

# GENERAL TERMS & CONDITIONS

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Effective from 1<sup>st</sup> October 2024 until Further Notice

## CUSTOMER AGREEMENT

This is a legal contract between AVA Trade EU Limited, herein after known as ("AvaTrade", "us" or "we") its successors and assigns, and the party/parties (the "Customer", "client" or "you") executing this document. This document, together with our [Risk Disclosure Statement](#), [Order Execution Policy](#), [Trading Conditions and Charges](#), [Futures Pricing](#), [Conflict of Interest Policy](#), [Client Asset Key Information Document](#), [Key Information Document](#) and [Privacy Statement](#), which are found on our website (together the "Customer Agreement") represents the terms with which AvaTrade will do business with Customer. This document sets out the respective rights and obligations of both parties in connection with this service and both parties will accept and be bound by these terms on acceptance of the terms contained herein and on completion of the application form by Customer.

In connection with opening an account with AvaTrade to speculate in, and/or purchase, and/or sell, Forex, Contracts for Differences (hereinafter referred to as "CFDs"), Options (hereinafter referred to as "Options"), contracts traded on futures exchanges (hereinafter referred to as "Futures") and Spread Betting, in commodities, metals, currencies and indices, and the receipt of such other services and products as AvaTrade may, in its sole discretion, determine to offer from time to time in the future, Customer acknowledges that it has been advised and understands the following factors concerning trading in the over the counter market ("OTC") and/or Spread Betting market, in addition to those contained in the Risk Disclosure Statement which has been provided to Customer. We trade contracts for differences ("CFD") transactions in OTC.

In consideration of AvaTrade agreeing to provide services to "Customer", "client" or "you" in connection with the purchase of Forex, CFDs, Options, Futures and Spread Betting in commodities, currencies, metals and indices and the receipt of such other services and products as AvaTrade may, in its sole discretion, determine to offer from time to time in the future and which may be purchased or sold by or through AvaTrade for Customer's accounts(s), Customer agrees that the following rights and obligations will govern the relationship between AvaTrade and Customer.

## IMPORTANT NOTICES

OTC trading means that trading does not take place on a regulated exchange. There are no guarantees as to the credit worthiness of the counter party of your Forex, CFDs, Options, Futures and Spread Betting position. Also, there may be certain cases in which trading liquidity decreases, causing Forex, CFDs, Options, Futures and Spread Betting in commodities, currencies, metals and indices to cease, thereby preventing the liquidation of an adverse position which may result in a substantial financial loss.

### Target Market

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Trading in CFDs will not be appropriate for everyone. In general, AvaTrade considers that the product should be used by persons for whom some or all of following applies: (1) is an Elective Professional Client, or (2) is a Retail Client who (a) has sufficient relevant knowledge and/or experience; (b) has the ability to bear a 100% loss of all funds invested; (c) has a high-risk tolerance; and (d) the intended use of the product comprises one or more of the following reasons: short-term investment, speculative trading, portfolio diversification and/or hedging of exposure to an underlying asset.

AvaTrade does not provide investment advice. The market recommendations, signals, information provided by and/or distributed by AvaTrade are general in nature and based solely on the judgment of AvaTrade's personnel or from third party information providers. These market recommendations may or may not be consistent with the market position or intentions of AvaTrade, its affiliates, and/or employees. The market recommendations and information provided by AvaTrade are based upon information believed to be reliable, but AvaTrade cannot and does not guarantee the accuracy or completeness thereof or represent that following such recommendations will eliminate the risk inherent in trading Forex, CFDs, Options, Futures and Spread Betting. Any market recommendations of, or information provided by, AvaTrade does not constitute an offer to buy or sell, or the solicitation of an offer to buy or sell, any OTC transaction. Customer understands and hereby agrees that Customer is capable of, and solely responsible for, assessing the merits and risks of any trade it may enter into with AvaTrade.

Customer understands that AvaTrade does not permit its Customer representatives to either exercise discretion or manage an OTC account. If Customer's account is not being traded with Customer's authorisation, Customer must notify AvaTrade immediately.

AvaTrade's margin policies and/or the policies of those banks/clearing houses through which trades are executed may require that additional funds be provided to properly margin Customer's account and Customer is obligated to immediately meet such margin requirements. Failure to meet margin calls may result in the liquidation of any open positions with a resultant loss. AvaTrade reserves the right to refuse to accept any order.

Customer understands that it must carefully review the reports relating to Customer's trading posted online by AvaTrade. All reports of execution and statements of accounts will be deemed final unless customer objects within two business days of being posted. Objections may be made initially by email or by telephone, but must be confirmed thereafter in writing.

Customer understands that AvaTrade may establish rules and provisions for client accounts, including but not limited to minimum account size, investment time period, commissions and fees, leverage size per instrument, mark ups, rules relating to stop losses and limits, rules relating to rollovers, rules relating to margin calls, or any other financial arrangement, and that such rules and provisions may be changed by AvaTrade from time to time.

Customer has read and understands the Customer's obligations and rights under this Customer Agreement and agrees and acknowledges that this Customer Agreement, Risk Disclosure Statement,

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Order Execution Policy, Trading Conditions and Charges, Conflict of Interest Policy, Client Asset Key Information Document, Key Information Document and Privacy Statement will comprise the terms of the Customer's relationship with AvaTrade. The Customer agrees that Customer is fully responsible for making all decisions as to transactions effected for Customer's account. Customer has considered the foregoing factors and in view of Customer's present and anticipated financial resources, Customer is willing and able to assume the substantial financial risks of OTC trading.

**IT IS THE CUSTOMER'S RESPONSIBILITY TO FIND OUT ALL NECESSARY INFORMATION ABOUT TRADING IN FOREX, CFDs, OPTIONS, FUTURES AND SPREAD BETTING AND AVATRADE TERMS AND CONDITIONS AND MAKE SURE THAT ALL RISKS AND ARRANGEMENTS ARE DISCUSSED AND CLEARLY UNDERSTOOD PRIOR TO ANY TRADING ACTIVITY.**

## 1. TERMS AND HEADINGS

- 1.1 "AvaTrade" shall, where the context so permits or requires, be deemed to mean AVA Trade EU Limited its subsidiaries and affiliates and their successors and assigns;
- 1.2 "Central Bank" shall mean the "Central Bank of Ireland" or any successor authority thereto.
- 1.3 "Customer" shall mean the party (or parties) who have agreed to be bound by the terms of this Agreement;
- 1.4 "Agreement" shall include this agreement and all other agreements and authorizations executed by Customer in connection with the maintenance of Customer's account with AvaTrade.
- 1.5 "MiFID" shall mean The Markets In Financial Instruments Directive II (MiFID II) 2014/65/EU "Applicable Regulations" means: (a) the Central Bank regulations; (b) rules of a relevant regulatory authority; (c) the rules of a relevant Exchange; and (d) all other applicable laws, rules and regulations as in force from time to time, as applicable to this Agreement, any Transaction, or our Electronic Trading Services; The paragraph headings in this Agreement are inserted for convenience of reference only and are not deemed to limit the applicability or affect the meaning of any of its provisions.

## 2. INFORMATION ABOUT AVATRADE

- 2.1 AVA Trade EU Limited, trading as "AvaTrade", is a member of the Ava Group.

The Ava Group consists of:

- Ava Trade Ltd.
- Ava Trade Markets Ltd
- Ava Trade EU Limited.

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- Ava Capital Markets Australia Pty Ltd
- Ava Trade Japan K.K
- Ava Trade Middle East Limited
- Ava Ireland Limited

2.2 AvaTrade EU Limited is a company incorporated under the laws of Ireland and is regulated in the Republic of Ireland by the Central Bank as an investment firm under the MiFID Regulations. The MiFID Regulations transpose the MiFID into Irish law. The Central Bank, Ireland's financial services regulatory body, is responsible for the regulation of financial services providers in the Republic of Ireland. AvaTrade is authorised by the Central Bank under the MiFID Regulations to provide the investment service set out in paragraph below:

2.2.1 Investment Service: Dealing on own account, meaning the activity of trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments.

2.2.2 Ancillary Services: Foreign exchange services where these are connected to the provision of investment services; and Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments.

2.2.3 Financial Instruments: Options, Futures, swaps, forward rate agreements and any other derivative contracts relating to any of the following:

- (i) Securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash;
- (ii) Commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default of other termination event);
- (iii) Commodities that can be physically settled, provided that they are traded on a regulated market or on an MTF;
- (iv) Commodities, not being for commercial purposes, if the commodities can be physically settled and have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognized clearing houses or are subject to regular margin calls;
- (v) Financial contracts for differences.

Should you wish at any stage to contact us our number is +35315137861. Our registered offices are Dockline, Mayor Street, Dublin 1, D01 K8N7, Ireland. Alternatively you may visit our websites

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at [www.avatrade.com](http://www.avatrade.com), [www.avafutures.com](http://www.avafutures.com), [www.avaoptions.com](http://www.avaoptions.com). Should you wish to contact the Central Bank of Ireland, its address is P.O Box 559, Dame Street, Dublin 2.

## 3. CATEGORISATION

- 3.1 Under MiFID II we are required to categorise our clients in order to determine the correct level of investor protection and transparency. It is our policy to treat all of our clients as retail clients in relation to the MiFID services that we provide unless retail clients upon request opt to be categorised as “professional clients”. Retail clients for whom we provide services in relation to Forex, CFDs, Options, Futures and Spread Betting will be afforded the highest level of protection available under MiFID. You expressly consent to your client categorisation.
- 3.2 We may consider requests from clients to be treated as a “professional client”, but only on an exceptional basis and only in the event that the customer satisfies the criteria under MiFID to be classified as a “professional client”. A “professional client” will be assessed and categorised as such based on the stated expertise, experience and knowledge in financial markets. We deem that professional clients are capable of making their own investment decisions and that they understand the risks involved. If you are classified as a “professional client”, you may lose certain protections, as indicated on our website. These includes limits in relation to leverage. In these circumstances, we will provide you with a notice of protections lost setting out any regulatory protections that will no longer be provided, as well as any protections that will be retained. If You desire to be re-classified or for more information please visit <https://www.avatrade.com/about-avatrade/professional-trading>

## 4. COMMUNICATION

- 4.1 The principal method of communication between AvaTrade and Customer will be electronically via AvaTrade’s website and on-line trading platforms.
- 4.2 Information regarding orders placed and executed will be addressed personally to Customer through a customer specific account.
- 4.3 However, certain information will be provided generally on our website, such as general market recommendations and Customer hereby consents to receiving information not addressed personally to customer in that form and you confirm that you have regular access to the internet and our website.
- 4.4 Customer may also place orders via the phone with our dealing room. In the course of our dealings with you, you may place orders with us via our on-line trading platform in the languages which are posted on our website, which is updated with additional languages from time to time.

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- 4.5 Where orders are placed by phone via the dealing room you may communicate with us in any one of the languages which are listed on the website.
- 4.6 All written communications from us to you will be in the language used to register your account via our website.

## 5. AUTHORISATION TO TRADE

- 5.1 AvaTrade is authorised to enter into Forex, CFDs, Options, Futures and Spread Betting contracts on an over-the-counter basis with Customer in accordance with Customer's oral or written or computer instructions, subject to the terms of this Agreement and all annexes hereto. AvaTrade enables Customers, on an execution only basis, to conduct transactions and hold positions in derivatives via the network of brokers, clearing members, counterparties, banks, stock exchanges and other parties with whom AvaTrade has a direct or indirect relationship.
- 5.2 For trading in Futures, Customer hereby acknowledges that AvaTrade is not the counterparty of the Futures contracts but acts as an intermediary/commission agent in its own name for the account and risk of the Customer. AvaTrade has appointed a 3<sup>rd</sup> Party Futures Commodities Merchant ('FCM') for the omnibus accounts where client funds are received and held, with the exception of a limited proportion, based on operational requirements, which is held with the clearing members and the futures exchanges. Ava Trade has appointed a 3<sup>rd</sup> Party Futures Commodities Merchant ('FCM') clearing member as executing broker and clearer. Without derogating from the foregoing, AvaTrade reserves the right to select, at its sole discretion, any other intermediate commission agent, broker and/or trading venues as its correspondent executing and/or clearing broker to carry out an execution of a Futures contract. In the case of default or improper performance, AvaTrade will assign its claims against the engaged agents or bodies to the applicable Customer. Insofar as any third party clearing member, agent, broker and/or trading venue requires from AvaTrade, the Customer cannot exercise rights against such third parties and will not hold them liable for damage. The Customer acknowledges that each Futures contract shall be deemed a Collateral Margined Transaction under the 'Client Asset Requirements' issued by the Central Bank, since each Futures order will be affected by AvaTrade for a Customer under the terms of which the Customer will, or may, be liable to make a deposit of cash or give collateral, either at the outset or subsequently, in order to secure performance of an obligation which the Customer may have to perform when the transaction falls to be completed or upon the earlier closing of the Customer's position with such Futures contract.
- 5.3 On completion of the application form by Customer, AvaTrade will issue Customer with a secure password which is to be used with the chosen user-name of the Customer.
- 5.4 AvaTrade's security systems are designed to ensure that any information provided to and from Customer is securely transmitted. Customer is obligated to keep passwords secret and is solely

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responsible for ensuring that third parties do not obtain access to the password or AvaTrade's trading facilities.

- 5.5 Customer agrees to be exclusively responsible for any instruction received electronically that is identified with Customer's password and account number and for any electronic, oral and written instruction to AvaTrade from persons AvaTrade in its sole judgment, believes are apparently authorized by Customer.
- 5.6 If Customer's account is titled as a joint account, AvaTrade is authorised to act on the instructions of any one owner, without further inquiry, with regard to trading on the account and the disposition of any and all assets in the account.
- 5.7 AvaTrade shall have no responsibility for further inquiry into such apparent authority and no liability for the consequences of any actions taken or omitted to be taken by AvaTrade in reliance on any such instructions or on the apparent authority of any such persons.
- 5.8 AvaTrade has the authority to require joint action by the owners of the account in respect of the account. AvaTrade may send all correspondences and documents in respect of the account to any one owner of a joint account.
- 5.9 AvaTrade has possession over the security of the account whether individual or joint.
- 5.10 If a death occurs to one or more of the owners of a joint account, AvaTrade shall be notified in writing and shown proof of a death certificate. All expenses due at the date of notification shall be charged to the account.
- 5.11 Up to the time valid written notification is provided to AvaTrade, each owner of a joint account is presumed to have an equal share in the joint account.

## 6. APPROPRIATENESS OF TRADING

- 6.1 Although AvaTrade issues general market recommendations, these should not be construed as personal recommendations or advice to trade with AvaTrade. As such we are under no obligation to assess the suitability or otherwise of the Customer trading Forex, CFDs, Options, Futures and Spread Betting with AvaTrade.
- 6.2 All trades entered into by Customer represent an independent decision by the Customer to trade with AvaTrade.
- 6.3 However, where the Customer decides to trade with AvaTrade we are required to assess your knowledge and experience of trading Forex, CFDs, Options, Futures and Spread Betting in order to determine the appropriateness of trading with respect to the financial instruments which AvaTrade provides. This information is captured on our application form.

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- 6.4 If we consider on the basis of the information that you provide that trading in the contracts we offer is not appropriate for you, we shall warn you of this. Any such warning is not intended as investment advice and must not be relied upon as such.
- 6.5 Our obligation is to assess your knowledge and experience and not to assess the suitability of a given investment in your circumstances.
- 6.6 In some cases, if we consider that it is not in your best interests, we shall not be obliged to proceed with a transaction.
- 6.7 All trading is done subject to the Trading Conditions detailed on the AvaTrade website.

## 7. GOVERNMENTAL COUNTER PARTY INSTITUTION AND INTERBANKING SYSTEM RULES

- 7.1 All transactions under this Agreement shall be made in accordance with usage, rulings and interpretations of the counter party institution, exchanges or other interbank market (and its clearing organization, if any) and with all applicable laws and regulations.
- 7.2 If any statute shall hereafter be enacted or any rule or regulation shall hereafter be adopted by any governmental authority, or a contract market, exchange or clearing organization which shall be binding upon AvaTrade and shall affect in any manner or be inconsistent with any of the provisions hereof, the affected provisions of this Agreement shall be deemed modified or superseded, as the case may be, by the applicable provisions of such statute, rule or regulation, and all other provisions of this Agreement and provisions so modified shall in all respects continue in full force and effect.
- 7.3 Customer acknowledges that all transactions under this Agreement are subject to the aforementioned regulatory requirements and Customer shall not thereby be given any independent legal or contractual rights with respect to such requirements.
- 7.4 While trading in Futures, if any regulated market, exchange, clearing broker or other agents engaged by AvaTrade takes any action which affects a transaction or contract in Futures, directly or indirectly, then AvaTrade is entitled to take any action it considers desirable or appropriate in its sole discretion in relation to any Futures contract or transaction with the Customer. In addition, if trading in particular contracts is suspended, in whole or in part, on a futures exchange and all transaction orders are therefore cancelled, all orders of the Customer for such suspended contracts shall also be deemed cancelled.

## 8. MARGINS AND DEPOSIT REQUIREMENTS



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- 8.1 Customer shall provide to and maintain with AvaTrade margin in such amounts and in such forms as AvaTrade, in its sole discretion, may require, which may include initial margin and/or maintenance margin requirements.
- 8.2 Such margin requirements may be greater or less than margins required by those banks or brokers with which trades are executed or under rules of exchanges of clearing houses or governmental and other regulatory agencies.
- 8.3 AvaTrade may change margin requirements at any time for any open or new positions and for some or all products, in AvaTrade's sole discretion.
- 8.4 Customer shall monitor their account so that at all times so that the account contains sufficient equity to meet margin requirements. Customer shall maintain, without notice or demand, sufficient equity at all times to continuously meet margin requirements.
- 8.5 Customer agrees to deposit by immediate wire transfer, or other payment method acceptable to AvaTrade, such additional margin when and as required by AvaTrade and will promptly meet all margin calls in such mode of transmission as AvaTrade in its sole discretion designates.
- 8.6 For the purpose of determining a Customer's compliance with AvaTrade margin requirements, AvaTrade will determine in its sole discretion the values of positions and assets in such Customer's account. AvaTrade's calculations may differ from the values or prices disseminated by exchanges or other market data sources and AvaTrade shall have sole discretion in deciding whether and how to value securities, derivatives, OTC products or other investment products. AvaTrade may raise margin requirements in advance of an upcoming change in the required exchange or clearing house margin even before the effective date of such change.
- 8.7 AvaTrade may at any time proceed to liquidate Customer's account, unilaterally and possibly without prior notification, including without limitation in the event (i) equity of an account no longer meets the margin requirements specified by an AvaTrade partner or depository bank, (ii) AvaTrade anticipates that the holding of an option position or any other position in the Client's account likely will result in a future margin violation or (ii) AvaTrade determines that liquidation is necessary or advisable for its protection. Customer acknowledges that even if a margin call is issued, AvaTrade still may liquidate positions at any time. Any failure by AvaTrade to enforce its rights hereunder shall not be deemed a waiver by AvaTrade to enforce its rights thereafter. Customer cannot choose which positions will be liquidated to cover a margin call and such decision shall be made solely by AvaTrade, its partners and/or a depository bank.
- 8.8 AvaTrade retains the right to limit the amount and/or total number of open positions which Customer may acquire or maintain at AvaTrade, and to increase margin requirements in advance of earnings or other news or events, with or without notice, either before such events or retroactively or at any other time that it deems at its sole discretion.

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- 8.9 AvaTrade may reject any order if the account has insufficient equity to meet margin requirements, and may delay processing any order while determining margin status. Orders must be placed allowing sufficient time to execute and to calculate margin requirements.
- 8.10 Profits deriving from a transaction shall be added to Customer's account as additional margin, as long as the transaction is open, and upon the closing of the transaction, as an addition to the available balance for withdrawal.
- 8.11 Losses deriving from a transaction shall be deducted from Customer's account.
- 8.12 AvaTrade may reject any order if the account has insufficient equity to meet margin requirements, and may delay processing any order while determining margin status. Orders must be placed allowing sufficient time to execute and to calculate margin requirements.

## 9. OPTIONS

- 9.1 Options are contracts that give the buyer the right, but not the obligation, to buy (in the case of a Call Option) or to sell (in the case of a Put Option) a specified asset at a specified price (the "Strike") at a specified time and date (the "Expiration"), from or to the seller of the option. These are commonly known as European style vanilla options. There are no overnight interest charges for bought or sold vanilla options.
- 9.1.1 Barrier Options differ from vanilla options in that their payoffs depend on whether or not the underlying asset's price has reached or exceeded a prespecified price or prices during the life of the option. AvaTrade may offer Barrier Options to customers in some entities. The Barrier Options offered by AvaTrade are single barrier Knockout Options, where the Barrier is the same as the Strike price of the option. For Knockout Call Options, if AvaTrade determines in its sole discretion that its bid price of the underlying asset was at or below the Strike, the option immediately expires worthless. For Knockout Put Options, if AvaTrade determines in its sole discretion that the ask price of the underlying asset was at or above the Strike, the option immediately expires worthless.
- 9.1.2 The price of a Knockout Call Option is its intrinsic value, which is the amount by which the ask price of the underlying asset exceeds the Strike. The price of a Knockout Put Option is its intrinsic value, which is the amount by which the strike exceeds the bid price of underlying asset. To this intrinsic value is added a Knockout Fee or Premium, which is charged to cover the risk of the knockout event. If a Knockout Call or Put is closed or expires before the Knockout level is reached, the prevailing Knockout Fee or Premium is credited to the account. The total cost (proceeds) of a Knockout Option is its intrinsic value plus the Knockout Fee, which is converted to the account currency and charged immediately upon buying (closing) the position. Note that if an option is knocked out, the Knockout Premium is not credited.

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- 9.1.3 Overnight interest is charged on Barrier options positions according to the exposure to the underlying asset.
- 9.2 The proceeds of the purchase or sale of an Option (the "Cost", or "Premium") will be immediately debited or credited to the cash balance of the account. At Expiration, Options that are in the money will be automatically closed out at intrinsic value, that is, in the case of Call Options, the amount by which the closing price of the specified asset exceeds the strike price, and in the case of Put Options, the amount by which the Strike exceeds the closing price of the specified asset. For long Call and short Put positions, the closing price will be the prevailing bid price of the underlying asset at Expiration; and for short Call and long Put positions, the closing price will be the prevailing ask (offer) price of the underlying asset, as determined by Ava in its sole discretion. Options that are not in the money will expire worthless.
- 9.3 The Customer acknowledges, recognizes and accepts that AvaTrade quotes variable spreads on Options. The Client is specifically made aware that variable option spreads are affected by actual market conditions, which are beyond AvaTrade's control. AvaTrade does not guarantee any maximum or minimum quotable option spreads. There may be times when Options quotes are not available in some underlying assets.
- 9.4 We allow you to perform various transactions, including in respect of options based on various indices that shall be defined by us from time to time (for example, index rates and stock and option rates), and to receive financial information and various other services as we shall determine in our sole discretion. Prior to effecting any transaction, we advise you to read the explanations that may be found on the website regarding each type of transaction. The rules of trade are set exclusively by AVA.
- 9.5 We will make available, by posting on [www.avatrade.com](http://www.avatrade.com), the current price applicable to a share or index, and offer you the opportunity to submit a put or call position in respect of such share. Each position shall be for a specified expiry time. We expect that the current prices will be reasonably related to the actual prices of such shares available in the market. We make no warranty, express or implied, that the quoted prices represent prevailing quoted prices.

## 10. FUTURES

- 10.1 Non-Professional User
- 10.2 You declare that all market data, quotes or other content provided is exclusively for your own use and cannot be distributed or published in whatever format to any third party.
- 10.3 The exchanges providing you with real-time market prices distinguish between professional and non-professional users of their market prices. The criteria defining a non-professional user may differ slightly from exchange to exchange and can evolve.

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10.4 A non-professional user meets the following criteria:

(a) you are not a member of any exchange

(b) you have not as your primary business a purpose that involves trading

(c) you are not registered as a professional trader or investment adviser with any exchange, regulatory body or professional association

(d) you do not obtain market prices directly or indirectly on behalf of a financial institution

(e) you do not obtain market prices in order to manage the assets of any third party

(f) you obtain the market prices solely for a personal, non – commercial use in order to manage your own assets

10.5 If you are a professional user or real – time data or if you become one, you must inform us in writing.

10.6 Auto-Liquidation

10.7 AvaTrade offers a platform(s) with functionality that allows for AvaTrade, in its sole discretion, to automatically liquidate positions in margin-deficient accounts. Customer acknowledges and agrees that trading will be subject to auto-liquidation, without notice, at AvaTrade’s sole discretion. Customer further acknowledges that auto-liquidation does not offer price certainty for existing positions nor does it create a “floor” or “limit” on potential trading losses. When possible, AvaTrade recommends that Customers submit orders to exit open positions.

10.8 In futures trading, the margin to buy or sell a contract and/or hold a contract from one trading session to and/or through another is commonly referred to as Overnight Margin. If a Customer intends to carry a position overnight (or does not intend to close its position prior to 15 minutes before the close), Customer must post Overnight Margin by 15 minutes before the close of the relevant exchange. The margin requirement is set by the exchange on which the contract trades but may be raised at any time by AvaTrade at our sole discretion. Day Margin refers to the amount of margin required to open, hold, and close a position within the same trading session and is generally a reduced holding requirement as compared to the Overnight Margin required by the exchange the asset is traded on. The reduced requirement of Day Margin can be used to increase leverage. This increased leverage can increase the risk associated with the trades.

10.9 Day Margin applies during exchange market hours up to 15 minutes prior to market close. At any other time of the day the account shall typically reflect AvaTrade’ Overnight Margin requirements. The Customer is required to monitor their account to maintain sufficient margin at all times. In the event that the Customer’s Equity, falls below the maintenance margin requirement and/or the full margin requirement during the closing period, or if positions are held within a predetermined

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number of ticks in front of lock limit up or down moves and prior to contract expiration, AvaTrade has the right, but not the obligation, in its sole discretion, to auto liquidate any or all of the open positions in the account. In the event of an auto liquidation, AvaTrade retains sole discretion to determine the order by which positions will be auto-liquidated. AvaTrade shall not be held liable for any losses arising from such liquidations. AvaTrade further has the right, but not the obligation, at its sole discretion to cancel any or all working orders affecting the Customer's Equity prior to liquidation. For the avoidance of doubt, AvaTrade may cancel working orders in certain other scenarios where liquidating a position is not necessary. Customer acknowledges and agrees to his/her account being auto liquidated as a market order. If for any reason, positions are unable to be liquidated, Customer remains liable for the positions and for adverse market movements affecting the account. Further, the Customer is liable and promptly shall pay any debit balance that may result from the account being auto liquidated.

## 10.10 AUTO LIQUIDATION FEES

10.11 In the event that the Customer's account is auto liquidated, AvaTrade may charge a fee to the Customer. Fees will be debited from the Customer's account. For all fees related to auto - liquidation, please visit our website at [avafutures.com](http://avafutures.com).

10.12 All transactions handled by AvaTrade on Customer's behalf shall be subject to the constitution, regulations, customs and interpretations of each exchange or market (and its clearing house, if any), on which the trades are executed, and to all applicable statutes and governmental regulations. AvaTrade shall not be liable to Customer as a result of any action taken by AvaTrade to comply therewith. AvaTrade's violation of any exchange or other self - regulatory organization's regulations shall not provide Customer with either a defense to a claim by AvaTrade or the basis of a claim against AvaTrade. AvaTrade has no obligation to ensure that Customer abides by the rules and regulations pertaining to it.

## 10.13 POSITIONS AND DELIVERIES

10.14 Customer acknowledges Customer's reporting obligations (regarding certain sized positions) under CFTC Regulations, including the obligation to complete Form 40 upon request by the CFTC. Customer acknowledges that the making or accepting of delivery pursuant to a futures contract may involve a much higher degree of risk than liquidating a position by offset. AvaTrade has no control over and makes no warranty with respect to grade, quality, or tolerances of any commodity delivered in fulfillment of a contract. Customer understands that, unless the contract specifications state to the contrary, every futures contract contemplates delivery and Customer shall promptly advise AvaTrade if Customer intends to make or take delivery. When Customer intends to take delivery, Customer shall deposit with AvaTrade the full value of the commodity at least one (1) business day prior to the first notice day and, in the case of short positions, at least four (4) business days prior to the last trading day. Alternatively, sufficient funds to take delivery or the necessary documents must be in the possession of AvaTrade within the same periods

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described above. If AvaTrade does not receive the aforementioned instructions, funds or documents, AvaTrade is authorized, at its discretion, to borrow or buy any property necessary to honor such obligation, and customer shall pay and indemnify AvaTrade for any costs, losses, penalties or damages (including, but not limited to delivery and storage costs) which AvaTrade may incur in fulfilling this responsibility.

10.15 AvaTrade does not permit physical or cash settlement of trades. The customer agrees that if they have open trades or open pending orders on instruments/assets 2 business days prior to the First Notice Date or the Last Trade Date of that instrument, whichever occurs first, the positions they have will be closed by AvaTrade and a fee may be charged.

10.16 To determine these dates, please visit the exchange's webpage and search for the exchange symbol. Once you locate the First Notice Date (FND) and the Last Trade Date (LTD) of the instrument, identify whichever occurs first, and then subtract 2 business days (T-2) to obtain the Ava expiry date

## 10.17 ORDERS

### 10.17.1 SLIPPAGE

10.17.2 You are warned that Slippage may occur when trading in Futures. This is the situation when at the time that an Order is presented for execution, the specific price showed to the Client may not be available; therefore, the Order will be executed close to or a number of pips away from the Client's requested price. So, Slippage is the difference between the expected price of an Order, and the price the Order is actually executed at. If the execution price is better than the price requested by the Client, this is referred to as positive slippage. If the executed price is worse than the price requested by the Client, this is referred to as negative slippage. Please be advised that Slippage is a normal element when trading in financial instruments. Slippage more often occurs during periods of illiquidity or higher volatility (for example due to news announcements, economic events and market openings and other factors) making an Order at a specific price impossible to execute. In other words, your Orders may not be executed at declared prices. It is noted that Slippage can occur also during Stop Loss, Take Profit and other types of Orders. We do not guarantee the execution of your Pending Orders at the price specified. However, we confirm that your Order will be executed at the next best available market price from the price you have specified under your pending Order. Among the orders that a customer can place on the platform are, but not limited to :

(a) Market Order (s)

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A market order is an order to buy or sell a financial instrument at the current price. Execution of this order results in opening a trade position. Financial instruments are bought at ASK price and sold at BID price. Stop Loss and Take Profit orders can be attached to a market order. All Futures are executed per the Exchange Order Rules.

## (b) Take Profit

Take Profit order is intended for gaining the profit when the financial instrument price has reached a certain level. Execution of this order results in complete closing of the whole position. It is always connected to an open position or a pending order. The order can be requested only together with a market or a pending order. Under this type of order, the Company's trading platform checks long positions with Bid price for meeting of this order provisions (the order is always set above the current Bid price), and it does with Ask price for short positions (the order is always set below the current Ask price). Take Profit Orders are executed once the price reaches the requested level (stated prices).

## (c) Stop Loss

This order is used for minimization of losses if the financial instrument price has started to move in an unprofitable direction. If the financial instrument price reaches this level, the whole position will be closed automatically. Such orders are always connected to an open position or a pending order. They can be requested only together with a market or a pending order. Under this type of orders, the Company's trading platform checks long positions with Bid price for meeting of this order provisions (the order is always set below the current Bid price), and it does with Ask price for short positions (the order is always set above the current Ask price). Stop Loss Orders are executed at the first available price.

## 11. AVAPROTECT

- 11.1 AvaProtect is a risk management tool that offers protection against losses on a specific position for a chosen time frame in exchange for a fee paid at the time of purchase.
- 11.2 Customers may be offered AvaProtect at the time of opening positions, and at other times.
- 11.3 AvaProtect is only available via AvaTradeGO.
- 11.4 Each AvaProtect contract relates to a specific position (the "covered position") and is not transferable to other positions.
- 11.5 Each AvaProtect contract has a fixed Expiration Date and Time, or Term.
- 11.6 The fee paid for AvaProtect is based on the expected volatility of the underlying position over the period of the contract.

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- 11.7 Fees paid for AvaProtect are deducted from an account's free cash balance at the time of purchase.
- 11.8 The fee paid for AvaProtect is non-refundable.
- 11.9 AvaProtect does not refund any overnight interest costs, commissions, or other fees if applicable.
- 11.10 If a customer purchases an AvaProtect contract for a position, then
  - 11.10.1 If the customer realizes losses on a covered position prior to the AvaProtect Expiration date and time for any reason, including Stop Loss, AvaTrade will credit the account with the loss.
  - 11.10.2 If the customer has unrealized losses on a covered position as of the time the AvaProtect Expiration date and time, AvaTrade will credit the account with that unrealized loss, based on the prevailing market price of replacing the protected position, in AvaTrade's sole discretion. No action is required by the customer on the Expiration of AvaProtect to receive this credit, and the position remains open.
- 11.11 For the avoidance of doubt, AvaTrade will return realized losses on covered positions to accounts before any Negative Balance Protection is applied.
- 11.12 AvaProtect contracts have no value after the protected position is closed or after the Expiration date and time, whichever occurs first.
- 11.13 AvaProtect contracts have no impact on required margin, and accounts do not reflect any potential unrealized value of AvaProtect contracts.
- 11.14 Customers are always required to maintain adequate margin or positions may be closed.

## 12. CUSTOMER ASSETS

- 12.1 Customer funds will be held in accordance with the 'Client Asset Requirements' issued by the Central Bank.
- 12.2 Unless otherwise stated, interest is not payable by AvaTrade on client funds deposited by Customer. Where interest is payable, the rate which interest is paid will be determined by AvaTrade and remain subject to change without prior notice.
- 12.3 All funds, securities, currencies, and other property of Customer which AvaTrade or its affiliates may at any time be carrying for Customer (either individually, jointly with others, or as a guarantor of the account of any other person,) or which may at any time be in its possession or control or carried on its books for any purpose, including safekeeping, are to be held by AvaTrade as security and subject to a general lien and right of set-off for liabilities of Customer to AvaTrade whether



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or not AvaTrade has made advances in connection with such securities, commodities, currencies or other property, and irrespective of the number of accounts Customer may have with AvaTrade.

- 12.4 AvaTrade may in its discretion, at any time and from time to time, without notice to Customer, apply and/or transfer any or all funds or other property of Customer between any of Customer's accounts.
- 12.5 Customer hereby also grants to AvaTrade the right to pledge, re-pledge, hypothecate, invest or loan, either separately or with the property of other Customers, to itself as broker or to others, any securities or other property of Customer held by AvaTrade as margin or security.
- 12.6 AvaTrade shall at no time be required to deliver to Customer the identical property delivered to or purchased by AvaTrade for any account of Customer.
- 12.7 This authorization shall apply to all accounts carried by AvaTrade for Customer and shall remain in full force until all accounts are fully paid for by Customer or notice of revocation is sent by AvaTrade from its home office.
- 12.8 Any failure by AvaTrade to enforce its rights hereunder shall not be deemed a future waiver of such rights by AvaTrade.
- 12.9 AvaTrade is irrevocably appointed as attorney in-fact for Customer and is authorized, without notice to Customer, to execute and deliver any documents, give any notice and to take any actions on behalf of Customer, including the execution, delivery and filing of financing statements, that AvaTrade deems necessary or desirable to evidence or to protect AvaTrade's interest with respect to any collateral.
- 12.10 In the event that the collateral deemed acceptable to AvaTrade is at any time insufficient to satisfy Customer's indebtedness or other obligations to Ava, including obligations to provide margin hereunder, subject to applicable regulation, Customer shall promptly pay upon demand the entire amount of such deficit.
- 12.11 Client Assets held within and outside Ireland:
- 12.11.1 Any funds received by AvaTrade from Customer will be deposited in a client account with one of its appointed credit institutions within the EU.
- 12.11.2 Our appointed credit institutions have confirmed to us in writing that they will designate accounts in such a way that sufficiently distinguishes the client account from any account containing funds belonging to the firm.
- 12.11.3 AvaTrade's approved credit institutions have also confirmed in writing that they will provide daily statements in respect of client funds held.

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12.11.4 Please be aware that the legal and regulatory regime of our approved credit institutions outside Ireland with which we place client funds are different to the laws applicable in Ireland.

12.11.5 Accordingly, in the event of default of the applicable credit institutions, client funds may be treated differently than they would be in Ireland.

12.11.6 By accepting these terms and conditions Customer hereby consents to client funds being held with credit institutions outside of Ireland.

## 12.12 Pooling:

12.12.1 Assets are held with our appointed credit institutions in a pooled client account.

12.12.2 A pooled client account is an account containing the funds of multiple clients and, therefore, the assets of one client are not physically segregated from those of another.

12.12.3 In the event of default by one of our appointed credit institutions, such a designation may prevent or delay our ability to control your assets.

12.12.4 AvaTrade performs daily reconciliations between pooled client funds and our internal records.

12.12.5 By accepting these terms and conditions Customer hereby consents to client funds being held in pooled accounts including our appointed credit institutions outside Ireland.

## 12.13 Default of Credit Institution and Monitoring:

12.13.1 In the event of default of one of our appointed credit institutions, AvaTrade does not accept responsibility and is not subject to any liability arising from losses to clients arising from such a default.

12.13.2 However, we conduct appropriate and continuing risk assessment of our appointed credit institutions in order to ensure that our appointed credit institutions are safe repositories.

12.13.3 We will supply the details of our appointed credit institutions on request to retail clients, including the names of those institutions and the client account details.

12.13.4 Where Customer does not wish AvaTrade to deposit funds with a particular credit institution we will return such funds to Customer as soon as possible.

## 12.14 Compensation:

12.14.1 AvaTrade is a member of the Investor Compensation Scheme, established under Irish law.

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- 12.14.2 In the event that AvaTrade is unable to return money owed to clients, certain 'eligible investors' will be entitled to receive a portion of the moneys owed provided the loss is recognized by the Investor Compensation Scheme.
- 12.14.3 For the purposes of the scheme, retail clients will be eligible investors and will be entitled to compensation.
- 12.14.4 The amount which a retail client will be entitled to receive is the smaller amount of 90% of funds owed or €20,000.
- 12.14.5 However, please be aware that in the event that you request to be treated as a professional client and AvaTrade agrees, you will no longer be an 'eligible investor' for the purpose of the scheme and will not be entitled to compensation in the event of default by AvaTrade.
- 12.15 Pursuant to section 11.5 Customers trading on the Ava Futures platform agree to the transfer of full ownership of funds to AvaTrade for the purpose of securing or otherwise covering a required margin and as such the required margin will no longer be treated as belonging to the Customer. AvaTrade will deposit the required margin as collateral with its liquidity provider(s). These funds will not be registered in the customer's name. Funds deposited by the Customer in excess of the required margin will be treated as client funds in accordance with the Client Asset Requirements.
- 12.16 In the case of Futures contracts, Customer hereby expressly consents and agrees that AvaTrade may (i) pledge, charge or grant a security arrangement over customer assets to a relevant party or an eligible custodian; (ii) use customer assets as security for AvaTrade's own obligations; and (iii) return to a Customer assets which are not the original assets of such Customer.

AvaTrade has entered into an indirect clearing agreement ("Indirect Clearing Agreement"), with a 3<sup>rd</sup> party Futures Commodities Merchant ('FCM') through which shall provide for the execution and clearing of futures transactions ("Transactions") via an omnibus account. Pursuant to the Indirect Clearing Agreement, Transactions may be redirected by the FCM and executed and/or cleared by affiliates of the FCM or another affiliate of the FCM Group., or a non-affiliated third party. General terms that govern this agreement include:

- 12.16.1 AvaTrade shall maintain an omnibus account with FCM for the purpose of executing and clearing Future products traded on regulated exchange, and if agreed upon, any other allowable instruments, as offered by FCM for such account through FCM
- 12.16.2 Client Funds received by AvaTrade for the purpose of executing and clearing Future products traded on regulated exchange shall be held in FCM omnibus account.
- 12.16.3 FCM shall provide an omnibus basis, execution and clearing services as requested by AvaTrade;

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- 12.16.4 FCM generally shall be responsible for receiving and accepting AvaTrade Customer orders (and modifications and cancellations thereof) and transmitting them for execution on various exchanges through FCM.
- 12.16.5 FCM and AvaTrade reserve the right to reject any AvaTrade Customer order that may be transmitted to either of them for execution and/or clearing.
- 12.16.6 FCM shall perform certain cashiering, client money and custody services for AvaTrade Customers, AvaTrade Accounts and AvaTrade Transactions. Such services include, without limitation:
- (a) accepting and holding all money submitted to fund AvaTrade Accounts (including, without limitation, funds submitted for the purpose of satisfying AvaTrade's initial and maintenance margin requirements [collectively, "Margin Requirements"]);
  - (b) receiving, delivering and transferring securities purchased and sold, borrowed and loaned and receiving and distributing payment therefor;
  - (c) holding in custody and safekeeping all securities and payments so received (provided that, with respect to securities, such securities are delivered via the book entry system of a clearing organization acceptable to AvaTrade);
  - (d) paying and charging interest on AvaTrade Accounts;
  - (e) receiving and distributing dividends and other distributions;
  - (f) processing securities as a result of corporate actions;
  - (g) transferring funds to Customers; and
  - (h) effectuating the liquidation of AvaTrade Customer positions or assets.
- 12.16.7 Extending credit to AvaTrade Customers, including complying with the Margin Requirements of AvaTrade and any relevant regulatory, self-regulatory or governmental body; and effecting stock loan and borrowing transactions in accordance with applicable law.
- 12.16.8 Performing certain collection services with respect to AvaTrade, including the collection of all commissions and fees and other monies or assets due from AvaTrade Customers under the terms of the AvaTrade Customer Agreement.
- 12.16.9 Performing certain back-office and record keeping and reporting functions with respect to AvaTrade Accounts, including the preparation of confirmations (contract notes) and account statements for AvaTrade Transactions, distributing such confirmations and account statements directly to AvaTrade Customers, maintaining books and records of

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all AvaTrade Transactions, and reporting such information as may be required by relevant regulatory or self-regulatory organizations or applicable law.

## 13. CONFLICTS OF INTEREST

- 13.1 AvaTrade is required to maintain and operate effective organisational and administrative controls to take all reasonable steps to identify, manage, disclose and record conflicts of interest. In order to achieve this AvaTrade has established and implemented a Conflicts of Interest policy.
- 13.2 Where arrangements made by AvaTrade to manage conflicts of interest are insufficient to ensure, with reasonable confidence, that risks of damage to client interests will be prevented, AvaTrade shall clearly disclose to the client the general nature and the sources of the conflicts of interest before undertaking business on the client's behalf.
- 13.3 A summary of AvaTrade's Conflict of Interest Policy is available on at <http://www.avatrade.com/about-avatrade/legal-documentation>

## 14. COMPLAINTS

- 14.1 In the event that you have any query and/or concern and/or issue and/or problem and/or reason to feel dissatisfied with any aspect of our service, in the first instance you should contact our customer services team, as the vast majority of issues can be dealt with at this level, via: <http://www.avatrade.com/about-avatrade/contact-us>.
- 14.2 If our customer services team is unable to resolve the matter or you feel that our service has not met your expectations and you wish to raise this issue as a formal complaint, you must complete a Complaint Form, which is accessible in the legal documents section of our website. The completed Complaint Form accompanied by adequate supporting evidence (as necessary) must be submitted to [complaints@avatrade.com](mailto:complaints@avatrade.com) to be recorded as a formal complaint.
- 14.3 We will provide you with a regular written update on the progress of the investigation of the complaint at intervals of not greater than 20 business days.
- 14.4 We will attempt to investigate and resolve the complaint within 40 business days of having received the complaint.
- 14.5 Where the 40 business days have elapsed and the complaint is not resolved, we will inform you of the anticipated timeframe within which we hope to resolve the complaint.
- 14.6 Once an investigation of the complaint is completed, a Final Response shall be issued to the Client with the investigation's outcome(s) together with any required explanations and any remedy measures the Company intends to take.

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- 14.7 A Complaint will be deemed as resolved or settled where the Company has sent in writing a Final Response to the Client.
- 14.8 If you do not feel that your complaint has been resolved satisfactorily you are then able to refer your complaint to the Financial Services and Pensions Ombudsman (“FSPO”). The FSPO is an independent organisation that was established to resolve disputes between financial institutions and their customers.
- 14.9 Any referral to the FSPO must take place within six years of our Final Response to you, and you should also note that the FSPO may not consider a complaint until we have had the opportunity to address the complaint.
- 14.10 For additional information on the FSPO and the services it provides, please see its website at [www.fspo.ie](http://www.fspo.ie). Alternatively, you can contact the office on +353 1 567 7000 or write to: Financial Services and Pensions Ombudsman, Lincoln House, Lincoln Place, Dublin 2, Ireland.

## 15. LIQUIDATION OF ACCOUNTS AND PAYMENT OF DEFICIT BALANCES

- 15.1 In the event of (a) the death or judicial declaration of incompetence of Customer; (b) the filing of a petition in bankruptcy, or a petition for the appointment of a receiver, or the institution of any insolvency or similar proceeding by or against Customer; (c) the filing of an attachment against any of Customer’s accounts carried by AvaTrade, (d) insufficient margin, or AvaTrade’s determination that any collateral deposited to protect one or more accounts of Customer is inadequate, regardless of current market quotations, to secure the account; (e) Customer’s failure to provide us with any information requested pursuant to this Agreement or any applicable law; or (f) any abuse of trading practices, manipulations and/or fraud by Customer or any other person authorized to use the account; or (g) any other circumstances or developments that we deem appropriate for its protection, and in AvaTrade’s sole discretion, it may take one or more, or any portion of, the following actions:
- (i) Satisfy any obligation Customer may have to us, either directly or by way of guaranty of suretyship, out of any of Customer’s funds or property in AvaTrade’s custody or control;
  - (ii) Sell any or purchase any or all Currency contracts, securities held or carried for Customer; and
  - (iii) Cancel any or all outstanding orders or contracts, or any other commitments made on behalf of Customer.
- 15.2 Any of the above actions may be taken without demand for margin or additional margin, without prior notice of sale or purchase or other notice to Customer, Customer’s personal representatives,

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heirs, executors, administrators, trustees, legatees or assigns and regardless of whether the ownership interest shall be solely Customer's or held jointly with others.

- 15.3 Prior demand or notice of sale or purchase shall not be considered a waiver of AvaTrade's right to sell or buy at any time in the future without demand or notice as provided above.
- 15.4 In liquidation of Customer's long or short positions, AvaTrade may, in its sole discretion, offset in the same settlement or it may initiate new long or short positions in order to establish a hedge which in AvaTrade's sole judgment may be advisable to protect or reduce existing positions in Customer's account.
- 15.5 Any sales or purchases hereunder may be made according to AvaTrade's judgment and at its discretion with any interbank or other exchange market where such business is then usually transacted or at a public auction or private sale, and AvaTrade may purchase the whole or any part thereof free from any right of redemption.
- 15.6 For Customer's protection, Equity or Net Liquidation Value of the Customer's trading account drops below the Minimum Margin Requirement, all or some of Customer's open transactions shall be automatically closed, whether at a loss or a profit.
- 15.6.1 For the AvaTrader and MetaTrader platforms, the Minimum Margin Requirement is equal to 50% of the Required Margin for Retail clients.
- 15.6.2 For the AvaTrader and MetaTrader platforms, the Minimum Margin Requirement is equal to 10% of the Required Margin for Professional clients.
- 15.6.3 For the AvaOptions platform, the Minimum Margin Requirement is equal to 50% of Required Margin.
- 15.6.4 For the AvaFutures platform, the Minimum Margin Requirement is equal to 90% of Required Margin
- 15.7 If the amount in Customer's trading account is less than zero, Customer shall promptly notify AvaTrade and AvaTrade shall nullify the account.
- 15.8 Neither AvaTrade nor any of its subsidiaries, affiliates or agents shall be responsible for any loss or damage caused due to closing of positions in accordance with the above.
- 15.9 With respect to trading activity in Forex, CFDs, Options and Spread Betting, we provide you with negative balance protection for your Account. This means that your losses can never exceed your Equity. Subject to local regulations, trading in Futures may result in a loss greater than the amount of funds Customer has deposited in his/her account, for which he/she shall be deemed liable and fully responsible towards AvaTrade.

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## 16. FEES/CHARGES

- 16.1 Fees arising out of AvaTrade providing services and full information related to applicable charges are outlined in the [Trading Conditions and Charges](#) and [Futures Pricing](#) pages.
- 16.2 Customer is aware that a part of AvaTrade's revenues derives from the spread on each transaction. The spread is the difference between the bid & the ask price of the price quote on a transaction. The standard spreads for all instruments are listed on Trading Conditions & Charges link - [www.avatrade.com/trading-info/trading-conditions](http://www.avatrade.com/trading-info/trading-conditions)
- 16.3 AvaTrade may increase or decrease spreads on any or all instruments, at its sole discretion, at any time without notification due to various mitigating factors – market sentiment, news times or announcements, trading volumes, market volatility and/or additional internal or external factors. This may be effected on an individual client basis or for all clients simultaneously.
- 16.4 Spreads may be increased where a third party inter alia – Affiliate, Introducing Broker, Marketing Partner, refer a Customer to AvaTrade. This additional spread may be transferred to the third party who referred the Customer as remuneration.
- 16.5 Where a customer requests a specific fee structure, a commission may be payable by Customer to open and close Forex, CFDs, Options, Futures and Spread Betting positions. Such commission payable will be debited from Customer's account at the same time as AvaTrade opens or closes the relevant Forex, CFDs, Options, Futures and Spread Bets.
- 16.6 Where we increase or introduce any new charges, we will post the changes on our website at least 7 days before they take effect.
- 16.7 We may also charge for incidental banking-related fees such as wire charges for deposits/withdrawals and returned check fees.
- 16.8 In certain circumstances additional fees may include such things as statement charges, order cancellation charges, account transfer charges, telephone order charges or fees imposed by any interbank agency, bank, contract, market or other regulatory or self-regulatory organisations arising out of AvaTrade's provision of services hereunder.
- 16.9 Customer may incur additional fees for the purchase of optional, value added services we offer.
- 16.10 ROLLOVERS, OVERNIGHT INTEREST FOR FOREX, CFD, OPTIONS AND SPREAD BETTING:
- 16.10.1 A daily financing charge may apply to each Forex, CFDs, Options and Spread Betting open position at the closing of AvaTrade's trading day as regards that Forex, CFD, Options and Spread Bet.



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- 16.10.2 If such financing charge is applicable, it will either be requested to be paid by Customer directly to AvaTrade or it will be paid by AvaTrade to Customer, depending on the type of Forex, CFDs, Options and Spread Betting and the nature of the position Customer holds.
- 16.10.3 The method of calculation of the financing charge varies according to the type of Forex, CFDs, Options and Spread Betting to which it applies. Moreover, the amount of the financing charge will vary as it is linked to current interest rates (such as LIBOR).
- 16.10.4 The financing charge will be credited or debited (as appropriate) to Customer's account on the next trading day following the day to which it relates.
- 16.10.5 AvaTrade reserves the right to change the method of calculating the financing charge, the financing rates and/or the types of Forex, CFDs, Options and Spread Betting to which the financing charge applies.
- 16.10.6 For certain types of Forex, CFDs, Options and Spread Betting, a commission is payable by Customer to open and close Forex, CFDs, Options and Spread Betting positions. Such commission payable will be debited from Customer's account at the same time as AvaTrade opens or closes the relevant Forex, CFDs, Options and Spread Bets.
- 16.10.7 Trades in CFDs and Spread Betting are linked to the market price of a certain base asset, including the market price of future contracts. A few days prior to the expiration date of the base asset to which the CFD and Spread Betting is linked, the base asset shall be replaced with another asset, and the quotation of the CFD and Spread Betting shall change accordingly.
- 16.10.8 CFDs and Spread Betting does not have an expiration date.
- 16.10.9 Trades in CFDs and Spread Betting are continuous and the base assets to which they are linked vary from time to time.
- 16.10.10 AvaTrade reserves the right to determine the base asset to which CFDs and Spread Betting is linked, the date of replacement of the base asset, and the replacement conditions.
- 16.10.11 Following the replacement of the base asset, the quotation of the CFDs and Spread Betting shall be adjusted, and the Customer's account shall be credited or debited, as applicable, in accordance with the difference in quotations created due to the replacement of the base asset.
- 16.10.12 The difference in quotations between the base assets is affected by the difference in rates between selling and buying of such assets in the market, and therefore the revaluation of selling and buying transactions shall be in different values.

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16.10.13 Customers will incur costs in relation to the Spread Cost in closing the Old contract and Opening the New Contract and a Standard Overnight Interest charge.

16.10.14 In most cases, the debits shall be higher than credits.

16.10.15 Any open transaction held by Customer at the end of the trading day as determined by AvaTrade or over the weekend, shall automatically be rolled over to the next business day so as to avoid an automatic close and physical settlement of the transaction.

16.10.16 Customer acknowledges that when rolling over such transactions to the next business day, overnight interest may be either added or subtracted from Customer's account with respect to such transaction.

16.10.17 The overnight interest amount shall be determined by AvaTrade from time to time, in AvaTrade's absolute discretion.

16.10.18 Customer hereby authorizes AvaTrade to add or subtract the overnight interest to or from Customer's account for any open transaction that have accrued overnight interest, in accordance with the applicable rate thereto, each day at the time of collection specified on the trading platform for each individual instrument, as applicable.

16.11 FEES/CHARGES SPECIFIC TO FUTURES: Any additional fees and/or charges which may be applicable while trading in Futures are outlined in the [Futures Pricing](#) page

## 17. COMMUNICATIONS, STATEMENTS AND CONFIRMATIONS

- 17.1 Reports, statements, notices, trade confirmations, and any other communications will be posted online and may be transmitted to such address as Customer may from time to time designate in a written or electronic communication to AvaTrade.
- 17.2 Customer is responsible for alerting AvaTrade to any change in its e-mail address.
- 17.3 Communications are deemed received when made available to Customer by AvaTrade, regardless of whether Customer actually accessed the statement.
- 17.4 Customer will be able to generate daily, monthly and annual account statements detailing transaction activity, profit and loss statements, open positions, margin balances, account credits and debits.
- 17.5 Customer understands that it must carefully review the reports relating to Customer's trading posted online by AvaTrade.

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- 17.6 Reports of the confirmation of orders and statements of accounts for Customer posted online by AvaTrade shall be deemed correct and shall be conclusive and binding upon Customer if not objected to within two business days of the posting online.
- 17.7 Objections may be made initially by email or by telephone, but must be confirmed thereafter in writing.
- 17.8 If Customer becomes aware of an error with respect to any report or statement, such as amounts erroneously credited to Customer, Customer shall immediately inform AvaTrade and is responsible to return such amount to AvaTrade, and if AvaTrade becomes aware of such occurrence, AvaTrade is expressly authorized to correct such error by correcting such report or statement, and, if applicable, treating this as a Deficit Balance.
- 17.9 Customer declares that by providing its registration data to AvaTrade it hereby consents to, AvaTrade, its subsidiaries, affiliates and agents sending, and Customer receiving, by means of telephone, facsimile, SMS or e-mail, communications containing content of a commercial nature relating to Customer's use of the trading platform, including information and offers from AvaTrade or third parties that AvaTrade believes Customer may find useful or interesting, such as newsletters, marketing or promotional materials.
- 17.10 Customer acknowledges that AvaTrade does not have to separately obtain Customer's prior consent (whether written or oral) before distributing such communications to Customer, provided that AvaTrade shall cease to distribute such communications should Customer notify AvaTrade in writing that Customer no longer desires to receive such commercial communication.
- 17.11 Client statements can be generated by the client at any time on the on-line trading platform. These statements will record the time the order was executed and the balance of their account. Our internal records will state the time the order was requested from the client.
- 17.12 AvaTrade will also provide the client with a statement on an annual basis outlining the details of funds held by the firm for the client at end of the period covered by the statement. Statements will also show all charges applied during the period covered by the statement, if any.
- 17.13 Real time access to each client's account showing transactions, the time orders were filled and the balance on the client's account will also be available to customers.
- 17.14 Customer acknowledges that certain financial instruments, such as Options, Futures, or those with an underlying asset which is subject to a maturity date, tender or swap offer, may grant rights to holders which may expire unless an action is taken within certain deadlines. AvaTrade is not obligated to notify the Customer of any upcoming expiration, exercise or redemption dates, or to take any action on the Customer's behalf without having received a specific instruction from you except as required by law.

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## 18. DISCLAIMER OF WARRANTIES / LIMITATION OF LIABILITY

- 18.1 AvaTrade and/or any of its subsidiaries, affiliates or agents shall not be responsible for any loss or damage caused, directly or indirectly, by any events, actions or omissions beyond the control of AvaTrade including, without limitation, government restrictions, court decisions, changes in market or exchange rules and regulations, war, riots, strikes, fire, floods, natural disasters, industrial disputes, market or exchange halts, extreme volatility, extreme volumes, theft (including internal), loss or damage resulting, directly or indirectly, from any delays, deletion or inaccuracies in the transmission of orders and/or information due to breakdown or failure of transmission or communication facilities, or electrical power outage, or problems, interruptions, errors, acts, omissions or bankruptcy of third parties, such as exchanges, executors, depository banks, clearing members, agents, brokers and/or trading venues, as well as any acts or omissions of AvaTrade as a result of acts of omissions of such third parties. AvaTrade and/or any of its subsidiaries, affiliates or agents shall in no event be held liable for the safekeeping and custody of client assets, any full or partial loss of the deposited funds or instruments and the potential loss of revenues derived from such funds or instruments, due to whatever incident which occurs at third party executors or depositories.
- 18.2 Neither AvaTrade nor any of its subsidiaries, affiliates or agents warrants that the trading platform or any services provided (including Third Party Licenses) will be available without interruption or will be error free and such trading platform and services are being provided "AS IS" without any representation or warranty of any kind whatsoever except as otherwise set forth herein.
- 18.3 Under no circumstances shall AvaTrade or any of its subsidiaries, affiliates or agents be liable for any direct, indirect, punitive, incidental, special, or consequential damages that result from the use of, or inability to use, AvaTrade's trading platform or services (including Third Party Licenses) including but not limited to lost profits, loss of business, trading loss, loss of data or use of data, any unauthorized access to, alteration, theft or destruction of Customer's computers, computer systems, data files, programs or information, or costs of procurement of substitute goods or services.
- 18.4 Customer agrees that this section represents a reasonable allocation of risk, that this section is an essential element of this Agreement and that in its absence; the economic terms of this Agreement would be substantially different.
- 18.5 This limitation applies whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if AvaTrade or any of its subsidiaries, affiliates or agents has been advised of the possibility of such damage.
- 18.6 Neither AvaTrade nor any of its subsidiaries, affiliates or agents has liability or duty of indemnification related to unusable data, lost or corrupt Customer transactions or data, by whatever means, in whatever form.

# GENERAL TERMS & CONDITIONS

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- 18.7 This limitation of liability additionally eliminates any duty or liability on the part of AvaTrade or any of its subsidiaries, affiliates or agents related to unusable data, lost or corrupt Customer transactions or data, resulting in part or in whole from third-party software or networking goods or services or from internet related problems or from actions or events outside of AvaTrade's control.
- 18.8 AvaTrade and its subsidiaries, affiliates and agents disclaim any and all liability resulting from or related to any breach of internet security or disruption, distortions or delays of Customer's connections to the internet, due to any reason.
- 18.9 As OTC is not an exchange traded market, prices at which AvaTrade deals at or quotes may or may not be similar to prices at which other OTC market makers deal at or quote.
- 18.10 Should a quoting or execution error occur, which may include, but are not limited to, a mistype of a quote, a quote that is not representative of fair market prices, an erroneous price quote from a dealer or erroneous price quote due to failure of hardware, software or communication lines or systems or inaccurate external data feeds provided by third-party vendors, AvaTrade will not be liable for the resulting errors in account balances. Without derogating from the above, in the event that transactions shall be closed or opened based on the Erroneous Quote, AvaTrade's trading room attempts to recognize such event and to act promptly to reset such event. Customer acknowledges that the reset process may take time, during which Customer may not be able to use its trading account, and outstanding orders may not be executed.
- 18.11 In case AvaTrade will identify an erroneous quote or an outdated quote, it may offer the Customer an alternative quote or alternatively to continue the transaction, all at the sole discretion of AvaTrade.
- 18.12 Customer further acknowledges that Ava, its subsidiaries, affiliates and agents shall not be liable for any loss or damage caused due to or in connection with such reset process.
- 18.13 Third Party Licenses:
- 18.13.1 If any third party software is included within or embedded in the AvaTrade website or online trading platform, then such embedded third party software shall be provided subject to the terms of this Customer Agreement which apply to the online trading platform.
- 18.13.2 Customer shall fully comply with terms of any Third Party Licenses that we provide from time to time.
- 18.13.3 We provide no express or implied warranty, indemnity or support for the Third Party Licenses, and will have no liability related thereto.

# GENERAL TERMS & CONDITIONS

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18.13.4 "Third Party Licenses" means licenses from third parties governing third party software embedded or used in the trading platform.

## 19. FOREX, CFDs, OPTIONS, FUTURES AND SPREAD BETTING FLUCTUATION RISK

19.1 If Customer directs AvaTrade to enter into any Forex, CFDs, Options, Futures and Spread Betting transaction:

- (i) Any profit or loss arising as a result of a fluctuation in Forex, CFDs, Options, Futures and Spread Betting will be entirely for Customer's account and risk;
- (ii) All initial and subsequent deposits for margin purposes shall be made in U.S. Dollars, EUROS, Great British Pounds or Japanese Yen in such amounts as AvaTrade may in its sole discretion require; and
- (iii) AvaTrade is authorized to convert funds in Customer's account for margin into and from such foreign currency at a rate of exchange determined by AvaTrade in its sole discretion on the basis of the then prevailing money market rates.

## 20. INDEMNIFICATION

20.1 Customer agrees to indemnify and hold AvaTrade, its subsidiaries, affiliates, agents, employees, agents, successors and assigns ("Ava Indemnities") harmless from and against any and all liabilities, losses, damages, costs and expenses, including attorney's fees, incurred by any of AvaTrade indemnities arising out of Customer's failure to fully and timely perform Customer's obligations herein or under any Third Party License or should any of Customer's representations and warranties fail to be true and correct.

20.2 Customer also agrees to pay AvaTrade indemnities promptly all damages, costs and expenses, including attorney's fees, incurred in the enforcement of any of the provisions of this Agreement and any other agreements between AvaTrade and Customer.

20.3 In addition to any limitations of liability specified elsewhere in this Agreement, AvaTrade indemnities shall not be held liable and are released from all claims and losses incurred in such regard if the claim or loss was caused or contributed to by:

- (i) The actions or omission to act on the part of Customer,
- (ii) Any act or omission by any person obtaining access to Customer's account, whether or not Customer has authorized such access or not,

# GENERAL TERMS & CONDITIONS

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- (iii) System malfunction, equipment failure (whether Customer's equipment or AvaTrade's equipment), system interruption or system unavailability,
- (iv) Delays, failure or errors in implementing any instruction,
- (v) Inaccurate or incomplete instructions received by AvaTrade's from Customer, or
- (vi) Any reliance or use by Customer or any other third party with access to Customer's account of any financial and market data, quotes, news, analyst opinions, research reports, graphs or any other data or information whatsoever available through the trading platform or any Third Party License, whether to complete a transaction on the trading platform or for any other purpose whatsoever.

20.4 AvaTrade shall be entitled to setoff Customer's liabilities under this section from Customer's account.

## 21. MARKET ABUSE AND MANIPULATION

### 21.1 PROHIBITION ON ARBITRAGE AND MANIPULATION

- 21.1.1 AvaTrade does not permit the practice of arbitrage when trading and strictly forbids any form of manipulation of its prices, execution, and platform or making transactions based on errors, omissions or misquotes on the AvaTrade platform.
- 21.1.2 Price latency, connectivity delays, and price feed errors sometimes create a situation where the prices displayed do not accurately reflect market rates. The concept of arbitrage and "scalping", or taking advantage of these Internet delays, cannot exist in an OTC market where the client is buying or selling directly from the market maker.
- 21.1.3 Any transactions that rely on price latency or price feed errors may be subject to intervention which includes the right to void any transactions which AvaTrade has determined to be a result of any of these practices, revocation of profits, widening of spreads, block of trading and any other necessary corrections or adjustments on the account without prior notice.
- 21.1.4 If AvaTrade suspects or has reason to believe that Customer has abused the terms and conditions by hedging positions internally (using other trading accounts held with AvaTrade) or externally (using other trading accounts held with other brokers), AvaTrade reserves the right to cancel any trades or profits associated with Customer's account(s).

### 21.2 MARKET ABUSE

- 21.2.1 AvaTrade may hedge our liability to you by opening analogous positions with other institutions or in the underlying market. The result of our doing this is that when you

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trade with us your trades can, through our hedging, exert a distorting influence on the underlying market for that index, in addition to the impact that it may have on our own prices. This creates a possibility of market abuse.

21.2.2 Customer represents and warrants, and agrees that each such representation and warranty is deemed repeated each time Customer opens or closes a position that:

(a) Customer will not place and has not placed a trade with us relating to a particular index or any other CFD price if to do so would result in Customer, or others with whom Customer is acting in concert together, having an exposure to the price of the underlying financial instrument which can create a situation of market abuse.

This exposure can be equal to or exceeding the amount of a declarable interest in the relevant financial instrument. For this purpose, the level of a declarable interest will be the prevailing level at the material time, set by law or by the stock exchange(s) or other exchange upon which the underlying financial instrument is traded; and

(b) Customer will not place and has not placed a trade with us in connection with:

(i) a placing, issue, distribution or other analogous event;

(ii) an offer, take over, merger or other analogous event; or

(iii) any other corporate finance style activity, in which Customer is involved or otherwise interested; and

(c) Customer will not place or close a position and Customer will not place an order that contravenes any primary or secondary legislation or other law against insider dealing or market manipulation. Customer agrees that AvaTrade may proceed on the basis that when Customer opens or closes a position or places an order on a share price, Customer may be treated as dealing in securities within the meaning of the relevant statutes or regulations.

21.2.3 In the event that (a) Customer places or closes any trade or places an order in breach of the representations and warranties given, or AvaTrade has reasonable grounds for suspecting that Customer may have done so, AvaTrade may at our absolute discretion and without being under any obligation to inform Customer of our reason for doing so close that trade and any other trade or trades that you may have open at the time, if applicable, and also at our absolute discretion cancel any trades or profits associated with Customer's account(s)



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- 21.2.4 Customer acknowledges that trade are speculative arrangements and Customer agrees that Customer will not enter into any transactions with us in connection with any corporate finance style activity.
- 21.2.5 Customer acknowledges that it would be improper for Customer to deal in the underlying market if the sole purpose of such a transaction was to impact on our bid or offer prices, and Customer agrees not to conduct any such transactions.
- 21.2.6 Customer acknowledges that it would be improper for Customer to connect to all platforms via gateway or api without written approval from AvaTrade.
- 21.2.7 It is strictly prohibited to connect to our MT4/5 with MetaQuotes Gateway or Datafeed without written approval from AvaTrade.

## 22. EXECUTION OF ORDERS, STOP AND LIMITS

- 22.1 AvaTrade will use commercially reasonable efforts to complete all orders which it may, in its sole discretion, choose to accept in accordance with the oral or written or computer instructions of Customer.
- 22.2 AvaTrade reserves the right to refuse to accept any order.
- 22.3 AvaTrade may, at its sole discretion, allow Customer to specify a closing price for a transaction at the trading platform through a “Close at Loss” and “Close at Profit” order, subject always to the terms of this Agreement and any other terms and conditions AvaTrade may implement from time to time.
  - 22.3.1 “Close at Loss” means an offer to close a transaction at a price determined in advance by Customer which, in the case of a transaction that is opened by offering to buy a specific number of a certain instrument, is lower than the opening transaction price, and in the case of a transaction that is opened by offering to sell a specific number of a certain instrument, is higher than the opening transaction price.
  - 22.3.2 “Close at Profit” means an offer to close a transaction at a price determined in advance by Customer which, in the case of a transaction that is opened by offering to buy a specific number of a certain instrument, is higher than the opening transaction price, and in the case of a transaction that is opened by offering to sell a specific number of a certain instrument, is lower than the opening transaction price.
- 22.4 Upon Customer's offer and AvaTrade's acceptance of an order, Customer hereby authorizes AvaTrade to close the transaction at the Close at Loss price or Close at Profit price, as applicable, and as agreed upon in the order, without further instruction from or notification to Customer.

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- 22.5 AvaTrade may, in its sole discretion, close the transaction when the price quoted by AvaTrade on the trading platform equals the price accepted by AvaTrade for such an order.
- 22.6 Customer acknowledges and agrees that AvaTrade shall not be obligated to close a transaction which does not otherwise comply with any other limitations agreed upon with respect to such transaction.
- 22.7 Customer acknowledges and agrees that due to market volatility and factors beyond AvaTrade's control, AvaTrade cannot guarantee that a Close at Loss order will be executed at the level specified in Customer's order. In such an event, AvaTrade will close the transaction at the next best price.
- 22.7.1 Due to country specific regulations, French resident clients may choose a Limited Risk Account.
- 22.7.2 Limited Risk Account's Close at Loss orders will be guaranteed and cannot be moved further away from their original specified rate.
- 22.7.3 The maximum Close at Loss rate on Limited Risk Account will be determined by the capital investment per position.
- 22.8 While trading in Forex, CFDs, Options or Spread Betting, if, before Customer's "Limit Order" offer to open or close a transaction is accepted by AvaTrade, AvaTrade's quote moves to Customer's advantage (for example, if the price goes down as Customer buys or the price goes up as Customer sells) Customer agrees that AvaTrade will execute the closing transaction at the Customer's specified price and not better. Customer agrees that AvaTrade can retain such price movement for its own account.
- 22.9 While trading in Futures, AvaTrade will execute a Customer's "Limit Order" at the applicable market rate.
- 22.10 While trading in Forex, CFDs, Options or Spread Betting, Customer is aware that a part of AvaTrade's revenues derives from the spreads on each transaction. The spread is the difference between the bid & the ask price of the price quote on a transaction. Therefore, in case the fair market price reduces AvaTrade's spread in a specific transaction, AvaTrade may, at its sole discretion, choose not to execute such transaction, in which case AvaTrade may send Customer an amended quote for his consideration. AvaTrade may complete a transaction at its sole discretion in case the fair market price does not affect AvaTrade's spread from the transaction and / or increases it.
- 22.11 If AvaTrade, in its sole discretion, determines that a customer is conducting trading activity through multiple accounts and splitting trade volume across such accounts, or that a customer or different Customers are utilizing the same signal expert advisor, copy trading, algo trading, or

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anything similar, AvaTrade reserves the right, without prior notice, to treat all such trades as a single trade. AvaTrade may adjust the spreads for all such trades and account balances of such Customers to reflect the spread applicable to a single trade of the combined volume of all such trades together, including adjustments to prior transactions.

## 23. RISK ACKNOWLEDGMENT

- 23.1 Customer acknowledges that investment in leveraged and non-leveraged transactions are speculative, involves a high degree of risk, and is appropriate only for persons who can assume risk of loss of their entire margin deposit.
- 23.2 Customer understands that because of the low margin normally required in OTC trading, price changes in OTC may result in significant losses. With respect to Futures transactions, subject to local regulation, Customer cannot assume that AvaTrade's general policy to liquidate positions with a margin deficiency will prevent such Customer from losing more than you have deposited with AvaTrade. If Customer wishes to avoid further losses on any position, Customer must close out the position itself and not rely on AvaTrade to do so.
- 23.3 Customer warrants that Customer is willing and able, financially and otherwise, to assume the risk of OTC trading, and in consideration of AvaTrade's carrying his/her account(s), Customer agrees not to hold AvaTrade and any of its subsidiaries, affiliates or agents responsible for any losses incurred by Customer.
- 23.4 Customer recognizes that guarantees of profit or freedom from loss are impossible in OTC trading.
- 23.5 Customer acknowledges that Customer has received no such guarantees from AvaTrade or from any of its representatives or any introducing agent or other entity with whom Customer is conducting his/her AvaTrade account and has not entered into this Agreement in consideration of or in reliance upon any such guarantees or similar representations.
- 23.6 The high degree of leverage that is obtainable in the trading of Forex, CFDs, Options, Futures and Spread Betting transactions can work against you as well as for you. Leverage can lead to large losses as well as gains. The placing of certain orders (such as Stop-Loss), which are intended to limit losses to certain amounts, may not be adequate given that market conditions make it impossible to execute such orders, for example due to illiquidity. Strategies using combinations of positions, such as "spread" and "straddle" positions may be as risky as taking simple "long" or "short" positions.
- 23.7 CFDs are complex instruments and come with a high risk of losing money rapidly due to leverage. The current percentage of retail investor accounts who lose money when trading CFDs can be found on our homepage at any time You should consider whether you understand how CFDs work and whether you can afford to take the high risk of losing your money.

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- 23.8 During times of extreme volatility it can be difficult or impossible to execute orders.
- 23.9 Specifically with respect to Futures transactions, Customer acknowledges and understands that:
- 23.9.1 Subject to local regulation, Futures transactions have contingent liability and Customer is aware of the implications of this, in particular the margin requirements;
  - 23.9.2 All futures positions involve risk, and a “spread” position may not be less risky than an outright “long” or “short” position;
  - 23.9.3 Subject to local regulations and without derogating from the Additional Terms for German Retail Clients [Please find appendix at bottom of document], trading in Futures may result in a loss greater than the amount of funds Customer has deposited in his/her account, for which he/she shall be deemed liable and fully responsible towards AvaTrade for the repayment of any negative balance in his/her account within the time specified by AvaTrade; and
  - 23.9.4 Funds deposited in a Customer account for trading in Futures are not protected by insurance in the event of the bankruptcy or insolvency of the Futures commission merchant, or in the event such Customer’s funds are misappropriated and such funds are not strictly held the Futures commission merchant in a separate account for such Customer’s individual benefit. Futures commission merchants commingle the funds received from customers in one or more accounts and you may be exposed to losses incurred by other customers if the futures commission merchant does not have sufficient capital to cover such other customers' trading losses.

## 24. MARKET RECOMMENDATIONS AND INFORMATION

- 24.1 Customer acknowledges that:
- (i) Any market recommendations, signals and information communicated by any method of communication to Customer by AvaTrade and any of its subsidiaries, affiliates, agents or by any person within AvaTrade does not constitute an offer to sell or the solicitation of an offer to buy any OTC contract, and that AvaTrade does not provide investment advice
  - (ii) Such recommendation and information, although generally based upon information obtained from sources believed by AvaTrade to be reliable, may be based solely on a broker’s opinion and that such information may be incomplete and may be unverified, and
  - (iii) AvaTrade makes no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy or completeness of any information or market

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recommendation furnished to Customer and shall not be responsible for any loss or damage including without limitation any loss of margin or profits which may arise directly or indirectly from use or reliance on such recommendations or information.

- 24.2 Customer understands that Customer is solely responsible for assessing the merits and risks of any trade it may enter into with AvaTrade whether as a result of information provided by AvaTrade or otherwise.
- 24.3 Customer acknowledges that AvaTrade and/or its officers, directors, affiliates, associates, stockholders or representatives may have a position in or may intend to buy or sell Forex, CFDs, Options, Futures and Spread Bets, which are the subject of market recommendations furnished to Customer, and that the market position of AvaTrade or any such officer, director, affiliate, associate, stockholder or representative may not be consistent with the recommendations furnished to Customer by AvaTrade.
- 24.4 Customer acknowledges that AvaTrade makes no representations concerning the tax implications or treatment of any trading activity.

## 25. CUSTOMER REPRESENTATIONS AND WARRANTIES

25.1 Customer represents and warrants that:

- (i) if Customer is a natural person, Customer is of sound mind, legal age and legal competence
- (ii) if Customer is not a natural person,
  - a. Customer is duly organized and validly existing under the applicable laws of the jurisdiction of its organization;
  - b. Execution and delivery of this Agreement and all Contracts and other transactions contemplated hereunder and performance of all obligations contemplated under this Agreement and all other transactions contemplated hereunder have been duly authorised by Customer; and
  - c. Each person executing and delivering this Agreement and all other transactions contemplated hereunder on behalf of the Customer, has been duly authorised by Customer to do so.
- (iii) No person other than Customer has or will have an interest in Customer's account(s) and Customer has not granted and will not grant a security interest in Customer's account with AvaTrade (other than the security interest granted to AvaTrade hereunder) to any person without AvaTrade's prior written consent. Customer has full beneficial ownership of all collateral and will not grant any security interest in any collateral to any person

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(other than the security interest granted to AvaTrade hereunder) without AvaTrade's prior written consent; and,

- (iv) Customer hereby warrants that regardless of any subsequent determination to the contrary, Customer is suitable to trade OTC; and,
- (v) Customer is not now an employee of any exchange, any corporation in which any exchange owns a majority of the capital stock, any member of any exchange and/or firm registered on any exchange, or any bank, trust, or insurance company, and in the event that Customer becomes so employed, Customer will promptly notify us, at AvaTrade's home office, in writing, of such employment; and,
- (vi) Customer will execute and deliver all documents, give all notices, make all filings and take such other actions as AvaTrade, in its sole discretion, deems necessary or desirable to evidence or perfect any security interest in favor of AvaTrade or to protect AvaTrade's interests with respect to any Collateral; and,
- (vii) Customer has read and understands the provisions contained in this Agreement, including, without limitation, AvaTrade's Risk Disclosure Statement, Order Execution Policy, Trading Conditions and Charges, Conflict of Interest Policy, Client Asset Key Information Document, Key Information Document and Privacy Statement; and
- (viii) Customer will review this Agreement; and
- (ix) Customer will not affect any transaction in Customer's account unless Customer understands this Agreement, and Customer agrees that in effecting any transaction it is deemed to represent that it has read and understands this Agreement as in effect at the time of such transaction; and
- (x) Customer agrees to, and shall at all times comply with all applicable laws, statutes and regulations and Customer hereby declares that the execution and delivery by Customer of this Agreement and all other transactions contemplated hereunder, and performance of all of Customer's obligations contemplated under this Agreement and any other transaction contemplated hereunder, will not violate any statute, rule, regulation, ordinance, charter, by-law or policy applicable to Customer. Customer may not use this account with AvaTrade for any illegal activity.
- (xi) Customer agreed that where we have provided you with a key information document in respect of any Transaction as required under the regulation on key information documents for packaged retail and insurance-based investment products (1286/2014), you agree to us providing you with such key information document on our website (you may request a paper copy of any key information document on our website) and that you have read the relevant key information document;

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## 26. ISLAMIC ACCOUNTS

- 26.1 In the event that Customer, due to its observance of Islamic religious beliefs cannot receive or pay interest, Customer may elect to designate, in the manner provided by AvaTrade, its trading account to be an Islamic Account, which is not charged with, or entitled to, overnight interest and/or rollovers or interest on account balances.
- 26.2 In the event that Customer designates its account as an Islamic account, Customer may not keep transactions in such account open for more than 5 days and may not otherwise abuse such benefit.
- 26.3 AvaTrade reserves the right to cancel the aforesaid benefit at any time and take any action necessary in AvaTrade's absolute discretion due to abuse of this benefit.
- 26.4 Such actions may include, without limitation, the designation of the Islamic Account as a regular account and retroactively effecting required adjustments (e.g., setting off amounts from the account equal to amounts paid by AvaTrade as interest), cancellation of transactions, and adjustment of account balances.

## 27. DISCLOSURE OF FINANCIAL INFORMATION

- 27.1 The Customer represents and warrants that the financial information disclosed to us in his/its Application is an accurate representation of the Customer's current financial condition.
- 27.2 The Customer represents and warrants that the Customer has very carefully considered the portion of the Customer's assets which the Customer considers to be risk capital.
- 27.3 The Customer recognizes that risk capital is the amount of money the Customer is willing to put at risk and the loss of it would not, in any way, change the Customer's lifestyle.
- 27.4 The Customer agrees to immediately inform us if the Customer's financial condition changes in such a way to reduce the Customer's net worth, liquid assets and/or risk capital.

## 28. NO SEPARATE AGREEMENTS

- 28.1 Customer acknowledges that Customer has no separate agreement with AvaTrade or any of its employees or agents regarding the trading in Customer's AvaTrade account, including any agreement to guarantee profits or limit losses in Customer's account.
- 28.2 Customer understands that Customer must authorize every transaction prior to its execution unless Customer has delegated discretion to another party by signing AvaTrade's limited trading authorization or as otherwise agreed in writing with AvaTrade.

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28.3 Customer agrees to indemnify and hold AvaTrade and its subsidiaries, affiliates and agents harmless from all damages or liability resulting from Customer's failure to immediately notify AvaTrade's Compliance Officer of any of the occurrences referred to herein.

28.4 All notices required under this section shall be sent to AvaTrade at its home office.

## 29. AFFILIATE REFERRAL DISCLOSURE

29.1 AVA Group may engage with advertising affiliates/referrers/marketing partner ("Affiliate") who are wholly separate and independent from one another and from AVA Group. Any agreement between AVA Group and an Affiliate does not establish a joint venture or partnership and Affiliate is not an agent or employee of AVA Group.

29.1.1 AVA Group does not control, and cannot endorse or vouch for the accuracy or completeness of any information or advice Customer may have received or may receive in the future from AVA Group's Affiliates or from any other person not employed by, or acting on behalf of AVA Group, regarding the risks involved in the trading of Forex, CFDs, Options, Futures and Spread Betting or the risks involved in such trading.

29.1.2 Since Affiliate is not an employee or agent of AVA Group, AVA Group does not endorse or vouch for the services provided by the Affiliate. It is the Customer's responsibility to perform necessary due diligence on the Affiliate prior to using any of their services.

29.1.3 Customer understands that in order to trade with AvaTrade the Customer must open an account directly with AvaTrade. AvaTrade makes available appropriate risk disclosure information to all Customers when they open accounts. Customers should read that information carefully and should not rely on any information to the contrary from any other source.

29.1.4 Customer acknowledges that no representations and/or warranties have been made by AvaTrade its servants or agents or any individual associated with AvaTrade regarding future profits or losses in Customer's account.

29.1.5 Customer understands that Forex, CFDs, Options, Futures and Spread Betting trading is very risky, and that many people lose money trading and that all Forex, CFDs, Options, Futures and Spread Betting trading, including trading done pursuant to a system, course, program, research or recommendations of an Affiliate, or any other third party involves a substantial risk of loss. In addition, Customer hereby acknowledges, agrees and understands that the use of a trading system, course, program, research or recommendations of an Affiliate, or any other third party will not necessarily result in profits, avoid losses or limit losses.



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- 29.1.6 Because the risk factor is high in Forex, CFDs, Options, Futures and Spread Betting trading, in case Client does not have the extra capital he can afford to lose, Client should consider carefully before trading.
- 29.1.7 Customer understands and acknowledges that AVA Group may remunerate an Affiliate for referring Customer to AVA Group and that such remuneration may be on a per-trade basis or other basis. Further, the Client has a right to be informed of the precise nature of such remuneration.
- 29.1.8 AvaTrade shall in no way be responsible for any loss to Customer resulting from Customer's use of any information or advice given by any third party including an Affiliate.

## 30. TRADING AGENTS

- 30.1 Customer acknowledges that should Customer choose to grant trading authority or control over Customer's account to a third party ("Trading Agent"), whether on a discretionary or non-discretionary basis, Customer does so at its own risk.
- 30.2 Customer acknowledges that AvaTrade its subsidiaries, affiliates or agents shall in no way be responsible for reviewing Customer's choice of such Trading Agent, or the actions taken by it, nor making any recommendations with respect thereto.
- 30.3 Customer acknowledges and understands:
- (i) That AvaTrade makes no warranties nor representations concerning any Trading Agent,
  - (ii) That AvaTrade its subsidiaries, affiliates or agents shall not be responsible for any loss to Customer occasioned by the actions of the Trading Agent, and
  - (iii) That AvaTrade does not, by implication or otherwise, endorse or approve of the operating methods of the Trading Agent.
- 30.4 If a Customer chooses to grant trading authority or control over Customer's account to a Trading Agent, Customer agrees to enter into a power of attorney agreement ('POA') with the Trading Agent to permit same, and to furnish the POA to AvaTrade.
- 30.5 Customer acknowledges that upon receipt of the POA, AvaTrade is authorised to follow the instructions of the Trading Agent in every respect until AvaTrade is notified in writing by the Customer that the POA is revoked or the POA has expired.

The Customer authorises AvaTrade to debit Customer's Account in accordance with the terms agreed between Customer and Trading Agent and which are set out in the POA.

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- 30.6 Customer acknowledges that the Trading Agent and many third party vendors of trading systems, courses, programs, research or recommendations may not be regulated by a government agency. It is the Customer's responsibility to perform necessary due diligence on the Trading Agent prior to using any of their services and to satisfy themselves of its competence and/or suitability to the Customer.
- 30.7 Customer acknowledges that it or the Trading Agent may elect to use an automated trading system. Customer acknowledges that AvaTrade does not take any responsibility for any such system. The Customer is aware of the volume of trading and resulting commissions that such systems may generate and the impact that this may have on the performance of the Account. Customer accepts the risks associated with the use of computers and data feed systems, which may include, but are not limited to, failure of hardware, software or communication lines or systems and/or inaccurate external data feeds provided by third-party vendors and the Customer further agrees to hold AvaTrade harmless from any losses in the Account associated with these risks. Customer acknowledges that neither AvaTrade nor any of its officers, directors, vendors, employees, agents, associated persons or AvaTrade personnel will be liable for any such breakdown or failure.
- 30.8 Customer understands that by using a Trading Agent or automated trading system, Customer may incur a mark-up, above and beyond the ordinary spread generally provided by AvaTrade. Details of any such mark up will be displayed in the spread on the client trading account using the automated system and/or provided in the agreement between the Trading Agent and Customer.
- 30.9 Customer acknowledges that any decisions or actions taken by the Trading Agent on Customer's behalf shall be deemed to have been taken by the Customer and any losses or gains generated by the Trading Agent's action shall be for the Customer's account.
- 30.10 Customer agrees to indemnify and hold Ava, harmless from and against all liabilities, losses, damages, cost and expenses, including attorney's fees that arise directly or indirectly from the Trading Agent's management of the account, including, without limitation all actions, instructions or omissions by the Trading Agent.
- 30.11 The Customer acknowledges that the risk factor in trading foreign exchange, commodities, Futures, Forex, CFDs, Options and Spread Betting is substantially high, and therefore the Customer further acknowledges that she/he should carefully consider trading through AvaTrade, whether through a Trading Agent or otherwise, if the Trader does not have capital she/he can afford to lose.

## 31. DISCLOSURE OF CUSTOMER INFORMATION

- 31.1 AvaTrade will not share or sell information regarding customers and/or prospective customers, except to its employees, agents, partners, and associates as required in the ordinary course of

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business, including, but not limited to, AvaTrade's banking or credit relationships, or to other persons as disclosed in AvaTrade's [Privacy Statement](#)

- 31.2 AvaTrade may also disclose to federal or state regulatory agencies and law enforcement authorities' information regarding Customer and Customer's transactions in response to a request for such information or in response to a court order or subpoena.
- 31.3 AvaTrade will share or sell statistical information without disclosing Customer's identity.
- 31.4 AvaTrade is subject to reporting obligations under Article 9 of the European Market Infrastructure Regulation ("EMIR") and is required to disclosure Transaction data information including portfolio data, transaction value, collateral posted and the identity of the parties to all transactions. The disclosure shall be made to a trade repository, European Securities and Markets Authority ("ESMA") and/or a delegated third party processor.
- 31.5 The Customer agrees to provide us with all information that we may reasonably request for the purpose of complying with our obligations under Applicable Regulations and that you consent for us to provide to any third party such information about you and your relationship with us pursuant to this Agreement (including but not limited to your Transactions or money on your account) as we consider, acting reasonably, appropriate or as required to comply with any Applicable Regulation or Term of this Agreement.
- 31.6 The trade repository or ESMA may pass such information to national supervisory authorities in countries where the data privacy laws do not afford the same protection as provided in Ireland.
- 31.7 If you are a legal entity, you agree that we may in certain circumstances obtain a Legal Entity Identifier (LEI) on your behalf. You agree that we may do so if we consider that it is necessary in order to allow you to enter into Transactions with us and that we may pass on to you any charge we incur to obtain a Legal Entity Identifier (LEI) on your behalf and to levy an administration charge to cover our costs in doing so. Please contact one of our employees for this information or visit our website
- 31.8 You further authorize and instruct us to provide some personal details to relevant financial services companies, such as depository banks, executing partners, exchanges upon their request. Such details may be proof of your status as a non-professional user of market data, allowing you to benefit from real-time market data at significantly reduced rates or reporting on open futures positions as per market transparency requirements. By executing orders on instruments which trade on non-EU exchanges (or on instruments which have underlying values which trade on non-EU exchanges), you authorize us to provide some personal details to EU and non-EU parties, upon their request.

## 32. TERMINATION

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- 32.1 This Agreement shall continue in effect until termination, and may be terminated by Customer at any time upon three days prior written notice (which may be by e-mail) when Customer has no Forex, CFDs, Options, Futures and Spread Betting position(s) and no liabilities held by or owed to AvaTrade upon the actual receipt by AvaTrade at its home office of written notice of termination, or at any time whatsoever by AvaTrade upon the transmittal of written notice of termination to Customer; provided, that such termination shall not affect any transactions previously entered into and shall not relieve either party of any obligations set out in this Agreement nor shall it relieve Customer of any obligations arising out of any deficit balance.
- 32.2 Sections 14, 17, 19, 24, 31, 43 shall survive termination of this Agreement for any reason.

## 33. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- 33.1 All copyright, trademark, trade secret and other intellectual property rights and proprietary rights to the AvaTrade website in its totality, its contents and any related materials, including without limitation trademarks, logos and service marks displayed on AvaTrade website (collectively "Ava Group IP") shall remain at all times, as between Customers and AvaTrade, the sole and exclusive property of the Ava Group and its licensors, and in the case of third party materials available on the AvaTrade web site, to such third party and Customers shall have no right or interest in the Ava Group IP, except for the right to access and use the Ava Group IP as specified herein. Customers are not permitted to use AVA IP or any trademark, logo or service mark displayed on AvaTrade website without the prior written consent of AvaTrade or such third parties that own the rights therein.
- 33.2 Customer acknowledges that the Ava Group IP is confidential and has been developed through the expenditure of substantial skill, time, effort and money.
- 33.3 The Customer will protect the confidentiality of the Ava Group IP and not allow website access to any third party.
- 33.4 Customer will not publish, distribute, or otherwise make available to third parties any information derived from or relating to the Ava Group IP.
- 33.5 Customer will not copy, modify, de-compile, reverse engineer, or make derivative works of the Ava Group IP or in the manner in which it operates.
- 33.6 If Customer has comments on AvaTrade's services or ideas on how to improve them, Customer is welcome to contact AvaTrade. By doing so, Customer grants AvaTrade a perpetual, royalty-free, irrevocable, transferable license, with right of sublicense, to use and incorporate Customer's ideas or comments into the AvaTrade's services, and to otherwise exploit Customer's ideas and comments, in each case without payment of any compensation.

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## 34. RECORDINGS

- 34.1 Customer agrees and acknowledges that all conversations regarding Customer's account(s) between Customer and AvaTrade personnel may be electronically recorded with or without the use of an automatic tone warning device.
- 34.2 Customer further agrees to the use by AvaTrade, its subsidiaries, affiliates and agents of such recordings and transcripts as it deems fit in connection with any dispute or legal proceeding that may arise.

## 35. LEGAL RESTRICTIONS

- 35.1 Without limiting the foregoing, Customer understands that laws regarding financial contracts vary throughout the world, and it is Customer's obligation alone to ensure that Customer fully complies with any law, regulation or directive, relevant to Customer's country of residency with regards to the use of the Web site.
- 35.2 For avoidance of doubt, the ability to access AvaTrade's Web site does not necessarily mean that AvaTrade's services, and/or Customer's activities through it, are legal under the laws, regulations or directives relevant to Customer's country of residency.
- 35.3 This Web site does not constitute, and may not be used for the purposes of, an offer or solicitation to anyone in any jurisdiction in which such offer or solicitation is not authorised, or to any person to whom it is unlawful to make such an offer or solicitation.
- 35.4 Access to this Web site, and the offering of financial contracts via this site, may be restricted in certain jurisdictions, and, accordingly, users accessing this site are required to inform themselves of, and to observe, such restrictions.

## 36. DECLARATION

- 36.1 By acceptance of this Agreement, Customer hereby declares that the moneys invested in Customer's account with AvaTrade do not originate from drug trafficking, abduction, or any other criminal activity.

## 37. TAX COLLECTION

- 37.1 Customer knows, understands and agrees that, in general, AvaTrade does not collect tax for any authority in any form or manner.

# GENERAL TERMS & CONDITIONS

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- 37.2 Without limiting the foregoing, it is Customer's obligation alone to calculate and pay all taxes applicable to you in Customer's country of residence, or otherwise arising as a result of Customer's trading activity from the use of the AvaTrade's services.
- 37.3 Without derogating from Customer's sole and entire responsibility to perform tax payments, Customer agrees that AvaTrade may deduct tax, as may be required by the applicable law, but is not obligated to do so, from the results of the activity with AvaTrade.
- 37.4 Customer is aware that amounts that may be withdrawn by Customer from Customer's account are "gross amounts", from which the AvaTrade may deduct such taxes, and that Customer shall have no claim towards AvaTrade with regard to such deductions.

## 38. INACTIVITY AND ADMINISTRATION FEES

- 38.1 Customer acknowledges that the Customer's trading account may be subject to inactivity fees unless prohibited by law. After 3 consecutive months of non-use ("Inactivity Period"), and every successive Inactivity Period, an inactivity fee will be deducted from the value of the Customer's trading account. This fee is outlined below and subject to client relevant currency based account:

Inactivity Fee:

USD Account: \$50

EUR Account: €50

GBP Account: £50

Applicable fees are subject to change periodically.

- 38.2 Customer acknowledges that the Customer's trading account may be subject to an annual administration fee unless prohibited by law. After 12 consecutive months of non-use ("Annual Inactivity Period"), an administration fee will be deducted from the value of the Customer's trading account. This fee is outlined below and subject to client relevant currency based account: This is to offset the cost incurred in making the service available, even though it may not be used.

Administration Fee:

USD Account: \$100

EUR Account: €100

GBP Account: £100

Applicable fees are subject to change periodically.

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## 39. ACCOUNT PROCEDURES - IDENTIFICATION

- 39.1 Customer acknowledges that applicable laws require financial institutions to obtain, verify, and record information identifying each person who opens an account.
- 39.2 Customer further acknowledges that AvaTrade makes efforts to prevent fraud and to confirm Customer's identity.
- 39.3 Accordingly, Customer has provided AvaTrade, or shall provide AvaTrade promptly following the opening of the trading account, with certain identifying information and documents as shall be requested by AvaTrade, including a copy of Customer's ID, a copy of Customer's utility bill (e.g., phone bill, property tax bill), and copies of both sides of Customer's credit card (in the event deposit has been made through credit card).
- 39.4 Customer confirms that Customer has provided true, accurate, current and complete information during the registration process, and that Customer has not impersonated any person or entity, or misrepresented any affiliation with another person, entity or association, used false headers or otherwise concealed Customer's identity from AvaTrade for any purpose.

## 40. WITHDRAWAL AND DEPOSIT PROCEDURES

- 40.1 Customer further acknowledges and accepts AvaTrade's procedures with respect to withdrawals and deposits to accounts as set forth below:
- (i) Withdrawal orders: The provision of documentation as may be required from time to time by Anti Money Laundering regulations, credit card companies and AvaTrade, is a prerequisite, prior to the execution of a withdrawal order.
  - (ii) Customer acknowledges that withdrawals may take longer than expected for numerous reasons, some in AvaTrade's control and some not.
  - (iii) Credit card deposits may be, according to credit card companies' regulations, returned to the same credit card when a withdrawal is performed. A withdrawal to a bank account where initial deposits have been performed by credit cards will be executed back to credit card or to the bank account at AvaTrade's discretion. Withdrawals to bank account may take a longer time period, due to additional security procedures.
  - (iv) Credit Card Deposits Variance: When choosing an account base currency other than USD, Customer's credit card may be debited sums which due to exchange rates and credit card companies' fees, may slightly vary from the initial sum that has been deposited by Customer in the account base currency. Customer hereby accepts that such variations may occur and hereby affirms that Customer shall not seek to object or charge this back.

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- (v) When depositing by a Bank Transfer, as required by anti-money-laundering regulations, Customer is required to use a bank account, which is in Customer's country of residence and in Customer's name. Any withdrawal of funds, from Customer's AvaTrade account to a bank account, can only be refunded to the same bank account that the funds were originally received from.
- (vi) Alternative payment methods (internet payment vendors; money transfer services; etc.): when depositing funds using a facility other than credit cards and/or banks, you agree to, and acknowledge being bound by, the regulations and rules of such service, including, but not limited to, fees and other restrictions. AvaTrade, at its sole discretion, may execute withdrawals to a facility other than the facility used for the original deposit, in accordance with anti-money-laundering regulations.

## 41. STATEMENTS

- 41.1 Customer hereby consents to receive account statements and trade confirmations online.
- 41.2 AvaTrade will provide customer with password-protected access to online reports.
- 41.3 Customer will be able to generate Daily, Monthly and Annual account statements detailing transaction activity, profit and loss statements, open positions, margin balances, account credits and debits, etc.
- 41.4 Hard copies of Monthly customer statements are available upon request only and may incur an additional charge.
- 41.5 Statements are deemed received when made available to customer by AVATRADE, regardless of whether the customer actually accessed the statement.
- 41.6 Customer is responsible for alerting AVATRADE to any change in their e-mail address.
- 41.7 This consent shall be effective until revoked by Customer in writing and received by AVATRADE according to Section 16 of this Customer Agreement.

## 42. CONSENT TO ELECTRONIC SIGNATURE

- 42.1 By electronically signing AvaTrade's account agreement and related documents, Customer acknowledges receipt of the customer account letter, Customer Agreement and other documents contained as part of AvaTrade's electronic account package and Customer agrees to be bound by their terms and conditions.



# GENERAL TERMS & CONDITIONS

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42.2 In addition, by signing AvaTrade's account agreement and related documents, Customer is consenting to AvaTrade maintaining and Customer receiving electronic records of Customer's trades and accounts.

## 43. CONSENT TO EXECUTION OF ORDERS OUTSIDE A REGULATED MARKET OR MTF

43.1 Customer hereby acknowledges and consents to AvaTrade executing orders over the counter and outside a regulated market or MTF.

## 44. WAIVER AND AMENDMENT

44.1 Customer understands, acknowledges and agrees that AvaTrade may amend or change this Agreement at any time.

44.2 AvaTrade will provide notice to Customer of any such amendment or change by posting the amendment or change on AvaTrade's website or by sending an e-mail message to Customer at least 7 days before it takes effect.

44.3 Customer agrees to be bound by the terms of such amendment or change on that date.

44.4 In the event that Customer objects to any such change or amendment, Customer agrees to liquidate Customer's open positions and instruct AvaTrade regarding the disposition of all assets in Customer's account within ten (10) business days after notice of the amendment or change has been posted on AvaTrade's website or otherwise notified Customer.

44.5 No waiver or amendment of this Agreement may be implied from any course of dealing between the parties or from any failure by AvaTrade or failure of AvaTrade's agents to assert its rights under this Agreement on any occasion or series of occasions.

44.6 No oral agreements or instructions to the contrary shall be recognized or enforceable.

## 45. ENTIRE AGREEMENT

45.1 This Agreement together with all references to AvaTrade's policies and procedures made in this Agreement, and together with the Risk Disclosure Statement, Order Execution Policy, Trading Conditions and Charges, Futures Pricing, Conflict of Interest Policy, Client Asset Key Information Document, Key Information Document and Privacy Statement embodies the entire agreement between AvaTrade and the Customer, superseding any and all prior written and oral agreements.

## 46. ASSIGNMENT

# GENERAL TERMS & CONDITIONS

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46.1 Customer may not assign or transfer any of its rights or obligations under this Agreement to a third party without the prior written consent of AvaTrade. Any attempted assignment or transfer in violation of the foregoing will be void. AvaTrade may freely assign this Agreement.

## 47. GOVERNING LAW AND JURISDICTION

47.1 This Agreement, the rights and obligations of the parties hereto, and any judicial or administrative action or proceeding arising directly or indirectly hereunder or in connection with the transactions contemplated hereby shall be governed by, construed and enforced in all respects in accordance with the laws of Ireland and AvaTrade and the customer hereby irrevocably submit to the exclusive jurisdiction of the Irish Courts.

## 48. BINDING EFFECT

48.1 This Agreement shall be continuous and shall cover, individually and collectively, all accounts of Customer at any time opened or reopened with AvaTrade irrespective of any change or changes at any time in the personnel of AvaTrade or its successors, assigns, subsidiaries, affiliates or agents.

48.2 This Agreement including all authorizations, shall inure to the benefit of AvaTrade and its subsidiaries, affiliates, agents, successors and assigns, whether by merger, consolidation or otherwise, and shall be binding upon Customer and/or the estate, executor, trustees, administrators, legal representatives, successors and assigns of Customer.

48.3 Customer hereby ratifies all transactions with AvaTrade effected prior to the date of this Agreement, and agrees that the rights and obligations of Customer in respect thereto shall be governed by the terms of this Agreement.

**CUSTOMER ACKNOWLEDGES HAVING RECEIVED, READ AND UNDERSTOOD THE FOREGOING CUSTOMER AGREEMENT AND HEREBY AGREES TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS HEREOF.**

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## ADDITIONAL TERMS FOR GERMAN RETAIL CLIENTS

These additional terms apply to you if you submit an order for AvaTrade to enter into a Futures Transaction on your behalf and you are a retail client domiciled in Germany (“German Retail Client”).

A “Futures Transaction” is a transaction in an instrument that is a Future, namely a financial instrument within the meaning of Article 4(1)(15) of Directive 2014/65 on markets in financial instruments, in conjunction with numbers 4 to 7 and 10 of Section C of Annex 1 of that Directive and tradable through AvaTrade with the Futures trading capability.

Capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Customer Agreement between AvaTrade and you.

The terms of the body of the Customer Agreement continue to apply to all Futures Transactions unless and to the extent that there is a conflict between those terms and the terms of this Additional Terms, in which case the terms of this Additional Terms will prevail.

This Additional Terms does not apply:

- 1) If you are not a retail client.
- 2) If you are a retail client but you are not domiciled in Germany.
- 3) To Future Transactions entered into by a German Retail Client for the purpose of settling or closing a Futures position held on the Customer’s account which the Customer entered into before January 1, 2023 (“Effective Date”).

### 1. EXCLUSION OF ADDITIONAL PAYMENT OBLIGATION

- 1.1. In accordance with the requirements of the Federal Financial Supervisory Authority’s General Administrative Act – Product Intervention Regarding Futures (the “Futures Measures”), AvaTrade hereby excludes the application of an Additional Payment Obligation (as defined below) to Futures Transactions executed by AvaTrade for you or on your behalf on or after the Effective Date.
- 1.2. An Additional Payment Obligation relates to a contractual obligation of a German Retail Client to compensate AvaTrade for a loss after the forced liquidation of the German Retail Client’s open Futures positions by AvaTrade by providing additional funds from the German Retail Client’s other assets. You acknowledge and confirm that AvaTrade may use the funds that you have deposited

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with AvaTrade for Futures trading to satisfy your aggregate liability in respect of your Futures Transactions.

- 1.3. The deduction of costs and fees from your account in connection with your Futures Transactions does not constitute an Additional Payment Obligation for the purposes of this Additional Terms. This means that AvaTrade may have recourse to all the assets in your account for the purpose of discharging such costs and fees.
- 1.4. The exclusion of an Additional Payment Obligation will not prevent AvaTrade from having recourse to the unrealized net profits of your open Futures positions to meet liabilities you have incurred in connection with your trades in financial instruments other than Futures, subject to compliance with applicable laws.
- 1.5. If you are not a retail client or if you are a retail client but you are not domiciled in Germany, the Futures Measures will not apply to you and you may be subject to an additional payment obligation in connection with your futures transactions, as provided in section 22.9.2 of the Customer Agreement.
- 1.6. If you are a retail client domiciled in Germany, the Futures Measures will not apply to Futures sold with the purpose of settling or closing out an existing Futures position held on your account which you entered before the Effective Date and you may be subject to an Additional Payment Obligation in connection with such Futures Transactions.

## 2. FUNDS DEPOSITED FOR FUTURES TRADING

- 2.1. You agree that from the Effective Date, AvaTrade has the right to treat the following as funds that you have deposited with AvaTrade for Futures trading:
  - 2.1.1. any cash in your account used to meet the initial margin requirements for a Futures Transaction.
  - 2.1.2. the unrealized net profits from your open Futures positions.
- 2.2. AvaTrade will continue to treat your realized profits on Futures positions as being deposited for Futures trading after you have closed all your open Futures positions unless you subsequently use those profits to open a non-futures position. This means that if you enter new Futures Transactions, AvaTrade has recourse to those realized profits to offset any liabilities associated with those Futures Transactions.
- 2.3. You may further elect to authorize AvaTrade to treat all cash in your account that does not support margin requirements for other assets ("Free Cash"), as being deposited for Futures trading.

## 3. MARGIN REQUIREMENTS

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- 3.1. Futures Transactions are subject to the AvaTrade margin policies described in the Customer Agreement to the extent that those Policies are compatible with the terms of this Additional Terms.
- 3.2. AvaTrade applies bespoke margin rates to Futures Transactions entered by German Retail Clients, which are set out on AvaTrade's website. AvaTrade may modify those margin rates at any time at AvaTrade's sole discretion.
- 3.3. AvaTrade may determine the initial and/or variation margin requirements applicable to a Futures Transaction at any time in AvaTrade's sole discretion.
  - 3.3.1. You acknowledge that when you enter a Futures Transaction, all the available cash held in your account may be used by AvaTrade to meet the initial margin requirement for that Futures Transaction as well as the unrealized net profits from your existing Futures positions, and
  - 3.3.2. If you have insufficient funds in your trading account to meet the initial margin requirements, you will not be able to open a new Futures Transaction, even if your account otherwise has available equity.
  - 3.3.3. You further acknowledge that in order to determine whether you have sufficient funds to meet the variation margin requirements associated with one or more of your Futures Transactions, AvaTrade will take into account the funds that you have used to meet the initial margin requirements for your Futures Transactions at portfolio level, any additional unrealized net profits from your open Futures positions, and any realized profits from your closed Futures positions unless you have subsequently used those profits to open a non- Futures position. If you have authorized AvaTrade to consider Free Cash as part of your funds deposited for Futures trading, AvaTrade will also be able to have recourse to your Free Cash to meet variation margin requirements. As set out below AvaTrade may liquidate your open futures positions if you do not meet your margin requirements.
- 3.4. If at any time the funds that you have deposited for Futures trading are insufficient to meet your margin requirements, AvaTrade is authorized to liquidate some or all of your Futures positions immediately without notice or margin call to you. AvaTrade will only liquidate Futures positions to cover a Futures margin deficit and will not liquidate your positions in other financial instruments.