

# Framework Agreement no. ....

concluded on \_\_\_\_\_ in Gzira, by and between

**TMS Brokers Europe Ltd. (hereinafter: TMS Europe)**, (C70460), a Maltese limited liability company having its registered office situated at No. 266, level 1, Ta'Xbiex Seafront, Gzira GZR1020, Malta

hereinafter referred to as **TMS Europe** and,

Name and surname				
Address	Street			
	Street number		Apt number	
	Post Code		City	
	Country			
ID Type	<input type="checkbox"/>	Identity Card Passport	ID number	
	<input type="checkbox"/>			
Citizenship			Date of birth	

hereinafter referred to as – **the Client**

*TMS Europe hereby informs that you were granted the **Retail Client** status which provides the highest level of protection. This means that the Client shall receive information about basic rules of managing the conflict of interests with TMS Europe, information about the occurrence of conflict of interests, detailed information about TMS Europe and services to be provided under the concluded agreement, information containing a general description of instruments offered by TMS Europe as well as risks connected therewith, information regarding the execution of an order, information comprising a statement of held and registered assets and information that the Client was subject to the assessment of adequacy of services in order to evaluate whether the financial instrument being the object of the brokerage services or the brokerage service itself performed under the concluded agreement is appropriate for the Client in light of its particular situation. At the same time we inform the Client that he shall be entitled to make a request to change the granted Client category, which may involve employing a lower level of investor protection. Such request may be made in writing at the business address of TMS Europe. TMS Europe, based on information presented in this request as well as taking into account the requirements applicable at law and regulation, shall assess your competence, knowledge and experience in relation to investment services and investment products. TMS Europe shall be entitled to refuse to grant a Client's request specified above. Detailed principles regarding the treatment of Retail Clients by TMS Europe and the manner in which a Client may request a category change, including the relevant form can be found on the website: [www.tmseurope.com](http://www.tmseurope.com).*

## § 1

1. Under this Framework Agreement (hereinafter: Agreement) TMS Europe undertakes to provide services to the Client in the scope of:
  - a) executing orders to purchase or sell financial instruments,
  - b) holding and registering financial instruments in the name of Client, including operation of cash accounts,
  - c) currency exchange only in the circumstances as specified below.
2. Unless otherwise specified herein, aforementioned services may only be performed jointly.
3. Executing orders specified in clause 1 paragraph a) shall be conducted by accepting written orders in the CSP, phone orders and orders via the Transaction System intended for a given service, indicated in the Information Sheet about TMS Europe.
4. In the framework of provision of services specified in clause 1, TMS Europe undertakes, in particular, to:
  - a) execute orders to purchase or sell Financial Instruments on the Client's account; or
  - b) purchase or sell Financial Instruments on its own account;
- c) open and operate the Client's Cash Account and related registers, including, in particular, Operational Register, Register of Financial Instruments, evidencing changes in the aforementioned registers and on the Client's Cash Account;
- d) currency exchange but only to the extent that this is required in order to convert amounts due and receivables denominated in foreign currencies into the base currency of the account.
5. The Client grants its consent for the execution of orders placed by the Client to purchase and sell Financial Instruments by concluding transactions directly with the Client on own account by TMS Europe.
6. This Agreement constitutes simultaneously an agreement on ownership and transfer of cash (i.e. Margin as specified in § 1 clause 5 hereof) for the purposes of securing future receivables of TMS Europe pursuant to the provisions of applicable law.
7. Under this Agreement the Client on account of securing cash receivables of TMS Europe resulting from transactions concluded hereunder provides the Margin by transferring to TMS Europe the ownership right to a part of cash deposited on the Cash Account in the amount equivalent to the sum of the aggregate Margin

Deposit and Unexecuted Position Value, provided its value is not negative. The procedures regarding the provision of the Margin, the deadline to provide the Margin, the basis to execute the Margin, the valuation method of the object of the Margin and the rules regarding the settlement between the parties hereto shall be specified by the Terms of Business.

8. Receivables due to TMS Europe resulting herefrom may be immediately compensated (set off) by TMS Europe with receivables of the Client, including those that are the object of the Margin, pursuant to the Compensatory Clause in the meaning of the Terms of Business of a respective service. By means of the compensation specified in § 1 clause 9 and 10 hereof:

- a) the net amount resulting from the calculation of reciprocal claims of TMS Europe and the Client shall be payable to the party whose receivables or the sum of receivables is higher;
- b) claim regarding the payment of the amount specified in a) shall be due also when receivables being the object of compensation have not become due.

The Terms of Business of a respective service shall specify cases in which set-off hereunder is allowed as well as detailed rules regarding the settlement between the parties hereto as a result of execution of rights of TMS Europe.

#### § 2

1. TMS Europe provides the services specified in § 1 clause 1 hereunder under the terms and conditions as well as in accordance with principles specified in the respective Terms of Business on the provision of services, as indicated in the Information Sheet about TMS Europe as of the day of conclusion hereof, subject to the provisions of § 5 clause 3 hereof.
2. Capitalized phrases or expressions shall have the meaning specified in the provisions of the Terms of Business.

#### § 3

1. This Framework Agreement constitutes simultaneously a framework netting agreement within the meaning of Part Three of Regulation (EU) no 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 of 4 July 2012.
2. TMS Europe and the Client agree that in the event the Client fails to fulfill any obligations resulting herefrom as a result of failure to comply with terms and conditions hereunder, bankruptcy, liquidation or any other circumstances of similar nature, the amount due to TMS Europe or due from it shall constitute only the net sum of positive and negative values of particular transactions, as covered by the Framework Agreement, quoted in accordance with their current market value.
3. In the case of bankruptcy involving the liquidation of the assets of the Client, set-off of reciprocal claims of TMS Europe and the Client shall be allowed if both claims existed as on the day of the declaration of bankruptcy of the Client even if their enforcement date has not yet arrived.
4. Effects of compensation specified in clause 2 may be taken into account when calculating the aggregated credit risk exposure of a given Client by TMS Europe.

#### § 4

1. Under this Agreement TMS Europe offers access for the Client to the Transaction Systems:
  - a) directly – the Client shall be allowed access to the Transaction System for the purposes of independent conclusion of transactions via the Internet and personal

computer equipment, providing the possibility to make use of every function of the Transaction System;

- b) by allowing the Client access to the Transaction System (without the need to install software on the Client's computer) for the purposes of independent conclusion of transactions via the Internet and personal computer equipment. The Client shall have the possibility to make use of certain functions of the Transaction System, as indicated on the website [www.tmseurope.com](http://www.tmseurope.com),
- c) by allowing the Client access to the Transaction System (without the need to install software on the Client's computer) for the purposes of independent conclusion of transactions via the Internet and mobile phone. The Client shall have the possibility to make use of certain functions of the Transaction System, as indicated on the website [www.tmseurope.com](http://www.tmseurope.com).

2. Detailed scope of access, as specified in § 4 clause 1, to a given Transaction System shall be specified in the Information Sheet about TMS Europe.
3. TMS Europe shall accept execution orders placed on the basis of instructions provided to TMS Europe by electronic storage media.

#### § 5

1. By signing this Agreement the Client represents that prior to its conclusion, he has acquainted himself with the content of and accepts provisions of the following documents: Terms of Business, Financial Instruments Specification, Table of Fees and Commissions applicable for services specified in § 1 clause 1 hereof, as indicated in the Information Sheet about TMS Europe as of the day of conclusion of the Agreement, and:
  - 1) Information Sheet about TMS Europe,
  - 2) Characteristics of Financial Instruments and Risk Specification.
2. In case TMS Europe starts providing a new service within the scope indicated in § 1 clause 1 that was not listed in the Information Sheet about TMS Europe as of the day of the conclusion of the Agreement, the commencement of the provision of a new service by TMS Europe to the Client hereunder shall be conditional upon the Client's completing, signing and delivering to TMS Europe, including via websites dedicated to the given service, as indicated in the Information Sheet about TMS Europe (after identifying the Client), an instruction to activate the service. An instruction to activate the service shall be available on websites dedicated to a given service, as indicated in the Information Sheet about TMS Europe. TMS Europe shall activate access to a given service within 3 Business Days from the day of delivery by the Client the instruction to activate the service.
3. By signing this Agreement the Client represents that he received detailed information regarding TMS Europe and the services to be provided in terms of the Information Sheet about TMS Europe as of the day of the conclusion of the Agreement conclusion, subject to clause 2 hereinabove. Applicable versions of documents appropriate for a given service, i.e. the Terms of Business, Financial Instruments Specification, Table of Fees and Commissions as well as documents referred to in clause 1 hereinabove, shall be available to the Client on websites indicated in the Information Sheet about TMS Europe.
4. The scope of services performed hereunder and documentation relevant for a given service, i.e. the Terms of Business, Financial Instruments Specification, Table of Fees and Commissions, shall be specified in the Information Sheet about TMS Europe as of the day of the Agreement conclusion, subject to clauses 2 and 7.

5. Transaction conditions currently in force shall be available in a designated tab of the Transaction System or on the website: [www.tmseurope.com](http://www.tmseurope.com)
  6. TMS Europe may provide the Client with the option to choose a non-standard group of margin deposits. The Client shall be able to choose another group of margin deposits after signing an appropriate amendment hereto.
  7. TMS Europe shall be entitled to introduce changes to documentation specified in clause 1 hereinabove under the terms indicated in the Terms of Business. Current versions of such documents shall be available on the CSP of TMS Europe and on the website: [www.tmseurope.com](http://www.tmseurope.com).
  8. On the basis of data obtained from the Client TMS Europe may set an exposure limit as regards Financial Instruments in the form of an amendment hereto.
  9. By signing this Agreement the Client represents that he was notified of the existence of a Conflict of Interests specified in the Information Sheet about TMS Europe, including Conflicts of Interests consisting in the fact that TMS Europe executes orders by concluding transactions with the Client on its own account. The Client **expressly confirms his will to enter into the Agreement** despite the existence of the Conflict of Interest.
  10. TMS Europe shall make every effort so that the Client's interests are not violated in these circumstances.
  11. By signing the Agreement the Client represents that he is fully aware of the fact that due to the high level of leverage concluding transactions on Financial Instruments involves a significant risk of incurring financial losses that may exceed the amount of funds deposited on the Cash Account. The Client, in particular, represents that he is aware that:
    - 1) due to the low level of the Margin Deposit in relation to the nominal value of the transaction, changing the price of the Underlying Instrument providing the basis for the Financial Instrument may entail loss in excess of the amount of funds deposited on the Cash Account,
    - 2) in case TMS Europe enforces its rights specified by the provisions of the Framework Agreement or the Terms of Business to conclude transactions on the Client's account without the Client's order or instruction, any financial result arising from such transaction shall be booked on the Client's Cash Account,
    - 3) it is not possible to guarantee generating profits or avoiding loss on transactions in the scope of Financial Instruments; the Client has never obtained such guarantee from TMS Europe and the fact of the conclusion of the Framework Agreement was not made conditioned upon receiving such guarantee in the future.
  12. The Client ensures that he is financially and otherwise able to bear the risk of making high-leverage transactions.
  13. National supervisory bodies believe, that due to their complexity and risk, the purchase of CFD or forex products with a leverage greater than 10 times (10:1) or binary options outside the scope of investment advice is not appropriate for retail investors.
  14. Client acknowledges, that he was informed by TMS Europe, that he will bear costs if he would decide to close out his position immediately after entering into the transaction.
  15. In the case of CFDs and forex products, due to leverage, losses may occur greater than the amount originally invested to purchase the product.
1. By signing this Agreement the Client grants a power of attorney to TMS Europe to:
    - 1) issue, on the basis of phone instructions placed by the Client or any person authorized by the Client, written orders to purchase or sell Financial Instruments, and
    - 2) modify and cancel submitted written orders or orders issued on the basis of phone instructions.
  2. The parties hereto set a password for the purposes of remote identification of the Client, used, in particular, to identify the Client or any person authorized by the Client when placing phone instructions, as specified in the Client's Data Card. Any changes to the password may be made in writing only.
  3. TMS Europe shall not be liable for damages resulting from:
    - 1) executing an order issued on the basis of phone instructions placed by any person other than the Client if such instruction was placed in accordance with the terms and conditions specified in the Terms of Business unless the Client has notified TMS Europe in advance of possible access of unauthorized persons to the aforementioned security measures,
    - 2) non-performance or improper performance of a phone instruction as a result of tele-transmission defect or other circumstances for which TMS Europe shall not be liable.
  4. Should the connection be interrupted in the course of placing a phone instruction TMS Europe shall not be obliged to reconnect. It is the Client's responsibility to reconnect with TMS Europe.

§ 7

1. TMS Europe undertakes to execute instructions to withdraw cash from the Client's Cash Account to the Client's bank account indicated in the Client's Data Card or in the instruction to open a cash account under the terms and conditions specified herein and in applicable Terms of Business for a respective service.
2. The Client obliges TMS Europe to execute an instruction to reclassify cash between or among Cash Accounts kept by the Client in TMS Europe.
3. TMS Europe shall execute a Client's phone instruction referred to in clause 1 and 2 hereinabove within the term specified in the Terms of Business for a given service. Executing a withdrawal instruction means conveying by TMS Europe to the bank of TMS Europe a transfer of cash indicated in the instruction.
4. In matters not covered herein provisions of Terms of Business for a given service regarding the procedure of and conditions for placing phone instructions to issue transaction orders shall apply as appropriate to phone instructions of withdrawal.
5. Instructions to withdraw funds to the bank account and reclassify funds between or among Cash Accounts shall also be possible in the NonStop zone offered by TMS Europe. Operating principles of the NonStop zone shall be specified in separate regulations.

§ 8

By signing this Agreement the Client accepts the right of TMS Europe to:

- 1) close all positions registered in the Register of Financial Instruments of the Client in connection with the obligations resulting from the need to maintain respective margin deposits in cases and under the terms and conditions provided for in the Terms of Business of a given service or;
- 2) close as many and any positions registered in the Register of Financial Instruments of the Client as are necessary to restore the appropriate level of available funds of the Client in cases

and under the terms and conditions provided for in the Terms of Business of a given service; or

- 3) close any positions if the Balance on the Operational Register in relation to the (book) balance of this Cash Account falls below 10%.

#### § 9

1. By signing this Agreement the Client grants its consent for TMS Europe to execute orders to purchase or sell Financial Instruments by concluding by TMS Europe with the Client transactions on its own account.
2. By signing this Framework Agreement the Client grants its consent to:
  - 1) TMS Europe withdrawing from the concluded transaction and
  - 2) changing the transaction price (price of the Financial Instrument) by TMS Europe,in cases specified in the Terms of Business of a respective service.
3. The Client's consent specified in clause 2 shall be deemed repeated each time the Client places purchase or sale orders of Financial Instruments.

#### § 10

TMS Europe ensures the confidentiality of balance of accounts and registers of the Client as well as turnover on such accounts in the scope specified by the law, subject to the obligation of TMS Europe to provide all necessary information regarding the Client, its accounts and registers to competent authorities without the need to notify the Client in advance.

#### § 11

1. The Client shall be obliged to bear fees and commissions based on the Table of Fees and Commissions for a given service, as specified by the Resolution of the President of TMS Europe, under the terms and conditions set forth in the Terms of Business for a respective service.
2. TMS Europe shall be entitled to deduct due fees and commissions from amounts deposited on the Client's Cash Account under the terms and conditions set forth in the Terms of Business for a respective service.

#### § 12

If the Client, when concluding this Framework Agreement, selects e-mail as the mode of communication, the Client should bear in mind that:

- 1) messages sent via e-mail shall be sent as non-encrypted e-mail messages to the most recently indicated Client's address,
- 2) using e-mail poses a risk related to, in particular, the possibility that a third party becomes acquainted with the contents of the message in case of incorrect or insufficient e-mail security systems,
- 3) sending messages via e-mail is only an option provided as a means to facilitate communication and TMS Europe shall not be liable for any damage that may arise as a result of using this mode of communication.

#### § 13

By signing this Framework Agreement the Client represents that:

- 1) he (she) possesses full legal capacity and is not subject to any restrictions under the provisions of domestic or foreign law that would make it impossible for the Client to conclude transactions being the subject-matter hereof,

- 2) any information provided by the Client is complete and in accordance with the facts,

- 3) in case the Client has community of acquests with their spouse, the spouse of such Client with whom the Client has community of acquests has granted their consent for the Client to enter into this Framework Agreement, to conclude transactions by the Client specified hereunder and to place all instructions allowed by the provisions hereof,

- 4) if the Client has selected e-mail as the proper mode of correspondence, such Client grants its consent to being sent non-encrypted information constituting a Trade Secret.

#### § 14

1. The parties consent to making statements of will related to the performance of services hereunder in electronic form via the dedicated NonStop zone available after the log-in or via the transition system after the log-in or via e-mail.
2. The Client represents that he has regular internet access and consents to receiving from TMS Europe information via the website [www.tmseurope.com](http://www.tmseurope.com) (or each further website that TMS Europe has disclosed to the Client) or via the NonStop zone after the log-in or via the transaction system after the log-in or via e-mail.

#### § 15

1. The Client acknowledges that on account of the Client's concluding transactions on Financial Instruments quoted on foreign stock exchanges, TMS Europe may be obliged to deliver data regarding the beneficiary of those transactions. This shall apply, in particular, to the Large Trade Reporting program. The Client grants its consent for the disclosure of any necessary data regarding such reporting, including those constituting Professional Secret regarding the beneficiary of transactions and details regarding open positions to governmental bodies, authorized by local law applicable for a given stock market, competent for the processing of such data.
2. TMS Europe, under separate provisions, in particular, in the scope of counteracting money laundering and the funding of terrorism, may be obliged to suspend or withdraw transaction orders. The Client hereby indemnifies TMS Europe against liability for losses suffered by the Client as a result of applicable provisions of law.

#### § 16

1. By signing this Framework Agreement the Client represents that:
  - 1) he is aware of the fact that concluding transactions on financial instruments, in particular, transactions secured by a deposit constituting a fraction of the value of financial instrument being the object of such transaction entails a high risk of incurring financial losses,
  - 2) he is aware of the fact that in case of transactions secured by a deposit the amount of actually engaged capital paid as a margin deposit for such transactions is relatively low in relation to the value of such transactions, which means that when concluding such transactions, there is a leverage which multiplies the risk of incurring a loss,
  - 3) he is aware of the fact that even minimal market fluctuations of financial instruments quotations will have a proportionally larger impact on the state of funds deposited as a margin deposit in comparison with transactions on the spot market,
  - 4) he is aware of the risk regarding the loss of funds exceeding amounts deposited on the account. In particular, in an unfavorable situation – from the perspective of the Client – in which market quotations for financial instruments have been changed, the Client may be called to enhance the amount of

margin deposit in order to maintain an open position. Failure to enhance the amount of deposit in a specified term may lead to closing certain or all open positions of the Client,

- 5) he is aware of and accepts the right vested in TMS Europe to close positions in cases specified in the Terms of Business regarding the provision of the service. The Client is aware that closing positions may entail the need to cover the resulting loss by the Client. The resulting loss may exceed the value of cash deposited on the Client's Cash Account.
2. By signing the Framework Agreement the Client acknowledges that:
- 1) TMS Europe recommends that prior to commencing the investment of cash in Financial Instruments the Client familiarizes himself with the specificity of the market and technical conditions of the transaction system through which transactions on the Client's account shall be concluded. It is, in particular, recommended to use the demo version of the transaction system made available free of charge by TMS Europe on its websites,
  - 2) TMS Europe advises beginner investors to participate in the training dedicated to financial instruments and market mechanisms organized by TMS Europe or other entities. TMS Europe performs individual training sessions at the business office of TMS Europe at the Client's request,
  - 3) prior to making a decision regarding a transaction on Financial Instruments the Client – taking into account his own experience, goals and individual risk aversion – should evaluate whether making such transactions is an appropriate course of action,
  - 4) in transaction systems of TMS Europe it is possible to conclude transactions on different Financial Instruments featuring a diverse risk scale,
  - 5) the Client shall be obliged to familiarize himself with standard terms and conditions regarding the conclusion of transactions and applicable market rules. It should, however, take into account additional risk factors that may activate in unforeseen circumstances. In particular, such factors may result from limitations of liquidity or total suspension of quotations on a respective market, which entails the impossibility to conclude transactions or place an order limiting loss, or any other circumstances defined in regulations specifying the rules of services of TMS Europe,
  - 6) The Client should bear in mind that concluding transactions via electronic systems may generate errors. As a result of irregularities in the operation of the system an order placed by the Client may remain unexecuted or its conditions of execution may differ from the Client's original intention.
3. Moreover, the Client represents that:
- 1) he is aware that TMS Europe does not guarantee executing an order at the price submitted in the Transaction System or made visible in the Transaction System as of the moment of placing a market order (immediate execution). The Client represents that he is aware of the fact that in case of the occurrence of market conditions characterized by significant price changes occurring at short intervals there may be significant gaps between successive quotations in the Transaction System,
  - 2) he received from TMS Europe all additional information regarding the nature and factors of risk regarding concluded transactions and was granted exhaustive answers to questions regarding rules and conditions of concluding transactions in the transaction system operated

by TMS Europe, and the amount of capital intended for the Margin Deposit securing the transactions, was selected appropriately and rationally in line with the financial capabilities of the Client and given the Client's financial situation,

- 3) he voices no objections to having his funds deposited in a respected fund of the cash market.
4. By signing this Agreement the Client hereby authorizes TMS Europe to provide personal or financial transactions data, including the copies of Client's documents or other information referred to in the application form to the Cooperating Entities, exclusively for the performance of contracts or agreements that Client or TMS Europe concluded with these entities. "Cooperating Entity" is a company that TMS Europe, owns or controls or companies that are together with TMS Europe under common control, or remain with TMS Europe in constant cooperation, such as banks, investment firms, auditors, companies providing other financial services, introducing brokers, companies, consulting or courier. Customer hereby authorizes these entities to obtain the above-mentioned information or documents and use them solely for the purpose of carrying out the duties described in the relevant agreements concluded by TMS Europe of cooperating entities.

#### § 17

1. This Framework Agreement has been entered into for an indefinite period of time.
2. The Framework Agreement is being concluded under the condition precedent consisting in the positive verification of the identity of the customer by TMS Europe made in accordance with internal procedures of TMS Europe on the basis of data and documents relating to the Client, in particular in the assessment of the risk of money laundering and terrorist financing. TMS Europe makes these check and informs the Client about whether this condition precedent has been fulfilled no later than within 90 days from the date of their conclusion. This Agreement comes into force from the moment the Client is informed by TMS Europe that this condition precedent has been fulfilled.
3. Each of the parties may terminate the Framework Agreement at any time by giving a 7-day notice which shall start to count from the day of receipt of the termination notice by TMs Europe.
4. The termination hereof shall result in the cessation of provision of any and all services indicated in § 1 clause 1 as of the termination day hereof.
5. The Client shall be able to cancel chosen services on the basis of phone instruction according to the procedure specified for placing transaction orders or in writing, including through websites dedicated to a given service, as indicated in the Information Sheet about TMS Europe (after identifying the Client).
6. Cancelling of particular services/service shall be done in accordance with principles and in the manner set forth in the Terms of Business for a respective service.
7. In case of terminating the Framework Agreement or cancelling a particular service in accordance with clause 5 hereinabove, all positions on accounts or account of the Client dedicated to a given service shall be immediately closed without the need to agree on the foregoing with the Client.
8. Any amendments hereto shall be made in writing and agreed to between the parties, otherwise such amendments shall be null and void.
9. The place of performance of the Agreement shall be Gzira, Malta.
10. The Agreement has been executed in two counterparts, one for each of the Parties.

§ 18

1. The Client or its agent shall be allowed to submit a complaint against the brokerage activity indicated in § 1 clause 1 hereof.
2. Rules regarding submission of complaints and their consideration shall be provided in the Terms of Business regarding service

provision and in the Information Sheet about TMS Europe. In particular, such rules shall specify the form of the submitted complaint and place of submission, the term to issue a reply and the manner of notification regarding considered complaint.



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Rudolf Muscat