

Spread Betting Terms of Business



Spread betting carries a high level of risk to your capital. You may win or lose many times your original stake. Only bet with money that you can afford to lose. Debts incurred through spread betting are legally binding and enforceable. Make sure you fully understand the risks involved and take advice if necessary. Spread betting may not be suitable for all customers.

1. Scope of this Agreement

1.1 This Agreement constitutes a contract between you (referred to as "you" or the "Customer") and CMC Spreadbet Plc (referred to as "CMC" or "we" or "us"), whose registered office is at 66 Prescott Street, London, E1 8HG. We are authorised and regulated in the United Kingdom by the Financial Services Authority ("FSA"), whose address is 25 The North Colonnade, Canary Wharf, London, E14 5HS. Our FSA reference number is 170627.

1.2 Based on the information available to us and as permitted by the FSA Rules, we have categorised you as a Retail Client. You will benefit from the regulatory protections afforded to Retail Clients under the FSA Rules. You have the right to request a different client categorisation. However, please note that we only deal with Retail Clients in relation to our spread betting business.

1.3 From 1 November 2007, these Terms of Business supersede any other general terms of business or similar documents that may have been previously issued to you by us. For the avoidance of doubt, all Bets opened prior to 1 November 2007 shall remain enforceable upon the specific terms agreed between you and us, subject to this Agreement.

1.4 We will deal with you on the terms of:

- these Terms of Business;
- the Risk Warning Notice;
- your completed Application Form;
- the summary of our Execution Policy (if applicable);
- section 2 of the Dealing Guide;
- any End User Licence Agreement; and
- any additional terms and conditions issued by us, including those relating to credit accounts and/or other terms issued in respect of transactions contemplated by these Terms of Business,

which together are referred to as this "Agreement".

1.5 Please note that we may, in our discretion, amend or vary these Terms of Business or withdraw in whole or in part any account facility provided to you under this Agreement either on notice or, in specified circumstances, without prior notice. This is considered further at clauses 3, 5, 7, 17, 18, 19, and 20.

1.6 **You must read the Risk Warning Notice and all the other documents supplied to you in connection with this Agreement very carefully.**

You should not sign the Application Form if you are unsure as to the effects of this Agreement or the nature of the risks involved. If you complete, sign and submit the Application Form to us, then you are acknowledging that you have read the documents supplied to you in connection with this Agreement and that you understand and agree that our relationship will be governed by the terms and conditions set out in this Agreement.

1.7 Subject to clause 4.1 of this Agreement, no oral representation shall have any effect under this Agreement unless and until it is first confirmed in writing.

1.8 The Bets that you enter into pursuant to this Agreement are legally enforceable contracts under section 412 of the Act.

1.9 In this Agreement certain words and expressions have the meanings and interpretation set out in the Glossary at clause 25.

2. Our Activities

2.1 We are regulated by the FSA in the conduct of investment business and are licensed as a spread betting bookmaker. We will not conduct spread betting business with you on our premises or in person, rather we conduct such business over the Internet and by telephone.

2.2 **We will deal with you on an execution-only basis at all times. We shall not provide you with any advice on the merits or suitability of you entering into this Agreement or any transaction contemplated by this Agreement, which includes any Bet.** Although we may at our discretion provide you with generic or factual information from time to time on the nature of, and the terminology and procedures involved with, spread betting, we will never provide you with any investment advice. You should rely on your own judgement when deciding whether or not to enter into any transaction contemplated by this Agreement, which includes any Bet.

2.3 When we execute an order on your behalf, we will generally act in accordance with our order execution policy (the "Execution Policy"), as may be amended from time to time. A summary of our current Execution Policy has been provided to you and is also available on our website (www.cmcmarkets.com). You should note that in some circumstances we may deal with you as principal but not act on your behalf in relation to the order, for example where we simply provide a quote for a particular product and then deal as principal, in which case we shall not be obliged to comply with the rules of the FSA on best execution or the Execution Policy.

2.4 We will enter into all transactions contemplated by this Agreement, including all Bets, as principal and not as agent for any other person. Unless otherwise agreed with us, you will also enter into all transactions contemplated by this Agreement, including all Bets, as principal and not as agent for any other person. If you do act as agent for any other person, we shall not treat that person as our client for the purposes of the FSA Rules.

2.5 We will provide you with a Dealing Guide providing guidance on the services that we provide and explaining various matters relating to this Agreement. **You must read the Dealing Guide thoroughly before placing any Bet. If there is any matter that you do not understand fully then you should seek clarification from us before placing any Bet. Section 2 of the Dealing Guide sets out specific additional matters in connection with these Terms of Business and forms part of your Agreement with us.**

2.6 Our trading hours are normally 10pm Sunday to 9.15pm Friday (London time). Generally, we will quote prices and enter into transactions contemplated by this Agreement, including Bets, during those hours. However, we shall not be obliged to quote prices or enter into transactions contemplated by this Agreement, including Bets, outside of these hours or, for certain instruments, when the relevant underlying market is closed. You should refer to section 2 of the Dealing Guide for details of the trading hours for specific instruments.

2.7 Notwithstanding any other provision of this Agreement, in providing our services, we shall be entitled to take any action as we consider necessary in our absolute discretion to ensure compliance with Market Rules, FSA Rules and all other applicable laws.

2.8 You agree strictly to comply with all Market Rules, the FSA Rules and all applicable laws. If we reasonably consider that you have not so complied, we may terminate this Agreement.

3. Your Account

3.1 Following receipt of your Application Form, we may carry out such credit or other checks from time to time as we deem appropriate, including obtaining references from your bank, your employer, credit reference agencies, the electoral register and other reputable sources. Credit reference agencies will record details of the search whether or not your application proceeds. We may use credit-scoring methods to assess your application, to verify your identity and to consider any changes to the way in which your Account is operated. Credit searches and other information which is provided to us and/or the credit reference agencies, about you and those with whom you are linked financially, may be used by us and other companies if credit decisions are made about you, or other members of your household. This information may also be used for debt tracing and the prevention of money laundering as well as for the management of your Account.

3.2 There are two types of account, namely:

3.2.1 a standard deposit account: this type of account requires you to have deposited sufficient cleared funds on your Account to cover your open Bets at all times (the Margin Requirement - see clause 11). As your open Bets are Marked to Market, their value and the corresponding calculation of the Margin Requirement will vary throughout our trading hours in line with movements in our quoted price for the relevant instruments. When determining the amount of funds that you will deposit on your Account, you should take account of potential increases in the Margin Requirement which may occur at any time as your open Bets are Marked to Market. **A failure to meet the Margin Requirement on your Account at any time is a Specified Event (see clauses 11 and 18). The amount of funds provided by you at any time will not limit your liabilities or potential liabilities to us in any way.** We reserve the right to set an account limit which will represent an amount which the Margin Requirement must not exceed. In any event, you are required to deposit a minimum of £1000 initially when opening this type of account; or

3.2.2 a credit account: with this type of account you may not have to provide an initial deposit and we may provide you with a credit allowance. The terms and conditions applicable to credit accounts are set out in separate documentation which we will provide to you upon request.

3.3 If we decide to accept your Application Form, we will open an account for you and provide you with a user ID and account number. You will need to set your own username and password.

3.4 We reserve the right to close or suspend your Account at any time in accordance with the terms of this Agreement.

3.5 All business, including settlement in respect of Bets, will be conducted in pounds sterling unless we agree otherwise in writing.

4. Instructions

4.1 You may give us instructions orally, electronically or in writing EXCEPT THAT trading instructions or instructions otherwise relating to open Bets must be given to us through the CMC trading platform or over the telephone. The persons authorised to give us instructions on your behalf shall be those notified in writing by you to us, for example on your Application Form, and may be varied by written notice to us. We shall not be bound by any such variation until we have actually received such written notice.

4.2 We shall be entitled to act upon the oral, electronic or written instructions of any Authorised Person or any person who appears to us to be an Authorised Person, notwithstanding that the person is not, in fact, so authorised. In particular, we shall be entitled to act upon any instructions or orders transmitted using your username, account number, user ID or password.

4.3 You must keep all security information relating to your Account, including but not limited to your account number, user ID, username and password, confidential. We do not have to establish the authority of anyone quoting your account number, user ID, username or password. If you are aware or suspect that your account number, user ID, username and/or password are no longer confidential then you should contact us as soon as possible so that these may be changed.

4.4 You shall promptly give us any instructions which we may require from you in respect of any transaction contemplated by this Agreement, including any Bet. If you do not provide such instructions promptly, we may, in our absolute discretion, take such reasonable steps at your cost as we reasonably consider necessary or desirable for our own protection or your protection.

4.5 It is your responsibility to remind yourself of key dates, times and events in relation to any transaction contemplated by this Agreement, including Bets, when we may require instructions. You should consult section 2 of the Dealing Guide for examples of such dates, times and events.

4.6 We may (but shall not in any circumstances be obliged to) require confirmation (in such form as we may reasonably request) of any instruction:

4.6.1 if such instruction is to close your Account or remit money due to you; or

4.6.2 if it reasonably appears to us that such confirmation is necessary or desirable.

4.7 For the avoidance of doubt, all Bets are executed by us in real time based on the CMC Spread at that time. It is your responsibility to check that your instructions have been sent properly and that you have sufficient funds to cover all Bets. In particular, we will not be obliged to check that you have sufficient funds in your Account to avoid incurring a debit balance on your Account.

4.8 We may acknowledge instructions orally, electronically or in writing, as appropriate.

4.9 Subject to clause 4.12 any instruction sent via the Internet by you will only be deemed to have been received and shall only then constitute a valid instruction and/or binding transaction between you and us when such instruction has been recorded as executed by us and confirmed by us to you. The mere transmission of an instruction by you shall not give rise to a binding transaction between you and us. You are responsible for making enquiry of us if a confirmation is expected in relation to a transaction but has not been received by you.

4.10 We shall not be liable for any loss, expense, cost or liability (including consequential loss) suffered or incurred by you as a result of, but not limited to, us not receiving corrupted or delayed instructions or any other communications being made by you (for example, via the Internet) and/or us not receiving such instructions or communications. You will be responsible for all instructions in respect of transactions contemplated by this Agreement, including Bets, and for the accuracy of all information sent via the Internet using your user ID, username and password.

4.11 You shall indemnify us and keep us indemnified against all losses which we may suffer as a result of:

<p>4.11.1 any error in any instruction given by an Authorised Person; or</p> <p>4.11.2 acting on any instruction which is, or appears to be, from an Authorised Person.</p>	<p>varied by us at any time at our sole discretion and without prior notice (provided that such variation shall not prevent the full closure of any open Bets); and</p>
<p>4.12 If, after instructions are received, we believe that it is not reasonably practicable to act upon such instructions within a reasonable time, we may defer acting upon those instructions until it is, in our reasonable opinion, practicable to do so or notify you that we refuse to act upon such instructions. We shall not be liable for any losses resulting from such deferral or refusal.</p>	<p>5.5.2 special conditions in relation to any Bet which, by virtue of its size, is deemed by us to be abnormal by reference to the relevant instrument or its volatility or its liquidity. We will notify you of any such special conditions prior to acceptance of your instructions to buy or sell.</p>
<p>4.13 We may also, at our discretion, refuse to accept instructions for any reason including, without limitation, if we believe that complying with such instructions would breach the Act or the FSA Rules.</p>	<p>5.6 A Bet may be closed at any time when we are quoting prices in the relevant instrument as set out in section 2 of the Dealing Guide. We may (but shall not in any circumstances be obliged to) accept closure of a Bet at other times dependent upon underlying market conditions. Please note that we shall not accept any instructions to open or close a MOC Bet during the one hour immediately preceding the time of expiry of the relevant Bet.</p>
<p>5. The Betting Process</p> <p>You must familiarise yourself with the nature of spread betting, the terminology and jargon used and the procedures involved, before you place any Bet.</p> <p>You will also need to familiarise yourself with the types of Bet that may be placed with us (i.e. the instruments involved and their underlying markets) and the particular features involved (e.g. width of CMC Spread, market/index hours, expiry dates and times). All of these details are set out in section 2 of the Dealing Guide.</p>	<p>5.7 Bets will continue until the expiry date of the instrument concerned at which time they will be settled at the price determined by reference to the pricing mechanism set out for the relevant instrument in section 2 of the Dealing Guide and in accordance with clause 6. All Bets, apart from MOC Bets, will then be subject to the roll-over provisions set out at clause 9.</p>
<p>5.1 Generally, we quote a two way price in relation to all instruments. The "CMC Spread" is the difference between the higher and the lower figures quoted. When you make a request to open or close a Bet (or any part thereof) we will quote a price for the specific instrument in which you are interested in opening or closing that type of Bet. We may, however, at any time and without notice, alter the price or the CMC Spread that we are quoting for a particular instrument, including but not limited to the width of the spread, which may vary and is not guaranteed.</p>	<p>5.8 Bets will be closed by you instructing us to buy or sell the same instrument and for the same expiry date in the opposite direction as when you opened the Bet, for the same stake. All Bets (apart from Controlled Risk Bets) can be part closed by you instructing us to buy or sell the same instrument and for the same expiry date in the opposite direction as when you opened the Bet, for an amount less than your original stake but such that the opposite Bet and the remaining open Bet both meet any minimum bet size requirements.</p>
<p>5.2 You open a Bet when you buy or sell. If you buy you are betting that the chosen instrument will go up (you are placing an upbet and going long). If you sell you are betting that the chosen instrument will go down (you are placing a downbet and selling short).</p>	<p>5.9 We do not permit you to hold open Bets to both buy and sell in the same instrument and for the same expiry date. Notwithstanding our acceptance of the relevant instruction, if any such opposing Bets are found to be held we will close all or part of your original Bet according to the respective size of the stake of each Bet.</p>
<p>5.3 If you wish to buy you do so at the higher figure of the two way quote; if you sell, you do so at the lower figure of the two way quote. This also applies when a Bet is closed and, effectively, an order is placed in the opposite direction from the one opening the Bet (see clause 5.8 below).</p>	<p>5.10 If you open a number of Bets in the same instrument and for the same expiry date in the same direction, these will be closed on a first in first out basis (except Controlled Risk Bets which must be closed specifically by reference to the relevant open Bet).</p>
<p>5.4 When you close a Bet before its expiry date, it will be by reference to the CMC Spread at that time and not the spread at the opening of the Bet. The price at which the Bet is struck is by reference to the bet type, the specific instrument concerned and its expiry date. The CMC Spread quoted may differ by reference to whether the underlying market is open or closed, and shall be the spread then quoted by us generally for the opening and closing of such Bets in relation to that specific instrument.</p> <p>Please note that you open or close a Bet by giving us instructions to "buy" or "sell", rather than "open" or "close", a Bet.</p>	<p>5.11 Upon closure of a Bet, payments due to us from you or to you from us will be calculated by reference to the pricing mechanism set out for the relevant instrument in section 2 of the Dealing Guide and in accordance with clause 6. Details of these payments will be set out in the statement of your Account.</p>
<p>5.5 We may impose:</p> <p>5.5.1 minimum and maximum stakes from time to time in relation to particular instruments which may be</p>	<p>5.12 In respect of each Bet and each transaction related to a Bet, we will send you a Contract Note which will, subject to the exceptions described below, be sent on the next Business Day following the day on which the Bet is effected. The Contract Note will not be sent at this time if the Bet is entered into after 10pm (London time) on any Business Day or on a day which is not a Business Day, in which case the Bet will be treated as having been effected on the next following Business Day.</p>
	<p>6. Pricing</p> <p>6.1 The price that we quote indicates the price at which we are prepared to deal with you and it is your responsibility to decide whether or not you wish to deal at that price, save where:</p> <p>6.1.1 we exercise any of our rights to close a Bet; or</p>

6.1.2 a Bet closes automatically under clause 8.2, 8.3, 8.4 or 9.1 otherwise in accordance with your prior instructions.

6.2 Our prices will be calculated in accordance with the provisions set out in section 2 of the Dealing Guide including, where we are obliged to comply with our Execution Policy and the FSA Rules on best execution, the summary of our Execution Policy (as amended from time to time).

6.3 **Your open Bets will be Marked to Market on a continuous basis at any time when we are quoting prices in the relevant instrument as set out in section 2 of the Dealing Guide. You must ensure that you meet the Margin Requirement at all times (see clause 11) taking into account any adverse movements in prices.**

6.4 If you place a Bet which, by virtue of its size, is deemed by us to be abnormal by reference to the relevant instrument or its volatility or its liquidity, it may be subject to special conditions and requirements as notified to you by us at the time you place the Bet. You shall not be obliged to proceed with any order for which special conditions and requirements are imposed by us. In particular, we may quote a revised price or spread applicable to the proposed Bet which you are free, at your absolute discretion, to accept or reject.

6.5 It is possible that errors may occur in the prices quoted by us. In such circumstances, without prejudice to any rights you or we may have under statute or common law, neither party will be bound by any Bet which purports to have been made (whether or not confirmed by us) at a price which was, or ought reasonably to have been, known by the other party to be materially incorrect at the time of the Bet. The party asserting that the Bet is avoided under this clause 6.5 shall give notice to the other within five (5) Business Days of the Bet. If you give us notice under this clause, we shall determine, acting reasonably, whether the price quoted was materially incorrect.

6.6 Furthermore, we will not be bound by any Bet which is executed at a price which varies from the CMC Spread at the time of execution as a result of you affecting, modifying or using the CMC trading platform in such a way that it fails to show changes in the CMC Spread that have occurred since you first placed the order or in any other way that results in the transaction being based on an abnormal price in relation to market or trading conditions. We will give you notice within a reasonable period not exceeding ten (10) Business Days after the order has been placed if the Bet is avoided by us for this reason.

6.7 Except in the case of fraud, we do not accept any liability for any loss or damage suffered by you as a result of your reliance upon a price which you knew, or ought reasonably to have known, to be materially incorrect.

6.8 Details of payments that may be due to you or from you, or adjustments to prices, in respect of Bets based on specific types of instrument (e.g. individual shares) are set out in section 2 of the Dealing Guide.

7. Initial Margin and Notional Trading Requirements

7.1 Each Bet attracts either an initial margin requirement ("Initial Margin") or notional trading requirement ("NTR") which can be determined by multiplying the value of your Bet or your stake (or the proposed value of your Bet or your proposed stake) by the relevant Initial Margin or NTR multiplier as set out in section 2 of the Dealing Guide. The required level of Initial Margin and NTR may be changed by us by amending the Initial Margin and NTR multipliers from time to time, with notice to you in accordance with clauses 11.6, 20.7 and 20.8. Such amendments will apply to all Bets. **It is your responsibility to**

know what the required level of Initial Margin or NTR in respect of each of your open Bets is. You must also ensure that you maintain sufficient additional cleared funds on your Account to meet the Margin Requirement (see clause 11). You may request this information from us at any time (although you will be able to determine it by reference to the on-line information available on your Account together with section 2 of the Dealing Guide).

7.2 You are required to maintain in respect of your standard deposit account, at least, the appropriate level of Initial Margin and NTR on deposit on your Account as against your open Bets. You will also need to ensure that you maintain any necessary Variation Margin on your Account as your open Bets are Marked to Market (see clause 11) in order to meet the Margin Requirement on your Account.

7.3 **Without prejudice to our other rights, we may void any Bet placed in breach of this clause 7 at any time, even if the Bet has been accepted by us. It is your responsibility to ensure that you meet the Margin Requirement on your Account at all times (see clause 11 below).**

8. Stop Loss, Limit and Other Order Types

8.1 We may accept instructions from you for stop loss and limit orders on Bets on terms acceptable to us. Such instructions (given in the manner set out at clause 4) will be to open or close Bets if and when the instrument reaches a level determined by you. The instruction may be indefinite until cancelled by you or executed ("Good 'Til Cancelled" or "GTC" orders), or may be limited to the Business Day on which it takes effect ("Day" orders). You may vary or cancel the stop loss or limit orders on any of your open Bets at any time.

8.2 If instructions are given and accepted in accordance with clause 8.1 of this Agreement, when the level is reached we will act automatically and as soon as reasonably practicable to effect your instruction. If the underlying market moves quickly, the market quotation may go beyond your instructed level before we can carry out your instruction. In any such circumstances, we shall not be liable to you unless the failure to execute your instruction was due to our fraud, gross negligence or wilful default. We only guarantee that a Bet will be closed at an exact level specified by you on Controlled Risk Bets (see clause 8.3 below). No other type of stop loss or limit order level will be guaranteed by us.

8.3 We may, in our absolute discretion and on terms that we specify from time to time, accept a controlled risk or guaranteed stop bet (usually referred to as a "Controlled Risk Bet" or "CRB", but sometimes referred to as a "Guaranteed Stop Loss"). For the purposes of this Agreement, a Controlled Risk Bet will be a different type of instrument from the other types of instrument for which we quote prices, even where the relevant underlying security, basket of securities, stock or other index, exchange rate between currencies or base or precious metal is the same. If you open a Controlled Risk Bet, the Bet (if still open) will be automatically closed at the exact level specified by you, when the instrument reaches or goes beyond that level. Once a Controlled Risk Bet has been opened you may not change the level at which it will be automatically closed, although you may close it yourself in the manner set out in section 2 of the Dealing Guide. We charge a premium in respect of each Controlled Risk Bet, details of which are set out in section 2 of the Dealing Guide. The level of a Controlled Risk Bet will be adjusted by the amount of the premium or discount on a monthly or quarterly roll-over as set out in section 2 of the Dealing Guide.

8.4 We may also, in our absolute discretion and on terms that we specify from time to time, accept a market on close bet ("MOC Bet") for certain instruments. If you open a MOC Bet, the Bet (if still open) will be automatically closed at the official closing price for that instrument on the relevant underlying

market (details of which are set out in section 2 of the Dealing Guide). You should note that MOC Bets will not be subject to the automatic roll-over provisions set out at clause 9 of this Agreement. Please also note that we shall not accept any instructions to open or close a MOC Bet during the one (1) hour immediately preceding the time of expiry of the relevant Bet.

8.5 We reserve the right to revise or replace existing order or bet types and introduce new ones from time to time, upon notice to you, which may be by amendment to section 2 of the Dealing Guide or otherwise. This shall not affect any orders or Bets placed before this notice is deemed to take effect.

9. Roll-overs

9.1 All Bets, except MOC Bets or unless either party indicates to the contrary, will upon their expiry, automatically roll-over into the next contract period for that instrument. However, these automatic roll-over provisions will cease in respect of any particular Bet upon the fifth anniversary of the opening of that Bet. That Bet shall then expire at the end of the contract period immediately following this fifth anniversary, whereupon it will be closed automatically and become due for settlement. Section 2 of the Dealing Guide sets out the specific dates and times of expiry and roll-over for all instruments.

9.2 The roll-over of a Bet may result in a charge (a "Financing Adjustment") being payable from you to us or from us to you, depending on whether you are long or short. In each particular case, the Financing Adjustment is calculated in accordance with the mechanism set out in section 2 of the Dealing Guide and, when applicable, will be detailed separately on the daily statement of your Account.

9.3 We charge an additional premium in respect of the roll-over of a Controlled Risk Bet, details of which are set out in section 2 of the Dealing Guide. As referred to at clause 8.3 above, the level of a Controlled Risk Bet will be adjusted by the amount of the premium or discount on a monthly or quarterly roll-over as set out in section 2 of the Dealing Guide.

9.4 You should consult section 2 of the Dealing Guide for further details on the pricing of Bets subject to roll-over.

10. Bet Size Requirements

10.1 Unless otherwise specified by us from time to time, all Bets are subject to a minimum stake of £1 per point. Subject to clause 10.2, maximum stakes vary according to the relevant instrument and its volatility or liquidity. The maximum stakes for Bets in respect of most instruments are detailed in section 2 of the Dealing Guide, although we may, in our absolute discretion, accept any Bet above these maximum. We may also limit the size of any Bet in the circumstances described under clause 10.2 or such other circumstances as we reasonably consider appropriate.

10.2 In respect of standard deposit accounts, the maximum stake for any Bet related to a specific instrument will usually be your available cash balance (after accounting for the Margin Requirement for your open Bets) divided by the relevant Initial Margin or NTR multiplier for that instrument. However, if you open a Bet for the maximum stake, any adverse movement in the price of the relevant instrument may result in you failing to meet the Margin Requirement on your Account (see clause 11). We strongly recommend that you take into account potential adverse movement in the price of the relevant instrument when calculating the maximum stake and placing your Bet.

11. Margin

11.1 The minimum level of margin that you are required to maintain on your Account at any particular time, by the deposit of cleared funds with us, is known as the "Margin Requirement". In respect of standard deposit accounts, the Minimum Margin Amount is as detailed in section 2 of the Dealing Guide or is an amount such that the aggregate of the cash balance on your Account and notional winnings on your open Bets (shown as "open positions" on the statement of your Account) as Marked to Market exceeds the aggregate of the Initial Margin and NTR and notional losses on your statement of your Account as Marked to Market, whichever is the greater.

11.2 The further amount of cleared funds needed on your Account at any particular time in order to meet the Margin Requirement, in addition to Initial Margin and NTR, is known as Variation Margin. **When depositing funds in respect of Variation Margin that is or may be required to meet the Margin Requirement, you may wish to leave some "headroom" (i.e. you may wish to deposit an amount which exceeds that required to meet the Margin Requirement at that time) depending on your view of your open Bet(s), the volatility of the particular instrument(s) concerned and the underlying market(s), the time it will take for you to deposit further cleared funds on your Account and any other matter which you may consider relevant.**

11.3 You undertake to provide us with and to maintain on your Account at all times sufficient cleared funds in order to meet the Margin Requirement under clause 11.1, and such undertaking shall be deemed to be repeated each time you open a Bet. **A failure to meet the Margin Requirement at any time is a Specified Event and may result in us closing out your open Bets without notice to you (see clause 18).**

11.4 Except in the case of fraud, we do not accept responsibility for any loss or damage suffered by you as a result of you trading on monies deposited in or credited to your Account in error by or upon our behalf.

11.5 For the avoidance of doubt, we shall be entitled at any time to deduct, without notice or recourse to you, any monies deposited in or credited to your Account in error by us or on our behalf.

11.6 You will be able, via on-line access to your Account or by calling us, to access sufficient information to enable you to calculate the amount of cleared funds required on your Account at any time, including those funds required in order to meet the Margin Requirement. **Please note that we may, in accordance with clauses 7.1, 20.7 and 20.8, vary the Initial Margin and NTR multipliers at any time by written notice to you. Where this occurs, you shall have three (3) Business Days from the date specified in the notice to deposit funds on your Account to meet the Margin Requirement based on the new Initial Margin and NTR multipliers applicable to any of your open Bets, provided always that, in the interim period, you continue to meet the Margin Requirement based on the old Initial Margin and NTR multipliers. For the avoidance of doubt, the new Initial Margin and NTR multipliers will apply in respect of any new Bets opened after the relevant notice.**

11.7 It is your responsibility to monitor the Margin Requirements on your Account at all times and ensure that sufficient cleared funds are deposited with us. For the avoidance of doubt, your responsibilities under this Agreement (including, but not limited to, monitoring your open Bets and meeting the Margin Requirement at all times under clauses 11.1, 11.3 and 11.6 above) apply at all times when we are quoting prices for the relevant instrument. Before placing a Bet you should familiarise yourself with the trading hours of the relevant instrument, which are set out in section 2 of the Dealing Guide. For

	example, price movements may affect the Margin Requirement even when the underlying market for that instrument may be closed.		
11.8	We may, but are under no obligation to, make a margin call (including where we have varied the Initial Margin and NTR multipliers) before exercising our rights under this Agreement, which is a request for you to deposit a specific amount of cleared funds on your Account sufficient to ensure that you meet the Margin Requirement at that time. Again, you may wish to leave some "headroom" (i.e. you may wish to deposit an amount which exceeds that requested in the margin call) depending on your view of your open Bet(s), the volatility of the particular instrument(s) concerned and the underlying market(s), the time it will take for you to deposit further cleared funds on your Account and any other matter which you may consider relevant.	11.15	You accept and agree that we shall not be required to issue a margin call and that any demands, calls or notices made or given by us in any particular instance shall not require us to make or give such demand, call or notice in another instance.
		12.	Payment and Set-off
11.9	Please note that where we are not able to provide you with on-line access to your Account due to circumstances within our control, we shall use reasonable endeavours to make a margin call. You should note that where on-line access is not available, you will be provided with the relevant information upon request by telephone.	12.1	We will normally issue to you a daily and a monthly statement of your Account. The statement will advise you of your current balance, any gains or losses and open or closed Bets in the period since the date of the last statement issued to you. We may, in our absolute discretion, alter the frequency of delivery of the statement (which shall be not less than monthly) and we will notify you of such alteration as soon as reasonably practicable.
11.10	If, in our absolute discretion and subject to clause 11.6, we decide to allow you time to forward funds so as to meet the Margin Requirements, our permission will only be effective once it is confirmed by us by notice in writing and only to the extent specified in such notice. Margin calls, if made, will be effected under the notice provisions set out at clause 21 of this Agreement. Please bear in mind that we may close out your open Bets if you do not meet a margin call within the period we may specify in the margin call (which will usually be three (3) Business Days).	12.2	You must pay to us:
11.11	You may make any Margin Payments (or indeed any payment required under this Agreement - see clause 12.3) by telegraphic transfer, a cheque drawn on a UK Clearing Bank, approved debit card, approved credit card, direct debit or by other mutually agreed means of payment. However, only cleared funds will be credited towards the balance of your Account.	12.2.1	such sums of money by way of deposit or margin as we may require under this Agreement, including but not limited to the Margin Requirements;
11.12	You must contact us immediately if you are unable to, or anticipate being unable to, make any Margin Payment when due. Failure to pay any sum due to us, whether in respect of Margin Payments or otherwise, is a Specified Event and may result in us closing out your open Bets without notice to you (see clause 18).	12.2.2	an amount equal to any debit balance shown on the statement of your Account within five (5) Business Days of the date of the statement;
11.13	Given the serious consequences of a failure to meet the Margin Requirement at any time or to make a Margin Payment when due, you are strongly advised to monitor the Margin Requirement on your Account frequently, ensure that we are able to get in contact with you at all times if necessary and be in a position to make Margin Payments from wherever you are.	12.2.3	such sums of money as may from time to time be due to us (including any charges detailed from time to time in section 2 of the Dealing Guide); and
11.14	You should also note:	12.2.4	such other sums of money as we may from time to time require as security for your obligations to us.
11.14.1	you must not rely upon our right to demand Margin Payments as a method of monitoring your open position, as such monitoring is your responsibility and we accept no liability for it;	12.3	You may make any payments due to us under this Agreement as follows:
11.14.2	the level of Margin Payments demanded does not and is not intended to represent your entire liability to us and, subject to clauses 11.6 and 11.10, we may exercise our rights to close out your open Bets if you fail to meet the Margin Requirement at any time even where we have made a margin call; and	12.3.1	if you are a UK resident you may pay by cheque crossed and made payable to "CMC Spreadbet Plc" drawn on a UK Clearing Bank or by telegraphic transfer, approved debit card or approved credit card;
11.14.3	we may (subject to FSA Rules) make certain payment facilities and arrangements available to you following the occurrence of a Specified Event but shall not be obliged to do so. If any such extensions are given by us we will not be required to close any Bets which gave rise to the Specified Event.	12.3.2	if you are a non UK resident payment should be made by telegraphic or electronic transfer to such account as we shall notify for this purpose unless we agree otherwise in writing;
		12.3.3	all electronic or telegraphic transfer or other bank fees in respect of payment by you shall be your sole responsibility;
		12.3.4	if any payment is not received by us on the due date for payment then, without limitation of any other rights which we may have, we will be entitled to charge interest on the overdue amount (both before and after judgement) at the rate of two (2) % above Base Rate from the date payment was due until the actual date of payment;
		12.3.5	if you make a payment by approved debit card or approved credit card we reserve the right to charge an administration fee (details of which are available on request);
		12.3.6	on demand on a full indemnity basis all costs, charges and expenses incurred by us in relation to any overdue payment (including any referral fees);
		12.3.7	any payment made to us will only be deemed to have been received when we receive cleared funds; and
		12.3.8	it is your responsibility to ensure that payments made to us are correctly designated in all respects.

- 12.4** If the statement of your Account shows a credit balance, you may request us to send you a cheque or effect payment by alternative means in respect of such amount. However, we may at our discretion elect to withhold any payment requested (in whole or in part) due to you if:
- 12.4.1** your open Bets are showing notional losses; and/or
 - 12.4.2** we are of the view (acting reasonably) that funds may be required to meet future Margin Payments on open Bets due to underlying market conditions; and/or
 - 12.4.3** in accordance with clause 18.2, you have any contingent liability to us or to any of our Associates in respect of any other account you have opened with them; and/or
 - 12.4.4** we reasonably determine that there is an unresolved dispute between us in connection with this Agreement or any related contract;
- and we shall notify you as soon as reasonably practicable if we decide to take such action.
- 12.5** **In addition to any other right to withhold payment we may, at any time at our discretion and without notice to you, set off any credit balance on your Account or any other sums due to you against any debit balances or any other sums due to us.** If we exercise the right to set-off and it is shown that the amounts due to us exceed the amounts due to you, we will give you notice of this and you shall immediately pay such excess to us.
- 13. Your Money**
- 13.1** You agree and acknowledge that full title to and ownership of all Relevant Amounts has been transferred by you to us or otherwise passed to us for the purpose of securing or otherwise covering your present or future, actual or contingent or prospective obligations under this Agreement, and that such amounts do not constitute and shall not at any time be deemed to constitute client money for the purposes of the FSA Rules. Subject to clause 13.3, the Relevant Amounts will not usually be segregated from our money and may be used by us in the course of our business. You will rank as a general creditor of CMC. You may request us in writing to deal with Relevant Amounts in accordance with clause 13.2 below instead of this clause 13.1, although consequently we will not pay interest on any credit balance on your Account in accordance with clause 13.7 below.
- 13.2** Subject to clause 13.3, we will promptly place any money held on your behalf and not transferred to or held by us pursuant to clause 13.1 above into a client money bank account opened at an approved bank or (subject to any permissions that we may need from FSA) into a qualifying money market fund, in accordance with the FSA Rules.
- 13.3** We will carry out reconciliations at the Close of Business on each Business Day between Relevant Amounts held pursuant to clause 13.1 and amounts held pursuant to clause 13.2, and any required transfer to or from the client money bank account and/or qualifying money market fund, in respect of your Account, will take place on the following Business Day. We reserve the right to carry out such reconciliations and transfers more frequently, should we reasonably consider that this is necessary to protect our or your interests.
- 13.4** You agree that we may cease to treat any money held on your behalf as client money and, accordingly, release it from our client bank accounts, if there has been no movement on your Account for a period of at least six (6) years (notwithstanding any payments or receipts of charges, interest or similar items) and we have been unable to contact you. Such money will, however, remain owing to you and we will make and retain records of all balances released from client bank accounts and will undertake to make good any valid claims against any released balances.
- 13.5** If and when we obtain the requisite permissions from the FSA, we may choose to place client money held on your behalf in a qualifying money market fund. Money held in a qualifying money market fund will not be held in accordance with the FSA client money rules but in accordance with the FSA custody rules. We will notify you before we take such action and you will have the opportunity to instruct us not to take such action.
- 13.6** You agree that we may sell or otherwise dispose of your custody assets if we have received no instructions from you for a period of at least six (6) years and we have been unable to contact you. Any consideration received shall not be treated as client money but such money will, however, remain owing to you and we will make and retain records of all such amounts and we will undertake to make good any valid claims against any disposed assets.
- 13.7** If the balance of your Account exceeds the Interest Qualification Level (as detailed in section 2 of the Dealing Guide) and you have not elected to have Relevant Amounts held within a client money bank account or in a qualifying money market fund, then we will pay interest on such balance, after all respective margins have been deducted, at such rate as we may determine from time to time. This rate will be not less than 4% below Base Rate or, if the Account is in a currency other than sterling, 4% below the base rate equivalent in the country in whose currency the Account is denominated. The rate of interest payable is available from us on request.
- 13.8** If there is a debit balance on your Account, then you will pay interest to us on the full amount of that balance at such rate as we may determine from time to time. This rate will not exceed four (4) % above Base Rate or, if the Account is in a currency other than sterling, four (4) % above the base rate equivalent in the country in whose currency the Account is denominated. The rate of interest payable is available from us on request.
- 14. Indemnity and Limitation of Liability**
- 14.1** You shall indemnify us and keep us indemnified on demand in respect of all liabilities, costs, claims, damages and expenses of any nature whatsoever (present, future, contingent or otherwise and including legal fees) which we suffer or incur as a direct or indirect result of a breach by you of your obligations under this Agreement or us exercising our rights under clause 18 of this Agreement, unless and to the extent such liabilities, costs, claims, damages and expenses are suffered or incurred as a result of our gross negligence or wilful default.
- 14.2** We accept no liability to you for any type of losses, damages, costs or expenses whatsoever (whether direct, indirect or consequential), including loss of profits or loss of opportunity, except in the case of fraud or gross negligence. In particular, we will have no liability for any type of loss or damage suffered by you at any time:
- 14.2.1** when you are unable to communicate with us (including without limitation any loss suffered by you as a result of your inability to open or close Bets);
 - 14.2.2** where we are unable to communicate with you; or
 - 14.2.3** arising from any inaccuracy or mistake in any information given to you by us, except when such liability in each case is a result of our fraud or gross negligence.
- 14.3** This indemnity shall survive termination of this Agreement.

15. Your Warranties and Representations

15.1 You warrant and represent to us that:

- 15.1.1 all information that you supply to us is complete, true, accurate and not misleading in any material respect;
- 15.1.2 you enter into this Agreement and any transactions contemplated by this Agreement, including any Bets, as principal and not as another party's agent or representative;
- 15.1.3 you are not under any legal disability with respect to, and are not subject to any law or regulation which prevents your performance of, this Agreement and any transactions contemplated by this Agreement, including any Bets;
- 15.1.4 you have obtained all necessary consents and have the authority to enter into this Agreement and any transaction contemplated by this Agreement, including any Bet (and if the Customer is a body corporate, you are properly empowered and have obtained all necessary corporate or other authority pursuant to its constitutional and organisational documents);
- 15.1.5 you are in compliance with all laws to which you are subject including, without limitation, all tax laws and regulations, exchange control requirements and registration requirements;
- 15.1.6 you will not enter into any Bet or any transaction relating to a Bet for the purposes of or in connection with any placing, issue, distribution, offer, take-over, merger or other similar corporate finance type transaction;
- 15.1.7 you will act in accordance with the relevant Legislation and Regulations relating to market abuse, manipulation or misconduct, insider dealing and other similar offences; and
- 15.1.8 you will not undertake any act or engage in any course of conduct, other than in the normal course of business, which seeks to alter, distort or otherwise manipulate the relevant underlying market or instrument in relation to a Bet.

The above warranties and representations shall be deemed to be repeated each time you provide us with instructions or enter into any transaction contemplated by this Agreement, including any Bet.

15.2 You undertake that, throughout the duration of this Agreement, you will promptly notify us of any change to the details supplied by you on your Application Form, or any change or anticipated change in your financial circumstances which may affect the basis upon which we undertake business with you.

16. Tape Recording of Conversations and Record Keeping

16.1 You agree that we may:

- 16.1.1 record all telephone conversations between you and us; and
- 16.1.2 use such recordings, or transcripts from such recordings, as evidence in any dispute or anticipated dispute between you and us.

16.2 Recordings or transcripts made by us may be destroyed under our normal practice (usually, but not necessarily, two (2) calendar months from the date of the conversation).

16.3 We strongly recommend that you keep your own records of all communications between you and us (such as instructions and orders) including details of the times, dates and nature of your instructions as these details will be important if there is a dispute between you and us.

17. Termination

- 17.1 Either party may terminate this Agreement immediately by giving written notice to the other.
- 17.2 No penalty will be payable by either party on termination of this Agreement. Termination will not affect any accrued rights. On termination by either party, we may consolidate all or any of your Accounts and may deduct all amounts due to us before transferring to you any credit balances on your Account.
- 17.3 At any time after the termination of this Agreement, we may, without notice, close out any of your open Bets.

18. Default

18.1 **We may, in our absolute discretion and without prior notice to you, close any or all of your open Bets (in whole or in part), place stop loss orders on your Account, exercise our rights to set-off under this Agreement, close your Account, refuse to accept any further Bets from you and/or terminate this Agreement upon any of the following Specified Events:**

- 18.1.1 you fail to meet the Margin Requirement on your Account at any time (subject to clauses 11.6 and 11.10), or your Account goes into deficit;
- 18.1.2 any payment, including any Margin Payment, due to us from you is not paid by the due date;
- 18.1.3 you do not perform your obligations to us under this Agreement or any transaction contemplated by this Agreement, including any Bet;
- 18.1.4 any warranty or representation made by you as set out at clause 15 is or becomes incomplete, untrue, inaccurate or misleading;
- 18.1.5 an application is made for an interim order, or a proposal is made for you to enter into a voluntary arrangement, or a bankruptcy petition is presented to the Court in respect of you, or you enter into a deed of arrangement, or you are deemed unable to pay your debts as defined in Section 123 of the Insolvency Act 1986 (the "1986 Act") or any statutory amendment or re-enactment thereof, or a proposal is made for you to enter into a voluntary arrangement under Part I of the 1986 Act, or a petition is presented for an administration order in respect of you under Part II of the 1986 Act, or a receiver (including an administrative receiver) or manager is appointed in respect of you, whether under Part II of the 1986 Act or otherwise, or a provisional liquidator is appointed under Section 135 of the 1986 Act in respect of you, or you go into liquidation as defined in Section 247 (2) of the 1986 Act (other than a voluntary winding up solely for the purpose of amalgamation or reconstruction while solvent), or a proposal is made for you to enter a scheme of arrangement under Section 425 of the Companies Act 1985 or any statutory amendment or re-enactment thereof, or you seek a moratorium under the Insolvency Act 2000, or you propose any arrangement or compromise with your creditors under parts 1 or 8 of the 1986 Act, section 425 Companies Act 1985 or otherwise;

18.1.6	any circumstance analogous or similar to those set out in 18.1.5 above occurs in relation to you in any jurisdiction;	19.2.1	alter normal trading times;
18.1.7	any regulator of our business or its rules requires; or	19.2.2	alter deposit requirements and/or required levels of Initial Margin and NTR;
18.1.8	we reasonably believe that any of the circumstances set out in paragraphs 18.1.1 to 18.1.7 above are likely to happen and we reasonably believe that such action would be necessary or desirable to protect our position.	19.2.3	amend or vary this Agreement and any transaction contemplated by this Agreement, including any Bet, insofar as it is impractical or impossible for us to comply with our obligations to you;
18.2	When a Specified Event occurs, we may at any time in our absolute discretion and without prior notice to you (and without prejudice to any other rights we may have):	19.2.4	close any or all open Bets, cancel instructions and stop loss, limit or other orders as we deem to be appropriate in the circumstances; or
18.2.1	combine, close or consolidate all or any of your accounts with us or any of our Associates and off-set any and all amounts owed to, or by, us or any of our Associates in such manner as we may reasonably determine; and/or	19.2.5	take or omit to take all such other actions as we deem to be reasonably appropriate in the circumstances, having regard to our position, your position and the positions of other customers.
18.2.2	retain any sum owed by us or any of our Associates to you against any contingent liability owed by you to us or any of our Associates for so long as the contingency subsists; and/or	19.3	We will inform you as soon as reasonably practicable if we determine that a Force Majeure Event exists.
18.2.3	charge you (or debit to your Account) an administration fee in the amount of £200.00 in respect of each Specified Event.	19.4	If we determine, in our reasonable opinion, that a Hedging Event exists in relation to any open Bet then we may (without prejudice to any other rights and at our sole discretion) close the relevant Bets, as we deem to be appropriate in the circumstances. In such cases, we will provide you with one (1) Business Day's notice of our intention to exercise our rights under this clause 19.4.
18.3	You must give notice to us forthwith if you become aware of any of the circumstances set out at clause 20.1 or if you believe that they may occur.	19.5	In the absence of fraud, we shall have no liability to you if we take any action as set out in this clause 19.
18.4	We will, as soon as reasonably practicable, take all reasonable steps to notify you of all action and steps taken by us pursuant to our rights under clause 18.1.	20.	General
19.	Force Majeure and Hedging Events	20.1	Illegality If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.
19.1	We may, in our reasonable opinion, determine that an emergency or exceptional market condition exists (a "Force Majeure Event"), including but not limited to:	20.2	Legal and Regulatory Requirements Nothing in this Agreement shall exclude or restrict any duty or liability owed by us to you under the Act or the FSA Rules and, notwithstanding any other provision of this Agreement, we shall be entitled to take any action that we consider necessary to ensure compliance with the Act and the FSA Rules. In the event of conflict between any provision of this Agreement and the Act or the FSA Rules, the Act and the FSA Rules shall prevail.
19.1.1	where we are, in our opinion, unable to maintain an orderly market, in respect of any one or more of the instruments for which we accept bets, as a result of the occurrence of any act, omission or event (including but not limited to any circumstance beyond our control such as strike, riot, civil unrest or failure of power supply, communications or other infrastructure);	20.3	Betting Duty, Levy and Other Taxation We will be responsible for the payment of any applicable UK betting duty or levy in relation to any transaction contemplated by this Agreement, including any Bet. However, should any change occur in the basis of betting duty, levy or other taxation, which requires us to make any other payment(s) in respect of transactions contemplated by this Agreement, including any Bet, then we reserve the right to deduct any such payment(s) from your Account or otherwise require you to pay or reimburse us for such payment(s).
19.1.2	the suspension, closure, liquidation or abandonment of any underlying market or instrument;	20.4	The tax treatment of Bets may differ according to your personal circumstances and the tax legislation in your jurisdiction (which may change). You may be liable for other charges and taxes that are not imposed by us. You are solely responsible for the timely payment of such charges and taxes. You should seek independent advice if you are in any doubt as to what further charges or taxes may apply to you as a result of you entering this Agreement.
19.1.3	the imposition of limits or special or unusual terms in the underlying markets or instruments;		
19.1.4	the excessive movement, volatility or loss of liquidity in the underlying markets or instruments;		
19.1.5	where we reasonably anticipate that any of the circumstances set out in paragraphs 19.1.1 to 19.1.4 above are about to occur.		
19.2	If we determine that a Force Majeure Event exists then we may (without prejudice to any other rights and at our sole discretion) take any one or more of the following steps:		

20.5 We shall be entitled to deduct or withhold from any payment made under this Agreement or credited to your Account any tax required by law to be deducted or withheld from any such payment or credit. In particular, we will deduct tax at the appropriate standard rate of income tax from any interest payable on money held on your behalf. Higher rate tax payers will have an additional liability. We may, in our absolute discretion, pay interest gross, without the deduction of tax if you are not liable to taxation within a member state of the EU and have provided us with acceptable proof of tax-exempt status. Any interest payable will be paid at the net rate until the appropriate documentation has been processed by us.

Whole Agreement

20.6 This Agreement, together with all Contract Notes and confirmations sent to you in respect of each transaction contemplated by this Agreement, including any Bets, shall form the entire agreement between you and us in relation to our spread betting activities. This Agreement supersedes any prior oral or written representations, arrangements, understandings and/or agreements between you and us which relate to our spread betting activities. Neither you nor us rely on any representation, arrangement, understanding or agreement not expressly referred to or set out in this Agreement.

Variation

20.7 We may vary this Agreement, including section 2 of the Dealing Guide, at any time by written notice to you. Such changes will become effective on the date specified in the notice (which will be at least ten (10) Business Days after the notice is sent), except in the case of variations of the Initial Margin and NTR multipliers and/or the summary of our Execution Policy which may take effect immediately, and will affect all Bets and orders. You have the right to close out your open Bets and/or terminate this Agreement at any time in accordance with the terms of this Agreement. No other changes to this Agreement shall come into effect unless they are in writing and signed by one of our directors.

20.8 We may at any time by written notice to you cease to accept Bets in respect of a specific underlying. The notice will specify a date on which we will cease to accept such Bets and this date will be at least ten (10) Business Days after the notice is sent. You agree to close out all open Bets in relation to that specific underlying prior to the date specified in the notice. If not, we will close out any remaining open Bets in respect of that underlying on the date specified in the notice with effect from close of trading on that day and at a price to be determined by us with reference to the CMC Spread and the size of the Bets concerned.

Assignment and Delegation

20.9 You may not assign any of your rights or delegate any of your obligations under this Agreement to any person without our prior written consent.

20.10 You may not charge any or all of your rights under this Agreement, including any rights to deposits held with us.

20.11 We may assign our rights or delegate our obligations under this Agreement and any transaction contemplated by this Agreement, including any Bet, to any person on giving you not less than one (1) month's notice.

Rights and Remedies

20.12 The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

Delay, Omission and Waiver

20.13 No delay or omission on our part in exercising any right, power or remedy provided by law or under this Agreement, or partial

or defective exercise thereof, shall:

20.13.1 impair or prevent further or other exercise of such right, power or remedy; or

20.13.2 operate as a waiver of such right, power or remedy.

20.14 No waiver of any breach of any term of this Agreement shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of a particular breach.

Governing Law and Jurisdiction

20.15 This Agreement and any transaction contemplated by this Agreement, including any Bet, shall be governed by, and construed in accordance with, English law.

20.16 Both parties to this Agreement irrevocably agree, for the benefit of us only, that the courts of England and Wales shall have jurisdiction to hear all and any disputes, controversies or claims (of any and every kind or type, whether based on this Agreement, tort, statute, regulation or otherwise) arising out of, relating to, or connected with this Agreement, including as to its construction, validity, interpretation, enforceability or breach (a "Dispute") and, for such purposes, irrevocably submit to the jurisdiction of the courts of England and Wales. You agree to waive any right you may have now or in the future to object to the courts of England and Wales being nominated as the forum to hear any Dispute, and you irrevocably agree only to bring proceedings in the courts of England and Wales. The submission to the jurisdiction of the courts of England and Wales shall not limit our right to take proceedings against you in relation to any Dispute in any jurisdiction that we consider appropriate nor shall the taking of proceedings in one or more jurisdictions preclude us from taking proceedings in any other jurisdiction, whether concurrently or not, if and to the extent permitted by applicable law.

Rights of Third Parties

20.17 Nothing in this Agreement is intended to confer on any person any right to enforce any term of this Agreement which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

Conflicts of interests

20.18 We, or our Associates, may have an interest or relationship which conflicts with your interests or our duties to you. We have established and implemented a conflicts of interests policy (which may be revised and updated from time to time) pursuant to the FSA Rules, which sets out how we must seek to identify and manage all material conflicts of interests.

20.19 Depending on the exact nature of the conflict of interest involved, we may take certain actions in accordance with our conflict of interests policy to mitigate the potential impact of the conflict. Such actions may include putting in place controls between the opposing sides of the conflict, which may control or prevent the exchange of information, and/or involve the appropriate management of staff activities and segregation of duties. If a material conflict arises and we are unable to satisfactorily mitigate the risk to a client, we may manage such conflict by disclosing the interest to you.

20.20 You will be aware that the main conflict that arises is that we deal as principal and act as a market maker in relation to all Bets and related transactions. If you wish to have further information on the conflicts of interests policy, or on any specific conflict of interest that you think might affect you, please contact us.

20.21 You agree that we may share our remuneration or profits with our Associates or other third parties, or pay remuneration to the same, in respect of Bets entered into by you with us. Details of any such remuneration or sharing arrangements will

usually be made available to you. If you have been introduced to us through a third party (including any person representing themselves as a 'CMC Partner'), please note that our relationship with that party does not and shall not be deemed to constitute a partnership or joint venture or an agency relationship.

writing within three (3) Business Days of receiving a document of any mistake, error or inaccuracy in such document.

21. Notices and Communication

21.1 Subject to clauses 4.1 and 21.2, any notice or other communication given or made under or in connection with the matters contemplated by this Agreement shall, except where oral communication is expressly provided for, be in writing and shall be sent to the addresses below:

Name of Party : CMC Spreadbet Plc

Address: 66 Prescott Street, London, E1 8HG.
United Kingdom

Tel No: +44 (0)20 7170 8200

Fax No: +44 (0)20 7170 8499

Email address: Helpdesk@cmcplc.com

Customer: The address, telephone and facsimile numbers and electronic mail address provided by you for this purpose.

21.2 Any such notice shall be deemed (in the absence of evidence to the contrary) to have been received:

21.2.1 if delivered personally or by hand, at the time of delivery;

21.2.2 if posted, within three (3) Business Days after posting;

21.2.3 if verbal, whether by telephone or face to face, when actually given;

21.2.4 if by leaving a message on a telephone answering machine or voice mail, one hour after the message was left;

21.2.5 if sent by facsimile, one hour after completion of its transmission; and

21.2.6 if sent by electronic mail, one hour after sending unless a "not sent" or "not received" message is received from your electronic mail provider.

21.3 You confirm that you have regular access to the Internet and consent to us providing you with information, including information about our Execution Policy and information about the nature and risks of spread betting, by electronic mail or by posting such information on our website at www.cmcmarkets.com or such other website as we may from time to time notify to you.

21.4 You may alter the address, facsimile numbers and electronic mail address to which Contract Notes, statements and other communications are issued by written notice from us and we may notify you of a change to any of our details as stated above provided in either case that such alteration shall only be effective on the date specified in the notice (which shall not be before the date such notice is deemed to have been received).

21.5 Any notice (including any notice to terminate this Agreement) or other communication to be given by us under this Agreement, including Contract Notes and monthly statements, may be sent to you in electronic form. You should verify the contents of each document received from us as, in the absence of manifest error, they shall be conclusive unless you notify us in

21.6 You irrevocably authorise us to communicate with you by letter, telephone, facsimile or electronic mail, to discuss matters in relation to your Account, at any time whatsoever unless specifically requested otherwise by you in writing.

21.7 All communications between you and us shall be in English.

22. Data Protection

22.1 In entering into and in connection with this Agreement you will be providing us with personal information within the meaning of the Data Protection Act 1998. You consent to us processing all such information for the purposes of performing this Agreement and also for the purposes of administering the relationship between you and us, and we may share your personal information with our Associates, our marketing partners, your introducing broker or agent (if any) and update providers and other suppliers for such purposes. We may also share your information with your introducing broker or agent (if any) to enable them to administer their relationship with you. We may also use the information for analysis and improving and developing our products and services.

22.2 You agree that we may also use such information, for marketing to you or our Associates' products and services, and those of third parties which we consider may be of interest to you, and we also may share such information with our Associates, our marketing partners and your introducing broker or agent (if any), and update providers and other suppliers for such purposes. You may notify us at the time you enter into this Agreement or anytime in writing if you do not want us to use or share such information for all or some of these marketing purposes.

22.3 You agree we may transfer such information to countries outside of the EEA for the above purposes, which may not afford the same level of data protection as within the EEA.

22.4 If you request, on payment of a fee, which is currently £10, we will provide you with a copy of such information we hold in line with the Data Protection Act 1998.

23. Disputes and Complaints

23.1 You should inform us immediately in writing of any dispute or complaint you may have in relation to this Agreement. We will endeavour to investigate any dispute or complaint as soon as reasonably practicable and will notify you of the results of our investigation. If you are unhappy or dissatisfied with our handling or findings in relation to your dispute or complaint you may refer the matter to the Financial Ombudsman Service for further investigation. Please contact us if you would like a copy of the explanatory booklet issued by the Financial Ombudsman Service detailing their procedures. You may also wish to ask your local Citizens Advice Bureau or Trading Standards Service for advice on your statutory rights.

23.2 We reserve the right to take any action necessary, including closing any Bet which is the subject of a dispute or complaint notified to us, for the purpose of limiting the amounts involved in such dispute or complaint. We will inform you if we exercise this right, which shall be without prejudice to either your rights and remedies or our rights and remedies. Any action taken by us pursuant to this clause 23.2 will not be deemed to be an admission on our part.

24. Compensation

24.1 We are covered by the Financial Services Compensation Scheme. You may be entitled to compensation from the

scheme if we cannot meet our obligations. This depends on the type of business your status and the circumstances of the claim. Most types of investment business are covered for 100% of the first £30,000 and 90% of the next £20,000, so the maximum compensation is £48,000. Further information about compensation arrangements is available from the Financial Services Compensation Scheme. You can contact the Financial Services Compensation Scheme by writing to the Financial Services Compensation Scheme, 7th Floor, Lloyds Chambers, Portoken Street, London, E1 8BN, or by emailing them at the email address provided on the Financial Services Compensation Scheme website at www.fscs.org.uk.

25. Glossary

25.1 The defined terms used in this Agreement are capitalised and set out below:

"Account" means the trading account opened by you in respect of your dealings with us in accordance with clause 3;

"Act" means the Financial Services and Markets Act 2000 and any equivalent legislation or regulations in a foreign jurisdiction;

"Agreement" has the meaning as set out in clause 1.4 of these Terms of Business;

"Application Form" means the form(s) that we require you to complete when applying for an Account;

"Associate" has the meaning given to it by the FSA Rules;

"Authorised Person" means you or a person authorised by you to give instructions to us on your behalf, as referred to at clause 4.1;

"Base Rate" means the base rate from time to time of Lloyds TSB Bank plc;

"Bet" means a contract for differences entered into between you and us pursuant to this Agreement in respect of single securities, baskets of securities, stock or other indices, exchange rates between currencies and base and precious metals and any transaction related to such contract;

"Business Day" means:

- (a) in relation to specific Bets, any day on which the underlying market in relation to the relevant instrument is open for trading, and shall exclude any day on which all trading on the relevant market is closed or suspended; and
- (b) for all other purposes, any day (other than a Saturday or Sunday) on which banks are open for business in London;

"Close of Business" means 10pm (London time);

"CMC Spread" means the difference between the bid and offer prices quoted by us in relation to single securities, baskets of securities, stock or other indices, exchange rates between currencies and base and precious metals, for which may accept Bets from time to time;

"Contract Note" means a document confirming entry into a transaction contemplated by this Agreement, including a Bet;

"Controlled Risk Bet" or **"CRB"** means a Bet of the type referred to at clause 8.3 and which is alternatively known as a Guaranteed Stop Loss;

"Dealing Guide" means the guide that we produce relating to the conduct of spread betting by you (as amended from time to time);

"End User Licence Agreement" means any agreement that we and/or one of our Associates enters into with you in respect of software or other technology to enable you to trade with us or otherwise manage your Account;

"Execution Policy" means the policy referred to at clause 2.3;

"Financing Adjustment" means the financing amount associated with the roll-over of a Bet as referred to at clause 9.2;

"Force Majeure Event" means any of the events covered by clause 19.1;

"FSA" means The Financial Services Authority Limited or any

successor regulator;

"FSA Rules" means the rules, bylaws, regulations, rulings and decisions of the FSA;

"Good 'Til Cancelled" or **"GTC"** means that your instructions will remain indefinite until either cancelled by you or executed accordingly;

"Guaranteed Stop Loss" means a Bet of the type referred to at clause 8.3 and which is alternatively known as a Controlled Risk Bet or CRB;

"Hedging Event" means, with respect to any Bet, we are unable or it is impractical for us, after using reasonable efforts, to acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction or asset we deem necessary or appropriate to hedge our price risk relating to the Bet;

"Initial Margin" means the amount of cleared funds that need to be deposited on your Account in order to open a particular Bet in relation to certain types of instrument, as referred to at clause 7.1 above;

"Interest Qualification Level" has the meaning given to it in section 2 of the Dealing Guide;

"Legislation and Regulations" means the Act, the FSA Rules, and any other applicable laws and rules, which apply to you or us in relation to our activities under this Agreement;

"Margin Payment" means any deposit or payment that you make or are required to make on your Account under the terms of this Agreement, in respect of the Margin Requirement, Initial Margin, Notional Trading Requirement, Variation Margin or similar;

"Margin Requirement" means the amount of cleared funds required on your Account at any particular time in order to maintain your open Bets, calculated in accordance with clause 11.1 above;

"Marked to Market" the process by which your open Bets are valued at any particular time, using the mid-price for the prices that we are quoting for the relevant instruments at that time (see section 2 of the Dealing Guide), and by which your notional winnings and/or losses on those Bets are used to calculate your Margin Requirement on an ongoing basis;

"Market Rules" means the rules, regulations, customs and practices from time to time of any exchange, clearing house or other organisation or market involved in the conclusion, execution or settlement of a transaction or contract and any exercise by any such exchange, clearing house or other organisation or market of any power or authority conferred on it;

"Minimum Margin Amount" means the amount referred to in the Rates Schedule of section 2 of the Dealing Guide;

"MOC Bet" or **"MOC"** means a Bet of the type referred to at clause 8.4;

"Notional Trading Requirement" or **"NTR"** means the amount of cleared funds that needs to be deposited on your Account in order to open a particular Bet in relation to certain types of instrument, as referred to at clause 7.1 above;

"Relevant Amounts" means, for purposes of Clause 13.1, all amounts transferred to us by you or credited by us to your Account, which is held to meet the Margin Requirement;

"Retail Client" has the meaning given to it by the FSA Rules;

"Risk Warning Notice" means any notice that we supply to you in relation to the risks associated with entering into transactions contemplated by this Agreement, including Bets;

"Specified Event" means any of the events listed at clause 18;

"Terms of Business" means the standard terms and conditions upon which we conduct spread betting business (as amended from time to time); and

"Variation Margin" means the further amount of cleared funds needed on your Account at any particular time, in addition to Initial Margin and Notional Trading Requirements, in order to meet the Margin Requirement, as referred to at clause 11.2 above.

- 25.2** In this Agreement any reference to a person shall include bodies corporate, unincorporated institutions, partnerships and individuals.
- 25.3** The headings to the clauses are for convenience only and shall not affect the interpretation or construction of this Agreement.
- 25.4** Words importing the singular only shall include the plural and vice versa, words importing the masculine shall include the feminine and the neuter and words importing persons shall include bodies incorporated and unincorporated.
- 25.5** Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted.
- 25.6** References to clauses, recitals and schedules are references to clauses of and recitals and schedules to this Agreement and references to sub-clauses are, unless otherwise stated, references to sub-clauses of the clause in which the reference appears.

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