱基及任何第三者均沒有作出任何明示或默示的保證（包括但不限於其可商售性或適合作某種用途的保證）。凱基及 / 或資料來源竭力確保其提供內容準確可靠，但不保證內容絕對正確可靠，並且對於任何因內容不準確或遺漏又或因根據或倚賴內容所作決定、行動或不行動而引致之任何損失或損害，凱基及 / 或資料來源概不負責（不論是民事侵權行為責任或合約責任或其他）。對因凱基或資料來源於取得、編製、詮釋、編輯、報告或發放任何內容時之疏忽而全部或部分引致之任何直接、間接、衍生或附帶損失、費用或損害或任何特別或懲罰性損害賠償或傷害，凱基及資料來源均不會對客戶或任何其他人士負責。在任何情況下，就服務或其使用所引致之任何間接、衍生、附帶、特別或懲罰性損害賠償，包括任何利潤或儲蓄損失，或任何性質之第三者申索，凱基及資料來源均不會對客戶或任何其他人士承擔責任。
- (b) 客戶確認通過使用電子服務所獲提供的信息為凱基、其聯屬人及 / 或資料來源之專有資料及 / 或版權並僅供客戶使用，並且未經凱基（如必要，與資料來源）之事先書面同意，該等信息不可被複印、捏改、重新發佈或以任何形式或通過任何途徑向第三者再次發佈或再次分發。客戶不得使用或准許使用該等信息或其任何部分作非法用途或根據客戶協議沒有容許之任何其他用途。客戶不得在進行其本身業務（不包括向第三者傳佈）之日常過程中以外使用該等信息或其任何部分。
- 3.11 不論客戶協議中任何其他條款的規定，若客戶獲提供電子服務，於客戶的買賣指示被執行之後，客戶接受凱基可以而客戶亦同意收取凱基通過電子告示方式向客戶的帳戶或電郵地址發出或通過其他電子方式向客戶發出成交單據及結單以取代印本形式的文件。於凱基發出該些信息之後，客戶可隨意讀取該些信息。若有需要的話，客戶必須儘促將該些電子信息列印出來或作出客戶自己的安排，以作客戶自己的記錄。凱基會於隨後以郵遞或電子方式或其他方式向客戶提供有關的定期結單，總結客戶帳戶內的記帳情況。
- 3.12 客戶明瞭基於電子通訊可能遇到未可預計的交通擠塞情況及其他原因，電子服務可能並非是可靠的通訊途徑，而這種不可靠性並非凱基所能控制。這可能會導致下列情況，包括：在傳送或收取客戶的指示或其他資料時有所延誤、延誤執行買賣盤或有關買賣盤以有別於客戶落盤時的市價執行、客戶與凱基進行通訊時出現誤解及錯誤等等。儘管凱基將會採取一切可行的步驟去保障其系統、顧客資料、帳戶及為客戶利益而持有的資產，客戶接納透過電子服務進行金融及其他交易所涉及的風險。客戶同意，凱基對於客戶或任何其他人士因使用或嘗試使用電子服務而可能蒙受或招致之對客戶或該等其他人之任何損失或損害賠償不承擔責任，包括但不限於因任何系統或軟件或硬件故障或通訊線路或設備因任何原因出現中斷或故障所導致之損失或損害賠償，除非有關損失或損害賠償是因凱基之故意違約或嚴重疏忽所導致則作別論。客戶進一步承諾按全額彌償基準彌償凱基因客戶使用電子服務可能蒙受或招致之任何損失或損害賠償，惟有關損失或損害賠償超出客戶之合理控制除外。
- 3.13 凱基並無就電子服務作出任何明示或默示之保證。客戶確認電子服務系統並非為客戶之個別需要而被開發，而客戶乃按「現況」及「現時可用」之基礎出於本身之意願使用有關系統，並自行承擔風險，且凱基對客戶選擇或使用電子服務產生之任何後果不承擔責任。
- 3.14 凱基可不時按其絕對酌情權及在毋須事先通知客戶之情況下，暫停、禁止或終止客戶使用電子服務或透過電子服務客戶可向凱基傳輸及凱基可接受之指示或其他通訊之類型或就有關使用及指示或其他通訊之類型施加限制或限額。
- 3.15 凱基可按其絕對酌情決定，拒絕接受客戶指示執行過戶予客戶指明的另一結算經紀的合約，除非就有關過戶客戶及該另一結算經紀之前已跟凱基訂立了一份凱基認為其條款為可接受之書面協議及受限於市場規定。
- 3.16 若凱基接受客戶指示執行過戶予客戶指明的另一結算經紀的合約：(a) 假使該另一結算經紀接受有關過戶，則凱基即時停止成為有關合約的一方（無損凱基對該合約有關佣金或其他付款的任何申索）；或 (b) 假使該另一結算經紀不接受有關過戶，則凱基將有權選擇與客戶確認該合約或按凱基絕對酌情決定之方式將該合約平倉。在不影響凱基在客戶協議或其他方面的權利下，客戶及凱基須盡快結清任何平倉後的結餘。



#### 4. 費用及開支

- 4.1 就凱基作為代理人替客戶訂立的每張合約，及就該張合約所進行的平倉、過戶或（如屬期權合約）行使，凱基將會向客戶收取按照其不時決定並知會予客戶的比率及基礎計算的佣金。此外，客戶須應凱基及其有聯繫實體的要求即時支付或付還所有凱基及其有聯繫實體因其代客戶訂立任何買入或沽出合約、平倉或過戶的交易或其履行任何凱基及其有聯繫實體於客戶協議下的義務所遭受或招致的所有佣金費用、經紀費、徵費、費用、關稅及稅項及所有其他收費及支出。所有該等數額可從帳戶及客戶在凱基持有的任何其他帳戶之中扣除。客戶同意凱基可據依照第 16 條的方式通知客戶凱基可能不時收取此類金額的比率和基準。
- 4.2 客戶同意就其欠凱基的所有過期未付結餘支付利息（在任何裁決之前或之後），而息率將按凱基不時的有關通知，並且按照每一日累算及在每個曆月之最後一日或當凱基作出要求當日起便須予支付。如果凱基沒有作出該等通知，客戶的港元債項利息將會按照以下年息率計算：(i) 香港渣打銀行所報的最優惠貸款利率加 8%，或 (ii) 香港銀行同業一個月拆息加 10% 的年息率（以較高者為準）。如屬外幣債項，年息率將會是凱基所報的資金成本加 10%（不論其有否真正借入該等資金）。
- 4.3 在不影響凱基的任何其他權利及補救方法的情況下，如客戶的帳戶沒有進行買賣活動有 6 個月或以上，凱基可收取帳戶維持月費，而凱基可決定有關的應繳金額及貨幣。有關費用將會自動從客戶的帳戶中扣除。

#### 5. 保證金

- 5.1 關於凱基代表客戶並以代理人身份訂立的所有合約，客戶須於有關合約訂立之前或否則即時應凱基的要求向凱基提供其不時依據絕對酌情權所要求的保證金，而該保證金須連同凱基所規定的擔保及某種方式及數額及符合某些條件的其他抵押品。該保證金須一直維持予凱基，直至有關的未平倉合約被平倉之後，客戶方可申請提取該保證金。凱基所要求的保證金數額可能會超過任何交易所、結算所、經紀或代理經紀所要求的保證金數額；並且凱基可無需事先通知客戶而即時更改該保證金所須的數額。凱基有權拒絕執行客戶的指示，除非凱基所要求的保證金已獲提供。
- 5.2 凱基可依據其絕對酌情權不時要求客戶向凱基支付其認為是適當的額外保證金，不論此舉是否為符合由法律或任何交易所、結算所、經紀或代理經紀所施加的要求而作出，而客戶無論如何必須在接獲有關要求後即時向凱基支付該額外保證金。
- 5.3 凱基可依據其絕對酌情權決定是否接納現金以外的資產作為保證金。凡客戶存放股票、股份及 / 或其他具價值的物品作為保證金，凱基可依照其酌情權就該等作為保證金資產指定一個名義價值（該價值無須符合其市值），而凱基可不時按照當時該等資產或其他資產的市值不時更改其價值。
- 5.4 在不影響及附加於凱基在客戶協議之下的任何其他權利及補救的情況之下，客戶不可撤回地授權凱基（在無須事先通知客戶的情況下），將凱基或其聯屬人為客戶持有的所有或任何部份的現金按金或其他財產加以運用作以下用途，而不論此舉是否涉及合約的交易：

(a) 應付凱基依據第 5.1 或 5.2 條要求其支付保證金或額外保證金；

(b) 向任何交易所、結算所、經紀及 / 或代理經紀支付款項，以履行該交易所、結算所、經紀或代理經紀就凱基代客戶訂立的任何合約而要求其履行提供保證金的任何責任，或向任何交易所、結算所、經紀及 / 或代理經紀或依其指示提供抵押品（不論以按揭、存款、抵押、質押或其他形式），而此舉無需事先通知客戶，且撇除任何該客戶或任何其他人在該保證金的實益權益，以及作為凱基代表客戶訂立的任何合約而須對該交易所、結算所、經紀及 / 或代理經紀承擔的責任（依照其所指明的條款）的抵押品，並且賦予權力予該交易所、結算所、經紀及 / 或代理經紀以執行該抵押保證以履行凱基須承擔的責任，但該客戶的存款或財產不得作為就凱基代表任何其他客戶而訂立的合約的任何結算所保證金要求或交易責任的融資或作為其抵押品（在上述任何一種情況下，該存款或財產將會依據有關交易所、結算所的規例或經紀或代理經紀的交易條款來處理）；

(c) 以履行凱基就任何一方須承擔的責任，而有關責任源自或涉及凱基代表客戶訂立的任何合約；及 / 或

(d) 以支付任何直接涉及凱基代表客戶訂立的任何合約而應適當地支付的佣金、經紀佣金、徵費或其他適當的收費；

儘管該等上述的運用可能會令凱基要求客戶支付額外保證金。

5.5 繳交保證金的通知必須應要求（或凱基不時指明的時限，但不得遲於有關交易所要求客戶繳交保證金的時限）予以滿足。在不影響第 10 條的情況下，如果未能滿足該等通知，將會令凱基有權或按照有關交易所及 / 或結算所的規則或規例有責任將客戶持有而未有於凱基指明的時間內或作出該等通知之時繳足保證金的未平倉合約平倉，及 / 或通知有關交易所、結算所、經紀或代理經紀關於該等未平倉合約的詳情。特別是凱基或會被要求向香港期交所及證監會匯報所有在凱基指明的期限之內連續兩次或以上未遵守繳交保證金通知的所有未平倉合約的詳情。

5.6 除非獲得客戶的明確指示，否則根據交易所規定可為著保證金目的而作出抵銷的在帳戶持有的合約，將會自動地加以抵銷以決定保證金數額而無須向客戶作出提述，但作為任何其他目的而言，這些合約將不會予以平倉或當作淨額結算處理。

5.7 如果客戶在凱基特別要求下祇可以維持一個期權合約的現金帳，則只有期權合約的長倉才可在該帳戶中持有。客戶須於其向凱基指示凱基購買該期權合約當日支付該合約期權金的全數現金價值。

#### 6. 交收

6.1 在第 6.5 條的規限下，就每一張為客戶訂立的未平倉合約（而該合約在到期日仍未平倉以待交收）而言，凱基及客戶須各自有責任在到期日提供或作出交付（視屬何情況而定）有關商品或該合約的標的物，但如果根據有關交易所的規則，未平倉合約的買方及賣方尚未履行的責任須只可以根據價格及價值的差別以現金方式結算，則凱基或客戶（視屬何情況而定）須在該未平倉合約的到期日向對方支付有關的差別來結算該未平倉合約。客戶須採取所需的行動，以便凱基得以依照市場規定就替客戶訂立的每份未平倉合約進行妥善的交收。

6.2 除客戶協議的條款及市場規定另有規定外，客戶可在一張合約的最後交易日之前的任何時間，要求凱基將有關合約平倉。任何源自將任何合約平倉而導致客戶須支付的款項，在該合約平倉時即時到期及須予支付。

6.3 客戶如果要求凱基替其行使所訂立之期權合約，最少須在該期權合約賣方或有關交易所、結算所、經紀或代理經紀指定提交行使指示最後期限（以所述明的最早的期限為準）的 24 小時之前，向凱基交付行使通知書。除非有關交易所有所規定或由凱基與客戶有所協議，述明一張期權合約的買賣雙方的未履行責任只可以根據價格或價值的差別以現金結算方式加以結算，否則客戶所作出的行使通知只可在配合以下條件的情況下才會被視為有效的：

(a) 如屬認沽期權，須附有相關商品或有關的所有權文件以作出交付；及

(b) 如屬認購期權，須附有充足的即時可動用的資金以接收該項商品的交付。

除非具體地獲得客戶的授權及受到客戶協議的規限，否則凱基將不會有任何的責任，在適用於該期權合約的行使最後期限之前，替客戶提交就任何期權合約的任何行使通知書。

- 6.4 凡客戶根據期權合約持有短倉及該期權獲得行使（或在期滿或其他情況下被視為已行使），客戶須在接獲要求後以現金向凱基支付客戶須支付的交收款項或依據該期權合約的條款接收或交付（視情況而定）有關商品或該期權合約的標的物。
- 6.5 如果凱基或代理經紀（視情況而定）不論何種理由而未能依照有關交易所及 / 或結算所的規則及規例及 / 或任何適用法律，在到期支付或交付日期，就凱基代客戶訂立的任何合約收到所有或部份其到期須支付予客戶的款項，或未能收到所有或部份其到期須交付予客戶就有關合約所指的商品（不論有關的支付或交付是應由有關交易所、結算所及 / 或任何其他人士作出），則凱基就該合約而須向客戶作出支付或交付任何商品的責任，將會從此及因為該等失誤而變成為一如凱基實際上已收到該等其應收取的款項或交付的商品因而須支付相等的數額或交付相等的商品的責任。
- 6.6 凱基可依照其絕對酌情權（但並非必然有責任）按照客戶的指示，向任何交易所、結算所及 / 或任何人士就該交易所、結算所及 / 或任何人士未有依照第 6.5 條規定就凱基代客戶訂立的合約作出任何支付或交付任何數額的商品而採取任何形式的行動，但如果凱基採取該行動，客戶須在接獲凱基的要求後，全數彌償凱基因採取該行動而導致或涉及的所有費用、索賠、要求、損害賠償及開支。
- 6.7 任何由凱基的獲授權簽署人簽署的結單或確認書，述明在任何指定時間任何期貨或期權合約的訂立或平倉價格或價值，或任何貨幣兌換中所採用的兌換率，或客戶欠凱基的數額，則如果沒有任何明顯的錯誤，將會就所述的細節對客戶有約束力。

## 7. 支付

- 7.1 客戶須即時應凱基在任何時間作出的要求向凱基支付因凱基與客戶之間的任何交易而產生的，或因操作客戶帳戶而產生的所有損失、借方結餘及不足之數。有關的支付須依照凱基不時述明的貨幣作出。
- 7.2 在不影響客戶應要求作出支付的責任的情況下，每項就客戶協議由客戶向凱基作出（不論是透過直接支付、轉帳、借貸）的支付，將須在該筆款項須予支付的當日的營業時間結束之前（香港時間）作出。
- 7.3 如客戶未能履行其依照上述規定在到期交收日或之前進行交付的責任，則客戶須對任何因此而涉及的損失、成本、費用及開支向凱基負責。
- 7.4 所有就客戶協議的交易或其他支付，必須按照凱基指明的貨幣及在其指明的地方以已結算的款項進行，且 (i) 沒有任何限制、條件或衡平法權益約束；(ii) 無限制及清楚可動用，以及沒有因稅項原因作出任何扣除或預扣，及 (iii) 沒有就任何其他數額作出任何扣除或預扣，不論是透過抵銷、反申索或其他方式。

## 8. 交易

8.1 凱基或其聯屬人，就其收取的任何指示或代客戶進行的交易，可能會擁有重大的權益、關係或安排。尤其是凱基及其聯屬人可在無需提述客戶的情況下：

- (a) 與或透過聯屬人或任何代理經紀為客戶進行交易；
- (b) 以主事人身份為凱基或其聯屬人與客戶進行交易；
- (c) 在凱基或聯屬人在該合約有持倉的情況下進行交易；及 / 或
- (d) 與客戶的買賣盤與其他客戶的買賣盤進行配對；

及凱基或其任何聯屬人將無須就其與上述事項有關所取得的任何利潤或利益向客戶或任何第三者作出交待。

8.2 客戶協議沒有任何條文會令凱基有任何責任向客戶披露任何在其以任何身份為任何人士行事的過程中所察覺的資料，而凱基亦沒有任何責任就凱基所取得涉及任何合約的任何資料於向其他客戶披露之前或同時向客戶披露該等資料。然而，凱基將會採取一切合理的步驟以避免出現利益衝突，而如果該等衝突不能合理地避免，將會採取一切合理步驟以確保客戶在所有時間都獲得公平的對待。

8.3 客戶確認由於執行交易所在的交易所及其他市場的交易慣例，可能無法經常以在某個時間所報的價格，或以“最佳”或“市場”價格執行買賣盤，及客戶同意在任何情況下受任何依照客戶或其代理人的指示而執行的交易所約束。客戶同意凱基無須因在本條所設想的情況下進行的交易所帶來的任何損失而負上責任。

8.4 為著執行客戶指示或行使凱基於客戶協議或任何帳戶項下權利之目的，凱基可依照其絕對酌情權認為是合理的外幣兌換率，於任何時間依其絕對酌情權將任何帳戶內或客戶貸方進帳的款項兌換成某種貨幣或從某種貨幣兌換為另一種貨幣而毋須承擔任何責任。客戶確認任何有關貨幣的兌換率的波動所造成的利潤或損失，將會由客戶的帳戶承擔。

8.5 除非凱基於有關的成交單據中或以其他方式表示外，凱基是就依照客戶協議的條款而執行的交易作為客戶的代理人。

8.6 不時由或代表凱基或其有聯繫實體於香港收取或持有並與客戶相關之所有有關客戶款項將根據《客戶款項規則》作適當對待及處理，因此有關客戶款項將被存入由凱基或其有聯繫實體在香港於認可財務機構或證監會批准之任何其他人士設立之一個或多於一個獨立帳戶，而每個該等獨立帳戶均須指定為信託帳戶或客戶帳戶。除非客戶與凱基或其相關之有聯繫實體另行明確協定，在獨立帳戶內代客戶持有的客戶款項所產生之任何利息款項將全部歸屬凱基或其相關之有聯繫實體及凱基或該有聯繫實體有權為其本身利益保留該等利息款項。除非客戶及凱基或其有聯繫實體明確地同意之外，客戶明白及接受就任何帳戶或代客戶所持有的款項而言，客戶將不會享有任何累計利息及凱基或其有聯繫實體可享有及保留任何及所有客戶款項所衍生的利息。

8.7 在《證券及期貨條例》之條文的規限下，凱基及其聯屬人士具有客戶代其本身及其聯屬人士作出之常設授權，以（並無義務如此）於兩個或以上的客戶及其聯屬人士於凱基及其聯屬人士開設之帳戶（無論是何種性質及是否個別或與其他人士聯名）之間進行抵銷或資金轉撥而毋須客戶或其聯屬人士任何進一步同意或向其發出通知，藉此履行或減少客戶或其任何聯屬人士對凱基或其聯屬人士須履行之責任或償付債項。

8.8 客戶同意非金錢利益、現金或金錢性質回佣或其他利益的保留

- (a) 客戶明白凱基及其聯屬人士可不時收取並保留（以適用市場規定（包括操守準則）不禁止為限）與客戶協議項下擬進行之任何交易或帳戶有關之任何非金錢利益及現金或金錢性質回佣或其他利益，或向第三者提供該等非金錢利益及現金或金錢



性質回佣或其他利益，並且在第 8.8(b) 條規限下，客戶謹此同意凱基及其聯屬人士提供、收取及／或保留該等非金錢利益及現金或金錢性質回佣或其他利益。

- (b) 凱基及其聯屬人士收取或提供之非金錢利益可包括研究及顧問服務；經濟及政治分析；投資組合分析，包括估值及衡量業績表現的分析；市場分析、數據及報價服務；與上述物品及服務有關的電腦硬件及軟件；結算及代管服務，以及與投資有關的刊物。然而，有關物品及服務（即非金錢利益）不可包括旅遊、住宿、娛樂、一般行政所需的物品或服務、一般辦公室設備或處所、會籍費用、僱員薪酬或直接金錢支付。
- (c) 在客戶要求下及／或根據任何適用市場規定（包括操守準則）之要求，凱基將會透過通知客戶或於凱基網站發佈方式，向客戶提供關於非金錢利益及現金或金錢性質回佣或其他利益（如有）之收取、存在及性質與及在甚麼情況下凱基及／或其聯屬人士經已或可會收取並保留該等利益之一切有關資訊。

## 9. 優先執行

9.1 在市場規定的規限之下，客戶明白凱基會公平地並顧及其收到買賣指示的先後次序處理客戶的買賣指示；而客戶的買賣指示比較起凱基本身帳戶作出的買賣指示，或凱基本身擁有權益的帳戶作出的買賣指示，或凱基的僱員或代理人本身的帳戶作出的買賣指示，均應獲得優先的處理。

9.2 凱基可在無須事先向客戶作出提述之前，將客戶的買賣盤與其他客戶的買賣盤、或凱基或其聯屬人的買賣盤加以合併執行。此舉可能令為客戶取得的執行價格較該等買賣盤分別獨立地執行所得到的價格會較佳或較為不利。凡未有足夠的合約去滿足以合併方式執行的買賣盤，有關交易將會按照凱基視為公平的方式，在適當考慮接獲該等買賣盤的先後次序後，在客戶之間作出分配，但客戶買賣盤必須較凱基或其聯屬人的買賣盤獲得較優先的處理。

## 10. 單方面平倉

10.1 當出現下述任何事件之時或下述任何事件發生之後，凱基將有權行使其在第 10.2 條之下的權力：

- (a) 客戶未有在其欠凱基或其聯屬人的款項到期付還時或應有關的要求付還欠款時，付還有關的任何款項（尤其包括任何保證金），或未有履行依照客戶協議所述客戶應履行的其他責任；
- (b) 客戶未有在到期付還欠款時就任何的借款、擔保、彌償或其他欠債或責任作出支付，或因任何理由任何該等借款、擔保、彌償或其他欠債或責任提前到期付還，或被宣佈或成為可宣佈為提前到期付還，但客戶卻未能作出支付；
- (c) 客戶向凱基提供的任何資料（不論是否載於開戶表）或客戶在客戶協議中所作出的保證，在要項上是不正確或誤導的；
- (d) 有任何扣留或扣押要求向客戶在凱基或其聯屬人開立的帳戶作出，或有任何強制令、禁制令或類似的命令向客戶的資產作出，或有強制執行、查封或類似的法律程序正針對該客戶的任何資產作出；
- (e) 就客戶作出司法宣佈，表示其已成為無能力行事或該客戶死亡；
- (f) 如客戶維持其帳戶或根據客戶協議履行客戶的任何責任成為非法，或客戶繼續其帳戶或履行其在客戶協議之下的任何責任所需的任何授權、同意、批准或許可被撤銷或不再全面生效；
- (g) 客戶的業務、資產或一般情況出現重大的負面改變，而根據凱基的絕對意見，可能會影響客戶妥善履行其在客戶協議之下的責任；或
- (h) 凡凱基以其本身絕對意見認為有需要行使其根據第 10.2 條獲賦予的權力，以遵守任何交易所、結算所、經紀及／或代理經紀的任何規則、規例或要求，尤其是如果香港期交所禁止或限制凱基為客戶建立或持有短倉。

10.2 當第 10.1 條所指的任何事件發生之時或之後任何時間，凱基便即時有權在無須作出任何要求或額外保證金要求及無須向客戶作出通知及儘管事前已有追繳保證金通知作出的情況下，按照其絕對酌情權，作出以下任何一種行為：

- (a) 將帳戶內的任何未平倉合約平倉、過戶、履行或維持，及就此目的提交或收取該合約的相關商品、出售任何合約、主動建立新長倉或短倉以建立一項差額或跨期策略、或就以上任何行動作出組合；
- (b) 取消任何代表客戶作出而尚未執行的買賣盤或其他承擔；
- (c) 借入或購買任何代表客戶作出交付所需的商品；及／或
- (d) 行使凱基代客戶持有的任何期權合約所產生的任何權利（認沽或認購）。

10.3 凱基將有絕對酌情權去選擇哪張（如果不是所有）未平倉合約平倉、過戶或（如屬期權合約）選擇哪張期權合約提交行使指示，以及可以單一或集體形式出售任何抵押品。客戶放棄就任何因凱基行使其根據客戶協議而獲賦予的權力所產生的（不論是否為自願或是直接或間接地產生）損失而作出申索或要求的權利，不論該項損失以何種方式招致（因凱基的蓄意失當行為或嚴重疏忽，或魯莽地忽略其在客戶協議之下的責任則除外），以及不論是否關於有關權力行使的時間性或方式。客戶具體地確認及接納以下各點：

- (a) 第 10.2 條之中並無任何條文向凱基施加任何責任須代客戶將任何未平倉合約平倉、過戶或行使任何期權合約，及
- (b) 基於在期貨及現貨市場經常迅速出現改變，凱基並沒有肩負任何責任在行使其根據第 10.2 條的權力時評估價格的波動及市場趨勢（尤其是在決定行使該等權力的時間性），而且亦沒有責任因市場狀況轉變為對客戶不利而要為客戶局限或減少任何損失，以及市場情況可能會令其無法或並非切實可行地在任何既定時間內將客戶的未平倉合約平倉或過戶。

10.4 在不影響上述的概括性原則下，若出現以下任何有關客戶的事件：

- (a) 由具司法管轄權的法院作出命令，或收到呈請或已有議決案通過要求將客戶清盤、破產、由破產管理官管理或解散（依據綜合、結合或合併安排者除外）或有任何其他根據破產或無力償債法或其他影響債權人權利的法律之下的補救措施；或

- (b) 就客戶的所有資產或其大部份資產委任出接管人、管理人、臨時清盤人、保障資產人、受託人或類似的官員，

則在帳戶內的每張未平倉合約會立即被終止及並無進一步的效力，而其後就該未平倉合約的責任將為（第 13 條另有規定者除外）凱基或客戶須向對方繳付根據以下方式計算的款項：

- (aa) 計算就該未平倉合約而產生的盈虧數額，猶如該合約在有關事件發生之時便即時已按照當時的市價予以平倉一樣；

- (bb) 根據當時的現貨市場兌換率，將一種港元以外的貨幣所產生的任何上述數額轉換為港元；
- (cc) 計及由上述平倉日期至適用的交收日期的期間，按照當時由香港渣打銀行所報的相若數額的存款利率將每項上述數額折現為現金數值；及
- (dd) 將所有因此產生屬凱基所有的總額與屬客戶所有的總額加以抵銷。

若所產生的淨額歸凱基所有，有關數額須即時由客戶支付予凱基。若有關淨額歸客戶所有，有關數額須即時由凱基支付予客戶。

## 11. 銷權、抵押及留置權

- 11.1 在市場規定（包括但不限於《證券及期貨條例》之條文）的規限下，凱基可為其本身或作為其聯屬人的代理人而隨時或不時，及在沒有通知客戶的情況下，及儘管帳戶已作出任何結算或不論其他何種事宜的情況下，將客戶及 / 或其聯屬人在凱基及 / 或其任何聯屬人的任何或所有帳戶（包括帳戶及不論是何種性質及是否個別或與他人共同持有）加以合併或綜合，及抵銷或轉移任何一個或以上該等帳戶中存有或貸方進帳的任何款項（任何貨幣）、證券、商品及 / 或其他資產或財產，以清償客戶或其任何聯屬人所欠凱基及 / 或其聯屬人的欠債、義務或責任，不論該等欠債、義務或責任是現在的還是未來的、實際的還是或有的、基本的還是附屬的、分別的還是合共的，以及是有抵押的還是無抵押的。凡該等抵銷、綜合、合併或轉移須將一種貨幣兌換成另一種貨幣，則該兌換須依照凱基最終決定的兌換率計算。
- 11.2 客戶以實益擁有人的身份謹此將所有不時由客戶存入或代表客戶存入凱基的、或為客戶的帳戶或任何其他帳戶所購買的或持有的或由凱基所掌管或控制的款項（任何貨幣）、證券、商品及 / 或其他資產或財產（包括保證金），包括其任何及所有現時及將來的權利、所有權及權益（統稱“抵押財產”），以第一固定押記形式押記予凱基及其每個聯屬人（包括但不限於凱基證券亞洲有限公司）作為客戶所有對凱基及其每個聯屬人（包括但不限於凱基證券亞洲有限公司）所應負的任何性質及不時的責任及義務的持續抵押；客戶並謹此向凱基及其每個聯屬人轉讓及讓予所有上述款項、證券、商品或其他資產或財產。若客戶未能就任何客戶對凱基或其任何聯屬人（包括但不限於凱基證券亞洲有限公司）的欠債或結欠款項於到期或有關公司作出要求之時清繳該欠債或結欠款項，或有令狀被作出或呈請被提交或議決案被通過要將客戶破產、清盤或解散，或客戶被宣佈為無行事能力或死亡，則在市場規定（包括但不限於《證券及期貨條例》之條文）的規限下，凱基有權或其有關的聯屬人有權指示凱基（視屬何情況），按有關公司於出售方式及時間及代價方面的絕對酌情權，將任何抵押財產出售，不論該抵押財產是否以混合形式被持有及不論構成該抵押財產的任何財產是否須依照客戶或任何獲授權代理人的任何指示被用作交付，並且有權從有關的出售所得數額中扣除為解除上述欠債或結欠款項所需的數額。為此目的，凱基或其聯屬人所發出的證明書核證客戶於任何時間的有關欠債或結欠款項的數額及客戶未能清繳有關欠債或結欠款項的事實，將會是最終的、決斷性的及對客戶有約束力的證明。
- 11.3 客戶在凱基於任何時候或不時持有或取得或管有或受其指示或控制之任何款項、證券、商品及其他資產或財產（不論是獨自或與他人聯名持有）中之所有權益，均須受限於按持續保證方式以凱基為受益人之押記及 / 或一般留置權及保證權益，以抵銷及履行客戶由於客戶協議項下進行之交易或其他原因引起之任何或全部責任及義務。
- 11.4 第 11 條的規定將不會影響凱基根據任何法律或客戶協議或市場規定而享有的任何權利。

## 12. 陳述、保證及承諾

- 12.1 客戶保證其擁有全權及不受限制的權力訂立客戶協議及已取得所需的同意及已採取所有所需的行動（包括如適用的話，任何根據其公司或其他組織性文件須採取的行動）以授權其訂立客戶協議及履行其在該協議之下的責任。
- 12.2 就所有依據客戶協議訂立的交易而言，客戶保證及承諾其將會取得及保持所有適用於每宗該等交易的任何政府或其他監管機構或當局一切所需的同意，並且將會遵守所有適用的法律、規例、指示及上述同意的適用條款。如接獲凱基的要求，客戶將須即時向凱基交付凱基可不時要求的所有該等同意的副本或任何該等同意的其他證據及已遵守該等適用的法律、規例、指示及上述同意的適用條款的證據（包括客戶的聲明）。
- 12.3 除非以書面形式知會凱基且獲凱基明確批准，客戶陳述及保證客戶為帳戶（綜合戶口除外）內或貸方進帳之所有款項、證券、商品及其他資產或財產（包括保證金）之實益擁有人，而該等款項、證券、商品及其他資產或財產是沒有任何置權、押記、衡平法權益或產權負擔（由或根據客戶協議所產生者除外）。客戶同意在未經凱基的同意之前，就保證金或構成該帳戶其中一部份的任何財產或權利而言，不會作出抵押或質押或容許就此存在任何抵押或質押，或就該等保證金、財產或權利進行出售、授予期權或以任何形式處置，或建議出售、授予期權或作任何處置。
- 12.4 客戶確認就有關開戶的開戶表所載的資料已妥善填寫，以及有關的資料是真實、完整和正確的。凱基有權就所有的目的全面依賴該等資料及陳述。凱基獲授權在任何情況下接觸任何人士，包括客戶的銀行、經紀或任何信貸機構，以便核證開戶表所載的資料。
- 12.5 客戶陳述及保證就帳戶內的每宗交易而言，客戶是最初負責發出該宗交易的指示的人士或實體（不論是否為法律實體）及將會從該宗交易取得商業或經濟利益及 / 或承擔其商業或經濟風險的人士或實體（不論是否為法律實體）。客戶亦會確保祇有客戶或獲授權代理人會向凱基發出關於帳戶的指示。若果關於帳戶內任何某項特別交易，客戶並非上述的人士或實體，客戶承諾及同意於向凱基發出指示之前向凱基提供該人士或實體的身份、地址及聯絡詳情，而且凱基可拒絕接受有關指示。客戶亦承諾及同意將該等資料於凱基向其發出書面要求的兩天之內直接提供予有關交易所、政府機關或監管機構，而此項承諾及協議將於客戶協議終止之後繼續生效。
- 12.6 凡客戶作為任何集合投資計劃、全權委託帳戶或信託的投資經理，而如果客戶在任何交易的投資酌情權遭推翻，客戶同意將會於向凱基發出指示之前知會凱基有關事實及提供推翻其投資酌情權的人士的身份及聯絡詳情。客戶亦承諾及同意將該等資料於凱基向其發出書面要求的兩天之內直接提供予有關交易所、政府機關或監管機構，而此項承諾及協議將於客戶協議終止之後繼續生效。
- 12.7 客戶陳述及保證客戶並不是對客戶設有任何購買或持有任何合約限制國家之居民。倘客戶成為設有該等限制國家之居民，則客戶將立即通知凱基，並且若凱基作出有關要求，客戶須將任何該等受限制合約平倉、賣出或過戶；否則，凱基可按其絕對酌情權並獲授權在其並無任何義務或責任之前代表客戶將任何該等受限制合約平倉、賣出或過戶。
- 12.8 當購買或交易任何合約時，客戶將確保其不被禁止購買或交易任何該等合約，並且客戶並不是代表受該等限制之人士而行事。
- 12.9 客戶並非美國公民或居民，亦非美國國內稅收守則第 61 條項下實質駐留美國之非美國公民，或倘客戶為公司實體，其相關股東並非美國公民或居民及其當中任何人士亦非美國國內稅收守則第 61 條項下實質駐留美國之非美國公民，並且倘若前述情況並非如此或有關情況及後發生變化，客戶將向凱基發出明確書面通知。客戶進一步承諾，若有關情況發生任何變化，而根據適用美國稅務規例這樣會修改客戶「非美國人士」身分，並導致其取得「應課稅美國人士」身分（反之亦然），則客戶將立即通知凱基。



- 12.10 客戶確認其必須理解其正在交易產品之性質及風險，並具有充足資產淨值能夠承受交易該等產品之有關風險及承擔交易該等產品之潛在虧損。
- 12.11 客戶陳述及保證客戶投資台灣市場合約之資金並非來源於中國大陸或台灣。
- 12.12 以上的陳述及保證將會視作為在替客戶或代表客戶進行每宗交易之前已再次重複作出。
13. 彌償及責任
- 13.1 客戶同意凱基、其董事、高級職員、僱員及代理人無須就任何損失負責，包括客戶因直接或間接源自或涉及任何凱基以代理人身份為客戶訂立的任何合約或因凱基提供服務或任何未有或延遲提供有關服務而蒙受或招致的利潤損失、開支或費用；除非及只限於該等損失、開支或費用是因為凱基、其董事、高級職員、僱員或代理人在提供該等服務時的重大疏忽、蓄意失責或詐騙所引致。
- 13.2 在不影響凱基在客戶協議或其他方面的任何其他權利之下，客戶同意就根據客戶協議提供服務或因為客戶違反客戶協議的任何條款，包括任何客戶的陳述、保證或承諾，所直接或間接地可能蒙受或招致的任何開支、費用、損害賠償、損失或責任，全數彌償凱基、其董事、高級職員、僱員、聯屬人及代理人及確保上述任何的一類人士獲得全數彌償。
14. 修訂及轉移
- 14.1 凱基有絕對酌情權不時修訂或補充（不論是透過增加客戶協議之附表或其他形式）客戶協議之任何條款及條件，而凱基將根據客戶協議第 16 條所載之任何方式通知客戶有關修訂或補充。倘客戶不接受有關修訂或補充，則客戶可於根據客戶協議第 16 條收到或視為收到有關通知（以較早通知為準）之日期起計十四（14）個營業日內以書面形式通知凱基終止客戶協議。倘客戶於該時限內並無終止客戶協議或客戶於收到或視為收到修訂或補充之有關通知（以較早通知為準）後繼續操作帳戶，則客戶將被視為已接受該等修訂或補充內容，並繼續不時受如此修訂或補充後之客戶協議約束。
- 14.2 客戶協議第 14.1 條所述之修訂或補充，將自凱基向客戶發送之有關通知所述的生效日期起生效。
- 14.3 凱基有權按其認為合適及於無須通知客戶或取得客戶同意的情況下轉讓、轉移或以任何方式放棄凱基在客戶協議下的所有或任何權利、權益或義務給予任何第三者。
- 14.4 在未獲得凱基事先的書面同意的情況下，客戶無權向任何第三者轉讓、轉移或以任何方式放棄其在客戶協議下的權利、權益或義務。
15. 終止
- 15.1 協議的任何一方可在任何時候向另一方給予不少於兩個營業日的事先書面通知將客戶協議終止，惟倘客戶有未平倉合約或未償還負債或未履行責任，則客戶無權終止客戶協議。這將不會影響任何由客戶根據客戶協議而作出的任何承諾或彌償，或於協議終止當日客戶協議之下還未完成的權利或義務，而該等承諾、彌償、權利或義務在該項終止之後仍然生效。在不影響前述的情況下，終止協議將不會影響任何一方在該項終止之時所涉及的未平倉合約所產生的權利或責任，包括保證金，直至所有該等合約已平倉或已交收及 / 或有關的交付已完成及所有該等責任已全部解除。按有關條文之性質，在客戶協議終止後仍然有效的條文，縱使發生任何前述的終止，將仍然有效並繼續具有十足效力及作用。
- 15.2 如果在客戶協議終止時在帳戶中有任何現金結餘，客戶同意在所有未平倉合約被平倉當日起計的七天內或於凱基指定的其他時間之內提取該等結餘。如果客戶沒有這樣做，凱基可將有關支票寄往客戶最後為人所知的地址，向客戶付還相等於帳戶內的結餘的數額，有關風險則由客戶承擔。
- 15.3 如果自從帳戶最後一次的合約交易起計已超過一年，凱基可以書面通知客戶終止客戶協議，並且可即時生效。
16. 通知及通訊
- 16.1 客戶明確同意除了專人交付或郵遞之外，凱基可選擇使用或通過傳真、短訊服務、電郵、於凱基網站登載或任何其他類型電子通訊以電子方式向客戶發出或發送任何通知、函件、成交單據、確認、帳戶結單、收據、規定披露訊息及通訊（「電子通訊」）。在不限制上述一般性的情況下，客戶還同意凱基可不時通過電子方式通知客戶有關產品或合同的細則、任何合同的章程或其他要約文件、免責聲明、交易限額、持倉限額、大額持倉報告的資料以及任何有關按香港期交所規則或其他市場規定要求的其他事項的資料，包括但不限於通過電子郵件，在凱基網站上登載，或提供香港交易所網站或相關第三方網站的連結，以便客戶取覽有關資料。客戶同意接受及承擔發送及接收電子通訊所附帶之一切風險，包括但不限於下列風險：
- (a) 透過互聯網或其他電子媒介進行之電子通訊在本質上是不可靠的媒介，可能因（如適用）不可預測之流量擠塞、所使用媒體之公開性質或其他原因而導致干擾、傳輸中斷、或可能產生延遲傳輸或錯誤資料傳輸；
- (b) 透過互聯網或其他電子媒介進行電子通訊可能未被執行；及
- (c) 透過互聯網或其他電子媒介發送及接收個人資料可能並不安全及暴露於眾多風險，包括但不限於被未經授權第三者獲得之風險，
- 並且客戶確認及同意凱基及其聯屬人以及彼等各自之股東、董事、高級人員、僱員、代表或代理人（統稱「有關人士」）對以上情況招致或有關之後果毋須對客戶或任何其他人士承擔任何義務或責任，並謹此放棄所有向凱基及有關人士就上述事宜提出任何申索之權利。
- 16.2 如果凱基已作出合理的努力但仍未能從客戶取得指示，凱基將不會對客戶直接或間接因此而遭受或招致的損失負責。
- 16.3 凱基由專人交付、通過郵遞或通過傳真、短訊服務、電郵或於凱基網站登載或任何其他電子通訊方式送達客戶之任何通訊，在下列情況下視為客戶已接收：（若由專人交付）專人送達之時或送至客戶以書面形式最後通知凱基之地址或客戶最後為人所知的地址，（若通過郵遞送達）若地址是位於香港在郵遞後 48 小時及若地址是位於香港境外則在郵遞後第五天或（若通過傳真、短訊服務、電郵、於凱基網站登載或其他電子通訊方式）緊隨傳輸至客戶以書面形式最後通知凱基之傳真號碼、電話號碼、電郵地址或其他聯絡詳情後或凱基於凱基網站登載後。
- 16.4 就任何由客戶向凱基作出或發出之通知或通訊（包括但不限於指示），客戶須自行承擔風險，並僅當凱基實際收到後方能生效。
- 16.5 客戶同意保持其帳戶有關之資料為最新，並且於任何變動發生後兩個營業日內通知凱基該項變動。客戶理解，為帳戶之安全及完整性，倘致客戶之通訊因客戶未能更新及 / 或通知凱基帳戶有關之最新及準確資料而不可送達或遭退回，則凱基可能暫時或永久停用帳戶或限制帳戶之取用或若干功能（包括交易及結算交收）。



## 17. 資料及改變

- 17.1 客戶明白凱基須依照適用的法例和規定，在客戶於凱基開立帳戶之時取得有關客戶的資料。客戶作出陳述表示開戶表內所載的資料是完整、真實及正確的，及凱基有權就所有目的而言依賴該項資料，除非及直至凱基從客戶收到書面通知有關資料有所變更。客戶承諾如該等資料有任何變更，客戶將會作出該項通知。客戶亦授權凱基可為著確定客戶的財政狀況及投資目標，就客戶進行個人信貸查詢及核證。在《個人資料（私隱）條例》之條文（在適用範圍內）的規限下，該等資料（或其他所獲取有關客戶的資料）可由凱基為信貸監控，以及為著向客戶推銷產品及服務而被使用。客戶明白凱基依據客戶協議提供任何服務之前，或在任何時間，可要求公司客戶的股東及 / 或董事提供個人擔保。
- 17.2 客戶明白凱基須受香港的《個人資料（私隱）條例》所約束，而該條例是規管有關個人的資料的使用。客戶明白凱基已委任一名資料保障主任，而有關凱基在個人資料方面的政策及做法的進一步資料，可以書面形式向該名資料保障主任索取或於凱基網站取覽。客戶明白作為個人客戶，客戶有權向該名資料保障主任作出書面請求，取得凱基所持有的客戶個人資料，及如適用，糾正有關資料的不正確之處。在《個人資料（私隱）條例》之條文（在適用範圍內）的規限下，除非客戶向資料保障主任作出相反的書面要求，否則凱基就關於客戶而取得的資料，將可用作為向客戶推銷其可能感興趣的產品及服務。客戶同意凱基可按其不時的政策及處理方式披露客戶的個人資料給予某些人士或某些類別的人士及使用客戶的個人資料作某些用途。
- 17.3 客戶明白客戶的個人資料可被提供予信貸資料服務機構及於欠帳時給予收數公司。客戶有權要求被通知那些資料的項目是一般性會被披露，及獲提供進一步資料藉此可向有關機構提出查閱及更正的要求。
- 17.4 凱基及客戶互相向對方承諾，如在客戶協議內提供的有關資料（按操守準則第 6.2(a)、(b)、(d)、(e) 及 (f) 段所訂明者）有任何重要的變更，均會通知對方。

## 18. 保密

- 18.1 儘管客戶預期凱基會對客戶及帳戶有關之資料保密，但客戶謹此明確同意，凱基獲授權向有關交易所、結算所、規管機構、稅務機關、政府或執法部門或任何人士（不論是在香港或在香港以外任何其他司法管轄區）披露或移轉根據任何法院命令、市場規定或對凱基有約束力之其他承擔所要求之有關資料，而毋須進一步取得客戶同意或通知客戶，包括但不限於客戶的姓名及其最終受益人或帳戶內的交易，及客戶不得以何該等披露而產生的任何後果而要凱基或其任何代理人負責，以及如接獲要求，客戶須向凱基或其任何代理人付還任何因遵守有關資料披露要求而招致的成本費用（如有）。
- 18.2 客戶須確保其不時向凱基提供之所有資料均為真實、完整及準確且不存在誤導。客戶承諾倘該等資料更改或成為不實、不完整、不準確或存在誤導，則會盡快以書面方式通知凱基。客戶進一步承諾盡快回覆凱基就提供客戶或帳戶有關資料的任何要求。
- 18.3 倘客戶向凱基提供之任何資料與任何第三者有關，則客戶確認該等其資料已被提供予凱基之第三者已獲通知並同意凱基按上文第 18.1 條所述方式披露或移轉其資料。
- 18.4 倘客戶未能提供凱基合理要求之任何資料或客戶及 / 或有關第三者拒絕或撤銷凱基按上文第 18.1 條所述方式披露或移轉有關資料所需之同意，則凱基可能無法向客戶提供任何新服務或繼續提供全部或部分服務，並保留權利終止與客戶之關係。此外，倘客戶未能盡快提供凱基合理要求與客戶或任何相關第三者之稅務狀況 / 居民身分有關之文件及資料，則凱基可自行判斷客戶或該相關第三者之稅務狀況 / 居民身分，包括是否須就客戶或該相關第三者向任何稅務機關（不論是在香港或在香港以外其他司法管轄區）申報。

## 19. 特定的條款

- 19.1 在不損害及附加於客戶協議的任何其他條文的情況下，下列各條文亦同樣地適用（及就本第 19 條而言，除非內文另有所指，以下各詞及用語的涵義與該詞及用語在香港期交所規則中的涵義相同）:-
- (a) 每份期交所合約均需繳交投資者賠償基金徵費及根據《證券及期貨條例》所收取的徵費，及上述兩項費用須由客戶承擔；
- (b) 如客戶因凱基違責而蒙受金錢損失，投資者賠償基金所承擔的法律責任只限於《證券及期貨條例》及有關附屬法例內所規定的有效索償，並須受制於《證券及期貨（投資者賠償－賠償限額）規則》內所訂明的金額上限，因此不能保證客戶在因該等違責而蒙受的任何金錢損失，可以從投資者賠償基金中獲得全數、部份或任何賠償；
- (c) 凱基及其任何董事、高級職員或僱員可本身各自進行交易，以及凱基可為其任何聯屬人進行交易；
- (d) 與在交易所買賣的期貨及期權合約相關的交易，需受到有關市場及交易所的規則所規限。凱基必須在香港期交所或證監會提出要求時，披露客戶的姓名或名稱、實益身份及香港期交所或證監會可能要求的其他有關該客戶的資料，而該客戶亦同意提供凱基可能需要的有關該客戶的資料，以便凱基能夠符合本規定的要求及如果凱基未能符合香港期交所規則第 606(a) 條或 613(a) 條的披露要求，香港期交所行政總裁可要求代客戶將其持倉進行平倉或向客戶的持倉徵收保證金附加費；
- (e) 客戶可能會就在不同市場及交易所進行交易而獲得不同程度及類別的保障；
- (f) 就凱基代表客戶就在紐約商品交易所買賣的合約而以該交易所操作的自動交易系統買賣若干該等合約而訂立交易而言:-
- (i) 該等交易須受到該交易所的規則所約束；及
- (ii) 如果客戶是代其他人士買賣該等合約，客戶須確保其與該名其他人士所訂立的協議載有具備如上述第 (i) 分段及本第 (ii) 分段的效力的條文；
- (g) 凱基可在不抵觸《證券及期貨條例》及任何適用法律規定的情況下，不論是否為凱基本身或為其聯屬公司或其他客戶的帳戶，就任何在交易所買賣的期貨及期權合約，採取與客戶的交易指示相反的交易指示，但該買賣必須是以公平競爭的方式，根據香港期交所規則在香港期交所或透過香港期交所的設施而執行的，或是透過任何其他商品、期貨或期權交易所的設施並根據該等其他交易所的規則及規例而執行的；
- (h) 客戶確認結算所可在凱基作為香港期交所的交易參與者的權利遭暫停或撤銷時，採取一切必要行動，以便將凱基代表客戶持有的任何未平倉合約，及該客戶在凱基所開立的帳戶內的任何款項及證券，轉調到另一個香港期交所的交易所參與者；
- (i) 凱基為客戶的帳戶而從客戶或任何其他人士（包括結算所）所收取的全部款項、證券及其他財物，均須由凱基以受託人身份持有，並與凱基本身的資產分開。由凱基以上述方式持有的所有資產不得在凱基無力償債或清盤時，構成凱基的資產的一部份，並須在就凱基所有或任何部份的業務或資產委任臨時清盤人、清盤人或擁有類似職能的高級人員後，立即歸還予該客戶；

- (j) 凱基從客戶或任何其他人士(包括結算所)收取的任何款項、核准債務證券或核准證券,均須根據操守準則附表4第7至12段所指明的方式持有,及客戶授權凱基可按照上述附表4第13至15段所訂明的方式,運用任何該等款項、核准債務證券或核准證券。凱基尤其可運用該等款項、核准債務證券或核准證券以履行其對任何人士的責任,但該等責任必須是在與其代表客戶進行期貨期權買賣有關的情況下或附帶於有關買賣而產生的;
- (k) 客戶確認就凱基在結算所開立的任何帳戶而言,不論該帳戶是全部或部分因代表該客戶進行期貨期權買賣而開立的,以及不論該客戶所支付或存放的款項、核准債務證券或核准證券是否已支付予或存放於結算所,該帳戶屬凱基與結算所之間的帳戶,凱基以主事人身份操作該帳戶,因此該帳戶並不存在以客戶為受益人的信託或其他衡平法權益,而支付予或存放於結算所的款項、核准債務證券及核准證券亦不受上述第19.1(i)條所提述的信託所制約;
- (l) 客戶確認凱基受香港期交所規則所約束,而該等規則容許香港期交所採取行動,限制持倉的數量或規定可代表某些客戶將合約平仓,因為香港期交所認為這些客戶所累積的倉盤正在或可能會對任何一個或多個特定的市場造成損害或正在或可能會對某個或多個市場(視乎情況而定)的公平及有秩序的運作產生不良影響;及
- (m) 凱基應按客戶要求提供有關衍生產品(包括期貨合約或期權)的細則或章程或其他要約文件。

19.2 客戶同意凱基可從獨立債務證券帳戶提取以下項目:

- (a) 用來履行凱基對結算所或執行代理人因其曾按照一個或以上的客戶的指示就期貨期權進行買賣而產生的責任的核准債務證券,但若提取核准債務證券會導致代表任何客戶進行的期貨期權買賣所需繳付的結算所保證金、變價調整規定或其他與交易有關的債務,須由其他客戶的核准債務證券來支付的話,則不得提取任何核准債務證券;
- (b) 轉撥予另一個獨立債務證券帳戶的核准債務證券;及
- (c) 向客戶或按照客戶的指示而歸還的核准債務證券,但在這情況下,即使客戶作出指示,除非該帳戶是獨立債務證券帳戶,否則不得將核准債務證券存入凱基的另一個帳戶內。

19.3 於凱基已經從客戶取得特定的書面授權及適用的法律、規則及規例所規定的該等其他同意的情况下,客戶便可以從獨立證券帳戶提取以下各項:

- (a) 用來履行凱基對結算所或執行代理人因其曾按照一個或以上的客戶的指示就期貨期權進行買賣而產生的責任的核准證券,但若提取核准證券會導致代表任何客戶進行的期貨期權買賣所需繳付的結算所保證金、變價調整規定或其他與交易有關的債務,須由其他客戶的核准證券來支付的話,則不得提取任何核准證券;
- (b) 轉撥予另一個獨立證券帳戶的核准證券;及
- (c) 向客戶或按照客戶的指示而歸還的核准證券,但在這情況下,即使客戶作出指示,除非該帳戶是獨立證券帳戶,否則不得將核准證券存入凱基的另一個帳戶內。

19.4 就客戶於凱基所持有的任何綜合戶口,客戶謹此在所有時間向凱基作出以下陳述、保證及承諾:

- (a) 除非另獲適用於客戶的法律所豁免,否則客戶已取得及將保持根據香港法律及/或其他有關的司法管轄區的法律就開立及操作綜合戶口所需之一切授權、牌照、登記及同意,並須於凱基開立任何綜合戶口時向凱基提供令其滿意的該等授權、牌照、登記及同意之證據;
- (b) 客戶會即時應凱基的要求,立刻向凱基或直接向香港期交所或證監會或任何其他監管機構披露最終實益擁有該綜合戶口的人士,以及就發出某一項經由凱基代表客戶執行的交易指示而最終負責的有關人士或實體的姓名、詳情及凱基、香港期交所、證監會或任何其他監管機構可能要求的其他資料,或促使該等人士或實體立刻向凱基或直接向香港期交所或證監會或任何其他該等監管機構披露該等資料。客戶的該等責任將於客戶協議終止之後或任何綜合戶口關閉之後仍繼續生效;
- (c) 若客戶並非香港期交所的交易參與者,在客戶與為綜合帳戶發出有關交易所合約(其定義載於香港期交所規則)之指示的一名(多名)人士的交易中,客戶將會遵守及執行香港期交所規則內所訂明的有關保證金及變價調整的規定及程序,猶如客戶是香港期交所的交易參與者,及猶如為其帳戶或利益而發出指示的該名(等)人士為客戶;
- (d) 為執行與綜合戶口有關之該等指示而促使交易所合約得以訂立,以確保在任何情況下,按指示進行的任何買賣的形式,均不會構成香港或任何其他適用的司法管轄區的法律所指的非法買賣商品市場的報價差額,或有關的買賣方式亦不會構成或涉及投注、打賭、博彩或就該等項目而進行的賭博,從而違反香港法律或任何適用法律;及
- (e) 客戶會確保向客戶發出有關交易所合約之指示的人遵守香港期交所規則內所訂明的有關保證金及變價調整的規定,以致在香港期交所與凱基之間而言,凱基應負責確保所有就綜合戶口傳遞指示的人士都遵守該等有關綜合帳戶的規定,猶如他們每人都是該綜合帳戶的客戶。

19.5 倘使用並非親身方法之開戶程序時,以及若客戶(機構客戶除外)希望採納如下其他核實方法:

- (a) 客戶將一份已簽署的客戶協議(包括填妥的開戶表格)連同客戶的身分證明文件(客戶的身分證或其護照的有關部分)副本交給凱基,以核實客戶的簽名及身分;
- (b) 凱基取得由客戶在香港持牌銀行開立的帳戶所簽發的支票及將有關支票兌現(該支票的數額不得少於10,000港元或凱基可能另行要求以港元計值之其他最低支票金額,並須載有客戶身分證明文件上所顯示的姓名);
- (c) 由客戶簽發的支票上的簽名,必須與上述開戶表格中的簽名相符;
- (d) 客戶確認並承認此非親身開戶程序所施加之條件,尤其是必須待清算有關支票後才可使用新帳戶的這項條件;及
- (e) 凱基保存適當的記錄,以顯示其已充分遵守客戶身分確認程序,

則待上述核實程序已完滿地完成並且客戶所簽發的支票(作為非親身開戶程序之一部分)被清算後,有關帳戶方可開始被使用。

20. 雜項條文

20.1 客戶明白及同意凱基可使用電話錄音系統將凱基與客戶及其獲授權代理人之間的對話錄音。客戶確認及保證每個獲授權代理人皆同意上述錄音。



- 20.2 任何在客戶協議所載並由任何具司法管轄權的法院或審裁處宣佈為非法、不成立或無法強制執行的任何條款、規定或承諾，將會在適用法律所允許的最高限度之下從客戶協議中分割出來，而不會影響客戶協議的餘下條文（該等條文將會繼續全面生效）。
- 20.3 如果客戶是聯名帳戶持有人，每一名聯名客戶在客戶協議之下的義務及責任屬各別及共同的，而凱基可行使其絕對酌情權對任何一名聯名帳戶持有人或所有聯名帳戶持有人採取追索行動。除非以客戶協議所述方式終止客戶協議，否則任何一名聯名帳戶持有人死亡不會令客戶協議終止。凱基向其中一名聯名帳戶持有人作出的通知、支付及交付，將會全面和充份地解除凱基根據客戶協議須作出通知、支付或交付的責任。凱基亦獲客戶授權可接受或執行任何其中一名聯名客戶的指示。
- 20.4 客戶確認其已收到及閱讀按照客戶所選擇的語言（英文或中文）的客戶協議，以及客戶明白及接納客戶協議所列出的各項條款。如客戶協議的中、英文版本出現任何矛盾，概以英文版本為準。
- 20.5 操守準則附表 1 所列明的風險披露聲明將夾附於客戶協議之內。
- 20.6 客戶協議的條文不得在運作上消除、排除或限制在中華人民共和國香港特別行政區法律之下客戶的任何權利或凱基的任何責任。
- 20.7 凱基是香港期交所的期貨佣金交易商，可買賣香港期交所不時批准其可進行買賣的產品；也是香港期貨交易結算有限公司的結算參與者。同時，凱基（中央編號 ADW991）憑藉《證券及期貨條例》而獲許進行第 2 類（期貨合約交易）第 5 類（就期貨合約提供意見）受規管活動。
- 20.8 實物交割
- (a) 就實物交割合約而言，凱基沒有為客戶進行實物交割的義務。如若客戶要求對實物交割合約進行實物交割，凱基可完全自行決定是否進行實物交割。就所有凱基並無明確地同意進行實物交割的實物交割合約，客戶須於 (a) 如屬期貨合約長倉者，有關第一通知日或最後交易日（以較早者為準）前至少五個營業日，(b) 如屬期權合約長倉者，有關最後交易日前至少五個營業日，及 (c) 如屬期貨合約及期權合約空倉者，有關最後交易日前至少五個營業日，及時給凱基作出指示對有關合約進行平倉，以避免實物交割或交收。如在有關的限期前，凱基並未收到客戶及時的指示，凱基有權（但並無義務）依據其對酌情權在不通知客戶及於客戶承擔所有風險的情況下，隨時根據凱基認為適當的條件及方式代表客戶對有關合約進行平倉或實物交割。
- (b) 如客戶要求且凱基明確地表示同意對某張實物交割合約進行實物交割的話，客戶須於有關的交收日期（或凱基按個別情況所規定的較早日期）前至少兩個營業日，採取所有必要的行動，使凱基可根據市場規定代表客戶對該未平倉合約進行適當的實物交割。在不影響及在附加於凱基在客戶協議之下的任何其他權利及補救的情況之下，如客戶未在該限期前採取所有該等行動，客戶須就因此產生的任何及所有損失、義務、成本、費用及開支向凱基負責。
- 20.9 就凱基為了或與客戶進行的任何業務或交易，凱基不會及不應被視為有責任向客戶提供任何稅務、法律、法規或會計方面的意見。
- 20.10 客戶須完全負責支付所有不論怎樣指定或計算的稅項、預扣稅、關稅或徵費及評估稅項、提出任何及所有與凱基及 / 或客戶被徵收任何該等稅項、預扣稅、關稅或徵費及評估稅項（不包括依據凱基淨所得的稅項和關稅）有關的申索（不論是否以豁免預扣稅、減低預扣稅稅率或其他原因為目的）、提交所有稅務申報表及向任何有關稅務機關提供與凱基為了或與客戶進行的任何業務或交易或任何凱基代表客戶持有的現金或其他資產有關而所需的資料。客戶須在凱基要求下，賠償凱基由於客戶沒有遵守本條款致令凱基可能蒙受或招致的任何損失、損害或義務。
- 20.11 客戶充分知悉並同意與凱基全面合作，以及謹此同意凱基所採取及將會採取之措施以遵守任何適用稅務法律（包括但不限於美國外國帳戶稅務合規法案（「FATCA」））、香港法律、任何相關國際條約或跨政府協定及任何要求或有助於收集、申報、傳遞及 / 或在不同稅務管轄區之間自動交換財務帳戶資料之適用法律、規則及規例（「AEOI 規定」）。有關措施可能包括但不限於對客戶或實體客戶之實益擁有人作國籍及納稅人身分調查、向相關稅務、政府或其他機構（例如香港政府及美國政府）披露稅務資料及帳戶資料，以及倘國籍及納稅人身分調查顯示客戶與凱基之關係符合任何該等法律、規則、規例、國際條約或跨政府協定當中載列之若干條件（該等條件包括但不限於客戶或其實益擁有人沒有提供前述調查中所需的資料、沒有聲明及保證就客戶或其實益擁有人於 FATCA 或相關 AEOI 規定下之身分所提供之表格及文件或任何資料之真確性、或沒有或撤銷同意凱基向香港政府、美國政府及 / 或其他有關機構披露前述資料），就針對客戶之原因預扣稅項或終止服務。客戶知悉凱基已於美國財政部、美國國家稅務局（「國稅局」）註冊為海外金融機構（「海外金融機構」），因此，凱基受限於與國稅局就維持凱基海外金融機構身分之協議（「海外金融機構協議」）之條款。儘管客戶協議有任何相反規定之條文，客戶謹此：
- (a) 同意向凱基提供其絕對酌情決定及判斷不時及任何時間視為必要之所有資料，以及同意凱基向有關監管機構、稅務機關、政府或執法部門以及凱基之聯屬人士及代理人（不論位於香港或香港境外任何其他司法管轄區）披露所有該等資料，以便於或協助凱基遵守海外金融機構協議或相關 AEOI 規定（可不時予以修訂、修改或代替）項下之任何或全部責任；
- (b) 放棄在並無此種棄權之情況下會防止、妨礙或阻礙遵守該海外金融機構協議或相關 AEOI 規定之任何香港法律或其他司法管轄區法律之條文，以及進一步同意立即緊隨凱基要求之後，簽署凱基向客戶出示之任何文件以證明該棄權；
- (c) 確認倘客戶並無根據本第 20.11 條立即提供凱基要求之任何該等資料，則客戶就其帳戶內收取符合 FATCA 項下預扣資格之付款可能承擔 30% 或有關規例可能規定之其他比率或百分比之預扣稅及 / 或承擔任何其他不利後果；
- (d) 進一步確認倘客戶未能遵守其於本第 20.11 條項下之任何責任，則該等不合規情況須視為客戶協議第 10.1 條所指的事件，由此賦予凱基權利可行使其於客戶協議第 10 條項下之任何或全部權利及補救措施；及
- (e) 就以任何方式與客戶未能履行本第 20.11 條項下責任有關凱基被施加或招致之任何損失、成本、開支、費用、罰金、稅項、強征費用、稅負或罰款，同意對凱基作出彌償、保護並令其免受損害，以及進一步確認及同意此彌償保證條款在客戶協議終止後仍然有效。
- 20.12 客戶確認客戶須獨自負責遵守《證券及期貨條例》第 XV 部及《公司收購、合併及股份回購守則》，以及於香港或任何其他有關國家與披露證券權益有關之任何其他適用法律、規則及規例（各自均經不時修訂）之相關條文項下所有披露責任。凱基就此目的並無任何義務以任何形式或在任何時限之前向客戶發出持倉通知，惟客戶協議明確載列將發出或市場規定所要求之任何通知或結單除外。
- 20.13 除非客戶屬於 (i) 《證券及期貨條例》附表 1 第 1 部第 1 條專業投資者之定義的任何 (a) 至 (j) 段項下之專業投資者；或 (ii) 香港法例第 571D 章《證券及期貨（專業投資者）規則》任何第 3 條 (a)、(c) 及 (d) 項下之專業投資者，而凱基合理滿意客戶就有關產品及 / 或市場符合操守準則第 15.3A(b) 段項下有關之標準及凱基已遵守操守準則第 15.3B 段外，假如凱基向客戶銷售或建議任何金融產品（其涵義按《證券及期貨條例》所界定及指與凱基所進行的受規管活動有關的金融產品），該金融產品必須是凱基經

考慮客戶的財務狀況、投資經驗及投資目標後而認為合理地適合客戶的。客戶協議的其他條文或任何其他凱基可能要求客戶簽署的文件以及凱基可能要求客戶作出的聲明概不會減損本第 20.13 條的效力。

#### 20.14 合約限額及大額未平倉合約

- (a) 就任何在交易所交易的期貨合約及期權合約，客戶須依照市場規定遵守所有適用的持倉限額、交易限額及申報要求，包括但不限於香港法例第 571Y 章的《證券及期貨（合約限量及須申報的持倉量）規則》、由證監會不時發出的相關指引及香港期交所規則。在不限制前述的概括原則下，客戶確認及同意遵守不時登載在香港交易所的網站 [www.hkex.com.hk](http://www.hkex.com.hk)（服務 \ 交易 \ 衍生產品 \ 概覽 \ 交易機制 \ 大額未平倉合約及持倉限額）（或不時由香港交易所指定的其他網站）之詳細規定。客戶確認，每位持有或控制須申報的持倉量的人士須依照有關申報要求履行其義務。除非市場規定另有規定或凱基另有書面協議，凱基無須就客戶在該等申報要求內的所有申報責任承擔責任。客戶確認，該等申報要求可適用於任何人士為其本身或任何其他人士持有或控制的所有持倉量。若客戶須依照任何該等申報要求提交任何報告，及若客戶代任何其他人士於凱基持有的任何戶口持有或控制任何合約持倉，客戶承諾就此通知凱基，並提供凱基可能需要的資料，包括但不限於該等其他人士的身份及該等其他人士持有合約的數目，以使凱基向有關交易所、結算所、政府機關及監管機構提交任何所需的報告。
- (b) 客戶不得持有或控制會超出不時由凱基按其絕對酌情權所施加的，或有關交易所、結算所、政府機關或監管機構所施加的持倉限額（包括但不限於對沖指定資產價格轉變風險的限額）及交易限額的持倉。凱基可按其絕對酌情權把帳戶內的任何合約平倉或過戶，以確保該等限額得以遵守。客戶同意，該平倉或過戶可於任何交易所及按凱基所決定的方式進行，及凱基無須就該平倉或過戶不論任何原因，以及不論是否關於該平倉或過戶的時間性或方式所引致的任何直接或間接損失負責（因凱基的蓄意失當行為或嚴重疏忽所引致的則除外）。

20.15 並非客戶協議訂約一方之人士（凱基之任何繼承人及受讓人除外）不具有香港法例第 623 章《合約（第三者權利）條例》項下之權利以執行客戶協議任何條款或享有其利益，惟凱基之任何聯屬人士享有客戶協議賦予該聯屬人士權利之利益。修訂、變更或終止客戶協議無需任何該等聯屬人士或任何其他第三者之同意。

#### 21. 準據法

21.1 客戶協議及所有在客戶協議之下的權利、義務及責任須依照中華人民共和國香港特別行政區法律所約束及詮釋，與及可依照中華人民共和國香港特別行政區法律被強制執行。

21.2 如果客戶是在香港以外地方居住或註冊的人或公司，客戶必須立刻於凱基提出要求的時候委任一名於香港的人士或代理人作為客戶的法律文件接收人，以收取任何涉及客戶的法律訴訟的有關通知及通訊，而客戶亦同意就在香港法院進行的法律訴訟而言，任何對法律文件接收人的法律文件送達，即構成對客戶的法律文件的妥善送達。

21.3 客戶不可撤回地同意接受中華人民共和國香港特別行政區法院的非獨佔性司法管轄權的約束。

#### 22. 仲裁

凱基可全權選擇及行使絕對酌情權，決定因客戶協議所引起的或與之相關的任何糾紛、爭議、分歧或索賠，包括客戶協議的存在、效力、解釋、履行、違反或終止，或因客戶協議引起的或與之相關的任何非合同性爭議，須提交由香港國際仲裁中心（「香港國際仲裁中心」）管理的仲裁，並按照凱基通知客戶有關糾紛、爭議、分歧或索賠須透過仲裁解決之時有效的《香港國際仲裁中心機構仲裁規則》（可經由本第 22 條餘下部分修訂）以仲裁方式最終解決。指定仲裁員機構為香港國際仲裁中心。仲裁地點為位於香港的香港國際仲裁中心，並只由一名仲裁員仲裁。仲裁程序所使用之語言須為英語。儘管有上述規定，若客戶為合資格索人，則客戶可以選擇通過金融糾紛調解中心所執行之金融糾紛調解計劃處理和解決任何該等糾紛。

(2008)





