

Contracts for difference Terms and conditions

clarity
by Investec

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Contracts for Difference ("CFDs")

These terms and conditions set out the terms upon which the Client may invest in CFDs (the “**CFD Terms and Conditions**”, also referred to as a Product Agreement in the General Terms of Business).

These CFD Terms and Conditions must be read in conjunction with the latest version of the General Terms of Business agreed to by the Client on the online trading platform accessed via login.nowclarity.com or any other electronic means or devices (“**Trading Platform**”), and together, they record the respective rights and obligations of the Parties in relation to the conclusion of the Transactions.

Any defined term not defined in these CFD Terms and Conditions will have the same meaning as defined in the General Terms of Business.

The Client should ensure that he/she/it reads and understands these CFD Terms and Conditions, together with the General Terms of Business, carefully before entering into Transactions and should pay particular attention to the risks associated with investing in such instruments, as documented in Schedule 5.

The Client may wish to print a copy for future reference. Clarity reserves the right to change these CFD Terms and Conditions and/or the General Terms of Business from time to time, for example, where changes in legislation or regulations take place. The Client will be notified of such changes taking effect via the Trading Platform.

In the event of any conflict between these CFD Terms and Conditions and the General Terms of Business, the General Terms of Business shall prevail.

The Client accepts the CFD Terms and Conditions electronically in accordance with the ECTA as provided for at the end hereof and acknowledges and confirms that he/she/it has read and understands and will be bound by the respective agreements, including the General Terms of Business.

1. Definitions

In these CFD Terms and Conditions, the following words shall bear the meanings given below, unless the context indicates otherwise:

1.1. “**Adjustment Event**” means, in relation to a Reference Security and/or the Reference Issuer the proposal or occurrence of the following:

- 1.1.1. the Reference Security being cancelled, delisted or the price of the Reference Security ceasing to be calculated or announced by the Reference Security Exchange or the Reference Issuer or that Reference Issuer being wound up or otherwise ceasing to trade;
- 1.1.2. any event that has a diluting or concentrative effect on the value of the Reference Security, including but not limited to any cash return of capital, capital reduction, bonus issue, rights issue, compulsory acquisition, redemption of the Reference Issuer’s other securities, arrangement, voluntary scheme of arrangement, compromise, merger, demerger, restructure, subdivision or consolidation, takeover offer, unit split, non-cash distribution or any similar event (but excluding the payment or declaration of ordinary cash distributions and dividends);
- 1.1.3. the Reference Issuer becoming nationalised or subject to an Insolvency Event; or

- 1.1.4. any other event that may, at Clarity's sole discretion, either have an effect analogous to, or lead to the occurrence of any of the events set out in clause 1.1.1 to clause 1.1.3 above, or materially affect the determination of the market price of the Reference Security;
- 1.2. "**Affected CFD**" means "Affected CFD" as defined in clause 9.1 of these CFD Terms and Conditions;
- 1.3. "**Affected CFD Order**" means "Affected CFD Order" as defined in clause 9.1 of these CFD Terms and Conditions;
- 1.4. "**Aggregate Required Margin Amount**" means, on any day, the aggregate of all Required Margin Amounts;
- 1.5. "**Aggregate Reserved Amount**" means, on any day, the aggregate of all Reserved Amounts;
- 1.6. "**Available Funds**" means the greater of:
- 1.6.1. the Margin in the relevant Margin Account or Wallet less the sum of the Aggregate Reserved Amount and the Aggregate Required Margin Amount; and
- 1.6.2. nil;
- 1.7. "**Business Day**" means a day, other than a Saturday, Sunday or public holiday in South Africa, and/or any other country, where applicable, on which banks and the Reference Security Exchange are open for business in Johannesburg, and/or any other city, where applicable;
- 1.8. "**CFD**" means an OTC contract for difference in respect of a Reference Security, or an agreed percentage of such Reference Security, arising from the acceptance by Clarity of a CFD Order;
- 1.9. "**CFD Order**" means a Purchase CFD Order or a Sell CFD Order, in either case regardless of whether such CFD Order is a Limit CFD Order, Market CFD Order or Stop CFD Order;
- 1.10. "**CFD Initial Margin**" means the amount in the relevant Currency payable on the Client's sale or purchase of a new CFD, being an amount calculated by Clarity as:
- Initial Nominal Value x CFD Initial Margin Percentage;*
- 1.11. "**CFD Initial Margin Percentage**" means, the rate used to calculate the CFD Initial Margin, determined by Clarity from time to time with reference to the market conditions affecting the underlying Reference Securities and reflected in the Daily Statement;
- 1.12. "**CFD Specified Price**" means the price specified by the Client:
- 1.12.1. in a Purchase CFD Order that is a Limit CFD Order, at or below which the Client bids to purchase a CFD from Clarity; or
- 1.12.2. in a Sell CFD Order that is a Limit CFD Order, at or above which the Client offers to sell a CFD to Clarity;
- 1.13. "**CFD Specified Stop Level**" means the bid or offer level of an underlying Reference Security specified by the Client:
- 1.13.1. in a Purchase CFD Order that is a Stop CFD Order, at which the Stop CFD Order becomes a Limit CFD Order; or

- 1.13.2. in a Sell CFD Order that is a Stop CFD Order, at which the Stop CFD Order becomes a Limit CFD Order;
- 1.14. **“Clarity”** means a business unit within Investec;
- 1.15. **“Client”** means the person or legal entity specified in the Client Application as the applicant;
- 1.16. **“Client Application”** means the application form specified and required by Clarity, duly completed by the Client on the Trading Platform;
- 1.17. **“Close-out”** means the repurchase of an existing CFD from Clarity or the sale back to Clarity of an existing CFD, whether in the normal course of business or due to an Early Termination Event, which closes out such existing CFD;
- 1.18. **“Close-out Date”** means the date on which the relevant Close-out occurs;
- 1.19. **“Close-out Notional Value”** means, in respect of a Close-out, the amount calculated by Clarity in accordance with the following formula:
- Close-out Price x Reference Security Quantity;*
- 1.20. **“Close-out Margin”** means the amount payable on the Client’s Close-out of a CFD, being an amount calculated as follows:
- Close-out Notional Value x Close-out Margin Percentage;*
- 1.21. **“Close-out Margin Percentage”** the rate used to calculate the Close-out Margin, determined by Clarity, from time to time, with reference to the market conditions affecting the underlying Reference Securities and reflected in the Daily Statement;
- 1.22. **“Close-out Price”** means:
- 1.22.1. in respect of the Close-out of an existing CFD in the normal course of business, the price at which a trade in the underlying Reference Securities could be executed on the Reference Security Exchange on the Close-out Date; or
- 1.22.2. in respect of a Close-out of an existing CFD due to an Early Termination Event, a price determined by Clarity with reference to the current market price of the underlying Reference Securities on the Close-out Date;
- 1.23. **“Closing Time”** means the time that trading ceases in the ordinary course of business on the relevant Reference Security Exchange;
- 1.24. **“Currency”** means ZAR or USD;
- 1.25. **“Daily Settlement”** means the amount posted to or from the Client’s Margin Account in respect of Leveraged Transactions on each Business Day, pursuant to the Payment
- 1.25.1.1. Obligations under clause 13 of these terms;
- 1.26. **“Daily Statement”** means a statement created for and emailed to the Client on each Business Day;
- 1.27. **“Derivative Instrument”** means any financial instrument or contract, including a CFD, which is an OTC contract which creates rights and obligations deriving its value from the price or value

of the underlying Reference Security (or an agreed percentage of such Reference Security), product or financial instrument, or the value of which may vary depending on a change in the price or value of the underlying Reference Security (or the agreed percentage of such Reference Security), product or financial instrument;

- 1.28. **"Dividend"** means any distribution made by the issuer of the underlying Reference Security;
- 1.29. **"Early Termination Event"** means any of the following:
 - 1.29.1. an Event of Default;
 - 1.29.2. any event or circumstance beyond Clarity's control that has or would be expected to have a material adverse effect on its ability to perform its obligations under, or hedge its positions in respect of, a CFD, including, but not limited to, any situation where Clarity is unable to obtain (by purchasing, borrowing or concluding a repurchase agreement) at rates satisfactory to Clarity any Reference Securities needed to hedge a CFD;
 - 1.29.3. any change in law or interpretation that makes it unlawful for Clarity to give effect to any provision of these CFD Terms and Conditions;
 - 1.29.4. any government, governmental agency, department or commission seizing, confiscating or compulsorily acquiring (whether permanently or temporarily and whether with payment of compensation or not) any property of the Client;
 - 1.29.5. a Market Disruption Event occurring in relation to the relevant Reference Security; and
 - 1.29.6. the Client dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing his/her/its own affairs for any reason;
- 1.30. **"Effective Date"** means the first date on which all the following 3 (three) requirements have been met:
 - 1.30.1. Clarity has approved the Client Application;
 - 1.30.2. the Client has received a username and password for the Trading Platform; and
 - 1.30.3. the Client has paid the Initial Amount into the Margin Account and/or the Wallet;
- 1.31. **"Event of Default"** means, in relation to the Client, any one or more of the following events:
 - 1.31.1. the Client not paying or becoming unable to pay on time any amount due and payable to Clarity under these CFD Terms and Conditions or any other agreement, including, for the avoidance of doubt, any situation where the Aggregate Required Margin Amount exceeds a Client's Margin Account and/or Wallet balance at any Valuation Time;
 - 1.31.2. the Margin Account and/or the Wallet being closed or terminated by the Client, other than in the normal course of business;
 - 1.31.3. the Client failing duly and punctually to perform or comply with any of the Client's obligations, and such default, if capable of being remedied, not being remedied within 5 (five) Business Days after written notice from Clarity requiring the breach to be remedied;

- 1.31.4. any representation or warranty made by the Client having been incorrect or misleading when made;
- 1.31.5. the Client becoming subject to an Insolvency Event; or
- 1.31.6. Clarity receiving any notice from a credit reporting agency or any other credit provider in relation to the Client that indicates that:
- 1.31.6.1. the Client is in default under any other financial payment or performance obligation with any other party; or
- 1.31.6.2. any of the events specified in the foregoing clauses of this definition have occurred as between the Client and any third party,
- and which obligation and/or event is or may be material in Clarity's opinion;
- 1.32. **"Ex-Dividend Date"** means, in respect of a Reference Security, the first day on which the Reference Security may be sold without the purchaser of the Reference Security becoming entitled to the dividend immediately previously declared by the Reference Issuer;
- 1.33. **"FMA"** means the Financial Markets Act, No. 19 of 2012, as amended from time to time;
- 1.34. **"Force Majeure Event"** means an unforeseen event beyond the control of Clarity, including war, whether declared or not, revolution, riot, strike, insurrection, civil commotion, invasion, armed conflict, hostile act of a foreign enemy, act of terrorism, sabotage, loss or destruction of data, hacking, computer virus, power failure, weather disaster, flood, plague, serious epidemic, officially declared state of emergency, embargo, moratorium, sanction, restriction or any other event which has the effect of making it impossible or impracticable for Clarity to perform any of its obligations under these CFD Terms and Conditions;
- 1.35. **"Initial Amount"** means the amount that Clarity requires the Client to deposit into the Margin Account or the Wallet prior to the Effective Date;
- 1.36. **"Initial Nominal Value"** means the amount calculated as:
- Reference Security Price (as at acceptance of the CFD Order) x Reference Security Quantity;*
- 1.37. **"Insolvency Act"** means the Insolvency Act, No. 24 of 1936;
- 1.38. **"Insolvency Event"** means, in respect of the Client, any one of the following:
- 1.38.1. a petition is presented (and not struck out or dismissed within 7 (seven) Business Days of it being presented) or an effective resolution is passed for the winding up of the Client, for the Client to enter business rescue proceedings or for the commencement of any similar process in relation to the Client;
- 1.38.2. a curator, trustee, administrator, business rescue practitioner or similar official is appointed to deal with all or any substantial part of the assets or undertaking of the Client;
- 1.38.3. a liquidator or trustee in insolvency is appointed to the Client;
- 1.38.4. the Client gives notice of an intention to resolve to wind up or enter business rescue proceedings, except to reconstruct or amalgamate while solvent and with the prior consent of Clarity;

- 1.38.5. the Client commits an “act of insolvency”, as defined in section 8 of the Insolvency Act;
- 1.38.6. the Client states that he/she/it is insolvent or is presumed to be insolvent under any Applicable Law;
- 1.38.7. the Client enters into a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or a moratorium involving any of them;
- 1.38.8. the Client is or states that he/she/it is unable to pay his/her/its debts when they fall due; or
- 1.38.9. anything occurs that is analogous to or has an effect similar to anything described in clause 1.38.1 to clause 1.38.8 (inclusive) above;
- 1.39. “**Investec**” means Investec Bank Limited (Registration Number: 1969/004763/06);
- 1.40. “**Investec Group**” means Investec Limited, including Clarity, and its subsidiaries and associated companies from time to time, and Investec Plc and its subsidiaries and subsidiary undertakings from time to time;
- 1.41. “**Leveraged Transaction**” means a Transaction in terms of which the Client purchases or sells a 100% exposure to a specific Reference Security, but places CFD Initial Margin Percentage of less than 100%;
- 1.42. “**Limit CFD Order**” means a “Limit CFD Order” as defined in Schedule 1 to these CFD Terms and Conditions;
- 1.43. “**Long CFD Position**” means the Client’s holding a CFD resulting from Clarity’s acceptance of the Client’s Purchase CFD Order;
- 1.44. “**Long Position Interest Rate**” means the interest rate determined by Clarity and applicable to the CFD where the Client is the buyer as described clause 1.60 hereto and specified in your statement;
- 1.45. “**Manufactured Payment**” means an amount equal to the amount of any ordinary cash dividend paid in respect of the relevant Reference Security, or an agreed percentage of such Reference Security;
- 1.46. “**Margin**” is the minimum required percentage of the total trade value to enter a CFD, i.e. the Reserved Amount, including the Variation Margin. The daily margin settlement process is subject to fluctuating market prices and is settled daily via the mark-to-market process. The Margin will only be in the form of cash in the applicable Currency, and will be debited from or credited to Client’s applicable Margin Account and/or Wallet until the CFD has been closed;
- 1.47. “**Margin Account**” means an account opened for each applicable Currency with Clarity in the name of the Client in respect of Leveraged Transactions, into which account Clarity will require the Client to deposit any initial amount, whether ZAR or USD, depending on the Margin requirement, and other funds from time to time as Margin;
- 1.48. “**Margin Adjustment Payment**” means a payment that Clarity may require the Client to make after Closing Time on each Business Day (or at any other time in accordance with the Margin Procedures);
- 1.49. “**Margin Interest Rate**” means, the interest rate that accrues on a daily basis to the Margin in the Margin Account, determined by Clarity from time to time in its sole discretion;

- 1.50. **“Margin Procedure”** means the procedure set out in Schedule 1 to CFD Terms and Conditions;
- 1.51. **“Market CFD Order”** means a “Market CFD Order” as defined in Schedule 1 to these CFD Terms and Conditions;
- 1.52. **“Market Disruption Event”** means the suspension, delisting or material limitation of trading in the Reference Securities on the Reference Security Exchange;
- 1.53. **“Marking-to-Market”** means the revaluation of a CFD position at its current market price. All positions are marked-to-market at least once a day, usually at the close of the day. The profit/loss resulting from the revaluation is credited/debited to your Margin Account;
- 1.54. **“Material Adverse Change”** means a change in the circumstances of the Client, which in Clarity’s opinion has a material adverse effect on the Client’s assets, revenue or financial condition, or his/her/its ability to perform the obligations set out in these CFD Terms and Conditions;
- 1.55. **“Monthly Statement”** a statement created for and emailed to the Client at the end of each calendar month;
- 1.56. **“New Companies Act”** means the Companies Act, No. 71 of 2008;
- 1.57. **“Notional Value”** means, in respect of a CFD Order or a CFD at any Valuation Time, the amount calculated by Clarity as:
- Reference Security Price x Reference Security Quantity;*
- 1.58. **“Open CFD Order”** means a CFD Order that has not yet been accepted or declined by Clarity;
- 1.59. **“OTC”** means a contract concerning a Reference Security, or an agreed percentage of such Reference Security, which is not traded on a regulated stock or commodity Reference Security Exchange;
- 1.60. **“Overnight Long”** means, an amount, calculated on a daily basis, equal to the Notional Value of a CFD at the Closing Time as determined on the Reference Security Exchange, multiplied by a percentage set by Clarity applicable to a Long CFD Position (also called the **“Long Position Interest Rate”**). This percentage will be equal to the Margin Interest Rate plus a spread determined by Clarity from time to time with reference to the market conditions affecting the underlying Reference Securities and reflected in the Daily Statement;
- 1.61. **“Overnight Short”** means, an amount, calculated on a daily basis, equal to the Notional Value of a CFD at the Closing Time as determined on the Reference Security Exchange, multiplied by a percentage set by Clarity applicable to a Short CFD Position (also called the **“Short Position Interest Rate”**). This percentage will be equal to the Margin Interest Rate less a spread determined by Clarity from time to time with reference to the market conditions affecting the underlying Reference Securities and reflected in the Daily Statement and less the related Scrip Borrowing Cost;
- 1.62. **“Purchase CFD Order”** means a bid made by the Client to purchase a CFD from Clarity referencing a specific Reference Issuer and Reference Security, the acceptance of which Purchase CFD Order creates a Long CFD Position for the Client;
- 1.63. **“Rand” or “ZAR”** means the lawful currency of South Africa;
- 1.64. **“Reference Issuer”** means, in relation to a Reference Security, where applicable, the entity that is considered by the Reference Security Exchange to be the issuer of the Reference Security;

- 1.65. **“Reference Security”** means the specific security, commodity, currency or other financial instrument or property listed on a Reference Security Exchange to which a CFD is referenced;
- 1.66. **“Reference Security Exchange”** means, in respect of a CFD, the exchange relating to the Reference Security Price of the underlying Reference Securities is sourced;
- 1.67. **“Reference Security Quantity”** means the number of a relevant Reference Security, or the agreed percentage of such Reference Security, to which a CFD Order or a CFD relates, as adjusted in accordance with these CFD Terms and Conditions;
- 1.68. **“Reference Security Price”** means the price for a Reference Security at any relevant time, as determined by Clarity;
- 1.69. **“Required Margin Amount”** means, in respect of a given CFD at any time on any day, an amount calculated by Clarity as:
- Notional Value x Required Margin Percentage;*
- 1.70. **“Required Margin Percentage”** means, in relation to a CFD and its underlying Reference Security, a percentage set from time to time by Clarity, in its sole discretion, in relation to the relevant category of Reference Securities, which Required Margin Percentage will be displayed on the Trading Platform and/or set out in the Daily Statements, as the case may be;
- 1.71. **“Reserved Amount”** means, in respect of a CFD Order at any relevant time, an amount calculated as:
- Notional Value x Required Margin Percentage;*
- 1.72. **“Scrip Borrowing Cost”** means an amount, calculated on a daily basis, equal to the Notional Value of a CFD at the Closing Time as determined on the Reference Security Exchange, multiplied by a percentage set by Clarity and applicable to a Short CFD Position that requires Clarity to institute a scrip borrowing arrangement. This percentage will be determined by Clarity in relation to each relevant CFD with reference to the market conditions affecting the underlying Reference Securities and reflected in the Daily Statement;
- 1.73. **“Sell CFD Order”** means, only in respect of Leveraged Transactions, an offer made by the Client to sell a CFD to Clarity referencing a specific Reference Issuer and Reference Security, the acceptance of which Sell CFD Order creates a Short CFD Position for the Client;
- 1.74. **“Sensitive Information”** means information that is commercially sensitive or proprietary to either party, its affiliated companies or third parties to whom either party has a duty of confidentiality, including any non-public information of any form obtained by a party or its employees while transacting under these CFD Terms and Conditions;
- 1.75. **“Short CFD Position”** means the Client’s position resulting from Clarity’s acceptance of the Client’s Sell CFD Order;
- 1.76. **“Short Position Interest Rate”** means the interest rate determined by Clarity and applicable to the CFD where the Client is the seller as described in clause 1.61 hereto and specified in your statement;
- 1.77. **“South Africa”** means the Republic of South Africa;
- 1.78. **“Statement”** means a Daily Statement or a Monthly Statement, as the context requires;

- 1.79. **“Stop CFD Order”** means a “Stop CFD Order” as defined in Schedule 1 to these CFD Terms and Conditions;
- 1.80. **“STT”** means Securities Transfer Tax as defined in the STT Act;
- 1.81. **“STT Act”** means the Securities Transfer Tax Act, No. 25 of 2007;
- 1.82. **“Takeover Offer”** means, in relation to a Reference Security, an offer, made under the New Companies Act and subject to the Takeover Regulations published by the Takeover Regulation Panel, to acquire that Reference Security;
- 1.83. **“Tax Event”** means receipt by Clarity of an opinion from reputable legal counsel or a reputable tax adviser experienced in the tax laws of South Africa to the effect that, as a result of:
- 1.83.1. any amendment to, clarification of, or change (including any announced prospective change) in the laws or treaties of such jurisdictions or any political subdivision or taxing authority thereof or therein affecting taxation;
 - 1.83.2. any judicial decision, published official administrative pronouncement, private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) (an **“Administrative Action”**) in relation to such tax laws;
 - 1.83.3. any amendment to, clarification of, or change in the pronouncement that provides for a position with respect to an Administrative Action that differs from the previous generally accepted position, in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known;
 - 1.83.4. there is a reasonable risk that Clarity would be exposed to any increase in its costs in relation to a Margin Account and/or Wallet as a result of increased Taxes, or that Clarity would not be allowed a tax deduction for any interest paid or due and payable by it under these CFD Terms and Conditions.
- 1.84. **“Taxes”** means all taxes (including VAT and STT), levies, imposts, deductions, charges, withholding taxes imposed by any government agency together with any related interest, penalties, fines, duties, expenses or other amount incurred in connection with them, arising in connection with or as a consequence of any CFD or Close-out;
- 1.85. **“Trading Platform”** means the online trading platform accessed via the Website or any other electronic means or devices as defined in the General Terms of Business;
- 1.86. **“Transaction”** means when the Client either purchases or sells a CFD, and could include, but is not limited to, a Leveraged Transaction;
- 1.87. **“Transaction Documents”** means, in respect of each CFD, these CFD Terms and Conditions, the Client Application, the General Terms of Business, the relevant Daily Statement and the relevant Monthly Statement;
- 1.88. **“USD”** means United States Dollar, the lawful currency in the United States of America;
- 1.89. **“Valuation Time”** means:
- 1.89.1. the Closing Time on each Business Day; and

- 1.89.2. any other time that Clarity decides, at its absolute discretion;
- 1.90. “**Variation Margin**” means the amount equal to the value by which the underlying Reference Security of the CFD has changed as determined by the daily Marking-to-Market;
- 1.91. “**VAT**” means any value-added tax imposed under the VAT Act;
- 1.92. “**VAT Act**” means the Value-added Tax Act, No. 89 of 1991; and
- 1.93. “**Wallet**” means (i) a ZAR Trading Wallet, and (ii) a Foreign Currency Trading Wallet, whichever may be the case, used as funding account when the Client enters into Transactions (excluding Leveraged Transactions).

2. Interpretation

- 2.1. Except to the extent that the context requires otherwise any reference in these CFD Terms and Conditions to:
- 2.1.1. statutory provisions shall be construed as a reference to those provisions as amended, modified, re-enacted or replaced from time to time;
 - 2.1.2. “**affiliate**” means, in relation to any person, a subsidiary of that person or a holding company of that person or any other subsidiary of that holding company or the holding company of that holding company or any other subsidiary of the second mentioned holding company;
 - 2.1.3. a “**holding company**” of a company or corporation shall be construed with reference to the definition of holding company in the New Companies Act;
 - 2.1.4. a “**law**” shall be construed as any law (including common or customary law), statute, constitution, decree, judgment, treaty, regulation, directive, by-law, rule, guideline, order or any other legislative measure of any government or any republic or political sub-division of any state, agency, statutory or regulatory body or court;
 - 2.1.5. the words “**other**” and “**otherwise**” are not to be construed *ejusdem generis* with any foregoing words where a wider construction is possible and the word “including” shall be construed as meaning “including, without limitation”;
 - 2.1.6. “**security interest**” includes any mortgage, pledge, lien, hypothecation, security interest or other charge or encumbrance whatsoever and any other agreement or arrangement having substantially the same economic effect and “secured” shall be construed accordingly;
 - 2.1.7. a “**subsidiary**” of a company or corporation shall be construed with reference to the definition of subsidiary in the New Companies Act;
 - 2.1.8. these “**CFD Terms and Conditions**” and any other agreement or document, shall be construed as references to such agreement or document as from time to time amended in writing, supplemented, novated, restated or replaced and any document which amends, supplements, novates, restates or replaces such agreement or document; and
 - 2.1.9. the “**winding-up**” of a person also includes the administration, bankruptcy, dissolution, liquidation, merger, consolidation or re-organisation (whether by way of voluntary arrangement, scheme of arrangement or otherwise but excluding any

solely voluntary re-organisation) of that person, and any equivalent or analogous procedure whatsoever under the law of any jurisdiction save in respect of any merger or consolidation of that person that would result in the merged or consolidated person being bound by the terms and conditions of these CFD Terms and Conditions.

- 2.2. Words importing the singular shall include the plural and vice versa.
- 2.3. The head notes to the clauses of these CFD Terms and Conditions are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 2.4. These CFD Terms and Conditions shall, to the extent permissible by Applicable Law, be binding on and enforceable by the permitted assigns or liquidators of the parties as fully and effectively as if they had signed these CFD Terms and Conditions in the first instance and reference to any party shall be deemed to include such party's permitted assigns or liquidators, as the case may be.
- 2.5. If any provision in these CFD Terms and Conditions a substantive provision conferring rights or imposing obligations on any party, then notwithstanding that such provision is contained in such clause, effect shall be given thereto as if such provision were a substantive provision in the body of these CFD Terms and Conditions.
- 2.6. Where any term is defined within the context of any particular clause in these CFD Terms and Conditions, the term so defined shall, unless it appears clearly from the clause in question that such term has limited application to the relevant clause, bear the meaning ascribed to it for all purposes in terms of these CFD Terms and Conditions.
- 2.7. When any number of Business Days is prescribed in these CFD Terms and Conditions, same shall be determined inclusive of the first and exclusive of the last Business Day.
- 2.8. Where the date for the performance of an obligation in terms of these CFD Terms and Conditions does not fall on a Business Day, the performance shall be rendered on the first following day that is a Business Day.

3. CFD Orders

- 3.1. Following the Effective Date, the Client may place a Purchase CFD Order or, limited to Leveraged Transactions, a Sell CFD Order to (a) enter into a new Transaction with Clarity, or (b) Close-out an existing CFD. CFD Orders may be placed *via* the Trading Platform.
- 3.2. The Client may only place Sell CFD Orders in respect of Leveraged Transactions.
- 3.3. All the CFD Orders placed on the Trading Platform will be (a) Limit CFD Orders, (b) Market CFD Orders, or (c) Stop CFD Orders. These types of CFD Orders and certain features of these CFD Orders are described in greater detail in Schedule 1 to these CFD Terms and Conditions.
- 3.4. When placing a CFD Order, the **Client is responsible** for ensuring that there **are sufficient Available Funds** in the Margin Account (for Leveraged Transactions) and/or the Wallet (for Transactions, excluding Leveraged Transactions) to cover the anticipated Reserved Amount required in respect of the CFD Order and CFD Initial Margin payable on the purchase or sale of each new CFD or Close-out Margin payable on Close-out of an existing CFD.
- 3.5. The Client may not place any new CFD Orders if any amount due (including, but not limited to, any CFD Initial Margin, Close-out Margin, Overnight Long, Manufactured Payments, bank charges, indemnified amounts or Margin Adjustment Payments) under these CFD Terms and Conditions or any other Transaction Document is due and payable, but unpaid, at the time payment is required.

- 3.6. The Client's failure to complete all required fields when placing a new CFD Order on the Trading Platform may result in the CFD Order being rejected.
- 3.7. Clarity may accept or reject a CFD Order in whole or in part, in its sole discretion. No CFD will come into existence as a result of a CFD Order until such time as Clarity accepts the CFD Order. A CFD Order placed by the Client will become binding on the Client upon acceptance by Clarity.
- 3.8. Nothing in this clause 3 limits Clarity's ability, in its sole discretion, to accept an Open CFD Order placed by the Client by means other than in accordance with this clause 3. Clarity shall have absolute discretion in respect of accepting Open CFD Orders. Nothing in these CFD Terms and Conditions shall oblige Clarity to accept any Open CFD Order. The Client hereby indemnifies and holds harmless Clarity for any direct, indirect or consequential losses that may result from Clarity not accepting an Open CFD Order.
- 3.9. Clarity reserves the right to limit the Client's ability to place new Purchase CFD Orders and/or Sell CFD Orders in terms of these CFD Terms and Conditions, or to limit Clarity's own acceptance of CFD Orders in relation to a particular Reference Security or Reference Issuer at any time. Limits imposed on the Client specifically will be notified to the Client as soon as reasonably practicable, while limits imposed on CFDs referencing a particular Reference Security or Reference Issuer may or may not be notified to the Client at Clarity's sole discretion.

4. Accepted CFD Orders

- 4.1. If Clarity accepts a CFD Order from the Client, the relevant CFD will come into existence or be Closed-out and the CFD Initial Margin or Close-out Margin, as applicable, will be immediately payable out of the Available Funds in the Margin Account and/or Wallet, whichever may be the case. In addition, adjustments will be made to the allocation of the Margin as described in **Schedule 1** to these CFD Terms and Conditions.
- 4.2. Should, on acceptance of a CFD Order, the Available Funds in the Margin Account or the Wallet be insufficient to cover the CFD Initial Margin or Close-out Margin or any Margin Adjustment Payment due from the Client, Clarity may, in its sole discretion, cancel the accepted CFD Order or instruct the Client to immediately pay the shortfall into the Margin Account or the Wallet, whichever may be the case, in accordance with the Margin Procedure.
- 4.3. If Clarity accepts a CFD Order from the Client that is the opposite of an existing Long CFD Position or Short CFD Position:
 - 4.3.1. the CFD Order will be treated as an order to Close-out the existing CFD to the extent that the Reference Security Quantity of the newly placed CFD Order offsets the Reference Security Quantity of the existing CFD; and
 - 4.3.2. if the Reference Security Quantity of the newly placed CFD Order exceeds the Reference Security Quantity of the existing CFD, to the extent of this excess the newly placed CFD Order will be treated as an Open CFD Order.

5. Statements

- 5.1. Long CFD Positions and Short CFD Positions, as well as related CFD Initial Margin or Closeout Margin, and Required Margin Percentages can be viewed in the Daily Statements to be provided by Clarity to the Client on the terms of these CFD Terms and Conditions.
- 5.2. The Client is obliged to communicate any errors in the Daily Statement within twenty-four hours of Clarity sending the Daily Statement to the Client.

- 5.3. CFD Initial Margin, Overnight Long, Overnight Short and Manufactured Payments paid and received, as well as Margin Account and/or Wallet balances can be viewed in the Monthly Statements to be provided by Clarity to the Client.
- 5.4. The Client is obliged to communicate any errors in the Monthly Statement within 10 (ten) Business Days of Clarity sending the Monthly Statement to the Client.
- 5.5. Should the Client not raise any errors in a Daily Statement or Monthly Statement within the stipulated timeframe of Clarity sending such Statement to the Client, such Daily Statement or Monthly Statement shall be binding on the Client and shall constitute *prima facie* proof of any matter disputed by the Client at a later time.
- 5.6. If Clarity is unable to make a Daily Statement or Monthly Statement available for any reason, the validity of the Client's existing CFDs shall not be affected.
- 5.7. Should Clarity discover an error in a Daily Statement or Monthly Statement, Clarity shall notify the Client of the error and rectify it as soon as practicably possible.
- 5.8. If there is a conflict between:
 - 5.8.1. the Transaction Documents; and
 - 5.8.2. Clarity's records of a CFD or a CFD Order,the Transaction Documents will prevail in the absence of any other records that can resolve the conflict.

6. Reference Security Prices

- 6.1. Clarity will quote Reference Security Prices on the Trading Platform, and the Client acknowledges that, in order to avoid Clarity or the Client incurring additional costs, any Reference Security Prices quoted on the Trading Platform will not be live prices, but will be delayed by 15 (fifteen) minutes.
- 6.2. The Client acknowledges and agrees that any quoted Reference Security Price provided by Clarity in accordance with clause 6.1 above is determined by Clarity, rather than the Reference Security Exchange, and is indicative only.
- 6.3. The Client acknowledges and agrees that any quoted Reference Security Price provided by Clarity in accordance with clause 6.1 above includes the fee or spread earned by Clarity on the relevant CFD Order, and no separate fee or spread will be charged and invoiced by Clarity to the Client.
- 6.4. If within 10 (ten) Business Days of acceptance of a CFD Order, Clarity determines that any terms relating to the pricing of the CFD were materially incorrect, then, notwithstanding clause 5 above and without prejudice to any other rights of the parties:
 - 6.4.1. Clarity may re-price or reverse the CFD;
 - 6.4.2. Clarity will give notice to the Client of the error and any re-pricing or reversal as soon as reasonably practicable;
 - 6.4.3. should Clarity re-price the CFD and the Client determine, within 1 (one) Business Day of receiving notice of the error and re-pricing, that the Client is not satisfied with the re-pricing, the Client may request Clarity to reverse the CFD;
 - 6.4.4. if the CFD will be reversed:

6.4.4.1. each party must immediately refund any amounts paid by the other party in respect of the CFD; and

6.4.4.2. neither party will have any further obligation to the other in respect of the reversed CFD.

7. Cancellation of CFD Orders by the Client

7.1. A CFD Order can be cancelled at any time prior to its acceptance by Clarity. Such a cancellation can be made by the Client on the Trading Platform.

7.2. If the Client does not cancel a CFD Order prior to its acceptance by Clarity, the CFD or Closeout resulting from the CFD Order will be valid and binding on the Client and Clarity and governed by these CFD Terms and Conditions.

7.3. The Client agrees and acknowledges that any action by the Client to cancel a CFD Order other than in accordance with clause 7.1 above will be ineffective.

8. Term

8.1. These CFD Terms and Conditions shall continue from the Effective Date until such time as it is terminated in accordance with the terms of these CFD Terms and Conditions.

8.2. The Client acknowledges that these CFD Terms and Conditions, the Margin Account and the Wallet will continue until both the Client and Clarity have performed all their obligations under the CFDs, all CFDs between Clarity and the Client have been Closed-out and the Wallet and the Margin Account are closed in accordance with these CFD Terms and Conditions.

9. Adjustment Events

9.1. Where a Reference Security is affected by an Adjustment Event, changes to the terms of any CFD Order or CFD referenced to that Reference Security (an “**Affected CFD Order**” or an “**Affected CFD**”) may (at Clarity’s sole discretion) become necessary to preserve the economic equivalence of the rights and obligations of the parties immediately prior to such an event.

9.2. Where an Adjustment Event occurs in relation to a Reference Security underlying a Client’s CFD Order or CFD, the Client hereby mandates Clarity to deal with the Client’s Affected CFD Orders and/or Affected CFDs in good faith for the reasons described in clause 9.1 above.

9.3. If an Adjustment Event occurs in respect of a Reference Security to which a CFD Order or a CFD is referenced, Clarity may adjust any of the terms of such Affected CFD Order or Affected CFD as it determines necessary to account for the diluting or concentrative effect of the Adjustment Event for the reasons described in clause 9.1 above. Clarity shall similarly determine the date from which any such adjustment will take effect and notification of the adjustment will be given by Clarity to the Client as soon as reasonably practicable after Clarity’s determination.

9.4. Despite clause 9.3 above, Clarity may cancel and/or Close-out any Affected CFD Order and/or Affected CFD in its sole discretion, upon notice to the Client.

10. Reference Security Exchange

10.1. Normal trading on the Trading Platform occurs during the hours in which the Reference Security Exchange is open for trading on Business Days. If the Client places a CFD Order at a time when the Reference Security Exchange is not open for trading, unless specifically agreed otherwise, the Client’s CFD Order may, at Clarity’s sole discretion, be considered and accepted or declined by Clarity once normal trading commences.

10.2. On the Reference Security Exchange a Reference Security may be in a “closed period” due to circumstances including, but not limited to, the existence of price-sensitive information relating to that Reference Security or the Reference Issuer. Additionally, a Reference Security may be suspended or delisted in circumstances including, but not limited to, a failure by the Reference Issuer to abide by the Reference Security Exchange’s listing requirements. In relation to a CFD Order referenced to a Reference Security that is subject to a “closed period”, suspension or delisting, Clarity reserves the right to:

10.2.1. accept the Client’s CFD Order and request a 100% Required Margin Percentage in relation to a CFD under a Leveraged Transaction;

10.2.2. decline to accept the Client’s CFD Order; or

10.2.3. not quote a Reference Security Price for the relevant Reference Security on the Trading Platform.

11. CFD Initial Margin, Close-out Margin, Overnight Long and Overnight Short

11.1. The CFD Initial Margin, Overnight Long and Overnight Short, each as further described in a schedule similar to Schedule 1 to these CFD Terms and Conditions, will be payable, as applicable, by Clarity or the Client in relation to each CFD. Unless Clarity and the Client otherwise agree, the CFD Initial Margin, Overnight Long and Overnight Short in respect of a CFD will be calculated with reference to the most recently agreed version similar to Schedule 1 to these CFD Terms and Conditions.

11.2. The Close-out Margin will be payable by the Client in relation to each Close-out of a CFD under a Leveraged Transaction. Unless Clarity and the Client otherwise agree, the Close-out Margin in respect of the Close-out of a CFD will be calculated with reference to the most recently accepted version similar to Schedule 1 to these CFD Terms and Conditions.

11.3. Clarity may change the CFD Initial Margin Percentage used to calculate the CFD Initial Margin and/or the Close-out Margin on the purchase, sale or Close-out (as applicable) of a CFD, without giving notice to the Client or following 24 (twenty-four) hours’ notice where the amendment will apply to an existing CFD Order or CFD.

11.4. In the event that Clarity amends the CFD Initial Margin Percentage during the existence of a CFD Order, the amended CFD Initial Margin will be reflected on the Daily Statement.

12. Margin

12.1. The Margin provisions are contained in **Schedule 1** to these CFD Terms and Conditions.

12.2. In terms of the Margin provisions in **Schedule 1** to these CFD Terms and Conditions, the Client pledges and cedes *in securitatem debiti* the Margin in the Margin Account and the Wallet to Clarity as security for all of the Client’s obligations to Clarity.

12.3. The Client agrees that, notwithstanding the fact that the provisions contained in Schedule 1 already stipulate it, the Client agrees that it will ensure that there are sufficient funds available in the Margin Account for Margin purposes, and, if not, Clarity may automatically Close-out sufficient Transactions.

13. Payments

13.1. In the event that Clarity is obliged to pay any amount (whether such obligation arises under these CFD Terms and Conditions or any other agreement with the Client) to the Client on a day on which the Client is obliged to pay any amount (whether such obligation arises under these CFD

Terms and Conditions or any other agreement with the Client) to Clarity, Clarity shall be entitled to set-off its payment against that due from the Client on a Rand for Rand basis (or USD for USD basis, where the Client transact within his/her/its Margin Account and/or Wallet). Should Clarity set off such a payment, both Clarity's payment obligation and the Client's obligation will be discharged to the extent of such set-off. Clarity shall notify the Client of its intention to set-off such a payment. The Client shall not be entitled to claim such a set-off.

13.2. Unless set-off in accordance with clause 13.1 above extinguishes a payment obligation, all payment obligations under these CFD Terms and Conditions must be satisfied by the payer's transfer of the amount in immediately available funds to the payee in accordance with the payee's instructions.

13.3. The Client agrees that Clarity may net payments and cashflows taking place on the same day and in the same currency.

14. Manufactured Payments

14.1. If the Client holds a Long CFD Position through the last day to trade in respect of a Dividend on the relevant underlying Reference Security or a percentage in respect of such underlying Reference Security, then:

14.1.1. on the applicable Ex-Dividend Date Clarity will credit the Margin Account or the Wallet, whichever may be the case, with a Manufactured Payment equal to the present value of the Dividend or a percentage thereof; and

14.1.2. up to the date that the Dividend on the underlying Reference Security is actually paid by the Reference Issuer, Clarity will credit the Margin Account or the Wallet, whichever may be the case, with a further Manufactured Payment equal to the remainder of the Dividend (or a percentage thereof) paid less the Manufactured Payment already credited on the Ex-Dividend Date in accordance with clause 14.1.1 above.

14.2. If the Client holds a Short CFD Position through the last day to trade in respect of a Dividend on the relevant underlying Reference Security or a percentage in respect of such underlying Reference Security, then:

14.2.1. on the applicable Ex-Dividend Date, Clarity will debit the Margin Account with a Manufactured Payment equal to the present value of the gross Dividend or a percentage thereof; and

14.2.2. up to the date that the dividend on the underlying Reference Security is actually paid by the Reference Issuer, Clarity will debit the Margin Account with a further Manufactured Payment equal to the remainder of the gross Dividend (or a percentage thereof) paid less the Manufactured Payment already debited on the Ex-Dividend Date in accordance with clause 14.2.1 above.

14.3. It is the Client's responsibility to keep track of all Open CFD Orders, including Ex-Dividend Dates in respect of the Reference Securities underlying the Open CFD Orders. CFD Orders referencing a Reference Security, in respect of which the Ex-Dividend Date will occur on the following Business Day, will not be cancelled.

15. Breakage costs

When the Client places a CFD Order referenced to a Reference Security, Clarity may (but shall not be obliged to) establish such hedges, in its sole discretion, as it deems required to hedge Clarity's market risk. Should Clarity be required to initiate the Close-out Procedure described in

Schedule 1 to these CFD Terms and Conditions, Clarity shall be entitled to claim any losses or costs associated with breaking the hedges relating to the CFDs Closed-out.

16. Representations

- 16.1. The Client makes each of the following representations and warranties for the benefit of Clarity on the Effective Date and on each day that the Margin Account and Wallet remain open:
- 16.1.1. The Client shall comply with the provisions of the Applicable Law, as amended or substituted from time to time, including, but not limited to, the FMA and its subordinate regulation;
 - 16.1.2. the Client is a South African resident for purposes of the EXCON or, if not a South African Resident for such purposes, the Client has notified Clarity in writing that the Client is not a South African resident for purposes of the EXCON;
 - 16.1.3. unless stated in the Client Application, the Client is not acting as a trustee of a trust;
 - 16.1.4. no funds deposited into the relevant Margin Account or Wallet are subject to any security interest;
 - 16.1.5. no Event of Default continues unremedied and no breach of any law or obligation exists that is likely to lead to a Material Adverse Change;
 - 16.1.6. performance under these CFD Terms and Conditions and the obligations under any CFD Order or CFD do not violate any existing law or regulation under the Applicable Law or any document or agreement to which the Client is a party or which is binding on the Client or any of the Client's assets;
 - 16.1.7. all authorisations, rights, licences and consents required in order for the Client to conduct the Client's business and relevant to the performance, validity or enforceability of these CFD Terms and Conditions and any CFD or CFD Order have been obtained or effected and are of full force and effect, and the Client will not dispute any claim by Clarity on the basis that the Client was not authorised to open the relevant Margin Account or Wallet, place any CFD Order or enter into any CFD;
 - 16.1.8. there are no actions or claims pending, the adverse determination of which might have a material adverse effect on the ability of the Client to perform his obligations under these CFD Terms and Conditions and any CFD or CFD Order or on the rights granted to Clarity;
 - 16.1.9. the Client is not entitled to claim for itself or any of its assets or revenues any right of general immunity or exemption on the grounds of sovereignty or otherwise from suit, execution, attachment or other legal process in respect of his obligations under these CFD Terms and Conditions and any CFD or CFD Order;
 - 16.1.10. the Client must ensure that an appropriateness assessment is completed as required by the FMA, and it is the Client's responsibility to ensure that the responses provided remain up to date, accurate and complete;
 - 16.1.11. the Client is fully aware of the risk, obligations and other aspects of purchasing and selling CFDs, including the risks of significant losses and agrees that Clarity does not provide any advice or recommendations in relation to the purchasing and selling of CFDs;

- 16.1.12. the Client is responsible for understanding the consequences of purchasing and selling CFDs and for monitoring the specific CFDs purchased or sold by the Client;
 - 16.1.13. the Client understands that holding a Long CFD Position does not confer on the Client any voting rights or rights in respect of other corporate actions of the Reference Issuer in respect of the underlying Reference Securities, and does not entitle the Client to the payment of Dividends by the Reference Issuer in respect of the underlying Reference Securities;
 - 16.1.14. the Client understands that the Manufactured Payments contemplated in these CFD Terms and Conditions do not constitute Dividends for tax purposes;
 - 16.1.15. the Client understands the consequences of gearing and therefore the speed at which profits can be gained or losses can be incurred;
 - 16.1.16. the Client understands that losses arising from purchasing or selling CFDs may be substantial and, in respect of a CFD, could total more than the Required Margin Amount for that CFD, requiring the Client to make additional payments to cover such losses;
 - 16.1.17. the Client is solely responsible for any losses resulting from purchasing or selling CFDs; and
 - 16.1.18. the Client is solely responsible for obtaining legal, regulatory, tax and accounting advice appropriate to the Client prior to purchasing or selling any CFDs and is not relying on any communication (written or oral) from Clarity as legal, regulatory, tax, accounting or investment advice or an assurance or guarantee as to the expected results of investing in CFDs generally or of investment in a particular CFD.
- 16.2. In addition, if:
- 16.2.1. the Client is a legal entity:
 - 16.2.1.1. the Client is duly incorporated and validly existing under the laws of its jurisdiction of incorporation; and
 - 16.2.1.2. the Client has the capacity and authority to agree to and accept the Client Application and the Transaction Documents on the Trading Platform, and to perform all its obligations under the Transaction Documents and has taken all actions necessary to authorise agreement to and acceptance of the terms in the Client Application and the Transaction Documents and performance of those obligations.
 - 16.2.2. the Client is an individual:
 - 16.2.2.1. the Client is over 18 years old; and
 - 16.2.2.2. the Client may agree to and accept the terms in the Client Application and the Transaction Documents and perform all his obligations under the Transaction Documents.
 - 16.2.3. the Client is an employee of any company in the Clarity Group:
 - 16.2.3.1. the Client has obtained all the necessary internal approvals, including the relevant compliance department's written approval; and

- 16.2.3.2. the Client will comply with the relevant internal policy and declare all potential conflicts of interest; and
- 16.2.4. the Client is a trust whose trustee(s) completed, agreed to and accepted the terms in the Client Application and the Transaction Documents on its behalf:
 - 16.2.4.1. all information in the Client Application regarding the trust and its trustee(s) is true and correct;
 - 16.2.4.2. the Client has been validly created and continues to exist, no event has occurred causing the assets of the trust to be vested in one or more beneficiaries (other than in accordance with the trust deed that governs the trust), and no property of the Trust has been resettled; and
 - 16.2.4.3. the Client has power under the trust deed to perform its obligations under these CFD Terms and Conditions and any CFD or CFD Order.
- 16.3. If any of the representations made in clause 16.1 or clause 16.2 above are no longer true and correct, the Client will immediately upon becoming aware of the fact that a representation is no longer true and correct advise Clarity in writing thereof.

17. Undertakings and acknowledgements

- 17.1. The parties undertake:
 - 17.1.1. to notify one another if any representation or warranty made under any Transaction Document is or becomes incorrect or misleading; and
 - 17.1.2. to do everything necessary to ensure that all obligations are met under the Transaction Documents.
- 17.2. The Client undertakes to notify Clarity of the occurrence or expected occurrence of any Insolvency Event in respect of the Client.
- 17.3. The Client acknowledges and agrees that:
 - 17.3.1. Clarity is under no obligation to grant equal terms to each client;
 - 17.3.2. Clarity is under no obligation to accept the Client's Client Application or any CFD Order;
 - 17.3.3. the Client is solely liable for complying with any legal restrictions to which the Client may be subject in respect of a Reference Security;
 - 17.3.4. any member of the Clarity Group, may engage in trading in CFDs for its proprietary accounts and on behalf of accounts under its management, which could affect the value, Close-out or Early Termination of a CFD, and any member of the Clarity Group, may enter into CFDs and other transactions with parties other than the Client at prices different from the Reference Security Prices reflected on the Trading Platform;
 - 17.3.5. members of the Clarity Group, may own Reference Securities that entitle them to voting rights and/or other rights relating to corporate actions in respect of the Reference Securities underlying the Client's CFDs. The interests of the Client will not be taken account by members of the Clarity Group in exercising such voting rights and/or other rights relating to corporate actions;

- 17.3.6. the Client understands the advisability of reading these CFD Terms and Conditions and has read, understands and accepts these CFD Terms and Conditions;
- 17.3.7. the Client has read, understands and accepts Schedule 3 (*System Latency*) and Schedule 4 (*Clarity Bank Limited Electronic Communication Indemnity*) to these CFD Terms and Conditions;
- 17.3.8. the Client confirms its categorisation as a client in accordance with the Conduct Standard 2 of 2018 for Authorised Derivative Providers (the “ODP Standards”). In terms of the ODP Standards, Clarity has obtained authorisation from the Financial Sector Conduct Authority (the “FSCA”), as an over-the-counter derivative provider (the “ODP”). Clarity attach https://www.investec.com/en_za/legal/SA/odp-client-categorisation.html (the “ODP Categorisation Letter”), including <https://www.investec.com/content/dam/legal-and-compliance/sa/Investec-OTCTerms-and-Conditions.pdf> (“ODP Terms and Conditions”) which Clarity hereby provides to its clients for confirmation.
- 17.3.9. the Client understands that “Portfolio Reconciliation” and “Portfolio Compression” will not be applicable;
- 17.3.10. while Clarity will determine the list of securities available as Reference Securities for the purposes of these CFD Terms and Conditions, the selection of the Reference Security underlying a CFD Order is the Client’s responsibility. Clarity’s inclusion of a particular security as a Reference Security is not a representation, warranty or endorsement of the value or prospects of that Reference Security by Clarity and, as such, Clarity accepts no liability or responsibility for the performance of any Reference Security; and
- 17.3.11. **a CFD does not comprise or result in the transfer of the legal, registered or beneficial interest in any Reference Security to or from the Client and that neither the Client nor Clarity has any right or obligation to acquire or deliver the Reference Security underlying a CFD. Therefore, any gains or losses made on CFDs shall be settled in cash and never by physical delivery of the underlying Reference Securities.**
- 17.4. The Client acknowledges and consents to Clarity reporting Transactions to the relevant trade repository as and when required by the Applicable Law, including, but not limited to, the FMA, the FMA Conduct Standard, No. 3 of 2018, and the Conduct Standard For Reporting Obligations In Respect Of Transactions In Over-The-Counter Derivatives.
- 17.5. The Client unconditionally and irrevocably indemnifies, and will keep indemnified, Clarity in full against all actions, suits, claims, demands, losses, liabilities, damages, costs and expenses that may have been or may be made or brought against or suffered or incurred by Clarity or the Client directly or indirectly arising out of or in connection with:
- 17.5.1. the inability of the Client to access the Trading Platform for reasons not reasonably within Clarity’s control;
- 17.5.2. Clarity’s declining to accept an Open CFD Order;
- 17.5.3. Clarity’s cancellation or Close-out of a CFD Order or a CFD following the occurrence of an Adjustment Event;
- 17.5.4. Clarity’s cancellation or Close-out of a CFD Order or a CFD in accordance with the Margin Procedures;

17.5.5. any Event of Default;

17.5.6. any Taxes payable by Clarity in connection with a Transaction Document; and

17.5.7. Clarity acting in accordance with any direction, request or requirement of any regulatory authority or government body.

18. Provision of financial information by Client

The Client shall be obliged to supply to Clarity, when requested to do so:

18.1. 18.1. copies of any financial statements or other financial documents of the Client for each financial year; and

18.2. such additional financial or other information relating to the Client as Clarity may, from time to time, reasonably request.

19. Complaints

Clarity will acknowledge receipt of a written complaint (other than the Client's notification of a discrepancy in a Daily Statement or Monthly Statement) within 5 (five) Business Days and provide a substantive response where possible within 21 (twenty-one) Business Days.

20. Cooling-off period

The Client should note that there is no cooling-off period following completion and acceptance by the Client of the Client Application or any acceptance related to a specific CFD Order.

21. Cession of rights

21.1. The Client may not create or allow to exist a security interest in respect of any interest in these CFD Terms and Conditions, the Margin Account, the Wallet or a CFD, or cede or otherwise transfer the benefit of these CFD Terms and Conditions, the Margin Account, the Wallet or a CFD or any of the Client's rights, remedies, powers, duties or obligations under any of these CFD Terms and Conditions, the Margin Account, the Wallet or a CFD without the prior written consent of Clarity. The Client acknowledges that the Client's rights in the Margin Account and the Wallet and the balance credited to the Margin Account and the Wallet are personal rights and are not capable of assignment without the prior written consent of Clarity.

21.2. Clarity may cede, transfer or otherwise grant participation or sub participation in all or any part of its rights in these CFD Terms and Conditions, the Margin Account, the Wallet or a CFD, and any of its rights, remedies, powers, duties and obligations under any of these CFD Terms and Conditions, the Margin Account, the Wallet or a CFD.

21.3. The Client consents and agrees that Clarity may disclose to a potential cessionary, transferee, participant or sub participant without limitation any information about the Client, the Client's Margin Account, Wallet, CFDs and CFD Orders and any Sensitive Information set out in a Transaction Document.

22. Tax

22.1. If a law requires the Client to withhold or deduct Taxes from a payment to Clarity, the Client must:

22.1.1. make the deduction; and

- 22.1.2. pay the full amount deducted to the relevant authority by the due date in accordance with Applicable Law and deliver to Clarity a copy of any receipt of payment from the relevant authority or other reasonable evidence of payment if no such receipt is provided.
- 22.2. The Client must pay and account for any transfer or similar duties or taxes, including STT, and any loan security or other stamp duties (if any) chargeable in connection with any transaction effected pursuant to or contemplated by the Transaction Documents, and will indemnify and keep indemnified Clarity against any liability arising as a result of the Client's failure to do so.
- 22.3. Consideration for a supply under or in connection with or contemplated by these CFD Terms and Conditions is exclusive of VAT, unless expressly stated to be inclusive of VAT.
- 22.4. If VAT is payable by Clarity or any member of the Clarity Group on any supply under or in connection with or contemplated by these CFD Terms and Conditions, in addition to providing any consideration for that supply (which is exclusive of VAT), the Client must:
- 22.4.1. pay to Clarity or the relevant member of the Clarity Group (as the case may be) an amount equal to the VAT payable on the supply, without deduction or setoff of any other amount; and
- 22.4.2. make that payment as and when the consideration or part of it must be paid or provided, except that the Client need not pay unless he has received a tax invoice (or adjustment note) for that supply.

23. Severability

If any provision of the Transaction Documents (or any portion thereof) is invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of these CFD Terms and Conditions will not be affected or impaired.

24. Variation

No variation of, addition to or consensual cancellation of these CFD Terms and Conditions (including this clause 24) or any other Transaction Document, or waiver of any right arising in terms of these CFD Terms and Conditions or any Transaction Document, shall be of any force or effect unless it is reduced to writing and signed by both parties.

25. No waiver

No relaxation or indulgence granted by Clarity to the Client shall be deemed to be a waiver of any of Clarity's rights in terms of these CFD Terms and Conditions or any other Transaction Document, nor shall any such relaxation or indulgence be deemed to be a novation of any term or condition of these CFD Terms and Conditions or any other Transaction Document.

26. Whole Agreement

These CFD Terms and Conditions, read with the other Transaction Documents, constitutes the whole agreement between the relevant parties in relation to the subject matter thereof and no party shall be bound by any undertaking, representation or warranty not recorded herein or in the other Transaction Documents.

27. Independent advice

Both parties acknowledge, represent and agree that, save for any representation or warranty contained in these CFD Terms and Conditions, it has not relied in any way upon any information

and/or advice given by the other in the implementation of these CFD Terms and Conditions and has taken all reasonable actions to satisfy itself as to the consequences of entering into these CFD Terms and Conditions and all of the provisions of these CFD Terms and Conditions and the restrictions herein contained are fair and reasonable in all the circumstances and are part of the overall intention of the parties in connection with these CFD Terms and Conditions.

28. Default interest

Default interest shall be charged on all amounts due and payable but not paid on the due date, at the prescribed interest rate from time to time, from and including the due date to but excluding the date of payment of the unpaid amount.

29. Costs and expenses, appropriation and conditional settlement

- 29.1. The Client acknowledges that he/she/it is solely responsible for all costs and expenses (including Taxes) incurred by the Client in association with these CFD Terms and Conditions.
- 29.2. Any transactional costs for entering into or closing out a CFD will be recovered from the Margin and any fee or spread earned by Clarity on the relevant CFD Order will be included in the quoted Reference Security Price provided by Clarity in accordance with clause 6.1 above, and no separate fee or spread will be charged and invoiced by Clarity to the Client.
- 29.3. Any amounts paid by the Client to Clarity in terms of these CFD Terms and Conditions will be applied first to outstanding costs and expenses, then to default interest, then to CFD Initial Margin and Close-out Margin and then to other amounts due.
- 29.4. In the event that any security or payment given or made to Clarity by the Client or by any other person in relation to the obligations of the Client under the Transaction Documents in consideration for or in connection with that settlement or discharge, is avoided, repaid or reduced by any Insolvency Event, Clarity will be entitled subsequently to recover the value or amount of that security or payment from the Client, as if that settlement or discharge had not occurred.

30. Consent to telephone recording

The Client consents to the recording of any telephone conversations between the parties and acknowledges that this is an international practice and is used solely for the purpose of resolving any disputes, which may arise concerning telephonic conversations and instructions in relation to the Transaction Documents and any CFD. These recordings are the sole property of the recording party and will be sufficient evidence of any orders, instructions or conversations so recorded. Such recordings may occur with or without the use of an automatic tone-warning device. The Client consents to the delivery of copies or transcripts of such recordings to any court or regulatory authority, where required by law.

31. Notices

- 31.1. For the purposes of the giving of notices and the serving of legal process in terms of these CFD Terms and Conditions, each of the parties chooses a *domicilium citandi et executandi* (“**domicilium**”) as follows:
 - 31.1.1. The Client's *domicilium* for receiving notices and legal process shall be as set out in the Client Application.
 - 31.1.2. Clarity's address for notices and legal process is:

Attention: ICIB Treasury Legal

Address: 100 Grayston Drive, Sandown, Sandton, 2196

Telephone: 011 286 7000

- 31.2. For the avoidance of doubt, notices and legal process given in connection with these CFD Terms and Conditions may not be given by post, registered post or facsimile.
- 31.3. Any party may at any time, by notice in writing to the other party, change its *domicilium* to any other address which is not a post office box or *post restante*; provided that the address for the service of legal process shall always be an address in the Republic of South Africa which is not a post office box or a *post restante*.
- 31.4. Any notice given in connection with these CFD Terms and Conditions shall, save where a particular form of notice is stipulated, be:
- 31.4.1. delivered by hand; or
 - 31.4.2. sent by courier, to the *domicilium* chosen by the party concerned.
- 31.5. A notice given as set out above shall be deemed to have been duly given (unless the contrary is proved):
- 31.5.1. if delivered by hand, on the date of delivery; or
 - 31.5.2. if sent by courier, on the date of delivery by the courier service concerned.
- 31.6. Subject only to clause 31.2 above, a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding the fact that it was not sent to or delivered at such party's chosen *domicilium*.

32. Governing law and submission to jurisdiction

- 32.1. These CFD Terms and Conditions and any other Transaction Documents shall be governed by and construed in accordance with the laws of the Republic of South Africa.
- 32.2. Any dispute arising from these CFD Terms and Conditions or any other Transaction Document (including any litigation concerning the existence, the validity, the interpretation, the performance or the termination of these CFD Terms and Conditions or any other Transaction Document), which cannot be settled amicably, will be submitted to the jurisdiction of the South Gauteng High Court (Johannesburg).

CFD Orders

1. A **“Limit CFD Order”** is:
 - 1.1. a Purchase CFD Order in respect of which the Client bids to purchase a CFD from Clarity for less than or equal to the CFD Specified Price; or
 - 1.2. a Sell CFD Order in respect of which the Client offers to sell a CFD to Clarity for more than or equal to the CFD Specified Price,

in each case which offer remains open for the day on which the Limit CFD Order is placed (or the next Business Day if the Limit CFD Order is placed on a non-Business Day or after business hours), until the Limit CFD Order is cancelled or until a date specified by the Client.
2. A **“Market CFD Order”** is:
 - 2.1. a Purchase CFD Order in respect of which the Client bids to purchase a CFD from Clarity at the Reference Security Price of the underlying Reference Securities as at the time Clarity accepts the CFD Order; or
 - 2.2. a Sell CFD Order in respect of which the Client offers to sell a CFD to Clarity at the Reference Security Price of the underlying Reference Securities as at the time Clarity accepts the CFD Order.
3. A **“Stop CFD Order”** is:
 - 3.1. a Purchase CFD Order which will become a Limit CFD Order if the last traded price of the underlying Reference Security on the Reference Security Exchange is at or above the CFD Specified Stop Level; or
 - 3.2. a Sell CFD Order which will become a Limit CFD Order if the last traded price of the underlying Reference Security on the Reference Security Exchange is at or below the CFD Specified Stop Level.
4. Clarity will normally accept a Limit CFD Order when the CFD Specified Price is equal to the respective available bid or offer price of the underlying Reference Security on the Reference Security Exchange.
5. If the Client:
 - 5.1. places a Purchase CFD Order that is a Limit CFD Order at a CFD Specified Price that is in excess of the current market offer price for the underlying Reference Security, then the Trading Platform may accept that Open CFD Order as a Limit CFD Order to a maximum Reference Security Price of 2% (two per cent) over the Last Traded Reference Security Price as indicated on the Trading Platform as at the placing of the Purchase CFD Order; or
 - 5.2. places a Sell CFD Order that is a Limit CFD Order at a CFD Specified Price that is lower than the current market bid price for the relevant Reference Security then the Trading Platform may accept the that Open CFD Order as a binding Limit CFD Order to a maximum Reference Security Price of 2% (two per cent) below the Last Traded Reference Security Price as indicated on the Trading Platform as at the placing of the Sell CFD Order.

Margin Account and Wallet

Margin Account

1. Upon acceptance by Clarity of the Client Application, Clarity will open a Margin Account for the relevant Currency in the Client's name, and, if the Client enters into a Leveraged Transaction, Clarity will then require that the Client deposits the Initial Amount into the relevant Margin Account *via* electronic funds transfer. Clarity must be in possession of cleared funds in order for Clarity to credit the Client's Margin Account.
2. Notwithstanding anything to the contrary contained in these CFD Terms and Conditions, in respect of all Margin requirements in terms of these CFD Terms and Conditions, unless the funds come from the Client's relevant Wallet, the Client, or the Client must procure that the Client's bank, provides Clarity with an official bank generated proof of payment, evidencing any transfer of funds into the Margin Account within the stipulated time frames. All such proof of payment must be sent by the Client or from the Client's bank and must be addressed to support@nowclarity.com. Notwithstanding the provisions of clause 1 of this **Schedule 1**, which set out the ordinary course position, Clarity has the discretion to act on the basis of such bank-generated proof of payment in the absence of cleared funds in the Margin Account.

Wallet

3. Upon acceptance by Clarity of the Client Application, Clarity will open a Wallet for the relevant Currency in the Client's name, and, if the Client enters into a Transaction (excluding Leveraged Transactions), Clarity will then require that the Client deposits the Initial Amount into the relevant Wallet via electronic funds transfer. Clarity must be in possession of cleared funds in order for Clarity to credit the Client's Wallet.

Collateral security of Clarity

4. For the duration of the term of these CFD Terms and Conditions, the Client hereby pledges and cedes *in securitatem debiti* (as security for a debt) to Clarity all of the Client's rights, title and interest in and to the Margin Account and the Wallet, including all Margin in the Margin Account and the Wallet, and any claims against Clarity in respect of the Margin Account and the Wallet (such rights, title and interest the "**Margin Account Rights**"), including all of the Client's rights, title and interest in and to any other account held at Investec, as continuing covering collateral security for the due, proper and timeous payment and performance in full of all of its obligations to Clarity howsoever arising. Clarity hereby accepts such pledge and cession *in securitatem debiti*.
5. The Client acknowledges and agrees that:
 - 5.1. the Client will not be entitled to withdraw any amount from the Wallet, or transfer funds from the Margin Account to the relevant Wallet, other than funds designated as Available Funds or otherwise in accordance with these CFD Terms and Conditions;
 - 5.2. despite any other provision of the Transaction Documents to the contrary, the Client will not be entitled to withdraw any moneys from the Wallet or the Margin Account, or transfer funds from the Margin Account to the relevant Wallet, unless and until the Client has fully satisfied all outstanding amounts owing to Clarity; and
 - 5.3. the Client can request that the Available Funds be transferred out of the Margin Account or the Wallet.

6. On the occurrence of an Early Termination Event, then, without prejudice to any other rights that Clarity may have, Clarity shall have the right to:
 - 6.1. take over all or any of the Margin Account Rights at their fair market value, and to set off that market value against the value of all of the Client's obligations to Clarity; and
 - 6.2. apply all monies received by virtue of this clause 6 towards the reduction or satisfaction, as the case may be, of the Client's obligations to Clarity,

provided that, if the amount received pursuant to the exercise of Clarity's rights in terms of this clause 6 exceeds the amount owing to Clarity for the time being, whether then due or not (together with all costs and expenses Clarity may incur in exercising its rights in terms of this clause 6), Clarity shall pay over such excess to the Client, without affecting the continuity of these CFD Terms and Conditions for the Client's obligations to Clarity which arise subsequently.

7. The Client hereby appoints Clarity irrevocably *in rem suam* (concerning the Client's affairs) with power of substitution to be its lawful attorney and agent, to execute on its behalf all such documents and do all such things as may be necessary or desirable to give effect to clause 4 to clause 6 (both clauses inclusive) of this **Schedule 1** and to any steps taken by Clarity in pursuance of the rights and powers which it may have as pledgee and cessionary or otherwise. *Administration of the Margin Account / Wallet*

8. The Client:

- 8.1. authorises Clarity to accept all instructions to transfer Available Funds, provided that such instructions have not been cancelled by the Client and such cancellation has been notified to Clarity prior to Clarity acting on that transfer instruction;
- 8.2. will ensure that there **are sufficient funds** in the Margin Account and/or the Wallet to meet all instructions to transfer Available Funds;
- 8.3. acknowledges that instructions to transfer amounts out of the Margin Account and/or the Wallet may not be processed if there are insufficient Available Funds;
- 8.4. acknowledges that Clarity may set its own priority to the processing of instructions to transfer Available Funds regardless of the nature of such instructions or the order in which such instructions are received;
- 8.5. acknowledges that there are circumstances in which an instruction to transfer Available Funds may not be processed on the same day that such instruction is received by Clarity; and
- 8.6. acknowledges that Clarity may establish further requirements as to the manner and times during which instructions to transfer Available Funds must be submitted and other relevant information, provided that any changes will be advised to the Client.

9. Clarity will not be liable in respect of any errors or delays in relation to the receipt a transfer of Available Funds or processing of any instruction to transfer Available Funds, or if the intended payee of any instruction to transfer Available Funds does not receive those funds for reasons that qualify as *Force Majeure*.

10. Instructions to cancel a transfer of Available Funds will not be processed unless notice in a form acceptable to Clarity is received prior to Clarity's processing the instruction. Upon receipt of any notice to cancel a transfer, Clarity will adopt a reasonable-endeavours approach to cancel the original transfer.

11. Clarity has no duty or responsibility to make any enquiry as to whether a transfer of Available Funds has in fact been properly issued by the Client.
12. Margin in the Margin Account and the Wallet will earn interest at the relevant Margin Interest Rate, depending on the Currency. This interest will be capitalised to the applicable Margin Account and Wallet on a monthly basis and upon closure of the Margin Account and/or the Wallet.
13. The Client may close the Margin Account and/or the Wallet by giving written notice in a form agreed upon between the parties. In the event that the Client wishes to terminate the Margin Account and/or the Wallet, the Client must ensure that:
 - 13.1. all the Client's CFDs have been Closed-out and Open CFD Orders have been cancelled;
 - 13.2. there are no funds in the Client's Margin Account and/or Wallet; and
 - 13.3. the Client has paid in full all amounts due to Clarity under these CFD Terms and Conditions.
14. Clarity may:
 - 14.1. close the Client's Margin Account and/or Wallet; and/or
 - 14.2. Close-out the Client's CFD; and/or
 - 14.3. terminate the Client's use of the Trading Platform; and/or
 - 14.4. initiate the Close-out procedure described in clause 27 to clause 29 below of this **Schedule 1** in respect of the relevant existing CFDs; and/or
 - 14.5. satisfy any obligation the Client may have to Clarity out of funds in the Margin Account and/or the Wallet pursuant to the pledge and cession *in securitatem debiti* in clause 4 above of this **Schedule 1** or funds available pursuant to Clarity's set-off rights,

either:

 - 14.6. upon giving not less than 24 (twenty-four) hours' written notice to the Client; or
 - 14.7. immediately, without prior notice to the Client if an Early Termination Event occurs (with subsequent notice being given to the Client).
15. Without prejudice to any other rights or remedies to which a party may be entitled in law, upon closure of the Wallet and/or the Margin Account, any amounts due and payable in accordance with these CFD Terms and Conditions by one party to another up to and including the date of the closure of the Wallet and/or the Margin Account, must be paid in accordance with these CFD Terms and Conditions.

Allocation of Margin

16. The Margin in the Margin Account and the Wallet will be allocated between Available Funds, Aggregate Reserved Amount and Aggregate Required Margin Amount in accordance with the Client's then Open CFD Orders and existing CFDs and market movements on the Reference Securities underlying such Open CFD Orders and existing CFDs.
17. When the Client places a new CFD Order, the Reserved Amount required for that Open CFD Order will be allocated out of Available Funds.

18. When a CFD Order is accepted and the resulting CFD is purchased or sold, the amount previously allocated as a Reserved Amount will be re-allocated as the Required Margin Amount for such CFD.
19. The Client is responsible for monitoring the allocation of Aggregate Reserved Amount, Aggregate Required Margin Amount and Available Funds in the Margin Account and/or the Wallet and for making additional deposits into the Margin Account and/or the Wallet where necessary. The Client's Aggregate Reserved Amount and the Aggregate Required Margin Amount will fluctuate depending on market movements on the Reference Securities underlying the Open CFD Orders and existing CFDs. Any increase in the Client's Aggregate Reserved Amount and/or Aggregate Required Margin Amount will be allocated out of Available Funds as necessary. Any decrease in the Client's Aggregate Reserved Amount and/or Aggregate Required Margin Amount will be re-allocated to Available Funds.

Realisation of profit or loss

20. Clarity will credit the Client's Margin Account (in respect of Leveraged Transactions) or Wallet with any profit made by the Client on existing CFDs (net of any CFD Initial Margin payable and any Overnight Long or Overnight Short payable or receivable in respect of such CFDs). On the Close-out of such a CFD, Clarity will credit the Client's Margin Account or Wallet with any remaining profit made by the Client on the Closed-out CFD (net of any CFD Initial Margin payable on the accepted CFD Order Closing-out the existing CFD, any Close-out Margin payable on Close-out of the existing CFD and any Overnight Long or Overnight Short payable or receivable on the Closed-out CFD). Such profit credited to the Client's Margin Account or Wallet will be allocated in accordance with the terms of this **Schedule 1**.
21. Clarity will debit the Client's Available Funds in the Margin Account (in respect of Leveraged Transactions) with any loss made by the Client on existing CFDs. On the Close-out of such a CFD, Clarity will debit the Client's Available Funds in the Margin Account with any remaining loss made by the Client on the Closed-out CFD. To the extent that the Client's Available Funds are insufficient to cover Clarity's debit in accordance with this clause 21, Clarity will cancel such Open CFD Orders as it determines necessary in its discretion, re-allocate the related Reserved Amounts to Available Funds, and debit such Available Funds with the remaining loss made by the Client on the Closed-out CFD.

Close of Business Day procedure

22. If, at the end of a Business Day, Clarity determines that an additional Required Margin Amount in respect of one or more existing CFDs is required, Clarity will re-allocate the relevant amount of Available Funds to the Aggregate Required Margin Amount.

Intraday procedure

23. **The Client agrees that (i) it is the Client's responsibility to ensure that there is at all times at least 100% (one hundred per cent) Margin available in the Margin Account to meet the Aggregate Required Margin Amount, and (ii) Clarity may immediately Close-out any one or more CFDs should there not be sufficient Margin in the Margin Account to meet the Aggregate Required Margin Amount.**
24. As a courtesy, Clarity may notify the Client by email, SMS and/or on the Trading Platform that a Margin Adjustment Payment could be required.
25. With reference to clause 24 above, upon receipt of notification:
 - 25.1. the Client will have the option of initiating a Close-out of the relevant CFD. Otherwise, the relevant Margin Adjustment Payment will be payable upon receipt of notification to the Client.
 - 25.2. should the Client not Close-out the CFD and should Clarity not receive the required Margin Adjustment Payment timeously, Clarity shall be entitled to initiate the Close-out procedure

described in clause 27 to clause 29 (both clauses inclusive) below of this **Schedule 1** in respect of existing CFDs.

26. When the Margin in the Margin Account (in respect of Leveraged Transactions) comprises 40% (twenty per cent) of the Required Margin Amount, Clarity shall be entitled to initiate the Close-out procedure described in clause 27 to clause 29 (both clauses inclusive) below of this **Schedule 1** in respect of all of the Client's CFDs.

Close-out procedure

27. Clarity will Close-out the Client's CFDs using an equally weighted reduction methodology across all Long CFD Positions and Short CFD Positions to meet Margin requirements. Therefore, Clarity will, subject to prevailing market conditions and at its discretion, Close-out a proportional amount of each Long CFD Position and each Short CFD Positions up to the aggregate amount necessary to meet Margin requirements.
28. Following Close-out of all of the Client's CFDs in accordance with clause 27 above of this **Schedule 1**, Clarity will debit the Client's Margin Account and/or Wallet with all amounts due from the Client in terms of these CFD Terms and Conditions.
29. To the extent that, following Close-out in accordance with clause 27 above of this **Schedule 1** and debiting of the Margin Account and/or Wallet in accordance with clause 28 above of this **Schedule 1**, amounts are still due from the Client in terms of these CFD Terms and Conditions, the Client shall be obliged to pay such amounts to Clarity on demand.

Rates

1. CFD Initial Margin will be payable by the Client on acceptance of each CFD Order. Overnight Long shall be payable on all Long CFD Positions by the Client on each Business Day. Overnight Short shall be receivable by the Client on all Short CFD Positions on each Business Day. Close-out Margin will be payable by the Client on Close-out of each existing CFD.
2. All rates will be published from time to time on the Trading Platform/Trading Platform.

System Latency

1. The Trading Platform is provided "as is" and Clarity makes no express or implied representations or warranties with regard thereto. Without limiting the generality of the foregoing:-
 - 1.1. Clarity does not warrant that the Trading Platform will be error-free or will meet any particular criteria of accuracy, completeness or reliability of information, performance, quality or latency.
 - 1.2. Clarity expressly disclaims all implied warranties, including, without limitation, warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security and accuracy.

2. Neither Clarity, any company in the Clarity Group, its shareholders, agents, consultants or employees will be liable for any damages whatsoever relating to the use of the Trading Platform or the information contained therein, including, without limitation, any direct, indirect, special, incidental, consequential or punitive damages, whether arising out of contract, statute, delict or otherwise. Without derogating from the generality of the foregoing, Clarity shall not be liable for:
 - 2.1. any interruption, malfunction, downtime or other failure of the Trading Platform, databases or any component part thereof for whatever reason;
 - 2.2. any loss or damage with regard to Client data or other data directly or indirectly caused by malfunction of the Trading Platform, power failures, unlawful access to or theft of data, computer viruses; programming defects, or negligence on the part of Clarity;
 - 2.3. any interruption, malfunction, downtime or other failure of goods or services provided by third parties, including, without limitation, the public switched telecommunication service providers (currently Telkom), internet service providers, electricity suppliers (currently Eskom), local authorities and certification authorities; or
 - 2.4. an event of *Force Majeure* or any other event over which Clarity has no direct control.

3. The Client is granted a personal, non-transferable, non-exclusive and limited license to use (but not modify or sub-license) the Trading Platform, subject to these CFD Terms and Conditions and the General Terms of Business, including this Schedule 3. All rights not expressly granted are reserved and this license automatically terminates upon the termination of the relationship of the parties.

4. The Client agrees to be bound by any disclosures, disclaimers, instructions, trading limits and or trading conditions or terms in accordance with these CFD Terms and Conditions and any other Transaction Documents, as the case may be.

5. Clarity may restrict access to or prohibit the use of the Trading Platform or any part thereof for regulatory or other reasons, with or without prior notice and Clarity shall not be liable for any losses whatsoever for such restriction or prohibition.

6. Clarity shall at all times and for whatever reason, have the sole and exclusive right to suspend or terminate the Trading Platform without any prior notification or giving any reasons for such termination or suspension.

7. Clients acknowledge and accept that the Trading Platform may become unavailable from time to time due to various circumstances, including: routine maintenance; technical failure or problems with the Clarity system; technical failure or problems with third party information technology systems; unavailability of telecommunication or electricity services; or other circumstances beyond the control of Clarity.

8. Without derogating from any provisions contained herein the Client undertakes to limit its potential losses by utilising the telephone option for the duration of the unavailability of the Trading Platform.

Clarity Electronic Communication Indemnity (the “Indemnity”)

1. The Client has requested Clarity to provide the Trading Platform, accept CFD Orders from the Client and accept funds into and transfer Available Funds out of the Margin Account and/or Wallet. The Client agrees that such instructions will be facilitated by way of telephone or electronic instruction (“**Electronic Communication**”) by authorised individuals as contemplated herein below.
2. The Client also agrees to receive Statements by way of electronic systems and to convey instructions to Clarity via Electronic Communication.
3. This Indemnity shall be read in conjunction with any other agreement, indemnity or disclaimer with Clarity, which shall form an integral part of this Indemnity.
4. The Client requests and authorises Clarity to rely on and act in accordance with any instruction conveyed by Electronic Communication which may from time to time be, or purport to be, given by the Client or the Client in its name by the authorised individuals nominated by the Client in terms of this Indemnity.
5. The Client acknowledges and agrees that it may not be possible to cancel or receive an instruction or confirmation given to Clarity by means of Electronic Communication.
6. The Client hereby indemnifies Clarity, its directors, employees or servants or any other person(s) acting on behalf of Clarity and holds them harmless from and against any and all claims, loss, demands, liability, costs and expenses of whatsoever nature and howsoever caused and arising, which may at any time be made against Clarity by any person or which Clarity may sustain or incur arising directly or indirectly out of or in consequence of any payments or in terms of any Electronic Communication facilitated by Clarity on behalf of the Client provided that such claims, loss, demands, liability, costs and expenses did not arise out of the negligence, gross negligence or wilful misconduct of Clarity.
7. The Client shall be responsible for ensuring that its instructions or confirmations are submitted to Clarity by an authorised person. The Client indemnifies and holds Clarity harmless against any and all claims, loss, demands, liability, costs and expenses of whatsoever nature suffered or incurred as a result of the unlawful conduct of any unauthorised person submitting such instruction or confirmation provided there is no negligence, gross negligence or wilful misconduct on the part of Clarity in relying on such unlawful instruction or confirmation. Similarly, Clarity indemnifies and holds the Client harmless against any and all claims, loss, demands, liability, costs and expenses of whatsoever nature suffered or incurred as a result of the unlawful conduct of any unauthorised person purportedly acting on behalf of Clarity with regard to any instruction or confirmation of the Client provided there is no negligence, gross negligence or wilful misconduct on the part of the Client in relying on the conduct of such unauthorised person.
8. This Schedule 4 is and shall at all times remain the property of Clarity and shall be effective for the duration of any relationship between the parties in terms of any agreement howsoever arising.
9. No variation of the terms of this Indemnity shall be of any force or effect unless it is reduced to writing and signed by the parties. No indulgence that Clarity may grant to the Client shall constitute a waiver of any of the rights of Clarity, who shall not hereby be precluded from exercising any rights against the Client which may have arisen in the past or which may arise in the future.

Risk Disclosure Statement

1. A CFD is a contract for difference derivative transaction providing synthetic exposure to an underlying asset (in this case, South African listed equity securities) or Reference Securities, but the Client will never beneficially own the underlying asset or Reference Securities.
2. It is important that the Client fully understands the risks involved before making a decision to purchase or sell a CFD.
3. This notice provides information about the risks associated with CFDs, but it cannot explain all of the risks or how such risks relate to the Client's personal circumstances.
4. The Client should carefully consider whether such investments are suitable for the Client in light of the Client's circumstances and financial position. CFDs are not suitable for everyone and, if the Client is in any doubt, professional advice should be obtained.
5. If the Client chooses to enter into a trading relationship with Clarity, it is important that the Client remains aware of the risks involved, that the Client has adequate financial resources to bear such risks and that the Client monitors the CFD Orders, CFDs, Margin Account and Wallet carefully and regularly.

6. **The Client could lose more than the Initial Amount**

The risk of loss arising from trading in CFDs can be substantial and the Client could lose more than the Initial Amount and any additional amounts, including Margin Adjustment Payments, paid into the Margin Account and/or the Wallet. CFD trading typically only requires depositing a small percentage of the total trade value (Required Margin Amount), but profits and losses can quickly exceed the Required Margin Amount, requiring Margin Adjustment Payments. If the market moves against a Long CFD Position or a Short CFD Position, the Client might, in a relatively short time, sustain more than a total loss of Margin in the Margin Account and/or the Wallet.

7. **CFDs are over-the-counter (OTC) derivatives**

- 7.1. CFDs are not traded on the Related Securities Exchange. Each CFD purchased or sold through the Trading Platform results in the Client entering into a contract with Clarity, as the issuer of the CFD. These contracts can only be closed with Clarity and are not transferrable to any other person.
- 7.2. This means that the Client will be exposed to the risk of Clarity default and that such trading is not guaranteed by the JSE or any other Related Securities Exchange.

8. **Gearing or Leverage**

- 8.1. Derivative instruments, such as the CFDs, can be highly volatile. The high degree of "gearing" or "leverage" which is often obtainable in CFDs stems from the payment of what is a comparatively modest Required Margin Amount when compared with the value of the underlying Reference Securities. As a result, a relatively small market movement can, in addition to achieving substantial gains where the market moves in the Client's favour, result in substantial losses which may exceed the Margin in your Margin Account where the market moves against the Client.
- 8.2. The Client must ensure that there is sufficient Margin available in the Margin Account at all times when Long CFD Positions and/or Short CFD Positions are outstanding. A decline or increase in the value of the Reference Securities may cause Clarity to require the Client to make Margin Adjustment Payments to avoid the forced Close-out of the relevant CFD or the

forced Close-out of the Client's other existing CFDs. The Client will be responsible for any losses incurred and any shortfall in the Margin Account after such Close-out.

9. **Changes in margin requirements**

- 9.1. As may be required by market conditions or otherwise in Clarity's discretion, Clarity can increase our Required Margin Amounts and other rates (as set out in a schedule similar to Schedule 1 to these CFD Terms and Conditions) at any time subject to the notice requirements contained in these CFD Terms and Conditions.
- 9.2. These changes may, in certain circumstances, take effect immediately and may result in the Client being required to make a Margin Adjustment Payment. If the Client fails to make the Margin Adjustment Payment, Clarity is entitled to follow the Close-out Procedure detailed in **Schedule 1** to these CFD Terms and Conditions.

10. **Lack of liquidity**

- 10.1. Under certain market conditions, it may be difficult or impossible to Close-out a CFD. This may occur, for example, where trading on the Reference Security Exchange is suspended or restricted at times of rapid price movement.
- 10.2. If there is no liquidity in the relevant Reference Security, the Client may be unable to trade CFDs referencing that Reference Security.
- 10.3. Placing a Stop Order will not necessarily limit the Client's losses to the intended amounts, as market conditions may make it impossible to execute the Stop Order at the CFD Specified Stop Level.

11. **No right to, or in respect of, the Reference Securities**

No CFD can be settled by either party by delivering any underlying Reference Securities. A CFD shall not confer on either party any right, title or interest in any Reference Securities, entitle either party to any voting rights or other rights of corporate action in respect of the Reference Securities, or entitle or oblige either party to acquire, receive, hold, deliver or dispose of any Reference Securities or other securities.

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Product supplier disclosures

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