

## CUSTOMER TRADING AGREEMENT

Please read this Agreement carefully and seek independent professional advice where you are uncertain of or uncomfortable with any of its provisions. All transactions you enter into with or through Phillip Nova are legally binding and enforceable in accordance with the terms of this Agreement. By signing the Application Form or by electronically submitting your application on Phillip Nova's Website or, if applicable, via a mobile application you confirm that you will accept the terms of the Agreement as applying to all such transactions as a condition of your application. When Phillip Nova accepts your application and opens an Account for you, you will therefore be bound by the terms of this Agreement where relevant to the transactions you do with or through Phillip Nova.

### 1 DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires:

**"this Agreement"** means this agreement (as may from time to time be varied or modified in accordance with its provisions) and includes its appendices, schedules and all other documents or instruments made supplemental to it including but not limited to your Application Form(s);

**"Account"** means the account opened and/or maintained with Phillip Nova pursuant to the Customer's application and/or request for such account as accepted by Phillip Nova;

**"Application Form"** means the application form whether in paper or electronic form as prescribed by Phillip Nova by which the Customer applies to Phillip Nova to open and maintain the Account;

**"Applicable Laws"** with respect to the Customer's Transaction(s) and/or Account means all relevant or applicable statutes, laws, rules, regulations, directives and circulars whether of governmental bodies or authorities or self-regulatory organisations which each Party by giving Orders for Transactions is legally obliged (whether directly or indirectly) to comply and/or ensure compliance with or otherwise recognize the applicability of with respect to Transactions (including Transactions made using the DMA Services, including, without limitation, relevant rules of exchanges Phillip Nova) is obliged (whether directly as a member or indirectly by contract or mandatorily applicable laws and regulations) to comply with, with respect to the Customer's Transaction(s), such as the relevant SGX-ST rules, and SGX-DT Futures Trading Rules ("**FTR**") as may be amended or supplemented from time to time;

**"Associates"** means any firm or corporation in which Phillip Nova's ultimate controlling/majority shareholder(s) has, whether directly or indirectly and either individually or collectively, control of not less than twenty percent (20%) of the voting power in the firm or corporation, including but not limited to Phillip Securities Pte. Ltd., Phillip Financial Pte. Ltd., Phillip Securities Research Pte. Ltd., Phillip Securities Nominees Pte. Ltd., Phillip Capital Management (S) Ltd. and Phillip Private Equity Pte. Ltd.;

**"Business Day"** in relation to a Transaction means any day on which the relevant Market on which the Transaction is effected or liquidated is open for trading;

**"Clearing House"** (in relation to a Market) includes a body corporate, an association or organisation, whether distinct from or forming part of a Market, that clears, settles and/or guarantees contracts and/or options whether on a net or gross basis and/or makes adjustments to the contractual obligations arising out of such contracts and/or options;

**"Collective Investment Scheme"** shall be as defined in the SFA;

**"Companies Act"** means the Companies Act 1967 of Singapore;

**"Confirmation"** means the written notice (including telex, facsimile or any other electronic means from which it is possible to produce a hard copy), which contains the specific terms of a Transaction;

**"Contract"** with respect to a "Transaction" shall have the meaning ascribed to the expression in the definition of "Transaction";

**"Currency"** means money denominated in the lawful currency of any jurisdiction;

**"Customer"** means, without limitation to Clause 10, the person or persons named herein as the applicant(s) (and where the context so admits, includes any one of those persons), and includes the successors in title as well as legal representatives, agents, any and all persons designated or authorized by the applicant Customer(s) to act/in the name of the Customer(s) (including delegates) whichever is applicable, of the Customer;

**"Customer Personal Data"** means Personal Data which the Customer discloses to Phillip Nova, or which Phillip Nova processes on behalf of the Customer;

**"Customer Trading Agreement"** shall have the meaning ascribed to in Clause 1.1 of Appendix 2;

**"Default"** shall have the meaning ascribed to it under Clause 12.1;

**"DMA"** or **"Direct Market Access"** means the process by which orders to buy or sell futures contracts including any modifications and cancellations thereof are submitted into a DMA Infrastructure (including through the use of a nominated technical system or technical connection between the Parties) for execution in the automated trading system of a Market (each an "**ATS**"), including the Trading System by the Customer without any intervention by Phillip Nova whether through its trading representatives or otherwise (including being entered or re-entered by any such trading representative);

**"DMA Infrastructure"** means the technology infrastructure and/or electronic trading system whether established and/or maintained by or for Phillip Nova which facilitates DMA or otherwise used by the Customer for the purposes of effecting DMA (including under a Sponsored Access arrangement) to effect Transactions on a DMA basis;

**"DMA Procedures"** means (i) such procedures as specified and required by Phillip Nova from time to time, which Phillip Nova may from time to time notify to the Customer and require to be complied with by the Customer accessing and/or using the DMA Services, including without limitation any or all of the following: (a) processes for the prevention of manipulative trading by the Customer; (b) declarations and notifications; (c) collection and retention of information on behalf of Phillip Nova; (d) training of authorized persons and agents of the Customer to ensure proper access and use of DMA Services; or (e) other procedures, restrictions and limitations as otherwise determined by Phillip Nova in its sole and absolute discretion from time to time; and (ii) prescribed requirements under Applicable Laws as well (where relevant) of the Market at which the Customer's Orders are to be executed and/or cleared via DMA Services;

**"DMA Services"** means services provided to the Customer by Phillip Nova subject to and conditional on the Customer's continuing compliance with DMA Procedures to permit direct access or Sponsored Access to the Trading System;

**"Electronic Broking Facilities"** means such electronic or automated order entry system, including any proprietary or third-party systems, software, hardware or telecommunications equipment provided or otherwise made available or may be offered by Phillip Nova to the Customer subject to the terms for the access and use of such system(s) for the Customer to:

- (a) electronically transmit Orders to Phillip Nova, a third party network, and/or straight through to an exchange trading engine pursuant to DMA Services provided to the Customer;
- (b) access market information, indicators and real time prices as well as information on the Customer's Account(s) and other services available to the Customer; and
- (c) engage in any other activities and services as Phillip Nova may include and permit access and/or use by the Customer as part of the Electronic Broking Facilities;

"**Extraordinary Event**" shall have the meaning ascribed to it in Clause 13.2;

"**Futures Contract**" with respect to a Transaction shall be as defined in the SFA and (where relevant) the jurisdiction in which the Transaction is executed;

"**Information**" means any text, images, links, sounds, graphics, video and other materials provided by or made accessible by Phillip Nova whether in physical or electronic form and includes, without limitation, information relating to futures, markets, companies, industries, news and any information, data, analysis or research thereon subject, where so indicated or expressly stated, to such caveats, cautionary notices, restrictions, qualifications and/or disclaimers;

"**Intellectual Property Rights**" includes all inventions, patents, know-how, trade secrets and other confidential information, copyright (including without limitations all such rights in computer software and any databases), registered and unregistered trademarks (including without limitation any trade, brand or business names and any distinctive smells or sounds used to differentiate goods and services), domain names, technology, know-how, goodwill, registered and unregistered designs, layout-designs of integrated circuits, geographical indications and plant varieties (in each case for the full period thereof and all extensions and renewals thereof), applications to register any of the aforesaid items (including the right to so apply), licences relating to any of the aforesaid items, rights in the nature of any of the aforesaid items in any country, and rights to sue for passing off, or other similar industrial or commercial right;

"**Loss**" means any and all realized or unrealized loss, damage, costs, charges, and/or expenses of whatsoever nature and howsoever arising including legal fees on a full indemnity basis, cost of funding and loss or cost incurred as a result of the terminating, liquidating or re-establishing of any hedge or related trading position;

"**Margin**" means any currencies, cash, and at Phillip Nova's sole discretion, securities or other properties which Phillip Nova will accept to be deposited with or held by Phillip Nova or its nominees as margin for the purposes of security or credit support for the effecting or maintenance of the same as an open position of any Transaction and/or the Customer's obligations under this Agreement;

"**Market**" means a market, an exchange or any other place (whether physical or virtual) at which Contracts are regularly made, whether within Singapore or otherwise;

"**MAS**" means the Monetary Authority of Singapore;

"**Nominee**" includes an agent, representative, delegate or correspondent whether in Singapore or elsewhere;

"**OTC Facilities**" means such facilities as may be offered by Phillip Nova that may enable the Customer to effect or give orders for effecting Transactions on an OTC or "over-the-counter" basis – each an "**OTC Transaction**";

"**OTC Transaction**" means a Transaction concluded between the Parties on a bi-lateral principal to principal basis over-the-counter, not on any regulated exchange or market and includes contracts for differences transacted by the Customer on a DMA as opposed Phillip Nova as Market Maker basis;

"**Officer**" means any officer or employee or representative or agent of Phillip Nova;

"**Order**" means any authorisation, request, instruction or order (in whatever form and howsoever sent) given or transmitted by the Customer to Phillip Nova or which Phillip Nova or its Officer reasonably believes to be from the Customer from time to time;

"**Party**" / "**Parties**" – means the Customer and Phillip Nova individually or collectively;

"**PDPA**" means the Personal Data Protection Act 2012 of Singapore;

"**Person**" includes any government, statutory body, business, firm, partnership, corporation or unincorporated body;

"**Personal Data**" means data, whether true or not, about an individual who can be identified (a) from that data; or (b) from that data and other information to which a person has or is likely to have access;

"**Phillip Capital Group**" means the group of corporations comprising Phillip Nova and its Associates;

"**Phillip Nova**" or the acronym "**PNPL**" means Phillip Nova Pte. Ltd. and includes its successor or transferee;

"**PIN**" means the Customer's personal identification number issued by Phillip Nova for the purposes of Electronic Broking Facilities' utilisation by the Customer;

"**Product**" means each type of financial instrument or investment contract offered under this Agreement;

"**Recognised Regulatory Authority**" means any regulatory authority having relevant oversight and/or regulatory jurisdiction with respect to Phillip Nova or any such of its regulated activities including, to the extent applicable such other co-signatories of the International Organisation of Securities Commissions Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information to which a Recognised Regulatory Authority is a signatory;

"**Regulated Activity**" has the definition as in Schedule 2 of the SFA;

"**Relevant Body**" with respect to the regulated activities of Phillip Nova means any Market, Clearing House and/or governmental body or authority or self-regulatory organisation having relevant oversight and/or regulatory jurisdiction with respect to Phillip Nova or any such of its regulated activities;

"**Relevant Currency**" shall have the meaning ascribed to in Clause 7.1 herein;

"**Services**" means any and all services and/or facilities provided by or through Phillip Nova pursuant to this Agreement.

"**SFA**" means the Securities and Futures Act 2001 of Singapore;

"**SGX-DC**" means the Singapore Exchange Derivatives Clearing Limited;

"**SGX-DT**" means the Singapore Exchange Derivatives Trading Ltd.;

"**SGX-ST**" means the Singapore Exchange Securities Trading Limited;

"**Securities**" shall be as defined in the SFA, and shall, for the purposes of this Agreement, include units in Collective Investment Schemes;

"**Sponsored Access**" is an indirect means by which the Customer is provided DMA Services with respect to the Customer's Orders and with respect to Markets that Phillip Nova is not a member having the right to trade directly on such Markets, through which the Customer is being allowed to do so in the name of Phillip Nova. For the avoidance of doubt, references to contracts for differences transacted between the Parties on a DMA basis refers to contracts for differences transacted via a Sponsored Access arrangement but subject to the terms and conditions for the transacting of contract for differences by the Customer on a DMA rather than Market Maker basis with Phillip Nova as the Customer's bi-lateral principal counter-party;

"**Trading System**" means any **Electronic Broking Facilities** including for the automatic matching of orders;

"**Transaction**" means:

- (a) a contract made on an exchange or pursuant to its rules;
- (b) a contract which would (but for its term to maturity only) be a contract made on, or subject to the rules of, an exchange and which, at the appropriate time, is to be submitted for clearing as such a contract;
- (c) any other transaction which the Parties agree shall be a "Transaction" governed by this Agreement,

and includes any Securities, Futures Contract, OTC Transaction, or transactions in such Products as Phillip Nova may from time to time permit to be carried out under an Account. For the purposes of the foregoing, the expression "Contract" or "contract", unless the context otherwise requires, means a futures contract, option, contract for differences, spot or forward contract of any kind in relation to any commodity, metal, financial instrument (including any security), currency, interest rate, index or any combination of them;

- 1.2 The headings are inserted for convenience only and shall not affect the construction of this Agreement;
- 1.3 Expressions in the singular form shall include the plural and vice versa, and all references to the masculine gender shall include the female and neuter genders and vice versa;
- 1.4 Except as otherwise provided in this Agreement, any reference in this Agreement to "**Clauses**", "**Appendices**", and "**Schedules**" in this Agreement are to clauses, appendices and schedules respectively in this Agreement;
- 1.5 Any reference to a statutory provision shall include such provision as may from time to time be modified, amended or re-enacted so far as such modification, amendment or re-enactment applies or is capable of applying to any Transaction entered into hereunder.

## **2** **SCOPE AND APPLICATION**

2.1 The terms of this Agreement shall apply, as relevant, to the provision by Phillip Nova of its Services to the Customer in respect of the Account(s) provided that the specific terms and conditions contained in each Appendix of this Agreement shall apply only upon Phillip Nova's approval of the Customer's application for the particular Product or Services for which the terms of such Appendix are intended to apply in addition to but read together as one with the generally applicable terms in this Agreement. For the purposes of the foregoing, the Services which Phillip Nova may provide the Customer may comprise any, some or all of the following Services:

- (a) the carrying out of any Order by an Intermediate Broker;
- (b) the execution of Transactions including arranging for the execution of Transactions by an Intermediate Broker;
- (c) the clearing of Transactions including arranging for the clearing of Transactions by an Intermediate Broker; and
- (d) such other Products or Services as may be specifically applied for by the Customer and agreed to be provided by Phillip Nova by actually providing same and/or in writing.

For the purposes of the preceding, the expression "**Intermediate Broker**" means, in relation to a Transaction, any person acting in the capacity of an intermediary or agent (including another broker, dealer, market-maker, exchange, clearing house, bank, custodian or other third party) with or through whom Phillip Nova undertakes the carrying out of any Order, and/or the execution and/or clearing of any Transaction. Such use, engagement or appointment of an Intermediate Broker shall be upon such terms as Phillip Nova deems fit in its discretion. The expression "**correspondent broker**" shall carry a materially identical meaning as "Intermediate Broker".

Provided that Phillip Nova has exercised reasonable care in its selection of the Intermediate Broker, the Customer acknowledges and agrees that Phillip Nova has no liability or responsibility for any wrongdoing, act, omission, insolvency, negligence, breach of duty, misconduct, fraud, wilful default or any other failure or default by or in respect of an Intermediate Broker ("**Intermediary Default**"), the Customer shall bear all risks arising from or consequent from or in relation to the acts, omissions or Intermediary Default of such Intermediate Broker or such Intermediate Broker's officers, employees, agents or representatives, and the Customer shall indemnify, keep indemnified and hold harmless Phillip Nova from and against any and all Losses (including legal costs on a full indemnity basis) suffered or incurred by Phillip Nova whether directly or indirectly in relation to, arising out of or in connection with any act, omission or Intermediary Default of an Intermediate Broker or such Intermediate Broker's officers, employees, agents or representatives.

Phillip Nova may have to accept sole and principal responsibility to the Intermediate Broker for the executed instructions and/or Transactions, when using, engaging or appointing an Intermediate Broker. This may be notwithstanding that, as between the Parties, Phillip Nova acts as the agent of the Customer. Accordingly, the Customer shall indemnify, keep indemnified and hold harmless Phillip Nova from and against any and all actions taken by Phillip Nova in good faith, or compliance with, or its performance as said principal obligation or responsibility. In this connection, the Customer recognizes that Phillip Nova may take such measures (including effecting payment and settlement in respect of the Customer's executed instructions) as may be necessary to ensure non-default of Phillip Nova's own primary responsibility as aforesaid (notwithstanding that between the Parties, the Customer is, or has notified Phillip Nova that it will be, in default).

In view of the fact that Phillip Nova may have accepted principal responsibility and/or liability to another Intermediate Broker, the Customer also acknowledges that subject to Applicable Laws, any moneys or other property (which to the Parties be regarded as that of the Customer, or purchased by, or for the Customer) may or will be regarded by such Intermediate Broker as being the moneys or other property of Phillip Nova or purchased by Phillip Nova for itself. This may in some instances result in prejudice to the Customer. The Customer accepts that this is a necessary risk of dealing in any foreign jurisdiction through Phillip Nova.

The rights and remedies of Phillip Nova in this Clause 2.1 will apply even though between the Parties, Phillip Nova may be in actual or anticipatory default.

- 2.2 In the event that any facility to which any Appendix relates is provided expressly subject to terms and conditions other than the terms of this Agreement, such other terms and conditions shall prevail in the event of conflict between the former and the latter.
- 2.3 This Agreement and all pending and/or executory Transactions governed by this Agreement constitute a single agreement between the Parties. For the purposes of the foregoing, a Transaction that is wholly performed by both parties is not considered to be executory.

## **3** **GENERAL CONDITIONS**

3.1 The acceptance by the Customer of the terms (as updated from time to time) of this Agreement, including the terms of all accompanying appendices and/or annexes (as they are relevant for Orders to be given by Customers and their corresponding executed Transactions) and therefore, amongst others, of the

Risk Disclosure Statement and the Notification on SGX Futures Trading Rule 1.6 provided in Schedules 1 and 5 respectively shall be conditions precedent to Phillip Nova's obligation to perform any of its obligations under this Agreement with respect to Orders and corresponding Transactions. Phillip Nova execution-only Services and facilities available to Customers are fundamentally electronic services; and the Customer specifically consents to the receipt of documents in electronic form via e-mail, posting on and accessible through the Account particulars section(s) of Phillip Nova's website or other electronic means.

The Customer also specifically confirms that the Customer has regular access to the Internet and consents to Phillip Nova providing information about itself and its Services (including market information), its costs and charges by e-mail or by posting such information on its website or through its Electronic Broking Facilities. The Customer correspondingly agrees to regularly access Phillip Nova's website and such Electronic Broking Facilities to keep updated on the terms of this Agreement and any documents relating to such Agreement and any subsequent revision to such terms, at all times.

The Customer further and specifically acknowledges, confirms and agrees that Phillip Nova shall not give, and shall not at any time be regarded as giving or having given, advice or recommendation to the Customer on the merits of any Transaction and is agreeable and shall be regarded at all times as dealing with the Customer on an execution-only basis.

The Customer also specifically represents to and undertakes in favour of Phillip Nova that the Customer will access and use the facilities and Services offered or available pursuant to this Agreement honestly, fairly and in good faith. The Customer therefore also represents and undertakes that the Customer has not and will not upload or transmit any malicious code or software to any of the Electronic Broking Facilities or the website (each a "Website") of Phillip Nova or any of its Associates or of any third party accessible via facilities provided to the Customer pursuant to this Agreement or otherwise use any electronic device, software, algorithm, and/or any dealing method or strategy that aims to manipulate any aspect of any of the Electronic Broking Facilities or Website, including, but not limited to, the way in which Phillip Nova construct, provide or convey pricing for Transactions.

Phillip Nova or other third party service providers or licensors with whom it contracts for provision of or access to the same (each a "Service Provider") may provide the Customer with Information in connection with the provision of the Services of Phillip Nova pursuant to this Agreement. The Customer agrees that:

- (a) neither Phillip Nova nor any other Service Provider shall be responsible or liable if any such Information is inaccurate or incomplete in any respect or for any actions the Customer takes or do not take based on, or the Customer's reliance upon, such Information;
- (b) the Customer will use such Information solely for the purposes set out in this Agreement or otherwise expressly agreed to by Phillip Nova;
- (c) the Customer will truthfully complete and submit to Phillip Nova in a timely fashion: (i) any declaration as Phillip Nova may require at any time in respect of its status as a user of Information; and (ii) any additional agreements with Phillip Nova or Service Providers or licensors relating to Phillip Nova's provision to the Customer of or access to any Information;
- (d) the Information is proprietary to Phillip Nova or the Service Provider and the Customer will not retransmit, redistribute, publish, disclose, alter, amend, rent, loan, license or display in whole or in part such data or information to any third party; and
- (e) the Customer will pay any fees and other costs associated with its access to and use of any Information, of which Phillip Nova may notify the Customer from time to time, and shall be responsible for payment of any and all taxes, duties, levies, charges or assessments imposed by any foreign or domestic national, state, provincial or local governmental bodies, or subdivisions thereof, and any penalties or interest relating thereto, in respect of its access to and use of any Information.

3.2 Phillip Nova may, in its sole and absolute discretion, permit the Customer's use of electronic signature as an indication of such Customer's acceptance of all terms and conditions within this Agreement, accompanying appendices, annexes and/or applicable form(s) incidental to Customer's Account relationship with itself, provided all the following conditions have, in the reasonable opinion of Phillip Nova been fulfilled:

- (a) such signature identifies the Customer; and
- (b) the use of the signature as indicating the Customer's acceptance is intended and/or authorized by the Customer.

3.3 The Customer authorises, consents and agrees to the disclosure by Phillip Nova and any of its Officer at any time and from time to time of any or all information in respect of any particulars or Transaction of the Customer or in respect of any Account to any person in the Phillip Capital Group, any Relevant Body, or any other person which Phillip Nova or its Officer considers to be appropriate for the purpose or to be in the interest of Phillip Nova. The consent and authority granted by this Clause shall constitute consent and authority for the purposes of the provisions of any Applicable Laws.

3.4 Phillip Nova may engage or appoint any Person (who is not an Officer or related to Phillip Nova) including floor brokers and clearing brokers to carry out any Order or to exercise any authority granted by the Customer to Phillip Nova or its Officer (whether under this Agreement or otherwise). In making such engagement or appointment, Phillip Nova shall not be liable for any and all Loss suffered or incurred by the Customer as a result of any act or omission of such Person or entity.

3.5 The Customer shall not, without the prior written consent of Phillip Nova, assign, charge or encumber any Account or the Customer's rights therein, or create or permit to create, in favour of any Person (other than Phillip Nova) any interest by way of trust or otherwise in any Account. Phillip Nova shall not be required to recognise any Person other than the Customer as having any interest in any Account.

3.6 Phillip Nova shall be entitled (but not obliged) to record (by any means) any communications (through any medium) between the Parties or any servant or agent of the Customer using any recording apparatus, without prior warning to the Customer. Any such recording shall be the sole property of Phillip Nova and may be used as evidence against the Customer. Phillip Nova may destroy such recordings at any time without giving any reason.

3.7 The Customer's relationship with Phillip Nova, the operation of all Accounts and the implementation of all Orders shall be subject at all times to the Applicable Laws. Phillip Nova may take or refrain from taking any action whatsoever, and the Customer shall do all things required, in order to procure or ensure compliance with Applicable Laws.

3.8 Where the Customer has been introduced and/or referred to Phillip Nova by a third party to open and/or maintain an Account, the Customer agrees and acknowledges that Phillip Nova has and will accept no responsibility for any conduct, action, representation or statement of such third party. The Customer further agrees that Phillip Nova may, to the widest extent permitted by Applicable Laws, share its fees, commissions and/or other charges with such third party or any other third party as Phillip Nova at its discretion deems fit or appropriate.

3.9 The Customer hereby ratifies all Transactions effected by Phillip Nova on its behalf prior to but remaining as open position(s) as at the date of this Agreement and agrees that such Transactions shall also be governed by the terms of this Agreement.

3.10 The Customer acknowledges and agrees that Phillip Nova may at any time in its discretion amend, vary or supplement any terms or conditions in this Agreement or any additional or specific terms or conditions relating to the Account or Transaction by notice to the Customer or by any means which the Customer has agreed to be effective communication of notice to the Customer as Phillip Nova deems fit, including notification via the Electronic Broking Facilities, provided the Customer has indicated that the Customer wishes to be provided notice of such amendment, variation or supplementation. Any such amendment, variation or supplement shall take effect as from the date of such notice or the date specified in such notice (as the case may be). If the Customer continues to give instructions in respect of or operates the Account or effects or keeps open any Transaction after receiving such notice, the Customer shall be deemed to have agreed to any such amendments, variations or supplements without reservation.

- 3.11 No amendment, variation or supplementation made to this Agreement by the Customer shall be effective, unless such amendment, variation or supplementation is formally agreed to in writing by an authorized executive officer of Phillip Nova.
- 3.12 In the event that the Customer requests for opting up to certain categories of client (such as an Accredited Investor, Expert Investor or Institutional Investor as defined in the SFA) to be allowed an expanded range of Products and/or Services to be accessed by the client or fails to opt out of the qualitatively higher and deemed more competent and able to take more risk category of client (such as an Accredited Investor, Expert Investor or Institutional Investor as defined in the SFA), Phillip Nova may, in its sole discretion and to the extent permitted by law, agree to either accepting the Customer's request or treat the Customer as a qualitatively lower and less competent and less risk tolerant category of client (as relevant). Otherwise, the Customer may be regarded as falling by default within a category of clients prescribed by applicable laws and regulations for having satisfied the prescribed criteria for such clients. The Customer agrees that if Phillip Nova exercises its aforementioned discretion to regard the Customer as a category of clients other than the category prescribed by law or regulations for which the Customer satisfies the qualifying criteria for, the Customer may not be entitled to the same level of protection afforded to such category of clients in the former case and may not be entitled to access the expanded range of Products and/or Services for the prescribed category of clients in the latter case.
- 3.13 The Customer's relation with Phillip Nova hereunder, the opening, maintaining and operation of all Accounts, the provision of all Services, the implementation and execution of all Orders, and the entry into and settlement of all Transactions, shall be subject at all times to Applicable Laws. Phillip Nova does not undertake any duty or obligation to ensure that any Transaction is suitable or recommended for the Customer, and shall not be regarded as making any recommendation or suitability representation to the Customer by reason only that Phillip Nova permitted the Customer to open an Account or to enter into any Transaction. Where Phillip Nova is required under Applicable Laws to obtain information about the Customer's educational qualifications, work experience and investment history so that Phillip Nova can assess whether the Customer satisfies the MAS mandated Customer Knowledge Assessment or Customer Account Review (as applicable), and if the Customer does not pass this assessment, Phillip Nova will inform the Customer of such outcome, and Phillip Nova reserves the absolute refusal right to open an Account for the Customer, even if the Customer, after being informed of such outcome, still intends to proceed to open an Account. Additionally, regardless of whether or not the Customer passes the Customer Knowledge Assessment and/or Customer Account Review, as a condition for Phillip Nova allowing any relevant Transaction to be proceeded with and as a condition for the Customer to continue to be allowed to trade / continue trading in the relevant Transactions, the Customer irrevocably confirms to Phillip Nova that the Customer does not wish to have or secure from Phillip Nova or be provided by Phillip Nova with any financial advice which Phillip Nova in any event does not provide as a business and therefore hereby rejects all offers of Phillip Nova providing advice concerning the relevant Transaction(s) to the Customer. In making the foregoing rejection, the Customer is fully aware and accepts that the Customer will be solely responsible to determine the merits and suitability of each and every Order and relevant Transaction for the Customer's Account, and the Customer will not be able to rely on section 36 of the Financial Advisers Act, 2001 of Singapore, to file a civil claim in the event the Customer alleges that the Customer has suffered a Loss. Notwithstanding anything herein to the contrary:
- (a) Phillip Nova may take or refrain from taking any action whatsoever; and
- (b) the Customer shall do all things required (including the giving by the Customer of its full co-operation with any market, exchange or clearing house), in order for Phillip Nova to secure, procure or ensure for Phillip Nova's benefit all compliance with Applicable Laws and Phillip Nova shall have no liability whatsoever to the Customer.
- 3.14 The Customer understands that Phillip Nova acts as the agent of the Customer in respect of all Transactions, except when Phillip Nova discloses to the Customer with respect to any particular Transaction that Phillip Nova acts as principal for Phillip Nova's own account or as an agent for some other person. In order to avoid the need, on each occasion where there is the possibility of Phillip Nova acting as principal or counterparty for Phillip Nova's own account or acting for the account of any person associated with or connected to Phillip Nova in respect of the Customer's Order in respect of a Transaction, to seek the Customer's prior consent before the Customer's Order may be executed and so to avoid at least any delay in execution and filling of such Order, the Customer hereby:
- (a) consents to Phillip Nova, from time to time and at any time, acting as principal or counterparty for Phillip Nova's own account or acting for the account of any person associated with or connected to Phillip Nova in respect of the Customer's Order in respect of a Transaction; and
- (b) waives any and all prior notice by Phillip Nova in respect of all such Transactions.

The consent and waiver of the Customer under this Clause 3.14 shall be deemed to be effective as a formal written consent and waiver for all purposes under all Applicable Laws. Such consent and waiver of the Customer shall stand and remain in effect at all times until and unless revoked by at least 5 Business Days' prior written notice by the Customer to Phillip Nova. For avoidance of doubt, Phillip Nova may, without assigning any reason therefor, refuse to act for the Customer in any particular Transaction.

Where Phillip Nova has (a) assumed the role of the counterparty to any Transaction which Phillip Nova has been given an order to effect on behalf of the Customer or is under a duty to effect on behalf of the Customer; and/or (b) entered into that Transaction with the Customer, and unless otherwise required by law, Phillip Nova need not inform the Customer whether any such Transaction of the Customer has been effected with Phillip Nova as the counterparty and Phillip Nova shall be absolutely entitled to all gains, profits and benefits derived from any such Transaction of the Customer entered into with Phillip Nova.

#### **4 ORDERS**

- 4.1 The Customer may instruct Phillip Nova to execute any Transaction for an Account by placing an Order with or (in the case of an Order placed by the Customer via DMA, including Sponsored Access services) for the account or responsibility of Phillip Nova in the form and using the media prescribed as acceptable to Phillip Nova from time to time and subject to the terms for such transmission/placement of the Order (including the DMA Procedures). Subject as provided herein, all Orders shall be given direct to Phillip Nova (whether oral (in person or by telephone), via internet or any electronic means, by use of Electronic Broking Services, or other means of communication accepted by Phillip Nova from time to time) in such manner as may be prescribed by Phillip Nova from time to time. If Orders are given by telephone, internet, electronic means or by Electronic Broking Services, Phillip Nova is entitled to rely upon and act in accordance with such Orders without inquiry or verification by Phillip Nova of the authority or identity of the Person making or giving or purporting to make or give such instructions and regardless of the circumstances prevailing at the time of the giving of such Orders or amount of money or size of positions involved in the Orders, and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation thereto, provided that Phillip Nova or its Officers concerned believed, in good faith, the Orders to be genuine at the time it was given. In transmitting or placing such Order, the Customer hereby acknowledges and expressly agrees that Phillip Nova may in its sole and absolute discretion act either as agent or principal to the Customer for its own accounts or for the accounts of Persons associated with or connected to Phillip Nova or Phillip Capital Group or any of its Officers or Associates having a direct or indirect interest. In the event that Phillip Nova assumes the role of the counterparty to any Transaction which Phillip Nova has been instructed to execute, Phillip Nova shall be absolutely entitled to all gains, profits and benefits derived from any such Transaction of the Customer with Phillip Nova. Phillip Nova may do whatever Phillip Nova consider necessary or appropriate to ensure its own and the Customer's compliance with Applicable Laws and, with respect to DMA Services, the DMA Procedures provided that except in the case of fraud, gross negligence or willful default on the part of Phillip Nova in effecting compliance with Applicable Laws in the execution of an Order, the Transaction so executed shall not be voidable at the option of the Customer and any other breach of duty on the part of Phillip Nova with respect to the execution of an Order therefore restricts the Customer only to an action for damages as determined by Applicable Laws.
- 4.2 Where the Electronic Broking Facilities are made available by Phillip Nova, the Customer may, subject to the terms for the transmission/placement of the same, place Orders through the use of such facilities. The terms governing Electronic Broking Facilities are set out in Appendix 1 and, with respect to DMA Services, in addition to requirements of the DMA Procedures.
- 4.3 Phillip Nova shall be entitled to treat any and all Orders as fully authorized by and binding on the Customer provided that, subject to Clause 4.5, the Customer may give an Order to withdraw, cancel, revoke or vary a previous Order. When giving Orders, the Customer is solely responsible for ensuring the accuracy and completeness of all Orders and the Customer shall ensure that it does not give conflicting, inconsistent or contradictory instructions to Phillip Nova.

Phillip Nova shall be entitled (but not bound) to act on or take such steps in connection with or in reliance upon any Order as Phillip Nova may in good faith consider appropriate without any liability to the Customer. Where a Customer gives Phillip Nova an Order to withdraw, cancel, revoke or vary a previous Order, Phillip Nova shall not be obliged to execute such Order nor shall the Customer be entitled to assume that such Order will be executed until after the Customer confirms with Phillip Nova both that the previous Order has not been executed, and that the withdrawal, cancellation, revocation or variation as the case may be, is both practicable for execution and will not prejudice Phillip Nova's position (where relevant) with a counterparty or correspondent broker or (with respect any Order transmitted on a DMA basis) Market (or related clearing house).

- 4.4 The Customer also acknowledges that in the event that the Customer is, for any reason, unable to communicate any Order to or for the account and responsibility of Phillip Nova, Phillip Nova shall not be liable to the Customer.
- 4.5 Phillip Nova shall bear no liability whatsoever for exercising or failing to exercise any discretion, power or authority conferred upon Phillip Nova by this Agreement so long as Phillip Nova acted in good faith.
- 4.6 Phillip Nova shall be entitled (but not obliged) to verify and be satisfied with respect to the identity and/or authority of the Person purporting to give an Order or the legitimacy of the source and origin of such Order as a precondition to accepting an Order for execution.
- 4.7 If Phillip Nova decides to act on any Order or is otherwise under an obligation to act on any Order, Phillip Nova shall be allowed such amount of time to act upon and execute the Order as may be reasonable, having regard to the systems and operations of Phillip Nova and the other circumstances then prevailing, and shall not be liable for any Loss arising from any delay on the part of Phillip Nova in acting on the Order.
- 4.8 Where any Order is ambiguous, contradictory, conflicting or inconsistent with any other Order, Phillip Nova shall be entitled to rely and act upon any Order in accordance with any interpretation thereof which any Officer, or any Person who has been engaged or appointed by Phillip Nova pursuant to Clauses 3.3 and 4.1, believes in good faith to be the correct interpretation.
- 4.9 Phillip Nova shall send to the Customer a Confirmation within 14 Business Days or such shorter period as may be prescribed under Applicable Laws after its receipt of an Order. The Customer shall bear the sole responsibility of ensuring that an Order has been transmitted, received, processed and duly executed, and shall, without prejudice to the generality of the preceding, immediately notify Phillip Nova of any failure to receive an appropriate Confirmation that the Order has been received and executed.
- 4.10 Without prejudice to any other rights of Phillip Nova under this Agreement, and in case of a dispute between the Parties over any Transaction, of Phillip Nova is entitled, at its sole discretion and without notice, to close the position(s) relating to the Transaction if Phillip Nova believes in good faith such action to be desirable for the purpose of mitigating or limiting the potential loss or damages to either party involved in the dispute. Phillip Nova shall not, in such event, be responsible or obligated to the Customer for any Losses arising from such aforementioned closure of Customer's position(s) and/or subsequent fluctuations in the price level of the erstwhile position(s). Where Phillip Nova closes the Customer's position(s), the closing shall be without prejudice to the Customer's rights to open new positions provided that such new positions are opened in accordance with the terms of this Agreement, including for Margins after accounting for Loss, if any, from such closing out.
- 4.11 The Customer acknowledges and agrees that while an Order is a binding offer from it to enter into a Transaction, prices quoted or given by Phillip Nova (whether on/via any Electronic Broking Facility, by telephone, 'live chat' or otherwise) do not constitute a contractual offer to enter into a Transaction at the prices quoted/given or at all.
- 4.12 Where an Order is executed through several Transactions at varying prices, the Customer will be charged separate fees and commission for each individual Transaction.
- 4.13 If multiple Orders are placed or triggered, which in aggregate exceed its own position limits for the relevant Market, Phillip Nova may in its sole discretion take any of the following action: (a) refuse to execute all, some or any of the Orders; and/or (b) partially fill the Orders.
- 4.14 If any Order is accepted and executed in circumstances where the Customer would be in breach of this Agreement or by reference to any event described in Clause 18 below is an Order that Phillip Nova believes in good faith to be voidable or an Order that it would not have accepted if it had knowledge of the said event occurring, Phillip Nova may following its knowledge of the breach or relevant event treat the executed Order as void or close the open position at the price prevailing at the time it closes such open position. The Customer shall in any event be liable for all Losses from such closing out.
- 4.15 Phillip Nova may refuse to accept any Order given by the Customer in any medium whatsoever and whether in respect of the Account or any Product or Transaction. Phillip Nova shall not be liable for any Losses suffered by the Customer as a result of such refusal.

## **5 TRANSACTION LIMITS AND RESTRICTIONS**

- 5.1 Phillip Nova may, at any time in its sole and absolute discretion, and without prior notice to the Customer, impose any position or Transaction limits, or any trading or Transaction restrictions upon the Customer. Such limits may include minimum sizes for Transactions, specified times or procedures for communicating Orders to Phillip Nova or otherwise.
- 5.2 Phillip Nova may, at any time in its sole and absolute discretion, vary the position or Transaction limits, or any trading or Transaction restrictions. No previous limit or restriction shall set a precedent or bind Phillip Nova.
- 5.3 The Customer acknowledges that the limits referred to in Clause 5.1 may also be set by a Relevant Body and that the limits set by Phillip Nova may exceed those set by the Relevant Body. In placing Orders with Phillip Nova, the Customer shall not exceed any position or Transaction limits, or breach any trading or Transaction restrictions whether imposed by Phillip Nova or such Relevant Body.

## **6 MARGIN REQUIREMENTS**

- 6.1 The Customer shall deposit, maintain in the Account and/or otherwise provide Phillip Nova with initial Margin in such amounts and at such times as Phillip Nova may in its sole and absolute discretion stipulate and without prejudice to the Customer's sole and proactive obligation in any event to be informed (on an updated basis) and to provide and/or maintain minimum margins with respect to the Customer's Transactions as may be prescribed under Applicable Laws and relevant Markets at which the Orders giving rise to the Transactions are executed and/or cleared.

The Customer acknowledges (a) that Phillip Nova does not and will not provide any advisory service with respect to the Customer's trading or investing with respect to the Customer's Account(s); (b) the Customer is solely responsible for suitability determination with respect to any and all of the Customer's Transactions and therefore of ensuring whether trading or investment based on Margin provided (and therefore the risk of magnified exposure and liability as a result of the leverage provided by such margin) is appropriate and suitable for the Customer in light of the Customer's financial resources, objectives and other relevant circumstances.

Subject to applicable regulatory requirements (whether under Applicable Laws and/or the requirements of relevant Markets), the minimum and maximum amounts of any particular exposure or open position(s) available for the Customer to establish and/or maintain may be established by Phillip Nova, at its discretion regardless of the amount of Margin delivered, and Phillip Nova may change such minimum and maximum amounts.

- 6.2 The Customer understands and agrees that Transactions are subject at all times to initial margin and maintenance margin requirements ("**Margin Requirements**") established by Phillip Nova may be (and likely will be) higher than the corresponding minimum requirements under Applicable Laws or applicable rules/directives/regulations/requirements of relevant correspondent brokers or applicable Market(s). The Customer shall monitor the Customer's Account(s) to ensure that it contains sufficient equity or collateral of the type(s) and quality eligible to be counted towards satisfaction of Margin Requirements

at all times to meet the applicable Margin Requirements. The Customer therefore also acknowledges and agrees that Phillip Nova is not obligated to: (i) request additional securities/collateral/margin or other property for margin purposes in the event the Account(s) falls below minimum margin requirements; (ii) notify the Customer of any such deficiency; or (iii) allow the Customer time to deposit additional securities or other property. Any such request or notification made by Phillip Nova from time to time is understood and accepted by the Customer as an act on each occasion that is done out of goodwill on the part of Phillip Nova and does not constitute any precedent obliging Phillip Nova contrary to the Customers' acknowledged understanding and agreement pursuant to this Clause 6.2.

The Customer also acknowledges and agrees that Phillip Nova is entitled at its discretion to discount the market value of, reject and/or accept in whole or to any degree as it may determine to be appropriate securities/collateral/margin or other property offered and/or provided by the Customer towards satisfaction of Margin Requirements even where such securities/collateral/margin or other property qualify to be provided as margins for the purposes of Applicable Laws or the requirements of relevant Markets. Phillip Nova may modify such Margin Requirements for open and new positions at any time, in its sole and absolute discretion. Phillip Nova may reject any Order if the Customer does not have a sufficient account balance to meet Margin Requirements and may delay the processing of any Order while determining the correct margin status of the Customer's Account(s). The Customer shall maintain, without notice or demand from Phillip Nova, a sufficient account balance at all times in order to continuously meet the Margin Requirements.

The general formulas or examples provided for calculating Margin Requirements are only illustrative and may not accurately reflect the actual Requirements in effect at a particular time for the Customer's Account(s) but do and are intended to be understood and accepted by the Customer as articulating general principles of margin provision and maintenance that do apply to the Customer and the Customer's Account(s).

Should the Customer at any time fail to provide required Margin, then Phillip Nova may (without prejudice to any other rights or powers under this Agreement) and without creating an obligation to do so, close out or liquidate without notice, any or all of the Customer's open positions with respect to Transactions executed.

The Customer acknowledges and agrees that the time for payment/provision of required minimum Margin (whether initial or maintenance Margin or by way of additional Margin notified by Phillip Nova as required of the Customer to be provided) is of the essence and if no other time is stipulated by Phillip Nova for the payment/provision of such Margin then the Customer is required to pay/provide such Margin within twenty-four (24) hours of the requirement for such Margin becoming due or, in times of extreme price volatility, immediately as it becomes due.

For the avoidance of doubt, the Customer's liability to (i) pay/provide initial Margin for any relevant Order accrues at the time the Order is given regardless of whether or when a Margin call is made or the Order executed; (ii) to pay/provide any other Margin accrues at the time the relevant minimum requirement for such Margin comes into existence or is (by reason of price fluctuations or Orders executed or otherwise) triggered by the factual circumstances from time to time regardless of whether or when a Margin call for such Margin is made.

- 6.3 Without prejudice or detracting from Clause 6.2 above and with regard to margin maintenance requirements, Phillip Nova, while not obliged to do so, typically issues a **"Margin Call"** (a request for the immediate deposit of additional collateral) if the equity in a Customer's relevant Account drops below the threshold mark to market value of the Customer's open positions as determined in good faith by Phillip Nova ("**Threshold Equity Level**"). In some situations, such as (but not limited to) concentrated positions, low-priced stocks or volatile contracts, Phillip Nova may require substantially greater collateral than normal initial or maintenance requirements. Phillip Nova reserves the right to calculate the foregoing on an intra-day basis.

Margin Calls, if made, may be issued in writing, via telephone, electronically, or by other means of communication and the Customer agrees to promptly satisfy all Margin Calls within twenty-four (24) hours, or in times of extreme price volatility, immediately as it becomes due (or such other period as may be directed by Phillip Nova), but at all times, not exceeding any period pursuant to the Applicable Laws (including, but not limited to the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations), within which a Margin Call needs to be fulfilled, by depositing with Phillip Nova such funds or other collateral in such form and manner as may be required by Phillip Nova. In some situations, such as during volatile market conditions, Phillip Nova may not in any event immediately issue a Margin Call when a Customer's relevant Account equity falls below the Threshold Equity Level.

The Customer shall not have a right to an extension of time with regards to Margin Calls. Without prejudice to the foregoing, if Phillip Nova grants any such extension of time for Margin Calls in its discretion, then unless Phillip Nova expressly states in writing that such extension of time is intended to override or prevail over Phillip Nova rights under this Clause 6, such extension of time shall be deemed to have been granted subject always to Phillip Nova rights under this Clause 6.

Phillip Nova reserves the right to amend the Threshold Equity Level without notice to the Customer. No Margin Call relieves the Customer from the Customer's obligation to have proactively provided such Margin or is to imply any waiver or binding legal indulgence on the part of Phillip Nova in favour of the Customer.

Without prejudice to the Customer's sole responsibility to proactively provide or ensure the continuing provision of required Margin(s), the Customer is responsible in any event for acting immediately on any Margin Calls, liquidation, buy-in or sell-out notices given orally or in writing. The Customer's failure to promptly deposit additional money or securities in response to a Margin Call, even if the equity level in the Customer's Margin Account may be in compliance with erstwhile Margin requirement(s), may result in the liquidation of part or all of the collateral in such Account as part of or as a consequence of the liquidation or close-out of open positions no longer supported by required Margin amounts.

Although Phillip Nova will generally attempt to notify the Customer of a Margin Call and give the Customer an opportunity to deposit additional equity to maintain an affected open position(s), such acts is not an obligation nor a precondition of the Customer being obliged to pay/provide additional Margin, Phillip Nova reserves the right to institute immediate discretionary liquidation and/or realization of any and all open positions of the Customer and Margins/collateral provided without prior notice and without giving the Customer the opportunity to deposit additional equity. This sole and absolute discretion applies regardless of any historical pattern of delivering verbal/written notices, or of any current verbal/written representations by Phillip Nova that indicate a different dollar amount/liquidation time or suggest additional time based on due date or reasonableness required to furnish additional margins. This sole and absolute discretion to liquidate immediately applies regardless of time zone differentials, language interpretations or delays in wiring funds, and includes the sole and absolute discretion to choose which position to liquidate and in what order. It is and remains at all times the Customer's responsibility to monitor and liquidate positions to minimize the Customer's Losses before Phillip Nova is forced in its discretion and good faith judgment to liquidate the Customer's open positions to protect the interests of Phillip Nova and/or its other Customers and/or the exchange on which the Customer's open positions is/are held.

Phillip Nova in any event reserves the right in its sole and absolute discretion to close out any positions for any Account that represents a negative liquidation value where it believes in good faith that this is appropriate for the protection of its interests.

- 6.4 The Customer also understands and agrees notwithstanding any Margin Call made by Phillip Nova, Phillip Nova may at any time exercise its rights to close out/liquidate as set out in Clause 6.3 and/or Clause 12 on and following the occurrence of any relevant event of Default (including the Customer's failure to proactively provide or ensure the continued provision/maintenance of minimum Margin requirement(s)).
- 6.5 The Customer also acknowledges and agrees that the Margin may be held and used to secure the performance of the Customer's obligations as well as for such other purposes as the Applicable Laws may permit or stipulate for the Transactions traded.
- 6.6 All Margin shall, in any event, be held by Phillip Nova in its discretion deems fit, notwithstanding any provision or instructions to the contrary, as continuing security and shall be subject to a general lien and right of set off in favour of Phillip Nova for any and all of the Customer's liabilities, whether contingent or actual, under this Agreement or otherwise, and Phillip Nova may realise any of the Margin of the Customer as provided for in this Agreement.
- 6.7 All Margin and its value shall be in such form as stipulate and shall be determined by Phillip Nova, in its sole and absolute discretion. To the maximum extent permitted by Applicable Laws, Phillip Nova shall be entitled to deposit, invest, loan, mortgage, charge, pledge, repledge, hypothecate or otherwise deal with any Margin in whatever form provided to Phillip Nova or any Relevant Body in such manner as may be permitted under the Applicable Laws, and shall not

be under any obligation to account to the Customer for any interest, income or benefit that may be derived therefrom. No interest shall be paid on any type of Margin deposited by the Customer with Phillip Nova and the Customer acknowledges and consents that interest earned on the Margin deposited under this Agreement may be retained by Phillip Nova for its own account and benefit. Phillip Nova shall be entitled to charge interest on any sum due from the Customer in request of any Margin Requirements at such rate and calculated and/or compounded in such manner as Phillip Nova may impose and determine from time to time in the sole and absolute discretion of Phillip Nova. Phillip Nova shall at no time be required to deliver to the Customer the identical property delivered to or purchased by Phillip Nova as Margin for the Account(s) but only property of substantially the same kind and amount, subject to adjustments for quantity and quality variations at the market price prevailing at the time of such delivery.

6.8 Without prejudice to the generality of Clause 6.7 or the contents of Appendix 7 to the Customer but subject always to compliance with the latter, the Customer hereby expressly agrees that Phillip Nova may deposit any Margin of the Customer which has not been title transferred to Phillip Nova in any of the following ways:

- (a) with such custodian as Phillip Nova may, in its sole and absolute discretion, appoint including, where such Margin is denominated in a foreign currency, a custodian outside Singapore, and on such terms as shall be notified to the Customer. Where such Margin is so deposited, Phillip Nova shall separately agree in writing the requirements specified in Regulation 32 of the Securities and Futures (Licensing and Conduct of Business) Regulations (if applicable) but otherwise the Customer acknowledges and accepts that different settlement, legal and regulatory requirements and different practices relating to the segregation of the Margin may apply. The Customer further agrees that Phillip Nova may co-mingle such Margin with the cash and properties of its other customers; and/or
- (b) with a Clearing House, a member of a futures exchange (whether overseas or otherwise) for such purposes as may be permitted under the Applicable Laws or the business rules and practices of the Clearing House or futures exchange (as the case may be).

Where Margin of the Customer is permitted by Applicable Laws to be and is provided to Phillip Nova by way of title transfer collateral or margin, the Customer is expressly notified and confirms understanding and accepting that in respect of such Margin, all rights, title and interest in and to it shall pass from the Customer by way of outright title transfer, free and clear of any liens, claims, charges or encumbrances or any other interest of the Customer or any other party. As such Phillip Nova shall have the right to deal with, lend, dispose of, pledge, charge or otherwise use the Margin as it deems fit. For the avoidance of doubt, any such cash or assets are not subject to the segregation or trust rules which apply to cash or assets of the Customer which was intended when passed to Phillip Nova to remain as cash and/or assets of the Customer but subject to a lien or other security interest only in favour of Phillip Nova, including but not limited to what, for convenience, may crudely be referred to respectively as the "**Client Money Rules**" and the "**Client Asset Rules**" (respectively Divisions 2 and 3 of Part III of the Securities and Futures (Licensing and Conduct of Business Regulations) – the "**Business SFR**" read with Part 5 Division 2 of the SFA, and more specifically section 104 of the SFA).

Where Margin is provided on a title transfer basis, Phillip Nova shall be obliged to redeliver equivalent collateral to the Customer's account on satisfaction of the Customers' obligations to Phillip Nova. The Customer also acknowledge and agree that notwithstanding any contrary provision agreed between the Parties that in the event of the Customer's insolvency, Phillip Nova have the right at its option to convert any obligation it may otherwise have to return the Customer's non-cash assets provided as Margin into an obligation instead to pay the aggregate market value for the same, and to subject such converted payment obligation to its general right of set-off (in addition to any other rights of set-off and/or consolidation of accounts or obligations it may have at law or in contract).

- 6.9 The Customer shall at its own cost and at Phillip Nova's request, execute and do all such deeds, acts and things (including without limitation, the performance of such further acts or the execution and delivery of any additional instruments or documents) as Phillip Nova may require for the purposes of this Agreement, including but not limited to perfecting its rights to the Margin provided by the Customer.
- 6.10 For so long as the Customer owes money or obligation (of whatsoever nature and howsoever arising) to Phillip Nova, the Customer shall only withdraw Margin with the consent of Phillip Nova. Phillip Nova may at any time withhold any Margin of the Customer pending full settlement of all such money or obligation.
- 6.11 In addition and without prejudice to any right which Phillip Nova may have under law or otherwise, Phillip Nova may in its sole and absolute discretion at any time and from time to time without notice to the Customer apply and/or set-off any Margin standing to the credit of the Customer (whether on any Account held with Phillip Nova or its Associates, or otherwise) against all moneys and/or other liabilities of the Customer due, owing or incurred on any Account, whether held with Phillip Nova or its Associates, or otherwise, in any manner and whether actual or contingent, joint or several.
- 6.12 The Customer hereby authorizes each of the Associates to act on any instructions as may be issued by Phillip Nova at any time and from time to time to withhold payment, or to deliver, transfer, withdraw or otherwise dispose of any Margin held by them for the Customer. Each Associate is under no duty to enquire about the purpose or propriety of Phillip Nova's instructions given pursuant to this Clause. The Customer also agrees to ratify all instructions given by Phillip Nova under this Clause, and to waive any claims it may have against any of the Associates resulting from their compliance with this Clause. The Customer also agrees that for the purposes of Phillip Nova exercising its rights under this Clause that it may request on the Margin posed by a Customer with any Associate and the Associate shall be allowed to comply with such request as if the Customer had directed the Associate and consented to the Associate's compliance with such request.

## **7 FOREIGN CURRENCY TRANSACTIONS**

- 7.1 If the Customer directs Phillip Nova to enter into a Transaction and such Transaction is effected in a foreign Currency:
- (a) any profit or Loss resulting from exchange rate fluctuations of such Currency will be at the Customer's sole risk; and
  - (b) all initial and subsequent deposits for Margin purposes shall, unless Phillip Nova otherwise stipulates, be made in such foreign Currency or in eligible margin instruments denominated and realizable by default in such foreign Currency (the "**Relevant Currency**") and in such amounts as Phillip Nova may, in its sole and absolute discretion require. Phillip Nova may debit or credit the Customer's Account in the Relevant Currency when such Transaction is liquidated, and the rate of exchange of the Relevant Currency shall be determined by Phillip Nova in its discretion on the basis of the rates of exchange prevailing at the time of the debit or credit.
- 7.2 Phillip Nova may (and therefore is not obliged to), at any time in its sole and absolute discretion, convert any amounts in any Account(s) of the Customer's denominated in a Currency other than a Relevant Currency or otherwise standing to the credit of the Customer to any Relevant Currency for the purposes of carrying out Orders of the Customer for Transactions in the Relevant Currency/Currencies or exercising its rights under these terms and conditions or under any Account. Exchange rate losses and the costs of conversion shall be borne by the Customer. For avoidance of doubt and good order, the Customer also therefore acknowledges and agrees that any amounts in any Account(s) denominated in a Currency other than a Relevant Currency or otherwise standing to the credit of the Customer are not, unless Phillip Nova actually exercises its discretion of currency conversion and application as margin in any Relevant Currency, taken into account in calculation of the margin provided or to be provided by the Customer for the Customer's Orders and Transactions in any Relevant Currency.
- 7.3 Phillip Nova reserves the right, but is not obliged, to convert without prior notice to the Customer cash or credit balance in favour of the Customer denominated in any currency other than a Relevant Currency deposited by the Customer, in order to avoid the incurrance of further interest charges arising from a deficit of the Customer's payment obligation in such Relevant Currency. The Customer also agrees Phillip Nova shall have no liability whatsoever in the event that Phillip Nova exercises its sole and absolute discretion not to perform such aforementioned currency conversion.



## **8 LIQUIDATION INSTRUCTIONS**

- 8.1 The Customer shall for any open position of any Transaction which involves physical settlement:
- (a) give instructions to liquidate such open position to Phillip Nova; or
  - (b) provide Phillip Nova with sufficient funds in respect of the Account to which such open position relates, and with the necessary delivery documents to take delivery of the underlying subject matter of the Futures Contract, not later than 5 Business Days prior to the first notice day for long positions, and not later than 5 Business Days prior to the last trading day for short positions.
- 8.2 If the Customer fails to comply with Clause 8.1, Phillip Nova may:
- (a) liquidate such open position;
  - (b) make or receive delivery of the underlying subject matter of the Futures Contract on the Customer's behalf upon such terms and by such methods which Phillip Nova deems fit; and/or
  - (c) take any of the actions described in Clause 12.2.
- 8.3 If the Customer fails to deliver by the stipulated delivery date any commodity which the Customer has instructed Phillip Nova to sell, Phillip Nova shall, in its sole and absolute discretion, without giving notice to the Customer, borrow any commodity necessary to make such delivery on the Customer's behalf, and the Customer shall indemnify Phillip Nova against any Loss which Phillip Nova may sustain in effecting the delivery and shall indemnify Phillip Nova for such Loss upon its demand.

## **9 FEES AND PAYMENTS**

- 9.1 The Customer shall promptly pay all fees and/or other charges at such rates to Phillip Nova and in such manner as Phillip Nova may in its sole and absolute discretion impose and stipulate from time to time with respect to the execution, performance and/or settlement of any Transaction or otherwise for the maintenance of any Account(s) or the provision of any Service or facility to the Customer in connection with any Account(s).
- 9.2 The Customer shall make payment to Phillip Nova promptly of any outstanding sum on the due date of the relevant Transaction, or upon demand by Phillip Nova as provided for in this Agreement.
- 9.3 Phillip Nova shall be entitled to charge interest on any sum or payment due from the Customer at such rate and calculated and/or compounded in such manner as Phillip Nova may, in its sole and absolute discretion, impose and determine from time to time and to debit any Account(s) in respect of the interest due. Where the Customer enters into Transactions in a foreign Currency, the Customer is reminded of the provisions in Clause 7 above and specifically that funds the Customer deposits as margin in the Relevant Currency do not automatically go towards meeting the Margin Requirements of the foreign Currency positions unless expressly and specifically so deposited and hence the Customer may therefore be charged interest on any deficit in the foreign currency open position(s) notwithstanding that the Customer may have an overall positive net equity in the Account.
- 9.4 All payments to Phillip Nova shall be in the Currency in which they are due (unless otherwise notified by Phillip Nova), in free and clear funds and free of deductions or withholdings. If the Customer is obliged by law to make such deduction, the Customer shall pay to Phillip Nova such greater amount which after deduction or withholding shall ensure that the net amount actually received by Phillip Nova will equal the amount which would have been received by Phillip Nova had no such deduction or withholding been required.
- 9.5 Any taxes, duties, disbursements, costs and/or other expenses incurred by Phillip Nova in connection with the Account(s), Transactions, Products, Services or otherwise in connection with the Customer shall be reimbursed by the Customer.
- 9.6 All interest, fees, commissions and other charges of Phillip Nova are exclusive of any goods and services tax or any other applicable sales tax which shall be borne by and separately charged to the Customer.
- 9.7 Unless Phillip Nova otherwise agrees with the Customer, each of its obligation to make any payment to the Customer under this Agreement is subject to the condition precedent that there is no Default subsisting.
- 9.8 If for any reason Phillip Nova cannot effect payment or repayment to the Customer in a particular Currency in which payment or repayment is due, Phillip Nova may select and effect payment or repayment in the equivalent of any other Currency based on the rate of exchange quoted by Phillip Nova in respect of the relevant Currencies at the time the payment or repayment is due.
- 9.9 All payments to the Customer shall be made in such manner as Phillip Nova may from time to time determine. All such payments shall be subject to the applicable taxes, deductions and withholdings, and where Phillip Nova deems appropriate less any and all amounts payable by the Customer to Phillip Nova.

## **10 JOINT ACCOUNTS**

- 10.1 If an Account is opened or maintained in the name of more than one Person or a partnership:
- (a) the term "**Customer**" shall refer to each Person or partner jointly and severally, and the liability of each such Person or partner to Phillip Nova shall be joint and several;
  - (b) Phillip Nova shall be entitled to debit that Account at any time in respect of any sum howsoever due or owed by any of the Persons in whose name the Account is opened or maintained or constituting the Customer; and
  - (c) the delivery of any monies, instruments and any other property in relation to the Account(s) and/or the Transactions may be made by Phillip Nova upon the Order of any one of such Persons and such delivery shall constitute full and complete delivery by Phillip Nova and shall without limitation be deemed to be sufficient delivery to all such person.

No Person constituting the Customer shall be discharged, nor shall his liability be affected by, any discharge, release, time, indulgence, concession, waiver or consent given at any time in relation to any one or more of the other such Persons constituting the Customer.

- 10.2 Unless otherwise agreed by Phillip Nova, the Orders of any one Person constituting the Customer shall be deemed to be the Orders of all the Persons constituting the Customer and any notice or communication addressed and sent by Phillip Nova to any one Person constituting the Customer shall be deemed to have been addressed and sent to all the Persons constituting the Customer and where any such Person shall have received or is deemed to have received any such notice or communication, all the Persons constituting the Customer shall be deemed to have received the same.
- 10.3 The doctrine of survivorship shall apply to any Account opened in the joint names of more than one Person or in the name of a partnership. Accordingly, in the event of the death of such Person or any partner constituting the Customer, the Account shall immediately vest in the surviving Person(s) or partner(s) (as the case may be). In the event of death, bankruptcy or liquidation or mental or other incapacity of one or more such Joint Account holders, Phillip Nova shall have the right to set off any claims Phillip Nova has or may have against such Person(s) howsoever incurred against any credit balance in any Account as if termination has occurred.

10.4 Where the Customer does not specify the signing requirement of any Joint Account, a single signature of any one of the Joint Account holders shall suffice for the operation of the Account. The instructions or agreement of any one Person constituting the Customer shall be deemed to be the instructions or agreement of all Persons constituting the Customer, and Phillip Nova shall be entitled to act on the instructions of any one of the Joint Account holders.

10.5 Upon the termination of a Joint Account, Phillip Nova shall have the same rights as to any Account in termination. In addition, Phillip Nova may discharge its entire liability in respect of any credit balance or Products in the Joint Account to any one of the Joint Account holders, in such Currency and at such rate of exchange as Phillip Nova may determine in its discretion, and none of the Joint Account holders will have any further rights against Phillip Nova upon such discharge.

## 11 **OMNIBUS ACCOUNT**

11.1 All omnibus accounts (which Phillip Nova may agree to open for the Customer) shall be subject to all Applicable Laws. The Customer holding an omnibus account with Phillip Nova shall comply with all Applicable Laws with respect to its opening, maintaining and operating of such omnibus account and shall at all times provide to Phillip Nova all information as Phillip Nova may require under any Applicable Laws.

## 12 **DEFAULT**

12.1 A "Default" shall be deemed to occur if:

- (a) the Customer fails to fulfill in full his/its payment obligations due to Phillip Nova;
- (b) the Customer fails to comply with any of his/its obligations hereunder or under any Account or Transaction;
- (c) the Customer is an individual, the death or incapacity of such Customer;
- (d) the Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order;
- (e) the Customer is the subject of a petition presented, an order made, or a resolution passed, to wind up the Customer, to place the Customer in bankruptcy or in judicial management, or to take any similar or analogous action in respect of the Customer;
- (f) Phillip Nova is of the opinion that the financial condition of the Customer or of any Person guaranteeing the Account(s) of the Customer has materially or adversely changed since the date of this Agreement or the date on which the Account(s) was opened, whichever is earlier;
- (g) any claim, action or proceeding of any nature is commenced against the Customer, or steps are taken by any Person to enforce any security against the Customer;
- (h) any representation, warranty and/or undertaking made by the Customer, is or subsequently becomes incorrect, false or misleading in any material aspect;
- (i) Phillip Nova has, for more than 2 consecutive Business Days, been unable to establish direct contact with the Customer; or
- (j) Phillip Nova forms the view, in good faith, that it should take action in order to preserve its rights or interests with respect to any Account, Order, Transaction or its contractual relationship with the Customer.

12.2 Without prejudice to any other right of Phillip Nova hereunder or otherwise at law, in the event of Default, Phillip Nova may (but is not obliged to) immediately or at any time thereafter, do any one or more of the following:

- (a) suspend (indefinitely or otherwise) or terminate any Account belonging to the Customer, or accelerate any and all liabilities of the Customer to Phillip Nova so that they shall become immediately due and payable;
- (b) hedge and/or close-out all or any outstanding Transaction (including any Transaction which has yet to be settled on the date on which Phillip Nova terminates such Transaction) or position by determining its value as of the date of the close-out as soon as practicable after the close-out;
- (c) cancel any of the Customer's outstanding Order(s);
- (d) liquidate the Margin or part thereof at a price which Phillip Nova deems appropriate in the circumstances;
- (e) satisfy any of the Customer's obligations due to it (either directly or by way of guarantee or suretyship) from any Margin;
- (f) sell any or all of the Securities, Futures Contracts and/or the underlying subject matter of the Futures Contracts long in the Account(s) and/or buy any or all Securities, Futures Contracts and/or the underlying subject matter of the Futures Contracts which may be short in the Account(s) on the Market in any manner and at any time;
- (g) apply any amounts of whatsoever nature standing to the credit of the Customer against any amounts which the Customer owes to Phillip Nova (of whatsoever nature and howsoever arising, including any contingent amounts), or generally to exercise its right of set-off against the Customer;
- (h) call upon any security including but not limited to any guarantees and letters of credit which may have been issued to or in favour of Phillip Nova as security for the Accounts;
- (i) demand any shortfall after (e), (g) and/or (h) above from the Customer, hold any excess pending full settlement of any other obligations of the Customer, or pay any excess to the Customer by way of cheque to the last known address of the Customer; and/or
- (j) exercise such other authority and powers that may have been conferred upon Phillip Nova by this Agreement, including the right to call upon, sell, dispose or realize any of the security.

## 13 **ADJUSTMENT UPON EXTRAORDINARY EVENTS**

13.1 If there occurs in relation to any Transaction or otherwise in relation to an Account or Accounts an Extraordinary Event (as defined in Clause 13.2 below), Phillip Nova shall have the sole and absolute discretion to determine any adjustments or action necessary in relation to such Transaction or any or all Transactions or otherwise to an Account or Accounts in view of the Extraordinary Event. Such adjustments or actions may include altering or varying the quantities of Currencies or financial instruments or the exchange rates or specifications of Currencies or instruments bought or sold in respect of such Transaction or some or all Transactions, or terminating the Transaction in question or some or all Transactions, or an Account or Accounts or otherwise. Provided Phillip Nova undertakes such adjustment and/or action in good faith, any such adjustment or action shall be binding on the Customer who shall be liable for any additional Loss incurred by Phillip Nova on the account of the Customer or which the Customer is consequently liable for as a result of such adjustment or action.

13.2 An "Extraordinary Event" shall mean any event which Phillip Nova in good faith believes to have a material adverse effect on any Transaction and shall include without limitation, any material disruption to the price source set out in the terms for any Transaction or in a relevant reference market has occurred

(each such event a "Market Disruption Event"), any form of exchange control restriction or requirement of whatsoever nature affecting availability, convertibility, credit or transfers of Currencies, financial instruments or funds, any form of debt or other moratorium on jurisdictions, individuals or entities, any devaluation, redenomination or demonetisation of the underlying Currencies or financial instruments of any Transaction and/or any form of restriction or requirement which in Phillip Nova's good faith opinion adversely alters or changes the rights or obligations which Phillip Nova in good faith undertook upon the establishment of such Transaction.

#### **14 POWER OF ATTORNEY**

14.1 The Customer hereby irrevocably appoints Phillip Nova through any of its directors or Officers as the attorney of the Customer for each and all purposes of this Agreement and with the power to sign and execute all documents and perform all acts in the name and on behalf of the Customer in connection with this Agreement, any Account, Product, Service, Transaction, or in respect of anything require to facilitate or give effect and/or substance to the rights conferred on Phillip Nova under this Agreement, and to do anything reasonably ancillary thereto.

14.2 Registration of this power of attorney in any jurisdiction may be effected on the Customer's behalf by Phillip Nova at the Customer's expense.

#### **15 GENERAL LIEN, SET-OFF, WITHOLDING AND OTHER RIGHTS**

15.1 All cash and other property of the Customer (including Margin) which may at any time be in Phillip Nova's possession or control or carried on its books for the Customer either solely, jointly with others, or as a guarantor for the account of any person for any purpose, including safekeeping, are to be held by Phillip Nova as continuing security and subject to a general lien and right of set off for liabilities of the Customer to Phillip Nova or its Associates whether or not Phillip Nova has made advances in connection with such cash or other property, and irrespective of the number of Accounts the Customer may have with Phillip Nova.

15.2 Phillip Nova is hereby authorized to sell and/or purchase or otherwise apply, any and all such cash and other property without notice to the Customer to satisfy such general lien.

15.3 Phillip Nova may, in its discretion, at any time and from time to time without notice to the Customer, apply and/or transfer any or all such cash and other property of the Customer's interchangeable between any of the Accounts.

15.4 To the extent permitted by Applicable Laws, the Customer also hereby grants Phillip Nova the right to carry general loans and to pledge, repledge, hypothecate, rehypothecate, invest or loan, either separately or with the property of other customers, to either Phillip Nova itself as brokers or to others, any property held on Margin for the Accounts of the Customer or as collateral therefor, without notice to the Customer and without any obligation to pay to the Customer, or to account to the Customer for any interest, income, or benefit that may be derived therefrom. Phillip Nova shall at no time be required to deliver to the Customer the identical property delivered to or purchased by Phillip Nova for any Account of the Customer but only property of the same kind and amount subject to adjustments for quantity and quality variations at the market price prevailing at the time of such delivery (unless such property is cash). The rights of Phillip Nova set forth in this Clause shall be qualified by requirements for the segregation of customer's funds and assets under the Applicable Laws.

15.5 Subject to Applicable Laws, Phillip Nova may, by mutual agreement in prior writing with the Customer, combine and/or consolidate all or any of the Customer's accounts, transfer any sum or sums amongst the different accounts that the Customer has with Phillip Capital Group in settlement of any or all of the Customer's debts with Phillip Capital Group.

15.6 For so long as the Customer owes moneys or obligations (of whatsoever nature and howsoever arising whether present or future, actual or contingent, as primary obligor or as surety) to Phillip Nova, the Customer may not withdraw any cash or other property held with Phillip Nova (whether as Margin or otherwise) without the consent of Phillip Nova. Phillip Nova may at any time withhold any cash or other property of the Customer pending full settlement of all such moneys or obligations of the Customer.

15.7 Phillip Nova may at any time and from time to time without notice set-off any amounts due to the Customer or held in any Account or any other account to which the Customer is beneficially entitled (whether with Phillip Nova or any of its Associate) to reduce or extinguish any liability whether present or future, actual or contingent, as primary obligor or as surety, owed by the Customer to Phillip Capital Group.

#### **16 GENERAL INDEMNITY**

16.1 In addition and without prejudice to any other right or remedy of Phillip Nova (at law or otherwise) the Customer shall indemnify, keep indemnified, and hold Phillip Nova harmless from and against any and all Loss (including reasonable legal costs), damages, costs and/or expenses suffered or incurred, or which may be suffered or incurred by Phillip Nova as a result of or in connection with:

- (a) any failure by the Customer to comply with the terms of this Agreement (including with respect to DMA Services any relevant DMA Procedures) or the Application Form, or to fully and punctually perform any of its obligations hereunder or in respect of any Order and/or Transaction;
- (b) Phillip Nova acting or omitting to act in accordance with the Customer's Orders (or any communication given or purportedly given by any person authorised to act in relation thereto), or taking any action, exercising any right, power and discretion, performing any of its duties and obligation or otherwise acting in any manner permitted under this Agreement or the Application Form including where so acting or omitting to act results in any claim by or liability to any third party;
- (c) any of the Customer's representations, warranties, agreements and undertaking in this Agreement or the Application Form being untrue, incorrect, incomplete or misleading in any material respect;
- (d) any actions, claims, demands or proceedings brought by any third party (including Relevant Bodies) against Phillip Nova further to its acting in accordance with the Customer's Orders or otherwise in the exercise of its powers under this Agreement or the Application Form;
- (e) the Customer's act and/or omission resulting in Phillip Nova being subject to any claim of liability to any third party rights including for violation of any proprietary or intellectual property rights, or the enforcement of any of the terms and conditions of this Agreement or the Application Form;
- (f) any change in any Applicable Laws, rules and/or regulations;
- (g) any act or thing done or caused to be done by the Customer in connection with or referable to this Agreement;
- (h) any act or thing done or caused to be done by Phillip Nova in connection with or referable to this Agreement or any Account;
- (i) any delay in settlement of any Transaction that is the result of any circumstances, acts or events beyond the control of Phillip Nova; and/or
- (j) any circumstances, acts or events beyond the control of Phillip Nova, including but not limited to industrial disputes, acts or regulations or any governmental or supranational bodies or authorities and breakdown, failure or malfunction of telecommunications or computer service or systems.

16.2 The Customer's obligation to indemnify Phillip Nova under this Clause shall survive the termination of this Agreement, closure of any Account or termination or cessation of any Service.

## **17 GENERAL EXCLUSION**

- 17.1 In addition and without prejudice to any other right or remedy which Phillip Nova may have (under this Agreement, at law or otherwise) in the absence of fraud, gross negligence, or wilful default of Phillip Nova, it shall not be liable to the Customer in any respect of any Loss suffered, including but not limited to any Loss resulting from action, inaction or insolvency by way of any intermediary, exchange, market or clearing house (including wrongful or unlawful action or inaction), or howsoever suffered and/or incurred by the Customer.
- 17.2 Phillip Nova shall not be liable to the Customer for any and all Loss incurred by the Customer as a result of the suspension of trading and/or change in trading conditions affecting the Market.
- 17.3 Phillip Nova shall not be liable to the Customer for any and all Loss incurred by the Customer arising from any Loss or delay in the transmission or wrongful interception of any Order through any equipment or system, including any equipment or system owned and/or operated by or on behalf of Phillip Nova.
- 17.4 For the avoidance of doubt and without prejudice to the generality of the foregoing, Phillip Nova shall not in any event be liable to the Customer for any indirect or consequential Loss (including loss of profit and loss of opportunity), or for special or punitive damages.

## **18 FORCE MAJEURE AND EVENTS OUTSIDE THE CONTROL OF PHILLIP NOVA**

- 18.1 Phillip Nova shall not be liable to the Customer for any Loss, damage, costs, delay or whatsoever suffered or incurred by the Customer (including any Loss or delay in the performance of any of Phillip Nova's duties or obligations, or execution of any Orders under this Agreement) caused by events beyond its control, including without limitation, fire, earthquake, tsunami, flood, lightning, riots, strikes, lockouts, government action, war, epidemic, pandemic, industrial action, act of terrorism, telecommunications disruption, computer failure, failure of any relevant exchange, clearing house, settlement system or broker or failure or similar or other events or events commonly known as "force majeure" ("**Event Outside Its Control**").
- 18.2 Phillip Nova may determine that a situation or an exceptional market condition exists which constitutes an Event Outside Its Control and/or a Market Disruption Event.
- If Phillip Nova determines that an Event Outside Its Control or Market Disruption Event has occurred, it may take any of the steps referred to in Clause 18.3 with immediate effect. Phillip Nova will take reasonable steps to notify the Customer of any action it proposes to take before it takes any action to the extent practicable. If it is not practicable to give the Customer prior notice, Phillip Nova will notify the Customer at the time or promptly after taking any such action.
- 18.3 If Phillip Nova determines that an Event Outside Its Control and/or a Market Disruption Event has occurred, Phillip Nova may take one or more of the following steps:
- (a) cease or suspend trading, and/or refuse to enter into any Transaction or accept any Orders;
  - (b) alter our normal trading times for all or any Markets;
  - (c) change the price for Orders and Transactions and/or minimum or maximum quantity;
  - (d) close any open positions, cancel and/or fill any Orders, and/or make adjustments to the price and/or quantity of any open positions and Orders;
  - (e) change the margin requirements in relation to both open positions and new Transactions;
  - (f) change the margin close out/liquidation level applicable to any Account;
  - (g) immediately require payments of any amounts owed to Phillip Nova, including margin requirements;
  - (h) void or roll over any open positions; and/or
  - (i) take or omit to take all such other actions as Phillip Nova considers to be reasonable in the circumstances to protect itself and its customers as a whole.
- 18.4 In some cases Phillip Nova may be unable, after using reasonable efforts, to acquire, establish, re-establish, substitute, maintain, unwind or dispose of any hedge or protect its exposure to market and other risks arising from an open position. When this occurs Phillip Nova may close that open position at the prevailing price as determined and deemed fit.
- 18.5 Phillip Nova will not be liable to the Customer for any Loss or damage arising or referable to any of the Events Outside Its Control or a Market Disruption Event nor for any action or decision it takes under this Clause 18, provided Phillip Nova acted in good faith.

## **19 COMMUNICATIONS**

- 19.1 Communications may be transmitted or sent by Phillip Nova to the Customer by telephone, electronic mail, electronic messaging (including but not limited to SMS, Whatsapp and/or such other modes of electronic communication), facsimile, telex, or to any mailing address of the Customer at such number(s) or address(es) last known to Phillip Nova. Any such communications shall be deemed received by the Customer (in the case of electronic mail, electronic messaging, facsimile or telex communications) immediately upon transmission by Phillip Nova, or (in the case of posted communications) 1 Business Day after the communication was dispatched by Phillip Nova (in the case of a Customer who has a Singapore residential address) or 7 Business Days after the communication was dispatched by Phillip Nova (in the case of a Customer who has a non-Singapore residential address). Communications served personally on or delivered personally to the Customer by Phillip Nova shall be deemed received upon service or delivery.
- 19.2 The risk of loss of or damage to, and the costs of delivery of, any articles or items sent to the Customer shall be borne by the Customer.
- 19.3 Any communications from the Customer to Phillip Nova, whether they be instructions relating to any of the Accounts or otherwise, shall be given in accordance with general operating procedures of Phillip Nova. Where the Customer makes use of the Electronic Broking Facilities, the Customer shall be deemed to have notice of and be bound by all notices and communications as may be given by Phillip Nova from time to time and accessible by the Customer via the Electronic Broking Facilities effectively as from the time when the same may be so accessed by the Customer.
- 19.4 The Customer shall indemnify and hold harmless Phillip Nova from any Losses and/or liabilities arising from Customer's instruction(s) and/or order(s) made through such aforementioned modes of Communications.
- 19.5 The Customer understands and accepts all risks associated with communications via electronic mediums, which includes without limitation any failure and/or delay to any receipt of any communication from Phillip Nova, and/or vice versa, due to mechanical, software, computer, telecommunications and/or any other electronic systems failure. The Customer agrees that such aforementioned failure and/or delay of transmission of communication shall not in any manner invalidate or prejudice such communication it relates to. Phillip Nova shall not be liable to the Customer for any Loss or damage arising from such aforementioned failure and/or delay of transmission of communication. The Customer further accepts the risk that any electronic communications sent by Phillip Nova to the Customer may not be encrypted and/or secure.
- 19.6 Where the Customer comprises more than one Person (including in the case of any Joint Account or Account opened in the name of a partnership), any notice, demand and/or other communications shall be deemed to be received by all of the Persons comprising the Customer if it is received (or deemed

received) by any one of such Person (whether or not it is forwarded to or received by any other Person(s) comprising the Customer) in accordance with this Clause 19.

## **20 STATEMENTS, CONFIRMATIONS AND ADVICE**

- 20.1 The Customer shall verify all statements, Confirmations and advice sent/deemed sent and received by Phillip Nova. If no objection is raised in writing within 5 Business Days of the Customer's receipt or deemed receipt of such statement, Confirmation and/or advice, such statement, Confirmation or advice shall, except for manifest or clerical errors, be deemed conclusive and binding against the Customer. Notwithstanding any other provision in this Agreement or any other agreement or arrangement between the Parties to the contrary, all such objections shall be deemed received by Phillip Nova only if actually delivered or sent by registered mail, with return receipt requested. Any objection raised by the Customer shall be accompanied by satisfactory evidence supporting the alleged inaccuracy and shall be directed to Phillip Nova in accordance with Clause 19.3. However, Phillip Nova may at any time rectify any error on any statement, Confirmation or advice which has been proved to its satisfaction and may demand immediate repayment from the Customer of any monies erroneously paid over to the Customer as a result of such error.
- 20.2 The Customer shall immediately notify Phillip Nova if a statement, Confirmation or advice is not actually received or accessible by the Customer if sent electronically as consented to by the Customer within the time ordinarily expected to be so received or accessible in the ordinary course of business.

## **21 CUSTOMER'S REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

- 21.1 The Customer hereby warrants and represents to Phillip Nova as follows:
- (a) in the case of the Customer being a natural person:
    - (i) that he has full capacity and authority to accept and agree to this Agreement, to open and maintain all Account(s) from time to time established with Phillip Nova, and to give Orders to Phillip Nova; and
    - (ii) that except as disclosed to Phillip Nova in writing prior to or on the date hereof, the Customer is not:
      - (aa) a partner, officer, director, owner of more than 10 percent of the equity interest, correspondent, agent or Person associated therewith, associated person or employee of a futures broker, nor a relative of a spouse of any of the foregoing persons who shares the same home as any of the foregoing persons; or
      - (bb) an employee of any Market, any member or firm registered on any Market, any bank, any trust company, any insurance company, or any corporation, firm or individual engaged in the business of dealing in securities, bills of exchange, acceptances or other forms of commercial paper or the underlying subject matter of any Futures Contract, or of any corporation a majority of its share capital of which is owned by a Market; or
  - (b) in the case of the Customer being joint account holders or a partnership:
    - (i) that each of the partners or the joint account holders of the Account is not under any legal disability and the provisions of this Agreement are enforceable against all of them in accordance with its terms;
    - (ii) that it has all authorisations, consents, licences or approvals (whether under Applicable Laws or otherwise) required to accept and agree to the terms of this Agreement, to open and maintain all Account(s), give Orders to Phillip Nova from time to time; and
    - (iii) that where not prohibited by any Applicable Law, each joint account holder's properties (whether held jointly or in such joint account holder's sole name and/or control) shall be available as security in favour of Phillip Nova for the Customer's liability hereunder;
  - (c) in the case of the Customer being a body corporate:
    - (i) that it is a corporation duly organised and validly existing under the laws of the country of its incorporation and is a legal entity capable of suing or being sued and that the provisions of this Agreement are enforceable against the Customer in accordance with its terms;
    - (ii) that it has all authorisations, consents, licences or approvals (whether under the Applicable Laws or otherwise) required to accept and agree this Agreement, to open and maintain all Account(s), and to give Orders to Phillip Nova from time to time;
    - (iii) that the certified true copies of the Customer's certificate of incorporation or registration, charter, statute, memorandum and articles or other instrument constituting or defining its constitution, and the board resolutions of the Customer delivered to Phillip Nova are true and accurate and still in force; and
    - (iv) that to the best of the knowledge of the Customer, no steps have been taken or are being taken to appoint a receiver and/or manager or liquidator over, or to wind up the Customer, and that it will immediately notify Phillip Nova of any possible intent on the part of the Customer and/or any of its creditors to wind-up the Customer.
- 21.2 Without prejudice to Clause 21.1, the Customer further represents, warrants, undertakes and/or agrees that:
- (a) all the information in this Agreement provided by it is true, correct and complete as of the date of this Agreement and the Customer will notify Phillip Nova immediately of any changes in such information, particulars, circumstances or status of the Customer including any change in citizenship, residence, tax residency, status (including without limitation status as Non Politically Exposed Person ("Non PEP")), address(es) on record, telephone and facsimile numbers and email addresses and where applicable, constitution of the Customer, its shareholders, partners, directors, company secretary or nature of business. The Customer shall indemnify and hold harmless Phillip Nova for any liabilities, costs and/or Losses arising from such Customer's inaction/failure to promptly notify Phillip Nova on the immediately foregoing changes. The Customer agrees to provide any relevant supporting documents as Phillip Nova may request for verification and if the Customer fails to comply with this request, Phillip Nova shall be entitled to take such action or refuse to take any action as it may see fit (including suspending or closing the Account) and shall not be responsible for any resulting Loss to the Customer;
  - (b) it will at all times maintain complete and exclusive control of the Account, including giving complete instructions with respect to any Transaction on the Account(s), and that it will keep itself fully informed of all Transactions and other activities in the Account(s);
  - (c) it is familiar with, understands, will keep itself updated on and comply with all Applicable Laws, and that in any event it is separately advised on such matters and does not and will not rely on Phillip Nova in relation to these matters;
  - (d) any Orders placed or any other dealings in the Account is solely and exclusively based on its own judgment upon its own independent appraisal and investigation into the risks associated with such Orders or dealings;
  - (e) the properties provided to Phillip Nova hereunder, whether as Margin or otherwise, is and will be free of any encumbrance or lien;
  - (f) Phillip Nova has no duty or obligation to inquire into the purpose or propriety of any Order and shall be under no obligation to see to the application of any funds delivered by the Customer in respect of any Account;

- (g) any person(s) empowered to act on the Customer's behalf has been duly authorized;
  - (h) the Customer is not bankrupt or financially insolvent and no order, declaration or steps are being or have been taken to appoint a trustee in bankruptcy, receiver, receiver and manager, judicial manager, liquidator, administrator or other similar person over the Customer or the Customer's property or assets;
  - (i) the Customer is acting as the principal of the Account and, unless notified to Phillip Nova in writing, the Customer will not be acting as agent, trustee or nominee for any other person or entity and shall be the full legal and beneficial owner of all funds and property in or in respect of the Account. On such notification, Phillip Nova shall require reasonable verification of the identity of the principal, confirmation that the Customer is authorized to act as agent for the principal and such other information that Phillip Nova may require;
  - (j) the Customer shall ensure that it shall at all times be in a position to meet its commitments and obligations in respect of any Transaction;
  - (k) no confiscation order, charging order, restraint order, production order or search warrant under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 of Singapore has been issued or is pending against the Customer. The Customer shall notify Phillip Nova promptly if any such order or search warrant is issued or pending;
  - (l) the Customer's name does not and has not at any time appeared on the list of Specially Designated Nationals and Blocked Persons maintained by the United States Office of Foreign Assets Control or on any lists or resolutions issued by the United Nations (whether through the Security Council or otherwise) pursuant to which dealings with persons specified therein are prohibited, restricted or discouraged;
  - (m) except with the express written consent of Phillip Nova and for any security or encumbrance created hereunder or otherwise in favour of Phillip Nova, the Customer shall not grant and no person has or shall have any right, title or interest in or security or other encumbrance over any Account and/or over any cash or property in any Account;
  - (n) any funds and/or assets placed now or subsequently provided by the Customer from time to time with Phillip Nova will at all times comply with all Applicable Laws, including all tax laws and regulations;
  - (o) its usage of any Transaction, Account or Service under this Agreement will not breach any Applicable Laws;
  - (p) the declarations made and any information provided by the Customer, from time to time to Phillip Nova are true, accurate, complete and not misleading in any respect and the Customer has not withheld any information that would cause Phillip Nova to refuse to open or maintain any Account, to effect any Transaction or to provide any Service to the Customer. Phillip Nova is entitled to rely fully on such information and representations unless and until Phillip Nova receives notice of any such change from the Customer. If the Customer becomes aware that any information provided, representation, warranty and/or declaration made by the Customer in connection with this Agreement and/or Account subsequently becomes false or misleading, the Customer shall immediately notify Phillip Nova of such change;
  - (q) the Customer has received, read, understood, acknowledged and accepted the terms of the relevant risk disclosure statements, that the risk disclosure statements are not substitutes for taking independent advice, and that no transaction will be entered into in reliance on any statement, advice or information by Phillip Nova;
  - (r) the Customer shall use any Services or facilities provided by Phillip Nova in connection with the Account in good faith. The Customer shall not use any device, software, algorithm, trading strategy and/or engage in any arbitrage practices (including without limitation price or time manipulation) that manipulates such Services or facilities and/or takes an unfair advantage over Phillip Nova; and
  - (s) neither the entry into this Agreement, the placing of any Order or the giving of any other instruction will violate any Applicable Laws applicable to the Customer.
- 21.3 The above representations and undertakings shall be deemed repeated whenever the Customer gives Orders to Phillip Nova, enters into any Transactions, acquires or uses any Products or Services, or whenever the Customer establishes a new Account with Phillip Nova.
- 21.4 The Customer hereby understands, and specifically acknowledges and agrees as a capital markets services licence holder, Phillip Nova is required to apply anti-money laundering and countering the financing of terrorism measures as well as any and all offences designated as designated offences under corresponding Applicable Laws including tax offences designated as predicate offences for which such measures need to be implemented. The Customer also acknowledges and agrees that Phillip Nova may be required (either legally or as a prudential measure for the legitimate protection of its commercial interests) to comply with requests from domestic and international tax authorities pursuant to any tax laws (including with extra-territorial application that may not be recognized under Singapore laws), regulations, orders or agreement by or between governments relating to tax and agrees and consents to Phillip Nova acting as so required with respect to the Customer (including with respect to the Customer's Personal Data). The Customer further acknowledges and agrees that it (and not Phillip Nova) is the only party fully in possession of all relevant facts to determine its tax residency and/or tax liabilities and as such and to enable Phillip Nova to comply with the requirements summarized earlier, the Customer specifically declares by way of representing, warranting and undertaking in favour of Phillip Nova:
- (a) it is tax resident and/or if it is a corporation it has a permanent establishment for tax purposes, only in the country or countries indicated in its submitted Application Form;
  - (b) it is solely responsible for its own tax affairs and ensure that its Account(s) maintained with Phillip Nova is in each case in compliance with the tax laws of the relevant jurisdiction(s) which its permanent establishment (if applicable) is subject to, or it is tax resident of;
  - (c) it has not wilfully committed nor has it been convicted of any serious tax crimes and when it is necessary it has taken, or will take tax and/or legal advice in relation to the matters referred in this declaration. It further acknowledges that Phillip Nova does not provide any tax advice to it;
  - (d) forthwith upon Phillip Nova request, it will provide Phillip Nova with all required documentation or information, including but not limited to (as applicable) the date of incorporation, countries of incorporation, countries of tax residency and associated taxpayer identification numbers, that may be required to enable Phillip Nova for purposes of making inquiries on its tax status;
  - (e) it agrees and consents to Phillip Nova collecting, storing, using and disclosing any and all such information in accordance to the terms of this Agreement;
  - (f) it acknowledges that Phillip Nova may take whatever action Phillip Nova considers appropriate to meet any obligations, either in Singapore or elsewhere in the world, relating to the prevention of tax evasion. This may include, but is not limited to, investigating the Customer's account(s) maintained with Phillip Nova and any source of or intended recipient of funds relating to its, the Customer's account(s), sharing information and documents with, and making any reports to comply with any requests of, domestic and international tax authorities, and withholding any funds and transferring it to such tax authorities;
  - (g) it will notify Phillip Nova immediately if there is any change to the circumstances declared above; and
  - (h) it acknowledges and agrees that Phillip Nova materially relies on its declarations above when considering whether to accept its Account application or to continue to provide Services to it.

## 22 DISCLAIMER OF OPINIONS, REPORTS, SUMMARIES, ANALYSES AND INFORMATION

- 22.1 Other than reports or statements of fact, any opinions, reports, summaries, analyses or other information, of whatsoever nature and howsoever supplied to the Customer by or on behalf of Phillip Nova, are merely expressions of general views or opinions intended for no more than general circulation and information. Though Phillip Nova will take reasonable care to ensure that no such opinion, report, summary, analysis or other information is untrue or misleading at the time of production thereof:
- (a) no guarantee is given by Phillip Nova as to its accuracy or completeness;
  - (b) as such opinions, reports, summaries, analyses or other information may not be prepared with individual Customers or classes of Customers in mind, they are to be treated as general views and opinions only and are not suitable for use by individual Customers or classes of Customers without independent verification; and
  - (c) each such view or opinion is subject to change without notice.
- 22.2 The Customer acknowledges that while such opinions, reports, summaries, analyses or other information may be supplied to it by or on behalf of Phillip Nova, Phillip Nova provides to the Customer execution-only Services and on the basis that the Customer remains and the Customer accepts remaining solely responsible and liable for its own decision on the relevant matter. The Customer further agrees that Phillip Nova or its Officer shall not be responsible for any Loss that may be incurred by the Customer in reliance of any such opinion, report, summary, analysis or other information so provided by Phillip Nova or its Officer.
- 22.3 For the avoidance of doubt, unless otherwise agreed by Phillip Nova in writing, Phillip Nova does not and is not willing to assume any advisory, fiduciary or similar duties to the Customer. Phillip Nova assumes, and relies on the assumption that the Customer has taken independent legal, tax, financial and other advice in relation to any Account or Transaction between the Parties.

## 23 PERSONAL DATA PROTECTION

- 23.1 Phillip Nova is subject to the PDPA in Singapore, and committed to protecting and maintaining the security of any Customer Personal Data consistently with its privacy policy as set out in this Clause 23 ("**Privacy Policy**"). If the Privacy Policy changes, this will be updated by way of relevant update(s) and posted on-line on Phillip Nova website.

Phillip Nova may collect, use, disclose, transfer and/or process the Customer's Personal Data for one or more of the following purposes:

- (a) considering and/or processing the Customer's application for an Account with Phillip Nova;
- (b) opening, facilitating, processing, dealing with, administering, managing and/or maintaining the Customer's Account with Phillip Nova, including but not limited to updating the Customer's Personal Data (and where the Customer is a corporation, including the Personal Data of any authorised persons of the Customer) executing the Customer's instructions with respect to any Transactions, processing the Customer's Orders, processing payments made to and from the Customer's Account;
- (c) carrying out the Customer's Orders or responding to any enquiry given (or purported to be given) on the Customer's behalf;
- (d) contacting the Customer or communicating with the Customer via phone/voice call, text message and/or fax message, email and/or postal mail for the purposes of facilitating, processing, dealing with, administering and/or managing the Customer's Account with Phillip Nova such as but not limited to sending the Customer Daily Trading Statement(s), Monthly Trading Statement(s) and/or Trade Confirmations/Summary Files and confirmation notices with respect to updating the Customer's Personal Data (and where the Customer is a corporation, including the Personal Data of any authorised persons of the Customer). The Customer acknowledges and agrees that such communication by Phillip Nova could be by way of the mailing of correspondence, documents or notices to the Customer, which could involve disclosure of certain Personal Data about the Customer to bring about delivery of the same as well as on the external cover of envelopes/mail packages;
- (e) dealing in any matters relating to the Services and/or facilities which the Customer is entitled to under the Customer's Account with Phillip Nova;
- (f) carrying out due diligence or other screening activities (including anti-money laundering, "know-your-Customer", credit and background checks) in accordance with legal or regulatory obligations or risk management procedures that may be required by law or that may have been put in place by Phillip Nova;
- (g) to prevent or investigate any fraud, unlawful activity or omission or misconduct, whether relating to the Customer's Account with Phillip Nova or any other matter arising from the Customer's Account with Phillip Nova, and whether or not there is any suspicion of the aforementioned;
- (h) complying with or as required by any Applicable Laws, governmental or regulatory requirements of any relevant jurisdiction and the requirements of any relevant Market, including meeting the requirements to make disclosure under the requirements of any law binding on Phillip Nova and/or for the purposes of any guidelines issued by regulatory or other authorities, whether in Singapore or elsewhere, with which Phillip Nova is expected to comply. Without prejudice to the generality of the foregoing, to disclose to any exchange, market, clearing house, depository or depository agent or any other relevant person any and all information on the Customer and its Account(s) and Transactions including (i) such information as may be necessary to monitor any foreign ownership or other limits imposed by or on an issuer of Capital Markets Products on the holding of any Capital Markets Products and (ii) such information as may be required to fulfil any statutory obligation imposed on the exchange, market or clearing house or under any Applicable Laws;
- (i) complying with or as required by any request or direction of any governmental authority; or responding to requests for information from public agencies, ministries, statutory boards or other similar authorities (including but not limited to MAS). For the avoidance of doubt, this means that Phillip Nova may/will disclose the Customer's Personal Data to the aforementioned parties upon their request or direction;
- (j) conducting research, analysis and development activities (including but not limited to data analytics, surveys and/or profiling) to improve its Services or Products or facilities in order to enhance the Customer's Account with Phillip Nova and/or for the Customer's benefit;
- (k) storing, hosting, backing up (whether for disaster recovery or otherwise) of the Customer's Personal Data, whether within or outside Singapore;
- (l) if so consented by the Customer, providing the Customer with marketing, advertising and promotional information, materials and/or documents relating to the products and/or Services provided by Phillip Nova (including the products and/or Services of third party merchants whom Phillip Nova may collaborate or tie up with) that Phillip Nova may be selling, marketing, offering or promoting, (whether such products or Services exist now or are created in the future) which in its opinion may be of interest or benefit to the Customer (the "**Marketing Purpose**") by way of phone/voice call, text message and/or fax message, email and/or postal mail and/or through other modes of communication that is not any of the foregoing modes, in compliance with the PDPA. The Customer may opt out of this or withdraw from this at any time by sending an email to our Data Protection Officer. For the avoidance of doubt, the application of or acceptance of or consent to, this Privacy Policy, constitutes the Customer's consent to this subparagraph (l);
- (m) Notwithstanding (l) above, even if the Customer has not separately provided express consent as aforementioned in (l) above, Phillip Nova reserve our right to send a specified fax message (as defined in Singapore's Personal Data Protection (Do Not Call Registry) Regulations 2013 (the "**DNC**"))

**Regulations**”) and/or a specified text message (as defined in the DNC Regulations) (i.e. a marketing fax message or marketing text message) to the Singapore telephone number, if:

- (i) there is an ongoing relationship between the Parties and the purpose of the message is related to the subject of the ongoing relationship, pursuant to the requirements and conditions of PDPA and its subsidiary legislation; or
  - (ii) the law permits; and
  - (n) any other purpose for which Phillip Nova has specifically obtained the Customer’s consent (collectively, the **“Purposes”**).
- 23.2 As the purposes for which Phillip Nova may/will collect, use, disclose, transfer or process the Customer’s Personal Data depend on the circumstances at hand, such purpose may not appear above. However, Phillip Nova will notify the Customer of such other purpose at the time of obtaining the Customer’s consent, unless processing of the Customer’s Personal Data without the Customer’s consent is permitted by the PDPA or by law.
- 23.3 Phillip Nova may/will also be collecting from sources other than the Customer, Personal Data about the Customer, for one or more of the above Purposes, and thereafter using, disclosing and/or processing such Personal Data for one or more of the above Purposes.
- 23.4 Phillip Nova may/will need to disclose and/or transfer the Customer’s Personal Data to third party, whether located within or outside Singapore, for one or more of the above Purposes, as such third party, would be processing the Customer’s Personal Data for one or more of the above Purposes. In this regard, the Customer hereby acknowledges, agrees and consents that Phillip Nova may/is permitted to disclose the Customer’s Personal Data to such third party (whether located within or outside Singapore) for one or more of the above Purposes and for the said third party to subsequently collect, use, disclose and/or process the Customer’s Personal Data for one or more of the above Purposes. Without limiting the generality of the foregoing or of this Clause, such third party include:
- (a) any entity related to Phillip Nova or its Associate;
  - (b) any intermediary, agents, contractors or third party service providers that process or will be processing the Customer’s Personal Data on behalf of Phillip Nova, including but not limited to those which provide administrative or other services (such as mailing houses, telecommunication companies, information technology companies and data centers);
  - (c) any government or regulatory authorities in Singapore and elsewhere where disclosure is required by the Applicable Laws;
  - (d) auditors and legal advisors of Phillip Nova; and/or
  - (e) third party service providers or agents, which may be sited in or outside of Singapore, for the above Marketing Purpose; and the Customer also consent to such third party service providers or agents of Phillip Nova processing the Customer’s Personal Data (including sending the Customer such marketing, advertising and promotional information, materials and/or documents by way of postal mail, electronic transmission to the Customer’s email address(es), voice call / phone call, SMS/MMS and/or fax), VOIP based smart phone application such as Whatsapp, Viber, etc for the above Marketing Purpose (collectively, the **“Permitted Parties”**).
- 23.5 The Customer may request to access and/or correct the Customer’s Personal Data currently in the possession or control of Phillip Nova, by submitting a written request to Phillip Nova’s Data Protection Officer.
- 23.6 The Customer may withdraw the Customer’s consent for the collection, use and/or disclosure of the Customer’s Personal Data in the possession or control of Phillip Nova, by submitting a written request to Phillip Nova’s Data Protection Officer.
- 23.7 Phillip Nova will take reasonable efforts to ensure that the Customer’s Personal Data is accurate and complete, if the Customer’s Personal Data is likely to be used by Phillip Nova to make a decision that affects the Customer, or disclosed to another organisation. However, this means that the Customer must also update Phillip Nova of any changes in the Customer’s Personal Data that the Customer had initially provided Phillip Nova with and the Customer agrees that the Customer will do so. Phillip Nova will not be responsible for relying on inaccurate or incomplete Personal Data arising from the Customer not updating Phillip Nova of any changes in the Customer’s Personal Data that the Customer had initially provided Phillip Nova with.
- 23.8 Phillip Nova will also put in place reasonable security arrangements to ensure that the Customer’s Personal Data is adequately protected and secured. Appropriate security arrangements will be taken to prevent any unauthorised access, collection, use, disclosure, copying, modification, leakage, loss, damage and/or alteration of the Customer’s Personal Data.
- 23.9 Phillip Nova will also put in place measures such that the Customer’s Personal Data in its possession or under its control is destroyed and/or anonymised as soon as it is reasonable to assume that (i) the purpose for which that Personal Data was collected is no longer being served by the retention of such Personal Data; and (ii) retention is no longer necessary for any other legal or business purposes.
- 23.10 Where the Customer’s Personal Data is to be transferred out of Singapore, Phillip Nova will comply with the PDPA in doing so, including without limitation entering into binding contractual agreements with a recipient organisation that requires the recipient organisation to provide the transferred personal data with a standard of protection that is at least comparable to that under the PDPA.
- 23.11 If the Customer has any feedback, complaint or grievance regarding about how Phillip Nova is handling the Customer’s Personal Data or about how Phillip Nova is complying with the PDPA, the Customer may contact Phillip Nova.

#### **24 FOREIGN ACCOUNT TAX COMPLIANCE ACT (“FATCA”) AND OTHER LAWS**

- 24.1 The Customer authorises Phillip Nova to disclose any personal and account information where such disclosure is required by Applicable Laws (including applicable laws imposing any reporting and/or withholding obligations on Phillip Nova such as the United States FATCA and Income Tax Act 1947 of Singapore each as may be amended, superseded or replaced), regulations, orders, agreements, or treaties made by or between tax authorities and/or governments to:
- (a) any entity in the Phillip Capital Group, or Phillip Nova or any of its Associates, wherever situated;
  - (b) any government, quasi-government, regulatory, monetary or other authority whether in Singapore or elsewhere, including the United States Internal Revenue Service, the United States Treasury Department, the Inland Revenue Authority of Singapore and MAS;
  - (c) any party to whom Phillip Nova is under a legal duty to disclose; and/or
  - (d) any party where Phillip Nova in its good faith and interest, deemed fit to make such disclosure.
- 24.2 The Customer agrees that the Customer shall be required to, upon demand by Phillip Nova and in a timely manner:
- (a) provide any form, certification or other information, as may be requested by and in a form acceptable to Phillip Nova, that is necessary for Phillip Nova:
    - (i) to prevent withholding tax or qualify for a reduced rate of withholding tax or backup withholding tax in any jurisdiction from or through which Phillip Nova receives payments; or



(ii) to satisfy reporting or other obligations under the United States Tax Code and the United States Treasury regulations promulgated thereunder or the Income Tax Act 1947 of Singapore;

(b) update or replace such form, certification, or other information in accordance with its terms of subsequent amendments; and

(c) otherwise comply with any reporting obligations imposed by the United States or any other jurisdiction, including reporting obligations that may be imposed by future legislation.

24.3 The Customer acknowledges and agrees that any sum that may be payable by Phillip Nova shall be subject to all Applicable Laws, including any withholding tax requirement, foreign exchange restriction or control. The Customer agrees and acknowledges that pursuant to the foregoing Phillip Nova may perform, or cause to be performed withholding of any monies payable to the Customer, deposit any such monies into a sundry or other account and/or retain such monies pending determination of the applicability of such withholding tax requirement, foreign exchange restriction or control. Phillip Nova shall not be liable for any Losses that may be incurred by reason of such withholding, retention or deposit. In addition, the Customer agrees to hold harmless, indemnify and to keep Phillip Nova fully indemnified from and against any amount of payment, withholding or deduction referred to in this Clause that is in excess of such amount as may be standing to credit of the Customer's Account.

24.4 The Customer will promptly notify Phillip Nova in writing of any change(s) in: (a) particulars of the Customer, circumstances, status, including without limitation to any change in citizenship, residence, tax residency, status as Non PEP, address(es) on record, telephone and facsimile numbers and email address(es); and (b) (where applicable) constitution of the Customer, shareholders, partners, directors or company secretary, or the nature of the Customer's business. In addition, the Customer shall be required to, upon demand by Phillip Nova and in a timely manner, provide any form, certification, representation, confirmation or other information, as may be requested by and in a form acceptable to Phillip Nova.

24.5 The Customer acknowledges and agrees that Phillip Nova may in its sole and absolute discretion terminate the Account with immediate or subsequent effect by written notice if the Customer fails to comply in a timely manner with the requirements in this Clause, whereupon Phillip Nova shall be entitled to receive all fees and other monies accrued up to the date of such termination.

24.6 Without prejudice to the specificity of Clause 24.3 above, the Customer acknowledges and agrees that Phillip Nova shall not be responsible for or liable for any Loss to the Customer arising as a result of any act or omission or any error of judgment not amounting to actual fraud in complying with Phillip Nova reporting or other obligations under Applicable Laws (including the US Tax Code and the United States Treasury regulations promulgated thereunder or under the Income Tax Act 1947 of Singapore).

24.7 The Customer will cooperate fully in respect of any enquiry that Phillip Nova may make for the purposes of compliance with any applicable law (including the United States FATCA or the Income Tax Act 1947 of Singapore as each may be amended, superseded or replaced) and/or any other reporting and/or withholding requirements of any government, including promptly providing all relevant information, details and/or documents as Phillip Nova may in good faith determine may be necessary or prudent to comply with the same.

24.8 Where, with respect to the United States FATCA, the Customer is or is reasonably determined by Phillip Nova to be a Customer with US Indicia, the Customer in addition to the Customer's obligations under the aforementioned Clauses 24.2 to 24.7 inclusive and Phillip Nova rights and authorization above acknowledges and agrees to the following:

(a) to provide all information or documentation with respect to the Customer's default deemed FATCA status by virtue of the Customer having US Indicia no later than 90 days from the later of the opening of the Customer's Account or the Customer having US Indicia, failing which the Customer may be regarded as recalcitrant and non-cooperative and Phillip Nova may need to report the Customer's personal and Account information to the United States Internal Revenue Service; and

(b) the Customer understands and shall comply with all Applicable Laws and/or regulatory requirements in relation to FATCA.

For the purpose of this Clause, "US Indicia" means any or any combination of the following: US citizenship or permanent residency; US birthplace; a current US residence address or US mailing address (including a US post office box); a current US telephone number; standing instructions to transfer funds to an account maintained in the US; and a current general power of attorney granted to a person with a US address.

## **25 MAINTENANCE OF FOREIGN TRUST ACCOUNT**

25.1 To the fullest extent permitted by Applicable Laws, the Customer authorises and consents to Phillip Nova depositing or maintaining moneys and/or any other property received on account of the Customer which are denominated in a foreign currency in a trust or custody account with a custodian outside Singapore which is licensed, registered or authorised to conduct banking business or to act as a custodian, as the case may be, in that jurisdiction.

## **26 UNCLAIMED MONEYS AND ASSETS**

26.1 If there are any monies or other property standing to the credit of any Account (including a trust account) or otherwise held by Phillip Nova for and on behalf of the Customer which are unclaimed for at least 6 years after the Customer's last transaction with or through Phillip Nova and Phillip Nova determines in good faith that it is not able to trace the Customer, the Customer hereby irrevocably agrees that all such moneys, and other property, including any and all accretions and accruals thereon (which in the case of monies shall include all interests earned thereon) shall be deemed to have been abandoned by the Customer in favour of Phillip Nova and may be appropriated by Phillip Nova to and for itself to utilise in any manner Phillip Nova so wishes for its own benefit. The Customer thereafter shall have no right to claim such moneys, or property, or their accretions and accruals with the Customer being deemed to have waived and abandoned all its rights to such moneys, or property (and any other property as may have accrued to it) in favour of Phillip Nova. The Customer's respective Account credit(s) will, in such event, be correspondingly written off and the Customer's Account relationship with Phillip Nova terminated.

## **27 MARKET DATA**

27.1 The Customer acknowledges and agrees that with respect to any market data or other information that Phillip Nova or any third party service provider provides to the Customer in connection with the use of the Electronic Broking Facilities:

(a) Phillip Nova and any such provider are not responsible or liable if any such data or information is inaccurate or incomplete in any respect;

(b) Phillip Nova and any such provider are not responsible or liable for any actions that the Customer takes or does not take based on such data or information;

(c) such data or information is proprietary to Phillip Nova and any such provider and the Customer will not retransmit, redistribute, publish, disclose or display in whole or in part such data or information to third party except as required by Applicable Laws;

(d) the Customer will use such data or information solely in compliance with the Applicable Laws, rules and regulations and/or conditions imposed by Phillip Nova;

(e) the Customer will receive and/or use such market data or information in compliance with all terms and conditions;

(f) the Customer will pay such Market Data costs (if applicable) and any applicable taxes associated with the Customer's use of the Electronic Broking Facilities as notified by Phillip Nova from time to time;

- (g) Phillip Nova may monitor the Customer's use of such market data or information from time to time; and
- (h) the Customer shall indemnify Phillip Nova in respect of any liabilities arising from its supply of such market data or information to the Customer.

## **28 GOVERNING LAW AND JURISDICTION**

- 28.1 This Agreement, any Account, and the relationship between the Parties, shall be governed by and construed in accordance with the laws of the Republic of Singapore. Parties submit to the non-exclusive jurisdiction of the courts of the Republic of Singapore and the Customer waives any objection to the proceedings on the ground that the proceedings have been brought in an inconvenient forum.
- 28.2 Service of process may be effected in any manner permitted for communications hereunder.

## **29 MISCELLANEOUS**

- 29.1 The rights and remedies of the Parties under this Agreement are cumulative and are without prejudice and in addition to any rights or remedies which the Parties may have at law or in equity, and no exercise by a party of any one right or remedy under this Agreement, at law or in equity, shall (save to the extent, if any, provided expressly in this Agreement, or at law or in equity) operate to hinder or prevent the exercise of any other right or remedy by that party.
- 29.2 Time shall be of essence in this Agreement in relation to any of the Customer's obligations and duties hereunder.
- 29.3 Parties agree and acknowledge that the Agreement and the language of all formal communication shall be in English, the Customer will receive documents and other information in English. Phillip Nova may in its sole discretion provide other language support but on the express understanding and agreement that it is the Customer's responsibility to ensure the Customer fully understands the terms of the Agreement and all formal communications from Phillip Nova that is in English. Therefore, if a document or communication is translated into another language this will be for information purposes only and the English version shall be binding and shall prevail in the event of any ambiguity, discrepancy or omission as between the English version and any translated text. For the avoidance of doubt, Phillip Nova is under no obligation to provide any notice or document in any language other than in the English language.
- 29.4 No delay or omission on the part of Phillip Nova in exercising any of its right, power or remedy provided by law or under this Agreement, or partial or defective exercise thereof, shall:
- (a) impair or prevent further or other exercise of such right, power or remedy; and/or
  - (b) operate as a waiver of such right, power or remedy.
- 29.5 No waiver by Phillip Nova of any breach of the Customers' obligations hereunder, shall (unless expressly agreed in writing by Phillip Nova) be construed as a waiver of a future breach of such similar obligation or as authorizing a continuation of such particular breach by the Customer.
- 29.6 Unless expressly provided in the terms and conditions of this Agreement, a person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce any of the terms of this Agreement. Where third party is conferred rights under this Agreement, those rights are not assignable or transferable.
- 29.7 This Agreement shall benefit and be binding on the Parties and their respective successors in title and assigns and shall continue to be binding on the Customer notwithstanding any change in Phillip Nova's name or constitution or ownership structure, or the consolidation, amalgamation or merger of Phillip Nova into or with any other entity. Any reference in this Agreement to any party shall be construed accordingly. The Customer may not without the prior written consent of Phillip Nova assign or transfer all or part of its rights, interests, powers or obligations under hereunder or in connection with any Account or Transaction. Phillip Nova may at any time and from time to time, for any reason as it shall in its absolute discretion deem fit, assign any or all of its rights, benefit, title and interest under or in connection with this Agreement to any affiliate, Associate, or successor of Phillip Nova (whether in Singapore or in any other jurisdiction). The Customer hereby agrees that such assignment or transfer may be effected by Phillip Nova delivering to the Customer a notice to that effect.
- 29.8 If any provision of this Agreement, including any of its Appendices, or Schedules is or becomes illegal, invalid or unenforceable, the same shall be deemed deleted and will not affect the legality, validity or enforceability of any other provision of this Agreement nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction. If any event occurs (including the introduction, implementation, operation or taking effect of, any Applicable Laws, or any change in Applicable Laws or in their interpretation or application by any governmental authority or agent) which makes or declares it unlawful or impracticable for either Party to exercise its rights or perform its obligations under this Agreement, Phillip Nova shall in good faith determine if this Agreement may be amended or the arrangements restructured in a manner which is lawful. If Phillip Nova determines in good faith that this is not reasonably practicable, Phillip Nova may terminate any Account(s) or any Transaction according to Clause 30 and take all actions in accordance with Clause 12 as if a Default had occurred for the purpose of that Clause without any liability for any Loss incurred.

## **30 TERMINATION**

- 30.1 Without prejudice to Clause 12, either Party may terminate any Account belonging to the Customer, the provision of any Service or facility under any Account by Phillip Nova, or this Agreement by giving 5 Business Days' prior notice in writing to the other party ("**Termination Notice**"). Prior to the date of the termination of any Account, the Customer shall instruct Phillip Nova as to the proper disposal or transfer of money and other properties of the Customer. If the Customer fails to do so, Phillip Nova may exercise any of its rights under Clause 12.2 above as if Default had occurred.
- 30.2 The Customer remains liable for any outstanding balance ("**Outstanding Balance**") owing to Phillip Nova accrued up to the date of closure/termination of the Account or Transaction(s), and must immediately pay such Outstanding Balance upon receipt or sending of the Termination Notice from or to Phillip Nova (as the case may be).
- 30.3 Without prejudice to Phillip Nova rights in this Agreement, including under Clause 30.4 below, prior to the date of the termination of any Account or Transaction, the Customer shall instruct Phillip Nova as to the proper disposal or transfer of moneys and other property of the Customer in relation to such Account or Transaction. In absence of such instructions, upon the termination date or date of notice of termination (whichever is earlier), Phillip Nova may discharge its entire liability with respect to the Customer's Account(s) by mailing to the Customer, at the Customer's mailing address last known to Phillip Nova, bank draft(s) or cheque(s) for the benefit of the Customer for payment of the amount(s) of the then credit balance(s) in the Account(s) after satisfaction of any outstanding liabilities owed by the Customer, in the currency of each Account or in such other currency and at such rate of exchange as Phillip Nova may determine in its discretion.
- 30.4 In the event that this Agreement is terminated by either Party pursuant to this Clause 30, and without prejudice to any other right of Phillip Nova hereunder or under Applicable Laws, the Customer agrees that Phillip Nova may (but is not obliged to) from the date of termination or the date of notice of termination (whichever is earlier):
- (a) accelerate any and all liabilities of the Customer so that such liabilities shall become immediately due and payable;
  - (b) continue to act on the instructions received up to and including the termination date at the discretion and/or refusal of Phillip Nova or cancel any of the Customer's outstanding instructions;
  - (c) deduct from the Customer's Account the sum of any outstanding fees and charges and/or payments due and payable;

- (d) sell, redeem, terminate, close-out and/or liquidate any or all of the Customer's Transactions and Products (whether held by Phillip Nova or by a third party sub-custodian) in such manner as Phillip Nova deems fit and to apply the proceeds thereof towards the payment of the outstanding fees and charges and/or payments payable to Phillip Nova if there are insufficient cash or cash equivalents in the Account for that purpose, and the Customer agrees to carry out all such acts and things, and execute all documents, as may be necessary, desirable or reasonably requested by Phillip Nova to effect such sale, redemption, termination, closing out and/or liquidation;
- (e) continue to charge the Customer's Account with fees and charges for Transactions between the termination date and the date on which all Products in the Customer's Account are disposed of in accordance with the Customer's written instructions; and/or
- (f) exercise such other authority and powers that Phillip Nova may have under this Agreement.

30.5 This Clause 30 shall survive any termination of this Agreement.

## **APPENDIX 1: ELECTRONIC BROKING FACILITIES**

### **1. AUTHORISED USE**

- 1.1 The Customer has the sole responsibility and shall be liable for the security and safe-keep the Customer's own user ID, password and/or PIN issued by Phillip Nova. Accordingly, the Customer shall be fully responsible and liable for any Orders placed with Phillip Nova through the use of the Electronic Broking Facilities.
- 1.2 The Customer agrees that Phillip Nova shall be entitled to rely on the correct entry of a password and/or PIN in order to ascertain whether any Order given to Phillip Nova is that of the Customer's and to act on that assumption. The Customer shall be liable for all such Orders placed with Phillip Nova.
- 1.3 In placing Orders using the Electronic Broking Facilities, the Customer hereby agrees that any such Orders are only considered as having been received by Phillip Nova upon Phillip Nova sending a notification to the Customer through the Electronic Broking Facilities of its receipt and informing the Customer that the Order has been either accepted or rejected for execution. Any such notification issued by Phillip Nova shall be deemed to have been received by the Customer and be bound thereby notwithstanding that such notification may not have actually been received by the Customer for any reason whatsoever. The Customer shall bear the sole responsibility of keeping records of the same.
- 1.4 The Customer agrees to abide by the procedures and instructions set out in Phillip Nova's user guide in respect of any item of the Electronic Broking Facilities which the Customer wishes to access or avail of.
- 1.5 Phillip Nova is authorized by the Customer to debit the Customer's Account(s) as it deems appropriate for all charges incurred in the use of the Electronic Broking Facilities.
- 1.6 All Orders placed via the Electronic Broking Facilities in relation to any Account with Phillip Nova are also subject to the same terms and conditions governing the maintenance and operation of that Account generally.

### **2. DISTRIBUTION AND INTELLECTUAL PROPERTY**

- 2.1 The Customer is not entitled to and shall not reproduce, transmit, disseminate, sell, distribute, publish, broadcast, circulate and/or exploit (whether for commercial benefit or otherwise) the information and/or reports obtained from or through the use of the Electronic Broking Facilities, except with the express prior written consent of Phillip Nova. The Customer shall also not use such information and/or records for any wrongful or illegal purpose.
- 2.2 In requesting Phillip Nova to provide the Electronic Broking Facilities, the Customer accepts and acknowledges the fact that all intellectual property rights (whether by way of copyright or otherwise) in the information and reports available from and generated on the Electronic Broking Facilities as well as the Electronic Broking Facilities itself vest solely in and shall remain the exclusive property of Phillip Nova. The Customer therefore agrees not to do anything that will violate or infringe Phillip Nova intellectual property rights and shall take all necessary measures to preserve and protect these rights.

### **3. TRANSMISSION OF ELECTRONIC DATA**

- 3.1 Phillip Nova shall not be liable for any Loss suffered or incurred due to any inability of the Customer to access the Electronic Broking Facilities for any reason whatsoever, or for any errors, defect, malfunction or failure (whether total or partial) of the Electronic Broking Facilities (or any part thereof) or interruption or delay in response time of the Electronic Broking Facilities whether resulting or arising from any repair or servicing of the Electronic Broking Facilities, any damage, destruction, breakdown, mechanical or other defect, howsoever caused, to the Electronic Broking Facilities (or any part thereof), any corruption or damage to the Electronic Broking Facilities (or any part thereof), any failure by Phillip Nova or its Officers to receive the Customer's instructions or Orders notwithstanding that the instruction or Order has been received by the Electronic Broking Facilities, or, any other cause whatsoever.

### **4. DISCLAIMER**

- 4.1 Phillip Nova makes no warranty, guarantee or representation of any kind, express or implied, as to the quality or the merchantability or fitness for any particular use or purpose in relation to the information furnished under or accessible via any of the Electronic Broking Facilities or any other features or aspect of the Electronic Broking Facilities, including but not limited to any investment advice and/or access to information (which in any event are available subject to relevant accompanying restrictions and/or disclaimers) and/or the execution of any buy or sell recommendations and/or the cancellation or amendment of the same.
- 4.2 Phillip Nova may, through the Electronic Broking Facilities, provide quotes on prices at which Phillip Nova may be prepared to transact with the Customer. The Customer acknowledges that it is possible that errors may occur in any such prices so quoted by Phillip Nova. In such circumstances, without prejudice to any rights it may have under statute or common law, neither party will be bound by any Transaction purported to have been entered into (whether or not confirmed by Phillip Nova) at a price which was, or ought reasonably to have been known to either party to be materially incorrect at the time of the Transaction. The Party asserting that such Transaction is avoided under this Clause shall give notice to the other within 7 Business Days of the Transaction. If the Customer gives notice to Phillip Nova under this Clause, Phillip Nova shall determine, acting reasonably, whether the price quoted was materially incorrect. Except in the case of fraud, Phillip Nova does not accept any liability for any Loss or damage suffered as a result of the Customer's reliance on a price which the Customer knew, or ought reasonably to have known, to be materially incorrect.
- 4.3 Phillip Nova shall not be responsible in any way whatsoever for the content, accuracy, timeliness or completeness of any information, data or other services provided through the Electronic Broking Facilities. As such, any information, data or services provided through the Electronic Broking Facilities should not be relied upon in relation to any investment decision, trading activities or Orders placed by the Customer who shall, at all times, rely on its own assessment and judgement in respect of any investment decision or proposed Transaction.
- 4.4 Phillip Nova shall not be under any obligation to review the status of the Customer's Account for compliance with any applicable margin requirements. Notwithstanding this, Phillip Nova may, in its sole and absolute discretion, review the status of a Customer's Account for the purposes of ensuring compliance with any applicable margin requirements provided that Phillip Nova shall bear no liability whatsoever for any such review.

### **5. RIGHTS OF ACCESS**

- 5.1 Phillip Nova shall bear no liability and shall not be responsible for any Loss or inconvenience that may be suffered as a result of any action by any Relevant Body (including, but not limited to MAS, and any exchange) in the exercise of its regulatory or supervisory functions over Phillip Nova. The Customer shall permit Phillip Nova and/or any Relevant Body to have access to such terminals as Phillip Nova and/or Relevant Body may request, and the Customer shall cooperate in answering any of their queries in relation to any aspect of the Electronic Broking Facilities.

### **6. SECURITY**

- 6.1 The Customer shall at all times ensure that the integrity and the security of the Electronic Broking Facilities are preserved and maintained. Accordingly, the Customer shall ensure, inter alia, that there is no unauthorised access / usage / distribution of Customer's user ID, password and/or PIN. The Customer shall forthwith on being aware of any unauthorised access or theft of the password and/or PIN(s) or security code(s) notify Phillip Nova and provide such particulars as Phillip Nova may require.
- 6.2 The Customer shall bear the sole responsibility of complying with the obligations under this Clause. In the event that the Customer breaches its obligations under this Clause, the Customer shall indemnify Phillip Nova for any Loss that may suffer as a consequence of such unauthorised access and use.

**7. RISK WARNING**

7.1 The Customer hereby represents and declares that it understands and accepts the following associated with trading using the Electronic Broking Facilities:

- (a) that electronic trading and order routing systems differ from traditional open outcry pit trading, and that Transactions undertaken using an electronic system are subject to the rules and regulations of the exchange(s) offering the system and/or listing the contract. In this connection, the Customer hereby undertakes, prior to engaging in such Transactions to familiarise itself with, and from time to time to keep itself updated on, the Application Laws of the relevant exchange(s) offering the system and/or listing the relevant Securities and Futures Contracts, and to understand, among other things, the system's order matching procedure, opening and closing procedures and prices, error trade policies and trading limitations or requirements; and
- (b) trading through an electronic trading or order routing system exposes the Customer to risks associated with system or component failure. Such system or component failure may result in the inability to enter new Orders, execute existing Orders, or modify or cancel Orders previously entered, as well as a loss of Orders or order priority.

## **APPENDIX 2: DIRECT MARKET ACCESS SERVICES (“DMA SERVICES”)**

This document shall apply where the Customer requests Phillip Nova, either in the Application Form or by any Communications to Phillip Nova, for the provision of DMA Services as the Parties may agree from time to time. In consideration of Phillip Nova providing the Customer with the DMA Services, the Customer understands and hereby agrees to abide by and to be bound by the terms and conditions set out in this Appendix 2, as may be amended, modified or supplemented from time to time.

### **1. APPLICABILITY & AMENDMENTS**

- 1.1 The Customer agrees that in respect of any Transaction, all the applicable terms and conditions in relation thereto in force as between the Parties, including the Agreement shall continue to apply, and are to be supplemented and read together with the terms and conditions of Appendix 2. Notwithstanding anything to the contrary contained in the Agreement, the Parties agree that in the event of any conflict or inconsistency between the terms and conditions of Appendix 2 and the Agreement, the terms and conditions of Appendix 2 shall prevail in respect of such conflict or inconsistency, however the Agreement shall in all other respects continue in full force and effect.
- 1.2 The terms and conditions of Appendix 2 are to be supplemented and read together with all Applicable Laws. In the event of any conflict or inconsistency between the terms and conditions of Appendix 2 and the Applicable Laws, the Applicable Laws shall prevail in respect of such conflict or inconsistency, however the terms and conditions of Appendix 2 shall in all other respects continue in full force and effect.
- 1.3 The Customer understands and shall fully comply with all Applicable Laws in relation to DMA Services at all times.
- 1.4 The Customer agrees that Phillip Nova may at any time by notice in writing to the Customer, including notification via the DMA Services, vary or add to Appendix 2 without prior notice or consultation with the Customer.
- 1.5 Any electronic record relating to the terms and conditions of the DMA Services provided hereunder kept and/or maintained by Phillip Nova shall be conclusive evidence of the contents thereof. The Customer agrees to the admission as evidence in any court in Singapore of such electronic records maintained or kept by Phillip Nova and any part, copy or computer output thereof, as an original document, and the Customer further agrees not to challenge or dispute the admissibility, authenticity or accuracy of such electronic records or computer output thereof.

### **2. CONDITIONS OF USE**

- 2.1 The Customer hereby undertakes to utilise the DMA Services strictly in accordance with the terms and conditions of the Agreement, and any and all other rules and policies that Phillip Nova may publish or make available through the DMA Services or any other medium it may designate at its sole discretion, from time to time.
- 2.2 The Customer hereby understands and acknowledges that the DMA Services and the Information are provided on an “as is” as well as an “as available” basis. The Customer acknowledges that no member of Phillip Nova or Phillip Capital Group makes any express or implied warranty, representation or assurance, including, without limitation, any warranty, representation or assurance of any nature regarding the quality, suitability, merchantability, fitness for a particular purpose or otherwise (regardless of any course of dealing, custom or usage of trade) that the DMA Services are or will be suitable for the Customer’s commercial, business or financial purposes, or as to its reliability, and that all liability in respect thereof is disclaimed. The Customer also agrees and acknowledges that no warranty is made by Phillip Nova or Phillip Capital Group that the DMA Services will be accessible, timely, secure, complete, reliable, uninterrupted, error-free, does not infringe any third party proprietary rights, or that it will be free of viruses or any other harmful components, or that any errors in the technology or the DMA Services will be detected and/or corrected.
- 2.3 In particular, members of Phillip Nova or Phillip Capital Group shall not be liable for any reason whatsoever for any information provided by, under or pursuant to the DMA Services and no express or implied warranty, representation or assurance of any nature whatsoever is made as to such information, and as to its (or its continued) accuracy, reliability, relevance, usefulness, quality or suitability for any purpose or otherwise (regardless of any course of dealing, custom or usage of trade), nor that such information will be detected and/or corrected.
- 2.4 The Customer represents, warrants and undertakes (on a continuing basis and which representations, warranties and undertakings are deemed to be repeated each time an instruction is issued by the Customer to Phillip Nova and/or at the date of each Transaction, with the intent that such representations, warranties and undertakings shall survive the completion of any transaction contemplated herein) that:
  - (a) it has the necessary experience, knowledge and financial resources to undertake the transactions using the DMA Services;
  - (b) it has put all necessary security arrangements in place to ensure that unauthorised persons are denied from using Direct Market Access;
  - (c) it has read the information concerning its access to the Trading System and Applicable Laws provided by Phillip Nova and that it understands that the nature of the transactions conducted using the DMA Services and the extent of and its exposure of risks and that it has considered whether undertaking such Transactions is appropriate for it in the light of its experience, objectives, financial resources and other relevant circumstances;
  - (d) that Phillip Nova shall have no liability or responsibility whatsoever to the Customer for any Losses whatsoever (direct, indirect, special, incidental, consequential, punitive or otherwise), loss of investment opportunity or failure to make a profit suffered or incurred as a result of or in connection with the use of the DMA Services;
  - (e) that it has read and familiarised itself, as appropriate, with the instructions provided by Phillip Nova in relation to its Direct Market Access System, and that it has knowledge and proficiency in the use of Direct Market Access System, Sponsored Systems and the electronic trading systems for automatic matching of orders designated and approved by the relevant stock exchanges for transactions on such stock exchanges;
  - (f) it is familiar with and will comply with the Applicable Laws;
  - (g) it will cooperate with and provide timely assistance to any Relevant Bodies, Phillip Nova and/or its suppliers for the purpose of conducting any audit, enquiry, investigation and/or compliance review (whether or not related to potential violations of any Applicable Laws) and such assistance shall include but is not limited to the provision of all information on the identities and addresses of persons responsible for transactions made using the DMA Services;
  - (h) it will have measures in place to meet minimum standards including standards on financial standing, credit history and criminal records (and such other standards as may be determined by Phillip Nova at its sole discretion);
  - (i) that the terms and conditions of Appendix 2 are legal, valid, binding and enforceable against it;
  - (j) that it has taken all necessary corporate action, and has obtained all authorisations, consents, licences or approvals (whether under the Applicable Laws or otherwise) required to accept and agree to the terms and conditions of Appendix 2 and to access and use the DMA Services, and all Transactions made using the DMA Services by it shall be in compliance with all Applicable Laws;

- (k) any Transaction entered into by the Customer using the DMA Services is duly authorised and it agrees that Phillip Nova shall have no obligation or duty to enquire if any transaction entered into using the DMA Services has been so authorised and shall be entitled at all times to assume so;
- (l) that it has read and familiarised itself, as appropriate, with the Applicable Laws and all relevant information regarding DMA access and that it will not do or omit to do anything that would cause Phillip Nova to be in breach of any Applicable Laws whether directly or indirectly;
- (m) it will not use the DMA Services for any unlawful or illegal act or do or omit to do anything that would be in breach of any Applicable Laws;
- (n) it is not prohibited under any Applicable Laws from using the DMA Services;
- (o) that it has reviewed Appendix 2, has decided to enter into this Appendix and utilise the DMA Services based on its own independent judgement and has not in any way whatsoever relied on any representation, warranty or undertaking from Phillip Nova in entering into this Appendix and utilising the DMA Services; and
- (p) it shall ensure that all Transactions entered into using the DMA Services do not exceed the limits prescribed by Phillip Nova in relation to its account(s) at any one time and from time to time.

### **3. DELEGATION**

3.1 Phillip Nova: (a) may delegate the performance of any function in connection with the DMA Services and (b) reserves the right to use any agents or service providers on such terms as it thinks appropriate.

3.2 The Customer represents, warrants and undertakes that:

- (a) it shall not delegate access to the DMA Services to any other persons or allow any person to delegate access to the DMA Services to other persons, unless Phillip Nova's prior written consent has first been obtained;
- (b) all such persons who have been delegated access shall comply with the terms and conditions of this Appendix 2 as if they are the original parties to Appendix 2 and if requested by Phillip Nova, such persons shall enter into separate agreements with Phillip Nova to that effect; and
- (c) the Customer and such delegates shall provide Phillip Nova with the personal details, identities and addresses of such persons who have been delegated access and at the request of Phillip Nova, provide any other information relating to such persons and Transactions made by them.

3.3 In relation to the Sponsored Access granted to the Customer as part of the DMA Services, the Customer represents, warrants and undertakes that (on a continuing basis and which representations, warranties and undertakings are deemed to be repeated each time an instruction is issued by the Customer to Phillip Nova and/or at the date of each Transaction, with the intent that such representations, warranties and undertakings shall survive the completion of any Transaction contemplated herein):

- (a) the Customer and the Sponsored Access delegates:
  - (i) are persons regulated by a Recognised Regulatory Authority in respect of the Regulated Activities; or
  - (ii) are trading members of SGX-DT and/or SGX-ST and are permitted to delegate Sponsored Access to the Customer's respective related corporations only;
- (b) the Customer, and all persons granted delegated Sponsored Access understands and shall comply with the terms and conditions of this Appendix and all Applicable Laws at all times, including, without limitation, the SGX-DT FTR and/or SGX-ST rules;
- (c) the Customer and all such persons granted delegated Sponsored Access have the necessary operational and technical systems and procedures in place for the Sponsored Systems;
- (d) the Customer and all such persons granted delegated Sponsored Access shall allow access to Phillip Nova at all times, to the Sponsored Systems such that Phillip Nova may set and control pre-determined automated limits (which are to be prescribed by Phillip Nova at its sole discretion) in such systems, put in place alerts if limits are altered, put in place a system for the conducting of regular post-execution reviews of Transactions and put in place all such other operational and technical requirements which are required under the Applicable Regulations or which Phillip Nova, at its sole discretion, deems fit; and
- (e) the Sponsored Systems shall comply with and meet the requirements stipulated under the Applicable Regulations, including, without limitation, meeting the requirements set out in the SGX-DT FTR and/or SGX-ST rules relating to order management systems.

3.4 The Customer accepts that Phillip Nova may be required to report, or to provide a report by an independent reviewer on compliance with the SGX-DT FTR and/or SGX-ST rules, to the Relevant Bodies about the Account(s) opened and operated by it with Phillip Nova and the Customer irrevocably and unconditionally authorises Phillip Nova to disclose:

- (a) all information that may be necessary regarding it and such accounts, including, without limitation, its personal details, identity, address, Transactions entered into using the DMA Services, and information on its use of the DMA Services; and
- (b) all information relating to persons who have been delegated with access to the DMA Services offered to the Customer, including, without limitation, their personal details, identities, addresses, Transactions entered into using the DMA Services, and information on their use of the DMA Services.

### **4. TECHNICAL AND SECURITY OBLIGATIONS**

4.1 The setting up of and the utilisation of all software and hardware to enable the Customer's access to the DMA Services shall be the Customer's sole responsibility and Phillip Nova shall not be responsible or liable for any fault or Losses arising from, pursuant to or in connection with the setting up of and the utilisation of such software and hardware.

4.2 The Customer represents, warrants and undertakes that the Customer shall be responsible for all the information, account numbers, codes, usernames and passwords issued to it to access and use the DMA Services and that it shall have in place security arrangements to prevent unauthorised access to any of the DMA Services in relation to markets established by or operated by SGX-DT or SGX-ST or such markets as SGX-DT or SGX-ST specifies.

4.3 The Customer represents, warrants and undertakes to promptly notify Phillip Nova in writing of any circumstances of which it becomes aware where there has been unauthorised use of the DMA Services in any manner other than as authorised by this Appendix.

### **5. LIMITS OF RESPONSIBILITY, LIABILITY AND INDEMNIFICATION**

5.1 Phillip Nova disclaims all other representations or warranties, express or implied, made to the Customer, or any other person, including, without limitation, any warranties regarding quality, suitability, merchantability, fitness for a particular purpose or otherwise (regardless of any course of dealing, custom or usage of trade) in relation to the DMA Services.

- 5.2 Notwithstanding anything in Appendix 2, in no event shall Phillip Nova or any of its Officers be liable in tort, contract, strict liability or other legal theory for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect or consequential damages, each of which is hereby excluded by agreement of all the parties to Appendix 2, regardless of whether such damages were foreseeable or whether Phillip Nova or its Officers have been advised of the possibility of such damages.
- 5.3 The Customer agrees that neither Phillip Nova nor its Officer shall be liable to the Customer for any Loss, damage, cost, charge or expense suffered by the Customer for any act or omission in relation to any Account or the operation, provision or termination of any of the DMA Services unless it was caused by fraud, gross negligence or wilful default of Phillip Nova or attributable to Phillip Nova or its Officer. Where Phillip Nova utilise a third party or nominee (including a Nominee) to do any act in relation to an Account or any of the DMA Services, its sole responsibility to the Customer as regards the utilisation of such third party shall be to exercise reasonable care in the selection of such third party. The Customer will not hold Phillip Nova liable for any wilful action or omission, default, fraud or negligence of the third party or nominee unless Phillip Nova was negligent or fraudulent in selecting and/or continuing to use the third party.
- 5.4 Nothing in Appendix 2 shall operate to limit or exclude any liability for fraud.
- 5.5 Notwithstanding any other provision of Appendix 2, the Customer releases Phillip Nova from any liability in respect of systems failures causing an inability of or delay in the ability of Phillip Nova to provide the DMA Services.
- 5.6 The Customer hereby agrees to indemnify Phillip Nova, and to keep Phillip Nova harmless from any Loss, damage, cost, charge or expense suffer as a result of the Customer's instructions or use of the DMA Services, the Customer's breach or violation of these terms or any third party claim against Phillip Nova attributable to the Customer's instructions or use of the DMA Services including but not limited to a claim for violation of any proprietary or intellectual property rights, or the enforcement of any of the terms of this Appendix. This obligation to indemnify Phillip Nova shall survive the termination of this Appendix and/or any of the DMA Services.

## **6. CONFIDENTIALITY**

- 6.1 Parties shall keep confidential all information relating to this Agreement unless such information has become public knowledge or disclosure is required by Applicable Laws or a Customer's or Phillip Nova's Relevant Body.

## **7. DISCONTINUATION OF ACCESS AND OTHER CONDITIONS FOR USE OF THE DMA SERVICES**

- 7.1 Notwithstanding anything herein to the contrary, Phillip Nova may at any time, in its absolute discretion terminate forthwith, without notice and for any reason whatsoever, the Customer's right of access to and/or use of any of the DMA Services. In the event of such termination, Phillip Nova shall not be liable for any claim, liability or Loss (including without limitation anticipated profit) which may be suffered by the Customer referable to such termination.
- 7.2 Without limiting the generality of Clause 7.1 in Appendix 2, the Customer agrees that Phillip Nova may, at its sole discretion and without notice and liability, suspend, limit, revoke and/or terminate its access to all or part of the DMA Services under any of the following circumstances:
- (a) if the Customer breaches any trading restriction and/or credit limit established or imposed by Phillip Nova at any time and from time to time;
  - (b) if the Customer fails to assist Phillip Nova and/or any of the Relevant Bodies in any investigation;
  - (c) if Phillip Nova receives an order or directive from any of the Relevant Bodies to suspend, limit, revoke and/or terminate the Customer's access to all or part of the DMA Services;
  - (d) if any of the Relevant Bodies issue an order or directive to suspend, limit, revoke and/or terminate the Customer's access to all or part of the DMA Services;
  - (e) if Phillip Nova, at its sole discretion, determines that it is in the interests of maintaining a fair, orderly and transparent market, to suspend, limit, revoke and/or terminate the Customer's access to all or part of the DMA Services;
  - (f) if the Customer has caused Phillip Nova to breach its statutory requirements or any requirements placed upon Phillip Nova by any of the Relevant Bodies, including, without limitation, the Applicable Laws;
  - (g) if Phillip Nova, at its sole discretion, determines that it is necessary to suspend, limit, revoke and/or terminate its access to all or part of the DMA Services so that Phillip Nova may fulfil its duties and obligations under the Applicable Laws; and/or
  - (h) if Phillip Nova, at its sole discretion, determines for whatever reason that it is necessary to suspend, limit, revoke and/or terminate the Customer's access to all or part of the DMA Services.
- 7.3 The Customer agrees that Phillip Nova is entitled to, and authorises Phillip Nova to conduct checks, from time to time, to determine its financial standing, its credit history, if it has any criminal records, any pending legal court proceedings relating to prohibited market conduct and/or any adverse record (and such other checks on minimum standards as may be determined by Phillip Nova at its sole discretion). The Customer agrees that, in the event that Phillip Nova, at its sole discretion, is not satisfied with the results of any of such checks, Phillip Nova may (without notice to the Customer, or liability to Phillip Nova), reject the Customer's application for the DMA Services or at any time, suspend, limit, revoke and/or terminate its access to all or part of the DMA Services.
- 7.4 The Customer agrees that in the event that Phillip Nova suspends, limits, revokes and/or terminates its access to all or part of the DMA Services under this Clause 7, it shall have no claim against Phillip Nova in respect thereof.
- 7.5 The Customer agrees that all DMA Services offered are subject to the regulations of the Relevant Bodies, at its/their sole discretion, Relevant Bodies may directly suspend, limit, revoke and/or terminate the DMA Services offered to the Customer and in such an event, Phillip Nova shall not be liable and the Customer shall have no claim against Phillip Nova in respect thereof.

## **8. TERMINATION**

- 8.1 This Customer agrees that Phillip Nova has the right to terminate Appendix 2 by giving five (5) days' notice in writing. Phillip Nova is under no obligation to inform the Customer of its reasons. The Customer shall remain liable for any amounts owed to Phillip Nova.

## **9. MISCELLANEOUS**

### **NOTICES**

All written communication will be deemed received by the Customer: (a) two (2) days after despatch by post to the last mailing address known to Phillip Nova if the same is in Singapore or five (5) days after despatch by post to the last mailing address known to Phillip Nova if the same is not a Singapore address; (b) immediately, if delivered personally; and (c) on the day of despatch or transmission if sent by telex, facsimile or electronic mail to any of the relevant telex, facsimile or electronic mail addresses of the Customer last known to Phillip Nova. Where the Customer makes use of the DMA Services, the Customer shall be deemed to have notice of and be bound by all notices and communications as may be given by Phillip Nova from time to time and accessible by the Customer via the DMA Services effectively as from the day when the same may be so accessed by the Customer.



9.2 **WAIVER**

If Phillip Nova does not exercise or delays exercising a right whether under the Agreement or otherwise, this does not mean that it has given up or waived the right or that it cannot exercise the right later. The only way Phillip Nova can waive any of its rights is by giving the Customer a letter signed by the manager of Phillip Nova or his superiors.

9.3 **ASSIGNMENT**

None of the rights or obligations under Appendix 2 may be assigned, held on trust, or otherwise transferred without the prior written consent of all the Parties, save that Phillip Nova may, without notice and the Customer's consent, assign or otherwise transfer its rights or obligations under Appendix 2 to any third party, and appoint third party agents or sub-contractors to provide the whole or part of the DMA Services.

9.4 **RIGHTS OF THIRD PARTIES**

- (a) The Customer agrees and acknowledges that the terms and conditions of the Agreement shall be for the benefit of Phillip Nova and each and every Phillip Capital Group member. Each Phillip Capital Group member shall have the right under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce any term of this Appendix.
- (b) Other than as provided in Clause 9.4 (a) above, a person who is not a party to any agreement with Phillip Nova to which the terms of this Agreement applies has no rights under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce any of the clauses hereunder. For the avoidance of doubt, this shall not affect the rights of any permitted assignee or transferee of this Appendix.

9.5 **SEVERABILITY**

The illegality, invalidity or unenforceability of any provision of Appendix 2 or any part thereof under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

9.6 **GOVERNING LAW**

This Appendix shall be governed by and construed in accordance with laws of Singapore. In relation to any legal action or proceeding arising out of or in connection with any Account (including transactions effected for the Account) or referable to any DMA Service, the Customer hereby submits to the nonexclusive jurisdiction of the courts of the Republic of Singapore and the Customer waives any objection to the proceedings on the ground that the proceedings have been brought in an inconvenient forum. The Customer hereby nominates and appoints its trading representative to be its agent for service of process of any documents commencing and otherwise relating to any such legal action or proceedings brought by Phillip Nova.

The Customer is directed to also refer to the SGX-DT FTR and SGX-ST rules for more information on its obligations in relation to the use of the DMA Services offered by Phillip Nova. A copy of the SGX-DT FTR and SGX-ST rules may be extracted from the website <http://rulebook.sgx.com>

## APPENDIX 3: OTC FACILITIES

### 1 NOTIFICATION

1.1 In providing a market and prices for OTC Transactions, the Customer hereby consents to Phillip Nova's prior notification that its authorised Officers to accept Orders may quote OTC prices by reference to prices from other regulated financial institutions to customers counter-parties but such prices may not be the same as the prices that Phillip Nova may be able to secure from such parties for its own contracts with such parties or otherwise act as market-makers to customers in providing its own bids and offers for trades with Phillip Nova on an OTC basis.

1.2 Unless otherwise specified, (i) Phillip Nova shall act as principal to the Customer in respect of OTC Transactions; and (ii) all OTC Transactions (regardless of whether the underlying subject matter is traded on an exchange or whose specifications mirror the referenced commodity traded on an exchange) are entered into on the basis that they shall be cash settled and not physically settled.

Where an OTC Transaction may be physically settled, the provisions below under the heading - "**Terms and Conditions Applicable to Exchange Related OTC Transactions**" shall also apply.

### 2 DEFAULT

2.1 In the event of a Default under Clause 12.1 (c) of this Agreement, all outstanding Transactions (including any Transaction which has not been settled and in respect of which the value date as determined by Phillip Nova is on or precedes the date on which Phillip Nova terminates such Transaction) entered between the Parties shall be deemed immediately liquidated at prevailing prices (or, if not available, at such prices Phillip Nova in good faith deems fit) and the amounts resulting converted into Singapore dollars or such other Currency as Phillip Nova may from time to time use as the principal Currency of its business (together with all Margin and/or security duly converted into Singapore dollars or such other Currency as Phillip Nova may from time to time use as the principal Currency of its business) at its prevailing rates and set-off against each other and the Margin prior to resorting to its rights under Clause 12.2 of this Agreement and/or payment or repayment to the Customer (if applicable).

2.2 Without prejudice to Clause 13 of this Agreement, Phillip Nova shall with respect to any and all OTC Transactions be the calculation agent (the "**Calculation Agent**") for all underlying reference pricings of a Transaction and all relevant settlement and other pricing for the purposes of determining the respective rights and obligations of the parties by reference to such pricing. Phillip Nova does not assume any obligation or duty to, or any relationship of agency or trust for or with the Customer for such Transactions (the Customer acknowledging that such obligations are inconsistent with a principal to principal relationship between the Parties). Any determinations and calculations by Phillip Nova in good faith, shall (in the absence of manifest error) be final and binding on the Customer.

Without prejudice to the foregoing, in the event of a determination by Phillip Nova in good faith that a Market Disruption Event has occurred, Phillip Nova shall be entitled to determine in good faith the market pricing of the underlying reference instrument for the purposes of the parties' respective rights and obligations under such transaction and its determination shall be final and binding on the parties. In addition, Phillip Nova has the sole and absolute discretion to determine:

- (a) whether a Market Disruption Event has occurred during the life of an investment or on its settlement date and if such Market Disruption Event occurs on the settlement date what price or level should the relevant closing level of the underlying reference instrument be for the purposes of settlement of a relevant Transaction; or
- (b) whether any adjustments to the terms of the Transaction should be made as a result of any event(s) affecting the underlying reference instrument or (if the same is an index) any of its constituent components or combination thereof to which the relevant reference instrument and Transaction relate (including but not limited to an index adjustment event such as a material change in the formula for or the method of calculating the Index or failure to calculate and publish the index).

Any such discretion exercised by, or any calculation made by Phillip Nova (in the absence of manifest error) shall be binding on the Customer who should note that Phillip Nova when making any such adjustments or calculations, will not take into account the Customer's individual circumstances and/or tax or other consequences of such adjustments or calculations.

### 3. TERMS AND CONDITIONS APPLICABLE TO EXCHANGE RELATED OTC CONTRACTS

#### 3.1 SCOPE

3.1.1 **Application:** The clauses in this Appendix apply to Exchange related contracts ("**ER Contracts**") to be entered into from time to time between the Parties on an OTC principal to principal basis as set out below and under which physical settlement of such contracts is an option subject to the terms below.

#### 3.2. SPECIFIC TERMS FOR ER CONTRACTS:

**Phillip Nova will only enter into ER Contracts with the Customer, from time to time on the following terms:**

#### 3.2.1 ADDITIONAL RISK DISCLOSURE:

##### (i) RELATIONSHIP BETWEEN PARTIES

The relationship between the Parties for ER Contracts is as described in these Terms.

Neither that relationship, nor the Services Phillip Nova may provide for any other transaction with or for the Customer nor any other matter, will give rise to any fiduciary or equitable duties or duties as an adviser on the part of Phillip Nova.

The relationship between the Parties with respect to a concluded ER Contract is intended to be, in all cases a bi-lateral principal to principal transaction and strictly on a "buyer beware" basis but with us expressly intended to be riskless principal in the transaction to the Customer in the sense that (i) Phillip Nova's obligation to the Customer with respect to any concluded ER Contract is limited only to passing on to the Customer the benefit of such rights as Phillip Nova may actually have to enforce under a corresponding ER Market Contract (as the expression is defined below); and (ii) Phillip Nova's obligation to perform on any ER Market Contract is dependent upon the Customer's performance of the Customer's obligations under the corresponding ER Contract and hence the Customer's liability to indemnify and keep Phillip Nova harmless against any default in the Customer's performance leading to a default of Phillip Nova's performance.

Notwithstanding (ii) in the preceding sentence, Phillip Nova is entitled (where Phillip Nova determines in good faith the same to be in Phillip Nova's interest) to proceed with performing under a corresponding ER Market Contract notwithstanding the Customer's default under the relevant ER Contract without prejudice to Phillip Nova right to damages and indemnity from the Customer.

##### (ii) CONFLICTS OF INTEREST AND DUTY

Phillip Nova's only obligation with respect to any Transaction is as riskless principal to the Customer and therefore that Phillip Nova will also conclude in good faith a corresponding ER Market Contract (as the expression is defined below).

As a riskless principal, Phillip Nova is not intended to incur any Loss or damage for having effected a corresponding ER Market Contract and as such and amongst other things:

- (a) In the event of severe market disruption and/or price volatilities which may result or may have resulted in the current market value of a commodity which is the subject matter of a corresponding ER Market Contract falling to what Phillip Nova's counter-party may regard as an unacceptable level giving rise to their right to do any of the following with respect to the corresponding ER Market Contract:
  - (1) to close out the corresponding ER Market Contract;
  - (2) to require an immediate delivery of additional margin;then in such event Phillip Nova shall have corresponding rights under the ER Contract with the Customer.
- (b) The Customer also acknowledge that business on the relevant exchange on which the ER Market Contract is concluded may from time to time be suspended or restricted in the interests of, inter alia, maintaining a fair and orderly market. In such circumstances Phillip Nova may be unable to close out the corresponding ER Market Contract and the Customer acknowledge that in such event the Customer shall correspondingly have no right to close out the ER Contract with Phillip Nova.
- (c) In the event that Phillip Nova is required to effect payment or delivery of any relevant warrant(s) under the corresponding ER Contract, Phillip Nova shall correspondingly be entitled to payment/warrant(s) delivery from the Customer under the corresponding Transaction to put in funds/warrant(s) in due time to onward effect payment/delivery under the corresponding ER Contract. As such the Customer's right to the return of any payment/warrant(s) delivery made to Phillip Nova is dependent on Phillip Nova's actual receipt of any corresponding return of payment/warrant(s) from Phillip Nova's counter-party under the corresponding ER Market Contract.

The price that Phillip Nova conclude the ER Contract may not be the same as the price of the corresponding exchange registered/executed Contract (such corresponding exchange registered/executed contract to be hereafter referred to as the "**ER Market Contract**"). Phillip Nova shall not be liable to account to the Customer for any such differential.

(iii) **NON-EXCHANGE MEMBER**

The Customer acknowledge that Phillip Nova is not a member of any of the exchanges for which Phillip Nova is prepared on a bi-lateral principal to principal OTC basis to conclude with the Customer an ER Contract which is a look-a-like contract of the exchange traded contract that Phillip Nova will conclude with a relevant member of the relevant exchange and therefore that the ER Contract concluded while related and corresponding to an ER Market Contract which Phillip Nova conclude on a back to back basis for its own account is not a contract which is registered with or concluded on the relevant or by a relevant exchange broker/member.

The Customer also acknowledge that as a non-exchange member it is incumbent on Phillip Nova to conclude corresponding ER Market Contracts with a relevant exchange member and as such the holding of any underlying commodity or warrant in respect thereof will necessarily be effected through such exchange member or its custodian.

The Customer further acknowledge and agree that holding of any commodity or documents of title to commodities which the Customer has acquired from Phillip Nova pursuant to an ER Contract concluded with Phillip Nova or intend to effect delivery with respect to, will be procured by Phillip Nova to be held by such exchange member or its custodian and in accordance with their terms for such holding. The same will apply with respect to any and all commodity delivery obligation which Phillip Nova is obliged to discharge under a relevant corresponding LME Market Contract which Phillip Nova conclude held to delivery/settlement date.

Accordingly, the Customer agree that so long as Phillip Nova exercise good faith:

- (a) in the selection of such exchange member or its custodian for holding of any commodity or documents of title to commodities which the Customer has acquired from Phillip Nova pursuant to an ER Contract concluded with Phillip Nova or intend to effect delivery with respect to; and
- (b) in agreeing respectively to such exchange member and/or its sub-custodian's terms respectively for the delivery of commodities and/or for the holding of any commodity or documents of title to commodities which the Customer has acquired from Phillip Nova pursuant to an ER Contract concluded with Phillip Nova or intend to effect delivery with respect to as between the Parties, Phillip Nova is intended to have and shall have no liability whatsoever with respect to the delivery obligations under any corresponding ER Contract or for any default on the part of the relevant exchange member or its sub-custodian and the Customer shall ensure that the Customer will take all actions as may be required and give Phillip Nova such authority as may be required and in each case in due time to ensure that Phillip Nova may comply with and not be default of the terms for the delivery of commodities or their respective sub-custody.

(iv) **LIQUIDATION INSTRUCTIONS**

Without prejudice to the foregoing, the Customer shall for any open position of any ER Contract which involves physical settlement by:

- (a) giving instruction to liquidate such open position to Phillip Nova; or
- (b) providing Phillip Nova with sufficient funds in relation to such open position, and (where relevant) with the necessary delivery documents to take or make delivery of the underlying subject matter of the ER Contract, not later than 5 Business Days prior to the settlement date of such ER Contract.

## **APPENDIX 4: DELIVERY/CUSTODIANSHIP – EROTC CONTRACTS**

Note: Expressions not otherwise defined below shall bear the meaning for the relevant expression as defined in Appendix 3.

Without prejudice to the fore-going, the terms as set out in the attached document entitled "**Delivery/ Custodianship – OTC Contracts**" shall apply to our holding or procuring the holding of any commodity or documents of title to commodities which the Customer acquired pursuant to an ER Contract concluded with Phillip Nova or intend to effect delivery with respect to.

### **Part A – Physical Delivery**

#### **1. SCOPE**

1.1 **Transactions:** The clauses in Appendix 4 apply, except to the extent inconsistent with the terms of the Agreement apart from this document to any and all ER Contracts concluded with Phillip Nova under which physical delivery is intended by or required of the Customer (each a "**Transaction**").

#### **2. TITLE AND QUALITY**

2.1 **Title Guarantee:** The Customer covenants to deliver or procure delivery of all commodities under all relevant Transactions with full title guarantee and in due time and so as to enable Phillip Nova to effect delivery of all commodities under the respective corresponding ER Market Contracts. Without limitation any transfer of a commodity pursuant to a Transaction shall be free of any right of retention, pledge, lien, other encumbrance or any other third party rights including a warehouse's lien.

2.2 **Representation:** The Customer represents and covenants that there is no encumbrance, nor will the Customer creates or permits to exist any encumbrance in respect of any commodity which is in the possession or control or delivered to Phillip Nova or the Customer's Order under and for the purposes of any Transaction and intended for Phillip Nova to onward discharge our obligation under a corresponding ER Market Contract. The Customer repeat this representation as of the time of entry into any Transaction relating to any commodity.

2.3 **Passing of title:** Property in any Warrant-based Commodity shall pass at the time the Warrant is delivered. In any other case, unless otherwise agreed in writing, property shall pass upon delivery of the commodity. Notwithstanding the foregoing, in any Transaction where the Customer purchases a commodity, property in the commodity shall remain with Phillip Nova until the payment has been received in full.

2.4 **Quality:** Unless otherwise agreed, any commodity to be delivered under a Transaction shall be delivered such that Phillip Nova entitled to and will be able to onward effect delivery in accordance with the requirements of applicable Exchange rules or regulations by reference to which such commodity is described.

2.5 **Statutory conditions:** When Phillip Nova transfer or procure a transfer of a commodity to the Customer or the Customer's Order, all statutory and implied conditions and warranties as to title, correspondence to description, quality and fitness for purpose are excluded.

#### **3. DELIVERY**

3.1 **Delivery:** Delivery of any Warrant-based Commodity shall be effected by transfer of Warrants. Where Phillip Nova hold Warrants in its physical possession or control for the Customer, delivery by the Customer to Phillip Nova shall be effected by Phillip Nova and/or the relevant Exchange member (for avoidance of doubt reference to an Exchange member in Appendix 4, unless the context otherwise requires, shall refer to the relevant Exchange member through or with whom a relevant ER Market Contract was concluded. Such member may also be referred interchangeably as the "**ER member**") to appropriate the requisite number and amount of Warrants. Delivery by Phillip Nova to the Customer of any Warrant-based Commodity where the Exchange member hold Warrants in its physical possession shall be effected by Phillip Nova instructing the ER member to immediately segregate the requisite number and amount of Warrants held by the ER member, after which Phillip Nova shall hold them and the commodity to which the Exchange relate as per the Custody terms below.

3.2 **SWORD deliveries:** Where Warrants are capable of being held in SWORD, transfer of Warrants shall be effected by transfer to or from the sword account of the relevant ER member's SWORD Account. If the Customer do not have a SWORD Account, and Phillip Nova causes the holding of the Warrants in the ER member's Customer Account in SWORD accompanied by instructions of Phillip Nova to the ER member to segregate the Customers' entitlements from our proprietary account with the ER member, our instructing the transfer of appropriate Warrants from such account of the ER member not rejected by the ER member shall constitute delivery. In any other case where the Customers' Warrants are held in SWORD, and subject to contrary written agreement between the Parties, transfer to the Customer shall be deemed to occur at 10am London time on the prompt date applicable to the Transaction.

3.3 **Risk:** The risk in any commodity bought by the Customer will pass on delivery to the Customer. Where a commodity is in the Customer's possession before the property in it has passed, the Customer agree fully to preserve, or procure the full preservation of, its condition and make good any damage or deterioration that may occur, or fully compensate for any such damage or deterioration.

3.4 **Delivery Costs:** Unless otherwise agreed in writing between the Parties, any costs incurred by Phillip Nova in effecting physical delivery of any commodity (including, without limitation, costs in respect of collection, packaging, shipment, storage, warehousing or insurance) whether under or pursuant to the corresponding ER Market Contract or the Transaction shall be borne by the Customer.

3.5 **Place of Delivery:** Any commodity which is required to be delivered physically to Phillip Nova will be delivered at the expense of the Customer to such location as Phillip Nova may specify.

3.6 Where the Customer intend to make delivery for onward delivery under the corresponding ER Market Contract of Warrants or to Phillip Nova's order in SWORD then the delivery is required in due time for Phillip Nova to comply with its delivery obligation under the corresponding ER Market Contract, being generally 5pm on the previous business day.

### **Part B – Custody**

4.1 **Commodities purchased by the Customer:** Phillip Nova may, from time to time, at the Customer's request but in its discretion, agree to hold on the Customer's behalf either by Phillip Nova or through a sub-custodian of its choice any commodity or documents of title to commodities which the Customer acquired pursuant to an ER Contract concluded with Phillip Nova (each a "**Transaction**").

Where Phillip Nova effect the holding, such commodity or documents will be segregated from any like commodity or documents in its ownership but otherwise will be subject to the same custody and insurance arrangements as Phillip Nova's own property.

Where Phillip Nova effect the holding through a sub-custodian of its choice, Phillip Nova's duty is only to secure from its sub-custodian an acknowledgement that such commodity or documents will be segregated from any like commodity or documents held for Phillip Nova's proprietary account but otherwise will be subject to the same custody and insurance arrangements as its own property.

Phillip Nova shall in any event owe no fiduciary duty to the Customer in respect of any such commodity or documents and its responsibility (i) Where Phillip Nova effect the holding, Phillip Nova shall be limited to taking reasonable care to restore such commodity or documents upon the Customer providing reasonable notice and the payment of fees and charges to Phillip Nova for such holding of such commodity or documents of title with or through Phillip Nova; and (ii) Where Phillip Nova effect the holding through a sub-custodian of its choice shall be limited to assigning the benefit of Phillip Nova rights of action (or where the same is not assignable, the fruits of the exercise and enforcement of such rights subject to the Customer indemnifying Phillip Nova for

the costs of such exercise and enforcement of rights) against the sub-custodian with respect the property held and otherwise to onward request the sub-custodian to restore such commodity or documents to the Customer upon providing reasonable notice and the payment of fees and charges to Phillip Nova for such holding of such commodity or documents of title with or through Phillip Nova. Phillip Nova reserve the right to levy charges for this service (which shall at the minimum be equal to the charges payable by ourselves to a sub-custodian for such holding). The duties with respect to such holding shall be strictly limited to the duties expressly set out in this document.

- 4.2 **SWORD Warrants:** Where a Warrant is capable of being held in SWORD, Phillip Nova shall hold or arrange with a sub-custodian of its choice to hold, such a Warrant physically for the Customer (or in the latter case for the benefit of a segregated customer account maintained with the sub-custodian distinctly from Phillip Nova's own proprietary account) only for temporary periods. Phillip Nova may give reasonable notice to the Customer (or in the latter case onward notification of the notice received by Phillip Nova from its sub-custodian) for collection of any such Warrants or to cause them to be lodged in SWORD in accordance with the SWORD Regulations.
- 4.3 **Collection of Warrants:** Where the Customers' Warrants are in the physical possession or control of Phillip Nova, and have authorised a person to collect such Warrants, Phillip Nova shall not verify the identity of any person claiming to be so authorised, and owe no duties to operate any specific security procedures to the Customer unless separately agreed in writing between the Parties.
- 4.4 **Rent:** The Customer will in due time pay rent and other charges applicable to any commodity represented by any Warrant held by Phillip Nova.
- 4.5 **Liability:** Phillip Nova shall have no liability for the neglect or default of any sub-custodian or with respect to any Warrant held for the Customer through any sub-custodian so long as the appointment of such sub-custodian has been exercised in good faith. The liability to the Customer in respect of any Warrant held directly by Phillip Nova is limited as follows: Phillip Nova shall have no liability for any damage, Loss, expenses or liability of any nature which the Customer may suffer as a result of any act or omission Phillip Nova except to the extent of direct Losses or expenses attributable to fraud or wilful default or gross negligence. In the event of such direct Losses or expenses, Phillip Nova's liability is limited to issuing an indemnity in respect of the market value of the Warrant at the time of discovery of the Loss.
- 4.6 **Storage and Insurance:** If the Customer deposit commodities, documents of title to commodities, or other tangible assets with Phillip Nova or to our control as margin or otherwise, Phillip Nova reserve the right (but have no obligation) to insure them, to charge and debit the Customer's account with the costs of storage and insurance either periodically or when Phillip Nova return the assets to the Customer, and to refuse withdrawal until such costs have been paid. If Phillip Nova collect, deliver or hold commodities or other tangible assets on behalf of the Customer, Phillip Nova do so at the Customer's risk. Without prejudice to the foregoing, the Customer shall be solely responsible for the taking out of any insurance for the commodities and documents of title subject to the pursuant to the terms for holding hereunder.
5. **HOLDING YOUR WARRANTS IN SWORD**
- 5.1 **Bailment:** Where the Customer do not have a SWORD Account Phillip Nova may hold Warrants on behalf of the Customer in SWORD either directly or through a sub-custodian. Phillip Nova shall act as bailee and owe no fiduciary duty to the Customer, and do not undertake the responsibilities of a trustee or any other duties in relation to such Warrants not implied by the law of bailment for bare custody of such warrants.
- 5.2 **Warrant lodgement:** The Customer consent for the purposes of the SWORD Regulations to Phillip Nova lodging or causing the lodgement of Warrants through a sub-custodian with the Depository and to Phillip Nova and/or its sub-custodian dealing with the Warrants on the terms of the SWORD Regulations. Where Phillip Nova have lodged or caused to be lodged through a sub-custodian a Warrant on behalf of the Customer, the Customer represent and warrant that the Warrant and the commodity to which it relates are beneficially owned by the Customer and free of encumbrances and that all requirements of the SWORD Regulations for lodgement are satisfied and authorise Phillip Nova in turn to make, as between ourselves and our sub-custodian, identical representation and warranty. The Customer shall accordingly indemnify and keep Phillip Nova harmless against any and all Loss, claims and damages which may sustain referable to any breach of the Customer's representation and warranty or Phillip Nova corresponding breach of representation and warranty.
- 5.3 **Warrant withdrawal:** If the Customer wish to withdraw Warrants which Phillip Nova are holding in SWORD, reasonable notice will be provided to enable Phillip Nova and its sub-custodian (where applicable) to comply with the SWORD Operating Procedures, and Phillip Nova shall not be responsible other than to take reasonable steps to comply with the Customer's request insofar as it is practicable.

## Part C – Limitation of Obligation

### 6. **RISKLESS PRINCIPAL/AGENT**

- 6.1 The Customer agree that the relationship is such that Phillip Nova act at all times only as a riskless principal where Phillip Nova are not permitted to act as the Customer's agent with respect to any ER related commodity transaction. As such and without prejudice to the acknowledged limitation of the scope of duties and obligations of Phillip Nova as generally stated in the Appendix and entitled "OTC FACILITIES" which the Customer also acknowledge and agree that:
- (a) so long as the Customer are not in breach of the obligations, Phillip Nova are obliged only to either onward communicate the Customers' instructions with respect to delivery or custody or to communicate materially identical instructions to the relevant ER member and/or its custodian but without any responsibility to assure or guarantee performance on their respective parts; and
  - (b) Phillip Nova are not in any event to be liable for any deficiency or breach in the performance of any obligation nor for the negligence or fraud of such ER member or its custodian.

Without prejudice to the foregoing, Phillip Nova's obligation to effect any further communication or dealings with the ER member and/or its custodian shall cease following the communication of any instruction to effect delivery to the Customer or the Customer's order which is not rejected by them. Thereafter the Customer agree that all further communications and dealings with respect to the commodity which is the subject of any delivery or custody shall be wholly the Customer's responsibility to follow up with the ER member and/or its custodian.

### 7. **INTERPRETATION**

In this Appendix:

"**SWORD**" means the system for electronic transfer of entitlement to Warrants of certain descriptions regulated by relevant Exchanges on which the ER Market Contract is concluded, including in particular the London Metal Exchange;

"**SWORD Regulations**" means the relevant Exchange on which the ER Market Contract is concluded regulations governing the operation of SWORD, and unless otherwise expressly defined, any term defined in the SWORD Regulations has the same meaning;

"**Warrant**" means a warehouse warrant issued in circumstances regulated by the relevant Exchange on which the ER Market Contract is concluded which evidences entitlement to a commodity;

"**Warrant-based Commodity**" means a commodity which, under the rules of the relevant Exchange on which the ER Market Contract is concluded, is capable of being delivered by transfer of a Warrant.

## APPENDIX 5: RISK DISCLOSURE STATEMENT FOR ELECTRONIC COMMUNICATIONS

1. Without prejudice or detracting from the generality of Clauses 4.1 and 4.3 of this Agreement, the Customer hereby irrevocably authorises Phillip Nova and its Officers to act in accordance with the Customers' Orders given by telephone, facsimile, telexes or any other form of electronic communication including internet messaging or electronic mail services in writing by the Customer from time to time, including instructions to transfer/remit funds from the Account held with Phillip Nova to other account or party where the Customer may not be the beneficiary or sole beneficiary. Phillip Nova shall have the right to request for any and all information that it deems necessary or expedient to give effect to such Orders.
2. The Customer acknowledges that the aforesaid method of communication is provided solely on the request and at the sole risk of the Customer and is not recommended in any way by Phillip Nova.
3. The Customer acknowledges and confirms that the Customer is aware of the nature of Orders communicated by telephone, facsimile, telexes or any other form of electronic communication including internet messaging or electronic mail services whereby such Orders may be fraudulently sent in the name of the Customer, may not be received properly or may not be read by the intended recipient and may be read by or be known to unauthorised persons.
4. The Customer agrees to assume and bear all the risks involved in respect of the above-mentioned errors and misunderstanding and Phillip Nova shall not be responsible in any way for the same or breach of confidentiality thereto and shall also not be liable for any Loss arising therefrom.
5. The Customer acknowledges that the Customer is fully aware of and understands the risks associated with communicating the Orders by telephone, facsimile, telexes or any other form of electronic communication including internet messaging or electronic mail services including the risk of misuse and unauthorised use of Username and/or Password by a third party and the risk of a person hacking into any form of electronic communication, including without limitation the internet messaging or electronic mail service as may be used.
6. The Customer accepts sole and full responsibility for the monitoring of the Orders and safeguarding the secrecy of the Customer's password and/or PIN (including both Username and Password), the safety and security of its connection to the internet, restricting the use of the Customer's password and/or PIN to authorised persons only and agrees that the Customer shall be fully liable and responsible for any and all unauthorised use and misuse and also for any and all acts done by any person through using the Customer's password and/or PIN in any manner whatsoever.
7. The Customer agrees that Phillip Nova and its Officers may act as aforesaid without inquiry as to the identity or authority of the person giving or purporting to give any Order or the authenticity of any telephone, facsimile, telexes or any other form of electronic communication including internet messaging or electronic mail services and may treat the same as fully authorised by and binding on the Customer, regardless of the circumstances prevailing at the time of the Order or communication or its content including the amount of the transaction and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation thereto, and without requiring further confirmation in any form, provided that Phillip Nova or its Officer concerned believed, in good faith, the instruction to be genuine at the time it was given.
8. By way of reminder and as noted in Clause 4.2 of the Agreement, where the Electronic Broking Facilities are made available to the Customer by Phillip Nova, the Customer may, subject to the terms for the transmission/placement of the same place Orders through the use of such facilities. The terms governing Electronic Broking Facilities are set out in Appendix 1 of the Agreement and, with respect to DMA Services, in addition to requirements of the DMA Procedures.
9. The Customer also correspondingly and specifically confirms that by authorizing Phillip Nova and any of its Officers to act in accordance with Orders communicated electronically as above, the Customer agrees:
  - (a) the Customer is fully aware of, understand and agree to assume and bear all the risks associated with communication of Orders electronically including (but not limited to) the risk of delay in or inability to access or use the facilities to so communicate Orders due to hardware, software, connection failure, error, malfunction, omission, interruption, delay in transmission or computer virus, information loss, misuse and unauthorised use by a third party and the risk of a person hacking into the Electronic Services. The Customer also understands that such instructions communicated electronically may still go astray and may not be received properly and/or read by the intended recipient or authorised persons;
  - (b) Without prejudice to the foregoing, Phillip Nova is entitled to void from the outset or amend any terms of any Order and/or Transaction containing or based on an egregious or palpable error ('**Manifest Error**'), without seeking the Customer's consent. Phillip Nova shall not be liable to the Customer in any manner whatsoever for any actions or inactions Phillip Nova adopt in relation to such manifest error. In the event that the Customer has received monies from Phillip Nova in connection with such manifest error, the Customer agrees that such aforementioned monies are due and payable and the Customer shall immediately return such monies in full to Phillip Nova;
  - (c) Phillip Nova shall not be liable for any actions or inactions it adopts based on the Customer's transmission of Orders which are inaccurate or not received by Phillip Nova. Notwithstanding the foregoing, Phillip Nova may execute any orders of the Customer's based on terms or instructions actually received by Phillip Nova;
  - (d) Phillip Nova or any of its Officers may act as aforesaid without inquiry as to the identity or authority of the person giving or purporting to give any Order or the authenticity of any Orders transmitted electronically and may treat the same as fully authorised by and binding on the Customer, regardless of the circumstances prevailing at the time of the instruction and notwithstanding any error, misunderstanding, fraud, forgery or lack of authority in relation thereto, and without requiring further confirmation in any form, provided that the Phillip Nova officer concerned believed the instruction to be genuine at the time it was given;
  - (e) Phillip Nova reserves the right not to act on any instruction transmitted electronically if Phillip Nova reasonably suspects that it is not genuine or for any other reason;
  - (f) In relation to Phillip Nova acting on Orders transmitted electronically, the Customer undertakes to indemnify Phillip Nova from and against all liabilities, claims, demands, actions, proceedings, Losses, expenses and all other liabilities of whatsoever nature or description which may be suffered by Phillip Nova. The Customer further agrees to waive any rights, claims, actions or proceeding the Customer may have against Phillip Nova for any Losses or liabilities the Customer may suffer as a consequence of Phillip Nova acting on such Orders; and
  - (g) The Customer acknowledge and agree that Phillip Nova shall not be liable for any Loss or damage whatsoever (including without limitation any indirect, economic or consequential loss) that the Customer may suffer or incur due to any act or omission of Phillip Nova or its Officers in connection to the performance of any such electronically transmitted Orders.

## **APPENDIX 6: DISCLOSURE STATEMENT FOR REGULATION 18A**

This document sets out disclosures Phillip Nova obliged to inform the Customer to comply with Regulation 18A of the Securities and Futures (Licensing and Conduct of Business) Regulations – the “**Regulations**” and relates to the obligation under Regulation 17 of the Regulations to maintain a trust account – the “**Trust Account**” – in which Phillip Nova deposit money received from or for the Customer for the Services as the holder of a capital markets license. For avoidance of doubt, such money will not include money that the Customer directly or indirectly transfer to Phillip Nova by way of title transfer; provided that in no case where the Customer is a retail customer will be obliged to provide any money as margin for the obligations by way of title transfer to Phillip Nova except where such money relates to lending of the Customers’ securities in compliance with Regulations 45(1), (3) and (4) of the Regulations. This document does not cover all risks relating to these Services and the Customer should consider all agreements between the Parties and any other disclosure material that have been provided.

### **1. HOW PHILLIP NOVA HOLD THE CUSTOMER’S MONEY**

The money will be held on behalf of the Customer in accordance with Regulation 17 of the Regulations in the Trust Account. Unless otherwise notify, the custodian of the Trust Account will be a third party eligible to be the custodian pursuant to Regulation 17.

### **2. WHEN PHILLIP NOVA MAY WITHDRAW THE MONEY**

Where the provision of any Services, Phillip Nova may withdraw the money for any purpose as permitted under Regulation 19 and/or Regulation 20 (as applicable) of the Regulations.

### **3. WITHDRAWALS FROM TRUST ACCOUNT AND ONWARD DEPOSITING MONEY WITH THIRD PARTIES**

As provided in Regulations 19 and 21 of the Regulations, Phillip Nova may withdraw the money from the Trust Account and apply such money as permitted or not prohibited by the said provisions of the Regulations including onward deposit the money with third parties acting on its behalf (“**Third Party**”, which expression shall also include the custodian of the Trust Account), being any of an approved clearing house, a recognized clearing house, a member of a clearing facility or a member of an recognized market for any of the purposes specified in Regulation 19 of the Regulations. Nothing in the preceding however permits our withdrawing of the money where the Customer is a retail customer and apply the money towards satisfaction of Phillip Nova’s own obligations or liabilities. Unless agree otherwise, Phillip Nova is not liable for any acts or omissions of Third Parties.

### **4. MONEY GENERALLY HELD ON POOLED BASIS AND KEY CONSEQUENCES**

The money will, unless Phillip Nova are obliged pursuant to the Regulations to specify or agree otherwise, be held in an omnibus or pooled account basis by Phillip Nova or an approved Third Party. For avoidance of doubt, if the Customer is a retail customer, money provided to Phillip Nova in relation to the OTC derivatives contracts may only be pooled with the money of other Phillip Nova’s retail customers for the respective OTC derivatives contracts. Where the money is held in such omnibus accounts, such money may be pooled with money belonging to Phillip Nova’s other Customers or customers/clients of the Third Party. Therefore, there is a risk that:

- (a) The money could be withdrawn to meet obligations of Phillip Nova’s other Customers or customers/clients of the Third Party; and/or
- (b) The Customer may share in any shortfall and may not therefore receive the full entitlement of money.

In some jurisdictions national law may not recognize or give effect to the attempts to separately identify the Customer’s money from Phillip Nova’s money or those belonging to the Third Party. In such a case:

- (i) The Customer’s money could be used to meet the Third Party’s general obligations on its insolvency;
- (ii) The money could be used to meet Phillip Nova’s general obligations on its insolvency;
- (iii) The Third Party could challenge the Customers’ rights to any money; and/or
- (iv) The Customer may share in any shortfall and may not therefore receive the full entitlement of money.

### **5. MONEY HELD OUTSIDE SINGAPORE**

Where Phillip Nova hold the Customer’s money outside Singapore:

- (a) Different legal and regulatory requirements may apply from those applying in Singapore; and
- (b) The Customers’ rights to the money may differ from those rights in Singapore.

### **6. PROTECTING THE MONEY**

Phillip Nova will, if possible, direct such approved Third Party who hold the money to identify them separately from their own money and those belonging to the Parties (by differently titled accounts or other measures that achieve the same level of protection). If the money is held in a jurisdiction where Phillip Nova is prevented from registering money in the name of a nominee or in the Customer’s name, Phillip Nova may register or record or cause any relevant Third Party to register or record the money in its own name or if Phillip Nova is prevented from doing so, in the name of a Third Party, provided in either case that Phillip Nova is permitted to do so under the Regulations read with relevant provisions of the SFA.

### **7. SECURITY INTERESTS, LIENS AND RIGHT OF SET-OFF**

Where Phillip Nova hold the money, Phillip Nova will generally have rights of set-off, a general lien and other security interests over them, both as set out in the relevant agreement between the Parties and under general law. Phillip Nova rights of lien and other general security interests are also specifically recognized under the Regulations.

A Third Party, including a depository or any foreign custodian of such money, who holds the money may also have a security interest or lien over, or right of set-off in relation to such money. Where not already disclosed above, Phillip Nova will tell the Customer where the money is held in a jurisdiction where by law they are subject to security interests or rights of set off enabling a third party to dispose of them or recover debts that are not related to the Customer.

## **APPENDIX 7: DISCLOSURE STATEMENT FOR REGULATION 27A**

This document sets out disclosures Phillip Nova obliged to comply with Regulation 27A of the Securities and Futures (Licensing and Conduct of Business) Regulations - the "Regulations" and relates to the obligation under Regulation 27 of the Regulations to maintain a custody account - the "Custody Account" - in which Phillip Nova deposit the assets received from or for the Customer for the Services as the holder of a capital markets license. This document does not cover all risks relating to these Services and the Customer should consider all agreements (including in particular the Agreement) and any other disclosure material that Phillip Nova have provided.

### **1. HOW PHILLIP NOVA HOLD THE ASSETS**

The assets will be held on behalf of the Customer in accordance with Regulation 27 of the Regulations in the Custody Account. Unless otherwise notify the Customer, the custodian of the Custody Account will be a third party eligible to be the custodian pursuant to Regulation 27.

### **2. WHEN PHILLIP NOVA MAY WITHDRAW THE ASSETS**

Where the provision of any Services, Phillip Nova may withdraw the assets for any purpose as permitted under Regulation 30 and/or Regulation 35 (as applicable) of the Regulations.

### **3. WITHDRAWALS FROM CUSTODY ACCOUNT AND ONWARD DEPOSITING ASSETS WITH THIRD PARTIES**

As provided in Regulations 27 and 30 of the Regulations, Phillip Nova may withdraw the assets from, hold the assets from the Custody Account and deposit the assets with third parties acting on Phillip Nova's behalf ("**Third Party**", which expression shall also include the custodian of the Custodian Account), being any of an approved clearing house, a recognised clearing house, a member of a clearing facility or a member of an organised market for any of the purposes specified in Regulation 30 of the Regulations. Unless agree otherwise, Phillip Nova is not liable for any acts or omissions of Third Parties.

### **4. ASSETS GENERALLY HELD ON POOLED BASIS AND KEY CONSEQUENCES**

The assets will, unless Phillip Nova specify or agree otherwise, be held in an omnibus or pooled account basis by a Third Party. Where the assets are held in such omnibus accounts, they may be pooled with assets belonging to Phillip Nova's other Customers or customers/clients of the Third Party. Therefore, there is a risk that:

- (a) The assets could be withdrawn to meet obligations of Phillip Nova's other Customers or customers/clients of the Third Party; and/or
- (b) The Customer may share in any shortfall and may not therefore receive the full entitlement of assets.

In some jurisdictions national law may not recognise or give effect to the attempts to separately identify the assets from Phillip Nova's assets or those belonging to the Third Party. In such a case:

- (i) The Customers' assets could be used to meet the Third Party's general obligations on its insolvency;
- (ii) The assets could be used to meet Phillip Nova's general obligations on its insolvency;
- (iii) Such Third Party could challenge the Customers' rights to any assets; and/or
- (iv) The Customer may share in any shortfall and may not therefore receive the full entitlement of assets.

### **5. ASSETS HELD OUTSIDE SINGAPORE**

Where Phillip Nova hold the assets outside Singapore:

- (a) Different legal and regulatory requirements may apply from those applying in Singapore; and
- (b) The Customers' rights to the assets may differ from those rights in Singapore.

### **6. PROTECTING THE ASSETS**

Phillip Nova will, where possible, direct such Third Party who hold the assets to identify them separately from their own assets and those belonging to the Parties (by differently titled accounts or other measures that achieve the same level of protection). If the assets are held in a jurisdiction where Phillip Nova is prevented from registering assets in the name of a nominee or in the Customer's name, Phillip Nova may register or record the assets in the name of a Third Party or where Phillip Nova is prevented from doing so, in its own name, provided in either case that Phillip Nova is permitted to do so under the Regulations read with relevant provisions of the SFA.

### **7. SECURITY INTERESTS, LIENS AND RIGHT OF SET-OFF**

Where Phillip Nova hold the assets Phillip Nova will generally have rights of set-off, a general lien and other security interests over them, both as set out in the relevant agreement between the Parties and under general law. Phillip Nova rights of lien and other general security interests are also specifically recognised under the Regulations.

A Third Party, including a depository who holds the assets may also have a security interest or lien over, or right of set-off in relation to such assets. Where not already disclosed above, Phillip Nova will tell the Customer where the assets are held in a jurisdiction where by law they are subject to security interests or rights of set off enabling a third party to dispose of them or recover debts that are not related to the Customer.



## **APPENDIX 8: DISCLOSURE STATEMENT FOR INDIVIDUAL SEGREGATED ACCOUNT**

Phillip Nova will generally hold the Customer's money and assets separately from its own, but on a pooled basis with respect to money and assets of other customers and therefore there is a risk that the money and/or assets may be used to satisfy the obligations of other Phillip Nova's retail customers referable to their respective OTC derivatives transactions with Phillip Nova or in the event of a total shortfall in money and/or assets collectively in the pool, all such customers will be limited to a pro-rated share of the actual money and/or assets in the pool – generally "**fellow-customer risk**". The Customer should read the specific disclosures pursuant to Regulations 18A and 27A of the Securities and Futures (Licensing and Conduct of Business) Regulations respectively on the key consequences and risks of the money and/or assets being held on a customer pooled basis for more and specific information. However, the money/assets for the Customer's OTC derivatives transactions/contracts with Phillip Nova will be held within Singapore, Singapore laws and regulations operate to ensure that they will not be available to be used to satisfy any of Phillip Nova's own obligations in the event of insolvency.

1. Regulations 16(5) And 26(5) of the Securities and Futures (Licensing and Conduct of Business) Regulations oblige Phillip Nova to provide the Customer with the option of having added protection against fellow-customer risk for the money and assets respectively. The aforementioned option allows for the Customer's money and/or assets provided to Phillip Nova in relation to the Customer's OTC derivatives transactions to be "ring-fenced" from the money and/or assets belonging to Phillip Nova's other customers.
2. By signing on our Account Application Form, the Customer will be deemed to have indicated the choice of not having such Individual Segregated Account unless expressly informed Phillip Nova otherwise.
3. **CONSEQUENCES AND COSTS FOR INDIVIDUAL SEGREGATED ACCOUNT**

Where the Customer has expressly requested to have the aforementioned option of an Individual Segregated Account, then for the money and/or asset chosen, the OTC derivatives account with Phillip Nova will be designated as a relevant Customer Individual Segregated Account(s). The following applies to such account(s):

- (a) the money and assets held in such account(s) will not be pooled or commingled with Phillip Nova's other retail customer's positions;
- (b) the money and/or assets will be recorded by Phillip Nova separately from its other customers. Such money and/or assets will not be available for the default of any person other than the Customer;
  - (i) opting for an Individual Segregated Account will also mean additional administrative costs will be payable by the Customer; and
  - (ii) the Customer may contact a representative from Phillip Nova, should the Customer decide to opt for the Individual Segregated Account or have any related queries.

## **APPENDIX 9: DEALING IN SECURITIES**

The Customer agrees that in respect of any Transaction, all the applicable terms and conditions in relation thereto in force as between the Parties, including the other parts of this Agreement (other than Appendix 9) shall continue to apply, and are to be supplemented and read together with the terms and conditions of Appendix 9. Notwithstanding anything to the contrary contained in the other parts of this Agreement (other than this Appendix 9), the Parties agree that in the event of any conflict or inconsistency between the terms and conditions of Appendix 9 and those other parts of this Agreement, the terms and conditions of Appendix 9 shall prevail in respect of such conflict or inconsistency, however those other parts of this Agreement shall in all other respects continue in full force and effect.

The terms and conditions of Appendix 9 are to be supplemented and read together with all Applicable Laws. In the event of any conflict or inconsistency between the terms and conditions of Appendix 9 and the Applicable Laws, the Applicable Laws shall prevail in respect of such conflict or inconsistency, however the terms and conditions of Appendix 9 shall in all other respects continue in full force and effect.

The Customer agrees that Phillip Nova may at any time by notice in writing to the Customer vary or add to Appendix 9 without prior notice or consultation with the Customer.

### **1. DEFINITIONS**

1.1 Unless otherwise stated or unless the context otherwise requires, the following words and expressions shall bear the following meanings:

“**Market Day**” means a day, other than Saturday, Sunday or gazetted public holiday, on which the relevant securities exchange where the Securities are traded is open for trading; and

“**Securities**” shall be as defined in the SFA, and for the avoidance of doubt, does not include units in Collective Investment Schemes.

### **2. SECURITIES DEALING SERVICE**

2.1 Phillip Nova may, in accordance with this Agreement and Appendix 9, provide execution-only services to the Customer in respect of Securities, including acting upon the Order, as the agent and on behalf of the Customer, transmit any order placed by the Customer to execute any Transaction to subscribe for, purchase, redeem, transfer, sell or cancel any Securities, in the name of either Party for the benefit of the Customer. Notwithstanding this, and to the extent permitted by Applicable Laws, the Customer agrees that neither the relationship between the Parties as described in this Agreement nor any other Service that Phillip Nova provides to the Customer shall give rise to any fiduciary or equitable duties to Phillip Nova. Save as expressly provided by applicable law, no fiduciary or equitable duties of Phillip Nova which would prevent or hinder Phillip Nova from doing business with or for the Customer, acting as broker, whether as principal or agent, with Phillip Nova and other investors and generally acting as provided in this Agreement, as the case may be. As a result, when Phillip Nova deals for the Customer, Phillip Nova or any of its Associates may have an interest, relationship, or arrangement that is material in relation to the Transaction concerned.

2.2 Phillip Nova provision of such services under Appendix 9 shall be governed by the additional terms and conditions contained herein, in addition to all other applicable terms and conditions set out under this Agreement, confirmations and statements of account and such other documentation as Phillip Nova may require the Customer to complete, execute and/or deliver to Phillip Nova from time to time. It is acknowledged and agreed that Phillip Nova may take such steps as are necessary to enable it to comply with Applicable Laws of any relevant exchange, market or clearing house.

2.3 The Customer acknowledges and agrees that it retains and exercises sole judgement in deciding whether or not to subscribe for, purchase, sell, transfer, redeem, switch or cancel any Securities Transactions.

2.4 The Customer agrees that:

- (a) Phillip Nova may aggregate any Order received from the Customer with its other customers, and the Customer acknowledges that such aggregation may on some occasions operate to the Customer's disadvantage and on other occasions to the Customer's advantage. The allotment or distribution of any investments of proceeds acquired shall, subject to Applicable Laws, be at Phillip Nova's discretion;
- (b) Phillip Nova may execute any Order received from the Customer in a series of Transactions over a period of time and report to the Customer an average price for the Transactions in the series instead of the actual price for each Transaction;
- (c) where the Customer gives any Order which may be executed in more than one exchange or market and/or by more than one mode or sub-market or sub-exchange (e.g. pit or electronic trading) without specifying the specific exchange or market or the mode or sub-market or sub-exchange for execution, then Phillip Nova shall be deemed to be vested with the sole discretion to decide where and how the instructions should be executed if accepted for execution. So long as Phillip Nova exercises such discretion in good faith, Phillip Nova shall have no liability whatsoever to the Customer with respect to such execution; and
- (d) if the Customer chooses to withdraw any Order before execution is completed (and notwithstanding that Phillip Nova did not inform the Customer that such Order has been partially executed), the Customer shall remain liable for all Transactions which were done for the Customer's Account prior to Phillip Nova's acceptance of the Customer's withdrawal.

### **3. TIMING FOR DEALING IN SECURITIES**

3.1 The Customer acknowledges and agrees that unless specifically requested for, and only where such request has been accepted by Phillip Nova, any Order given by the Customer for the execution of any Transaction in any Securities or on any exchange shall remain good only for the duration of the Market Day of the exchange in which the instruction has been given and shall thereafter lapse at the conclusion of the Market Day.

3.2 The Customer acknowledges and accepts that where the Customer has not made payment for any Securities purchased by the due date of the purchase contract for the Transaction or if the Customer does not have sufficient Securities in the free balance standing in the Customer's Account for any Securities sold by the due date of the sale contract for the Transaction, Phillip Nova shall have the right to force-sell or buy-in, as the case may be, any or all of the Securities that are the subject of the relevant Transaction. Without prejudice to its rights under Appendix 9 or this Agreement, Phillip Nova may but is not obliged to, exercise this right on any day on which the right to force-sell arose.

### **4. LIMITATION OF LIABILITY**

4.1 Without prejudice to Clauses 16 (General Indemnity), 17 (General Exclusion), and 18 (Force Majeure and Events outside Control of Phillip Nova) of this Agreement, the Customer agrees that Phillip Nova shall not be liable to, and the Customer agrees to indemnify and hold Phillip Nova harmless from and against, any Loss, damage, costs, charges and/or expenses, whether of a direct or indirect or consequential nature, including without limitation, any economic loss or other loss of turnover, profits, business or goodwill, suffered or incurred as a result of or in connection with any force-sale or buy-in, including but not limited to (a) any fall in the market price of the Securities between the day on which the right to force-sell arose and the day when Phillip Nova actually sells the Securities, as a result of any failure to force-sell and/or as a result of the mode of such force-selling; or (b) any rise in the market price of the Securities between the day on which the right to buy-in arose and the day it actually buys the Securities, as a result of any failure to buy-in and/or as a result of the mode of such buying-in.

4.2 The Customer acknowledges that save for any instruction given to effect a contra-Transaction within the time permitted for effecting such a Transaction, any sale by the Customer of the Securities shall be deemed to be a new sale Transaction and will not result in the closing-out of any open position.

Accordingly, the Customer is made aware that this may result in the need to buy-in Securities in the event that the Customer fails to honour such sale Transaction when due.

## **APPENDIX 10: DEALING IN UNITS IN A COLLECTIVE INVESTMENT SCHEME**

The Customer agrees that in respect of any Transaction, all the applicable terms and conditions in relation thereto in force as between the Parties, including the other parts of this Agreement (other than Appendix 10) shall continue to apply, and are to be supplemented and read together with the terms and conditions of Appendix 10. Notwithstanding anything to the contrary contained in the other parts of this Agreement (other than Appendix 10), the Parties agree that in the event of any conflict or inconsistency between the terms and conditions of Appendix 10 and those other parts of this Agreement, the terms and conditions of Appendix 10 shall prevail in respect of such conflict or inconsistency, however those other parts of this Agreement shall in all other respects continue in full force and effect.

The terms and conditions of Appendix 10 are to be supplemented and read together with all Applicable Laws. In the event of any conflict or inconsistency between the terms and conditions of Appendix 10 and the Applicable Laws, the Applicable Laws shall prevail in respect of such conflict or inconsistency, however the terms and conditions of Appendix 10 shall in all other respects continue in full force and effect.

The Customer agrees that Phillip Nova may at any time by notice in writing to the Customer vary or add to Appendix 10 without prior notice or consultation with the Customer.

### **1. DEFINITIONS**

1.1. Unless otherwise stated or unless the context requires, the following words and expressions shall bear the following meanings:

“**Dealing Day**” means a day on which the Fund accepts instructions for subscription, redemption or switching orders and dealings take place in respect of any Fund Investments;

“**Fund**” means any investment company, unit trust, mutual fund or other collective investment scheme of which rights or interests therein may be offered to a person for subscription or purchase, and are distributed by or made available to through Phillip Nova;

“**Fund Investment**” means any investment involving any unit, sub-unit, share, stock, security, right or interest in any Fund and, where the context so requires, any instrument evidencing ownership thereof or representing rights to receive or subscribe for the same, or evidencing or representing any other rights of Phillip Nova therein;

“**Fund Literature**” means (i) the current prospectus(es), periodic updates, explanatory memoranda, annual reports and accounts, semi-annual unaudited accounts and/or other promotional and advertising material, publications and statistical information relating to any Fund; (ii) the constitutive documents of the Fund; and (iii) any other documentation relating to any Fund provided or notified to the Customer for the Customer’s review, including but not limited to any risk disclosures contained therein;

“**Fund Manager**” means and includes the manager, issuer, representative or agent or investment manager of any Fund; and

“**Product Agreement**” means the terms and conditions governing the Customer’s subscription for or purchase of a specified class or type of shares or other interests in a Fund, and as may be amended, modified or varied from time to time.

### **2. FUND INVESTMENT DEALING SERVICES**

2.1. Phillip Nova may, in accordance with Appendix 10, provide execution-only services to the Customer in respect of Fund Investments, including acting upon the Customer’s Instructions, as the Customer’s agent and on behalf of the Customer, transmit any order placed by the Customer to execute any Transaction to subscribe for, purchase, redeem, transfer, sell, switch or cancel any Fund Investments, in the name of either Party for the benefit of the Customer.

2.2. Phillip Nova provision of such Services shall be governed by the additional terms and conditions contained in Appendix 10, in addition to all other applicable terms and conditions set out under this Agreement, confirmation notes and statements of account and such other documentation as Phillip Nova may require the Customer to complete, execute and/or deliver to Phillip Nova from time to time.

2.3. The Customer acknowledges and agrees that it retains and exercises sole judgement in deciding whether or not to subscribe for, purchase, sell, transfer, redeem, switch or cancel any Fund Investment.

### **3. ACCEPTANCE OF RISK**

3.1. Before investing in any Fund Investment, the Customer should obtain and read the most recent Fund Literature for the Fund and ensure to understand and accept the terms, features and merits of the Fund and the risk associated with the Fund, and that it is in fact the Fund which the Customer wishes to invest in.

### **4. SUBSCRIPTION FOR, REDEMPTION, TRANSFER, SWITCHING AND CANCELLATION OF FUND INVESTMENTS**

4.1. The Customer acknowledges that any Fund which receives a subscription, redemption, switching or cancellation instruction from Phillip Nova is not obliged to accept such subscription, redemption, switching or cancellation instruction in whole or in part. If Phillip Nova is unable to execute any instruction in such circumstances, such instruction shall be deemed to have expired and Phillip Nova shall not be held liable for any Losses arising therefrom. Phillip Nova will inform the Customer of such expiry as soon as reasonably practicable.

4.2. Without prejudice and subject to Phillip Nova rights under this Agreement, all subscription, redemption, transfer, switching and/or cancellation instructions received by Phillip Nova on a Dealing Day before the relevant cut-off time (as may be specified by Phillip Nova in its sole and absolute discretion), shall generally be delivered to the Fund on the same Dealing Day, and if received after the relevant cut-off time shall generally be delivered to the Fund on the next Dealing Day. Such cut-off times may be earlier than the cut-off times specified in the relevant Fund Literature and Phillip Nova may revise such cut-off times at any time in its sole and absolute discretion.

4.3. Phillip Nova will pay to the Customer’s Account any redemption monies (net of any fees, charges or expenses (including taxes) incurred in connection with the redemption) received in respect of the Customer’s Fund Investment(s), but has no obligation to ascertain the adequacy of the amount received. The Customer is solely responsible for ascertaining the adequacy of the amount received.

4.4. The Customer may elect to switch from one Fund Investment to another Fund Investment at any time if switching is permitted and subject to such terms as may be imposed by Phillip Nova and/or the Fund(s).

4.5. Specifically, for a Fund Investment that has been authorised under section 286 of the SFA (except in any of the following circumstances):

(a) where the Customer is not an individual;

(b) where the Customer is an existing holder of the Fund Investment and the purchase agreement is the Customer’s second or subsequent purchase agreement in respect of such Fund Investment unless such purchase agreement (other than one which results from a switch of Fund Investment) was entered into by the Customer within the cancellation period of the Customer’s first purchase agreement in respect of such Fund Investment;

- (c) where the Customer switches Fund Investments, in accordance with paragraph 24 of the MAS Notice of Cancellation Period for Units in Authorised Collective Investment Schemes (Notice No. SFA 04/13-N01); or
- (d) in a case where the Customer participates in a regular savings plans, the second and any subsequent payment,

subject to the terms of the Fund Investment, the Customer may have the right to cancel an agreement to purchase, or the right to redeem, any Fund Investment by completing the cancellation advice (in such form and manner prescribed by Phillip Nova or the provider of the Product as notified to the Customer prior to the Customer's subscription order for the Fund Investment) and submitting it to Phillip Nova or the provider of the Product within seven (7) calendar days (the "seven-day cancellation period") (or such longer period as the Fund may allow pursuant to the Product Agreement) from the date the Customer signs the Product Agreement, except that where the last day of a seven-day cancellation period falls on a Sunday or a public holiday, the cancellation advice shall be submitted to Phillip Nova or the provider of the Product by the end of the next calendar day which is not a Sunday or a public holiday. Otherwise, the Customer's right to cancellation of the subscription (if any) is in accordance with the terms of the prospectus of any particular Fund Investment. The Customer acknowledges and agrees that where the Customer is entitled to and exercises its right to cancel or redeem any Fund Investment during the cancellation period (if applicable):

- (i) such cancellation may result in gains or losses to the Customer. For example, in determining the amount payable to a Customer pursuant to the Customer's cancellation, Phillip Nova and/or the provider of the Product may be entitled to an adjustment to reflect the change in market value of the Customer's Fund Investment. Phillip Nova and/or the provider of the Product may also be entitled to recover any expense it incurred by reducing the amount to be repaid to the Customer, provided that such expense is (1) reasonably related to the original purchase and subsequent cancellation of the Fund Investment by the Customer, and (2) disclosed, in writing, to the investor before the Product Agreement is concluded;
- (ii) in the event that, the Customer is entitled, and chooses, to redeem the Fund Investment instead of exercising the Customer's right to cancel, then: (1) the Customer will not be able to enjoy the benefits of cancellation (i.e., no refund of initial sales charge will be given for redemption and levy of realisation charge is allowed), and the redemption proceeds that the Customer will receive may be lower than the amount being refunded had the Customer exercised its cancellation right if the appreciation in the value of the Fund Investment is less than the initial sales charge; and (2) the published prices are indicative in nature and can change during the period between the submission and processing of the redemption request; and
- (iii) in the event that the Product Agreement allows the Customer to switch its Fund Investment to another Fund during the cancellation period applicable to such Product Agreement: (1) the Customer may not receive any refund of initial sales charge in relation to the purchase agreement in respect of the original Fund, (2) it is not certain whether the Customer would be in a better or worse position if the Customer switches Funds, (3) there may be a charge or fee involved in switching from the original Fund to the other Fund, and (iv) the Customer may or may not be entitled to cancel the Fund Investments in the other Fund.

## **5. REINVESTMENT OF DISTRIBUTIONS**

- 5.1. Unless the Customer instructs otherwise (or where the relevant Fund no longer accepts any further investments in it) and only in so far as Phillip Nova offers such service in respect of any Fund as expressly notified to the Customer and subject to the terms in the Product Agreement, the Customer authorises all dividends (if any) declared by any Fund Manager in respect of the Customer's Fund Investments in such Fund to be reinvested in further Fund Investments of the same Fund at the then prevailing price determined or announced by the Fund Manager in respect of such further Fund Investments.

## **6. REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS**

- 6.1. The Customer acknowledges and accepts that the Funds are subject to investment risks, including possible loss of the entire principal amount invested. The Customer represents and warrants that the Customer is fully aware of the risks involved in investing in Funds, and before the Customer gives any instruction in respect of any Fund Investment, the Customer will obtain from either Phillip Nova or the relevant Fund representative or otherwise ensure that it has received the most up-to-date version of all available Fund Literature in respect of the Fund Investment as of the date of the Customer's instruction, and read and understand all such Fund Literature. The Customer acknowledges and agrees that Phillip Nova shall have no liability whatsoever to the Customer for any error, misstatement or omission in any Fund Literature or in relation to any Funds.
- 6.2. Phillip Nova relies on the Customer's representation that the Customer has taken all necessary independent legal, tax, financial and/or other advice (as relevant) in relation to the Customer's Fund Investments and any Transactions carried out by Phillip Nova on the Orders of the Customer in respect of Fund Investments.
- 6.3. The Customer acknowledges and agrees that Phillip Nova may also earn or receive trailer fees and/or other quantifiable benefits from the Fund, depending on the Fund and amount of total Fund Investments subscribed through Phillip Nova based on the market value of the total Fund Investments, the details of which will be communicated to the Customer separately.

## **7. FEES, CHARGES AND EXPENSES**

- 7.1. The Customer acknowledges that, in addition to the fees and charges payable to Phillip Nova under this Agreement, each Fund Investment in which the Customer may invest pursuant to this Agreement also bears its own investment management fees and other expenses which shall be borne and paid solely by the Customer.

## **8. FUND REPORTS**

- 8.1. Phillip Nova shall use its reasonable endeavours to notify the Customer of any notices, reports and accounts relating to the Customer's Fund Investments that have been received by Phillip Nova from the Fund, except that where the Customer holds the Fund Investments in the Customer's own name, Phillip Nova shall not be responsible for providing the Customer with any such reports and accounts.

## APPENDIX 11: CUSTODIAL SERVICES

The Customer agrees that in respect of any Transaction, all the applicable terms and conditions in relation thereto in force as between the Parties, including the other parts of this Agreement (other than Appendix 11) shall continue to apply, and are to be supplemented and read together with the terms and conditions of Appendix 11. Notwithstanding anything to the contrary contained in the other parts of this Agreement (other than Appendix 11), the Parties agree that in the event of any conflict or inconsistency between the terms and conditions of Appendix 11 and those other parts of this Agreement, the terms and conditions of Appendix 11 shall prevail in respect of such conflict or inconsistency, however those other parts of this Agreement shall in all other respects continue in full force and effect.

The terms and conditions of Appendix 11 are to be supplemented and read together with all Applicable Laws. In the event of any conflict or inconsistency between the terms and conditions of Appendix 11 and the Applicable Laws, the Applicable Laws shall prevail in respect of such conflict or inconsistency, however the terms and conditions of Appendix 11 shall in all other respects continue in full force and effect.

The Customer agrees that Phillip Nova may at any time by notice in writing to the Customer vary or add to Appendix 11 without prior notice or consultation with the Customer.

### 1. DEFINITIONS

1.1. Unless otherwise stated or unless the context requires, the following words and expressions shall bear the following meanings:

“Nominee” includes an agent, representative, delegate or correspondent whether in Singapore or elsewhere.

### 2. BARE CUSTODIAL SERVICES

2.1. Unless agreed otherwise, Phillip Nova shall receive and hold in custody all the Securities custodised subject to the terms and conditions set out in this Section (the “Custodial Services”). Subject to below Clause 2.2 and the Customer’s acknowledgement in any event that Phillip Nova as custodian is not a fiduciary to the Customer or otherwise with respect to the Securities but shall be regarded generally only as a bare custodian and not trustee of the Securities with its duties strictly restricted to the duties expressly provided under Appendix 11, being duties of Phillip Nova hereunder shall be:-

- (a) to hold or procure to be held to its order all documents evidencing ownership of, the Securities and identify in its books that all Securities belong to the Customer;
- (b) to procure that all Securities other than bearer, Securities are registered in the name of Phillip Nova or such other Nominee or Nominees as Phillip Nova or any sub-custodian (as the case may be) may appoint in accordance with Clause 3 or, where due to the nature of the law or market practice of any relevant jurisdiction, it is in the Customer’s best interests or it is not feasible to do otherwise, any sub-custodian. In these circumstances, Securities will still be held in such a way that it is readily apparent that the Securities are not the property of Phillip Nova, any sub-custodian or any Nominee appointed by Phillip Nova or any sub-custodian (as the case may be). The Securities may be registered collectively with other Securities both of Phillip Nova and/or its other customers in the same name and where so registered here Securities, the Customer’s entitlements may not be identifiable by separate certificates or other physical documents of title or equivalent electronic records (although Phillip Nova and/or its delegate will maintain records such that it will be readily apparent the degree of the Customer’s interest in the commingled Securities so collectively held but on the express understanding and agreement of the Customer that where such commingling and aggregation of the securities of the Customer and other persons result in entitlements to dividends, interest and other monies payable in respect of the Securities and all other rights, benefits and proceeds in respect of or derived from the same (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise) (“**Related Assets**”) which otherwise without such commingling or aggregation would not have accrued to the Securities (the “**Bonus Related Assets**”), the custodian has full discretion as to the allotment of such Bonus Related Assets as amongst its customers, (including the Customer as it deems fit) and should the custodian, any sub-custodian or, as the case may be, its Nominee default, any shortfall in the Securities registered in that name may be shared pro rata among all customers of the Custodian or sub-custodian whose Securities are so registered;
- (c) to hold or procure that there are held in safe custody all bearer Securities and ensure that such bearer Securities are held in such a manner that it is readily apparent that the Securities are not the property of Phillip Nova or any sub-custodian; bearer Securities shall be segregated by Phillip Nova or any sub-custodian (as the case may be) from all property of Phillip Nova or sub-custodian and shall be identified as held by Phillip Nova or sub-custodian for the account of the Customer. Where any securities are in uncertificated form, or otherwise transferable by book entry transfer, Phillip Nova may use the services of any Securities depository, on such terms as it may think fit, for the purpose of the holding and transfer of such Securities (or entitlements thereto);
- (d) except to the extent permitted or not prohibited by the SFA or its regulations (including but not limited to Regulation 20 of the Securities and Futures (Licensing and Conduct of Business) Regulations), to hold and/or procure that any sub-custodian holds Securities, if registered in the same name as investments of Phillip Nova or sub-custodian, in an account designated separately from that used for investments of Phillip Nova or sub-custodian (as the case may be);
- (e) on receipt of the Customer’s instructions or with the Customer’s authority to make or accept delivery of Securities which have been sold, purchased, transferred or otherwise acquired or lent or disposed of by the Customer, such acceptance or delivery to be made in accordance with the normal practice for transactions of the type concerned;
- (f) to use its reasonable endeavours to collect and receive Related Assets including income and other payments due with respect to the Securities provided that the Customer acknowledges and accepts that Phillip Nova (whether directly or through any delegate or agent) shall have no duty or responsibility but is entitled, if it so chooses to:
  - (i) exercise or discharge any obligations conferred or imposed by reason of Phillip Nova holding of the Securities or to investigate, participate or take any affirmative action in connection therewith or otherwise;
  - (ii) send or give notice of any proxy form or other document which Phillip Nova may receive in respect of the Securities;
  - (iii) recognize any claim in the nature of a trust or equitable claim by anyone other than the Customer in respect of the Securities or any part thereof,
- (g) to credit to the Customer’s custodian account all income and other payments received by Phillip Nova under Clause 2.1(f) above;
- (h) to sign, execute and/or complete such documents, certificates or forms from time to time required for fiscal and taxation purposes in connection with the collection of income from the Securities including bonds and note coupons; and
- (i) to keep or (to the extent reasonably practicable) procure there to be kept by any sub-custodian, or any Nominee appointed by Phillip Nova or any sub-custodian (as the case may be), such books records and statements, in retrievable form, as may be necessary to provide an adequate record of all Securities held and transactions carried out by or on behalf of the Customer.

2.2. Phillip Nova may refuse to act as custodian in relation to any asset it deems unsuitable to be held hereunder without giving any reason therefor or being liable for any loss thereby occasioned.

### 3. NOMINEE / DELEGATES

- 3.1. Phillip Nova is authorised to utilise one or more Nominee(s) or sub-custodians for the purpose of providing the Custodial Services. In the event that a Nominee is being used, the Customer is deemed to have contracted as principal with such Nominee. Phillip Nova may utilise the services of a foreign custodian as Nominee or sub-custodian where it deems this to be necessary or appropriate and the Customer hereby expressly consents to Phillip Nova having the full authority and discretion to appoint and use such foreign custodian as it deems necessary or appropriate. Where Securities are held by a Nominee or sub-custodian, Phillip Nova shall separately agree in writing the requirements specified in Regulation 32 of the Securities and Futures (Licensing and Conduct of Business) Regulations but otherwise the Customer acknowledges and accepts that different settlement, legal and regulatory requirements and different practices relating to the segregation of those Securities may apply. In addition, Phillip Nova and any Nominee, sub-custodian, agent or delegate may deposit Securities with, and hold Securities in, any Securities depository on such terms as such systems customarily operate.

#### **4. CUSTODIAL RESPONSIBILITIES AND POWER**

- 4.1. Phillip Nova shall in addition to the powers set out in Clause 2.1(f) above be entitled to do, subject and on receipt of the Customer's instructions to the contrary, any other act or refrain from doing any other act unless (as the case may be) prohibited or required by law or regulation, in relation to any Securities custodised with Phillip Nova, which under the terms of the Customer's agreement with Phillip Nova, Phillip Nova is not specifically (as the case may be) either specifically prohibited or required to do. Without prejudice to the foregoing the Customer hereby specifically instructs Phillip Nova that, until it receives written instructions to the contrary, whenever the Customer purchases Securities through it, and the sums standing to the credit of the Customer's custodian account are sufficient to satisfy the purchase price of the Securities purchased, Phillip Nova is to withdraw from the custodian account such sum as is equal to the purchase price and appropriate such sum to Phillip Nova in satisfaction of the Customer's obligation to pay the purchase price, or where the shares are contra sold, to use such sums for any contra losses incurred (if any). Also without prejudice to any of the foregoing, any amount payable by the Customer pursuant to the services hereunder shall be payable to Phillip Nova or its Nominees, sub-custodians or agents, as the case may be, on demand and may be deducted from the Securities or such Account as Phillip Nova deems appropriate.

#### **5. LIABILITY**

- 5.1. Phillip Nova shall not be liable for any loss, claim, damage, expense or liability suffered or incurred by the Customer, or profit or advantage of which the Customer may be deprived, which arises from or in connection with: -

- (a) the manner in which Phillip Nova holds the Securities hereunder or deals with monies received or intended to be received in connection herewith;
- (b) the loss, theft or destruction of, or any damage to, any of the Securities or certificates relating thereto; or
- (c) the performance or non-performance of Phillip Nova hereunder, except insofar as the same arises as a result of the negligence, fraud and/or wilful default of Phillip Nova.

- 5.2. Phillip Nova shall use reasonable care in the selection of any Nominee, or sub-custodian. Phillip Nova shall not be liable for any loss, claim, damage, expense or liability suffered or incurred by the Customer or profit or advantage of which the Customer may be deprived, which arises from or in connection with:-

- (a) the insolvency of any sub-custodian or Nominee; or
- (b) any act or omission of any sub-custodian or Nominee,

the same arises as a result of the negligence, fraud or wilful default of Phillip Nova itself.

- 5.3. Phillip Nova shall not be liable for any act, omission or insolvency of any entity providing central depository, clearing and/or settlement facilities.
- 5.4. The Customer acknowledges and agrees that Phillip Nova shall be under no duty to supervise compliance by the Customer with any restrictions on the investment powers of the Customer.
- 5.5. Phillip Nova shall not be liable or have any responsibility to the Customer for any loss or damage incurred or suffered by the Customer if the performance of its obligations being interrupted, delayed or prevented by circumstances, acts or events beyond its control. This shall include but not be limited to industrial disputes, acts or regulations or any governmental or supranational bodies or authorities and breakdown, failure or malfunction of telecommunications or computer service or systems.

#### **6. STATEMENTS AND INFORMATION**

- 6.1. Phillip Nova shall provide or procure the provision to the Customer with such reports and statements concerning the Securities and at such intervals as agreed between them from time to time. Phillip Nova will on the request of the Customer prepare and deliver to the Customer a statement, made up as at a date specified by the Customer (being a date not later than one calendar month before the statement is delivered to the Customer) identifying in relation to each description of the Securities:-

- (a) the customer title documents held for the Customer by Phillip Nova or its delegate;
- (b) the amount of the Securities; and
- (c) where the Securities are registrable, the number of units so held in each different name.

#### **7. RETURN OF SECURITIES CUSTODISED**

- 7.1. The Customer shall not have any right to specific Securities custodised with or through Phillip Nova, but will be entitled, subject to these other Clauses, to delivery by Phillip Nova of Securities of the same class, denomination and nominal amount, and which rank pari passu with those accepted by Phillip Nova as being the Securities so custodised, subject always to any capital reorganisation or share exchange which may have occurred. Such delivery may be to the Customer or any specified third party.

#### **8. AUTHORISATIONS**

- 8.1. Without prejudice to Clauses 2, 4 above and 9 below, Phillip Nova is authorised (but not obliged), either by itself, through a Nominee (if so, subject to Clause 3 above) or otherwise, and whether in Singapore or elsewhere to do any lawful act or thing which in the discretion of Phillip Nova is necessary to preserve the integrity of the Securities custodised and/or any Account and/or to protect the reasonable interests of Party(ies).

#### **9. CUSTOMER PRIMARILY LIABLE**

- 9.1. Notwithstanding that the Customer may as between himself and a third party be effecting transactions on and/or in respect of any part or all of the Securities custodised for and on behalf of such third party, as between the Parties, the Customer shall be deemed to be, and is, transacting as sole principal. The Customer acknowledges, undertakes and agrees to be always primarily liable for such transactions in all or part of the Securities custodised.

#### **10. ORDERS / INSTRUCTIONS**

10.1. Phillip Nova need only act on instructions (oral or otherwise) from the Customer in respect of any Account or any part or all of the Securities custodised. Phillip Nova shall not be required to act in accordance with any instruction from the Customer which purports to dispose of or deal with Securities or other property which are in fact not held in any Account and/or which are not in fact Securities custodised.

**11. INSTRUCTIONS FROM THIRD PARTY**

11.1. Any instructions (oral or otherwise) purported to be given by any person other than the Customer, need not be acted on by Phillip Nova but Phillip Nova is authorised to act on any and all such instructions which Phillip Nova in good faith has reason to believe is from the Customer as soon as such instructions have been received by Phillip Nova without requiring written confirmation thereof. Phillip Nova shall not be liable for any loss, damage, cost, charge and expense incurred by the Customer as a result of Phillip Nova so acting.

**12. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

12.1. The Customer represents, warrants and undertakes that: -

- (a) the Customer is the legal and beneficial owner of the Securities custodised;
- (b) the Securities custodised are fully paid up and paid for, in the required or regular form and in good delivery order; and
- (c) there is no defect in title, security interest or encumbrance affecting the Securities custodised.

**13. SECURITY**

13.1. In addition, and without prejudice to the foregoing, all Securities custodised are hereby charged by way of first fixed charge to Phillip Nova as continuing security for all of the Customer's liabilities to Phillip Nova whether the same accrue under or pursuant to the Account or otherwise. Save for the charge mentioned in this Clause, the Customer will not create nor will he allow to be created any security interest of whatsoever nature over any part or all of the Securities custodised without the prior consent in writing of Phillip Nova.

**14. ON-LENDING AND CREATION OF FURTHER SECURITY AND USE RIGHTS**

14.1. Notwithstanding any provision to the contrary in these terms or the terms expressly appearing on Phillip Nova's account application forms as may be revised from time to time in accordance with the provisions of the present edition of such terms as applicable to the Customer (as referred to below) or the terms of any collateral or charge documentation with respect to the Customer's securities and other property (collectively the "Terms"), the Customer agrees that with respect to ALL the Customer's Securities and other property that now or in the future is in Phillip Nova's possession and/or control (whether posted as collateral to Phillip Nova or otherwise) Phillip Nova shall have the same rights of borrowing, on-lending and delivery on a title transfer basis over such Securities as the Securities.

**15. DEFAULT AND TERMINATION**

15.1. In the event that any of the events set out in Clause 12 of this Agreement occurs, then in addition to the Clause 12 rights of this Agreement, Phillip Nova shall be further entitled to immediately enforce the security created pursuant to Clause 14 above by way of disposing or otherwise dealing with any part or all of the Securities custodised using or employing any and all powers granted hereunder or otherwise to a mortgagee or chargee under the laws of Singapore.

**16. CONTRA LOSSES**

16.1. The Customer agrees that:

- (a) no Securities may be withdrawn from the Customer's custodian account if there are any contra losses outstanding; and
- (b) if no contra loss is not paid within 14 days, Phillip Nova is entitled to sell such of the Customer's Securities in the Customer's custodian account as may be necessary to reimburse Phillip Nova of such contra loss.

## **SCHEDULE 1: RISK DISCLOSURE STATEMENT**

### **SECURITIES AND FUTURES ACT 2001 OF SINGAPORE SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS (Rg 10)**

#### **RISK DISCLOSURE STATEMENT REQUIRED TO BE FURNISHED UNDER REGULATION 47E(1) AND TO BE KEPT UNDER REGULATION 39(2)(c) BY THE HOLDER OF A CAPITAL MARKETS SERVICES LICENCE TO DEAL IN CAPITAL MARKETS PRODUCTS IN RESPECT OF FUTURES AND CERTAIN OVER-THE-COUNTER DERIVATIVES CONTRACTS**

1. This statement is provided in accordance with regulation 47E(1) of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10).
2. This statement does not disclose all the risks and other significant aspects of trading in futures, options, over-the-counter derivatives contracts where the underlying is a currency or currency index ("**OTCD currency contracts**") and spot foreign exchange contracts for the purposes of leveraged foreign exchange trading ("**Spot LFX trading contracts**"). In light of the risks, the Customer should undertake such transactions only upon understanding the nature of the contracts (and contractual relationships) into which the Customer is entering and the extent of exposure to the risks. Trading in futures, options, OTCD currency contracts and Spot LFX trading contracts may not be suitable for many members of the public. The Customer should carefully consider whether such trading is appropriate in the light of the Customer's own experience, objectives, financial resources and other relevant circumstances. In considering whether to trade, the Customer should be aware of the following:

#### **(a) Futures, OTCD currency contracts and Spot LFX trading contracts**

##### *(i) Effect of 'Leverage' or 'Gearing'*

Transactions in futures, OTCD currency contracts and Spot LFX trading contracts carry a high degree of risk. The amount of initial margin is small relative to the value of the futures contract, OTCD currency contract or Spot LFX trading contract transaction so that the transaction is highly 'leveraged' or 'geared'. A relatively small market movement will have a proportionately larger impact on the funds deposited or will have to deposit by the Customer; this may work against or for the Customer. The Customer may sustain a total loss of the initial margin funds and any additional funds deposited with the firm to maintain the position. If the market moves against the position or margin levels are increased, the Customer may be called upon to pay substantial additional funds on short notice in order to maintain the position. If the Customer fail to comply with a request for additional funds within the specified time, the position may be liquidated at a loss and the Customer will be liable for any resulting deficit in the account.

##### *(ii) Risk-Reducing Orders or Strategies*

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 effective because market conditions may make it impossible to execute such orders. At times, it is also difficult or impossible to liquidate a position without incurring substantial losses. Strategies using combinations of positions, such as 'spread' and 'straddle' positions may be as risky as taking simple 'long' or 'short' positions.

#### **(b) Options**

##### *(i) Variable Degree of Risk*

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarise themselves with the type of options (i.e. put or call) which the Customer contemplate trading and the associated risks. The Customer should calculate the extent to which the value of the options would have to increase for the position to become profitable, taking into account the premium paid and all transaction costs.

The purchaser of options may offset its position by trading in the market or exercise the options or allow the options 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 futures contract, OTCD currency contract or Spot LFX trading contract, the purchaser will have to acquire a position in the futures contract, OTCD currency contract or Spot LFX trading contract, as the case may be, with associated liabilities for margin (see the section on Futures, OTCD currency contracts and Spot LFX trading contracts above). If the purchased options expire worthless, the Customer will suffer a total loss of the investment which will consist of the option premium paid plus transaction costs. If the Customer is contemplating purchasing deep-out-of-the-money options, the Customer should be aware that, ordinarily, the chance of such options becoming profitable is remote.

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 the amount of premium received. The seller will be liable to deposit additional margin to maintain the position if the market moves unfavourably. 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 futures contract, OTCD currency contract or spot LFX trading contract, the seller will acquire a position in the futures contract, OTCD currency contract or spot LFX trading contract, as the case may be, with associated liabilities for margin (see the section on Futures, OTCD currency contracts and Spot LFX trading contracts above). If the option is 'covered' by the seller holding a corresponding position in the underlying futures contract, OTCD currency contract, spot LFX trading contract or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, limiting the liability of the purchaser to 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.

#### **(c) Additional Risks Common to Futures, Options and Leveraged Foreign Exchange Trading**

##### *(i) Terms and Conditions of Contracts*

The Customer should ask for the terms and conditions of the specific futures contract, option, OTCD currency contract or spot LFX trading contract which the Customer is trading and the associated obligations (e.g. the circumstances under which the Customer may become obligated to make or take delivery of the underlying interest of a futures contract, OTCD currency contract or spot LFX trading contract transaction 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.

##### *(ii) Suspension or Restriction of Trading and Pricing Relationships*

Market conditions (e.g. illiquidity) 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 liquidate/offset positions. If the Customer have sold options, this may increase the risk of loss. Further, normal pricing relationships between the underlying interest and the futures contract, and the underlying interest and the option may not exist. This can occur when, e.g., the futures contract underlying the option is subject to price limits while the option is not. The absence of an underlying reference price may make it difficult to judge 'fair' value.



(iii) *Deposited Cash and Property*

The Customer should familiarise with the protection accorded to any money or other property which the Customer deposit for domestic and foreign transactions, particularly in a firm's insolvency or bankruptcy. The extent to which the Customer may recover such money or property may be governed by specific legislation or local rules. In some jurisdictions, property which had been specifically identifiable as the Customer's own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

**(d) Commission and Other Charges**

Before begin to trade, the Customer should obtain a clear explanation of all commissions, fees and other charges. These charges will affect the net profit (if any) or increase loss which the Customer will be entitled or liable respectively.

**(e) Transactions in Other Jurisdictions**

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose the Customer to additional risk. Such markets may be subject to a rule which may offer different or diminished investor protection. Before trading, the Customer should enquire about any rules relevant to the particular transactions. The Customer's local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where the transactions have been effected. The Customer should ask the firm with for such transactions' details about the types of redress available in both the Customer's home jurisdiction and other relevant jurisdictions before starting to trade.

**(f) Currency Risks**

The profit or loss in transactions in foreign currency-denominated futures and options contracts (whether they are traded in the Customer's own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency.

**(g) Trading Facilities**

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. The Customer's ability to recover certain losses may be subject to limits on liability imposed by the one or more parties, namely the system provider, the market, the clearing house or member firms. Such limits may vary. The Customer should ask the firm for such transactions' details in this respect.

**(h) Electronic Trading**

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 the Customer undertake transactions on an electronic trading system, the Customer will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that the Order is either not executed according to the communication of the Customer or not executed at all.

**(i) Off-Exchange Transactions**

In some jurisdictions, firms are permitted to effect off-exchange transactions. The firm with which the Customer conduct the transactions may be acting as the Customer's counterparty 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 the Customer undertake such transactions, the Customer should familiarise with the applicable rules and attendant risks.

## SCHEDULE 2: RISK FACT SHEET FOR CONTRACTS FOR DIFFERENCES (CFDS)

This Risk Fact Sheet is provided in accordance with Notice SFA N04-N15. It highlights the common risks of trading in CFDs and complements the trading agreement and associated risk disclosures furnished by *Phillip Nova*. This Risk Fact Sheet does not disclose all the risks of trading in CFDs. It is important to read the trading agreement and associated risk disclosures before deciding whether to trade in CFDs. The Customer should also carefully consider whether trading in CFDs is appropriate in the light of the Customer's own experience, objectives, financial resources and other relevant circumstances. If the Customer do not have a copy of the trading agreement and associated risk disclosures, please contact *Phillip Nova* to request for a copy. The Customer should not trade in CFDs if the Customer do not understand the product or are not comfortable with the accompanying risks.

### Q1. What is the potential loss when trading on margin<sup>1</sup> in CFDs?

When entering into a CFD transaction, the Customer need to pay an initial margin, which is based on a percentage of the value of the trade.

When trading on margin, the Customer should be prepared to lose more than the entire initial investment amount as margin to the firm.

#### **Illustration 1**

- 1) The firm sets the margin for 1 CFD on Brent Crude Oil (UKOIL) at 20%. You sold 1 contract (equivalent of 1,000 barrels) at the prevailing market price of USD 70 per barrel. The initial margin to put up is USD 14,000. This calculated as USD 70 x 1,000 barrels x 20%.
- 2) The next day, UKOIL rises to USD 73, the loss of USD 3,000 is incurred. This is calculated as (USD 70 – USD 73) x 1,000 barrels. The USD 3,000 loss will be deducted from the initial margin of USD 14,000 as unrealized loss.
- 3) If UKOIL drops to USD 65, the profit of USD 5,000 will be gained. This is calculated as (USD 70 – USD 65) x 1,000 barrels. The USD 5,000 profit will be added to your account as unrealized profit.

#### **Illustration 2**

- 1) The firm sets the margin for 1 CFD on Dow Jones Industrial Average Index (US30) at 5%. You bought 1 contract (equivalent of 1 CFD) at the prevailing market price of USD 25,000 per CFD. The initial margin to put up is USD 1,250. This calculated as USD 25,000 x 1 CFD x 5%.
- 2) The next day, US30 rallies to USD 25,100, the profit of USD 100 will be gained. This is calculated as (USD 25,100 – USD 25,000) x 1 CFD. The USD 100 profit will be added to your account as unrealized profit.
- 3) In the worst case scenario, the price of US30 falls to zero. You lose the full contract value of USD 25,000. This is calculated as, (USD 0 – USD 25,000) x 1 CFD. In additional, you may also be liable for additional charges, costs and fees incurred.

### Q2. What will happen if the margin is insufficient to cover the losses?

Phillip Nova reserves the right to liquidate your positions without prior notice when the Equity Balance falls below the stipulated force-selling margin level (also known as the Close-Out Level). For Phillip MT5 system, Customer will be receiving a notification should your account be in margin deficit. Customer is required to reduce its position(s) or top up the funds immediately to bring the margin level back above initial margin level requirements. It is the responsibility of the Customer to monitor the equity balance in its account to avoid the risk of meeting the Close-Out Level which will result in the automatic liquidation of the position(s) at market prices.

### Q3. How is the CFD quoted?

Phillip Nova's CFD bid-ask prices are derived from prices of the reference instrument quoted in the underlying exchange, market or liquidity provider. Therefore, the CFD prices will only be available if the underlying exchange or market is open or if there is sufficient liquidity.

### Q4. Can Order be executed at a price that is less favourable than the price quoted on the trading system, or the price that the Customer submitted?

The Customer's Order can be executed at a price that is less favourable than the price quoted on the trading system as stipulated in Clause 4.12 of this Agreement and Section 4.11 of the MetaTrader 5 Terms and Conditions. Quotes for prices for dealing in the products are indicative only and not guaranteed. This can happen when there is a change in the quoted price between the time the Customer's Order is placed and the time the Order is received or executed by the system (e.g., delay in the internet transmission of the Order, or rapid price fluctuations in the financial markets during that period). In particular, for stop-loss Orders that are triggered for execution at the stop price level that the Customer indicated, it may be difficult or not possible to liquidate the position at the stop price level, due to rapid price fluctuations or lack of liquidity in the markets. If any of the foregoing events happens, the Customer may incur unexpected losses.

However, the Customer's Order will not be executed at a price that is less favourable than your submitted price (e.g. limit orders).

### Q5. Will the Order be manually executed? If so, under what circumstances does Phillip Nova rely on manual execution?

Phillip Nova's system executes the Customer's Orders on an automated basis and does not rely on any manual intervention or dealing, unless the Orders do not pass the pre-execution checks carried out by the trading system. This can happen if there is insufficient or unavailable liquidity in the underlying market for Phillip Nova to hedge its own risk exposure. In this regard, Phillip Nova has the discretion to determine the price of the CFD pursuant to Clause 15 of this Agreement.

### Q6. Where are the margins kept and maintained? Can Phillip Nova use the Customers' margins for its own purposes?

The Customers' moneys or other assets placed with Phillip Nova, are required to be maintained in segregated accounts with certain specific entities. Such moneys or other assets are segregated from Phillip Nova's own moneys or assets, but may be kept in the same omnibus account with its other customers. Phillip Nova is not permitted to use the Customer's money or other assets in the segregated account for its own purposes, including for settling its own dealings with its hedge counterparty.

### Q7. What will happen to the margins if Phillip Nova becomes insolvent? Will the Customer be able to get back the moneys or other assets?

Phillip Nova as the contractual counterparty and is obliged according to the terms and conditions of this Agreement to honour the Customer's CFD trades and any profits made. Therefore, if Phillip Nova becomes insolvent, the Customer is able to recover the equity balance (Ledger Balance+ Unrealized Profit/Loss +- Unrealized Finance Charge). As for the moneys or other assets that are held in the segregated account, these should be protected from the claims of Phillip Nova's creditors. Nonetheless, the recovery and return of such moneys or other assets will take time, as this is subject to due process of Phillip Nova's liquidation, including the reconciliation of all its customers' positions and moneys.

<sup>1</sup> "Margin" means an amount of money, securities, property or other collateral, representing a part of the value of the contract or agreement to be entered into, which is deposited by the buyer or the seller of a transaction in a futures contract, OTCD currency contract, CFDs or spot LFX trading contract to ensure performance of the terms of the transaction in the futures contract, OTCD currency contract, CFDs or spot LFX trading contract.

**Q8. Under what circumstances can Phillip Nova close the Customer's position or void the Customer's Order?**

Under the terms of this Agreement, Phillip Nova can close out the position or void the trade when:

- (i) the Customer is unable to meet the margin calls within the required timeframe (Clause 6.2 of this Agreement);
- (ii) there is a trading system failure that result in erroneous prices at which the Customers' trades are executed (Clause 18 of this Agreement);
- (iii) the Customer's account balance reaches or breaches the close-out level at any time (Clause 6.2 of this Agreement), etc.

The price at which the CFD is closed out will depend on the available price of the underlying market at that point in time, which may result in a loss to the Customer.

**Q9. What are the commissions, fees and other charges that will be incurred by the Customer?**

Finance Charge: A financing fee is charged on any CFD positions that are held overnight on a daily basis. Finance charge is set at a percentage of the marked to market value of the CFD.

**Illustration 3**

If you bought 1 contract of UKOIL (equivalent of 1,000 barrels) and held it overnight, you will incur a daily financing interest. The end of day settlement price is USD 73. Suppose the financing charge in this case is 0.5% p.a. Hence, the daily interest charge is calculated as  $[(USD\ 73 \times 1,000\ \text{barrels} \times 0.5\%)/365\ \text{days}] = USD\ 1.00$ .

**Illustration 4**

If you sold 5 contracts of US30 (equivalent of 5 CFDs) and held them overnight, you will incur a daily financing interest. The end of day settlement price is USD 25,250. Suppose the financing charge in this case is 0.5% p.a. Hence, the daily interest charge is calculated as  $[(USD\ 25,250 \times 5\ \text{CFDs} \times 0.5\%)/365\ \text{days}] = USD\ 1.73$ .

**Q10. What happens when trading in the underlying share or asset is suspended or halted? How can the Customer exit position and will there be losses suffered?**

In event of a suspension where the price of the underlying market is unavailable, Phillip Nova may allow the Customer to exit the CFD positions at a price determined by Phillip Nova (Clause 18 of this Agreement). During the period of suspension, holders of CFD positions will continue to be charged interest if the positions are held overnight.

In the event of a prolonged period of suspension, Phillip Nova may require the Customer to increase the margins, pay up the contract value in full, or close off the positions at an appropriate price determined by Phillip Nova. In the worst case, the Customer could lose 100% of the contract value. In addition, the Customer may also be liable to pay additional charges, costs and fees incurred.

**Q11. Are there additional risks trading in CFDs on Cryptocurrencies?**

Cryptocurrencies are not legal tender and are not issued by any government nor backed by any asset or issuer. Cryptocurrencies are currently not subjected to any regulatory requirements or supervisory oversight by MAS. Hence, the safeguards afforded under MAS' regulatory framework will not apply to consumers dealing with unregulated products, such as CFDs on Cryptocurrencies.

Cryptocurrencies have little or no intrinsic value, making them hard to value and extremely volatile. Being highly speculative, investing in cryptocurrencies entails high risks as prices are prone to sharp, sudden swings as a result of unanticipated events or changes in market sentiments primarily due to the lack of price transparency. Liquidity may also become limited and price gaps may occur in such circumstances. Cryptocurrency exchanges, where cryptocurrencies are bought and traded, are susceptible to cyber security breaches. In the event of a cyberattack and theft of cryptocurrencies, it may result in drastic, adverse price movements.

Trading into CFDs on cryptocurrencies carry a high level of risk. The Customer may risk losing all capital or more when investing into cryptocurrencies. The Customer must therefore be fully aware of the risks associated with both CFDs and cryptocurrencies and carefully assess whether an investment in cryptocurrencies is suitable for the Customer's own investment objectives and risk appetite.

### **SCHEDULE 3: RISK WARNING STATEMENT FOR OVERSEAS-LISTED INVESTMENT PRODUCTS**

An overseas-listed investment product is subject to the Applicable Laws of the jurisdiction it is listed in. Before the Customer trade in an overseas-listed investment product or authorise someone else to trade, the Customer should be aware of:

- The level of investor protection and safeguards that the Customer afforded in the relevant foreign jurisdiction as the overseas-listed investment product would operate under a different regulatory regime.
- The differences between the legal systems in the foreign jurisdiction and Singapore that may affect the Customer's ability to recover the funds.
- The tax implications, currency risks, and additional transaction costs that the Customer may have to incur.
- The counterparty and correspondent broker risks that the Customer is exposed to.
- The political, economic and social developments that influence the overseas markets the Customer investing in.

These and other risks may affect the value of investment. The Customer should not invest in the product if the Customer do not understand or are not comfortable with such risks.

*\*An "overseas-listed investment product" in this statement refers to a capital markets product that is listed for quotation or quoted only on overseas securities exchange(s) or overseas futures exchange(s) (collectively referred to as "overseas exchanges").*

1. This statement is provided in accordance with paragraph 29D of the Notice on the Sale of Investment Products [SFA04-N12].
2. This statement does not disclose all the risks and other significant aspects of trading in an overseas-listed investment product. The Customer should undertake such transactions only if the Customer understand and are comfortable with the extent of exposure to the risks.
3. The Customer should carefully consider whether such trading is suitable in light of the Customer's own experience, objectives, risk appetite, financial resources and other relevant circumstances. In considering whether to trade or to authorise someone else to trade, the Customer should be aware of the following:

#### Differences in Regulatory Regimes

- (a) Overseas markets may be subject to different regulations, and may operate differently from approved exchanges in Singapore. For example, there may be different rules providing for the safekeeping of securities and monies held by custodian banks or depositories. This may affect the level of safeguards in place to ensure proper segregation and safekeeping of the investment products or monies held overseas. There is also the risk of the investment products or monies not being protected if the custodian has credit problems or fails. Overseas markets may also have different periods for clearing and settling transactions. These may affect the information available regarding transaction prices and the time the Customer to settle the trade on such overseas markets.
- (b) Overseas markets may be subject to rules which may offer different investor protection as compared to Singapore. Before commencing to trade, the Customer should be fully aware of the types of redress available in Singapore and other relevant jurisdictions, if any.
- (c) Overseas-listed investment products may not be subject to the same disclosure standards that apply to investment products listed for quotation or quoted on an approved exchange in Singapore. Where disclosure is made, differences in accounting, auditing and financial reporting standards may also affect the quality and comparability of information provided. It may also be more difficult to locate up-to-date information, and the information published may only be available in a foreign language.

#### Differences in legal systems

- (d) In some countries, legal concepts which are practiced in mature legal systems may not be in place or may have yet to be tested in courts. This would make it more difficult to predict with a degree of certainty the outcome of judicial proceedings or even the quantum of damages which may be awarded following a successful claim.
- (e) MAS will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where the transactions will be effected.
- (f) The laws of some jurisdictions may prohibit or restrict the repatriation of funds from such jurisdictions including capital, divestment proceeds, profits, dividends and interest arising from investment in such countries. Therefore, there is no guarantee that the funds the Customer invested and the funds arising from the investment will be capable of being remitted.
- (g) Some jurisdictions may also restrict the amount or type of investment products that foreign investors may trade. This can affect the liquidity and prices of the overseas-listed investment products that the Customer invest in.

#### Different costs involved

- (h) There may be tax implications of investing in an overseas-listed investment product. For example, sale proceeds or the receipt of any dividends and other income may be subject to tax levies, duties or charges in the foreign country, in Singapore, or in both countries.
- (i) The Customer's investment return on foreign currency-denominated investment products will be affected by exchange rate fluctuations where there is a need to convert from the currency of denomination of the investment products to another currency, or may be affected by exchange controls.
- (j) The Customer may have to pay additional costs such as fees and broker's commissions for transactions in overseas exchanges. In some jurisdictions, the Customer may also have to pay a premium to trade in certain listed investment products. Therefore, before begin to trade, the Customer should obtain a clear explanation of all commissions, fees and other charges which will be liable for. These charges will affect the net profit (if any) or increase the loss of the Customer.

#### Counterparty and correspondent broker risks

- (k) Transactions on overseas exchanges or overseas markets are generally effected by the Singapore broker through the use of foreign brokers who have trading and/or clearing rights on those exchanges. All transactions that are executed upon the Customer's Order with such counterparties and correspondent brokers are dependent on their respective due performance of their obligations. The insolvency or default of such counterparties and correspondent brokers may lead to positions being liquidated or closed out without the Customer's consent and/or may result in difficulties in recovering the monies and assets held overseas.

#### Political, Economic and Social Developments

- (l) Overseas markets are influenced by the political, economic and social developments in the foreign jurisdiction, which may be uncertain and may increase the risk of investing in overseas-listed investment products.

**SCHEDULE 4: RISK DISCLOSURE STATEMENT REQUIRED TO BE FURNISHED BY A COMMODITY BROKER, COMMODITY FUTURES BROKER OR SPOT COMMODITY BROKER**

**COMMODITY TRADING ACT 1992 OF SINGAPORE  
COMMODITY TRADING REGULATIONS**

1. This statement is provided in accordance with section 32 (1) of the Commodity Trading Act 1992 of Singapore.
2. The intention of this statement is to inform the risk of loss in trading in commodity contracts, commodity futures contracts and in spot commodity contracts can be substantial. The Customer should therefore carefully consider whether such trading is suitable in light of the Customer's own financial condition.
3. In considering whether to trade, the Customer should be aware of the following:
  - (a) **Margin:** The Customer may sustain a total loss of the initial margin and any additional margins that the Customer deposit to establish a position or maintain positions in the commodity market, commodity futures market or spot commodity market. If the market moves against the positions, the Customer may be called upon to deposit a substantial amount of additional margins, on short notice, in order to maintain such positions. If the Customer do not provide the required margins within the prescribed time, the positions may be liquidated at a loss, and the Customer will be liable for any resulting deficit in the account.
  - (b) **Liquidation of position:** Under certain market conditions, the Customer may find it difficult or impossible to liquidate a position.
  - (c) **Contingent orders:** Placing contingent orders, such as "stop-loss" or "stop-limit" order, will not necessarily limit the losses to the intended amounts, since market conditions may make it impossible to execute such orders.
  - (d) **"Spread" position:** A "spread" position may not be less risky than a simple "long" or "short" position.
  - (e) **Leverage:** The high degree of leverage that is often obtainable in commodity futures trading, trading in commodity contracts and spot commodity trading because of the small margin requirements can work against or for the Customer. The use of leverage can lead to large losses as well as gains.
  - (f) **Foreign markets and off-futures exchange transactions:** Funds placed with a commodity broker, commodity futures broker or spot commodity broker for the purpose of participating in foreign markets or off-futures exchange transactions, such as spot or other over-the-counter transactions, may not enjoy the same level of protection as funds placed in commodity markets or Commodity Futures Exchanges located in Singapore.
4. This brief statement cannot disclose all the risks and other significant aspects of the commodity market or of the commodity futures market. The Customer should therefore carefully study commodity futures trading, trading in commodity contracts and spot commodity trading before trading.

## **SCHEDULE 5: NOTIFICATION ON FUTURES TRADING RULE 1.6**

In line with practices in other established futures exchanges, the SGX-DT requires that this notification on the following Futures Trading Rule 1.6 be provided for the Customer's acknowledgement that it is acceptable and accepted by the Customer:

### **Exclusion of Liability, Disclaimer of Warranties & Statutory Immunity**

#### **1.6.1 No Liability for Loss.**

Unless otherwise expressly provided in this Rules or in any other agreements to which the Exchange is a party, none of the Exchange, its related corporations, SGX RegCo, any person or entity referred to under Rule 1.7.4, or their respective directors, officers, employees, representatives or agents shall be liable to any Person for any loss (consequential or otherwise, including, without limitation, loss of profit), damage, injury, or delay, whether direct or indirect, arising from or in connection with the following, or any thing done or not done as a direct or indirect consequence of the following:

- (a) any action taken in connection with the discharge of the Exchange's regulatory responsibilities including the suspension, interruption or closure of the Markets; or
- (b) any failure or malfunction of Exchange Systems.

"Exchange Systems" refers to any pre-trade, trade or post-trade systems, including the Trading System, operated by the Exchange in connection with the Markets.

#### **1.6.1A Indemnity.**

1. Each Trading Member indemnifies each of the Exchange, its related corporations, SGX RegCo, any person or entity referred to under Rule 1.7.4, and their respective directors, officers, employees, representatives and agents ("**Indemnified Persons**") against any loss or liability reasonably incurred or suffered by an Indemnified Persons where such loss or liability arose out of or in connection with:-

- (a) any breach by the Trading Member of its obligations under the Rules; or
- (b) any wilful, unlawful, reckless or negligent act or omission by the Trading Member.

2. Without prejudice to the generality of Rule 1.6.1A(1), in the event that any legal, arbitration or other proceedings are brought to impose any liability on all or any of the Indemnified Persons for an alleged failure on the part of any Indemnified Person to prevent or to require action by a Trading Member or any of its directors, officers, employees, representatives or agents, the Trading Member shall reimburse the relevant Indemnified Person for: —

- (a) all expenses and legal fees incurred by or on behalf of the Indemnified Person in connection with such proceedings;
- (b) any payment made by or on behalf of the Indemnified Person with the approval of the Trading Member in connection with any settlement of such proceedings; and
- (c) any payment made by or on behalf of the Indemnified Person as a result of any order, award or judgment made in such proceedings.

The Trading Member shall render such co-operation as the Indemnified Person reasonably requires in respect of such proceedings including without limitation the production of any document or records.

3. Without prejudice to Rule 1.6.1A(2), the Trading Member shall pay to an Indemnified Person, if the Indemnified Person so requires, the costs incurred by or on behalf of the Indemnified Person of producing or obtaining, pursuant to a court order or other legal process, records relating to the business or affairs of a Trading Member or any of its directors, officers, employees, representatives or agents, regardless of the party requiring such production or obtainment.

#### **1.6.2 Statutory Immunity.**

As provided under the Act, the Exchange or any Person or entity acting on its behalf, including any person or entity referred to under Rule 1.7.4 and their respective directors, officers, employees, representatives, and agents, shall be immune from any criminal or civil liability for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of, or in connection with, the discharge or purported discharge of its obligations under the Act or this Rules.

#### **1.6.3 Disclaimer of Warranties.**

All warranties and conditions, both express and implied as to condition, description, quality, performance, durability, or fitness for the purpose or otherwise of any of the Exchange Systems or any component thereof are excluded except as required by law. The Exchange does not warrant or forecast that the Exchange Systems, any component thereof or any services performed in respect thereof will meet the requirements of any user, or that operation of the Exchange Systems will be uninterrupted or error-free, or that any services performed in respect of the Exchange Systems will be uninterrupted or error-free.

#### **1.6.4 Index Related Disclaimers.**

The Exchange, Index Provider and any other party involved in, or related to, making or compiling any index do not guarantee the originality, accuracy or completeness of such indices or any data included therein. Contracts on any index ("**Index Contracts**") are not sponsored, guaranteed or endorsed by the Index Provider or any other party involved in, or related to, making or compiling such indices. Neither the Index Provider nor any other party involved in, or related to, making or compiling any index makes any representations regarding the advisability of investing in such Index Contracts. Neither the Index Provider nor any other party involved in, or related to, making or compiling any index makes any warranty, express or implied, as to the results to be obtained by any person or any entity from the use of such index or any data included therein. Neither the Index Provider nor any other party involved in, or related to, making or compiling any MSCI Index makes any express or implied warranty, and expressly disclaims all warranties of merchantability and fitness for a particular purpose or use with respect to such index or any data included therein. Without limiting any of the foregoing, in no event shall an Index Provider or any other party involved in, or related to, making or compiling any index have any liability for any direct, special punitive, indirect, or consequential damages (including lost profits), even if notified of the possibility of such damages. In addition, neither the Exchange, an Index Provider nor any other party involved in, or related to, making or compiling any index shall have any liability for damages, claims, losses or expenses relating to any futures or options contracts that may be caused by any errors or delays in calculating or disseminating such index. "**Index Provider**" as used herein refers to MSCI, FTSE, IISL, NKS or such other index provider and their respective affiliates with whom the Exchange has or shall enter into agreements with for the creation and exploitation of indices and index-linked products.

#### **1.6.5 Notification to Customers.**

Members shall notify Customers of the above exclusion of liability and disclaimer of warranty by the Exchange either by way of inclusion in the contracts granting access to the Markets or such other manner as approved by the Exchange.

## **SCHEDULE 6: GENERAL RISK DISCLOSURE STATEMENT**

This statement does not disclose all of the risks and other significant aspects of trading in capital markets products. In light of the risks, the Customer should undertake such transactions only if the Customer understands the nature of securities, derivatives, and the contracts (and contractual relationship) which the Customer is entering into and the extent of exposure to risk. The Customer should carefully consider whether trading in capital markets products is appropriate in the light of the Customer's own experience, objectives, financial resources, and other relevant circumstances. If in any doubt, the Customer should seek professional advice. Different capital markets products involve different levels of risk and in considering whether to trade or invest in capital markets products, the Customer should be aware of the following points:

### **1. Terms and Conditions of Trading / Investing in Capital Markets Products**

The Customer should read and understand the terms and conditions spelt out (and from time to time amended) in this Agreement between the Parties.

### **2. Joint Account**

Each joint account holder is jointly and severally liable for all debts incurred in a joint account. A joint account may be operated by not more than 2 individuals.

### **3. Risks associated with Trading / Investing in Capital Markets Products**

#### **(a) Price fluctuation**

The price and value of any investment in capital markets products and the income, if any, from them, can fluctuate and may fall against the Customer's interest. An individual security may experience downward price movements and may under some circumstances even become valueless. An inherent risk of trading/investing in capital markets products is that losses may be incurred, rather than profits made, as a result of buying and selling such products.

#### **(b) Suspension or Restriction of Trading**

Market conditions (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g. the suspension of trading in any security because of price limits or trading halts) may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions.

#### **(c) Warrants**

A warrant is a time-limited right to subscribe for securities and is exercisable against the original issuer of the underlying securities. A relatively small movement in the price of the underlying security results in a disproportionately large movement, favourable or unfavourable, in the price of the warrant. The prices of warrants can therefore be volatile. It is essential for anyone who is considering purchasing warrants to understand that the right to subscribe which a warrant confers is invariably limited in time with the consequence that if the investor fail to exercise this right within the predetermined time-scale then the investment becomes worthless.

#### **(d) Securities-Based Derivatives (eg. structured warrants, contracts for differences)**

These instruments may give the Customer a time-limited or absolute right to acquire or sell one or more types of investments which is normally exercisable against someone other than the issuer of that investment. Or they may give the Customer rights under a contract for differences (CFD) which allow for speculation on fluctuations in the value of the underlying capital markets product. The Customer should be aware of the credit, liquidity and market risks associated with these instruments. CFDs carry a high degree of risk as they often involve gearing or leverage, so that a relatively small movement in the price of the underlying investment results in a much larger movement, favourable or unfavourable, in the price of the instrument. The price of these instruments can therefore be volatile. These instruments have a limited life, and may expire worthless if the underlying instrument does not perform as expected.

#### **(e) Equity-linked investments**

These are structured products based on underlying listed securities that offer the potential for high returns but also involve substantial risks including market, liquidity and credit risks. These investments are intended to be held to maturity and are generally for investors who expect the price of the reference security to be stable or moderately bullish in the near future. The principal investment sum and interest are not guaranteed and investors may suffer a capital loss, if the reference security price is below the strike price on determination date, as investors will receive the reference security instead of cash. In providing prices for equity-linked investments, Phillip Nova will enter into the transaction with the customer as principal, unless otherwise stated. Any transaction entered into by the Customer with Phillip Nova could result in a loss to the Customer and a gain to Phillip Nova.

#### **(f) Debt Securities**

Debt Securities and Debt-linked investments offer fixed returns over a defined period and are intended to be held to maturity. These instruments carry a significant amount of risk such as credit, currency and liquidity risks. Credit risk arises from default events that may result in the inability of the issuer to pay interest or principal. Default risk is high when credit rating is non-investment grade or non-rated. In a default situation, the buyer may lose both interest and principal. Currency risk arises from holding Debt Securities that are issued in foreign currency, hence exposing the buyer to fluctuations in exchange rate. There is a high chance that if the currency moves adversely, the buyer may lose more than his original interest and principal. Liquidity risk refers to the availability of prices for buying or selling into a market. It is common for most Debt Securities to suffer from poor liquidity because they are quoted over-the-counter (OTC).

#### **(g) Over-the-counter (OTC) Products**

Over-the-counter (OTC) products are not listed or available on an officially recognised securities exchange, but traded directly between two parties (buyer and seller) on a principal basis, unless otherwise stated. As a result, an OTC transaction is individually negotiated between two parties and the Customer is thus exposed to credit risk of the counterparty in which they enter into bilateral agreement with. In addition, the Customer may be exposed to liquidity risk and Phillip Nova cannot and does not warrant that there is an active trading market and the price Phillip Nova secures for the Customer will at any time be the best price available to the Customer. In entering into an OTC transaction with the Customer, Phillip Nova may make a profit despite the Customer incurring a loss. The Customer should consider carefully whether each OTC product is suitable in light of the Customer's investment experience, objective, financial position, risk propensity and other relevant considerations. The Customer should therefore ensure that they understand the risks associated with OTC products and transactions and seek independent advice, if necessary before making a decision to invest in any of the OTC products.

Where Phillip Nova re-sells an obligation of an Issuer or Third Party, the Customer accepts that Phillip Nova is not obliged to settle the underlying obligation of such Issuer or Third Party and the liability of non-payment by the Issuer or Third party is to be borne by the Customer and that such a transaction shall be deemed settled upon the Customer's payment for the same.

**4. Risk of Margin trading (e.g. share margin financing, contracts for differences)**

The risk of loss in financing a transaction by deposit of collateral may be significant. The Customer may sustain losses in excess of the Customer's cash and any other assets deposited as collateral with Phillip Nova. The Customer may be called upon at short notice to make additional margin deposits or interest payments. If required margin deposit or interest payment is not made within the prescribed time, the Customer's collateral or positions may be liquidated by Phillip Nova at a loss without prior notification to the Customer. The Customer should therefore carefully consider whether such a financing arrangement is suitable in light of the Customer's own financial position and investment objectives.

**5. Commission, Fees, Interest and Other Charges**

The Customer should obtain a clear explanation of all commissions, fees, interest and charges, including charges for the custody of the Customer's investments, and understand that these charges may affect the Customer's net profit (if any) or increase the Customer's loss. The Customer agrees to be liable for these charges (as may be amended from time to time).

**6. Transactions in Other Jurisdictions**

Transactions on markets in other jurisdictions, including markets formally linked to the Singapore market, may expose the Customer to additional risks. Such markets may be subjected to rules that may offer different or diminished investor protection. Before entering into such trades, the Customer should be aware of the rules relevant to the particular transactions. Our local regulatory authority may be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where the Customer's transactions have been effected.

**7. Currency Risks**

The potential for profit or loss from transactions on foreign markets or in foreign currency-denominated securities (traded locally or in other jurisdictions) will be affected by fluctuations in foreign exchange rates.

**8. Trading Facilities and Electronic Trading**

Phillip Nova 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 computer systems, customers will be exposed to risks associated with the systems including the failure of hardware and software. The result of any system failure may be that the Customer's order is either not executed according to instructions or is not executed at all. The Customer should also be aware that the Internet is not a completely reliable transmission medium and there may be delays in service provisions.

**9. Mobile Broking**

If the Customer's trading representative is, or becomes, a member of Phillip Nova's team of mobile trading representatives, he/she will be operating from outside Phillip Nova office premises. The Customer's trade orders will be channeled through Phillip Nova proprietary online electronic broking system for execution. As with any transaction carried out over telecommunications networks, the Customer should be aware that there is the risk of possible delay in trade processing or outages. It is in the Customer's own interest not to provide a 'care-of' or 'PO Box' address as a mailing address for contract notes and statements of account to be sent to. The Customer is also advised to place trade orders only with the trading representative concerned. Complaints, if any, should be directed to Phillip Nova.

**10. Non-Advisory Nature of Relationship**

Unless the Customer has a specific agreement with Phillip Nova for the provision of advisory services or fund management services, the Customer should note and accept that Phillip Nova's relationship with the Customer in relation to the Customer's transactions in capital markets products is purely as an execution-only broker / dealer or as a counterparty to the Customer. In either case, while the Customer is entitled to expect Phillip Nova or its Officer to answer the Customer's queries, the obligation in so answering is only to be honest. Such answers should not be assumed to be backed by any prior reasonable due diligence or research or specifically suitable for reliance by the Customer without the Customer first independently confirming that the answer is intended as specific advice to and is suitable for or to the Customer's specific financial needs and objectives or the Customer verifying the same with the Customer's independent advisers on its specific suitability for the Customer's specific financial needs and objectives.