

TERMS AND CONDITIONS – Energy

issued by **42 Financial Services a.s.**, a company with its registered office at Klimentská 1216/46, 110 02 Prague 1, Czech Republic, Id. No.: 28492722, Tax Id. No.: CZ28492722, registered in the Commercial Register kept by the Municipal Court in Prague under File No. B 19423 (the “**Broker**”), on 1 August 2021 (the “**Terms and Conditions**”)

Article 1 – Introduction

- 1.1. These Terms and Conditions determine the contents of the legal relationship between the Broker and a person (the “**Client**”; the Broker and the Client jointly as the “**Parties**”) who has entered into the Agreement on Access to the Trading System and Provision of Related Services (the “**Agreement**”) and the related REMIT Reporting Services Agreement with the Broker in relation to the Energy part of the OTF operated by the Broker.
- 1.2. These Terms and Conditions enter into effect between the Parties upon execution of the Agreement, or at the moment the client starts to use and any time it uses the services regulated by these Terms and Conditions provided by the Broker, in case such moment occurs before or without execution of the Agreement.
- 1.3. Unless these Terms and Conditions or a mutual agreement of the Parties specifies otherwise, the Broker may not enter into any transactions on behalf or account of the Client, nor perform any other legal acts on behalf or account of the Client.
- 1.4. The provision of any performance based on the Agreement is not exclusive and the Client may authorise any third party to arrange for the same matters for him/her as the Broker. The Broker may also perform the same activities that form the subject of the contractual relationship between the Broker and the Client for other clients.

Article 2 – Definitions and interpretation of the Terms and Conditions and other documents

- 2.1. Capitalised terms have the following meaning in these Terms and Conditions, Supplementary Documents, the Agreement and the REMIT Reporting Services Agreement:
 - a) **42FS Contact List** means a list of persons and employees of the Broker authorised or empowered by the Broker to act on behalf of the Broker in connection with the Agreement;
 - b) **42FS Rulebook** means a document designated as 42FS Rulebook, which contains a set of binding rules for access to and trading in the OTF operated by the Broker, including checks and measures that the Broker may apply to the OTF participants within the OTF operated by the Broker, including all subsequent changes and supplements to this document;
 - c) **ACER** means The Agency for the Cooperation of Energy Regulators established by Regulation (EC) No 713/2009 of the European Parliament and of the Council;
 - d) **AML Act** means Act No. 253/2008 Coll., on certain measures against legalising the proceeds of crime and financing of terrorism, as amended;
 - e) **Price List** means an overview of the fees and charges billed by the Broker for the provision of services and the amounts of any other payments under the Agreement and the related REMIT Reporting Services Agreement;
 - f) **DEA (Direct Electronic Access)** means arrangements where the Client permits another person electronic transmission of orders relating to a financial instrument or commodity, based on the Agreement between the Client and the Broker and using the trading code of the Client, directly to the trading system operated by the Broker and includes
 - i. DMA (Direct Market Access), which means arrangements which involve the use by a person of the infrastructure of the Client, or any connecting system provided by Client, to transmit the orders and
 - ii. Sponsored access, which means arrangements where such an infrastructure is not used by a person;
 - g) **DEA user** means a person to which the Client provides DEA relating to emission allowances;
 - h) **Derivatives for Emission allowances** means investment instruments within the meaning of Section 3(1)(d) of the Capital Market Undertakings Act and Annex I, Section C (4) of MiFID II,

- i) **Supplementary Documents** mean the Price List, 42FS Rulebook, Information Documents and other documents to which these Terms and Conditions refer;
- j) **VAT** means value added tax;
- k) **Electronic Trading System** means an electronic system to which the Broker will provide access or the use of which it will authorise for the purposes of providing services under the Agreement;
- l) **Emission allowance** means investment instruments within the meaning of Section 3(1)(l) of the Capital Market Undertakings Act and Annex I, Section C (11) of MiFID II;
- m) **Energy** means the part of the OTF operated by the Broker which is used for the intermediation of transactions with Emission allowances, Derivatives for emission allowances and Commodity derivatives;
- n) **GDPR** means Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- o) **Information Documents** mean 42FS Contact List, 42FS Execution Policy, 42FS Electronic User Guide, 42FS Product Schedule, 42FS Conflict of Interests Policy, 42FS Client Instruction Prior to the Provision of Investment Services, 42FS Information on Investment Instruments and Associated Risks; 42FS Client Categorization, 42FS Rate Card, 42FS Information on the Deferred Publication of the Details of Transactions, 42FS Costs and Fees Associated with Investment Instruments, Principles of personal data processing in 42 Financial Services and any other documents provided by the Broker to the Client in the manner specified in Article 4 of the Agreement;
- p) **DEA Client** means a Client who provides DEA possibilities for other person (DEA user);
- q) **Commodity derivatives with financial settlement** mean investment instruments within the meaning of Section 3(1)(g) and (h) of the Capital Market Undertakings Act and Annex I, Section C (5) and (6) of MiFID II, whose underlying asset is electricity, natural gas or the price or index of electricity or natural gas prices;
- r) **Commodity derivatives with mandatory physical settlement (REMIT carve-out products)** mean wholesale energy products according to Art. 2 (4) of REMIT traded on an OTF that must be physically settled, whose underlying asset is electricity or natural gas, ie. the products exempted from the definition of investment instrument within the meaning of Section 3(1)(h) of the Capital Market Undertakings Act and Annex I, Section C (6) of MiFID II;
- s) **Client Contact List** means a form provided to the Client by the Broker, containing a list of persons and employees of the Client authorised or empowered by the Client to act on behalf of the Client in connection with the Agreement, including contact details of these persons and employees;
- t) **MiFID II** means Directive (EU) 2014/65/EU of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and 2011/61/EU;
- u) **MiFID Questionnaire** means a form provided to the Client by the Broker, containing a list of data, information and underlying documents requested by the Broker from the Client to comply with the reporting duties following for the Broker from the legal regulations governing the provision of investment services;
- v) **MiFID II Instruments** mean investment instruments within the meaning of Section 3 of the Capital Market Undertakings Act and Annex I, Section C of MiFID II;
- w) **MiFIR** means Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments and amending Regulation (EU) No 648/2012;
- x) **Non-MiFID II Instruments** mean products other than an investment instrument within the meaning of Section 3 of the Capital Market Undertakings Act and Annex I, Section C of MiFID II;
- y) **Trading Limits** mean internal limits specified on the basis of legal regulations, the Client's internal regulations or the Client's internal risk management processes as regards the permitted counterparties in Transactions and/or the volume or tenor/maturity of Transactions;
- z) **Client Onboarding** means the process of identification, checks and acceptance of the Client as a participant in the OTF operated by the Broker, negotiating on and entering into a contractual relationship with the Client, entering the Client in the Broker's systems and other acts necessary for the Broker to be able to begin providing services to the Client under the Agreement in accordance with all the relevant legal regulations and internal regulations of the Broker;
- aa) **OTF** means an organised trading facility within the meaning of Title V of the Capital Market Undertakings Act and Art. 4 (1)(23) MiFID II;
- bb) **Civil Code** means Act No. 89/2012 Coll., the Civil Code, as amended;

- cc) **REMIT** means Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency;
- dd) **REMIT Questionnaire** means a form provided to the Client by the Broker, containing a list of data, information and underlying documents requested by the Broker from the Client to comply with the reporting duties following from REMIT and/or for the purposes of internal recordkeeping of person authorised to place orders on behalf and on account of the Client;
- ee) **RRM** means an entity registered as an Registered Reporting Mechanism with ACER authorised to provide ACER with records of wholesale energy markets transactions, including orders to trade, within the meaning of Art. 8 REMIT;
- ff) **Transaction** means the following wholesale energy market transactions and transactions on the markets with Emission allowances:
 - i. Spot transaction in commodity or Emission allowance;
 - ii. derivative transactions (Forward, future, spread, swap, options etc.);
 where the specific scope of the types of Transactions currently traded in the OTF operated by the Broker is defined by the currently applicable 42FS Product Schedule;
- gg) **VAT Act** means Act No. 235/2004 Coll., on value added tax, as amended;
- hh) **Capital Market Undertakings Act** means Act No. 256/2004 Coll., on capital market undertakings, as amended;

- 2.2. In case of any variance among the Agreement, the related REMIT Reporting Services Agreement, Terms and Conditions, 42FS Rulebook and any other documents referred to in the Terms and Conditions, the wording of the relevant document shall apply. The one of the contradictory documents which is specified in the following list above the other contradictory document(s) shall be used as the relevant document:
 - a) 42FS Rulebook;
 - b) REMIT Reporting Services Agreement;
 - c) Agreement;
 - d) Terms and Conditions; and
 - e) Information Documents and other Supplementary Documents.
- 2.3. Without prejudice to the determination of the relevant document pursuant to the preceding paragraph, if the text of the thus-determined relevant document is at variance with an imperative (mandatory) rule of a legal regulation, such an imperative rule shall always apply.
- 2.4. The rights and obligations of the Parties and the wording of the Agreement, the related REMIT Reporting Services Agreement, the Terms and Conditions and the Supplementary Documents shall not be construed at variance with the linguistic expression of their individual provisions. Customs of trade, whether applicable generally or in a given sector, shall not prevail over the contents of the obligations expressly stipulated in the Agreement, the related REMIT Reporting Services Agreement, the Terms and Conditions or Supplementary Documents.

Article 3 – Obligations of the Client

- 3.1. The Client is obliged to provide the Broker with all the data and information required by the Broker and all the collaboration required by the Broker for the performance of Client Onboarding, including, but not limited to, submit to client identification and checks within the meaning of the AML Act, provide the Broker with the necessary contact details and provide the Broker with data necessary for the performance of the Broker's reporting duties following from the legal regulations governing the provision of investment services and the Broker's obligations following from the legal regulations in the course of the fulfilment of the REMIT Reporting Services Agreement. The Client performs the obligation to provide the Broker with the necessary contact details by properly filling in the Client's Contact List and handing the properly filled-in Client's Contact List over to the Broker. The Client performs the obligation to provide the Broker with data necessary for the performance of the Broker's reporting obligations following from the legal regulations governing the provision of investment services by properly filling in the MiFID Questionnaire and handing the properly filled-in MiFID Questionnaire over to the Broker. The Client performs the obligation to provide the Broker with data necessary for the performance of the Broker's obligations following from the legal regulations in the course of the fulfilment of the REMIT Reporting Services Agreement by properly filling in the REMIT

Questionnaire and handing the properly filled-in REMIT Questionnaire over to the Broker. The Broker may specify the form in which the Client is obliged to provide further data and information necessary for the Client Onboarding process. Once the Broker completes the Client Onboarding process, the Broker shall confirm this fact in writing and provide the Client with access to the OTF.

- 3.2. The Client is obliged to place orders exclusively using the agreed telephone contact or contact via the Electronic Trading System. Other rules concerning the placement of orders, and their modification or cancellation; rules concerning the individual types of orders; mandatory and other requisites of orders; processing of orders including their execution, partial execution, non-acceptance or rejection; any combination of the Client's orders with orders placed by other persons; and other facts related to orders shall be specified by the Broker in the 42FS Rulebook.
- 3.3. The Client is obliged to place orders exclusively through a person authorised to this effect according to the MiFID/REMIT Questionnaire. The Broker may also verify the identity of the relevant authorised person by asking for personal data of the given authorised person known to the Broker, by asking for a password agreed in advance or in some other suitable manner. The Client is obliged to act as to prevent unauthorised placement of orders. The Broker is not obliged to compensate the Client for any damage incurred as a result of an order placed by a person other than the authorised person.
- 3.4. The Client is obliged to use the Electronic Trading System which is operated by the Broker or to which the Broker provided access exclusively for the purpose for which the system is intended, i.e. solely to place orders for Transactions, execute Transactions and receive information, in accordance with all the legal regulations and the Agreement and pursuant to the 42FS Rulebook.
- 3.5. The Client is obliged to properly declare and pay all taxes and any other mandatory payments and perform all the duties following for the Client from tax legal regulations in connection with the Transactions. In case the client provides the access to the OTF to a DEA user, the Client is obliged to make sure that the obligations in accordance with the previous sentence are fulfilled by the DEA user.
- 3.6. Without delay after the Broker notifies the Client of the business name of the counterparty to a Transaction, the Client is obliged to check the Trading limits that condition or otherwise restrict the possibility of concluding a transaction with the given counterparty.
- 3.7. The Client is obliged to provide the Broker, properly and in due time, with all information and all necessary collaboration necessary for the Broker's activities, in particular for the Broker to be able to perform its duties under the Capital Market Undertakings Act, the AML Act and other legal regulations. The Client is obliged to ensure that all information provided to the Broker is true and complete, and is not distorted or misleading. Furthermore, the Client is obliged to notify the Broker of any changes or updates to any information previously provided to the Broker.
- 3.8. The Client is not obliged to enter into Transactions with a counterparty found by the Broker.
- 3.9. DEA Client is obliged to inform the Broker in advance in writing that it intends to start providing DEA access. DEA client is obliged to ensure that all the obligations of the DEA Client following from the Agreement will be appropriately followed also by the DEA users. Without prejudice to the provisions of the previous sentence, DEA client is fully responsible also for the orders placed by the DEA user and the transactions concluded using the DEA service. DEA client is obliged to submit to a control performed by the Broker, to the extent necessary as defined by the Broker, and provide the Broker with all information and all cooperation required by the Broker to fulfil its obligations following from legal regulations, especially for the purposes of regulatory reporting. When appointing DEA users from among its clients, the DEA client is obliged to follow any conditions or parameters defined by the Broker. DEA client is obliged to assign to each of its DEA users a unique identification code allowing for reliable identification of the DEA user and for differentiation of the orders and transactions of one DEA user from orders and transactions of the Client or other DEA users and monitoring of such orders and transactions. DEA client is obliged to monitor the orders placed by the DEA user on an ongoing basis.

- 3.10 Client who requires the Broker to provide supplementary service of setting of Trading limits is obliged to provide the relevant Trading limits to the Broker in a form required by the Broker in adequate time before the required effective date of the limits. The Client is obliged to notify the Broker of any Changes in the Trading limits in adequate time before required effective date of the changes. The Broker is not obliged to compensate any damage resulting from the fact that the Client provided to the Broker incorrect, inaccurate or otherwise defective information, of if it provided the information to the Client in other than required form or later than required by this paragraph.
- 3.11. If it is stipulated in the Agreement that the Broker will provide the services according to Art. 2.3.1 of the Agreement, the Client is obliged to provide the Broker with all necessary cooperation and information which the Broker requires for providing information on the Client's orders and transactions for the purposes of REMIT reporting as further specified in the related REMIT Reporting Services Agreement.

Article 4 – Obligations of the Broker

- 4.1 The Broker is obliged to perform activities aimed to ensure that the Client can enter into a Transaction with another Broker's client(s) under the terms specified in the Client's order. The Client acknowledges and agrees that Transactions arranged by the Broker are concluded by the Client on the Client's own behalf and account. The Client is aware of all the risks associated with the conclusion and settlement of Transactions with third parties, including, but not limited to, potential credit risk, market risk, liquidity risks, interest-rate risk, foreign-exchange risk, off-balance risk, and legal and tax risks. The Broker is not obliged to compensate any damage incurred as a result of the degree of third party's creditworthiness, or the ability or inability of a third party to perform its obligations in connection with a Transaction or other obligations following from the relevant agreement, legal regulation or any other legal cause.
- 4.2. The Broker is obliged to perform its obligations towards the Client fairly, while exerting all the necessary care, using all the necessary knowledge and experience, and with good intentions. The Broker is obliged to respect the Client's interests in the performance of its obligations.
- 4.3. The Broker is obliged to accept and act in line with the Client's orders placed in accordance with the 42FS Rulebook.
- 4.4. The Broker is obliged to monitor the OTF operated by the Broker and, based on the Client's orders, seek suitable counterparties, i.e. other Broker's clients, in the OTF to conclude Transactions. If the Broker identifies a counterparty that is willing to accept the terms of the Transaction offered by the Client without reservations, the Broker is obliged to notify the counterparty of the Client's business name and all material terms of the Transaction so that the counterparty can check the credit lines and, if applicable, any other Trading limits laid down in its internal regulations and procedures that condition or restrict such a transaction. At the same time, the Broker is obliged to inform the Client without delay of the counterparty's business name so that the Client can check the credit lines and, if applicable, any other Trading limits laid down in the Client's internal regulations and procedures that condition or restrict such a transaction with the given counterparty.
- 4.5 The Broker is obliged to provide the counterparty and the Client with all other important information and underlying documents relevant in terms of the ability of the counterparty and the Client to enter into the Transaction which are available to the Broker based on its activities (e.g. contact details) and which the Broker is authorised to provide.
- 4.6. Without the Client's prior consent, the Broker may not disclose the data obtained from the Client in its activities to any other persons unless this constitutes a notice in conformity with the Agreement, the related REMIT Reporting Services Agreement or the Terms and Conditions. Similarly, the Broker may not use these data for the Broker's own purposes or for third parties, at variance with the Client's interests. This obligation of the Broker shall survive the termination of the contractual relationship with the Client.
- 4.7. The Broker provides no other investment services than the operation of the OTF on the basis of the Agreement.
- 4.8. The Broker may perform any legal action, including refrainment from legal action (i.e. inaction), where the Broker reasonably assumes that such action or inaction is necessary to perform a duty following from a legal regulation or

avoiding violation of a legal regulation. The Client is obliged to provide the Broker with all the necessary collaboration in such action or inaction aimed to comply with a legal regulation. The Broker's action or inaction aimed to comply with a legal regulation does not give rise to any duty of the Broker, member of the Broker's body or a Broker's employee to compensate damage. The Client agrees not to exercise, and to ensure that any person controlled by the Client will not exercise, any rights against the Broker, member of the Broker's body or a Broker's employee in connection with the Broker's action or inaction aimed to comply with a legal regulation.

Article 5 – Broker's remuneration

- 5.1. The Broker's remuneration shall take the form of a fixed fee for access to the OTF, a commission on a transaction agreed through the OTF, and charges and fees for other services provided under the Agreement as well as the related REMIT Reporting Services Agreement as specified in the Price List. The amount of the commission, or the manner of its calculation, and the amount of other charges and fees are determined by the Price List. In case of a change in the Price List, the version of the Price List effective as of the date of execution of the transaction, in the case of a commission, and the version of the Price List effective as of the first day of the period for which the charge or fee is billed, in the case of other charges and fees, shall be decisive for the calculation of the remuneration.
- 5.2. The Parties may agree on deviation from the Price List for the Client's benefit. Unless agreed otherwise, any arrangements on deviation from the Price List pursuant to the preceding sentence are valid from the first day of the calendar month following the date of the agreement on the deviation and then for a period of 12 calendar months following the date of the agreement on the deviation. Article 10 shall apply *mutatis mutandis* to any change in the price terms agreed as deviation from the Price List for the Client's benefit pursuant to the second sentence of this paragraph.
- 5.3. The Broker's right to a commission on a transaction agreed arises upon execution of the Transaction intermediated via the OTF. If the Client does not conclude the intermediated transaction with the counterparty, the Broker does not become entitled to remuneration.
- 5.4. The Broker settles accounts on a monthly basis for individual calendar months. Based on such an account, the Broker issues an invoice for the Broker's remuneration. The Client agrees to the use of electronic invoices. The Broker shall deliver an electronic invoice to the Client by e-mail. The remuneration is payable 30 days of the date of issue of the invoice, by wire transfer to the Broker's bank account specified in the invoice.
- 5.5. In case of the Client's delay in payment of the remuneration or some other payment under the Agreement or the related REMIT Reporting Services Agreement, the Broker may charge default interest to the Client at the rate of 0.05% of the outstanding amount for each, even incomplete, day of the delay. The debtor's obligation to pay default interest arises regardless of whether the creditor has properly performed its contractual or statutory obligations. The default interest accrues and is payable on a daily basis during the existence of the delay, even without the creditor's request. Default interest shall in no way prejudice the right to compensation for damage caused by the delay.

Article 6 – Communication and contact details

- 6.1. For communication with the Broker, the Client agrees to use the Broker's contact details as specified in the last version of the 42FS Contact List, provided to the Client by the Broker. The Broker may change its contact details at any time by delivering to the Client in writing an up-to-date version of the 42FS Contact List, containing the changed contact details.
- 6.2. For communication with the Client, the Broker shall use the Client's contact details as specified in the Client's Contact List. The Client may change the relevant contact details at any time by delivering to the Broker a newly filled-in Client's Contact List, containing the updated contact details. The Client is obliged to ensure that an up-to-date Client's Contact List is always at the Broker's disposal. The Broker is not obliged to compensate the Client for any damage incurred as a result of the fact that the Client has failed to deliver an up-to-date Client's Contact List to

the Broker in due time. The second and third sentences of this paragraph shall also apply analogously to the MiFID Questionnaire.

- 6.3. The Client is obliged to ensure that the persons, employees of the Client specified in the Client's Contact List are duly authorised to act on behalf of the Client in matters in respect of which they are specified in the Client's Contact List as a contact person. The Broker may rely on the fact that a person specified in the Client's Contact List is authorised to make legal acts on behalf of the Client in the relevant matter to the necessary extent. The Broker is not required to verify the existence of this authorisation by requesting a power of attorney or an authorisation based on an employment contract, an internal regulation of the Client or any other document, or in any other way. If the contents and scope of the legal acts that will be addressed by the Broker to the Client through the relevant person are unclear to the Client, the Client has to ask the Broker to clarify this content and scope. The Broker is not obliged to compensate the Client for any damage incurred as a result of the fact that a person specified in the Client's Contact List is not authorised to perform legal acts on behalf of the Client in the relevant matter or as a result of the fact that such a person has acted beyond the contents or scope of his/her authorisation to perform legal acts on behalf of the Client. The preceding sentences of this paragraph shall also apply analogously to the persons and employees of the Client specified in the MiFID Questionnaire.
- 6.4. The Parties agree to communicate with each other in the Czech or English language. The Broker may issue Supplementary Documents in English only even if the Agreement is drawn up in the Czech language.
- 6.5. In view of the Broker's regulatory duties, telephone conversations and electronic communications are recorded by means of a recording device and are monitored. The Client has the right to request a recording of any communication for a period of 5 years from the time when the recording was made unless a longer period is set on the basis of a legal regulation.

Article 7 – Unilateral termination

- 7.1. The Broker may terminate the contractual relationship established by the Agreement unilaterally without a notice period if:
- a) the Client's classification changes to a client, which is not a professional client within the meaning of Section 2a or 2b of the Capital Market Undertakings and Annex II of MiFID II, or the Client requests a change in its classification to a client which is not a professional client;
 - b) insolvency proceedings, or similar proceedings under the laws of another country, have been initiated against the Client as the debtor;
 - c) the Client is insolvent or threatened by insolvency;
 - d) the Client has repeatedly or seriously breached its obligation following from the Agreement or the related REMIT Reporting Services Agreement. Repeated breach means the third breach and any further breach over the past 12 months, as well as continuing breach which the Client fails to remedy even within a reasonable grace period set by the Broker to this end, which may not be less than 15 days. Serious breach means a breach that caused or could have caused damage to the Broker or any other third party in an amount of at least EUR 1,000;
 - e) the Broker has become entitled to withdraw from the Agreement;
 - f) the Client Onboarding process has not been completed within 1 month of the date of execution of the Agreement as a result of the Client's failure to provide collaboration or the Client's insufficient collaboration;
 - g) the Client's delay in payment of remuneration or some other pecuniary performance to the Broker attains or exceeds 1 month.
- 7.2. The notice of termination pursuant to the preceding paragraph must be made in writing and must specify the reason for the termination.
- 7.3. Neither of the Parties may withdraw from the Agreement, the related REMIT Reporting Services Agreement or these Terms and Conditions, terminate them by notice or otherwise terminate them unilaterally for reasons other than mandatory statutory grounds, or for reasons explicitly specified in the Agreement, the related REMIT Reporting Services Agreement or these Terms and Conditions.

Article 8 – Obligation to compensate damage

- 8.1. Unless the following paragraphs of this Article, the Agreement, or the related REMIT Reporting Services Agreement specify otherwise, the Broker is obliged to compensate any damage caused to the Client by breach of its obligations following from the Agreement, within the scope and under the conditions specified by the legal regulations. However, insofar as any limitation or exclusion of the duty to compensate damage is permissible under the legal regulations, the Broker is not obliged to compensate any damage arising as a result of non-performance or breach of the Broker's contractual obligations, except for cases of gross negligence or intentional unlawful conduct.
- 8.2. The Broker is not obliged to compensate any damage arising as a result of an outage or defects of the Electronic Trading System, caused by the operator of the relevant system, other than the Broker, if such a system is used in the process of placing orders, execution of transactions in the OTF, confirmation of concluded transactions or reporting of data pursuant to the applicable legal regulations. The Broker is in no case obliged to compensate any damage incurred as a result of insufficient capacity, reliability, availability, accuracy or performance of the Electronic Trading System or as a result of use of the Electronic Trading System by its other users.
- 8.3. The Broker is not obliged to compensate any damage arising as a result of a loss of or damage to the Client's software or data, loss of a business opportunity or infringement of a Client's intellectual property right.
- 8.4. The Broker is in no case obliged to compensate indirect damage, consequential damage or lost profits.
- 8.5. The Broker is not obliged to compensate any damage arising as a result of:
- the Client's incorrect order;
 - non-execution of an incomplete, incorrect, incomprehensible, indefinite or otherwise defective order or an order suspected by the Broker not to be authentic;
 - non-execution of an order if the Broker has performed all its obligations towards the Client in connection with such an order;
 - abuse of identification details of a person or employee of the Client specified in the Client's Contact List or the MiFID Questionnaire;
 - any action or inaction of a third party;
 - insolvency or inability to pay debts of a third party;
 - unforeseeable and insurmountable obstacles or events arising independently of the Broker's will;
 - a failure, error, delay, interruption or unavailability of any communication channel between the Client and the Broker;
 - the fact that the Broker has performed its duty imposed on the Broker by a legal regulation, general measure or enforceable decision of a public authority.
- 8.6. The Broker is not obliged to compensate any damage following from a legal defect of the financial instrument that formed the subject of a Transaction. The Broker is not obliged to compensate any damage arising as a result of incorrect business assessment or evaluation of a financial instrument or Transaction, or as a result of the degree of reliability, accuracy or veracity of any information provided by the counterparty to a Transaction.
- 8.7. The Broker is not obliged to compensate any damage arising as a result of force majeure or damage that was not avoided as a result of force majeure. Force majeure means, in particular: (i) harmful effects of natural forces (fire, wind, water, precipitation, geological activity, electric current, ionising radiation); (ii) state of emergency or other extraordinary limitation of the rights of persons; (iii) war, civil or armed unrest; (iv) embargo, international sanctions or other extraordinary restrictions on the market economy; (v) strike or other limitation of operation organised by employees; (vi) outage of electricity or other source necessary for the Broker's operation; (vii) impossibility of communicating with the market makers for any reason, outage of a trading or settlement system, late or incorrect bank payment or payment by any other counterparty; and (viii) any other reason outside the Broker's sphere of control.

- 8.8. The Broker is not obliged to compensate the Client for any damage that could not be reasonably foreseen at the time of execution of the Agreement. The Broker is also not obliged to compensate the Client for intangible damage within the meaning of Section 2971 of the Civil Code. Unless the Parties expressly agree otherwise, any damage or harm caused by non-performance of an obligation hereunder shall be compensated in money.
- 8.9. The provisions of the preceding paragraphs of this Article shall also apply *mutatis mutandis* to any obligation to compensate damage on the part of a member of the Broker's body or the Broker's employee.

Article 9 – Form of legal acts

- 9.1. Where the Agreement, the related REMIT Reporting Services Agreement, Terms and Conditions or other documents referred to in the Terms and Conditions do not specify the form of a legal or some other act, such a legal or other act may be made in any form suitable for the given legal or other act, including orally or by telephone.
- 9.2. Where the Agreement, the related REMIT Reporting Services Agreement, Terms and Conditions or other documents referred to in the Terms and Conditions require written form for a legal or other act, written form is maintained even if such a legal or other act is made by e-mail, via a data box or in some other electronic manner enabling recording and repeated displaying of text and identification of the person performing the legal act and its addressee.

Article 10 – Amendments to the Terms and Conditions and Supplementary Documents

- 10.1. The Client acknowledges that the Broker enters into contractual relationships with a number of other clients in connection with the performance of the Agreement. In accordance with Section 1752 (1) of the Civil Code, the Broker is therefore entitled to change unilaterally the contents of the contractual relationship with the Client by amending these Terms and Conditions, or by issuing new or amending or cancelling the existing Supplementary Documents.
- 10.2. The Broker is obliged to notify the Client in writing of the intention to amend unilaterally the contractual relationship, together with specification of the changes, at least 14 days before the planned effective date of the intended changes. The Client may reject the proposed change by delivering a notice of refusal to the Broker in writing not later than on the last business day before the envisaged effective date of the change, and simultaneously with such refusal, the Client terminates the Agreement by notice on this ground. In that case, the notice period expires on the date preceding the effective date of the intended changes.

Article 11 – Personal data protection

- 11.1. The Client transfers to the Broker, in the position of data controller in the meaning of Art. 4 point 7 of GDPR, personal data of persons acting on behalf of the Client, including, but not limited to, for the purposes of contract negotiation, performance of a contract and compliance with its legal obligations ensuing particularly, but not exclusively, from the provisions of MiFID II, MiFIR, Capital Market Undertakings Act and AML Act. By signing the Agreement the Client confirms that it has become acquainted with the document Principles of personal data processing at 42 Financial Services, which regulates more detailed conditions of the personal data processing and which is available on the web pages www.42fs.com.

Article 12 – Common provisions

- 12.1. With the exception of a change to the Terms and Conditions and Supplementary Documents pursuant to Article 10, and with the exception of a change to the price terms of the Broker's remuneration pursuant to the following sentence, the Agreement and the related REMIT Reporting Services Agreement may only be modified in writing, in the manner in which it can be concluded pursuant to Article 6.3 hereof. However, a change in the price terms of the remuneration may also be agreed in writing within the meaning of Art. 9.2 of these Terms and Conditions, provided

that the change in the price terms of the Broker's remuneration is negotiated for the Client by a person authorised to this effect.

- 12.2. The contractual relationship between the Broker and the Client and all the information and documents related thereto, including information and documents provided by the Parties to each other in negotiations on the Agreement and the related REMIT Reporting Services Agreement, are confidential (hereinafter "**Confidential Information**"). Without the prior written consent of the other Party, neither Party shall disclose the Confidential Information to any third party or use the Confidential Information at variance with its purpose, and each Party shall adopt such technical, organisational and other measures that are required to prevent any unauthorised use or disclosure of Confidential Information. Confidential Information may be disclosed without prior written consent of the other Party only in cases where such disclosure is required by the binding legal regulations or by a competent public authority or where confidential information is already public for reasons other than breach of the Agreement. Without prior written consent of the other Party, Confidential Information may also be disclosed (i) to any third party with whom the Party forms a corporate group; (ii) to governing and other bodies, managers and employees of the Party; and (iii) to professional advisers of the Party, provided that the Party ensures that each of such persons protects and handles the Confidential Information under the same conditions as specified by these Terms and Conditions.
- 12.3. The Client may not assign a receivable or obligation under the Agreement or the related REMIT Reporting Services Agreement to any third party without the prior written consent of the other Party. This shall in no way prejudice a change of the creditor as a result of universal legal succession.