



**FXopen**  
when money makes money

**FXOpen Markets Limited**

P.O. Box 590, Springates East, Government Road,  
Charlestown, Nevis

[www.fxopen.com](http://www.fxopen.com)

# **CUSTOMER AGREEMENT**

**FOR ECN ACCOUNTS**

CA ECN 2021-06-01



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This is a legal contract (hereinafter referred to as "Agreement") between FXOpen Markets Limited, whose registered office is located at P.O. Box 590, Springates East, Government Road, Charlestown, Nevis, Company number C 42235 acting in accordance with the Articles of Association, its successors and assigns (hereinafter referred to as FXOpen), and the any individual or legal entity or other corporate body (hereinafter referred to as "Customer" or "Client") who has completed the application to open an Individual/Corporate Trading Account. In consideration of FXOpen shall carry one or more accounts of the undersigned Customer and provide services to the Customer in connection with the purchase and sale of financial instruments contracts, the Customer agrees to the following:

## **1. SUBJECT OF THE ECN/STP CUSTOMER AGREEMENT**

This Agreement governs all transactions between the Customer and FXOpen performed on ECN and TickTrader ECN trading accounts, including Net and Gross ECN accounts (hereinafter referred to as the "ECN Account (-s)").

Subject to the terms expressly stipulated below FXOpen shall provide services in respect of foreign exchange and precious metals contracts, contracts for difference, oil and natural gas (hereinbelow referred to as "FX contracts") to retail and wholesale clients.

FX contract shall mean a leveraged transaction made via FXOpen electronic trading platforms for the purchase or sale of a financial instrument, aimed on generating profit arising out of speculating activity or for hedging purposes, provided that such transaction does not give rise to an obligation relating to, or resulting in physical delivery of financial instrument and does not assume currencies conversion operations subject to physical delivery. For the removable of doubts upon settlement of the FX contract, the difference in value between the opening and closing positions will either be credited or debited to the Customer's account according to the profit or loss for the transaction.

FXOpen executes all trading orders subject to the available liquidity. FXOpen will provide execution through the FXOpen ECN/STP trading system.

FXOpen holds the multi-currency exposure as such corresponds to all the Customer's transactions.

## **2. KEEPING YOUR ACCOUNT SAFE**

The registered e-mail address and the Password are used to enter Your My FXOpen area. You must take all reasonable steps to keep Your registered e-mail address, the Password, login and password to ECN Account and Exchange Platform Terminal, telephone password used for communications with FXOpen (collectively - Credentials) safe at all times and never disclose it to anyone.

You must take all reasonable care to ensure that Your registered e-mail account as part of the Credentials is secure and only accessed by You, as Your registered e-mail address may be used to reset other Credentials or to communicate with You about the security of Your ECN Account. In case the registered e-mail address is compromised, You should without undue delay after becoming aware of this contact Customer Service and also contact Your registered e-mail service provider.

In relation to the Credentials, You hereby acknowledge and undertake that:

- (a) You will be responsible for the confidentiality and use of Your Credentials;
- (b) other than with FXOpen prior written consent, You will not disclose Your Credentials to persons other than your authorized representatives for any purpose whatsoever;



- (c) FXOpen may rely on all instructions, orders and other communications entered using valid Credentials, and You will be bound by any transaction entered into or expense incurred on the Your behalf in reliance on such instructions, orders and other communications; and
- (d) You will immediately notify FXOpen at our sales and/or customer support desk if You become aware of the loss, theft or disclosure to any third party or of any unauthorized use of Your Credentials.

Our personnel will never ask You to provide Your Password and/or login to the registered email to us or to a third party. Any message You receive or website You visit that asks for Your Credentials, other than the Website, should be reported to us. If You are in doubt whether a website is genuine, You should contact our Customer Service. You must never allow anyone to access Your ECN Account or watch You accessing Your ECN Account.

If you have any indication or suspicion that Your Credentials being lost, stolen, misappropriated, used without authorisation or otherwise compromised, You are strongly advised to change all your passwords forming part of Your Credentials. You must contact Customer Service without undue delay on becoming aware of any loss, theft, misappropriation or unauthorised use of Your Credentials. Regardless of Your notification You shall be liable for any losses as a result and You agree to indemnify and hold FXOpen, its affiliates, employees, agents, successors and assigns harmless from and against any and all liabilities, losses, damages, costs and expenses, including attorney's fees, incurred by us arising out of Your failure to fully and timely perform the Your obligations herein or should any of the representations and warranties fail to be true and correct. You also agree to pay promptly to us all damages, costs and expenses, including attorney's fees, incurred by us arising out of Your failure to fully and timely perform the Your obligations herein.

The processing of Your data is governed by our Privacy Policy which can be found on the Website. By accepting this Agreement, You also agree to the terms of our Privacy Policy.

We may suspend Your or otherwise restrict its functionality on reasonable grounds relating to the security of the ECN Account or any of the Credentials or if we reasonably suspect that an unauthorised or fraudulent use of Your ECN Account has occurred or that any of the Credentials have been compromised. We will notify You of any suspension or restriction and of the reasons for such suspension or restriction in advance or, where we are unable to do so, immediately after the suspension or restriction has been imposed, unless notifying You would be unlawful or compromise our reasonable security interests. We will lift the suspension and/or the restriction as soon as practicable after the reasons for the suspension and/or restriction have ceased to exist. Further, if we believe that You supplied Your Credentials to other persons in breach of subparagraph above, then we may terminate this Agreement immediately or take such other action as we may determine in its sole and absolute discretion

You shall be solely responsible for providing and maintaining any equipment and software and for making all appropriate arrangements with any telecommunications suppliers or, where access to the ECN Account is provided through a third party server, any such third party, necessary in order to obtain access to the ECN Account. Neither we nor any company maintaining, operating, owning, licensing, or providing services to us in connection with ECN Account makes any representation or warranty as to the suitability or otherwise of any such equipment, software or arrangements.

Irrespective of whether You are using a public, a shared or Your own computer to access Your ECN Account, You must always ensure that Your login details are not stored by the browser or cached or otherwise recorded. You should never use any functionality that allows login details or passwords to be stored by the computer You are using.



### **3. MARGINS AND DEPOSIT REQUIREMENTS**

The Customer shall provide to, and maintain with FXOpen margin in amounts and in forms, as FXOpen, in its sole discretion, requires. FXOpen may change margin requirements at any time. No previous margin requirement by FXOpen shall prevent FXOpen from increasing that requirement without prior notice. FXOpen retains the right to limit the amount and/or total number of open positions that Customer may acquire or maintain at FXOpen. It is the responsibility of the Customer to maintain the minimum Margin Level requirements to support all open positions without notice from FXOpen. The Customer hereby assumes that if he/she fails to comply with margin requirements, FXOpen in its sole discretion may liquidate any or all of open positions as per Stop out procedure. FXOpen is not obliged to make any warnings to the Customer prior to liquidating the position for insufficient margin. FXOpen shall not be responsible for any loss or damage caused, directly or indirectly, by any events, actions or omissions including but not limited to loss or damage resulting, directly or indirectly, from any delays or inaccuracies in the transmission of orders and/or information due to a breakdown in or failure of any transmission or communication facilities. For example, in volatile market conditions, margin calls may be delayed resulting in the possibility of a negative usable margin; a margin call may occur even if positions are hedged due to currency conversion rate or daily interest if appropriate.

### **4. CARRYING POSITIONS FORWARD**

A position will be carried forward at the initial execution price until it is eventually closed by Customer or by FXOpen under the provisions of Paragraph 7 (Liquidation of Accounts). Consistent with FXOpen policy, a position that is carried forward may be credited or debited interest charges, as may be defined in the Terms of Business and/or on the official website, until the position is closed if appropriate.

### **5. COLLATERAL**

All funds, securities, currencies, and other property of the Customer which FXOpen or its affiliates may at any time be carrying for the Customer (either individually, jointly with another, or as a guarantor of the account of any other person) which may at any time be in its possession or control or carried on its books for any purpose, including safekeeping, are to be held by FXOpen as security and is subject to a general lien and right to set-off for liabilities of the Customer to FXOpen whether or not FXOpen has made advances in connection with securities, commodities, currencies or other property, and irrespective of the number of accounts Customer may have with FXOpen. The Customer hereby also grants FXOpen the right to pledge, re-pledge, hypothecate, invest or loan, either separately or with the property of other Customers, to itself as broker or to others, any securities or other property of Customer held by FXOpen as margin or security. FXOpen shall at no time be required to deliver to the Customer the identical property delivered to or purchased by FXOpen for any account of Customer.

### **6. SETTLEMENT DATE AND ROLLOVERS**

The Customer authorizes FXOpen to rollover all Open Positions in the Customer's Trading Account, at the Customer's risk, into the next settlement time period upon such terms as FXOpen determines, in its sole discretion. The positions will be rolled over by debiting or crediting the Customer's Trading Account with the amount calculated in accordance with the FXOpen's Rollover/Interest Policy if appropriate.



## **7. BUSTED TRADES**

FXOpen shall have the right to annul and/or reverse any trades which are deemed untrue or opened at a fictitious price not existing on the market at the time of opening or are in breach with the subject of this Agreement as expressly stipulated in the clause 1 above.

Without limiting the foregoing, if FXOpen, in its reasonable discretion, determines that the Customer is engaging or has engaged in trading strategies or activities designed intentionally to exploit errors in price quotations and/or delay, disruption, failure or malfunction of any transmission or communication system or software, FXOpen may upon notice to the Customer restrict or modify Customer's access to price quotations, cancel trades, or terminate Customer's access to FXOpen ECN/STP trading system.

## **8. LIQUIDATION OF ACCOUNTS**

In the event of (a) the death or judicial declaration of incompetence by the Customer; (b) the filing of a petition in bankruptcy, or a petition for the appointment of a receiver, or the institution of any insolvency or similar proceeding by or against the Customer; (c) the filing of an attachment against any of the Customer's accounts carried by FXOpen, (d) insufficient margin, or FXOpen's determination that any collateral deposited to protect one or more accounts of the Customer is inadequate, regardless of current market quotations, to secure the account; (e) the Customer's failure to provide FXOpen any information requested pursuant to this agreement; or (f) any other circumstances or developments that FXOpen may deem appropriate for its protection, in FXOpen's sole discretion, it may take one or more, or any portion of the following actions: (1) satisfy any obligation the Customer may have to FXOpen, either directly or by way of guarantee with any of the Customer's funds or property in its custody or control or in the custody or control of any FXOpen affiliate; (2) sell or purchase any or all FX contracts, securities or other property held or carried for the Customer; (3) cancel any or all outstanding orders or contracts, or any other commitments made with the Customer. Any of the above actions may be taken without demand for margin or additional margin, without prior notice of sale or purchase or other notice to the Customer, the Customer's personal representatives, heirs, executors, administrators, trustees, legatees or assigns and regardless of whether the ownership interest shall be solely the Customer's or held jointly with others. In the liquidation of the Customer's long or short positions, FXOpen may, in its sole discretion, offset in the same settlement or it may initiate new long or short positions in order to establish a spread or straddle which in FXOpen's sole judgment may be advisable to protect or reduce existing positions in the Customer's account. Any sales or purchases hereunder may be made according to FXOpen's judgment and at its sole discretion.

FXOpen does not provide services for the persons who reside in the USA, its territories or possessions and in the countries identified by the FATF as high risk and non-cooperative jurisdictions due to adequate AML controls. FXOpen does not accept transfers to/from the accounts held in the banks and/or other payments institutions incorporated in the USA, its territories or possessions or in the Countries identified by the FATF as high risk and non-cooperative jurisdictions due to adequate AML controls. In case FXOpen knows or suspects or has reasonable grounds to know or suspect that the Customer became a resident of the USA, its territories or possessions, or in the countries identified by the FATF as high risk and non-cooperative jurisdictions due to adequate AML controls FXOpen will immediately close all outstanding positions and block the accounts in question.

## **9. CHARGES**

The Customer shall pay any such charges (including, without limitation, markups and markdowns, statement charges, idle account charges, order cancellation charges, account transfer charges or other charges), costs



including litigation and independent dispute resolution costs, expenses and fees including attorneys' fees, arising directly or indirectly out of FXOpen providing services hereunder including without limitation those associated with dispute resolution or any customer's complaint filled with FXOpen, investigation of any kind included those provided by third parties, consultation with third parties conducted by FXOpen and requests for preparing by third parties of an official statement on the results of such comprehensive investigation or consultation handled.

For the removal of doubts the Customer remains liable for all charges/costs/expenses/fees incurred by FXOpen regarding customer's requests claims or complaints if such requests could not be comprehensively satisfied without involving of third parties.

FXOpen may change its charges/costs/expenses/fees without prior notice. All such charges/costs/expenses/fees shall be paid by the Customer as they are incurred, or as FXOpen in its sole and absolute discretion may determine, and the Customer hereby authorizes FXOpen to withdraw the amount of any such charges/costs/expenses/fees from the Customer's account(s).

## **10. REMUNERATION, OPERATIONAL PREMIUMS, EXPENSES AND COMMISSIONS**

The execution of the Customer's trading orders and the maintenance of the Customer's multi-currency exposure and margin account as defined in this Agreement, shall charge a commission to the Customer. The commission varies according to the type of operations performed by FXOpen. The current commissions are listed on the website [www.fxopen.com](http://www.fxopen.com) and may be amended by FXOpen without prior notice to the Customer. The Customer agrees to review FXOpen's website to check for changes in policies and procedures. However, in the case of managed accounts, the commission is mentioned in the report concerning the transactions performed on the Customer's account.

The execution of the Customer's trading order by FXOpen are based on the conditions provided by a number of Counterparties involved which may apply different trading conditions, e.g. prices, commissions, overnights, leverages etc. FXOpen shall not be obliged to apply the conditions received by the Counterparties to each particular transaction of the Customer. Any and all such differences shall compose Operational Premiums or Operational Expenses of FXOpen. Neither Operational Premiums, nor the Operational Expenses shall be subject to any reimbursement duty by either party, and the Customer expressly releases FXOpen from any duty to inform the Customer of the amount of such Operational Premiums or Operational Expenses, if any.

The Customer acknowledges, recognizes and agrees that FXOpen may occasionally receive or pay certain fees from or to Counterparties, introducing brokers, external managers or any other third parties involved in the transactions executed by FXOpen for the account of its Customers, including the Customer. The Customer agrees that such fees, if any, are paid to FXOpen as part of FXOpen's remuneration under this Trading Agreement is entitled to retain such amount. The calculation method is not standardized and will be calculated on case by case basis in accordance with agreements between FXOpen and its Counterparties, the amount of such fees cannot be detailed in this Agreement. However, FXOpen will provide the Customer, upon written request, with any information, reasonably attained, regarding payments related to fees.

## **11. DEPOSIT/WITHDRAWAL TRANSACTIONS**

FXOpen shall neither receive nor disburse Customer's funds in cash currency. All transactions between the Customer and FXOpen shall be performed by wire or other methods, in which, the identities of both the sending and receiving parties can be verified by FXOpen and which FXOpen in its sole discretion shall deem appropriate. FXOpen shall not accept deposits from any third party to the Customer's account, FXOpen shall not withdraw any funds from the Customer's account to any third party until otherwise agreed in written



between the parties hereto. FXOpen shall perform wire transactions only between the Customer's FXOpen account and another account which is held in the Customer's name or of which the Customer clearly demonstrates ownership to FXOpen.

If the funds sent (i) via wire transfer do not hit the bank account of the Customer during 10 business days, or (ii) if the funds sent via bank transfer are not deposited in the Customer's trading account within 10 business days, or (iii) if the funds sent by other than wire transfer method do not hit the account of the Customer within 5 trading days, or (iv) or if the funds sent by other than wire transfer method are not deposited in the Customer's trading account within 5 business days the Customer shall have the right to apply to FXOpen with request to make a banking investigation of the transfer.

The Customer shall understand that the banking investigation may entail commission charges which must be paid by the Customer except the cases of the mistakes in withdrawals made by the specialists of the FXOpen. The method of payment of commission charges shall be determined by FXOpen individually and may be done by both transfer of necessary amount to the FXOpen's account and withdrawal of necessary amount from the trading account of the Customer.

The Customer shall provide FXOpen with all necessary documents needed for investigation purposes.

## **12. STATEMENTS AND CONFIRMATION**

Reports of the confirmation of orders and statements of accounts for the Customer shall be deemed correct and shall be conclusive and binding upon the Customer, if not objected to immediately upon receipt and confirmed in writing, within (1) day after electronic transmittal to the Customer. Instead of sending trade confirmations via postal mail, FXOpen will provide the Customer access to view the Customer's account at any time with an online login via the Internet.

## **13. COMMUNICATIONS**

Reports, statements, notices and any other communications will be transmitted to the Customer electronically by posting to the Customer's online account or via e-mail to the e-mail address on the Customer's application, or to such other e-mail address as the Customer may from time to time designate to FXOpen. All communications so posted or sent shall be deemed transmitted by FXOpen when posted or sent and deemed delivered to the Customer personally, whether actually received by the Customer or not.

## **14. FXOPEN'S RESPONSIBILITIES**

FXOpen will make all possible endeavors to execute trading orders placed by the Customer. The Customer hereby understands that FXOpen is unable to guarantee the execution or the Customer's orders or requests and that the Customer will not hold FXOpen liable for any failure in the execution process. FXOpen shall not be liable to the Customer for any claims, losses, damages, costs or expenses, lost opportunity to trade, including attorneys' fees, caused, directly or indirectly, by any events, actions or omissions, including, without limitation, claims, losses, damages, costs or expenses, including attorneys' fees, resulting from civil unrest, war, insurrection, international intervention, governmental action (including, without limitation, exchange controls, forfeitures, nationalizations, devaluations), natural disasters, acts of God, market conditions, inability to communicate with any relevant person or any delay, disruption, failure or malfunction of any transmission or communication system or computer facility, whether belonging to FXOpen, the Customer, any market, or any settlement or clearing system FXOpen will not be responsible for delays in the transmission of orders due to a breakdown or failure of transmission or communication facilities, electrical power outage or for any other



cause beyond FXOpen' control or anticipation. FXOpen shall not be liable for losses arising from the default of any agent or any other party used by FXOpen under this agreement.

## 15. FXOPEN'S RIGHTS

The Customer acknowledges that FXOpen has the following rights:

- 1) To reject any order or instruction the Customer may place.
- 2) To cancel or adjust the transaction of the Customer.
- 3) To provide the Customer's account with any trade requested or deemed necessary by FXOpen.
- 4) Notwithstanding any other provisions of this Agreement, FXOpen shall be entitled to restrict access to, impose limits on, suspend, stop or cancel trading in the FXOpen ECN/STP trading system (including, without limitation, discontinuing the Customer's use of the API) either generally or of particular financial instrument, transactions or customers, or to discontinue transmission of any or all information. FXOpen may refuse to facilitate or proceed with any transactions or refuse access to the FXOpen ECN/ STP trading system at FXOpen sole discretion, as a result of any of the following:
  - ✓ Full or partial failure of the FXOpen ECN/STP trading system, including failure of the technology constituting the marketplace trading system or any of the communications linked to the FXOpen ECN/STP trading system and the Customer and/or any of the Counterparties, or any other circumstance which is deemed impractical to use the FXOpen ECN/STP trading system.
  - ✓ A breach of security of the FXOpen ECN/STP trading system.
  - ✓ A material breach by the Customer of his obligations under this Agreement or any of agreement with FXOpen (including the Account Opening Documentation).
  - ✓ Non-compliance by the Customer of any applicable laws.
  - ✓ Market conditions generally or conditions affecting a particular financial instrument rendering it necessary or desirable (at FXOpen sole discretion).
  - ✓ Absence of liquidity.

Any such actions taken by FXOpen in accordance with this Section, shall continue for such a time period as FXOpen reasonable determines it to be necessary.

- 5) For the purposes of mitigating and managing the potential fraud and/or ML/TF risks faced by FXOpen and without derogating from the generality of FXOpen rights as expressly stipulated above, FXOpen reserves the right in its sole discretion to block Customer's account and all funds held on such account and prohibit any activity including but not limited to withdrawals for the term of internal investigation but not less than 180 days, providing that FXOpen has reasonable suspicious that the Customer's activity (i) does not comply with services provided by FXOpen and the provisions of this Agreement, and/or (ii) is fraudulent, and/or (iii) is in breach with the law, present Agreement and FXOpen Anti-money laundering and Counter-Terrorism Policies.
- 6) In order for FXOpen to show prices with the speed associated with speculative trading, FXOpen may have to rely on available price that may later prove to be incorrect. In such a case, FXOpen may cancel or adjust the trade with the Customer, but shall do so within reasonable time and shall provide the Customer with a full explanation for actions taken.



- 7) FXOpen shall have at its sole discretion, control over and the right to modify the functionality of the FXOpen ECN/STP trading system's price feeds, configurations and content, including but not limited to:
- ✓ The parameter and protocols, by which the trading orders are placed, routed, matched or otherwise processed by the FXOpen ECN/STP trading system.
  - ✓ The availability of the FXOpen ECN/STP trading system with respect to particular financial instrument or transaction at any particular time or location.

## 16. RISKS ACKNOWLEDGMENT

The Customer acknowledges that in leveraged transactions are speculative, involve a high degree of risk, and is appropriate only for persons who can assume risk of loss of their margin deposit. The Customer understands that because of the low margin normally required in trading FX contracts, price changes in FX contracts may result in the loss of the Customer's margin deposit. The Customer warrants that the Customer is willing and able, financially and otherwise, to assume the risk of FX contracts trading, and in consideration of FXOpen carrying his/her account(s), the Customer agrees not to hold FXOpen responsible for losses incurred through following any information received from FXOpen or those of its employees, agents or representatives. The Customer recognizes that guarantees of profit or freedom from loss are impossible performances in FX contracts trading. The Customer acknowledges that the Customer has received no such guarantees from FXOpen or from any of its representatives or any introducing agent or other entity with whom the Customer is conducting his/her FXOpen account and has not entered into this agreement in consideration of or in reliance upon any such guarantees or similar representations.

If the Customer directs FXOpen to enter into any FX contracts: (a) any profit or loss arising as a result of a fluctuation in the exchange rate affecting such currency will be entirely for the Customer's account and risk; (b) all initial and subsequent deposits for margin purposes shall be made in USD, or any other currency which FXOpen may choose to accept, in such amounts as FXOpen may in its sole discretion require, with subsequent deposits being in the same currency as the initial deposit; and (c) FXOpen is authorized to convert funds in Customer's account for margin into and from such financial instrument at a rate of exchange determined by FXOpen in its sole discretion on the basis of the then prevailing money market rates.

Foreign exchange trading can involve a high degree of volatility which may result in substantial movements in the level of the Customer's multi-currency exposure, possibly leading to significant losses. The risk that the value of Customer's open positions may change even though trading for the relevant financial instrument is not available and the Customer is not able to open or close a position until trading reopens. This may result in suffering a financial loss or a lost opportunity to trade.

Execution risk (delays in execution): the risk that an execution the Customer places is delayed or not executed due to a delay in transmission of data between Customer's trading platform and FXOpen's servers (see System Risk). This may result in the available price the Customer had placed an order at no longer being available. As the Customer will generally be accessing the trading platform over a third party Internet service provider there is a risk that this may be caused by the Customer's computer not maintaining a constant connection with the FXOpen servers.

Systems risk: the operational systems risk inherent in online trading systems apply to every trade placed. This includes disruptions to communications, IT systems, software or hardware errors or other events that delay, interrupt or otherwise effect our systems operation. In the event such a disruption to the system does occur, the Customer may suffer a financial loss or loss of opportunity. In accordance with this Agreement and relevant Terms of Business, FXOpen makes no warranties and is not liable in relation to the operation of the trading



platform or any other related service offered by FXOpen except to the case when disruption is caused by the fraud or dishonesty on the part of FXOpen or its employees, agents or representatives.

The Customer is responsible for the ongoing maintenance of multi-currency exposure which may expose the Customer to increased risks of losses and may lead to significant losses. The Customer agrees to not hold FXOpen liable for any losses incurred as a consequence of FXOpen maintaining such multi-currency exposure in the Customer's account.

The Customer acknowledges that market regulations and/or a significant imbalance of supply and demand, or a lack of liquidity may result in the temporary inability to buy or sell orders. This may result in the Customer holding positions for longer than desire or having to liquidate due to insufficient margin, which may result in losses up to or in excess of deposits.

The Customer and FXOpen agree to comply with all rules, regulations, general practices and any other guidelines in force on relevant marketplaces and with counterparties FXOpen may operate.

## **17. TRADING RECOMMENDATIONS**

The Customer acknowledges that:

- (i) any market recommendations and information communicated to the Customer by FXOpen or by any person within the company, does not constitute financial advice or solicitation of an offer to sell or an offer to buy any FX contract,
- (ii) such recommendation and information, although based upon information obtained from sources believed by FXOpen to be reliable, may be based solely on a broker's opinion and that such information may be incomplete and may be unverified, and
- (iii) FXOpen makes no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy or completeness of any information or trading recommendation provided to the Customer. The Customer acknowledges that FXOpen and/or its officers, directors, affiliates, associates, stockholders or representatives may have a position in or may intend to buy or sell FX contracts which are the subject of market recommendations provided to the Customer, and that the market position of FXOpen or any such officer, director, affiliate, associate, stockholder or representative may not be consistent with the recommendations furnished to the Customer by FXOpen. The Customer acknowledges that FXOpen makes no representations concerning the tax implications or treatment of FX contracts.

## **18. CUSTOMER REPRESENTATIONS AND WARRANTIES**

18.1. The Customer represents and warrants that:

- (a) the Customer is of sound mind, legal age and legal competence; and,
- (b) the funds on the Customer's account(s) are the Customer's own funds and are legitimately acquired and have not been derived directly or indirectly from any act or omission that may constitute an offence or as a result of or in connection with any criminal conduct and no person other than the Customer has or will have an interest in the Customer's account(s); and,
- (c) the Customer hereby warrants that regardless of any subsequent determination to the contrary, the Customer is suitable to trade FX contracts; and,
- (d) the Customer is not now an employee of any exchange, any corporation in which any exchange owns a majority of the capital stock, any member of any exchange and/or firm registered on any exchange,



or any bank, trust, or insurance company, and in the event that the Customer becomes so employed, the Customer will promptly notify FXOpen via e-mail of such employment; and,

- (e). the Customer is not the U.S. person in the meaning of the applicable US federal laws and CFTC regulations as of the date of this agreement commencement and will remain the same throughout its validity term; and
- (f). all the information provided during the account opening process and represented and warranted above is true correct and complete as of the date hereof and will remain true, correct and complete for the whole period of the relationships with FXOpen. The Customer will notify FXOpen in writing, within one day of any changes in such information hereof.

18.2. The Customer hereby confirms and acknowledges his/her express consent to eliminate the confidential nature of all communications regarding without limitation any disputes, legal proceeding, public statements between the parties hereto or its results including courts or other dispute resolution schemes decision on the matter. The Customer further agrees that FXOpen may disclose on its sole discretion the contents of such communication where and when FXOpen deems it necessary.

18.3. The Customer represents and warrants that he will immediately notify FXOpen about any detected error in the trading platform, ECN Account or My FXOpen Area, affecting the interests of the Customer and to cease all further actions with the functionality of systems, except for those actions that are aimed at preventing loss on the client. The Customer hereby confirms and acknowledges that the Customer will not use the system error in their own interest. Violation of these provisions will make FXOpen to execute its rights under the Customer's indemnification responsibilities described below in clause 26 and may result in, among other things, termination or suspension of your right to use the service.

## **19. DISCLOSURE OF FINANCIAL INFORMATION**

The Customer represents and warrants that the financial information disclosed to FXOpen in this document is an accurate representation of the Customer's current financial condition. The Customer represents and warrants that in determining the Customer's Net Worth, Assets and Liabilities were carefully calculated, Liabilities were subtracted from Assets to determine the value that the Customer has included in the financial information as Net Worth. The Customer represents and warrants that in determining the value of Assets, the Customer included cash and/or cash equivalents, Marketable securities, real estate owned (excluding primary residence), the cash value of life insurance and other valuable Assets. The Customer represents and warrants that in determining the value of Liabilities, the Customer includes notes payable to banks (secured and unsecured), notes payable to relatives, real estate mortgages payable (excluding primary residence) and other debts. The Customer represents and warrants that in determining the Customer's Liquid Assets the Customer included only those Assets that can be quickly (within one day's time) converted to Cash. The Customer represents and warrants that the Customer has very carefully considered the portion of the Customer's assets which the Customer considers to be Risk Capital. The Customer recognizes that Risk Capital is the amount of money the Customer is willing to put at risk and if lost would not, in any way, change the Customer's lifestyle. The Customer agrees to immediately inform FXOpen if the Customer's financial condition changes in such a way to reduce the Customer's Net Worth, Liquid Assets and/or Risk Capital.

## **20. NO GUARANTEES**

The Customer acknowledges that the Customer has no separate agreement with the Customer's broker or any FXOpen employee or agent regarding the trading in the Customer's FXOpen account, including any agreement to guarantee profits or limit losses in the Customer's account. The Customer understands that the



Customer is under an obligation to notify FXOpen's Compliance Officer immediately in writing as to any agreement of this type. Furthermore, the Customer understands that any representations made by anyone concerning the Customer's account that differ from any statements the Customer receives from FXOpen must be brought to the attention of FXOpen's Compliance Officer immediately in writing. The Customer understands that the Customer must authorize every transaction prior to its execution unless the Customer has delegated discretion to another party by signing FXOpen's limited trading authorization, and any disputed transactions must be brought to the attention of FXOpen's Compliance Officer pursuant to the notice requirements of this Customer Agreement. The Customer agrees to indemnify and hold FXOpen harmless from all damages or liability resulting from the Customer's failure to immediately notify FXOpen's Compliance Officer of any of the occurrences referred to herein. All notices required under this section shall be sent to FXOpen at its home office. Furthermore, FXOpen shall make no guarantees that any order shall be executed with or without price gaps or not executed at all. The ability to execute an order is dependent upon FXOpen's ability to offset the trade at FXOpen's clearing houses, at FXOpen's sole discretion.

In case of any dispute arisen FXOpen reserves the right to apply to third parties for advice and/or conducting respective investigation, expertise or analysis, including without limitation on a fee paid basis and FXOpen shall retain the right to recharge such costs to the Customer with respect to clause 8 herein above.

## **21. CREDIT**

The Customer authorizes FXOpen or agents acting on behalf of FXOpen to investigate the Customer's credit standing and in connection therewith to contact such banks, financial institutions and credit agencies as FXOpen shall deem appropriate to verify information regarding the Customer. The Customer further authorizes FXOpen to investigate the Customer's current and past investment activity, and in connection therewith, to contact such futures commission merchants, exchanges, broker/dealers, banks, and compliance data centers as FXOpen shall deem appropriate. Upon reasonable request made in writing by the Customer to FXOpen, the Customer shall be allowed to review any records maintained by FXOpen relating to the Customer's credit standing. The Customer shall also be allowed, at the Customer's sole cost and expense, to copy such records.

## **22. JOINT ACCOUNTS**

If more than one natural person executes this Agreement as the Customer, all such natural persons agree to be jointly and severally liable for the obligations assumed in this Agreement. All such natural persons may act individually and FXOpen will rely on all instructions, orders and other communications entered by any of such natural persons using valid Credentials. All such natural persons will be bound by any transaction entered into or expense incurred on their behalf regardless of the fact who has issued respective instructions.

If this Agreement is executed by a trust, unincorporated association, partnership, custodian or other fiduciary, such Customer hereby agrees to indemnify, defend, save and hold free and harmless FXOpen for any liabilities, claims, losses, damages costs and expenses, including attorneys' fees, resulting directly or indirectly from breach of any fiduciary or similar duty or obligation or any allegation thereof, including attorneys' fees.

## **23. NO WAIVER OR AMENDMENT**

No provision of this Agreement may be waived or amended unless the waiver or amendment is either in writing and signed by both the Customer and an authorized officer of FXOpen or expressly reflected on the official FXOpen website [www.fxopen.com](http://www.fxopen.com). No waiver or amendment of this Agreement may be implied from any course of dealing between the parties or from any failure by FXOpen or its agents to assert its rights under this Agreement on any occasion or series of occasions. No oral agreements or instructions to the contrary



shall be recognized or enforceable. This instrument and the attachments hereto together with other client's documents and information contained on the official FXOpen website embody the entire agreement of the parties, superseding any and all prior written and oral agreements and there are no other terms, conditions or obligations other than those contained herein.

#### **24. BINDING EFFECT**

This Agreement shall be continuous and shall cover, individually and collectively, all accounts of the Customer at any time opened or reopened with FXOpen irrespective of any change or changes at any time in the personnel of FXOpen or its successors, assigns, or affiliates. This Agreement including all authorizations, shall inure to the benefit of FXOpen and its successors and assigns, whether by merger, assignment, consolidation or otherwise. Such assignment may be made without prior notification to the Customer and shall be binding upon the Customer and/or the estate, executor, trustees, administrators, legal representatives, successors and assigns of the Customer. The Customer hereby ratifies all transactions with FXOpen prior to the date of this Agreement, and agrees that the rights and obligations of Customer in respect thereto shall be governed by the terms of this Agreement.

#### **25. TERMINATION**

This Agreement shall continue in effect until termination, and may be terminated by the Customer at any time when the Customer has no open position(s) and no liabilities held by or owed to FXOpen upon the actual receipt by FXOpen of written notice of termination via e-mail, or at any time whatsoever by FXOpen upon the transmittal of written notice of termination to the Customer; provided, that such termination shall not affect any transactions previously entered into and shall not relieve either party of any obligations set out in this agreement nor shall it relieve the Customer of any obligations arising out of prior transactions entered into in connection with this Agreement.

#### **26. INDEMNIFICATION**

The Customer agrees to indemnify and hold FXOpen, its affiliates, employees, agents, successors and assigns harmless from and against any and all liabilities, losses, damages, costs and expenses, including attorney's fees, incurred by FXOpen arising out of the Customer's failure to fully and timely perform the Customer's agreements herein or should any of the representations and warranties fail to be true and correct. The Customer also agrees to pay promptly to FXOpen all damages, costs and expenses, including attorney's fees, incurred by FXOpen in the enforcement of any of the provisions of this Agreement and any other agreements between FXOpen and the Customer.

Unauthorised use: FXOpen shall not be liable for any loss, liability or cost whatsoever arising from any unauthorised use of the Software and/or any of the services. Without derogating from generality of indemnification provisions under the Agreement, the Customer shall indemnify, protect and hold FXOpen, its owners, subsidiaries, affiliates, employees, management and third party contractors harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs resulting from or arising out of any act or omission by any person using the ECN Account and/or any service using current designated Credentials or any designated passwords or other authentication and/or access details provided by FXOpen to the Customer, whether or not the Customer actually authorized such use.



## **27. CROSS TRADE CONSENT**

The undersigned hereby acknowledges and agrees that a situation may arise whereby an officer, director, affiliate, associate, employee, bank, bank employee or dealer associated with FXOpen may be the opposing broker for a trade entered for the undersigned's account. The undersigned hereby consents to any such transaction, subject to the limitations and conditions, if any, contained in the Rules or Regulations of any bank, institution, exchange or board of trade upon which such buy or sell orders are executed, and subject to the limitations and conditions, if any, contained in any applicable Regulations of any applicable regulatory agency.

## **28. TERMS AND HEADINGS**

The term "FXOpen" shall be deemed to include FXOpen, its divisions, successors and assigns; the term "Customer" shall mean the party (or parties) executing the Agreement; and the term "Agreement" shall include all other agreements and authorizations executed by the Customer in connection with the maintenance of the Customer's account with FXOpen regardless of when executed. The paragraph headings in this Agreement are inserted for convenience of reference only and are not deemed to limit the applicability or affect the meaning of any of its provisions.

## **29. ACCEPTANCE**

This Agreement shall not be deemed to be accepted by FXOpen nor become a binding contract between Customer and FXOpen until approved by FXOpen.

## **30. GOVERNING LAW AND JURISDICTION**

This Agreement, and the rights and obligations of the parties hereto, shall be governed by and enforced in all respects by the laws of Federation of Saint Kitts and Nevis, without regard to choice of law principles.

The Customer agrees that any civil action, arbitration or other legal proceeding between FXOpen or its employees or agents, and the Customer arising out of or relating to this Agreement or the Customer's account shall be brought, heard and resolved only by a court located in Federation of Saint Kitts and Nevis and the Customer hereby waives trial by jury in any such action or proceeding and waives the right to have such proceeding transferred to any other location. No action, regardless of form, arising out of or relating to this agreement or transactions hereunder may be brought by the Customer more than one year after the cause of action arose. The Customer hereby submits and consents to personal jurisdiction in any court in Federation of Saint Kitts and Nevis and appoints and designates FXOpen (or any other party whom FXOpen may from time to time hereinafter designate) as the Customer's true and lawful attorney-in-fact and duly authorized agent for service of legal process, and agrees that service of such process upon FXOpen or such other party shall constitute personal service of such process upon the Customer; provided, that FXOpen or such other party shall, within five days after receipt of any such process, forward the same by air courier or by certified or registered mail, together with all papers affixed thereto, to Customer at Customer's last known mailing address.

## **31. RECORDINGS**

The Customer agrees and acknowledges that all conversations regarding the Customer's account(s) between the Customer and FXOpen personnel may be electronically recorded with or without the use of an automatic tone-warning device. The Customer further agrees to the use of such recordings and transcripts thereof as



evidence by either party in connection with any dispute or proceeding that may arise involving the Customer or FXOpen. The Customer understands that FXOpen destroys such recordings on regular intervals in accordance with the FXOpen established business procedures and the Customer hereby consents to such destruction.

### **32. EXPERT ADVISORS**

Automated trading systems, or "Expert Advisors" allow trade operations to be carried out without the Customer's participation. Most types of Expert Advisors are generally allowed. The Customer agrees and acknowledges that FXOpen may in FXOpen's sole discretion disable the Customer's ability to use Expert Advisors, without any prior notice. The Customer agrees and acknowledges that no claims will be accepted for any loss directly or indirectly resulting from the disabling of Expert Advisors use on the Customer's account. FXOpen may, at FXOpen's sole discretion, reinstate Expert Advisors privileges after an indefinite period of time;

### **33. AMENDMENTS**

The Customer understands, acknowledges and agrees that FXOpen may amend or change this Agreement at any time. FXOpen will provide Written Notice to the Customer of any such amendment or change by posting the amendment or change to its Website or by sending an email message to the Customer. The Customer agrees to be bound by the terms of such amendment or change on the earlier of:

- (i) 5 (five) Business Days after FXOpen has posted notice of such amendment or change to FXOpen Website; or
- (ii) on the date of the entry of any Order other than a liquidating Order.

In the event that the Customer objects to any such change or amendment, the Customer agrees to liquidate the Customer's Open Positions and instruct FXOpen regarding the disposition of all assets in the Customer's Trading Account within 5 (five) Business Days after notice of the amendment or change has been posted to FXOpen Website.

**THIS IS A LEGALLY BINDING CONTRACT. YOU HAVE TO CAREFULLY READ ALL OF THE FOREGOING COMPLETELY AND COMPLETE THE CUSTOMER APPLICATION TO OPEN AN INDIVIDUAL/CORPORATE TRADING ACCOUNT.**

Your consent acknowledges that you have carefully read, in its entirety, and understood the FXOpen Customer Agreement, Risk Disclosure Statement, Terms of Business, and that you agree to all of the provisions contained therein. Your consent further represents, warrants and certifies that the information provided by you in the Customer Application process to open an Individual/Corporate Trading Account is correct and complete.