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## **TERMS OF BUSINESS**

### **MUHABURA CAPITAL LTD**

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**Muhabura Capital Ltd.**

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## 1. INTRODUCTION

Muhabura Capital Ltd (“**Muhabura**”) is licensed and regulated by the Financial Services Commission (“**FSC**”) in Mauritius, with its registered office address being Level 2, Suite 202a, The Catalyst, 40 Silicon Ave, Ebene, Mauritius.

These terms contain the terms of business (the “**Terms**”) relevant to your trading activities with Muhabura and is an agreement between you (referred to as “**you**” or the “**Client**”) and Muhabura (the “**Company**”, “**us**”, “**we**”, “**our**”, “**ours**” or “**ourselves**” as appropriate).

- 1.1 These Terms set out the terms upon which we will offer our Services to the Client, the rights and obligations of both Parties and govern the relationship and trading activity between Muhabura and the Client.
- 1.2 We are required by the FSC Rules to act honestly, fairly and professionally in accordance with the Client's best interests. The Securities Act 2005 or the FSC Rules will prevail over this Agreement in the event of conflict.
- 1.3 These Terms may be revised from time to time in accordance with Clause 38 (Amendments of these terms), which may include displaying such revisions on Muhabura's website.
- 1.4 Muhabura reserves the right to modify, suspend or discontinue (temporarily or permanently) all or any of its Services. This may include instruments, margin requirements and price spreads. The Client agrees that Muhabura will not be liable to the Client or to any third party for any modification, suspension or discontinuance of our Services.
- 1.5 The copyrights, trademarks, database and other property or rights in any information distributed to or received by the Client (including, but not limited to, our prices), together with the content of Muhabura's website(s), brochures and other material connected with Muhabura's dealing service and in any database that contains or constitutes such information, will remain the sole and exclusive property of the Company or any third party identified by the Company as the owner of such rights.

## 2. DEFINITIONS AND INTERPRETATION

### 2.1 Definitions

In these Terms, including schedules, appendices and annexes the following terms shall, unless the context otherwise requires, have the following meanings and is used in singular or plural as appropriate:

- 2.1.1 “**Account**” means a customer account of the Client with Muhabura or a trading account of the Client with Muhabura where the Client will be engaging in online trading services;
- 2.1.2 “**Act of Insolvency**” shall mean a party is dissolved (other than pursuant to a consolidation, amalgamation or merger); a party makes a general assignment, arrangement or composition with or for the benefit of its creditors; a party has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); a party seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of its assets; or any event analogous to any of the foregoing in any jurisdiction in relation to a party occurs.
- 2.1.3 “**Agent**” means a natural or legal person undertaking a transaction on behalf of another natural or legal person, but in the agent's own name;

- 2.1.4 "API" means Application Programming Interface for the use of alternative trading interfaces or platforms;
- 2.1.5 "**Applicable law**" means the laws of the Republic of Mauritius or such other countries as may be applicable for the execution of orders or the provision of services of the Client;
- 2.1.6 "**Base Currency**" means USD unless otherwise specified;
- 2.1.7 "**Best Execution Obligations**" means the best execution obligations of Muhabura as provided by the Order Execution Policy;
- 2.1.8 "**Business Day**" means any day on which banks are generally open for business in Mauritius;
- 2.1.9 "**Business Hours**" means the business operating hours starting from 7.30am Mauritius Time and 9.00pm Mauritius Time on any Business Day;
- 2.1.10 "**CFD Contract**" or "**CFD**" means a contract for difference by reference to fluctuations in the level, price or value of the relevant Instrument;
- 2.1.11 "**Client**" means the natural or legal person, being a customer of Muhabura;
- 2.1.12 "**Client Classification**" means Muhabura's classification of Clients;
- 2.1.13 "**Collateral**" means (i) any cash, (ii) any Instruments, (iii) the value of any outstanding Contracts of the Client, (iv) any guarantee or indemnity accepted by Muhabura pursuant to Clause 28.1.6, and (v) any other assets of the Client, in each case ((i)-(v)) deposited with, possessed or controlled by Muhabura;
- 2.1.14 "**Commissions and Charges**" means the commissions and charges to be paid by a Client to Muhabura as stated in the Commissions, Charges & Margin Schedule;
- 2.1.15 "**Commissions, Charges & Margin Schedule**" means commissions, charges, margin requirement, interest and other rates that at any time are applicable to the Services as determined by Muhabura and notified to the Client or made available at Muhabura's website from time to time;
- 2.1.16 "**Confidential Information**" means any and all information (including personal data) related to the Parties and their relationship and all dealings between the Parties, including, but not limited to, any information relating to the business, investments and finances of Muhabura, and the Client;
- 2.1.17 "**Conflict of Interest Policy**" means Muhabura's prevailing policy regarding conflicts of interest which is available at Muhabura's website;
- 2.1.18 "**Contract**" means any contract, whether oral or written, between Muhabura and the Client for the purchase or sale of, or with reference to, Security, currency, commodity, Instrument and any other transaction relating thereto, between the Client and Muhabura, including Margin Positions;
- 2.1.19 "**Corporate Actions**" means a corporate event that may impact the share price of the relevant company. Corporate Actions include e.g. share and rights issues, delistings, mergers and demergers, conversions, share splits, sell-offs and dividends;
- 2.1.20 "**Custody Securities**" means Clients' securities held in custody by Muhabura directly with a central securities depository or through External Custody Providers, including shares, bonds, units in collective investment undertakings and similar instruments that are not traded on margin;

- 2.1.21 "**Data Protection Act**" means the Mauritius Data Protection Act 2017;
- 2.1.22 "**Durable Medium**" means any instrument which enables the Client to store information in a way accessible for future reference for a period of time adequate to the purposes of the information
- 2.1.23 and which allows the unchanged reproduction of the information stored;
- 2.1.24 "**Eligible Counterparties**" means Clients categorised as eligible counterparties pursuant to applicable laws;
- 2.1.25 "**EMIR**" means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as supplemented from time-to-time including by the Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012, and the Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012;"
- 2.1.26 "**Event of Default**" shall have the meaning given to this term in Clause 33.3;
- 2.1.27 "**Exceptional Market Condition**" includes, but is not limited to, (i) the suspension or closure of any Regulated Market or other market, (ii) the abandonment or failure of any event, service or information to which Muhabura relates its quotes and other pricing, (iii) the occurrence of an excessive movement in the level of any Margin Position and/or any underlying market, (iv) situations described in Clause 14.4 or Clause 14.5.1 and/or 14.5.4 in each of (i)-(iv) Muhabura's reasonable expectation that such event might occur;
- 2.1.28 "**Exchange Traded Contract**" means any Contract (other than an OTC Contract) which is (a) entered into under the rules of an exchange or (b) relates to a contract entered, or to be entered, into by Muhabura on an exchange;
- 2.1.29 "**External Custody Provider**" means (i) any external professional provider, depository or custodian with whom Muhabura holds Custody Securities, or (ii) any external professional provider, depository or custodian with whom an External Custody Provider mentioned in (i) holds Custody Securities.
- 2.1.30 "**FIAMLA**" means the Mauritius Financial Intelligence and Anti-Money Laundering Act 2001 as amended from time to time);
- 2.1.31 "**FIFO Principle**" means "First in First Out" and entails that Muhabura will, as a general rule, close the oldest Contract first in case one or more Contracts with the same characteristics are closed;
- 2.1.32 "**Force Majeure Event**" means, without limitation, any abnormal and unforeseeable event beyond the reasonable control of Muhabura, including technical difficulties, such as telecommunication failures or disruptions, utilities failure, declared or imminent war, revolt, civil unrest, terrorism, catastrophes of nature including pandemics of the type which prevents normal activity, enactment of new legislation, measures taken by authorities, strikes, lock outs, boycotts, or blockades (whether or not Muhabura is a party to the conflict), notwithstanding that only part of Muhabura's functions are affected by such events;
- 2.1.33 "**Inside Information**" means non-public information which is likely to have a significant effect on the pricing of an Instrument if it was made public;
- 2.1.34 "**Insolvency Proceedings**" means dissolution (other than pursuant to a consolidation, amalgamation or merger), bankruptcy, composition negotiations, suspension of payments, administration of the insolvent estate of a deceased Client, debt restructuring as well as any other foreign types of liquidation or reorganisation measures caused by the insolvency of the Client, including;

- i. collective proceedings involving realisation of the assets and distribution of the proceeds among the creditors, shareholders or members as appropriate, which involve any intervention by administrative or judicial authorities, including where the collective proceedings are terminated by a composition or other analogous measure, whether or not they are founded on insolvency or are voluntary or compulsory,
- ii. measures which involve any intervention by administrative or judicial authorities which are intended to preserve or restore the financial situation and which affect pre-existing rights of third parties, including, but not limited to, measures involving a suspension of payments, suspension of enforcement measures or reduction of claims, and
- iii. that the Client has instituted against it enforcement proceedings in the course of which all or substantially all of its assets are seized by a bailiff;

2.1.35 "**Instruction Deadline**" means the deadline given by Muhabura to the Client for the Client to give instructions regarding a Corporate Action. Instruction Deadline may vary from deadlines stipulated in the prospectus or other material referring to market deadlines;

2.1.36 "**Instrument**" means any financial instrument or other instrument, whether traded Over-The-Counter or traded on a Regulated Market or other market, including, but not limited to, shares, bonds and other debt instruments (including debt instruments issued by governments and public authorities), mutual and other investment funds, currencies, commodities, interest rates, indices, spots and derivatives (including options, futures, CFD's, forwards, warrants or other Contracts, including Custody Securities);

2.1.37 "**In the money**" shall, in relation to put options, mean when the strike price is above the market price, and shall, in relation to call options, mean when the strike price is below the market price;

2.1.38 "**Introducing Broker**" means a financial institution or other entity which is remunerated by Muhabura and/or Clients for referral of Clients to Muhabura and/or for provision of advice to such Clients and/or execution of such Clients' transactions towards Muhabura;

2.1.39 "**Investment Dealer Unit**" means [the business unit of Muhabura providing investment dealer services];

2.1.40 "**Issuer**" means a company that is registered by a national authority and the shares of which are admitted to trading on a Regulated Market;

2.1.41 "**Joint Account**" means an Account held by two or more Clients over which each of the Clients may dispose;

2.1.42 "**Joint Account Client**" means a Client holding and disposing over a Joint Account with one or more other Joint Account Clients;

2.1.43 "**Limit Order**" means an order to buy or sell at a specified price limit or better and for a specified amount;

2.1.44 "**Liquidity Provider**" means (i) banks, brokers and/or trading venues through whom Muhabura may cover or hedge its Contracts with Clients or with whom Muhabura otherwise deals in relation to Clients' transactions or (ii) External Custody Providers through whom Muhabura hold Clients' Custody Securities.

2.1.45 "**Listed Option**" means an option contract between Muhabura and a Client the terms of which are identical to the terms of a Reference Option;

- 2.1.46 "**Listed Derivative**" means a derivative contract (including a Listed Option) between Muhabura and a Client the terms of which is identical to the terms of a Reference Derivative;
- 2.1.47 "**Listed Derivative Counterparty**" means a Liquidity Provider which (i) enters into a contract with Muhabura, which is identical to the relevant Listed Derivative and (ii) enters into, or instructs a third party to enter into, the matching Reference Derivative;
- 2.1.48 "**Margin Position**" means a Contract opened, maintained and based on a deposit of Collateral which at all times must satisfy the Margin Requirement;
- 2.1.49 "**Margin Requirement**" means the margin requirement applicable from time to time as set out in Clause 28;
- 2.1.50 "**Market Maker**" means a person who on an organised, continuous and systematic basis deals on own account against proprietary capital at prices defined by the Market Maker in relation to Instruments and thereby create a market for such Instruments;
- 2.1.51 "**Market Rules**" means the rules, regulations, customs and practices from time to time of any Regulated Market and clearing house or other organisation or market involved in, or otherwise relevant to, the conclusion, execution, terms or settlement of an Instrument and any exercise of any power or authority by any such Regulated Market, clearing house or other organisation or market;
- 2.1.52 "**MiFID II**" means MiFID II Directive and MiFID II Delegated Regulation and any other regulations issued on the basis thereof;
- 2.1.53 "**MiFID II Directive**" means European Directive 2014/65/EU on markets in financial instruments;
- 2.1.54 "**MiFID II Delegated Regulation**" means European Commission Delegated Regulation 2017/565 supplementing Directive 2014/65/EU as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
- 2.1.55 "**Misquoted Price**" shall have the meaning given to this term in Clause 14.4;
- 2.1.56 "**Muhabura**" means Muhabura Capital Ltd with registered office address Suite 201, Level 2, 40 Silicon Avenue, The Catalyst, Cybercity, Ebene, Mauritius or any branch hereof;
- 2.1.57 "**Net Free Equity**" means the net free equity as defined in the Commissions, Charges & Margin Schedule, which forms the basis for the calculation of interest;
- 2.1.58 "**Order Execution Policy**" means Muhabura's prevailing policy on the execution of Client orders;
- 2.1.59 "**OTC**" means "Over-The-Counter", i.e. not listed or traded on any Regulated Market or other market;
- 2.1.60 "**OTC Contract**" shall mean any Contract which is entered into pursuant to the terms of an ISDA Master Agreement or a type of Contract which would typically be documented under an ISDA master agreement and which is not an Exchange Related Contract;
- 2.1.61 "**Out of the Money**" shall, in relation to put options, mean when the strike price is below the market price and shall, in relation to call options, mean when the strike price is above the market price;
- 2.1.62 "**Parties**" means Muhabura and the Client;

- 2.1.63 "Pledge" means the first priority pledge of the Collateral in favour of Muhabura created under Clause 29.1 of these Terms;
- 2.1.64 "Principal" means the individual person or the legal entity which is a counterparty to a Contract;
- 2.1.65 "Portfolio" means portfolio of assets of a Client;
- 2.1.66 "Private Use" means any non-commercial use of the Trading Platform by Clients that are natural persons;
- 2.1.67 "Professional Clients" means Clients categorised as professional clients pursuant to MiFID II;
- 2.1.68 "Reference Derivative" means a derivative contract traded on a Regulated Market or any other market;
- 2.1.69 "Reference Option" means an option traded on a Regulated Market or any other market which is identical to (i) the related Listed Option and (ii) any contract entered into by Muhabura and a Liquidity Provider in relation to the Listed Option;
- 2.1.70 "Regulated Market" means a regulated market in any country or any multilateral trading system or exchange;
- 2.1.71 "Related Orders" means an instruction by the Client pursuant to which a position shall only be closed if a certain price level is reached, including Limit Orders and Stop Orders;
- 2.1.72 "Related Rights" means any rights related to the Collateral, including, but not limited to, (i) all proceeds, all dividends, interest or other distributions in cash or in kind to be paid or made on or in respect of the Collateral, (ii) all allotments, offers, rights, benefits and advantages whatsoever accruing, offered, exchanged for or arising in respect of the Collateral and (iii) all administrative rights, including any voting rights;
- 2.1.73 "Retail Clients" means Clients categorised as "retail clients" pursuant to the Applicable law, including without limitation, the Securities Act and MiFID II;
- 2.1.74 "Secured Obligations" means each of the following items (i) through (iv) (inclusive), whether arising under these Terms, a Contract, a Margin Position or otherwise: (i) any and all obligations of the Client towards Muhabura or any member of the Muhabura, including any right to require cash payment or delivery of Instruments, (ii) any debit balance on any Account, (iii) any and all other present and future obligations and liabilities (whether actual or contingent or in any other capacity whatsoever) of the Client towards Muhabura, and (iv) all losses, taxes, expenses, costs and liabilities whatsoever (present, future, contingent or otherwise and including reasonable legal fees) which may be suffered or incurred by Muhabura due to the relationship with the Client and/or in connection with the protection, preservation or enforcement by Muhabura of its respective rights;
- 2.1.75 "Securities Act" means the Securities Act 2005 of Mauritius, together with any regulations or rules made thereunder, as may be amended or substituted from time to time;
- 2.1.76 "Services" means the services and products provided by Muhabura to its Clients from time to time and which as at date includes, investment advisory, investment management and brokerage services;
- 2.1.77 "Services Agreement" means the agreement to be entered into by Muhabura and its Client and which shall specify the Services to be provided by Muhabura;



- 2.1.78 **"Settlement/Trade Confirmation"** means a notification from Muhabura to the Client confirming the execution of an order and/or a Client's entry into a Contract;
- 2.1.79 **"SRD II"** means EU Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies and EU Directive 2017/828 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement;
- 2.1.80 **"Stop Order"** means an order to buy or sell once the price reaches a specified level;
- 2.1.81 **"Terms"** has the meaning set out in Clause 2.1;
- 2.1.82 **"Tick"** means the minimum amount that the price or value of an Instrument may fluctuate pursuant to the Market Rules of the relevant Regulated Market;
- 2.1.83 **"Trade Repository"** means an entity that centrally collects and maintains the records of over-the-counter derivatives and chosen by Muhabura in its sole discretion;
- 2.1.84 **"Trading Platform"** means any online trading platform used by Muhabura or made available to the Client under the Services Agreement to carry out the Services;
- 2.1.85 **"Withdrawal of Funds"** methods are payment services provided, at least in part, by third party financial institutions (for example, the bank where the Client holds a bank account) as set out under Clause 12.
- 2.2 In these Terms any reference to a person shall include corporate entities, unincorporated associations, partnerships, any other legal person and individuals.
- 2.3 Headings in these Terms are for reference only and shall not affect the contents or interpretation of these Terms.
- 2.4 In these Terms references to any act, executive order, statute, regulation or enactment shall include references to such an act, executive order, statute, regulation or enactment as replaced, amended or modified from time to time.
- 3. RISK ACKNOWLEDGEMENT**
- 3.1 The Client acknowledges, recognises and understands that:
- 3.1.1 margin positions are highly speculative, may involve an extreme degree of risk, and are appropriate only for persons who accept risk of loss in excess of their Collateral with Muhabura;
- 3.1.2 because of the low level of Collateral often required in margin positions, changes in the price of the underlying Instrument may result in significant losses, which may substantially exceed the client's investment and Collateral with Muhabura;
- 3.1.3 when the client instructs or requests Muhabura to enter into any Contract or purchase any Instrument, any profit or loss on such Contract or Instrument will be entirely for the client's own account and risk;
- 3.1.4 unless it is otherwise specifically agreed, Muhabura shall not conduct any continuous monitoring of the transactions entered into by the Client neither automatically nor manually. Hence, Muhabura cannot be held responsible for transactions developing differently from what the Client might have expected and/or to the disadvantage of the Client;

3.1.5 any investments include risks, and the client has received no assurance otherwise and no guarantees of profit or similar representations from Muhabura

#### 4. CLIENT CLASSIFICATION AND INVESTOR PROTECTION

4.1 In compliance with its own internal policy and which is not contractual with the client, Muhabura classifies its Clients in three main categories: Eligible Counterparties, Professional Clients and Retail Clients and which are in line with MiFID II applicable in the European Union or similar rules.

4.2 Muhabura attaches different levels of regulatory protection to Clients within each category. In particular, Retail Clients are afforded the most regulatory protection. Professional Clients and Eligible Counterparties are considered to be more experienced, knowledgeable and sophisticated and able to assess their own risk and are thus afforded less regulatory protection. Contrary to Professional Clients and Eligible Counterparties, Retail Clients, inter alia, benefit from the following additional protections:

4.2.1 where Muhabura provides a Retail Client with information about a financial instrument that is the subject of a current offer to the public and a prospectus has been published in connection with that offer, Muhabura shall in good time before the provision of Services to the Retail Client inform the Retail Client where that prospectus is made available to the public. In relation to shares of undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIFs), Muhabura shall prior to the Retail Client's investment in such shares and/or at the Retail Client's request offer the Retail Client the relevant prospectus, key investor information document or document with significant investor information (as applicable);

4.2.2 where Muhabura holds a Retail Client Account, Muhabura will in certain circumstances inform the Retail Client where the initial value of an Instrument depreciates;

4.2.3 where Muhabura executes an order on behalf of a Retail Client, the Best Execution Obligations:

- i. shall be determined in terms of total consideration, representing the price of the financial instrument and the costs relating to execution, which shall include all expenses incurred by the Retail Client which are directly related to the execution of the order; and
- ii. include that the best execution as a main rule is the result incurring the Retail Client the lowest possible such total remuneration;

4.2.4 where Muhabura executes an order on behalf of a Retail Client, Muhabura shall provide that Retail Client with the Order Execution Policy, which shall provide a link to the most recent execution quality data published for each execution venue listed in the Order Execution Policy;

4.2.5 where Muhabura executes an order on behalf of a Retail Client, Muhabura shall inform the Retail Client about any material difficulty relevant to the proper carrying out of that order promptly upon becoming aware of such difficulty;

- 4.2.6 where Muhabura is offering to a Retail Client an investment service together with another service or product as part of a package or as a condition for the same agreement or package, and where the risks resulting from such an agreement or package offered to the Retail Client are likely to be different from the risks associated with the components taken separately, Muhabura shall provide an adequate description of the different components of the agreement or package and the way in which its interaction modifies the risks;
- 4.2.7 subject to Clause <sup>4.7</sup>, where Muhabura executes an order on behalf of a Retail Client, Muhabura will request relevant information from the Retail Client in order to assess whether the product or Service offered by Muhabura or requested by the Retail Client is appropriate for that Retail Client;
- 4.2.8 where Muhabura provides information to a Retail Client that contains an indication of past performance of a financial instrument, a financial index or an investment service and such indication relies on figures denominated in a currency other than that in which the Retail Client is resident, Muhabura shall clearly state the currency together with a warning that the return may increase or decrease as a result of currency fluctuations;
- 4.3 Clients have the right to request to be reclassified online and thus to increase or decrease the level of regulatory protection afforded, including as described in Clause<sup>4.2</sup>.

In order for a client to be treated as an Eligible Counterparty or a Professional Client (either on an overall level or on a product level), the Client must meet certain specified criteria and – in case of reclassification to Eligible Counterparty – expressly consent to be treated as an Eligible Counterparty.

- 4.4 Muhabura may on its own initiative (i) treat an Eligible Counterparty as Professional Client or Retail Client, or (ii) treat a Professional Client as Retail Client, and thereby increase the regulatory protection afforded to the respective Client.
- 4.5 The Client's classification is not permanent, and the Client shall keep Muhabura immediately informed of any change in its status or situation which could affect the Client Classification.
- 4.6 The Client acknowledges that the Services that Muhabura offers to Clients may depend on the client classification, and that all Services may therefore not be available to all types of Clients.
- 4.7 The Client acknowledges, recognizes and accepts that Muhabura is not required to assess the appropriateness of the financial instrument or Service provided or offered to the Client, and that the Client in these circumstances therefore does not benefit from any statutory protection. This execution-only exemption applies where:
- 4.7.1 Muhabura provides Services to a Client that only consist of execution, reception or transmission of Client orders with or without ancillary services;
- 4.7.2 such Services relate to any of the non-complex financial instruments;
- 4.7.3 such Services are provided at the initiative of the Client; and
- 4.7.4 Muhabura complies with its obligations under any applicable laws

## 5. SERVICES AND TRADING

### 5.1 Services

5.1.1 Muhabura provides a variety of trading related Services, including investment management, investment advice and brokerage. Unless otherwise specifically agreed in writing, all Services provided by Muhabura to Clients are subject to these Terms.

5.1.2 Where Muhabura provides an execution only service:

- a) we will only do so at our sole discretion;
- b) we agree to execute the transaction, we will not provide any advice or investment recommendation; or consider whether the transaction is suitable;
- c) except in relation to the execution of the transaction, we will have no responsibility for the action (or the outcome of the action) requested; and
- d) we will charge fees as agreed from time to time.

5.1.3 Where we provide an investment advisory Service, we will:

- a) provide independent advice;
- b) not monitor the ongoing suitability of the recommendations;
- c) not take any action in respect of your investments unless you ask us to do so; and
- d) charge fees as agreed from time to time.

5.1.4 Where we provide investment management service, we will:

- a) make decisions about the composition of your Portfolio;
- b) carry out transactions on your behalf;
- c) establish one or more relevant benchmarks and develop an investment policy based on your objectives, risk appetite and the investments that will be included in your Portfolio so that you can assess performance in relation to the services;
- d) provide you with a comprehensive valuation report on a quarterly basis; and
- e) charge fees as agreed from time to time.

5.1.5 The nature and risks of Instruments relevant to the Services are deemed to have been communicated by Muhabura to the Client and the Client warrants to be knowledgeable of such risks.

5.1.6 For investment management services, the Client and Muhabura will enter into any Contract as Principals. Muhabura may at its discretion cover or hedge any Contract with its Liquidity Providers, but the Client will have no recourse against any of Muhabura's Liquidity Providers.

5.1.7 Unless the contrary is stated in the Services Agreement, Muhabura shall be entitled to consider the Client as Principal in relation to any Contract even if the Client in its arrangements with any third party acts as Agent on behalf of such third party, regardless of whether the Client has identified the arrangement and/or the third party to Muhabura.

5.1.8 Notwithstanding any other provision of these Terms, in providing its Services, Muhabura is entitled to take any action considered necessary and reasonable to ensure compliance with the Market Rules, decisions by and agreements with Regulated Markets, other markets, Liquidity Providers or public authorities and/or applicable law.

## 6. **ADVICE AND RECOMMENDATIONS**

6.1 This clause shall apply where Muhabura provides execution-only brokerage.

6.2 Muhabura provides execution-only services to the Client, it accepts no obligation to provide individual advice, surveillance, information or recommendations in respect of any Instrument or Service.

6.3 If Muhabura provides advice, information or recommendations to the Client, such advice, information or recommendations are provided on a non-independent basis, and Muhabura makes no representation, warranty or guarantee as to, and shall not be responsible for, the profitability, accuracy or completeness of such advice, information or recommendations, unless Muhabura has acted grossly negligently and is liable pursuant to these Terms.

6.4 Muhabura does not provide any advice to the Client on any tax related matters. Client should obtain independent advice from its financial advisor, auditor and legal counsel with respect to tax implications of the respective Services.

6.5 The Client acknowledges, recognizes and accepts that:

6.5.1 any recommendation and any information communicated by Muhabura does not constitute an offer to enter into a Contract or an offer to buy or sell or the solicitation of an offer to buy or sell any Instrument, and

6.5.2 such recommendation and information, although based upon information from sources believed by Muhabura to be reliable, may not be relied upon without liability to Muhabura, and

6.5.3 any information communicated may be incomplete and may be unverified and/or unverifiable.

## 7. **ORDERS AND INSTRUCTIONS**

7.1 This clause shall apply where Muhabura provides execution-only brokerage services.

7.2 The Client may provide Muhabura with instructions and orders in the form set out in the Services Agreement and using the media determined by Muhabura from time to time, including by way of the Trading Platform. If the Client submits an order by other means than the Trading Platform, Muhabura may manually verify the basis of the relevant order prior to processing, and this may likely result in an extended processing time. Placement of orders by telephone may be subject to higher commissions than placement of orders via the Trading Platform.



- 7.3 The Client's instructions and orders are binding on the Client when received by Muhabura. If the Client wishes to withdraw an instruction or order to Muhabura that has not yet been executed, the Client may contact Muhabura and request that the order be cancelled, but Muhabura is under no obligation to accept the cancellation of such instruction or order. A request for cancellation of an order can be made by calling the Investment Dealer Unit, except those requests concerning cancellation of orders, made when the Margin Requirement is not fulfilled, can only be made to the Investment Dealer Unit. An instruction or order is not cancelled until the Client has received a written confirmation of the cancellation from Muhabura.
- 7.4 No instruction or order from a client is binding on Muhabura until it has been accepted. No binding Contract or other transaction is entered into until it has been recorded as executed by Muhabura and confirmed by Muhabura to the Client through the Settlement/Trade Confirmation, subject to Clause 14. If an Event of Default occurs, Muhabura reserves the right to calculate the net amount owed by either party in accordance with these Terms regardless of any Settlement/Trade Confirmation provided.
- 7.5 Only the Settlement/Trade Confirmation made available to the Client constitutes Muhabura's confirmation of the execution of a Contract or order.
- 7.6 In the event that the Client believes to have placed an instruction or order, but the Client has not received a Settlement/Trade Confirmation, the Client must contact Muhabura immediately. The Client acknowledges that the communication method for order with Muhabura may face certain operational issues and in the absence of such immediate notice from the Client, the order, transaction or Contract may at Muhabura's sole discretion be deemed non-existent even if received by Muhabura.
- 7.7 Muhabura will handle orders and instructions in accordance with its Order Execution Policy and applicable law. If Muhabura believes that it is not reasonably practicable to act upon instructions or orders from a Client within reasonable time, Muhabura
- 7.7.1 may defer acting upon that instruction or order until it is, in Muhabura's reasonable opinion, practicable to do so, or
- 7.7.2 notify the Client that Muhabura will not act upon such instruction or order.
- Muhabura may cancel any order for an Instrument if the specific Instrument is suspended from trading or transferred to the observation list on the relevant market.
- 7.8 Muhabura supports different order types which are described in, and executed in accordance with, its Order Execution Policy. For the avoidance of doubt, Limit Orders and Stop Orders are not guaranteed executable at the price or amount specified by the Client but will be executed in accordance with Muhabura's Order Execution Policy in the absence of an Event of Default of the Client.
- 7.9 The Client shall be responsible for (i) all orders and instructions provided, (ii) the accuracy of all information sent via the Internet in the Client's name and (iii) passwords and any other personal identification means implemented to identify the Client.

- 7.10 Muhabura may refuse to act upon any instruction from a Client or any person authorised by the Client if Muhabura reasonably believes that the transaction, pursuant to the instruction submitted, will be in violation of e.g. Market Rules, usual market practice, and/or applicable law, including, but not limited to, legislation on money laundering and insider trading. Further, Muhabura may refuse to act if such disposal, in Muhabura's sole discretion, will put the Client's and/or Muhabura's economic solidity at risk or is reasonably likely to prejudice Muhabura's rights under these Terms.
- 7.11 If the Client is a non-financial entity, the Client acknowledges that, if the Client accepts to enter into a Contract relating to commodities and the Client has not notified Muhabura of otherwise, Muhabura assumes that the Client does not enter into such Contract for the purpose of reducing risks directly relating to the commercial activities of the Client. The Client shall immediately notify Muhabura, if the Client anticipates to enter into such Contract for such purpose.

## **8. DEALINGS AND COMMUNICATIONS**

- 8.1 From the Trading Platform, the Client can have access on information in relation to cash balances, securities that are tradeable and exchanges available and print trading and portfolio reports
- 8.2 Muhabura may provide the following reports to the Client:
- 8.2.1 Trading reports which provide for summaries of purchases, sales, settled and unsettled positions;
- 8.2.2 Portfolio reports which provide for lists of positions that clients have; and
- 8.2.3 Corporate action reports which set out details on dividend, right issues and other corporate matters.

## **9. POWER OF ATTORNEY**

- 9.1 If the Client wants to allow a third party to trade on the Client's Account, the Client shall issue a separate written power of attorney to the relevant third party. The form and issue of the power of attorney must be approved by Muhabura. A personal user ID and password will be provided by Muhabura to the approved holder of the power of attorney. Muhabura can only undertake to register one power of attorney per Client. Muhabura must be informed in writing if the Client wishes to revoke such power of attorney, to change the extent of the power of attorney, or grant a power of attorney to a different person.
- 9.2 Muhabura shall be entitled to receive instructions from any person authorised by the Client and to rely on any power of attorney afforded to any person who appears authorised.
- 9.3 The Client is accountable to Muhabura for losses that Muhabura may suffer as a result of instructions from a person who has explicit or tacit power of attorney to instruct Muhabura on behalf of the Client.

## **10. USE OF THE TRADING PLATFORM BY CLIENT**

- 10.1 This paragraph shall be applicable where the Client has access to the trading platform.
- 10.2 The technical requirements, which the Client's IT equipment, operating system, internet connection and such other systems shall comply with any guideline as may be provided by Muhabura to the Client.

- 10.3 The Client shall enter his or her user ID and password when logging on to the Trading Platform. The Client shall memorize the password. Entering an incorrect password may automatically terminate the connection and block the user ID. Client shall inform Muhabura of a termination or blocking and the reasons for it. In case Muhabura has blocked a Client, Muhabura shall inform the Client before the termination or blocking, and if this is not possible, immediately thereafter, unless giving such information will compromise objectively justified security reasons.
- 10.4 If the Client becomes aware, or suspects, any unauthorized use of the Trading Platform and/or that the Client's password has been misappropriated by a third party, the Client shall immediately notify Muhabura, via telephone to block the password or Account and Trading Platform. Blocking the Trading Platform prevents other parties from accessing it. Open orders and positions placed on the Trading Platform before any blocking will not be affected hereby unless the Client specifically requests otherwise. Upon the blocking of a password, the Client may order a new password.
- 10.5 The Client is obliged to keep passwords secret and ensure that third parties do not obtain access to the Client's Account(s) or Trading Platform(s).
- 10.6 Subject to Clause 10.8 and mandatory applicable law, the Client is liable to Muhabura for orders and Contracts placed or entered into by use of the Client's password, even if such use proves wrongful, and for any other unauthorised use.
- 10.7 The right to use the Trading Platform is strictly personal, and the Client shall not allow any other party to use the Client's user ID and/or password.
- 10.8 The Client shall not be liable for any abuse or other unauthorized use of the Trading Platform occurring after the Client has notified Muhabura pursuant to Clause 10.4 and Muhabura has had reasonable time to act thereon.
- 10.9 **Exchange traded products**
- 10.9.1 Trading in any Exchange Related Contracts shall be undertaken, to the extent applicable, in accordance with the rules of the relevant exchange and with general market practice for such Contracts.
- 10.10 **OTC Contracts**
- 10.10.1 If the Client and Muhabura agree to execute an ISDA Master Agreement with such modifications as agreed; upon the execution of such an agreement, all OTC Contracts will, besides being subject to this Agreement, supplement, form a part of and be subject to that ISDA Master Agreement. Until such agreement is executed, all OTC Contracts entered into between Muhabura and the Client shall, besides being subject to this clause, supplement, form a part of, and be subject to, an agreement in the form of a 2002 ISDA Master Agreement as if the Client and Muhabura had executed an agreement in such form (but without any Schedule except for the election of Mauritian law as the governing law and USD as the Termination Currency) on the date on which Muhabura and the Client enter into the first such OTC Contract.



## 10.11 Price misquotations

10.11.1 In the event that there is an error in the price quoted on the Trading Platform, Muhabura shall not be bound by any Contract which is, or purports to have been entered into at a price which Muhabura is able to substantiate to the Client was manifestly incorrect at the time of the Contract or which was or ought to have reasonably been known by Institutional Client to be incorrect at the time of entering into the Contract. In such situation Muhabura may in its sole discretion either not execute the Contract or execute the Contract at the quoted price or the correct price and, if it does so, Muhabura may close out the Contract entered into (including by correcting either the price at which Muhabura hedged the Contract or the historic market price). In any such situation, Muhabura shall not be liable for any losses, damages, costs, expenses, liabilities or claims except to the extent that they arise directly out of Muhabura's negligence, wilful default, misconduct or fraud.

## 11. TRANSFER OF FUNDS

11.1 The Client understands and accepts that in order to secure the identity of the transferor/Client, Muhabura only allows transfers of funds to and from the Client's Account(s) to and from the Client's own account(s) in other banks. This entails that Muhabura must receive sufficient information about the transfer from the transferring bank to ensure the identification of the relevant Client and relevant Account on which the funds shall be booked. Therefore, the Client understands and accepts that Muhabura is only able to place and book any transferred funds, if Muhabura is able to properly identify the Client and the Account on which the funds shall be booked.

11.2 For incoming transfers of currency, the funds are booked and at disposal on the Client's Account without undue delay after Muhabura has received the funds and in accordance with applicable law, subject to

the instruction being complete and correct. The funds will not be taken into account for purposes of the Client's Margin Requirement before the funds are booked and at disposal on the Client's Account.

11.3 When the Client transfers funds between two Client Accounts held with Muhabura, the funds are at disposal on the receiving Client Account on the day of the transfer.

11.4 Payments into the Client's Account are deposited by Muhabura on the condition that Muhabura receives the amount in question. This shall apply irrespective of whether it has been explicitly stated in receipts or other notices of, or requests for, payment.

11.5 The Client understands and accepts that the Client must always supply Muhabura with complete and correct payment details when providing payment instructions, including IBAN number and BIC code where relevant. When providing payment instructions, the Client shall use the information provided by Muhabura. In the absence of the said information, Muhabura is not liable for the completion of the transfer, nor for any delays or extra costs arising from the absence of e.g. the IBAN number and/or BIC code.

11.6 The Client acknowledges that Muhabura cannot be held liable for the number of days passing between the transfer of funds by the sending bank until the funds are received by Muhabura and booked on the Client's Account.

11.7 The Client acknowledges that Muhabura cannot be held liable for the number of days passing between the transfer of funds from Muhabura until the funds are booked on the account with the receiving bank.

- 11.8 The Client understands and accepts that the Client is liable for any costs arising from any delays caused by and any errors made by the receiving financial institution or its intermediate financial institutions.
- 11.9 The Client is made aware that Exceptional Market Conditions, Force Majeure Events and similar events can cause the booking of funds to be delayed. Muhabura is not liable for such delays.
- 11.10 If electronic transfer requests are received via the Trading Platform no later than noon Mauritius time on a Business Day, the transfer will be processed the same day. If the electronic transfer request is received on a Business Day after noon or on a non-Business Day in Mauritius the transfer will be processed as if it was received on the next Business Day.
- 11.11 The Client understands and accepts that due to transfer costs, if the amount held in the Client's Account(s) is less than **USD 120** or equivalent in any currency, Muhabura will transfer the total amount.
- 11.12 If transfer requests are received in any other format than described in Clause 11.5, the transfer request will be processed within 2 (two) Business Days.
- 11.13 The Client understands and accepts that Muhabura executes all payments as SHA payments which means that the Client must carry all costs applied by other banks used for routing the funds to the Client's account with the beneficiary bank.
- 11.14 For standard transfers the cash is available to Muhabura's correspondent bank in three (three) Business Days after execution at Muhabura.
- 12. WITHDRAWAL OF FUNDS**
- 12.1 A Client can request a withdrawal of all or part of the funds held on his or her Trading Account at any time. The Client must send Muhabura an e-mail requesting for the Withdrawal Form. Where the withdrawal payment is received by the Client through the involvement of a payment service provider (such as the bank where the Client holds a bank account), Muhabura shall not be responsible for the withdrawal payment once the withdrawn funds are received by the Client's payment service provider.
- 12.2 Muhabura also reserves the right to request an alternative bank account to be used in case Muhabura is unable to process the withdrawal to the bank account which the Client has filled in the Withdrawal Form.
- 12.3 The Client's Trading Account is subject to no withdrawal limits.
- 12.4 The Client must ensure that the payment details he/she has entered in the Withdrawal Form when withdrawing funds are correct and complete. Muhabura will not be liable for the withdrawn funds being sent to the wrong account where this is due to the Client providing incorrect payment details.
- 12.5 When withdrawing to a bank account, the Client must ensure that the account number, sort code, IBAN and/or BIC/SWIFT are correct.
- 12.6 In case of withdrawal, Muhabura shall ensure that Withdrawal form has been received and signed by the Client whereby the signature matches with the signature on the agreement.
- 12.7 As part of Muhabura internal control procedures, a call back on the registered phone number of the Client will be done to ensure that the request is from the Client itself.



### 13. POSITIONS REFUSAL, CLOSE - OUT AND ROLL

- 13.1 The Client accepts and acknowledges that Muhabura shall have the right (in addition to any other rights Muhabura may have under these Terms, or under applicable laws in general) to refuse orders to establish new or larger positions or to buy or sell Instruments. Muhabura will inform the Client as soon as practicable regarding such refused orders and the reason for the refusal.
- 13.2 The Client accepts and acknowledges that Muhabura shall have the right (in addition to any other rights Muhabura may have under these Terms, or under applicable laws in general) to reduce the size of the Client's open positions (net or gross). Muhabura will inform the Client as soon as practicable regarding such reduction and the reason hereof. Situations where Muhabura may exercise the right to reduce the size of the Client's open positions include, but are not limited to, situations where:
- 13.2.1 Muhabura has reason to believe that the Client may be in possession of Inside Information;
  - 13.2.2 Muhabura considers that there are abnormal trading conditions;
  - 13.2.3 the value of the Client's Collateral (as determined by Muhabura in accordance with Clause 28.1.7) falls below the Margin Requirement;
  - 13.2.4 the Client has a negative cash balance on any Account; or
  - 13.2.5 an Exceptional Market Condition occurs or is likely to occur.
- 13.3 Unrealized losses of USD 120,000/Euro 100,000 or more in Margin Positions can potentially cause unnecessary risks to the Client and Muhabura. The Client accepts and acknowledges that if unrealized losses on Margin Positions in aggregate exceed USD120,000/Euro 100,000, Muhabura has by giving 9 Business Days' written notice to the Client the right, but not the obligation to:
- i. Initiate netting of positions in accordance with the FIFO Principle and cancel all or part of the Client's Related Orders, and/or
  - ii. Close all or part of opposite Margin Positions at the prevailing market rate (the Closing Rate) and opening new similar positions at the Closing Rate, and/or
  - iii. Close all or part of the Margin Positions by executing directly opposite trades,
- thereby realizing the losses suffered. The unrealized loss is calculated as the sum of all the unrealized losses deducted the unrealized profits of all the Client's Accounts with Muhabura.
- 13.4 Unless otherwise explicitly agreed in writing, the Client will remain liable for any outstanding amounts relating to obligations under the Services Agreement after application of this Clause.
- 13.5 When the Client instructs Muhabura to enter into a position opposite to one or more of the Client's existing open positions, Muhabura will close out the opposite position in accordance with the FIFO Principle, unless the existing position has Related Orders or otherwise agreed between Muhabura and the Client. However, even where there is a Related Order to an existing position, Muhabura will wholly or partially close out the existing position in accordance with the FIFO Principle if Muhabura can only partially fill an opposite order. Any Related Order to the existing position will thereby be cancelled, but the Client can place new Related Orders in relation to any remainder of such existing positions.

- 13.6 Subject to Clause 13.4, the Client acknowledges that Muhabura has the right, but not the obligation, to close opposite positions, wholly or partly, regardless of whether the opposite positions are held on the same Account or separate Accounts.
- 13.7 The Client is specifically made aware that unless closed manually, FX positions and FX commodities may be rolled over on a continuous basis and the Client will thereby incur a cost for such roll-over in relation to each position.

#### **14. PRICES, ERRORS AND CHANGES IN CONDITIONS**

- 14.1 If the Client makes any payment which is subject to any currency fluctuations, withholding or deduction, the Client shall pay to Muhabura an additional amount to ensure that the total amount actually received by Muhabura is equal to the full amount Muhabura would have received had no currency fluctuations, withholding or deduction been made.
- 14.2 Muhabura may offer real-time tradable prices to the Client. Due to delayed transmission, the price offered by Muhabura may have changed before an order or instruction from the Client is received by Muhabura. Muhabura shall be entitled to change the price on which the Client's order or instruction is executed to the market value at the time at which the order from the Client is received or executed.
- 14.3 Prices offered by Muhabura regarding the sale, purchase or exercise of Listed Derivatives reflect the price of the relevant Reference Derivative. Due to the period from the Client's acceptance or instruction regarding a Listed Derivative until the execution of the relevant Reference Derivative on the Regulated Market by the Listed Derivative Counterparty, another third party or Muhabura (as the case may be), the price as listed on the Trading Platform is subject to change, in order for the Listed Derivative to reflect the price of the relevant Reference Derivative at the time of its execution or exercise (as applicable).
- 14.4 In the event that a price quoted by Muhabura or at which any Contract or other transaction is entered into (including where confirmed in a Settlement/Trade Confirmation) does not reflect the market price (e.g. due to market liquidity, announcements affecting the market, misfeeds from providers of prices, quotes from Liquidity Providers, or suspension of trading) (a "Misquoted Price") or if an Exceptional Market Condition occurs or is likely to occur, Muhabura may in its sole discretion either (a) refrain from executing, or cancel, any Contract or any purchase or sale of any Instrument which is, or purports to have been, entered into at the Misquoted Price, (b) execute the Contract or the sale or purchase of any Instrument at the Misquoted Price or the price which in Muhabura's reasonable opinion reflects the market price, or (c) change any Contract or purchase or sale of any Instrument already executed to the price which in Muhabura's reasonable opinion reflects the market price.
- 14.5 If Muhabura can (i) document the existence of errors in prices, Commissions and Charges, other commissions and/or in the Trading Platform at the time of the conclusion of the Contract or order and (ii) render probable that, based on the Client's trading strategy or other behaviour, the Client deliberately and/or systematically has exploited or attempted to exploit such errors, Muhabura is entitled to take one or more of the following countermeasures:
- 14.5.1 Adjust the price spreads and/or liquidity available to the Client;
- 14.5.2 Restrict the Client's access to streaming, instantly tradable quotes, including providing manual quotation only;

- 14.5.3 Retrieve from the Client's Account any historic trading profits that have been gained through such behaviour at any time during the relationship between the Client and Muhabura; and/or
- 14.5.4 Terminate the relationship between the Client and Muhabura immediately by giving written notice.
- 14.6 If (i) the Regulated Market, on which a Reference Derivative is traded, and/or (ii) the Listed Derivative Counterparty takes any action which affects the Reference Derivative or the contract Muhabura has entered into with the Listed Derivative Counterparty, then Muhabura may take any action with regard to the relevant Listed Derivative which Muhabura in its sole discretion considers desirable or appropriate to (a) match the action taken by the Regulated Market and/or Listed Derivative Counterparty or (b) mitigate any loss which is or may be incurred by it as a result of such action.
- 14.7 The Client acknowledges, recognizes, and understands that:
- 14.7.1 The execution of all transactions in Instruments which are traded on Regulated Markets, and many Contracts, will be effected subject to, and in accordance with, Market Rules;
- 14.7.2 Market Rules usually contain far-reaching powers for authorities and market places in an emergency or otherwise undesirable situation;
- 14.7.3 If any Regulated Market or clearing house takes any action which affects a transaction in Instruments or a Contract, directly or indirectly, including any Listed Derivative, then Muhabura is entitled to take any action which Muhabura, in its sole and unfettered discretion, considers desirable or appropriate in relation to any Contract or transaction with any Client;
- 14.7.4 Where any transaction is effected by Muhabura as Agent for the Client, delivery or payment (as appropriate) by the other party to the transaction shall be at the Client's entire risk; and
- 14.7.5 Muhabura's obligation to deliver Instruments to the Client or to account to the Client or any other person on the Client's behalf for the proceeds from a sale of Instruments, shall be conditional upon receipt by Muhabura of deliverable documents or sale proceeds (as appropriate) from the other party or parties to the transaction.

## 15. **AGGREGATION AND SPLIT**

- 15.1 Muhabura is entitled to aggregate the Client's orders with Muhabura's own orders, orders of any member of the Muhabura and/or persons connected with Muhabura, including employees and other clients, if it is unlikely that such aggregation of orders and transactions will work overall to the disadvantage of any Client whose order is to be aggregated.
- 15.2 Muhabura may split the Client's orders when executing these.
- 15.3 Orders will only be aggregated or split if Muhabura reasonably believes it to be in the best interest of the Client. The Client accepts and acknowledges that on some occasions, aggregation or split of the Client's orders may work to the disadvantage of the Client in relation to a particular order and result in the Client obtaining a less favourable price than if the Client's orders had been executed without being aggregated with other orders or split.

## 16. **HANDLING OF CLIENTS USING JOINT ACCOUNTS**

- 16.1 In relation to Joint Accounts,

- 16.1.1 the liabilities of each of the Joint Account Clients on a Joint Account shall be direct, joint and several;
- 16.1.2 any notice or other communication provided by Muhabura to one Joint Account Client shall be deemed to have been provided to all Joint Account Clients of the relevant Joint Account; and
- 16.1.3 if an Event of Default has occurred in respect of one Joint Account Client, then such Event of Default shall be deemed to have occurred in respect of all the Joint Account Clients of that specific Joint Account and all of the rights of Muhabura, including under Clauses 28 - 30 and 33 shall apply in relation to all the Joint Account Clients of the relevant Joint Account.

## 17. **USE OF LIQUIDITY PROVIDERS FOR EXECUTING ORDERS OR CONTRACTS**

- 17.1 For the execution of an order or Contract on a Regulated Market, of which Muhabura is not a member, or for the execution of any other Client instruction, Muhabura may, at Muhabura's own discretion, select any Liquidity Provider to carry out such execution.
- 17.2 Muhabura is not liable whatsoever for any disposition or omission or insolvency of a Liquidity Provider and cannot be made liable by the Client for any loss directly or indirectly owing to the action or omission or insolvency of a Liquidity Provider, unless it is proven that Muhabura has not acted with sufficient care when selecting the Liquidity Provider.

## 18. **MARKET MAKING**

- 18.1 The Client acknowledges that Muhabura may act as a Market Maker in certain markets, including foreign exchange markets, OTC foreign exchange options and CFD Contracts. In relation to any Contract, including when acting as Market Maker, Muhabura is the Client's counterparty.
- 18.2 Muhabura will generally, upon the Client's written request, disclose to the Client whether Muhabura acts as a Market Maker in relation to certain Instruments.
- 18.3 When acting as a Market Maker, Muhabura may quote the Client bid and ask prices. However, the Client accepts that Muhabura has no obligation to quote prices to the Client at any time in any given market, nor an obligation to quote prices with a specific maximum spread to the Client.
- 18.4 Muhabura may, at Muhabura's absolute discretion, hedge any Client position against the position of another Client or a position with one of Muhabura's Liquidity Providers or have a proprietary position with the intention to obtain trading profits from such positions.
- 18.5 The Client accepts that Muhabura, as Market Maker, may hold positions that are opposite to positions of the Client, resulting in potential conflicts of interest between Muhabura and the Client, cf. Clause 35.
- 18.6 The Client acknowledges, recognizes and accepts that Muhabura quotes variable spreads on certain Contracts. The Client is specifically made aware that such variable spreads on certain Contracts are affected by market conditions, which are beyond Muhabura's control. Muhabura does not guarantee any maximum or minimum quotable spreads on Contracts.
- 18.7 Muhabura is at no time obliged to disclose any details of any spreads obtained, its performance or its income produced as a Market Maker or otherwise.

18.8 The Client accepts that, as a Market Maker, Muhabura will, while observing the Best Execution Obligations, seek to make profits. Spreads included in prices quoted by Muhabura may include commission, interest charges and other costs associated with the Market Maker function. The Client accepts that Muhabura has the right to hedge the Client's positions at prices which may be significantly different from the price quoted to the Client which may result in Muhabura obtaining a profit.

The Client understands and accepts that when Muhabura acts as a Market Maker it may be necessary for Muhabura to manage its available liquidity by separating its clients into different liquidity pools where the pricing, and available liquidity in each group may be independent of the other pools/groups. Liquidity separations can become relevant for Clients who, for example: have price agreements deviating from standard, use alternative trading tools (e.g. API), trade outside normal trading hours, trade in odd sizes, make frequent use of resting orders that can require manual attention, frequently transact in multiple products and/or asset classes, or have other similar features to their trading.

## 19. INTRODUCING BROKERS

19.1 The Client may have appointed or been referred to Muhabura by an Introducing Broker. Muhabura shall not be responsible for any agreement made between the Client and the Client's Introducing Broker. The Client acknowledges that any such Introducing Broker will either be acting as an independent intermediary or an Agent for the Client and that no such Introducing Broker shall be authorized to make any representations concerning Muhabura or Muhabura's Services.

19.2 The Client is specifically made aware that the Client's agreement with its Introducing Broker may result in additional costs as Muhabura may pay fees or commission to such person in accordance with Clause 26.9, which will be disclosed to the Client pursuant to Clause 26.10.

19.3 The Client is also specifically made aware that the Client's agreement with its Introducing Broker may result in additional costs for the Client as the Introducing Broker may deduct commissions and fees as well as price or interest/financing rate adjustments for any trade conducted on or allocated to the Client's Account either by the Introducing Broker or the Client.

19.4 If the Introducing Broker undertakes any deductions from the Client's Account according to any agreement between the Client and the Introducing Broker, Muhabura has no responsibility as to the existence or validity of such an agreement.

19.5 If the Client wants an Introducing Broker to manage the Client's Account(s), the Client shall provide a power of attorney to the Introducing Broker. Muhabura shall have no responsibility or liability to the Client for following the instructions given by an Introducing Broker under any power of attorney or for any other actions or omissions of any Introducing Broker.

19.6 Muhabura is under no obligation to supervise or review any payment instructions or any other acts, including, but not limited to, the trading, of the Introducing Broker, subject to a power of attorney being granted in its favour.

19.7 Muhabura is not responsible for the size or reasonableness of any commissions and/or fees, as well as any price or interest rate, paid by the Client to the Introducing Broker.

## 20. SETTLEMENT AND DELIVERY OF INSTRUMENTS

- 20.1 The Client shall be obliged to promptly make any payment or deliver any Instrument under a Contract in accordance with (i) the terms of that Contract and (ii) any instructions given by Muhabura for the purpose of enabling Muhabura to perform its obligations under any corresponding contract entered into between Muhabura and a Liquidity Provider, including Listed Derivative Counterparties.
- 20.2 If the Client does not provide Muhabura with notice of its intention to exercise a Contract, which requires an instruction from the Client, at the time stipulated by Muhabura, Muhabura may assume that the Client has given up the Contract, subject to Clause 20.4. If the Client wishes to exercise such a Contract, the Client must provide Muhabura with notice thereof in reasonable time (and within applicable cut-off times) for Muhabura to exercise the corresponding right under any Contract, including any Contract entered by Muhabura with a Listed Derivative Counterparty in relation to Listed Derivatives.
- 20.3 When a client purchases Custody Securities, the Client only obtains unconditional title of right to the Custody Securities provided the final payment to Muhabura is made on the settlement date. Until final payment is made, Muhabura reserves the right to the Custody Securities being purchased by the Client. When a Client sells Custody Securities to Muhabura, Muhabura's payment of the settlement amount is subject to Muhabura acquiring unconditional title to the Custody Securities on the day of settlement.
- 20.4 Listed Options, with put or call options as Reference Options, that close one Tick or more In the Money on the last trading day, will automatically be exercised, regardless of whether the Client has purchased or sold the Listed Option. The Client cannot instruct Muhabura to refrain from exercising Listed Options that are In the Money at expiry and cannot at any time instruct Muhabura to exercise Listed Options that are Out of the Money.
- 20.5 When Muhabura is notified by its Liquidity Providers that one or more short option positions have been exercised in relation to short Listed Options, Muhabura will apply a random method of allocating the exercised positions among the relevant Clients. Muhabura's allocation method randomly selects short Listed Options among all Muhabura's relevant Clients, including Listed Options opened immediately prior to the allocation. All short-Listed Options are subject to the exercising of any rights and allocation at any time. When a short Listed Option is allocated, the relevant Client is obliged to, within the applicable time of delivery, deliver (i) the Instrument or relevant amount of cash in case of a short call Listed Option and (ii) the relevant amount of cash in case of a short put Listed Option, to effect settlement.
- 20.6 Settlement of Listed Options shall correspond to the settlement of the relevant Reference Option in accordance with the applicable Market Rules and terms and conditions, and
- 20.6.1 for Listed Options with a cash settled option as Reference Option, final settlement requires payment of the cash difference between the value of the Reference Option and the strike price;
- 20.6.2 for Listed Options with physically settled options as Reference Options, the Listed Options will settle into physically settled options between Muhabura and the Client;
- 20.6.3 a Listed Option, which has an option on a future as a Reference Option, will settle into a future, between Muhabura and the Client, which matches the relevant future, and which is acquired at the strike price;
- 20.6.4 Muhabura will only allow the Client to trade Listed Options which have an option on a future, with physical delivery, as a Reference Option, if the Listed Option expires before the relevant future; and



20.6.5 Muhabura will require the Client to close any Listed Derivative with physical delivery of commodities before it can be exercised or is completed, as Muhabura does not support physical delivery of commodities.

## **21. DELEGATED TRADE REPORTING**

21.1 This section only applies to Clients domiciled in a country in the European Economic Area (EEA).

21.2 Unless otherwise agreed, Muhabura, through its service provider, will on behalf of the Client report the entry into, modification and termination of all derivative transactions, between Muhabura and the Client, to a Trade Repository (Delegated Trade Reporting) as required by EMIR.

21.3 Correct performance of Delegated Trade Reporting is subject to the Client timely providing Muhabura with the Client's Legal Entity Identifier code (LEI code) and such other information, as Muhabura requires from time-to-time.

21.4 Notwithstanding Delegated Trade Reporting performed by Muhabura, the Client remains legally responsible for reporting its own transactions. The Client is encouraged to request the Trade Repository for access to view all derivative transactions reported by Muhabura under the Client's LEI code. The Client must notify Muhabura immediately if the Client believes there are any inaccuracies in such reports.

21.5 The Client accepts and acknowledges that Muhabura is not in breach of any restrictions on disclosure of information imposed by any agreement or by any legislative, regulatory or administrative provisions when performing Delegated Trade Reporting.

21.6 Any loss or damage the Client may suffer as a consequence of Delegated Trade Reporting is subject to the terms and conditions of these Terms including, but not limited to, the general liability limitation and governing law in Clauses 33 and 41. Muhabura is under no circumstances, responsible for indirect loss or damage.

21.7 The Client can at any time, by giving notice to Muhabura, choose to discontinue Delegated Trade Reporting. Muhabura may discontinue Delegated Trade Reporting by giving not less than three months prior written notice to the Client.

21.8 No charge is currently levied by Muhabura in connection with Delegated Trade Reporting. However, Muhabura reserves the right to charge a fee for Delegated Trade Reporting and may exercise its right to do so by giving no less than two months' notice to the Client.

## **22. CUSTODY SERVICES**

22.1 General provisions

22.1.1 Muhabura may hold Custody Securities in custody on behalf of the Client directly or through External Custody Providers. This Clause 22 contains the terms and conditions that apply specifically to custody.

22.1.2 In order to ensure protection of the Clients' Custody Securities, Muhabura exercises due skill, care and diligence in its selection, appointment and periodic review of External Custody Providers and its arrangements with External Custody Providers.

22.1.3 Muhabura's arrangements with External Custody Providers include covenants ensuring segregation and identification of Custody Securities.

- 22.1.4 The Client acknowledges, recognises and understands that where it is not possible to separately identify Custody Securities from proprietary financial instruments of an External Custody Provider under applicable national law, there is a risk that, Muhabura or another External Custody Provider on Muhabura's behalf (as applicable) may not be entitled to claim the Custody Securities from the bankruptcy estate of the External Custody Provider in bankruptcy which may result in the Client suffering loss.
- 22.1.5 In order to open a custody account with Muhabura, the Client must have an Account with Muhabura to which the revenue from the custody account is credited and any custody fees etc. may be debited.
- 22.1.6 When the Client deposits or transfers Custody Securities to its custody account, Muhabura does not check for any deficiencies, including insufficient title and authenticity of the Custody Securities.
- 22.1.7 If any kind of encumbrances, security interests or other rights to Custody Securities, which are provided as Collateral for Contracts or Margin Positions entered into by the Client with Muhabura, are registered, Muhabura will no longer include such Custody Securities in the calculation of the satisfaction of the Margin Requirement applicable to the Client (but such Custody Securities will still form part of the Collateral). Muhabura reserves the right to reject any pledge, attachment or other encumbrance over any Custody Securities that are pledged in favour of Muhabura.
- 22.1.8 Unless otherwise agreed, dividend paid on shares held in a custody account may be paid to the Client less any applicable default withholding tax. Muhabura is not obliged to or liable for claiming back any withheld tax unless otherwise agreed by Muhabura and the Client.
- 22.1.9 The Client should expect the dividend of Custody Securities to be credited to the Client's Account after it is made available to Muhabura. The dividend is credited to the Client's Account on the condition that Muhabura receives the relevant amount from the issuer or an External Custody Provider (as applicable). If Muhabura does not receive this amount, Muhabura is entitled to reverse any amount deposited to the Client's Account. This applies whether or not it is expressly stated in the notification of the deposit.
- 22.1.10 Subject to Clauses 25.5 and 25.6 below, Muhabura will not inform the Client about any ordinary or extraordinary general meeting or any extraordinary information communicated by the issuer and the Client will not be entitled to vote at the shareholders' general meetings.
- 22.1.11 Muhabura may from time to time be informed about class action litigation relating to Instruments that Muhabura holds or has held in custody on behalf of its Clients. Unless specifically agreed with Muhabura, Muhabura is not required to provide any information about class action litigation to Clients or to take any action on behalf of Clients in relation to class action litigation.
- 22.1.12 Muhabura will at least on a quarterly basis send to the Client a statement of any held Custody Securities. Upon the Client's request, Muhabura shall provide such statements more frequently at a commercial cost which shall not be less than USD100 per request.
- 22.1.13 Custody Securities may be held on accounts which are subject to the law of another jurisdiction, which may entail that the Client's right to those Custody Securities may differ accordingly. Muhabura may be required under such laws and practices to e.g. report the name and the address of the Client, as well as the size, composition and returns on the Client's portfolio to foreign authorities and companies.

22.1.14 Muhabura is not liable whatsoever for any disposition or omission or insolvency of an External Custody Provider and cannot be made liable by the Client for any loss directly or indirectly owing to the action or omission or insolvency of an External Custody Provider, unless it is proven that Muhabura has not acted with sufficient care when selecting the External Custody Provider. The Client is to the same extent as Muhabura subject to the applicable laws and common practices applying to the External Custody Provider and its general terms and conditions of business.

### **23. VP INSTRUMENTS**

23.1 If the Client wishes to have Venture Philanthropy Instruments (VP Instruments) registered by name, the Client must inform Muhabura accordingly. Muhabura will subsequently register the Client's VP Instruments by name with VP. The registration of name becomes effective on the day of receipt by the keeper of the register of shareholders. The Client may require a written confirmation of the registration of the name for the relevant account and the date of such registration. If VP Instruments registered in a Client's name are sold, the registration of name is automatically deleted.

23.2 The application must be made by client in writing and cannot be provided by telephone, fax, telex, telegram, e-mail or any other electronic means of communication unless specifically agreed with Muhabura.

### **24. CUSTODY SECURITIES HELD IN OMNIBUS ACCOUNTS**

24.1 By accepting these Terms the Client agrees that Muhabura may keep the Client's Custody Securities in an omnibus custody account. Omnibus custody accounts are used for registration of multiple Clients'

Custody Securities in the name of Muhabura or any of its agents instead of the Client's name, with the relevant clearing institution or External Custody Provider. Thus, the Client is not individually or personally entitled to compensation for any error made by the relevant clearing institution or External Custody Provider. Muhabura maintains a register, clearly stating the individual Client's ownership to the Custody Securities kept in the omnibus custody account. Any foreign Custody Securities, which are not registered in a separate custody account, will be kept in omnibus custody accounts with Muhabura or an External Custody Provider, and Muhabura or the External Custody Provider (as applicable) will be responsible for claiming and collecting interest payment, dividends, income and other rights belonging to the Client.

24.2 In case of bankruptcy of Muhabura, each Client is, on the basis of the rights registered for that person, entitled to claim the Client's Custody Securities held by Muhabura from the relevant omnibus custody account, provided there is no current dispute regarding the Client's ownership of the Custody Securities. In case of bankruptcy of an External Custody Provider Muhabura may claim the Custody Securities from the omnibus custody account on behalf of any Client who Muhabura, according to the register, has recorded as owner of the relevant Custody Securities.

24.3 The Client acknowledges, recognises, and understands that where it is not possible to separately identify Custody Securities from other financial instruments held in the same omnibus account as the Custody Securities under applicable national law, there is a risk that, Muhabura or another External Custody Provider on Muhabura's behalf (as applicable) may not be entitled to claim the Custody Securities from the bankruptcy estate of the External Custody Provider in bankruptcy which may result in the Client suffering loss.

## 25. CORPORATE ACTIONS

- 25.1 A rights issue is when an existing stockholder is offered a number of new shares proportional to their holding at a specified price for subscription by a specified date. These new shares may be renounceable (tradable) or non-renounceable.
- 25.1.1 If the Client is holding a stock for which there is a rights issue the Client will receive the rights and have the opportunity to subscribe for new stocks, ignore the rights or sell the rights, if possible.
- 25.1.2 In order to prevent renounceable rights from becoming worthless when they expire, if the Client by the Instruction Deadline has not instructed Muhabura, Muhabura may, but is not required to, sell the rights (if possible) on behalf of the Client before the expiry of the rights. The proceeds from a sale of rights will be deducted the standard commission from the Account.
- 25.1.3 If the rights are non-renounceable, they will, if not exercised, be worthless at expiry.
- 25.2 Muhabura will notify the Client about conversions of convertible bonds held in custody with Muhabura, provided that Muhabura has been made aware of such conversions and can notify the Client within the stipulated deadlines. Such notification will be for information only and will not be a recommendation. Within the deadline set by Muhabura,
- 25.3 the Client must inform Muhabura whether the Client wants to (i) convert the bonds into shares or (ii) collect the proceeds from the bonds at maturity. If Muhabura does not receive instructions from the Client within the deadline set by Muhabura, the convertible bonds will be allowed either to mature or to wait for a subsequent offer or conversion.
- 25.4 For the avoidance of doubt, save as otherwise set out in this Clause 25, in the case of all other Corporate Actions, Muhabura may, but is not obliged to, notify Client and/or to obtain instructions from the Client of any action they may take in relation to such Corporate Actions. Muhabura shall further have the sole discretion on whether or not to assist Client with any request in relation to any Corporate Action that Client may request. Muhabura will have no liability for anything done or not done in the discretion of Muhabura. Special local rules may apply to certain Corporate Actions.
- 25.5 Muhabura must provide Issuers, at their request or at the request of a third party nominated by them, with certain information regarding the identity of Clients holding shares in such Issuer. The Client acknowledges and accepts that at the request of an Issuer in which the Client holds shares, or of a third party nominated by the Issuer, and only to the extent required, Muhabura will communicate the relevant information about the Client to the Issuer without delay.
- 25.6 To the extent required, Muhabura will, without delay, transmit to the Client, or to a third party nominated by the Client, information which:
- 25.6.1 an Issuer in which the Client holds shares is required to provide to the Client to enable the Client to exercise rights flowing from its shares, and
- 25.6.2 is directed to all shareholders in shares of that class. Where such information is available on the Issuer's website, Muhabura may restrict itself to providing a notice indicating where on the website the information can be found. Muhabura shall not be required to transmit such information or provide such notice as mentioned above to the extent the relevant Issuer transmits such information or provides such notice (as applicable) directly to all of its shareholders or to a third party nominated by such shareholders.

- 25.7 To the extent required, and at the Client's request, Muhabura will facilitate the exercise of the Client's rights attached to shares it holds in Issuers, including its right to participate and vote in general meetings. Muhabura may expand the scope of these services from time to time as may be required.
- 25.8 The Client is made aware and acknowledges that in voluntary Corporate Action where the alternative to a cash settlement is the settlement in a security that is not supported by Muhabura, the Client will not have the option to choose, but will be given the cash settlement.
- 25.9 It is standard practice for depositary receipts to charge an annual administration fee per share depending on the issuing depositary bank. The intent of the fee is to cover costs for the banks that take on the operational processes necessary to issue and trade the depositary receipt line. Typically, the fee is deducted when dividend payments are made, however, in case the depositary receipts do not pay a dividend or did not include the custodial fee in their dividend events, the fee will be administered through fee-only events.
- 25.9.1 The dividend fee is stipulated in the deposit agreement between the depositary bank and the company based upon industry standards.
- 25.9.2 The fee per depositary receipt is not dependent on the total amount of dividend being paid, but the amount of securities held.
- 25.10 Muhabura may charge commission and fees related to Corporate Actions. The prevailing trading costs are set out in the Commissions, Charges & Margin Schedule which may be amended from time to time without notice of more than 7 days to client.
- 25.11 Taxes and fees may also occur on Corporate Actions such as fee on a stock dividend or tax on a merger. When such taxes and fees occur Muhabura may debit the Client's Account accordingly.

## 26. **FINANCIAL TERMS**

### 26.1 Commissions, charges and other costs

26.1.1 The Client shall be obliged to pay to Muhabura the Commissions and Charges as agreed. The Commissions, Charges & Margin Schedule is available, and may be supplied to the Client on demand.

26.1.2 Muhabura will when relevant and at least once a year provide the Client with information about Commissions and Charges incurred by the Client, including information on the exact amounts on any commissions, charges and remuneration received or paid by Muhabura pursuant to Clause 26.9.

26.2 Muhabura may vary the Commissions and Charges without notice when the change is to the Client's advantage, or the grounds for changes are due to external circumstances beyond Muhabura's control. Such circumstances include:

26.2.1 significant particulars of the Client, based on which individual conditions were provided, have changed;

26.2.2 changes in the relationship with Muhabura's Liquidity Providers, which affect Muhabura's cost structures; and/or

26.2.3 changes in commissions, fees and charges from Regulated Markets, other markets, clearing houses, information providers or other third-party providers.

- 26.3 Muhabura may introduce new fees and vary the Commissions and Charges with one month's notice, if:
- 26.3.1 Market conditions, including competitive behaviour, call for changes to Muhabura's conditions; or
- 26.3.2 Muhabura for commercial reasons wishes to change its general cost and pricing structure
- 26.4 The Client is deemed to have accepted the changes in Commissions and Charges pursuant to Clause 26.4 for all transactions which occur on or after the date upon which the changes take effect.
- 26.5 In addition to Commissions and Charges, the Client shall be obliged to pay all applicable VAT and other taxes, storage and delivery charges, fees of Regulated Markets and clearing houses and all other fees incurred by Muhabura in connection with any order, Contract and/or in connection with Muhabura maintaining the Client relationship.
- 26.6 Furthermore, Muhabura shall be entitled to demand that the following expenses are paid separately by the Client:
- 26.6.1 All extraordinary disbursements resulting from the Client relationship, e.g. telephone, telefax, courier, and postal expenses, in case the Client requests hardcopy Settlement/Trade Confirmations, Account Statements etc. which Muhabura could have delivered in electronic form;
- 26.6.2 Any expenses of Muhabura caused by nonperformance by the Client including a fee determined by Muhabura in relation to forwarding of reminders, legal assistance etc.
- 26.6.3 Any expenses of Muhabura in connection with replies to inquiries by public authorities including a fee determined by Muhabura in relation to forwarding of transcripts and enclosures and for the preparation of copies.
- 26.6.4 Administration fees in connection with deposits of Instruments with External Custody Providers and insurance premium payments.
- 26.6.5 Any expenses of Muhabura in connection with auditor's comments/reports if such are requested by the Client; and
- 26.6.6 Any handling fee to Muhabura in connection with requests for documentation from the Client.
- 26.7 Fees will be charged either as a fixed amount corresponding to payments effected or as a percentage or hourly rate corresponding to the service performed. The methods of calculation may be combined. Muhabura reserves the right to introduce new fees.
- 26.8 Muhabura may share any commissions and charges with its affiliates, Introducing Brokers or other third parties or receive remuneration from them in respect of Contracts and other transactions entered into by Muhabura to the extent permitted by the Third Party. Details of any such remuneration or sharing arrangement will be set out in the Commissions, Charges & Margin Schedule. Muhabura (or any associate) may benefit from commission, mark up, mark down or any other remuneration from the Client or its Agents where it acts as counterparty to a Contract.
- 26.9 Muhabura will prior to the provision of a Service disclose to the Client (by way of the Commissions, Charges & Margin Schedule or otherwise):
- 26.9.1 the exact amounts of any commissions, charges and remuneration that will be received or paid by Muhabura pursuant to Clause 26.9 in connection with that Service; or



26.9.2 if Muhabura cannot determine the exact amounts in advance, precise and understandable information of the method that has been applied to the calculation of expected amounts of any commissions, charges and remuneration that will be received or paid by Muhabura pursuant to Clause 26.9 in connection with that Service. In such case, the exact amounts will be disclosed subsequently when these have been determined.

Notwithstanding the above, benefits in kind of an insignificant value that may be received or paid by Muhabura pursuant to Clause 26.9 are described in a general way in the Commissions, Charges & Margin Schedule.

26.10 The Client accepts that interest charges, commissions, brokerage fees and other costs associated with the Client's trading activities may be extensive and may, in addition to trading losses, deplete or exceed the value of deposited Collateral and negatively affect the Client's Account. The Client acknowledges and accepts that frequent transactions may result in a sum total of commissions, fees, price or interest/financing rate adjustments for trades conducted that may be substantial and not necessarily be offset by the net profits, if any, achieved from the relevant trades. The Client is responsible for correctly assessing whether the size of the total commissions, fees, price and/or interest/financing rate adjustments, for trades conducted on the Client's Account, makes trading commercially viable.

26.11 Unless specified otherwise in these Terms, all amounts to be paid by the Client to Muhabura (or Agents used by Muhabura) under these Terms shall, at Muhabura's option:

26.11.1 Be deducted from any funds, including Collateral and other cash deposits and any Collateral, held by Muhabura for the Client; or

26.11.2 Be paid by the Client in accordance with the provisions of the relevant Settlement/Trade Confirmation and/or as instructed by Muhabura.

## **27. INTEREST, ACCOUNT BALANCE AND CURRENCY CONVERSIONS**

27.1 Subject to Clause 27.2 and save as otherwise agreed in writing, Muhabura shall not be liable to:

27.1.1 pay interest to the Client on any Collateral or any credit balance in any Account or on any other sum held by Muhabura; or

27.1.2 account to the Client for any interest received by Muhabura on any sums or in connection with any Contract or other transaction.

27.2 The Client is entitled to interest based on the Client's positive Net Free Equity in accordance with the terms of the Commissions, Charges & Margin Schedule.

27.3 The Client is obliged to pay interest based on the Client's negative Net Free Equity in accordance with the terms of the Commissions, Charges & Margin Schedule.

27.4 If the Client fails to make any payment when it falls due, the Client shall pay interest (from the due date and until payment takes place) on the outstanding amount at the rate stated in the Commissions, Charges & Margin Schedule.

27.5 Muhabura may vary interest rates and/or thresholds for interest calculation in the Commissions, Charges & Margin Schedule without notice when the changes are to the Client's advantage, or

- 27.5.1 the grounds for changes are due to external circumstances beyond Muhabura's control. Such circumstances include:
- 27.5.2 Changes to significant particulars of the Client, based on which individual conditions were provided, occurs;
- 27.5.3 Changes in domestic and/or foreign monetary or credit policies that affect the general interest level;
- 27.5.4 Other changes in the general interest level, including in the money and bond markets; and/or
- 27.5.5 Changes in the relationship with Muhabura's Liquidity Providers, which affect Muhabura's cost structures.
- 27.6 Muhabura may vary interest rates with one month's notice, if:
- 27.6.1 Market conditions, including competitive behaviour, call for a change in Muhabura's interest rates; and/or
- 27.6.2 Muhabura wishes to change its general commission, fee and pricing structure for commercial reasons.
- 27.7 The Client is deemed to have accepted the changes in interest rates pursuant to Clause 27.6 if the Client does not, before the proposed date of the change in interest rates (or for immediate changes promptly after the change), notify Muhabura that the Client does not accept the change in interest rates.
- 27.8 The Client is obliged to have a positive cash balance on all Accounts at all times.
- 27.9 When calculating the actual cash balance on an Account, unrealised losses from the Client's investment activities shall be deducted from the cash balance. If such deduction results in a negative cash balance, the Client is obliged to immediately provide additional funds into the Account to ensure a continuing positive cash balance.
- 27.10 Muhabura is entitled, but shall not in any circumstances be obliged, to convert:
- 27.10.1 Any realised gains, losses, option premiums, commissions, interest charges and brokerage fees, which are denominated in a currency other than the base currency of the Client's Account into the base currency;
- 27.10.2 Any cash deposit in one currency to another currency for the purpose of purchasing an Instrument or other asset denominated in a currency other than the Base Currency;
- 27.10.3 Any cash deposited with Muhabura by the Client into such other currency as Muhabura considers necessary or desirable to cover the Client's obligations and liabilities in that currency.
- 27.11 Whenever Muhabura conducts currency conversions in accordance with Clause 27.10, Muhabura will do so at such reasonable rate of exchange as selected by Muhabura. Muhabura shall be entitled to add and charge a mark up to the exchange rates. The prevailing mark-up is provided in the Commissions, Charges & Margin Schedule.
- 28. MARGIN REQUIREMENT, PLEDGE, ENFORCEMENT, NETTING AND SET OFF**
- 28.1 Margin requirement and Margin Positions
- 28.1.1 Muhabura's general Margin Requirement for different types of Margin Positions appear from the Commissions, Charges & Margin Schedule as amended from time to time, and may be supplied to the Client on demand. However, Muhabura reserves the right to determine specific Margin Requirement for individual Margin Positions and Clients.





- 28.1.2 The Client is specifically made aware that the Margin Requirement is subject to change without notice. When a Margin Position has been opened, Muhabura is not allowed to close the Margin Position at its discretion, but only at the Client's instruction or according to Muhabura's rights under these Terms. However, Muhabura may increase the Margin Requirement if Muhabura at its sole discretion considers that its risk on a Margin Position or in respect of the Client has increased as compared to the risk on the date of the opening of the Margin Position.
- 28.1.3 The Margin Requirement applies from opening a Margin Position and throughout the term of the Margin Position. It is the Client's responsibility to continuously ensure that sufficient Collateral is available on the Account at any time to meet the Margin Requirement. Muhabura may, but is not required to, notify the Client if the Margin Requirement is not met (margin call).
- 28.1.4 The Client shall at all times comply with the Margin Requirement and shall pay to Muhabura on demand:
- i. Such sums of money as may from time to time be due to Muhabura under an order or Contract;
  - ii. Such sums of money as Muhabura may from time to time require as Collateral in accordance with the Margin Requirement; and
  - iii. Any amount to maintain a positive cash-balance on any and all Account(s).
- 28.1.5 When executing orders and Contracts, including Listed Derivatives, on Regulated Markets or with Liquidity Providers (including Listed Derivative Counterparties), Muhabura may be required to deliver additional collateral from time to time as stipulated by the relevant Regulated Market or Liquidity Provider. Muhabura may under such circumstances without notice, change the Margin Requirement applicable upon the Client to reflect any such additional collateral requirements, in relation to such execution of orders and Contracts. In such situations, the Client is obliged to pay on demand Muhabura any such additional Collateral.
- 28.1.6 As Collateral, the Client may deposit cash or with the prior consent of Muhabura (i) deposit Instruments, and/or (ii) provide Muhabura with a guarantee or indemnity in a form acceptable to Muhabura for the purpose of complying with the Client's obligations.
- 28.1.7 Muhabura may, on a continuous basis and in its sole discretion, determine the value of the Collateral registered on the Client's Account including whether it accepts different types of Collateral to satisfy the Margin Requirement, and Muhabura is on a continuous basis entitled to re-determine the value of the Collateral without prior notice to the Client. If Muhabura, upon delivery or subsequently, determines that the value of the Collateral does not cover the obligations of the Client (including, but not limited to, the Margin Requirement), the Client shall be obliged immediately to provide additional Collateral in order to comply with its obligations including, but not limited to, the Margin Requirement.
- 28.1.8 If the Client fails at any time to have provided sufficient Collateral to meet the Margin Requirement, other deposits or other sums due under these Terms, Muhabura may close any and all Contracts and Margin Positions upon notice to the Client and apply any proceeds thereof towards the payment of any amounts owed by the Client to Muhabura. Muhabura may in its discretion close all or some of the Client's Contracts and Margin Positions. Muhabura can use this right to close Contracts and Margin Positions even if the Client takes steps to reduce the size of open Contracts or Margin Positions or to transfer sufficient funds to Muhabura without assuming any liability towards the Client.

- 28.1.9 If the Client has several Accounts, Muhabura is entitled to transfer cash and Instruments from one Account to another, even if such transfer will necessitate the closing of Margin Positions or other trades on the Account from which the transfer takes place.
- 28.1.10 If the Client's combined exposure in one or more Margin Positions reaches a level which, in case of an adverse market development, may in Muhabura's opinion lead to a significant deficit not covered by the Client's Collateral, Muhabura may, in its sole discretion (i) increase the Margin Requirement and/or (ii) reduce the Client's exposure by closing or reducing one or more or all of the Client's open Margin Positions.
- 28.1.11 Furthermore, Muhabura is entitled, in its sole discretion, to determine that an emergency or an Exceptional Market Condition exists. In addition to any other rights Muhabura may have under these Terms, Muhabura may among others (i) increase the Margin Requirement, (ii) reduce the Client's exposure, (iii) close or reduce any or all of the Client's open Margin Positions and/or (iv) suspend trading.

28.2 Netting, termination, settling and set-off

**Payment netting**

28.2.1 If, on any date, amounts would otherwise be payable:

- a. in the same currency or (if agreed) in respect of different currencies; and
- a. in respect of the same Contract or in respect of different Contracts,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation on the party by which the larger aggregate amount would have been payable to pay the other party the excess of the larger aggregate amount over the smaller aggregate amount provided that, in the case of amounts that would otherwise be payable in respect of different currencies, Muhabura may convert an obligation in one currency to another currency at the exchange as Muhabura may reasonably determine.

**Termination and close-out netting of Exchange Related Contracts**

28.2.2 On the occurrence of an Event of Default by a Client, Muhabura may, by notice to the Client, specify a date for the termination and liquidation of all the Exchange Related Contracts (the "**Liquidation Date**") save that on the occurrence of an Event of Default which is an Act of Insolvency in respect to the Client, the date immediately prior to the Act of Insolvency (being the same day or the prior day as the case may be) shall automatically constitute a Liquidation Date without Muhabura being required to give notice of such. On the Liquidation Date:

- a. neither party shall be obliged to make any further payments or deliveries under any Exchange Related Contract which would, but for this clause, have fallen due on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount;

- b. or as soon as reasonably practicable thereafter, Muhabura shall determine, in respect of each Exchange Related Contract, its total costs and losses or gain, in each case, in the Base Currency (and, if appropriate, including any loss of bargain, cost of funding or without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position) of each payment or delivery which would have been required to have been made under each Exchange Related Contract but for the termination, with due regard to such market quotations published on, or official settlement prices set by, a relevant exchange or clearing organization as may be available on or immediately preceding, the date of calculation.
- c. for the purposes of indemnification, Muhabura may convert amounts denominated in any currency other than the Base Currency into the Base Currency at the exchange rate as Muhabura may reasonably determine.
- d. Muhabura shall treat each cost or loss to it, determined as above, as a positive amount and each gain by it, so determined, as a negative amount and aggregate all of such amounts to produce a single net positive or negative amount, denominated in the Base Currency (the "**Liquidation Amount**"); and,
- e. if the Liquidation Amount determined pursuant to this clause is a positive amount, the Client shall pay such amount to Muhabura and if it is a negative amount, Muhabura shall pay the
- f. absolute value of such amount to the Client. Muhabura shall notify the Client of the Liquidation Amount, and by which party it is payable, as soon as reasonably practicable after the calculation of such amount.
- g. If any of the above is in conflict with applicable law in Mauritius, then the applicable law shall apply.

#### **Settling or close-out of Exchange Related Contracts**

28.2.3 If, on the occurrence of an Event of Default by the Client which is not an Act of Insolvency, Muhabura does not specify a date for the termination and liquidation of the Exchange Related Contracts in accordance with the clause 28.2.2, in addition to its rights set out in that clause:

- a. **Muhabura** shall be entitled to terminate and close out any single Exchange Related Contract in respect of which the Client has failed to make any payment or delivery;
- b. **Muhabura** may satisfy the Client's obligations under any single Exchange Related Contract in respect of which the Client has failed to make any payment or; or
- c. Muhabura may novate, assign or otherwise transfer to a third-party, the Client's rights and obligations under any single Exchange Related Contract in respect of which Institutional Client has failed to make any payment or delivery.

28.2.4 The Client shall indemnify Muhabura in respect of **all** losses, damages, costs, expenses, liabilities or claims suffered or incurred as a result of Muhabura taking any action under clause 28.2.3 including in respect of any amount advanced under clause 28.2.3a and 28.2.3b(including the cost of borrowing or buying in any cash or Securities in order to mitigate losses). Muhabura shall in accordance with the Services Agreement be entitled to dispose of any Securities delivered to Muhabura, and to retain the proceeds and any cash delivered to Muhabura, whether or not credited to the Trading

Account, in satisfaction or partial satisfaction of any amount owing to Muhabura under such indemnity.

### **28.3 General Set-off**

- 28.3.1 On the occurrence of an Event of Default by the Client or an event of default, termination event or similar event by the Client (howsoever described) under any other agreement between the Client and Saxo Bank (including, without limitation, any ISDA master agreement) Muhabura shall be entitled to set-off any of its obligations to the Client (including a Liquidation Amount and amounts on the Trading Account) against any obligation, contingent or not contingent and regardless of the currency, place of payment or booking office of the obligation) owed by the Client to Muhabura under the Service Agreement or any other agreement whatsoever between the parties. Muhabura will be entitled to exercise any lien, charge or power of sale pursuant to any agreement between the Client and Muhabura against such obligations owed by the Client.
- 28.3.2 For the purposes of cross-currency set-off, Muhabura may convert an obligation in one currency to another currency at the exchange rate as Muhabura may reasonably determine.
- 28.3.3 For the avoidance of doubt, in relation to the effective declaration of any termination event or other similar event in accordance with any agreement between the Client and Muhabura or its associates, any grace periods contained in such other agreement shall apply.
- 28.3.4 This clause will be without prejudice and in addition to any right of set-off, offset, combination of accounts, lien, right of retention or withholding or similar right or requirement to which a party is at any time otherwise entitled or subject (whether by operation of law, contract or otherwise).

### **29. PLEDGE AND ENFORCEMENT**

- 29.1 As a first priority security for the payment and satisfaction in full of the Secured Obligations, the Client pledges all its right, title and interest in and to the Collateral and the Related Rights to and in favour of Muhabura.
- 29.2 The Client accepts and acknowledges that no Collateral may, without the prior consent of Muhabura, be transferred or further pledged or used as collateral to secure any obligations of the Client other than the Secured Obligations. The Client accepts and acknowledges that Muhabura may reject any transaction or transfer relating to Collateral, unless the Client first closes all outstanding Margin Positions and settles all Secured Obligations.
- 29.3 Subject to Clause 29.4, upon an Event of Default:
- 29.3.1 the Pledge shall be immediately enforceable by Muhabura without any prior approval from any court, public authority or other entity or person and without prior notification to the Client, except where required by applicable law;
- 29.3.2 Muhabura has the right (in each case without obtaining a ruling, a judgement or other basis of execution) to realise the Collateral;
- 29.3.3 Realisation by sale of Collateral does not require the participation of a securities dealer, except where required by applicable law;
- 29.3.4 The Collateral may also be realised by setting off its value against the Secured Obligations or by Muhabura's appropriation of the Collateral or in any other way or manner Muhabura sees fit, except where this is not permitted under applicable law.

- 29.4 Enforcement of the Pledge in respect of Custody Securities is, where required, subject to one week's notice having been given.
- 29.5 The Client undertakes to (i) execute and deliver to Muhabura such documents and do such acts and take such steps which Muhabura shall request for the purpose of perfecting and exercising its rights under the Pledge and (ii) bear all reasonable costs related to the perfection and/or enforcement of the Pledge.
- 29.6 If Muhabura exercises its rights to sell any Collateral or property of the Client under this Clause 29, it will effect such sale without liability to the Client, on behalf of the Client and apply the proceeds of sale in or towards discharge of the Secured Obligations.
- 30. NETTING AND SET OFF**
- 30.1 All obligations, including the Secured Obligations, owed between Muhabura and the Client shall be netted on an ongoing basis which shall be binding upon any third party pursuant to applicable law.
- 30.2 Muhabura has the right to set off any amounts of the Client held by Muhabura against any amounts owed by the Client to Muhabura.
- 30.3 Muhabura shall be entitled, at all times and without notice, to consolidate all Accounts of the Client and all Accounts or assets of the Client with/or held by other Muhabura entities and set off these against all amounts owed to Muhabura or other Muhabura entities by the Client in such a manner as Muhabura, at its sole discretion, may determine.
- 30.4 If the Client, at any time during the Client relationship, has a negative cash-balance in any Account, Muhabura is entitled, but not obligated, to net between the Client's Accounts.
- 30.5 If an Event of Default occurs, all obligations between Muhabura and the Client, including the Secured Obligations and any Contracts, shall upon Muhabura's notice to the Client be terminated (closed-out) and netted into one termination amount by way of close-out netting. The close-out netting shall be binding upon any third party pursuant to applicable law.
- 30.6 In relation to close-out netting pursuant to Clause 30.8, the value of Contracts shall be determined in accordance with the following:
- 30.6.1 Rates at which the Contracts shall be closed shall be market rates applicable on the day on which Muhabura decides to close the Contracts; and/or
- 30.6.2 Muhabura may, at its sole discretion, determine the rates by obtaining a quote from a broker in relation to the asset in question or by applying rates from electronic financial information systems or other reasonable sources as determined by Muhabura.
- 30.6.3 In addition to the amounts set out in i. and ii. when calculating the termination amount pursuant to Clause 30.5, Muhabura may include any loss or cost incurred in connection with its terminating, liquidating or re-establishing any hedge related to transactions terminated.
- 30.7 If any obligations owed between Muhabura and the Client that are netted or set-off are not in the same currency, the obligations shall be converted by Muhabura in accordance with Clause 27.11.

30.8 When determining the value of obligations to be netted under this Clause 30, Muhabura may apply its usual spreads and include all costs and other charges.

### 31. INVESTMENT MANDATE

31.1 Muhabura shall manage the Client's assets in accordance with the investment objectives, any restrictions and, where applicable, as agreed with the Client. In doing so Muhabura shall have complete discretion to buy, sell, retain, exchange, or otherwise deal in investments and other assets, , subscribe to issues and offers for sale and execute transactions in regulated and unregulated entities, effect transactions on any markets (including unregulated markets and multilateral trading facilities), negotiate and execute counterparty and account opening documentation, take all routine or day to day decisions and otherwise act as Muhabura judges appropriate in relation to the management of the Client's assets.

31.2 Muhabura shall not refer to the Client before making any investment decisions unless it was agreed otherwise. Muhabura shall carry out its duties in accordance with the services agreement entered by the Client and Muhabura.

31.3 Before Muhabura can manage the Client's assets, it must understand the Client's attitude to risk and the suitability for the Client of the investments that it may make for the Client. The investment policy will be agreed with the Client and Muhabura will only be liable to the Client for any loss the Client may suffer as a direct result of any services which Muhabura provides, to the extent that such loss or damage arises as a direct result of fraud, negligence or wilful default by Muhabura.

### 32. WARRANTIES, INDEMNITIES AND DEFAULT

32.1 Client warranties and representations

32.1.1 The Client warrants and represents that:

32.1.2 The Client has full power to enter into and perform its obligations under these Terms, including any obligation under a Contract, order or other transaction carried out under these Terms;

32.1.3 The Client has obtained all necessary consents to enter into these Terms and any Contract, place any order and carry out any other transaction under these Terms, and has the authority to operate according to these Terms (and if the Client is a legal person, that it is properly empowered and has obtained necessary corporate or other authority pursuant to its constitutional and organisational documents);

32.1.4 The Client is willing and able, financially and otherwise, to assume the risk of making speculative investments;

32.1.5 Instruments and/or other assets supplied by the Client to Muhabura for any purpose are, subject to these Terms and the Pledge, at all times free from any charge, lien, pledge or encumbrance and the Client shall have full right in and title to such Instruments and/ or other assets;

32.1.6 It is in compliance with all laws to which it is subject, including, without limitation, all tax laws and regulations, exchange control requirements, sanctions and registration requirements; and

32.1.7 The information provided by the Client to Muhabura is complete, accurate and not misleading in any material respect.

32.2 The above warranties and representations shall be deemed to be in force for the duration of the relationship between Muhabura and the Client and shall be repeated each time the Client places an order, enters into a Contract, provides any instructions to Muhabura and/or complies with any obligations under these Terms and/or any Contract.

32.3 By accepting these Terms on behalf of a legal person, the person signing on behalf of that legal person represents and warrants that he/she is authorized to (i) act on behalf of such legal person and (ii) bind the legal person to these Terms and all obligations arising hereunder. If it becomes apparent that the signing person was not duly authorized to bind the legal person the signing person shall indemnify Muhabura for all liabilities, losses, damages, costs and expenses in relation to any claims or actions brought against Muhabura as a result of the signing person not having the due authorisation.

### 33. **DEFAULT AND DEFAULT REMEDIES**

33.1 The provisions contained in this Clause 33 supplement any other rights that Muhabura or the Muhabura have according to these Terms, including, but not limited to, Clauses 28 - 30, and furthermore any other rights Muhabura has under applicable law.

33.2 The Client authorises Muhabura to, at Muhabura's discretion and at any time and without notice, sell, apply, set off and/or charge in any manner any or all of the Collateral, in order to discharge any or all of the Client's obligations owed to Muhabura and/or to entities within the Muhabura.

33.3 Each of the following events shall constitute an Event of Default for the Client:

33.3.1 If Insolvency Proceedings over the Client are initiated;

33.3.2 If any charge, pledge or other encumbrance is levied against any Collateral;

33.3.3 If the Client is in breach of these Terms, including, but not limited to, (i) if the Client fails to make any payment or fails to do any other act required under these Terms, any Contract, or by Muhabura at its sole discretion, including if the Client fails to comply at any time with the Margin Requirement; (ii) if the Client fails to remit funds necessary to enable Muhabura to take delivery under any Contract on the first due date; (iii) if the Client fails to provide Instruments for delivery, or take delivery of Instruments, under any Contract on the first due date;

33.3.4 if any representations or warranties given by the Client under Clause 31 are, or become, untrue or misleading;

33.3.5 If the Client dies or becomes of unsound mind;

33.3.6 If any security created by any mortgage, pledge or charge over any of the Client's assets becomes enforceable against the Client and the secured party takes steps to enforce the mortgage, pledge or charge;

33.3.7 If any indebtedness of the Client or any of its affiliates becomes immediately due and payable, or capable of being declared so due and payable, prior to its stated maturity by reason of default of the Client (or any of its subsidiaries) under the relevant agreement or the Client (or any of its affiliates) fails to discharge any indebtedness on its due date;

- 33.3.8 If Muhabura or the Client is requested to close a Contract (or any part of a Contract) by any regulatory agency, authority, exchange or Liquidity Provider.
  - 33.3.9 If the Client fails to comply with applicable Market Rules or applicable law;
  - 33.3.10 If the Client fails to provide Muhabura with information that Muhabura has reasonably requested or is required to obtain from the Client according to Market Rules or applicable law; and
  - 33.3.11 If Muhabura reasonably considers it necessary for its own protection or the protection of the Muhabura; or
  - 33.3.12 Such other events of defaults as may be set out under the Services Agreement.
- 33.4 Upon the occurrence of an Event of Default, and in addition to Clauses 28 - 30, Muhabura shall, in its discretion, be entitled to:
- 33.4.1 Immediately terminate, cancel and close-out any and all outstanding Contracts as at a date specified by Muhabura;
  - 33.4.2 Buy or sell any Instrument, investment or other property where this is, or is in the reasonable opinion of Muhabura likely to be, necessary in order for Muhabura to fulfil its obligations under any Contract or in relation to any Contract and the Client shall reimburse Muhabura for the full amount of any purchase price plus any associated costs and expenses;
  - 33.4.3 Deliver any Instrument, or property to any third party, or otherwise take any action Muhabura considers to be desirable in order to close any Contract;
  - 33.4.4 Enter into any foreign exchange transaction, at such market rates and times as Muhabura may determine, in order to meet obligations incurred under a Contract;
  - 33.4.5 Close-out all or part of any assets standing to the debit or credit of any Account (including converting Muhabura's or the Client's obligation to deliver an Instrument into an obligation to pay an amount equal to the market value of the Instrument (determined by Muhabura at its sole discretion) on the date the close-out takes place); and
  - 33.4.6 Take any other action or step to enforce Muhabura's security interest in and to the Collateral or otherwise relevant for the protection of the interests of Muhabura or the Muhabura.
- 33.5 The Client authorises Muhabura to, on behalf of the Client, take any or all of the actions required to enforce and/or preserve Muhabura's rights, including the actions described in Clauses 28 - 30 and this Clause 33, without notice to the Client and the Client acknowledges that Muhabura shall not be responsible for any losses or consequences associated with Muhabura taking any such action, unless Muhabura has exercised gross negligence in connection herewith.
- 33.6 The Client shall execute any documents and take any action as Muhabura may request in order to protect the rights of Muhabura and the Muhabura under these Terms or under any agreement the Client may have entered into with Muhabura or any member of the Muhabura.



**34. INDEMNITY AND LIMITATIONS ON LIABILITY**

34.1 The Client shall indemnify Muhabura for all losses, taxes, expenses, costs and liabilities whatsoever (present, future, contingent or otherwise and including reasonable legal fees) which may be suffered or incurred by Muhabura as a result of, or in connection with

34.1.1 the Client's breach of these Terms;

34.1.2 Muhabura executing any order or entering into any Contract or transaction on the Client's instruction; or

34.1.3 Muhabura taking any action which Muhabura is entitled to take in order to enforce and preserve its rights, including the rights of Muhabura under Clauses 28 - 30 and 33,

unless, and to the extent only that, such losses, taxes, expenses, costs and liabilities are suffered or incurred as a result of Muhabura's gross negligence or wilful default.

34.2 The right to be compensated, as provided to Muhabura under Clause 34.1, shall survive any termination of the relationship between Muhabura and the Client.

34.3 Muhabura shall not be liable for any losses resulting from:

34.3.1 Operational failures preventing the use of the Trading Platform;

34.3.2 Interruptions preventing Muhabura from accessing the Trading Platform;

34.3.3 Use of the Internet as a means of communication and transport; or

34.3.4 Damage caused by matters relating to the Client's own computer systems.

34.4 In relation to orders and Contracts executed via the Trading Platform, Muhabura shall not be liable for any loss, expense, cost or liability suffered or incurred by the Client due to a system or transmission failure or delays or similar technical errors unless Muhabura has exercised gross negligence in connection herewith.

34.5 Muhabura shall not be liable for any failure, hindrance or delay in performing its obligations under these Terms where such failure, hindrance or delay is, directly or indirectly, due to a Force Majeure Event and Muhabura shall not be liable for any losses due to any Force Majeure Event.

34.6 Muhabura shall not be responsible for losses resulting from the Client's installation and use of the computer programs used in relation to the Trading Platform, unless such liability follows from mandatory applicable law.

34.7 The Client shall be responsible for ensuring that the Trading Platform is adequately protected against direct and indirect losses, which may result from the installation and use of the computer programs in the Client's computer system. Furthermore, the Client shall be obliged to make backup copies of all data.

34.8 Muhabura shall not be liable for:

34.8.1 any loss, expense, cost or liability suffered or incurred by the Client as a result of or in connection with the provision of the Services unless and to the extent that such loss is suffered or incurred as a result of Muhabura's gross negligence or wilful default;

34.8.2 any loss due to actions taken by Muhabura according to its rights under these Terms; or

- 34.8.3 any consequential or other indirect loss suffered or incurred by the Client whether arising from Muhabura's negligence or otherwise.
- 34.9 Muhabura shall not be liable for losses suffered by the Client as a result of the acts or omissions of any Regulated Market or clearing house or any action reasonably taken by Muhabura as a result of such acts or omissions unless Muhabura has exercised gross negligence in connection herewith.
- 34.10 The Trading Platform may be available in several versions, which may be differentiated in various aspects including, but not limited to, the level of security applied, products and Services available. Muhabura shall not be liable to the Client for any loss, expense, cost or liability suffered or incurred by the Client due to the Client using a version different from Muhabura's standard version with all available updates installed.

## 35. MISCELLANEOUS

### 35.1 Conflict of interest

- 35.1.1 Muhabura or other persons or companies connected with Muhabura may have an interest, relationship or arrangement that is material in relation to any order, Contract or transaction effected, or advice provided by Muhabura under these Terms.
- 35.1.2 By accepting these Terms, the Client agrees that Muhabura may transact such business as described in Clause 35.1 without Muhabura having to inform the Client hereof and without the Client being able to make claim against Muhabura in respect thereof.

## 36. CONFIDENTIALITY, PERSONAL DATA AND RECORDING OF CONVERSATIONS

- 36.1 Muhabura may collect, use, store or otherwise process the Client's personal information that it has obtained directly from the Client or from other persons including, but not limited to, credit reference agencies, fraud prevention agencies, banks, other financial institutions, third authentication service providers and the providers of public registers.
- 36.2 Neither Muhabura nor the Client may disclose any Confidential Information and each Party shall use all reasonable endeavours to prevent any such disclosure, except as set out in this Clause 36.
- 36.3 By accepting these Terms, the Client authorises Muhabura to disclose Confidential Information relating to the Client as may be required by applicable law, any regulatory authority or any applicable Market Rules, without prior notice to or consent from the Client. Furthermore Muhabura may disclose information relating to the Client to third parties in any jurisdiction to facilitate the transfer of funds by credit card initiated by Client.
- 36.4 By accepting these Terms, the Client permits Muhabura to, in accordance with applicable law, transfer Confidential Information about the Client, submitted to Muhabura, to any legal entity within the Muhabura Group or its service providers.
- 36.5 Muhabura may transfer Confidential Information regarding the Client for the purposes of
- 36.5.1 complying with regulatory matters (including prevention of terrorism or money laundering or any other laws),

- 36.5.2 providing and performing Services,
- 36.5.3 conducting marketing,
- 36.5.4 managing the Client relationship, and
- 36.5.5 otherwise providing its Services to the Client.

Such Confidential Information may be transferred to Muhabura entities in countries where data protection laws may not provide a level of protection equivalent to the protection offered in Mauritius.

- 36.6 Muhabura may share Confidential Information with (i) a third party working on behalf of Muhabura with the purpose of performing Client analysis to be used in Muhabura's sales and marketing and (ii) any Introducing Broker for the purpose of completing a due diligence and approving Account applications.
- 36.7 If the Client is a natural person, Muhabura shall use, store, process and handle personal information provided by the Client in connection with the provision of the Services, in accordance the Data Protection Act. The Client's personal information will be stored no longer than necessary in order to carry out the purposes listed in these Terms. The Client has the right to request correction, supplementation, deletion or blocking of such personal information if inaccurate, incomplete, or irrelevant for the purpose of the processing or, if processed, in any other way that is unlawful.
- 36.8 In certain circumstances, the Client may also have the right to object for legitimate reasons to the processing of personal information in accordance with the procedures set forth in the applicable data protection regulations and to seek other legal remedies available in connection with the processing of such personal information.
- 36.9 The Client agrees and acknowledges (i) that Muhabura may record all telephone conversations, internet conversations (chats), and meetings between the Client and Muhabura, and (ii) that a copy of such recording will be available on request for a period of five years and, where requested by a competent authority, for a period of up to seven years.
- 36.10 In case of any dispute or anticipated dispute between Muhabura and the Client, Muhabura may disclose and/or use recordings, or transcripts from such recordings, as evidence towards the Client and any other party before any authority (including, but not limited to, any regulatory authority and/or court of law) if Muhabura at its sole discretion sees it to be desirable or necessary.
- 36.11 Technical reasons may prevent Muhabura from recording a conversation, and recordings or transcripts made by Muhabura will be destroyed in accordance with Muhabura's normal practice.
- 36.12 The Client shall not expect to be able to rely on any recordings made pursuant to Clause 36.10.
- 36.13 By accepting these terms, the Client consents to the processing of the personal data by Muhabura for the purposes of providing services and transferring of its personal data according to the provisions of the Data Protection Act provided always the person receiving the Client's personal data has in place similar safeguards to protect the Client's personal information as under the Data Protection Act.
- 36.14 Under applicable regulations, Muhabura will keep records containing Client personal data, trading information, account opening documents, communications and anything else which relates to the Client for a minimum of six years after termination of the services to be provided by Muhabura.

**37. NO RIGHT OF CANCELLATION**

37.1 The right of cancellation rules do not apply to agreements concerning securities or financial services as offered by Muhabura. The Client relationship between Muhabura and the Client may be terminated by the Client immediately in accordance with Clause 39.

**38. AMENDMENTS OF THESE TERMS**

38.1 Muhabura is entitled to amend these Terms in favour of the Client without notice.

38.2 Amendments of these Terms which are not in the Client's favour may take place at any time by Muhabura giving minimum one month's notice.

38.3 All transactions with Muhabura effected prior to the Client's acceptance of these Terms, including the rights and obligations of Muhabura and the Client in respect thereto, shall be governed by these Terms.

38.4 The Client is deemed to have accepted any amendments of these Terms if the Client does not, before the proposed date of their entry into force, notify Muhabura that it does not accept the amendments.

**39. TERMINATION**

39.1 The Client relationship shall remain in force until terminated.

39.2 The Client is entitled to terminate the relationship with Muhabura immediately by giving written notice to Muhabura.

39.3 Muhabura is entitled to terminate the relationship with the Client by giving minimum one month's notice.

39.4 Termination shall not affect any accrued rights and obligations.

39.5 Upon termination, Contracts that are already entered into or under execution shall immediately terminate, and these Terms shall continue to bind the Parties in relation to such Contracts.

39.6 Muhabura is entitled to deduct all amounts due to it before transferring any credit balances on any Account to the Client and Muhabura is entitled to postpone such transferring until any and all Contracts between Muhabura and the Client have been closed.

39.7 Muhabura shall charge no separate fees in relation to the opening and closure of Accounts. In relation to the closure of any open positions, Muhabura shall charge no separate fees except as provided by the Commissions, Charges & Margin Schedule.

39.8 Muhabura is entitled to require the Client to pay any charges incurred in transferring the Client's investments and funds upon the termination of the Client relationship.

39.9 Muhabura may close a Trading Account, in the event that:

- a. the Client has a recurring history of defaults; or
- b. the Client is blacklisted; or
- c. the Client poses unacceptable risks.

**40. REGULATORY AUTHORITY AND THE GUARANTEE SCHEME**

- 40.1 Muhabura is authorised, regulated and under supervision of the Financial Services Commission of the Republic of Mauritius.
- 40.2 Should the Client not obtain full coverage for its cash deposits via the bankruptcy estate of Muhabura, then no other form of regulatory compensation may be available.

**41. DISPUTES AND COMPLAINTS**

- 41.1 In case the Client has raised a question or a problem with the account executive or another employee of Muhabura without receiving a satisfactory answer, the Client is entitled to, via e-mail, file a written complaint with Muhabura at [complaints@muhabura.com](mailto:complaints@muhabura.com). Muhabura will investigate and answer the complaint in accordance with applicable laws.
- 41.2 If the Client is not satisfied with Muhabura's response, the Client may, if eligible, file a complaint with the Financial Services Commission of Mauritius or the Ombudsman for Financial Services of Mauritius.
- 41.3 Without prejudice to any of Muhabura's other rights under these Terms, and in case of a dispute between the Client and Muhabura over a Margin Position or alleged Margin Position or any instruction relating to a Margin Position, Muhabura is entitled, at its sole discretion and without notice, to close any such Margin Position or alleged Margin Position, if Muhabura believes such action to be desirable for the purpose of limiting the maximum amount involved in the dispute. Muhabura shall not be responsible to the Client for any subsequent fluctuations in the price level of the relevant Margin Position. Muhabura shall take reasonable steps to inform the Client that Muhabura has taken such action as soon as practicable possible after doing so.
- 41.4 Where Muhabura closes a Margin Position or alleged Margin Position in accordance with Clause 41.3 the closing shall be without prejudice to the Client's rights to open new Margin Positions, provided that such new Margin Positions are opened in accordance with these Terms. When calculating Collateral or other funds required for such new Margin Positions by the Client, Muhabura is entitled, on an individual basis, to impose specific Margin Requirement or other requirements upon such new Margin Positions.

**42. GOVERNING LAW AND JURISDICTION**

- 42.1 The relationship between Muhabura and the Client, any order, instruction and Contract and these Terms are subject to and shall be construed in accordance with Mauritius laws as the sole and exclusive governing law.
- 42.2 The Client and Muhabura agree that the Courts of Mauritius shall have exclusive jurisdiction over disputes regarding (i) the relationship between Muhabura and the Client, (ii) any order and Contract and (iii) these Terms. However, Muhabura reserves the right to commence proceedings in any competent court and jurisdiction that it may find suitable, including, but not limited to, jurisdictions in which the Client is a citizen or resident and jurisdictions in which the Client possesses assets.
- 42.3 This Clause 42 shall survive any termination of the relationship between Muhabura and the Client.

**43. STATUS OF TERMS, COUNTRY ANNEXES, ADDITIONAL APPLICABLE BUSINESS TERMS, ETC.**

- 43.1 All Contracts are entered into in reliance on the fact that these Terms and all Contracts form a single agreement between the Client and Muhabura, and the parties would not otherwise enter into any Contracts. Without limiting

the foregoing, all obligations between the Client and Muhabura, including the Secured Obligations, are connected and originate from one and the same commercial relationship.

- 43.2 If, at any time, any provision of these Terms is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Terms under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall be in any way affected.
- 43.3 As an integrated part of these Terms, Client's resident, incorporated or organised (as applicable) in certain countries are subject to additional terms set out in country annexes to these Terms. These country annexes supplement and have priority over the rest of the Terms in respect of the Clients to which they apply.
- 43.4 In addition to these Terms and the "Order Execution Policy" shall apply to the relationship between Muhabura and the Client.
- 43.5 The Client may not assign or transfer any of its rights or obligations under these Terms and/or a Contract except with the express approval of Muhabura and the completion of such client adoption procedures to the satisfaction of Muhabura.
- 43.6 Muhabura may assign or transfer any of its rights or obligations under these Terms and/or a Contract to any regulated financial institution.
- 43.7 All transactions undertaken by the Client shall be subject to these Terms.
- 43.8 The rights and remedies contained in these Terms are cumulative and not exclusive of any rights or remedies provided by law.
- 43.9 No delay or omission on the part of Muhabura in exercising any right, power or remedy provided by law or under these Terms, or partial or defective exercise thereof, shall:
- 43.9.1 Impair or prevent further or other exercise of such right, power or remedy; or
- 43.9.2 Operate as a waiver of such right, power or remedy.
- 43.10 No waiver of any breach of these Terms shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same Clause or as authorising a continuation of the particular breach.
- 43.11 Muhabura or third parties may have provided the Client with translations of these Terms. The original English versions of these Terms shall be the only versions that are legally binding upon the Client and Muhabura.
- 43.12 The Client accepts that Muhabura is closed on certain holidays in Mauritius.
- 43.13 If there is any conflict between these Terms and relevant Market Rules, the Market Rules shall prevail.



## SCHEDULES

### 1. RISK DISCLOSURE STATEMENT FOR TRADES IN FOREIGN EXCHANGE AND DERIVATIVES (INCLUDING CFD'S, FUTURES AND OPTIONS)

1.1 This brief statement, which constitutes an addition to these Terms, does not disclose all of the risks and other significant aspects of trading foreign exchange and derivatives. In consideration of the risks, you should enter into transactions with the mentioned products only if you understand the nature of the contracts and the contractual legal relationship into which you are entering and the extent of your exposure to risk. Transactions in foreign exchange and derivatives are not suitable for many members of the public. You should carefully consider whether transacting is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.

### 2. EFFECT OF "LEVERAGE" OR "GEARING"

2.1 Transactions in foreign exchange and derivatives carry a high degree of risk. The amount of initial margin may be small relative to the value of the foreign exchange or derivatives contract so that transactions are "leveraged" or "geared". A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit; this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with Muhabura to maintain your position. If the market moves against your position and/or Margin Requirement is increased, you may be called upon to deposit additional funds on short notice to maintain your position. Failing to comply with a request for a deposit of additional funds, may result in closure of your position(s) by Muhabura on your behalf and you will be liable for any resulting loss or deficit.

### 3. RISK-REDUCING ORDERS OR STRATEGIES

3.1 The placing of certain orders (e.g. "stop-loss" orders, where permitted under local law, or "stop-limit" orders), which are intended to limit losses to certain amounts, may not be adequate given that markets conditions make it impossible to execute such orders, e.g. due to illiquidity in the market. Strategies using combinations of positions, such as "spread" and "straddle" positions may be as risky as taking simple "long" or "short" positions.

### 4. VARIABLE DEGREE OF RISK

4.1 Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e., put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs. The purchaser of options may offset or exercise the options or allow the option to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on leverage or gearing above). If the purchased option is out-of-the-money when it expires, you will suffer a total loss of your investment, which will consist of the option premium plus transaction costs. If you are contemplating purchasing out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

44.1 Selling ("writing" or "granting") an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount.



The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on leverage or gearing above). If the option is "covered" by the seller holding a corresponding position in the underlying asset, in a future or in another option, the risk may be reduced. In case the option is not covered, the risk of loss can be unlimited.

- 4.2 Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

## 5. **TERMS AND CONDITIONS OF CONTRACTS**

- 5.1 You should ask the firm with which you deal about the terms and conditions of the Contracts entered into and information on associated obligations (e.g., the circumstances under which you may become obligated to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

## 6. **SUSPENSION OR RESTRICTION OF TRADING AND PRICING RELATIONSHIPS**

- 6.1 Market condition (e.g illiquidity) and/or the operation of the rules of certain markets (e.g., the suspension of trading in any contract or contract month because of price limits or "circuit breakers") may increase the risk of loss by making it difficult or impossible to effect transactions or close/ offset positions. If you have sold options, this may increase the risk of loss.
- 6.2 Normal pricing relationships between the underlying asset and a derivative do not always exist. The absence of an underlying reference price may make it difficult to judge "fair" value.

## 7. **DEPOSITED CASH AND PROPERTY**

- 7.1 You should familiarize yourself with the protections accorded the Collateral you deposit by way of money or other assets in domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or other assets is governed by the legislation and local rules in the country at which location the counterparty acts.

## 8. **COMMISSION AND OTHER CHARGES**

- 8.1 Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit or loss.

## 9. **TRANSACTIONS IN OTHER JURISDICTIONS**

- 44.2 Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation, which may offer different or diminished investor protection. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected.





## 10. CURRENCY RISKS

- 10.1 The profit or loss in transactions in foreign currency-denominated contracts in another currency than your account currency will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to the account currency.

## 11. TRADING FACILITIES

- 11.1 Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary: you should ask the firm with which you deal for details in this respect.

## 12. ELECTRONIC TRADING

- 12.1 Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware
- 12.2 and software. The result of any system failure may be that your order is either not executed according to your instructions, is not executed at all and a lack of capability to keep you informed continuously about your positions and fulfilment of the Margin Requirement.

## 13. OFF-EXCHANGE TRANSACTIONS

- 13.1 In some jurisdictions firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterpart to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize yourself with applicable rules and attendant risks.

These Terms are applicable from 23<sup>rd</sup> August 2021 and shall remain effective until a more recent version is released.