

TERMS AND CONDITIONS

1. DEFINITIONS

1.1. In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

- 1.1.1. **"4AX" or "Exchange"** means 4 Africa Exchange Proprietary Limited registration number 2013/031754/07, a private company duly incorporated in accordance with the laws of the Republic of South Africa and licensed as an exchange under the FMA;
- 1.1.2. **"4AX Exchange Rules"** means the exchange rules of 4AX, as amended from time to time;
- 1.1.3. **"4AX Exchange System"** means the electronic trading platform operated and maintained by the Exchange;
- 1.1.4. **"4AX Listing Requirements"** means the listing requirements of 4AX, as amended from time to time;
- 1.1.5. **"4AX Registry"** means 4 Africa Exchange Registry Proprietary Limited registration number 2016/396777/07, a private company duly incorporated in accordance with the laws of the Republic of South Africa;
- 1.1.6. **"4AX Registry Account"** means the centralised registry account held with the 4AX Registry which account will reflect the Client's entire Investments and cash holdings in the Exchange;
- 1.1.7. **"A-Trade"** means A-Trade Proprietary Limited, registration number 2015/234354/07, a limited liability private company duly incorporated in accordance with the laws of the Republic of South Africa;
- 1.1.8. **"Acts"** means the Financial Markets Act, 2012, Financial Institutions (Protection of Funds) Act, 2001, Inspection of Financial Institutions Act, 1998, Short-Term Insurance Act, 1998, Long-Term Insurance Act, 1998, Banks Act, 1990, Financial Services Board Act, 1990, Companies Act, 2008, National Payments Systems Act, 1998, the Pension Funds Act, 1956, the Securities Transfer Tax Act, 2007, the Securities Transfer Tax Administration Act, 2007, Prevention of Organised Crime Act, 1998, the Collective Investment Schemes Control Act, 2002 and the Financial Intelligence Centre Act, 2001 and any other applicable act or law as amended or substituted from time to time;
- 1.1.9. **"Advice"** has the meaning ascribed to such term in FAIS;
- 1.1.10. **"Agent"** means NWK, acting through the Agent Representative in the capacity as agent of the Client in terms of this Agreement;
- 1.1.11. **"Agent Representative"** means, subject always to compliance with the Applicable Laws, such individual or individuals nominated to fulfil the role as the duly appointed representative(s) of the Agent from time to time as notified to A-Trade and 4AX in writing in advance, it being understood that as at the Effective Date such representative will be such individual(s) identified in clause 6.1 of the Agreement, amended from time to time

in accordance with the provisions of clause 6.2 of the Agreement.

- 1.1.12. **"Agreement"** means the Agency Agreement, including all annexures hereto;
- 1.1.13. **"Applicable Law"** means the common law, all applicable statutes, statutory instruments, proclamations, by-laws, regulations, orders, rules and other subordinate legislation, treaties, directives and codes of practice having the force of law in South Africa, judicial decisions, notifications and all similar directives made pursuant thereto with which A-Trade, the Client and/or the Agent is bound to comply, including the Acts;
- 1.1.14. **"Authorised Signatory"** means a Person nominated by the Agent as having the authority to sign this Agreement on behalf of the Agent;
- 1.1.15. **"Authorised User"** has the meaning ascribed to such term in the FMA;
- 1.1.16. **"Client"** means the party referred to clause 1.1.2 of the Agreement being such shareholder who has entered into a Client Mandate with A-Trade and wishes to have an agent as referred under clause 2.1 of the terms and conditions of the Client Mandate;
- 1.1.17. **"Client Mandate"** means the client mandate entered into between A-Trade and the Client and "Client Mandates" shall be construed accordingly;
- 1.1.18. **"Conditions Precedent"** means the condition precedent to which this Agreement and the appointment as contemplated herein are subject to;
- 1.1.19. **"Confidential Information"** means any information of a confidential and/or commercially sensitive nature, howsoever obtained or received and whether or not marked confidential including any technical, commercial, financial or scientific information, know how, trade secrets, processes, marketing and business information, customer and supplier information, pricing information and/or any other information or material of whatever description or nature proprietary to a party, whether in written, oral, magnetic or machine-readable or other information;
- 1.1.20. **"Deal"** includes conveying or providing a Trade Instruction to deal and **"Dealings"** shall be construed accordingly;
- 1.1.21. **"Effective Date"** means, subject to the fulfilment of clause 4 of the Agreement, the Signature Date;
- 1.1.22. **"Exchange Directives"** has the meaning ascribed to it in the FMA;
- 1.1.23. **"FAIS"** means the Financial Advisory and Intermediary Services Act, 37 of 2002;
- 1.1.24. **"FICA"** means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
- 1.1.25. **"FMA"** means the Financial Markets Act 19 of 2012 and any subordinate legislation including any regulations, notices or directives issued by the Registrar;
- 1.1.26. **"Insider"** has the meaning ascribed to such term in the FMA;
- 1.1.27. **"Inside Information"** means specific or precise information, which has not been made public and which is obtained or learned as an Insider; and if it were made public, would be

- likely to have a material effect on the price or value of any Securities listed on an exchange;
- 1.1.28. "**NWK**" means NWK Limited, registration number 1998/007577/06, a public company duly incorporated in the Republic of South Africa;
- 1.1.29. "**NWKH**" means NWK Holdings Limited, registration number 1998/007243/06, a public company duly incorporated in the Republic of South Africa;
- 1.1.30. "**Parties**" means the parties to this Agreement and "**Party**" means any one of them as the contract may indicate;
- 1.1.31. "**Personal Information**" has the meaning ascribed to such term in the POPI Act;
- 1.1.32. "**POPI Act**" means the Protection of Personal Information Act 4 of 2013, as amended from time to time;
- 1.1.33. "**Process**" means any operation or activity whether automated or not, concerning Personal Information including collection, receipt, recording, organisation, collation, storage, updating, modification, retrieval, alteration, consultation, use, dissemination (whether by means of transmission, distribution or making available in any form), merging, linking, blocking, degradation, erasure or destruction and "**Processing**" as well as "**Process**" shall be construed accordingly;
- 1.1.34. "**Securities**" has the meaning as ascribed to such term in the 4AX Exchange Rules;
- 1.1.35. "**Services**" means, for such Clients who wish to be assisted by an agent to trade in Securities listed on 4AX pursuant to concluding a Client Mandate with A-Trade, the following services to be provided by the Agent on behalf of the Client:
- 1.1.35.1. Receiving and Processing Client information, including but not limited to FICA information, to open an A-Trade trading account for the Client;
- 1.1.35.2. receiving instructions (including Trade Instructions) from the Client;
- 1.1.35.3. communicating instructions (including Trade Instructions) received in terms of clause 1.1.35.2 above to A-Trade.
- 1.1.36. "**Signature Date**" means the date of signature of this Agreement by the Party last signing;
- 1.1.37. "**Trade Instruction**" or "**Trade Instructions**" means trade instruction(s) for trading in Securities listed on 4AX pursuant to a Client Mandate and communicated or conveyed to A-Trade in accordance with the Client Mandate;
- 1.1.38. "**Trading Information**" means any such information or messages as solely authorised or approved or deemed appropriate by A-Trade (only) and communicated to Clients from time to time;
- 1.1.39. "**Transaction**" has the meaning ascribed to such term in the 4AX Exchange Rules; and
- 1.1.40. "**Vary**" means amendments, modifications, additions to or amendments to this Agreement.
- 1.2. In this Agreement —
- 1.2.1. clause headings and the heading of the Agreement are for convenience only and are not to be used in its interpretation;
- 1.2.2. an expression which denotes —
- 1.2.2.1. any gender includes the other genders;
- 1.2.2.2. a natural person includes a juristic person and vice versa;
- 1.2.2.3. the singular includes the plural and vice versa;
- 1.2.2.4. a Party includes a reference to that Party's successors in title and assigns allowed at law; and
- 1.2.2.5. a reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last mentioned clauses.
- 1.3. Any reference in this Agreement to —
- 1.3.1. "**business hours**" shall be construed as being the hours between 08h30 and 17h00 on any Business Day or, for purposes of the Services to be rendered under this Agreement to the extent applicable, the trading and/or operating hours of 4AX as determined by 4AX from time to time. Any reference to time shall be based upon South African Standard Time;
- 1.3.2. "**days**" shall be construed as calendar days unless qualified by the word "**Business**", in which instance a "**Business Day**" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
- 1.3.3. "**laws**" means all constitutions; statutes; regulations; by-laws; codes; ordinances; decrees; rules; judicial, arbitral, administrative, ministerial, departmental or regulatory judgements, orders, decisions, rulings, or awards; policies; voluntary restraints; guidelines; directives; compliance notices; abatement notices; agreements with requirements of, or instructions by any Government Body; and the common law, and "law" shall have a similar meaning and
- 1.3.4. "**person**" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality.
- 1.4. The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5. Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in clause 1.1 or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.
- 1.6. Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- 1.7. Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.

- 1.8. A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.
- 1.9. Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a Business Day, the next succeeding business day.
- 1.10. Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.11. The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.
- 1.12. No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.
- 1.13. Any reference in this Terms and Conditions to "**this Agreement**" or any other agreement or document shall be construed as a reference to the Agreement or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.
- 1.14. In the Agreement the words "**clause**" or "**clauses**" and "**annexure**" or "**annexures**" refer to clauses of and annexures to the Agreement.

2. AGENT REPRESENTATIVE

- 2.1. The Agent hereby warrants that the Agent Representative—
 - 2.1.1. is duly authorised and will continue to be authorised at the time of performing the Services;
 - 2.1.2. is fit and proper to perform the Services; and
 - 2.1.3. have the necessary skill set and is suitably qualified to perform and/or provide the Services, to the satisfaction of the Client.
- 2.2. The Client hereby indemnifies and keeps the Agent harmless against any losses, costs, expenses, claims and/or damages resulting from or arising out of the Agent's reliance upon and compliance with instructions (including Trade Instructions) given by the Client, except where such losses, costs, expenses, claims and/or damages arise directly from the Agent's own fraud, gross negligence or wilful default and all acts of the Agent and/or Agent Representative shall at all times be binding on the Client.
- 2.3. In the event that the Agent Representative is no longer authorised to perform the Services as contemplated in this Agreement, the Agent hereby undertakes to provide the Client and A-Trade written notice of the termination of such Agent Representative's appointment. The termination of the appointment of such an Agent Representative shall take effect on the day on which notice of the termination ("**Termination Notice**") is sent to the Client and A-Trade or if such day is not a Business Day, the next Business Day ("**Termination Date**"). The Parties hereby agree that any instruction (including a Trade Instruction) received by the Agent Representative prior to the Termination Date from the Client shall be a valid instruction and shall not in any way be affected by any such termination. Accordingly, the Agent and/or Agent Representative shall Process and/or act upon such instruction (including a Trade Instruction), notwithstanding that

any Transactions covered by such instruction (including a Trade Instruction) shall not be completed until after the Termination Date, unless the Client has upon written request instructed the Agent not to proceed with such Transaction.

- 2.4. Any instructions (electronically, written or oral – as contemplated in this clause), including Trade Instructions, transmitted by the internet, telephonically or any other electronic means acceptable to the Agent and/or its authorised representatives, notwithstanding any error in the transmission thereof or that such instructions may not be genuine, shall be conclusively deemed to be valid instructions from the Client, as the case may be, to the Agent or Agent Representative for the purposes of this Agreement. The Agent or Agent Representative shall not be held liable in relying on or complying with instructions (including Trade Instructions) given in such manner or if Processed by the Agent's computer system. The Agent or Agent Representative may, in their sole discretion, decline to act upon any instruction(s) where the instructions (including Trade Instructions) are insufficient or incomplete, or are not received by the Agent or Agent Representative in sufficient time for the Agent or Agent Representative to act upon or in accordance with such instructions, or where the Agent or Agent Representative has reasonable grounds for concluding that the instructions (including Trade Instructions) have not been accurately transmitted or are not genuine. Without derogating from any rights and/or general liability Agent or Agent Representative may have, the Agent or Agent Representative shall not be liable for any liabilities, losses, costs, expenses and/or damages arising directly or indirectly from:
 - 2.4.1. the Agent or Agent Representative misunderstanding and/or misinterpreting any instructions (including Trade Instructions) received from the Client, as the case may be, where the Agent or Agent Representative acted on such instruction(s) in good faith; or
 - 2.4.2. the Agent or Agent Representative, acting on any oral instruction (including Trade Instructions) received, either from the Client, which is in conflict or is inconsistent with any subsequent electronic instruction (including Trade Instructions) received by the Agent or Agent Representative from the Client, and accordingly hereby indemnifies and keep the Agent or Agent Representative harmless against any such loss, costs, expenses, damages and liability.
- 2.5. All Services rendered by the Agent or Agent Representatives will be done in an honest and fair manner, with due skill, care and diligence and in the interest of the Client.

3. RELATIONSHIP OF THE PARTIES

- 3.1. The relationship of the Parties in terms of this Agreement shall be that of principal and agent. The Agent shall only be entitled to act as the agent of the Client to perform the Services, being the extent specifically authorised in this Agreement. Neither Party shall be entitled to bind the credit of the other. Save as specifically herein contemplated —
 - 3.1.1. this Agreement does not constitute the Agent as the legal representative, employee, or servant of the Client; and
 - 3.1.2. the Agent shall have no authority to bind the Client.

4. AGENT'S DUTIES

- 4.1. The Agent, by entering into this Agreement, agrees and undertakes to fully comply with its duties as imposed in this clause 4 and will perform the Services as contemplated in this Agreement and to the satisfaction of the Client.
- 4.2. It is specifically recorded that the Client Mandate and FMA imposes certain duties and/or responsibilities on the Client. The Agent, by entering into this Agreement, agrees and undertakes not to act contrary to the obligations imposed on the Client under the Client Mandate and the FMA (as applicable) when providing the Services.
- 4.3. In providing the Services, the Agent shall –
 - 4.3.1. only use such documentation and follow such administrative procedures as is permissible in terms of the 4AX Exchange Rules and the Client Mandate, from time to time;
 - 4.3.2. provide all Client information (including Personal Information) to A-Trade and any other information as required by A-Trade;
 - 4.3.3. transmit, convey and disclose all information (including Trading information) received from A-Trade to the Client in accordance with this Agreement;
 - 4.3.4. transmit to the Client all enquiries and requests from A-Trade which it cannot address itself;
 - 4.3.5. make no representation and give no warranty or undertaking, whether directly or indirectly and whether express or implied to the Client, specifically in respect of Trading Information.
- 4.4. The Agent shall have no authority –
 - 4.4.1. to perform any services other than the Services and as contemplated in this Agreement;
 - 4.4.2. to act in any way whatsoever beyond the authority expressly granted to it in terms of this Agreement; and
 - 4.4.3. to provide and/or disclose Inside Information, Advice or other advice, including but not limited to investment, professional, legal, financial or taxation advice, to the Client or any third party, which may encourage or cause the Client to effect, cause, Deal or enter into Transactions or discourage or prevent the Client from Dealing or entering into Transactions pertaining to Securities listed on 4AX or which is likely to be affect the Client as a consequence of such Inside Information, Advice or other advice.
- 4.5. It is specifically recorded that all other services the Client is required to perform in terms of the Client Mandate, and it's contractual relationships with A-Trade, shall be handled exclusively by the Client.
- 4.6. Notwithstanding the Client's right to terminate this Agreement in accordance with clause 12.1 of this Terms and Conditions, if in the opinion of the Client, the Agent fails to satisfactorily perform the Services, the Client shall, at its sole discretion, have the right to terminate this Agreement on 10 (ten) days' written notice to the Agent and A-Trade.

5. DUTIES OF THE CLIENT

- 5.1. The Client shall –
 - 5.1.1. provide to the Agent such information (including but not limited to FICA and Personal Information) as may be reasonably necessary to enable the Agent to provide the Services which shall include instructing the Agent or the Agent Representative insofar the

required actions to be taken by the Agent or the Agent Representative for rendering the Services; and

- 5.1.2. communicate to the Agent such instructions (including Trading Instructions), in the prescribed manner and form to enable the Agent to perform the Services as set out in this Agreement.

6. INDEMNITY BY THE AGENT

- 6.1. The Agent hereby indemnifies and holds the Client harmless from all claims, demands, fines, penalties, actions, proceedings, judgements, damages, losses, costs, expenses or other liabilities imposed or brought against, incurred or suffered by the Agent and/or Client or, if applicable, any employee, officer or representative of the Agent, Agent Representative and/or Clients, as a result of or in consequence of –
 - 6.1.1. the rendition of the Services or this Agreement; and/or
 - 6.1.2. acting outside the Client Mandate.
- 6.2. The Client hereby indemnifies and holds the Agent and Agent Representative harmless from all claims, demands, fines, penalties, actions, proceedings, judgements, damages, losses, costs, expenses or other liabilities imposed or brought against, incurred or suffered by the Agent and/or Agent Representative, if applicable, any employee, officer or representative of the Agent, as a result of or in consequence of any inaccuracies in the information (including Personal Information) being provided by the Client to the Agent and/or Agent Representative.

7. LIMITATION OF LIABILITY

- 7.1. Nothing in this Agreement shall exclude or limit either Party's liability in relation to:
 - 7.1.1. any fraud or fraudulent misrepresentation or any other criminal act which leads to the other Party suffering losses, damages, losses, costs, expenses or other liabilities imposed or brought against it; and/or
 - 7.1.2. any liability which cannot be excluded by law by that Party.
- 7.2. Subject to clause 12.1 of this Terms and Conditions, the Client shall not be liable to the Agent for any indirect or consequential loss or damage, including loss of profit, revenue, anticipated savings, business transactions or goodwill or other contracts whether arising from negligence or breach of contract.

8. CONFIDENTIAL INFORMATION

- 8.1. The Agent hereby acknowledges that by virtue of its appointment to render the Services in terms of this Agreement, the Agent will have access to certain Confidential Information of the Client. The Agent hereby undertakes –
 - 8.1.1. to treat and safeguard the Confidential Information as strictly private, secret and confidential;
 - 8.1.2. except as permitted by this Agreement, not at any time to disclose to any third party any Confidential Information acquired by it;
 - 8.1.3. to make use of the Confidential Information acquired by it during the course and term of its appointment by the Client solely for the purposes of carrying out its duties and obligations under this Agreement and for no other purposes whatsoever;
 - 8.1.4. not to use or permit the use of the Confidential Information, whether directly or indirectly, to obtain a commercial, trading, investment, financial or other advantage over the Client or otherwise use it to the detriment of the Client;

8.1.5. except as permitted by this Agreement, not to disclose or divulge, directly or indirectly, the Confidential Information in any manner to any third party for any reason or purpose whatsoever without the prior written consent of the Client, which consent may be granted or withheld in the sole and absolute discretion of the Client;

8.1.6. upon termination of its appointment by the Client, to deliver to the Client all such documents and other property pertaining to the Confidential Information as may be in its possession at that time.

8.2. For purposes of this clause 8 any reference to Agent shall be deemed to include an Agent Representative.

9. USE OF INFORMATION

9.1. It is the Client's responsibility to ensure that the Agent and/or Agent Representative has all required information and further, that such information is correct and current (including but not limited to all Personal Information in terms of FICA).

9.2. The Client hereby undertakes to notify the Agent and/or Agent Representative in writing of any changes to the information required in clause 9.1 above and shall provide the Agent and/or Agent Representative with the requisite documentation in support thereof. The Agent and/or Agent Representative will not be held liable for any losses, liability, costs, expenses, claims and/or damages arising from any failure or delay to perform any of its obligations as a result of the Client's failure to notify the Agent and/or Agent Representative of such change and/or to provide the Agent and/or Agent Representative with such documents. The Client hereby indemnifies the Agent and/or Agent Representative and holds it harmless against any claims, losses, expenses, fees or charges, whether direct or indirect, arising from any failure to notify the Agent and/or Agent Representative of any changes to the details and/or provide the Agent and/or Agent Representative with the relevant documentation.

9.3. The Agent and/or Agent Representative shall not be required to confirm the authenticity of any instruction (including Trade Instructions) by the Client.

9.4. The Parties acknowledge and agree that—

9.4.1. it remains the responsibility of the Agent and/or Agent Representative to ensure that all the necessary consents, requirements and procedures required in terms of the POPI Act have been followed before the Agent and/or Agent Representative may use, transfer and Process the Client's Personal Information for the purposes of this Agreement and the Client Mandate, as the case may be;

9.4.2. the Agent and/or Agent Representative is unable to fulfil its obligations in accordance with this Agreement and the Client Mandate, as the case may be, without Processing, disclosing and transferring such information (including Personal Information) to A-Trade;

9.4.3. the Client will voluntarily provide the Agent and/or Agent Representative with all information including Personal Information as may be required in terms of the Client Mandate;

9.4.4. the Agent and/or Agent Representative may Process the Client's Personal Information for

any purpose the Agent and/or Agent Representative reasonably believes is required to fulfil its obligations and to perform the Services in accordance with this Agreement and the Client Mandate.

9.5. The Agent and/or Agent Representative hereby warrants that any Client Personal Information which it discloses and transfers to A-Trade in this regard, is done in a manner that complies with the applicable provisions of the POPI Act and to cooperate with A-Trade in good faith with regards to the transfer and Processing of such Personal Information.

10. IMPLEMENTATION AND GOOD FAITH

10.1. The Agent undertakes to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give or be conducive to give effect to the terms, conditions and import of this Agreement and the Client Mandate.

10.2. The Parties shall at all times during the continuance of this Agreement observe the principles of good faith towards one another in the performance of its obligations in terms of this Agreement.

11. GENERAL WARRANTIES

11.1. The Agent hereby warrants to and in favour of the Client that—

11.1.1. it has the legal capacity and has taken all necessary corporate action required to empower and authorise it to enter into this Agreement;

11.1.2. this Agreement constitutes an agreement valid and binding on it and enforceable against it in accordance with its terms;

11.1.3. the execution of this Agreement and the performance of its obligations hereunder does not and shall not—

11.1.3.1. contravene any law or regulation to which that it is subject;

11.1.3.2. contravene any provision of that its constitutional documents; or

11.1.3.3. conflict with or constitute a breach of any of the provisions of any other agreement, obligation, restriction or undertaking which is binding on it;

11.1.4. it is not aware of the existence of any fact or circumstance that may impair its ability to comply with all of its obligations in terms of this Agreement;

11.1.5. the natural person who signs and executes this Agreement on its behalf is validly and duly authorised to do so;

11.1.6. no other party is acting as a fiduciary for it; and

11.1.7. it is not relying upon any statement or representation by or on behalf of any other party, except those expressly set forth in this Agreement.

11.2. Specific representations and warranties

11.2.1. The Agent hereby warrants, represents and undertakes to the Client, that—

11.2.1.1. the Agent and/or the Agent Representative will not provide and/or disclose Inside Information, Advice or other advice, including but not limited to investment, professional, legal, financial or taxation advice, to the Client or any third party, which may encourage or cause the Client to effect, cause, Deal or enter into Transactions or discourage or prevent the Client from Dealing or entering into Transactions

- pertaining to Securities listed on 4AX or which is likely to be affect the Client as a consequence of such Inside Information, Advice or other advice;
- 11.2.1.2. the Agent and/or the Agent Representative will not provide other services other than the Services set out in this Agreement;
- 11.2.1.3. the Agent and/or Agent Representative will abide by the provisions of the FMA or any replacement act or legislation and any relevant conditions promulgated under such legislation, and acknowledge that all Dealings are subject to the Client Mandate and 4AX Exchange Rules, practice and usage or market practice, as the case may be; and
- 11.2.1.4. the Agent and/or Agent Representative will not act in contravention of the terms and conditions of the Client Mandate;
- 11.2.1.5. it is a company, duly incorporated in accordance with the laws of South Africa;
- 11.2.1.6. it has the power to enter into and perform in terms of this Agreement and has taken all necessary action to authorise the entry into and performance of this Agreement and the transactions contemplated hereby in accordance with its terms;
- 11.2.1.7. the entry into and performance by Agent of its obligations in terms of this Agreement and the transactions contemplated hereby does not—
- 11.2.1.7.1. conflict with any law or regulation or any official or judicial order;
- 11.2.1.7.2. conflict with the Client Mandate, 4AX Exchange Rules, 4AX Listing Requirements, directives, practice and usage of 4AX, the 4AX Registry or market practice, as the case may be; or
- 11.2.1.7.3. conflict with its constitutional document.
- 11.3. Each of the representations and warranties given by the Agent in terms of clause 11.1 and 11.2 above shall –
- 11.3.1. be a separate warranty and will in no way be limited or restricted by inference from the terms of any other warranty or by any other words in this Agreement;
- 11.3.2. continue and remain in force notwithstanding the completion of any or all the transactions contemplated in this Agreement; and
- 11.3.3. *prima facie* be deemed to be material and to be a material representation inducing Client to enter into this Agreement.

12. BREACH

- 12.1. If a Party ("**Defaulting Party**") commits any breach of this Agreement and fails to remedy such breach within 10 (ten) Business Days ("**Notice Period**") of written notice requiring the breach to be remedied, then the Party giving the notice ("**Aggrieved Party**") will be entitled, at its option –

- 12.1.1. to claim immediate specific performance of any of the Defaulting Party's obligations under this Agreement, with or without claiming damages, whether or not such obligation has fallen due for performance, and to require the Defaulting Party to provide security to the satisfaction of the Aggrieved Party for the Defaulting Party's obligations; or
- 12.1.2. to cancel this Agreement, with or without claiming damages, in which case written notice of the cancellation shall be given to the Defaulting Party, and the cancellation shall take effect on the giving of the notice. Neither Party shall be entitled to cancel this Agreement unless the breach is a material breach. A breach will be deemed to be a material breach if –
- 12.1.2.1. it is capable of being remedied, but is not so remedied within the Notice Period; or
- 12.1.2.2. it is incapable of being remedied or is not remedied within the Notice Period, and payment in money will compensate for such breach but such payment is not made within the Notice Period.

- 12.2. The Parties agree that any costs awarded will be recoverable on an attorney-and-own-client scale unless the Court specifically determines that such scale shall not apply, in which event the costs will be recoverable in accordance with the High Court tariff, determined on an attorney-and-client scale.

- 12.3. The Aggrieved Party's remedies in terms of this clause 12 are without prejudice to any other remedies to which the Aggrieved Party may be entitled in law.

13. TERMINATION

- 13.1. Notwithstanding anything to the contrary in this Agreement, the Client may terminate this Agreement in the event that the Agent commits any breach of the provisions of this Agreement and fails to remedy such breach within 5 (five) Business Days' notice by the Client in writing requiring such breach to be remedied.
- 13.2. Notwithstanding termination in accordance with clause 13.1 above, the Client may terminate this Agreement forthwith on written notice to the Agent in the event that the Agent –
- 13.2.1. is sequestered or placed under business rescue proceedings or liquidation, as the case may be, (whether provisionally or finally) or takes any steps to compromise its creditors; or
- 13.2.2. commits any act, which if committed by a natural person, would constitute an act of insolvency; or
- 13.2.3. ceases to carry on business or disposes of its business or changes the fundamental nature of its business; or
- 13.2.4. fails to provide the Services in accordance with the Client Mandate within the Notice Period specified in clause 13.1 above; or
- 13.2.5. cedes its rights and/or delegates its obligations under this Agreement to any third party without the prior written consent of the Client, A-Trade or 4AX, as the case may be; or
- 13.2.6. is in breach of any of its obligations under clause 4.2 of the Agreement and/or clause 8 of this Terms and Conditions.
- 13.3. Notwithstanding termination in accordance with clauses 13.1 and 13.2 above, the Client shall be

entitled to terminate this Agreement without further notice to the Agent, in the event that—

- 13.3.1. the Financial Services Board (or any successor organisation) or any other regulator so determines or directs;
- 13.3.2. on the withdrawal or non-renewal of the Exchange's licence to operate an exchange in terms of the FMA; or
- 13.3.3. should A-Trade cease to be a member of the Exchange or an Authorised User, for any reason whatsoever.

14. EFFECTS OF TERMINATION

- 14.1. Should this Agreement be terminated for any reason whatsoever, then and in such event the Agent shall:
 - 14.1.1. immediately cease the provision of the Services;
 - 14.1.2. refrain from representing itself as an agent of the Client;
 - 14.1.3. refrain from using any of the Confidential Information, all information (including Personal Information) relating to the Services;
 - 14.1.4. return to the Client or otherwise dispose of as the Client may require all information (including Confidential Information and Personal Information) and documentation concerning the Services.

15. DISPUTE RESOLUTION

- 15.1. Any dispute arising out of this Agreement or the interpretation thereof, both while in force and after its termination, ("**Dispute**") shall be submitted to the chief executive officers of the Parties ("**Authorities**") and if the Authorities are unable to resolve the Dispute within 30 (thirty) days of referral thereto, it shall be determined by a process of mediation between the disputing Parties prior to arbitration as set out in this clause 15.
- 15.2. The mediation process shall be facilitated by a mediator agreed to between the disputing Parties. If the disputing Parties are unable to agree on the appointment of a mediator within a period of 7 (seven) days after the mediation has been demanded, the Dispute will be referred to a mediator appointed by the Parties.
- 15.3. The objective of the mediation will be to seek a fair, equitable and legal resolution of the Dispute.
- 15.4. The disputing Parties agree that –
 - 15.4.1. the mediator will, after consultation with the disputing Parties, determine the procedure to be adopted in the mediation process;
 - 15.4.2. the mediator cannot make a ruling or decision which binds the disputing Parties, nor may the mediator compel the disputing Parties to settle the Dispute;
 - 15.4.3. the costs of the mediator will be shared equally between the disputing Parties;
 - 15.4.4. at the conclusion of the mediation process, the mediator will record the terms of any agreement or settlement reached by the disputing Parties or, if no agreement or settlement is reached despite all reasonable efforts by the disputing Parties, the mediator must record that fact (hereinafter referred to as the "unsuccessful mediation");
 - 15.4.5. in the event of an unsuccessful mediation –
 - 15.4.5.1. any representation made or any document tendered by any Party during the mediation process –
 - 15.4.5.1.1. is made or tendered without prejudice;

15.4.5.1.2. may not be tendered in subsequent arbitration proceedings except –

15.4.5.1.2.1. with the knowledge and consent of the Party who made the representation or tendered the document during the mediation; or

15.4.5.1.2.2. where such representation or document is already known to, or in the possession of, that Party;

15.4.5.2. the Dispute shall be submitted and determined by arbitration in accordance with the rules ("**Rules**") of the Arbitration Foundation of Southern Africa ("**AFSA**").

15.5. If the Dispute is referred to arbitration as set out in this clause 15 –

15.5.1. There shall be one arbitrator who shall be, if the question in issue is:

15.5.1.1. primarily an accounting matter, an independent chartered accountant of at least 10 (ten) years' standing;

15.5.1.2. primarily a legal matter, a practising senior counsel or commercial attorney of at least 10 (ten) years' standing;

15.5.1.3. any other matter, a suitably qualified person.

15.5.2. The appointment of the arbitrator shall be agreed upon between the disputing Parties, but failing agreement between them within a period of 7 (seven) days after the arbitration has been demanded, any of the disputing Parties shall be entitled to request the chairman for the time being of AFSA to make the appointment who, in making his appointment, shall have regard to the nature of the Dispute.

15.5.3. The arbitrator shall have the powers conferred upon an arbitrator under the Rules.

15.6. The following is applicable to both the processes of mediation and arbitration referred to in this clause 15:

15.6.1. the mediation or arbitration shall be held in Johannesburg unless otherwise agreed to and shall be held in a summary manner with a view to it being completed as soon as possible; and

15.6.2. the agreement reached by the disputing Parties during mediation or the decision of the arbitrator, as applicable, shall, in the absence of manifest error, be final and binding on the disputing Parties, and may be made an order of any court of competent jurisdiction. Each of the Parties hereby submits itself to the High Court of South Africa, Gauteng Local Division, Johannesburg, should any Party wish to make the agreement reached during mediation or the arbitrator's decision, as applicable, an order of Court.

16. NOTICES AND DOMICILIA

16.1. All notices to be given in terms of this Agreement will be given in writing and will –

16.1.1. be delivered by hand or sent by email at the addresses stated in clause 8 of the Agreement;

16.1.2. if delivered by hand during business hours, be presumed to have been received on the date

of delivery. Any notice delivered after business hours or on a day which is not a Business Day will be presumed to have been received on the following Business Day; and

16.1.3. if sent by email during business hours, be presumed to have been received on the date of successful transmission of the email. Any email sent after business hours or on a day which is not a business day will be presumed to have been received on the following Business Day.

16.2. Notwithstanding the above, any notice given in writing, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause 16 or clause 8 of the Agreement.

17. APPLICABLE LAW AND JURISDICTION

17.1. This Agreement will in all respects be governed by and construed under the laws of the Republic of South Africa.

17.2. The Parties hereby consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, North West Provincial Local Division, (Mahikeng) in any dispute arising from or in connection with this Agreement.

18. INDEPENDENT ADVICE

Each of the Parties to this Agreement hereby acknowledges and agrees that –

18.1. it has been free to secure independent legal and other professional advice (including financial and taxation advice) as to the nature and effect of all of the provisions of this Agreement and that it has either taken such independent advice or has dispensed with the necessity of doing so; and

18.2. all of the provisions of this Agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are in accordance with the Party's intentions.

19. GENERAL

19.1. Whole Agreement

19.1.1. This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on the Parties.

19.1.2. This Agreement supersedes and replaces any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

19.2. Variations to be in Writing

No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless in writing and signed by the Parties.

19.3. No Indulgences

No latitude, extension of time or other indulgence which may be given or allowed by either Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of either Party arising from this Agreement and no single or partial exercise of any right by either Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by that Party or

operate as a waiver or a novation of or otherwise affect any of its rights in terms of or arising from this Agreement or estop or preclude it from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of either Party in exercising any right, power or privilege under this Agreement will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

19.4. No Waiver or Suspension of Rights

No waiver, suspension or postponement by either Party of any right arising out of or in connection with this Agreement shall be of any force or effect unless in writing and signed by that Party. Any such waiver, suspension or postponement will be effective only in the specific instance and for the purpose given.

19.5. Provisions Severable

All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as pro non scripto and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

19.6. Continuing Effectiveness of Certain Provisions

The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

19.7. No Assignment

Neither this Agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by the Agent without the prior signed written consent of the Client.

19.8. Exclusion of Electronic Signature

The reference in clauses 19.2, 19.4 and 19.7 of these Terms and Conditions to writing signed by a Party shall, notwithstanding anything to the contrary in this Agreement, be read and construed as excluding any form of electronic signature.

20. COSTS

Except as otherwise specifically provided herein, each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.

21. SIGNATURE

21.1. The Agreement is signed by the Parties on the dates and at the places as indicated in the Agreement.

21.2. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts.

21.3. The persons signing this Agreement in a representative capacity warrant their authority to do so.

21.4. The Parties record that it is not required for this Agreement to be valid and enforceable that a Party

shall initial the pages of this Agreement and/or have its signature of this Agreement verified by a witness.

End