

Clarksons Platou Futures Limited
Terms of Business for Professional Clients and
Expert Investors

1 General

1.1 Clarksons Platou Futures Limited (“**CPFL**”) (registered number 03052018) is a company incorporated under the laws of England and Wales having its place of business in Commodity Quay, St Katharine Docks, London E1W 1BF.

2 Definitions

2.1 “**Associate**” means any other person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. Control means control as defined in section 450 of the Corporation Taxes Act 2010.

2.2 “**CCP**” means being a clearing facility including, but not limited to, SGX, EEX, NASDAQ, ICE and CME.

2.3 “**Confirmation**” means a confirmation of a Proposed Transaction issued by the Trading System.

2.4 “**Counterparty**” means a third party which may wish to enter into such a Proposed Transaction with you.

2.5 “**Customer**” means you, your and yourselves.

2.6 “**FCA**” means Financial Conduct Authority or such other authority that replaces the Financial Conduct Authority. The FCA’s registered office at the date of these Terms of Business is 12 Endeavour Square, London, E20 1JN.

2.7 “**GCM**” means a member of a CCP

2.8 “**Proposed Transactions**” mean proposed trades or, as the case maybe, trades in any derivative products and other trade related financial instruments.

2.9 “**Recap**” means a confirmation of a Proposed Transaction issued by our electronic trade capture system.

2.10 “**Services**” mean the services as described in clause 4 herein

2.11 “**Trading System**” means a trading system such as an exchange, multilateral trading facility, organised trading facility or relevant CCP.

2.12 “**You**”, “**Your**” and “**Yourselves**” mean the contracting entity identified by **CPFL** in the attached covering letter.

2.13 “**We**”, “**Us**” and “**Our**” mean **CPFL**.

3 Application and scope of these terms

3.1 The Terms of Business shall apply to the provision of Services as described below including but not limited to any Proposed Transactions and all matters relating thereto.

3.2 These Terms of Business are legally binding and (subject to the successful completion, in our absolute discretion, of anti-money laundering checks) come into force immediately prior to our providing you with the Services.

3.3 You agree that these Terms of Business replace any existing terms of business between you and us or any of our Associates.

3.4 By proceeding with any Proposed Transaction or requesting any Service, you agree and acknowledge that the Terms of Business will apply (and that any other terms of business you may have issued will not apply).

3.5 These Terms of Business constitute the entire agreement between **CPFL** and yourselves and supersedes any prior agreement relating to the subject matter of these Terms of Business, or any prior declaration or statement we may have made.

4 Our Services

4.1 Subject to any applicable laws, rules and regulations, including the rules of any Trading System through which we provide our Services and the provisions of these Terms of Business, our Services shall comprise negotiating, arranging or advising on Proposed Transactions whereby we transmit Proposed Transactions to a Trading System for execution.

4.2 You will advise us of the Trading System over which the Proposed Transaction shall be executed or we shall transmit the Proposed Transaction for execution to a Trading System in accordance with our Execution Policy.

4.3 We shall establish with you the terms on which you may wish to enter into a Proposed Transaction and if we are aware of or locate a Counterparty, we may then negotiate between you and that Counterparty to see if there are terms for the Proposed Transaction which may be acceptable to both you and the Counterparty. You acknowledge and agree that it may not be possible for us to find a Counterparty in relation to every Proposed Transaction you wish to enter into. We will not be responsible for and will not provide any assistance in relation to any trading or other documentation required to be put in place between you and a Counterparty.

4.4 Once you have accepted the terms of the Proposed Transaction between you and the Counterparty, which may be done orally or in writing, we shall transmit the details of the Proposed Transaction to the relevant Trading System. Each Proposed Transaction shall be executed in accordance with the rules of the relevant Trading System. You authorise us to take all necessary steps to transmit the Proposed Transaction as your agent and agree that you shall be bound, as principal.

4.5 For all relevant Proposed Transactions, it is solely your responsibility to ensure that you have all required arrangements in place with the relevant CCP, or clearing member of the

- relevant CCP, to permit the clearing of any Proposed Transaction.
- 4.6 You acknowledge that a Trading System may reject any Proposed Transaction which has been submitted for clearing, and that we have no liability in respect of any such rejection, regardless of the reason for such rejection.
- 4.7 You accept that the Counterparty to any Proposed Transaction may be another client of **CPFL**, a client of one of our Associates or one of our Associates. You accept that we may be acting as a broker for the Counterparty at the same time and in the same capacity as we are acting as broker for you.
- 4.8 Our role is solely to assist you and a Counterparty to negotiate and agree the terms of a Proposed Transaction. Our role is completed once we have (i) assisted you in the negotiations with the Counterparty, (ii) transmitted the Proposed Transaction for execution in accordance with the rules of the relevant Trading System; and (iii) issued a Recap to you in respect of the Proposed Transaction. We shall not be liable for or obliged to provide any further services to you, in particular, we will not be obliged to assist with any further negotiation between you and the other Counterparty nor will we provide any services or assistance in relation to performance, clearing, collateralisation or settlement of the Proposed Transaction (including the calculation or handling of payments to be paid, or which are due between any party either during the term of the Proposed Transaction or at its conclusion).
- 5 Your responsibilities**
- 5.1 In asking us to arrange execution of a Proposed Transaction or transmit any order, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the Proposed Transaction. You represent that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks. We give no warranty as to the suitability of the Proposed Transactions under these Terms and assume no fiduciary duty to you.
- 5.2 We are not responsible for any risks attached to the execution of a Proposed Transaction with a Counterparty including, but is not limited to, any error in documentation related to the Proposed Transaction, the risk that the Proposed Transaction may not complete and your failure to comply with the rules of a relevant Trading System.
- 5.3 You undertake to:
- 5.3.1 ensure that all relevant investments or any documents of title and/or transfer forms and/or any relevant payments are delivered, paid or transferred to us, or to whomever we may direct, in sufficient time on or before the contractual settlement date in accordance with market requirements; and
- 5.3.2 complete, sign or execute such documentation as we may reasonably require in order to perform our duties and obligations under these Terms of Business.
- 6 Confirmation**
- 6.1 In relation to all executed Proposed Transactions (i) the Trading System will be responsible for generating and providing a Confirmation (ii) we shall be responsible for issuing a Recap to you and/or your GCM if you request us to do so.
- 6.2 We are not responsible for checking that the terms of the Confirmation and/or other documentation including the Recap match the terms you have agreed with the Counterparty. If the terms recorded on the Confirmation and/or other documentation including the Recap conflict with or vary from the terms you have agreed with the Counterparty, you should inform us immediately so that we can issue an amended Recap and/or use reasonable efforts to procure the same from the relevant Trading System, if appropriate.
- 6.3 We shall not be liable for any errors in the Confirmation and/or other documentation or any disagreements relating to these documents.
- 7 Our Charges and Payment of Commission**
- 7.1 You shall be obliged to pay commission for each Proposed Transaction brokered by us. Unless otherwise agreed the commission will be in accordance with our rates at the time the commission was incurred. Any alteration to these rates will be notified to you at or before the time of the change.
- 7.2 At the end of each month we will issue you with an invoice stating commission due and payable to us. Payment will be made immediately or in accordance with the due date set out in the invoice if later against such invoice.
- 7.3 Our charges will include value added tax, if applicable.
- 7.4 We are not responsible for any other costs, including but limited to any taxes, fines, penalties related to Proposed Transactions that you may incur.
- 7.5 You accept that we may receive commission from both you and the Counterparty.
- 7.6 When you make payment to us, you should identify in the payment instruction which invoice the payment relates to and you should not make payment of a greater amount than that indicated in the invoice. You agree that when you make any payment to us, you transfer full ownership of the money for the purpose of satisfying our invoice.
- 7.7 If you pay us an amount greater than that requested in our invoice addressed by us to you this will be treated as an intention by you to purchase further Services. The ownership of the money will transfer fully to us and we will hold the money as a pre-payment for such further Services. Unless otherwise agreed we will

assume the Services required are the same as those to which the invoice relates. We will contact you to confirm the details of the Services required. You agree that, while we hold such money, it will not be treated as client money in accordance with the FCA rules and therefore, you have no proprietary claim to such money and, if we were to become insolvent, you would have to claim against our estate with our other creditors. Please notify us if, for whatever reason, you change your mind about requiring the Services. We will then transfer the money back to you as soon as is practically possible.

8 Indemnity and limitation of liability

- 8.1 You shall indemnify us and keep us indemnified against all losses, taxes, expenses, costs and liabilities whatsoever (present, future, contingent or otherwise and including reasonable legal fees) which may be suffered or incurred by us as a result of or in connection with these Terms of Business or under the rules of any relevant Trading System unless and to the extent only that such losses, taxes, expenses, costs and liabilities are not suffered or incurred as a result of our negligence, wilful default, or fraud.
- 8.2 Subject to clauses 8.3 to 8.5, we accept no liability to you for any type of loss except that resulting from our negligence, wilful deceit or fraud.
- 8.3 In no circumstances shall we be liable for:
- 8.3.1 any of activity related to the execution of and/or performance of a Proposed Transaction brokered by us;
- 8.3.2 any consequential or indirect loss suffered or incurred by you whether arising from our negligence or otherwise;
- 8.3.3 the operation of any relevant Trading System (in accordance with its rules or otherwise), any suspension, restriction, failure, closure or other unavailability of such Trading System, or the acts and omissions of the person operating such Trading System (in each case, whether or not the operator of such Trading System is liable to you); or
- 8.3.4 any loss of profit.
- 8.4 Nothing in these Terms of Business shall limit or exclude our liability for personal injury or death.
- 8.5 Nothing in these Terms of Business shall limit any duty or liability we have under the Financial Services and Markets Act 2000 and the FCA Rules.
- 8.6 The indemnities above shall survive termination of these Terms of Business.

9 Warranties and representations

- 9.1 You warrant and represent that:
- 9.1.1 you have all necessary authority, powers, consents, capacity, licenses and authorisations and have taken all necessary action to enable you to lawfully enter into these Terms of Business, to instruct us to arrange any Proposed Transactions in investments as

set out herein, to perform all your obligations hereunder and to enter into any Proposed Transaction. **CPFL** may act upon instructions which it reasonably believes to have been given by an authorised representative of you. No liability shall attach to **CPFL** if an instruction which it has accepted and acted upon bona fide is subsequently discovered to have been forged, falsified or amended without your authority and without any wrongdoing on the part of any employee of **CPFL**;

- 9.1.2 you have adequate resources to enter into and perform any Proposed Transactions which you decide to undertake;
- 9.1.3 you are a member or your GCM is a member of and you are not in breach of any rules of any relevant Trading System through which we provide Services to you;
- 9.1.4 all information you have given or shall give to us is true, complete, accurate and not misleading in any material respect as of the date of engaging our Services and at the time of any Proposed Transaction and any changes to such information will be promptly notified to us;
- 9.1.5 you are using our Services for professional purposes and not as a consumer (a person acting for purposes outside his trade, business or profession); and
- 9.1.6 you have in place all necessary arrangements for the clearing by the relevant CCP of all Proposed Transactions

10 Termination

- 10.1 Without prejudice to our or any of our Associates other rights of termination in law including but not limited to claim damages, we shall be entitled to terminate the Agreement with immediate effect.
- 10.2 You may terminate these Terms of Business by giving us fourteen (14) days written notice.

11 Variation

We may vary these Terms of Business 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 the (10) Business Days after the notice is sent.

12 Conflicts

- 12.1 In the event of any conflict between these paper Terms of Business and out Terms of Business available on our website these Terms of Business will prevail. In the event of any conflict between these Terms of Business and the terms of other documentation that has been signed between you and us these Terms of Business shall prevail.

13 Confidentiality

- 13.1 Neither party shall disclose to any person (unless required to do so by any applicable law or by any regulatory or supervisory authority or by any other person entitled by law to require disclosure, or to enable it properly to perform

its obligations under these Terms of Business), any information in relation to the business, investments, finances or other matters of a confidential nature of the other party of which it may in the course of its duties or otherwise become possessed, and each party shall use all reasonable endeavours to prevent any such disclosure.

13.2 By entering into these Terms of Business you authorise us to disclose such information relating to you as may be required by any law, rule or regulatory authority, including any applicable market rules, without your prior notice or consent.

14 **Data protection**

14.1 In this clause, "Data Protection Legislation" means (as they relate to these Terms of Business) (i) the General Data Protection Regulation (EU/2016/679) ("GDPR") and any relevant subordinate legislation in the UK unless and until the GDPR is no longer directly applicable in the UK, and then (ii) any successor legislation to the Data Protection Act 1998. "Controller" and "Personal Data" have the meanings ascribed in the Data Protection Legislation.

14.2 Each party will comply with its obligations under the Data Protection Legislation and will also provide reasonable assistance to the other party in its compliance with its obligations under the Data Protection Legislation.

14.3 In entering these Terms of Business, you may be required to provide us with Personal Data. You undertake that you are lawfully entitled to share with us all Personal Data that we receive from you and that we may lawfully use it for the purposes of (i) performing our obligations under these Terms of Business (ii) administering the relationship between you and us and (iii) (unless you notify us in writing of your objection to this) disclosure to any of our Associates for sales and marketing purposes. However, you may not instruct us to delete such Personal Data that we hold.

14.4 In order to comply with our legal obligations, we must process Personal Data relating to your directors (where you are a corporate entity). You agree to make the following data protection statement available to your directors:

"In order to comply with its obligations under the Money Laundering Regulations 2007 (or any regulations which replace them), Clarkson's Platou Futures Limited is required to carry out checks on individual directors of its clients. Data is obtained for these purposes from third parties who may include Experian and Companies House, and is processed solely for the purpose of complying with such legal obligations"

15 **Miscellaneous**

15.1 If at any time any provision of these Terms of Business 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 these Terms of Business 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.

15.2 You may not assign any of your rights or delegate any of your obligations under these Terms of Business to any person without our prior written consent.

15.3 We may assign our rights or delegate any of our obligations under these Terms of Business to any person on giving not less than thirty (30) days' notice to you.

15.4 The rights and remedies contained in these Terms of Business are cumulative and not exclusive of any rights or remedies provided by law.

15.5 You agree to be bound by these Terms of Business to the exclusion of all warranties, conditions and other terms, whether express or implied, statutory or otherwise.

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

16 **Governing law and jurisdiction**

16.1 These Terms of Business and any non-contractual obligations arising from or in connection with them shall be governed by and construed under English law.

16.2 Subject to clause 16.3 below, the parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute arising from or in connection with these Terms of Business, and for that purpose, submit to the jurisdiction of the courts of England and Wales.

16.3 Notwithstanding clause 16.2, for the exclusive benefit of **CPFL**, you agree that we can have the exclusive right, in our option, to submit any dispute or disputes arising out of or in connection with these Terms of Business to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force. The arbitration shall be conducted in accordance with LCIA arbitration terms current at the time when the arbitration is commenced. The reference shall be to three arbitrators who shall be or shall have been English barristers, one to be appointed by each party and the third by the two so appointed.