

A. Interpretation:

In these terms and conditions, unless the context otherwise requires: “**Agreement**” means the agreement for the provision of Services, incorporating these Conditions, formed upon the acceptance by HIFX Inc. of a Client Order; “**Commercial Purposes**” means use of currency in connection with the ordinary course of business (which business does not include the trading of currency) and not for investment or speculation;

“**Conditions**” means these terms and conditions;

“**Contract Note**” means a written confirmation of an Order to be provided by HIFX Inc. to the Client in accordance with clause 1.3;

“**Forward Trade**” means a transaction where the Value Date is later than two Working Days after the Order;

“**Margin**” means the deposit required by HIFX Inc. from the Client in advance of each Forward Trade;

“**Margin Call**” means a request by HIFX Inc. to the Client to make a further deposit to reflect increased market risk;

“**Order**” means an appropriately placed order by Authorized Personnel of Client to perform a Trade;

“**Service**” means the purchase and sale of foreign currency for Commercial Purposes with physical delivery;

“**Spot**” means a transaction where the Value Date is up to two Working Days after the date of the Order;

“**Trade**” means each transaction to purchase for and deliver currency to the Client; ‘

“**Value Date**” means the date on which the currency transaction reaches value with the counter-party specified by HIFX Inc.;

“**Working Day**” means 9:00am to 5:30 on any day, other than a Saturday or Sunday, on which banks in the United States are not authorized or required by law to close.

1. Orders

1.1 The client will place written (including by electronic transmission) or oral orders for the Service, which HIFX Inc. may accept orally or in writing (including by electronic transmission), subject to these Conditions. Each Trade shall constitute a separate severable Agreement.

1.2 The Client acknowledges that HIFX Inc. may record all telephone conversations with or without an automatic warning tone. HIFX Inc. reserves the right to produce and store a transcript of the recorded telephone conversation and use either the transcript or the recording of the telephone conversation for the purpose of verifying the details of an Order or to resolve any disputes between the Client and HIFX Inc. in respect of the Service.

1.3 HIFX Inc. will provide a Contract Note by electronic mail or facsimile in respect of each Trade. Unless the Client notifies HIFX Inc. of any error or omission within 24 hours of receipt of any Contract Note, or other document issued by HIFX Inc., the Client shall be deemed to have agreed and accepted the contents of such Contract Note as an accurate representation of the facts of its nature and content and will be legally binding on the Client.

1.4 The Client will supply to HIFX Inc., on request, a specimen signature. A signature substantially resembling the specimen will be sufficient for HIFX Inc. to authenticate an instruction as being from the Client.

2. The Service

2.1 The Client hereby warrants that all Orders are for Commercial Purposes only and not for currency speculation. The Client further warrants that it is not acting as agent and that the Client will take physical delivery on the Value Date of the purchase currency after payment to HIFX Inc. of the full amount of the sold currency for each Trade as stipulated by HIFX Inc.

2.2 HIFX Inc. may at its absolute discretion refuse to perform a Service without liability for any resultant loss or damages suffered by the Client or any other party. The Client acknowledges that it would be unlawful for HIFX Inc. to transfer monies to it against exchange rate gains as such a transfer would not constitute Commercial Purposes.

2.3 In all matters relating to Trade, transactions, or any information obtained from HIFX Inc. in connection with or relating to this Agreement, the Client shall rely solely on the Client’s own skill and judgment. Although HIFX Inc. may provide the Client with information concerning the foreign exchange markets, the Client shall not place any reliance on HIFX Inc.’s opinion of the merits or otherwise of any currency transaction, taxation matters or comments made concerning any investment products or markets or other matters whatsoever. Once an Order is accepted by HIFX Inc. it cannot be altered or cancelled without the prior written consent of an authorized officer of HIFX Inc..

2.4 Notwithstanding clause 1.1, HIFX Inc. reserves the right to require written confirmation of any Client Order.

3. Financial provisions

3.1 In the event of a Spot Trade, the Client shall pay into a bank account specified by HIFX Inc. on such date or dates as HIFX Inc. might direct, but no later than the Working Day immediately preceding the Value Date, the amount specified by HIFX Inc. as full payment for the Trade.

3.2 In the event of a Forward Trade, the Client shall immediately pay into an account nominated by HIFX Inc., in cleared funds, a Margin of not less than 10% of the full amount of the sold currency, or such other percentage as HIFX Inc. may specify, and will pay any outstanding balance of the Sale Currency into an account specified by HIFX Inc. not later than one Working Day before the Value Date of the particular Forward Trade.

3.3 HIFX Inc. will make any payments to the Client under this Agreement in full unless required by law to deduct sums in respect of any taxation liabilities.

3.4 Banks have specified times of cut off for the receipt and dispatch of electronic payments. HIFX Inc. accepts no responsibility for and shall have no liability in respect of any delay in onward payment attributable to the late arrival of funds or instruction of payment relative to the cut off times of the designated bank.

3.5 HIFX Inc. reserves the right to make a Margin Call to reestablish the Margin to the original percentage level agreed for the particular Trade if the Margin subsequently falls below the applicable threshold for the Trade as set out below as a result of an adverse market movement:

- (a) in the event an initial Margin of 10% falling to or below 5%
- (b) in the event an initial Margin of 15% falling to or below 10%
- (c) in the event an initial Margin of 20% falling to or below 15%

3.6 In the Event of a Margin Call being made the Client shall pay all those monies required pursuant to the Margin Call within twenty four hours of HIFX Inc. first communicating the Margin Call to the Client. The Client’s failure to do so shall be a fundamental breach of the Conditions of the Trade in question and shall entitle HIFX Inc., without prejudice to any other remedy available, to immediately and without notice to the Client, terminate the Trade without liability.

4. Duration, termination

4.1 HIFX Inc. shall have the right to close out all or part of any Trade from the market without notice to the Client of the Client’s liability upon or at any time after the happening of any of the following events:

4.1.1 The Client fails to make any payment for a Service when due and in accordance with these Conditions;

4.1.2 the Client materially breaches any of the Conditions or fails to comply with its obligations to HIFX Inc. in respect of a Trade or is materially in breach of any statute or regulation;

4.1.3 it becomes or may become unlawful for HIFX Inc. to maintain or give effect to all or any of the obligations under the Conditions or otherwise to carry on its business, or if HIFX Inc. is requested to close out a Trade (or any part thereof) by any regulatory authority whether or not the request is legally binding, or if HIFX Inc. in its reasonable discretion considers it necessary to do so for its own protection;

4.1.4 the Client becomes unable to pay its debts as they become due or has a bankruptcy petitioned against them or the Client proposes a form of composition or arrangement to its creditors or if the Client ceases or threatens to cease to carry on all or a part of its business;

4.1.5 any of the events specified above or anything analogous there to occurs under the laws of any applicable jurisdiction.

4.2 If the Client becomes aware of the occurrence of any event referred to in this clause, the Client shall give HIFX Inc. notice of such event forthwith.

5. Limitation of Liability

5.1 This clause 5 sets out HIFX Inc.’s entire liability to the Client for any losses, costs (including legal costs), damages, expenses, taxes, charges or any other liability whatsoever (“Liability”)

5.2 The limitation and exclusion of Liability is set on the basis that the Client is aware of the volatile nature of the foreign exchange market.

5.3 Nothing in this Agreement shall exclude HIFX Inc.’s liability for death or personal injury arising from HIFX Inc.’s negligence or the negligence of its employees, agents or sub-contractors.

5.4 Subject to clause 5.3, HIFX Inc.’s Liability to the Client in respect of any breach of HIFX Inc.’s contractual obligations under this Agreement shall be limited to direct losses incurred by the Client in connection with such breach; provided that, in no event shall HIFX Inc.’s Liability exceed the lesser of a) the total amount paid by the Client to HIFX Inc. in respect of the Trade giving rise to the claim or b) US\$1,000,000

5.5 Notwithstanding anything in this Agreement, in no event shall HIFX Inc. be liable for any loss of profits, goodwill, anticipated savings, loss caused by the failure or delay of any third party in the transmission, provision or delivery of any Service or any special, indirect, incidental or consequential loss regardless of the form of action (including loss or damage suffered by the client as a result of an action brought by a third party) and even if such loss was reasonably foreseeable or HIFX Inc. was advised as to the possibility thereof.

5.6 The Client hereby indemnifies and will defend and keep HIFX Inc. indemnified against any and all Liabilities incurred by HIFX Inc. from third party claims in the proper performance of the Services and the enforcement of its rights hereunder. In addition, the Client hereby indemnifies and will keep HIFX Inc. indemnified against any and all Liabilities sustained or incurred by HIFX Inc. (including but not limited to HIFX Inc.’s loss of profits and attorney fees and costs incurred in defending against any claims covered by this indemnity) as a result for in connection with:

5.6.1 any default in payment by the Client of any sum under the Conditions when due;

5.6.2 any breach by Client of clauses 2.1 or 2.2;

5.6.3 HIFX Inc. doing and taking all and any actions and steps whatsoever to carry out the terms of any Client Orders, whether oral or written, from or purporting to be from Authorized Personnel; or

5.6.4 HIFX Inc. exercising its right under clauses 4.1.1, 4.1.2,

4.1.4 or where appropriate - 4.1.5 to close out all or any part of any Trade and in such event HIFX Inc. shall have the right, as an alternative to its right to seek an indemnity from the Client, to set-off against any Client monies held by HIFX Inc. any amounts owed by the Client to HIFX Inc. in respect of any Service.

6. General

6.1 HIFX Inc. shall not be liable to the Client for any delay or non-performance of its obligations under this Agreement arising from any cause or causes beyond its reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion, civil commotion, failure of computer equipment or communications systems or industrial dispute of a third party.

6.2 Nothing in this Agreement is intended to confer any benefit on any third party (whether referred to herein by name, class, description or otherwise) or any right to enforce any provision of the Agreement or these Conditions.

6.3 The parties are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties.

6.4 The provisions of section 5 shall survive termination of any Order, completion of any Trade or termination of this Agreement.

6.5 This Agreement, including these Conditions, constitute the entire agreement and understanding of the parties and supersede all oral communications and prior

writing relating to it.

6.6 HIFX Inc. may amend these Conditions by notice in writing to the Client at any time and such amendment shall be binding with the agreement of the Client from the date of such notice. Any such amendment shall not be retrospective or affect any rights or obligations that may already exist in respect of any Orders.

6.7 It is intended that these Conditions shall be reasonable as between HIFX Inc. and Client having regard to the nature of the Agreement, but if at any time any of these Conditions is either unenforceable or void at law or pursuant to any ruling of any governmental authority, court, or tribunal, it shall not adversely affect or prejudice the remainder of them or the Agreement and it shall be deemed to be excluded from these terms and conditions and, where possible, to be replaced by such other enforceable and valid term or condition as shall be as near as may be to the original in both form and effect.

6.8 The Client may not assign or otherwise transfer the benefit of any Agreement without the express written consent of HIFX Inc. HIFX Inc. can assign its rights and obligations to any affiliate and to any third party, so long as that third party can reasonably fulfill HIFX Inc.'s obligations.

6.9 Any failure by either party to exercise, and any delay, forbearance or indulgence by either party in exercising, any right, power or remedy under this Agreement shall not operate as a waiver of that right, power or remedy or preclude its exercise at any subsequent time.

6.10 In the event of any of the provisions of these Conditions being in conflict with other documentation produced pursuant to an Agreement then the Conditions shall prevail.

6.11 This Agreement shall be governed by and construed in all respects in accordance with the Laws of the State of California, and each Party hereby submits to the exclusive jurisdiction of the courts of the State of California.

