

## Customer Agreement

This Agreement sets forth the terms and conditions governing your Account at Gain Capital Group, LLC ("GAIN Capital") and all Contracts and other transactions in this Account with GAIN Capital. In this Agreement, the undersigned customer is referred to as "Customer" or "You".

1. **DEFINITIONS.** Terms capitalized in this Agreement are defined in the Glossary as found on GAIN Capital's corporate website [www.gaincapital.com/glossary](http://www.gaincapital.com/glossary).
2. **SERVICES PROVIDED.** Subject to the terms and conditions of this Agreement and acceptance of Customer's application to open an Account with GAIN Capital, GAIN Capital will maintain one or more Accounts in Customer's name and will effect cash settled and physically settled transactions with and for Customer in the international Over-the-Counter Foreign Currency (foreign exchange) markets and metal markets on a spot basis, and provide such other services and products as GAIN Capital may, in its sole discretion, determine from time to time in the future. Unless expressly stated otherwise in writing, all Contracts and other transactions entered into between GAIN Capital and Customer shall be governed by the terms of this Customer Agreement, as amended from time to time (including, without limitation, GAIN Capital's Trading Policies and Procedures).
3. **REPRESENTATIONS AND WARRANTIES.** As of the date hereof, the date of each Contract and other transaction in Customer's Account and any date on which GAIN Capital's Risk Disclosure Statement or Trading Policies and Procedures are revised, updated or amended, Customer represents and warrants to GAIN Capital and agrees for the benefit of GAIN Capital that:
  - 3.1. if Customer is a natural person, Customer is of sound mind, legal age (18 years old in the United States) and legal competence.
  - 3.2. if Customer is not a natural person, (i) Customer is duly organized and validly existing under the applicable laws of the jurisdiction of its organization; (ii) execution and delivery of this Agreement and all Contracts and other transactions contemplated hereunder and performance of all obligations contemplated under this Agreement and all Contracts and other transactions contemplated hereunder have been duly authorized by Customer; and (iii) each person executing and delivering this Agreement and all Contracts and other transactions contemplated hereunder on behalf of Customer performing the obligations contemplated under this Agreement and any Contract and other transaction contemplated hereunder on behalf of Customer, has been duly authorized by Customer to do so.
  - 3.3. execution and delivery by Customer of this Agreement and all Contracts and other transactions contemplated hereunder, and performance of all of Customer's obligations contemplated under this Agreement and any Contract and other transaction contemplated hereunder, will not violate any statute, rule, regulation, ordinance, charter, by-law or policy applicable to Customer.
  - 3.4. Customer has full beneficial ownership of Customer's Account. Customer has not granted and will not grant a security interest in Customer's Account with GAIN Capital (other than the security interest granted to GAIN Capital hereunder) to any person without GAIN Capital's prior written consent. Customer has full beneficial ownership of all collateral and will not grant any security interest in any Collateral to any person (other than the security interest granted to GAIN Capital hereunder) without GAIN Capital's prior written consent.
  - 3.5. Customer will execute and deliver all documents, give all notices, make all filings and take such other actions as GAIN Capital, in its sole discretion, deems necessary or desirable to evidence or perfect any security interest in favor of GAIN Capital or to protect GAIN Capital's interests with respect to any Collateral.
  - 3.6. Customer has read and understands the provisions contained in this Agreement, including, without limitation, GAIN Capital's Risk Disclosure Statements and Trading Policies and Procedures, Customer will review the Agreement each time it is amended. Customer will not affect any Opening Transaction in Customer's Account unless Customer understands GAIN Capital's revised Agreement, and Customer agrees that in effecting any Opening Transaction it is deemed to represent that it has read and understands GAIN Capital's revised Agreement as in effect at the time of such Opening Transaction.
  - 3.7. Customer agrees to comply with all applicable law. You may not use your personal account with GAIN Capital for any illegal activity.
  - 3.8. All information provided by Customer to GAIN Capital, including information regarding Customer's trading experience and investment sophistication, is true, correct and complete, and Customer will notify GAIN Capital promptly of any changes in such information.
  - 3.9. The risk capital and/or intended initial deposit provided as part of the Customer Account Application and any subsequent deposits Customer makes to Customer's account in excess of such pre-disclosed amount(s) represents Customer's total risk capital which should it be lost in its entirety would not alter the Customer's lifestyle.
4. **TRADING.** Customer authorizes GAIN Capital to purchase and sell physically settled and cash settled Foreign Exchange Contracts, Cross Currency Contracts and Metal Contracts on a spot basis for Customer's Account in accordance with Customer's instructions received through the GAIN Capital Online Trading System or via telephone to the GAIN Capital Trading Desk, subject to the terms of this Agreement, including the Annexes hereto and the Customer Account Application, including any applicable addenda thereto. Customer agrees to be conclusively responsible for any instruction received electronically that is identified with Customer's password and Account number and for any electronic, oral and written instruction (including, but not limited to, any Order) to GAIN Capital from persons GAIN Capital, in its sole judgment, believes are apparently authorized by Customer. If Customer's Account is titled as a joint account, GAIN Capital is authorized to act on the instructions of any one owner, without further inquiry, with regard to trading in the Account and the disposition of any and all assets in the Account. GAIN Capital shall have no responsibility for further inquiry into such apparent authority and no liability for the consequences of any actions taken or failed to be taken by GAIN Capital in reliance on any such instructions or on the apparent authority of any such persons.
  - 4.1. **Pricing Information.** GAIN Capital will make available, by posting on the GAIN Capital Online Trading System or by telephoning the GAIN Capital Trading Desk, Bid Prices and Ask Prices at which GAIN Capital is prepared to enter Foreign Currency Contracts, Cross Currency Contracts or Metal Contracts with Customer. Each Bid Price or Ask Price shall be for a Spot Contract with a specified Value Date and shall specify each Eligible Foreign Currency or tradable U.S. dollar-based currency pairs involved where applicable. GAIN Capital expects that these prices will be reasonably related to the bid prices and ask prices available in the market at that time for similar transactions, but a number of factors, such as communication system delays, high volume or volatility can result in deviations between prices quoted by GAIN Capital and other sources. GAIN Capital makes no warranty, express or implied, that Bid Prices and Ask Prices represent prevailing bid prices and ask prices. In addition, these Bid and/or Ask Prices may reflect, at the direction of the Introducing Broker named above, additional pips added to the BID and/or ASK price that may result in an increase of the dealable spread available for the Customer's account as well as a per trade or per lot commission and/or fees. See **Section 11-Charges**.
  - 4.2. **Order Execution.** Gain Capital will attempt to execute all Orders that it may, in its sole discretion, accept from Customer in accordance with Customer's instructions received through the Gain Capital Online Trading System or via telephone to the Gain Capital Trading Desk. In cases where the prevailing market represents prices different from the prices Gain Capital has posted on our screen, Gain Capital will attempt, on a

best efforts basis, to execute trades on or close to the prevailing market prices. All Contracts made and entered into by Gain Capital hereunder will be entered into by Gain Capital as principal. Customer acknowledges, understands and agrees that Gain Capital is not acting as a broker, intermediary, agent, and advisor or in any fiduciary capacity. Gain Capital will not requote prices. Slippage is a term referring to the difference between requested price and the price at which an order is actually filled. Slippage typically occurs around times of news or economic announcements and extreme market volatility and can be either positive or negative. Notwithstanding the provisions of this Paragraph, Customer acknowledges, understands and agrees that all non-market orders are accepted by Gain Capital and undertaken on a "best-efforts basis" in accordance with the relevant provisions of the Trading Policies and Procedures, as amended from time to time. Please visit Gain Capital's website for more information on [order types](#).

All Contracts made and entered into by Gain Capital hereunder will be entered into by Gain Capital as principal. Customer acknowledges, understands and agrees that is not acting as a broker, intermediary, agent, and advisor or in any fiduciary capacity.

- 4.3. **Trade Matching.** GAIN Capital or its affiliates may, at a future date, establish a trade matching system or determine to route Customer's orders to a trade matching system operated by third parties. In that event, GAIN Capital, and/or any one or more of its affiliates, shall have the right (but not the obligation), in the sole discretion of GAIN Capital or any such affiliate, to act for its own account, and as a counter party or as a broker to GAIN Capital customers, in the making of markets and the purchase and sale of Foreign Exchange Contracts, Cross Currency Contracts and Metal Contracts via any medium, including without limitation, over any trade matching network in use by GAIN Capital customers and/or the general public.
- 4.4. **Transmission.** GAIN Capital shall have no responsibility for delays in the transmission of orders due to disruption, failure or malfunction of communications facilities and shall not be liable for any claims, losses, damages, costs or expenses, including attorneys' fees, to any person or entity arising other than as a direct result of GAIN Capital's gross negligence.
- 4.5. **Position & Trading Limits.** GAIN Capital reserves the right to limit the number of Open Positions that Customer may enter or maintain in Customer's Account. GAIN Capital reserves the right, in its sole discretion, to refuse to accept any Order opening a new position or increasing an Open Position.
5. **MARGIN REQUIREMENTS.** Customer shall provide to and maintain with GAIN Capital Margin in such amounts, in cash or other such forms, and within such limits as GAIN Capital, in its sole discretion, may from time to time require. Customer's Account will be under the control of GAIN Capital. GAIN Capital may change Margin requirements at any time, without prior notice to Customer, and may call for additional Margin ("Margin Call") at (x) any time Customer's Margin Balance falls below GAIN Capital's Minimum Margin Requirement as applied to that Account; and (y) any time GAIN Capital, in its sole discretion, believes that it is prudent to do so. GAIN Capital may at any time liquidate Customer's Account in accordance with Paragraph 9. GAIN Capital may withdraw funds from the Customer's account without notice: (x) to ensure that Posted Margin equals or exceeds Required Margin; and (y) to satisfy any payment obligation to GAIN Capital, including commissions, fees and charges in respect of Customer's Account. In the event that Customer directs GAIN Capital to sell any Margin, Collateral, Contract or other property and GAIN Capital is unable to deliver such Margin, Collateral, Contract or other property to a purchaser because Customer fails to deliver it to GAIN Capital, GAIN Capital may borrow or purchase any Margin, Collateral, Contract or property necessary to make such delivery, and Customer hereby agrees to guarantee and hold GAIN Capital harmless against any liability, claim, loss, damage, cost or expense, including attorneys' fees that GAIN Capital may sustain. See FOREX.com's website: "Trading Handbook / Margin Requirements".
6. **SECURITY AGREEMENT.** In order to secure any indebtedness or other obligations at any time owing from Customer to GAIN Capital, including, without limitation, (i) indebtedness or other obligations under any Account, Contract or other transaction with GAIN Capital; or (ii) any indebtedness or other obligations resulting from any guarantee by Customer of any Account, Contract or other transaction with GAIN Capital, Customer hereby assigns, pledges and grants to GAIN Capital a security interest in and right of setoff against: (i) all of Customer's Accounts with GAIN Capital; (ii) all Contracts, cash, securities and other property in Customer's Account at GAIN Capital or delivered or otherwise provided by Customer to secure its indebtedness or other obligations to GAIN Capital or in GAIN Capital's possession or control for any purpose (including safekeeping); and (iii) all products and proceeds of the foregoing (collectively, (i), (ii) and (iii) are referred to as "Collateral"). At any time, in GAIN Capital's sole discretion and without prior demand or notice, GAIN Capital may apply any or all cash (or sell or buy in any such Contracts, securities or other property and apply the proceeds there from) to any such indebtedness or other obligations, notwithstanding that such indebtedness or other obligations arise in an Account other than the Account in which the cash, Contracts, securities or other property were held or generated. Notwithstanding Section 9-207 of the New York Uniform Commercial Code, GAIN Capital shall have the right to sell, pledge, rehypothecate, assign, invest, commingle and otherwise use any Collateral it holds (including, but not limited to, using the Contracts as collateral for a loan to GAIN Capital) free from any claim or right of any nature whatsoever of the Customer, including any equity or right of redemption by the Customer and to register any Collateral in the name of GAIN Capital, its custodian or a nominee for either. Any failure by GAIN Capital to enforce its rights hereunder shall not be deemed a future waiver of such rights by GAIN Capital. GAIN Capital is irrevocably appointed as attorney-in-fact for Customer and is authorized, without notice to Customer, to execute and deliver any documents, give any notice and to take any actions on behalf of Customer, including the execution, delivery and filing of financing statements, that GAIN Capital deems necessary or desirable to evidence or to protect GAIN Capital's interest with respect to any Collateral. In the event that the Collateral deemed acceptable to GAIN Capital ("Eligible Collateral") is at any time insufficient to satisfy Customer's indebtedness or other obligations to GAIN Capital, including obligations to provide Margin in accordance with Paragraph 5 hereof, Customer shall promptly pay upon demand the entire amount of such deficit.
7. **NOVATION OF OPPOSING CONTRACTS.** Whenever there may exist in any Customer Account two (2) or more open and opposite Contracts providing in whole or in part for the purchase and sale of the same Foreign Currency, Cross Currency Pairs or Metal Contracts on the same Value Date, such Contracts shall automatically be canceled and replaced by an obligation to settle only the net difference between amounts payable in respect of the relevant currencies under the relevant Contracts, and/or the net difference between the quantities of the relevant currency deliverable there under.
8. **SETTLEMENT DATE; ROLLOVERS; DELIVERY.** In cases where transactions are executed for physical delivery, instructions on the settlement of Open Positions must be given to GAIN Capital at least two (2) Business Days prior to the Value Date. In the absence of instructions from Customer directing GAIN Capital to deliver, offset, or roll over Open Positions, GAIN Capital is authorized, in GAIN Capital's sole discretion, to deliver, roll over or offset all or any portion of the Open Positions in Customer's Account at Customer's risk. Delivery of Foreign Currency shall be made to the bank specified by the purchaser in a major city in the country in which the Foreign Currency is the legal tender. Unless otherwise agreed by GAIN Capital and Customer in writing, the Foreign Currency shall be deliverable by wire transfer. GAIN Capital may require payment of amounts due from Customer to GAIN Capital prior to 16:30 ET on any day prior to payment of amounts due and payable by GAIN Capital to Customer on that day. GAIN Capital and Customer shall exchange, make use of, and periodically update and confirm any standing payment instructions. Spot Metal deliveries will take place at a location and custodian as approved by GAIN Capital. Sufficient funds to take delivery or the necessary delivery documents must be in the possession of GAIN Capital. If instructions, funds and documents are not received by GAIN Capital by the specified time, GAIN Capital may, in its sole discretion and without notice to Customer, offset Customer's Open Positions, roll over Customer's Open Positions into the next settlement time period, or make or receive delivery on behalf of Customer upon any terms and by any methods deemed reasonable by GAIN Capital, in its sole discretion. Terms and/or methods for delivering, offsetting, or rolling over Customers' Open Positions may differ on a Customer-by-Customer basis relative to the current balance in the Customer's Account.

9. **LIQUIDATION OF ACCOUNTS AND DEFICIT BALANCES.** In the event of: (a) an Event of Default; (b) insufficient Margin, or GAIN Capital's determination that any Collateral deposited to protect Customer's Account is inadequate, regardless of current market quotations, to secure Customer's Account; or (c) any other circumstances or developments that GAIN Capital, in its sole discretion, deems appropriate for its protection, GAIN Capital may, in its sole discretion, take one or more, or any portion, of the following actions: (1) satisfy any obligation Customer may have to GAIN Capital (either directly or by way of guarantee or suretyship) out of any of Customer's funds or property in the custody or control of GAIN Capital; (2) sell or purchase any or all Contracts and any securities or other property held or carried for Customer; and (3) cancel any or all outstanding Orders or Contracts or other transactions or commitments made by or on behalf of Customer. Any of the above actions may be taken without demand for Margin or additional Margin, without prior notice of sale or purchase or other notice to Customer, Customer's legal representatives, heirs, executor, administrator, trustee, legatee, successors or assigns and regardless of whether the ownership interest is held individually or jointly with others. Any prior demand or notice of sale or purchase shall not be considered a waiver of GAIN Capital's right to sell or buy at any time in the future without demand or notice as provided above. In liquidation of Customer's Long Positions and Short Positions, GAIN Capital may, in its sole discretion, offset in the same settlement or it may initiate new Long Positions or Short Positions in order to establish a spread or straddle that in GAIN Capital's sole judgment may be advisable to protect or reduce existing positions in Customer's Account. Any sales or purchases may be made according to GAIN Capital's judgment and in its sole discretion in any interbank, Over-the-Counter or other exchange market where such business is then usually transacted or at a public auction or private sale, and GAIN Capital may purchase the whole or any part thereof free from any right of redemption. In the event the proceeds realized pursuant to liquidation are insufficient for the payment of all liabilities of Customer due to GAIN Capital, Customer shall promptly pay upon demand the entire amount of any such deficit, together with all other deficits and all unpaid liabilities of Customer, including, but not limited to, all costs of enforcement and collection, such as, but not limited to, attorneys' fees, witness fees and travel expenses, interest on any such deficit and liabilities at a rate equal to three (3) percentage points above the then prevailing prime rate at GAIN Capital's principal bank or the maximum interest rate allowed by law, whichever is lower. In the event GAIN Capital incurs expenses other than for the collection of deficits, with respect to Customer's Account, Customer agrees to pay such expenses. See FOREX.com's website: "Trading Handbook / Margin Requirements".
10. **FUTURES COMMISSION MERCHANT AND RETAIL FOREIGN EXCHANGE DEALER.** GAIN Capital is a registered Futures Commission Merchant and Retail Foreign Exchange Dealer (FCM/RFED) (NFA ID# 0339826), a member of the National Futures Association (NFA) and is regulated by the Commodity Futures Trading Commission (CFTC). For more information on the NFA and its policies visit <http://www.nfa.futures.org>. For information regarding GAIN Capital, Commodity Futures Trading Commission (CFTC) registration, NFA membership information, regulatory and non-regulatory actions, please visit NFA's Background Affiliation Status Information Center (BASIC) at <http://www.nfa.futures.org/basicnet/>.
11. **CHARGES.** At this time GAIN Capital charges no brokerage fees or commissions. GAIN Capital is compensated for its services through the bid/ask spread and mark-up on rollovers. GAIN Capital may charge for incidental banking-related fees such as wire charges for deposits/withdrawals and returned check fees and monthly data fees. GAIN Capital may charge monthly data fees in any account wherein there is no trading activity for at least ninety (90) days. GAIN Capital reserves the right to change its fee structure at any time without notice. Fees do not currently, but may in the future include such things as statement charges, order cancellation charges, account transfer charges, telephone order charges or fees imposed by any interbank agency, bank, contract, market or other regulatory or self-regulatory organization arising out of GAIN Capital's provision of services hereunder. Customer may incur additional fees for the purchase of optional, value added services offered by GAIN Capital.
12. **INTRODUCING BROKERS.** If Customer's account has been introduced to GAIN Capital by an Introducing Broker ("IB"), Customer understands and acknowledges that GAIN Capital may compensate Introducing Broker for introducing Customer to GAIN Capital and that such compensation may be on a per trade or other basis.
13. **FOREIGN ACCOUNTS.** Customers not residing in the United States ("Foreign Accounts") may be asked to comply with requests for special information by GAIN Capital as required by any governmental unit or regulatory agency. This includes, but is not limited to, special calls for information. In the event of a special call for information, GAIN Capital or its agent shall be required to obtain the information set forth by any governmental unit or regulatory agency requesting information. In addition, failure to respond to a special call may cause transactions to be prohibited (other than offsetting trades) for Customer.
14. **TRADE CONFIRMATIONS.** Trades executed online will be confirmed online at the time of the trade and trades entered into by telephone will be confirmed verbally and online by 17:30 ET on the day of execution. Reports of the confirmation of orders and statements of Accounts for Customer shall be deemed correct and shall be conclusive and binding upon Customer the sooner of: (x) two (2) Business Days after transmittal to Customer by posted mail; or (y) immediately with respect to Orders confirmed via the GAIN Capital Online Trading System. Customer may object to confirmations and statements by telephone within the time frames identified above, but any such objection must be confirmed by e-mail to [info@gaincapital.com](mailto:info@gaincapital.com) or in writing within two (2) Business Days thereafter to GAIN Capital (which confirmation shall be deemed received only if actually delivered or mailed by registered mail, return receipt requested to GAIN Capital at such address). Failure to object shall be deemed ratification by Customer of all actions taken by GAIN Capital or GAIN Capital's agents prior to Customer's receipt of such reports. Customer's failure to receive a trade confirmation shall not relieve Customer of the obligation to object as set out herein. Customer agrees to immediately call to GAIN Capital's attention any oral information that Customer has reason to believe is inconsistent with Customer's own information. Customer understands, acknowledges and agrees that errors, whether resulting in a profit or loss to Customer, shall be corrected, and Customer's Account will be credited or debited in such manner and extent as to place Customer's Account in the same position in which it would have been had the error not occurred.
15. **COMMUNICATIONS.** Reports, statements, notices and any other communications from GAIN Capital may be transmitted to Customer by (x) placement on GAIN Capital's Website; or (y) United States mail or other delivery service to Customer's current address as reflected on GAIN Capital's records. Customer shall notify GAIN Capital immediately of any change in Customer's address by e-mail to [info@gaincapital.com](mailto:info@gaincapital.com) or by United States mail or other delivery service to GAIN Capital, Bedminster One, 135 US Highway 202/206, Suite 11, Bedminster, NJ 07921. All communications sent by GAIN Capital shall be deemed effective when deposited by GAIN Capital in the United States mail or with another delivery service, or when received by a transmitting agent (such as an Internet service provider) for transmission to Customer, whether actually received by Customer or not. All communications sent by Customer shall not be deemed effective until accepted by GAIN Capital.
16. **GAIN CAPITAL RESPONSIBILITIES.** GAIN Capital shall be liable to Customer for any claims, losses, damages, costs or expenses, including attorneys' fees, caused, directly or indirectly, by any events, actions or omissions, including, without limitation, claims, losses, damages, costs or expenses, including attorneys' fees, resulting from civil unrest, war, insurrection, international intervention, governmental action (including, without limitation, exchange controls, forfeitures, nationalizations, devaluations), natural disasters, acts of God, market conditions, inability to communicate with any relevant person or any delay, disruption, failure or malfunction of any transmission or communication system or computer facility, whether belonging to GAIN Capital, GAIN Capital, Customer, any market, or any settlement or clearing system.
17. **INTELLECTUAL PROPERTY AND CONFIDENTIALITY.** All copyright, trademark, trade secret and other intellectual property rights in the GAIN Capital Online Trading System ("Trading System") shall remain at all times the sole and exclusive property of GAIN Capital and/or its 3<sup>rd</sup> party service providers and Customers shall have no right or interest in the Trading System(s) except for the right to access and use the Trading System(s) as specified herein. Customer acknowledges that the Trading System(s) are confidential and have been developed through the expenditure of substantial skill, time, effort and money. The Customer will protect the confidentiality of GAIN Capital and/or its 3<sup>rd</sup> party service providers by allowing access to the Trading System(s) only by its employees and agents on a need to access basis. Customer will not publish, distribute, or otherwise make information available to third parties any information derived from or relating to the Trading System(s). Customer will not copy, modify, de-compile, reverse engineer, and make derivative works of the Trading System(s) or in the manner in which it operates.

18. **INDEMNIFICATION.** Customer agrees to indemnify and hold GAIN Capital, its affiliates, employees, agents, successors and assigns harmless from and against any and all liabilities, claims, losses, damages, costs and expenses, including attorneys' fees, incurred by GAIN Capital arising out of: (i) Customer's failure to fully and timely perform its obligations hereunder; and (ii) any of Customer's representations and warranties made that may at any time be untrue or incorrect. Customer also agrees to pay promptly to GAIN Capital any and all claims, losses, damages, costs and expenses, including attorneys' fees, incurred by GAIN Capital in the enforcement of any of the provisions of this Agreement, any Contracts and other transactions hereunder, and any other agreements between GAIN Capital and Customer and the collection of any amounts due hereunder and there under.
19. **DISCLOSURE OF CUSTOMER INFORMATION.** GAIN Capital will not share or sell information regarding its customers and/or prospective customers, except to its employees, agents, partners, and associates as required in the ordinary course of GAIN Capital's business conducted on behalf of customers, including, but not limited to, GAIN Capital's banking or credit relationships in accordance with GAIN Capital's privacy policy. GAIN Capital may also disclose to federal or state regulatory agencies and law enforcement authorities' information regarding Customer and Customer's transactions in response to a request for such information or in response to a court order or subpoena. To read GAIN Capital's entire privacy policy, please visit: <http://www.gaincapital.com/privacy.shtml>.
20. **JOINT ACCOUNTS AND/OR TRUST ACCOUNTS.** If more than one natural person executes this Agreement as Customer, all such natural persons agree to be jointly and severally liable for the obligations assumed in this Agreement. If this Agreement is executed by a trust, unincorporated association, partnership, custodian or other fiduciary, such Customer hereby agrees to indemnify, defend, save and hold free and harmless GAIN Capital for any liabilities, claims, losses, damages costs and expenses, including attorneys' fees, resulting directly or indirectly from breach of any fiduciary or similar duty or obligation or any allegation thereof, including attorneys' fees.
21. **AMENDMENTS.** Customer understands, acknowledges and agrees that GAIN Capital may amend or change this Agreement at any time. GAIN Capital will provide notice to Customer of any such amendment or change by posting the amendment or change to the Website or by sending an e-mail message to Customer. Customer agrees to be bound by the terms of such amendment or change on the earlier of: (x) ten (10) days after GAIN Capital has posted notice of such amendment or change to the Gain Capital Website; or (y) on the date of the entry of any Order other than a Liquidating Order. In the event that Customer objects to any such change or amendment, Customer agrees to liquidate Customer's Open Positions and instruct GAIN Capital regarding the disposition of all assets in Customer's Account within ten (10) Business Days after notice of the amendment or change has been posted to the Gain Capital Website. No waiver or amendment of this Agreement may be implied from any course of dealing between the parties or from any failure by GAIN Capital or its agents to assert its rights under this Agreement on any occasion or series of occasions. No oral agreements or instructions to the contrary shall be recognized or enforceable.
22. **TERMINATION.** This Agreement shall continue and be in effect until termination by Customer or GAIN Capital. Customer may terminate this Agreement if: (i) Customer has no open Foreign Currency positions and no liabilities held by or owed to GAIN Capital; and (ii) Customer has provided three (3) days' written notice to GAIN Capital by e-mail to [info@gaincapital.com](mailto:info@gaincapital.com) or by United States mail or other delivery service to GAIN Capital.; and (iii) GAIN Capital has accepted the notice as provided in Section 15 hereof. GAIN Capital may, in its sole discretion, terminate this Agreement at any time, effective as of the close of business on the day notice is sent to Customer. Termination by either party shall not affect any Contracts or other transactions previously entered into and shall not relieve either party of any obligations set out in this Agreement, nor shall it relieve Customer of any obligations arising out of any deficit balance.
23. **ENTIRE AGREEMENT.** This Agreement together with the Customer Account Application embodies the entire agreement between GAIN Capital and the Customer, superseding any and all prior written and oral agreements.
24. **RECORDINGS.** Customer acknowledges and agrees that any and all conversations between Customer and GAIN Capital principals, agents, employees or associates, including the GAIN Capital Trading Desk and customer service and operations desks may, at the option and in the sole discretion of GAIN Capital, be recorded electronically with or without the use of an automatic tone warning device. Customer further agrees to the use of such recordings and transcripts thereof as evidence by either party in connection with any dispute or proceeding that may arise involving Customer or GAIN Capital.
25. **BINDING EFFECT.** This Agreement shall be continuous and shall cover, individually and collectively, all Accounts of Customer at any time opened or reopened with GAIN Capital, irrespective of any change or changes at any time in the personnel of GAIN Capital or its successors, assigns, or affiliates. This Agreement, including all authorizations, shall inure to the benefit of GAIN Capital and its successors and assigns, whether by merger, consolidation, or otherwise and shall be binding upon Customer and/or the personal representatives, heirs, executor, administrator, trustee, legatees, legal representative, successors and assigns of Customer.
26. **LAW AND JURISDICTION; SEVERABILITY.** This Agreement is governed by, and shall be construed in accordance with the laws of the State of New York, United States of America without giving effect to any conflict of laws doctrine that would interfere with or prevent the application of this provision. With respect to any suit, action or proceeding ("Proceeding") relating to this Agreement, Customer irrevocably (i) submits to the exclusive jurisdiction of the State and federal courts located in the Borough of Manhattan, State of New York; (ii) agrees to service of process in any legal proceeding by sending copies thereof by registered or certified mail, if practicable (postage prepaid) to the other party at the address set forth in this Agreement or updated as provided in Paragraph 15 hereof (where service of process is being made by GAIN Capital); (iii) waives any objection which it may have at any time to the laying of venue of any Proceeding brought in any such court, waives any claim that such Proceeding have been brought in an inconvenient forum; (iv) agrees that any Proceeding shall be commenced within one (1) year after the cause of any such Proceeding shall have arisen; and (v) further waives the right to object, with respect to such Proceeding, that such court does not have jurisdiction over such party. Alternatively, at the option of either GAIN Capital or Customer, any proceeding hereunder may be submitted for arbitration before the American Arbitration Association at either the Association's New York or New Jersey Office. The arbitration shall be conducted according to the rules then in effect of the American Arbitration Association. Any award of the arbitrator(s) will be final and binding. If any clause of this Agreement is determined void or invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.
27. **ACCEPTANCE.** This Agreement shall not be deemed to be accepted by GAIN Capital or become a binding contract between Customer and GAIN Capital until the signed Customer Account Application has been received and approved by GAIN Capital. In the event that there are any unauthorized alterations or deletions to this Agreement or related documents such alteration and deletions shall not be binding on GAIN Capital and said original forms shall govern Account.
28. **RELATIONSHIP WITH GAIN CAPITAL.** Ally Invest Forex LLC acts as an introducing broker to GAIN Capital Group, LLC ("GAIN Capital"). Your account is held at and maintained with GAIN Capital who serves as the clearing agent and counterparty to your trades. GAIN Capital is a registered Futures Commission Merchant and Retail Foreign Exchange Dealer (FCM/RFED) and a member of the National Futures Association (NFA ID# 0339826).
29. **AUTHORIZATION TO TRANSFER FUNDS.** Customer hereby agrees that GAIN Capital may at any time and from time to time, in the sole discretion of GAIN Capital, apply and transfer from any of Customer's Accounts with GAIN Capital to any of Customer's other accounts, whether held at GAIN Capital or other approved financial institutions, any of the Contracts, currencies, securities or other property of Customer held either individually or jointly with others to another account.



30. **SPOT METALS.** Spot Metal contracts are not subject to regulation by the U.S. Commodity Futures Trading Commission and National Futures Association under the Commodity Exchange Act.

#### **Consent to Electronic Transmission of Account Statements**

Customer hereby consents to receive account statements (monthly and daily statements) online. GAIN Capital will provide Customer with password-protected access to online reports. Customer will be able to generate daily, monthly and annual account statements detailing transaction activity, profit and loss statements, open positions, margin balances, account credits and debits, etc. Statements are deemed received when made available to Customer by GAIN Capital, regardless of whether Customer actually accessed the statement. Customer is responsible for alerting GAIN Capital to any change in their e-mail address. This consent shall be effective until revoked by Customer in writing and received by GAIN Capital according to paragraph 15 of this Customer Agreement.

#### **Authorization To Transfer Funds**

Customer hereby agrees that GAIN Capital may, at any time and from time to time, in the sole discretion of GAIN Capital, apply and transfer from any of Customer's Accounts with GAIN Capital to any of Customer's other accounts, whether held at GAIN Capital or other approved financial institutions, any of the Contracts, currencies, securities or other property of Customer held either individually or jointly with others to another account.

#### **Agreement to Use Collateral**

Customer authorizes GAIN Capital to sell, pledge, rehypothecate, assign, invest, commingle and otherwise use any Collateral held by GAIN Capital, including, but not limited to, using the Contracts as collateral for a loan to GAIN Capital, and, further dealing with the Collateral, as provided in the Customer Agreement (including, but not limited to Paragraph 6 thereof). Where Customer's Account consists of more than one Account, this authorization shall apply to all of Customer's Accounts with GAIN Capital. This Agreement to Use Collateral shall remain in effect so long as Customer's Account with GAIN Capital remains open or Customer has any obligations of any kind to GAIN Capital, under the Customer Agreement.

#### **Social Security / Tax ID Certification**

Customer hereby certifies, under penalty of perjury, that (1) the number provided on the Customer Application is Customer's correct Social Security or Taxpayer Identification Number and (2) the ownership, or beneficiary, of Customer's Account is not subject to backup withholding under Section 3406(a)(1)(C) of the Internal Revenue Code.

#### **eSignal Disclaimer of Warranty**

If Customer should choose to utilize eSignal's Forex Tahoe Charts, eSignal hereby expressly disclaims all warranties of every kind, express and/or implied, as to the licensed products (including the information, data and software contained therein), the results obtained by their use, as to the performance thereof and every other matter, including, but not limited to, warranties of merchantability and fitness for a particular purpose. eSignal and its third party suppliers do not guarantee the adequacy, accuracy, timeliness or completeness of the licensed products or any component thereof. eSignal and its third party suppliers shall not be subject to any damages or liability for any errors, omissions or delays therein. The licensed products and all components thereof are provided on an "as is" basis.

## Risk Disclosure Statement

In consideration of GAIN Capital agreeing to enter into Over-the-Counter (“OTC”) Foreign Exchange Contracts with the undersigned (hereinafter referred to as the “Customer”), Customer acknowledges, understands and agrees that:

- Trading Is Very Speculative and Risky.** Foreign Exchange Trading and Spot Metal Trading is highly speculative and is suitable only for those customers who (a) understand and are willing to assume the economic, legal and other risks involved, and (b) are financially able to assume losses significantly in excess of Margin or deposits. Foreign Exchange and Spot Metal Trading may not be an appropriate investment for retirement funds. Customer represents, warrants and agrees that Customer understands these risks; that Customer is willing and able, financially and otherwise, to assume the risks of Foreign Exchange Trading and Spot Metal Trading and that loss of Customer’s entire Account Balance will not change Customer’s life style.
- High Leverage And Low Margin Can Lead To Quick Losses.** The high leverage and low Margin associated with Foreign Exchange Trading and Spot Metal Trading can result in significant losses due to price changes in Foreign Exchange Contracts, Cross Currency Contracts and Metal Contracts. Customers must maintain the Minimum Margin Requirement on their Open Positions at all times. It is the customer’s responsibility to monitor his/her Account Balance. GAIN Capital has the right to liquidate any or all Open Positions whenever the Minimum Margin Requirement is not maintained. Increasing leverage increases risk.
- Prices, Margin And Valuations Are Set By GAIN Capital And May Be Different From Prices Reported Elsewhere.** GAIN Capital will provide prices to be used in trading, valuation of Customer positions and determination of Margin requirements. Although GAIN Capital expects that these prices will be reasonably related to prices available in the interbank market, prices reported by GAIN Capital may vary from prices available to banks and other participants in what is known as the interbank market. GAIN Capital will exercise considerable discretion in setting and collecting Margin. GAIN Capital is authorized to convert funds in Customer’s Account for Margin into and from such Foreign Currency and Metal at a rate of exchange determined by GAIN Capital in its sole discretion on the basis of then-prevailing money market rates.
- One Click Trading And Immediate Execution.** GAIN Capital’s automated order entry systems provide immediate transmission of Customer’s order once Customer enters the notional amount and clicks “Buy/Sell.” There is no “second look” before transmission, and Market Orders cannot be cancelled. This feature may be different from other trading systems. Although not required, we recommend a Customer utilize the Demo Trading System to become familiar with the order entry process before trading online with GAIN Capital. Customer agrees that by using GAIN Capital’s order-entry system, Customer agrees to the one-click system and accepts the risk of this immediate transmission feature.
- Telephone Orders And Immediate Execution.** Market Orders executed through the GAIN Capital Trading Desk are completed when GAIN Capital says “deal” or “done.” At that point Customer has bought or sold and cannot cancel the Market Order. By placing Market Orders through the GAIN Capital Trading Desk, Customer agrees to such immediate execution and accepts the risk of this immediate execution feature.
- Market Recommendations Are Informational, Customer Makes Independent Decisions, And GAIN Capital Is Not An Adviser Or A Fiduciary To Customer.** The market recommendations provided by GAIN Capital do not constitute an offer to buy or sell, or the solicitation of an offer to buy or sell, any Foreign Exchange Contracts, Cross Currency Contracts or Metal Contracts. Each decision by Customer to enter into a Contract or other transaction with GAIN Capital and each decision whether a Contract or other transaction is appropriate or proper for Customer is an independent decision by Customer. GAIN Capital is not acting as an advisor or serving as a fiduciary to Customer. Customer agrees that GAIN Capital has no fiduciary duty to Customer and no liability in connection with and is not responsible for any liabilities, claims, damages, costs and expenses, including attorneys’ fees, incurred in connection with Customer following GAIN Capital’s trading recommendations or taking or not taking any action based upon any recommendation or information provided by GAIN Capital.
- Recommendations Are Based On Personal Judgments And Are Not Guaranteed.** The market recommendations of GAIN Capital are based solely on the judgment of GAIN Capital’s personnel. These market recommendations may or may not be consistent with the market positions or intentions of GAIN Capital, its affiliates and employees. The market recommendations of GAIN Capital are based upon information believed to be reliable, but GAIN Capital cannot and does not guarantee the accuracy or completeness thereof or represent that following such recommendations will reduce or eliminate the risk inherent in Foreign Exchange and Spot Metal Trading.
- There is no Central Market or Clearinghouse Guarantee of Payment.** Each Contract is a contract directly between GAIN Capital and the Customer. There is no clearinghouse and no guarantee by any other party of GAIN Capital’s payment obligations to the customer. Customer must look only to GAIN Capital for performance on all Contracts in Customer’s Account and for return of any Margin or Collateral.
- No Guarantees Of Profit.** There are no guarantees of profit or freedom from loss in Foreign Exchange and Spot Metal Trading. Customer has received no such guarantees from GAIN Capital or from any of its representatives. Customer is aware of the risks inherent in Foreign Exchange Trading and is financially able to bear such risks and withstand any losses incurred.
- Customer May Not Be Able To Close Open Positions.** Due to market conditions or other circumstances GAIN Capital may be unable to close out Customer’s position at the level specified by Customer, and Customer agrees GAIN Capital will bear no liability for failure to do so.
- Trading Ahead And Along.** GAIN Capital its personnel and affiliates and various other parties may execute orders at the same or better prices ahead of a Customer Order.
- Third Party Agents.** In the event that Customer grants trading authority or control over Customer’s Account to a third party (the “Trading Agent”), whether on a discretionary or non-discretionary basis, GAIN Capital shall in no way be responsible for reviewing Customer’s choice of such Trading Agent or for making any recommendations with respect thereto. GAIN Capital makes no representations or warranties concerning any Trading Agent; GAIN Capital shall not be responsible for any loss to Customer occasioned by the actions of the Trading Agent; and GAIN Capital does not, by implication or otherwise, endorse or approve of the operating methods of the Trading Agent. If Customer gives the Trading Agent authority to exercise any of its rights over its Account, Customer does so at Customer’s risk. Even though the undersigned grants authority to Trading Agent, client should be diligent and closely scrutinize all account activity. GAIN Capital provides online Account access to view the status of their Account(s), whereby Client may view their Account Value and Account Activity.
- Internet Trading.** Since GAIN Capital does not control signal power, its reception or routing via Internet, configuration of Customer’s equipment or reliability of its connection, GAIN Capital shall not be liable for any claims, losses, damages, costs or expenses, including attorneys’ fees, caused, directly or indirectly, by any breakdown or failure of any transmission or communication system or computer facility or trading software, whether belonging to GAIN Capital, Customer, any market, or any settlement or clearing system when Customer trades online (via Internet).
- Telephone Orders.** GAIN Capital is not responsible for disruption, failure or malfunction of telephone lines.
- Quoting Errors.** Should a quoting error occur due to a mistype of a quote or a misquote given by telephone and/or electronic means (including responses to Customer requests), GAIN Capital is not liable for any resulting errors in Account Balances and reserves the right to make necessary

corrections or adjustments on the Account involved. Any dispute arising from such quoting errors will be resolved on the basis of the fair market value, as determined by GAIN Capital, in its sole discretion, of the relevant Currency at the time such an error occurred. In cases where the prevailing market represents prices different from the prices GAIN Capital has posted on our screen, GAIN Capital will attempt, on a best efforts basis, to execute trades on or close to the prevailing market prices. These prevailing market prices will be the prices, which are ultimately reflected on the Customer Statements. This may or may not adversely affect customer realized and unrealized gains and losses.

16. **Creditor Priority in Bankruptcy.** The transactions you are entering into with GAIN Capital are not traded on an exchange. Therefore, under the U.S. Bankruptcy Code, your funds may not receive the same protections as funds used to margin or guarantee exchange-traded futures and options contracts, which receive a priority in bankruptcy. Since that same priority has not been given to funds used for off-exchange forex trading and spot metal trading, if GAIN Capital becomes insolvent and you have a claim for amounts deposited or profits earned on transactions with GAIN Capital, your claim may not receive a priority. Without a priority, you are a general creditor and your claim will be paid, along with the claims of other general creditors, from any monies still available after priority claims are paid. Even customer funds that Company keeps separate from its own operating funds may not be safe from the claims of other general and priority creditors.

## Trading Policies And Procedures

1. **INTRODUCTION.** GAIN Capital's Trading Policies and Procedures are an integral part of your Customer Agreement. It is your responsibility as Customer to carefully read these Trading Policies and Procedures and to inform GAIN Capital of any questions or objections that you may have regarding them before entering each and every trading Order. In entering your trading Orders with GAIN Capital, you agree, represent, warrant and certify that you understand and accept these Trading Policies and Procedures, as they are set forth here and as may be amended from time to time by GAIN Capital as posted to Gain Capital's website, in its sole discretion, and you agree to comply with these Trading Policies and Procedures as currently in effect at any time. Terms capitalized in these Trading Policies and Procedures are defined in the Glossary as found on [www.gaincapital.com/glossary](http://www.gaincapital.com/glossary).
2. **TRADING HOURS.** All references to GAIN Capital hours of trading are in U.S. Eastern Time ("ET") using a 24-hour format. GAIN Capital normally provides access for Foreign Exchange Trading and Spot Metal Trading on the Website from 17:00 ET on Sunday to 17:00 ET on Friday, but GAIN Capital reserves the right to suspend or modify its trading hours at any time and on such an event will inform clients in advance on a best efforts basis of any changes in its operating hours. Trading hours by contract type may vary. OTC Foreign Currency and spot metal markets typically operate 24 hours a day. Following submission of an Order to trade, it is the sole responsibility of Customer to remain available for Order and Fill confirmations, and other communications regarding Customer's GAIN Capital Account until all open Orders are completed. Thereafter, Customer must monitor Customer's Account frequently when Customer has Open Positions in the Account.
3. **TRADE ORDERS**
  - 3.1. **Order Entry.** All Orders must be placed through the GAIN Capital Online Trading System or by telephone to the GAIN Capital Trading Desk. Telephone orders are accepted in the sole discretion of GAIN Capital.
  - 3.2. **Types of Orders Accepted.** Some of the types of Orders GAIN Capital accepts include, but are not limited to:
    - a) **Day Only Order** -- An order (other than a Market Order) that is effective until 17:00 ET on the day that it was requested.
    - b) **Good till Canceled Order ("GTC")** -- An Order (other than a Market Order), that by its terms is effective until filled or canceled by Customer. GTC orders do *not* automatically cancel at the end of the Business Day.
    - c) **Limit Order** -- An Order (other than a Market Order) to buy or sell the identified Currency or spot metal, or pair of Currencies or metal pair, at a specified Foreign Exchange Rate or metal at a specified spot rate. Limit orders are executed at the order rate or better. Sell limit orders are filled when the bid reaches the requested rate; limit orders to buy are filled on the offer.
    - d) **Market Order** -- An Order to buy or sell the identified Currency or spot metal, or pairs of Currencies or metals pair, at the current market Foreign Exchange Rate or metal at the current market rate. An Order to buy is executed at the Ask Price, and an Order to sell is executed at the Bid Price. Market Orders are executed at the best available price at the time the order is received.
    - e) **Instant Execution** -- Instant Execution is designed for use in combination with the one-click dealing feature available in the FOREXTrader PRO trading platform. With Instant Execution, market orders will only be executed at the requested rate or within a trader-specified deviation (measured in pips). The default setting is 1 pip deviation, so if the market moves unfavorably away from the requested price by more than 1 pip, your order will not be executed. However, if the market moves in your favor by any amount then the order will be executed at the improved price. You can modify the deviation setting at any time, by product, within the FOREXTrader PRO platform.
    - f) **One Cancels the Other Order ("OCO")** -- An order that is linked to another order. If one of the orders is executed, the other will be automatically cancelled.
    - g) **Stop/Loss Order** -- An order to buy or sell at a specified Foreign Exchange Rate or spot metal rate away from the current market for the purpose of liquidating an Open Position during market conditions in which there has been an adverse movement in Foreign Exchange Rates or spot metal rates. Stop orders become market orders when a predefined order rate is reached. Stop orders are executed at the best available price, depending on available liquidity. Buy stop orders are filled on the offer price and Sell Stop orders are filled at the bid price.
  - 3.3. **One Click Order Entry/One Click Execution of Market Orders.**
    - 3.3.1. **Electronic Order entry for Market Orders equals Order execution.** To enter an online Order, Customer must access the deal entry screen, enter the notional amount, *i.e.*, the size of the trade, and select the Eligible Foreign Currencies, Cross Currency Pairs or metal rates. When prepared to trade, Customer must then click on "BUY/SELL." The Order is filled shortly after the Customer hits "BUY/SELL", if the Customer has sufficient funds in his or her Account and a "deal failed" message is not received. Deals may fail for several reasons including changing dealer prices, insufficient margin, unspecified lot size or unanticipated technical difficulties.
    - 3.3.2. **Immediate Execution of Market Orders Through the GAIN Capital Trading Desk.** Market Orders executed over the telephone with the GAIN Capital Trading Desk are completed when GAIN Capital says "deal" or "done." At that point Customer has bought or sold and cannot cancel the Market Order. Customer agrees by placing Market Orders through the GAIN Capital Trading Desk to such immediate execution and accepts the risk of this immediate execution feature.
    - 3.3.3. **Order Cancellation.** Non-market Orders may be cancelled via the GAIN Capital Online Trading System. Rapid changes in Bid Prices and Ask Prices, however, may cause Customer's Order to be executed before Customer can cancel it and GAIN Capital shall have no liability for any claims, losses, damages, costs or expenses, including attorneys' fees, arising directly or indirectly out of the failure of such Order to be cancelled. Customer may contact GAIN Capital by telephone if facing difficulty with order cancellation.
  - 3.4. **Capacity.** GAIN Capital operates as a division of GAIN Capital Group, LLC. GAIN Capital Group, LLC is a registered Futures Commission Merchant and Retail Foreign Exchange Dealer (FCM/RFED) and a member of the National Futures Association (NFA ID # 0339826).
  - 3.5. **Terms of Acceptance for Orders.** It is Customer's sole responsibility to clearly indicate the terms of an Order when entered, whether Market Order, Limit Order, Stop/Loss Order, Day-Only Order, OCO Order or GTC Order, including the Order's Value Date and specified Spot Rate limits, where applicable. Although a Spot Rate is specified upon entry of Stop/Loss Orders, Limit Orders and other non-market Orders, market conditions may often prevent the execution of an individual Customer's non-market Orders despite other dealing activity at that price level, or may often require non-market Orders to be Filled at a substantially different Spot Rate, and Customer agrees to accept the best rate which GAIN Capital, in its discretion, may assign to the Fill. Customer acknowledges that GAIN Capital shall accept all non-market Orders only on a best-efforts basis. GAIN Capital shall have no liability for failure to Fill Orders, and makes no guarantee of an Order's priority over the Orders of GAIN Capital, its other customers, associated principals, officers, directors, affiliates, associates, employees, banks, bank employees or other dealers. GAIN Capital shall have the right, but not the obligation, to reject any Order in whole or in part before or after confirmation, or to cancel and rescind any Fill, where Customer's Account contains Margin that is insufficient TO SUPPORT THE ENTIRE ORDER at the time that market levels reach the order levels as specified by the client, or where, in the opinion and sole discretion of GAIN Capital, the execution of such Order may place Customer's Account in an insufficient Margin condition, or where such Order or Fill is illegal or otherwise improper.



3.6. **Confirmation of Fills.** Trades executed online will be confirmed online in the Activity Log, Deal Blotter, on the Execution Screen, and the Position Management Screen is updated online as each trade is executed. Telephone orders are verbally confirmed and confirmed online in the Deal Blotter and Position Management Screen by 17:30 ET on the day the order is placed. Confirmation of Fills, and statements of Accounts for Customer shall be deemed correct and shall be conclusive and binding upon Customer if not objected to immediately by phone or email if placed through GAIN Capital's Online Trading System or by telephone to the GAIN Capital Trading Desk, and such objection is confirmed in writing within three (3) days after transmittal to Customer by mail or otherwise. GAIN Capital reserves the right to be the final arbiter with respect to disputed Orders. In cases where the prevailing market represents prices different from the prices GAIN Capital has posted on our screen, GAIN Capital will attempt, on a best efforts basis, to execute trades on or close to the prevailing market prices. This may or may not adversely affect customer Realized and Unrealized Gains and Losses.

#### 4. CUSTOMER ACCOUNTS; INITIAL DEPOSITS; DEMO TRADING SYSTEMS

4.1. **Documents.** Before you can place an Order with GAIN Capital, you must complete the Customer Account Application and read, complete and sign the Customer Agreement, including the Risk Disclosure Statement, Secondary Risk Disclosure Statement and these Trading Policies and Procedures and all applicable addenda. You must deposit sufficient funds in your Account, your Customer Account Application must be approved by GAIN Capital, your deposited funds must have cleared the banking system, and you must have completed the Demo Trading Systems, if required to do so by GAIN Capital. Also, GAIN Capital must accept your Customer Account Application before GAIN Capital will permit you to trade in your Account. You will be notified by e-mail when your Customer Account Application has been approved. If a Customer applies online, Customer will be permitted to trade only after GAIN Capital has received a completed and signed Customer Account Application and Customer Agreement. GAIN Capital may, in its sole discretion, initially accept a fax copy of the signed Customer Account Application and may permit one or more trades if Customer has deposited sufficient funds into the Account. In this case, GAIN Capital must receive an original signed copy of the entire Customer Account Application and Customer Agreement within seven (7) days of completion of the online Customer Account Application. If GAIN Capital does not receive the Customer Account Application and Customer Agreement with original signatures, GAIN Capital reserves the right to liquidate any Open Positions in the Account and to close the Account.

4.2. **Currency for Rendering Accounts.** All initial deposits to Customer Accounts will be accepted only in U.S. Dollars, and, unless settlement and delivery of a Foreign Currency have taken place, all Account Balances will be computed and reported only in U.S. Dollars.

4.3. **Recognition of Deposits.** No deposit shall be recognized until the wire or check has been fully cleared and collected by GAIN Capital's bank or depository institution. You will be notified via e-mail once your funds have been received by GAIN Capital and are available for trading.

4.4. **Fees.** All banking fees shall be charged to Customer's Account at GAIN Capital's discretion, including a \$25.00 GAIN Capital fee, over and above any bank fees, for each returned check.

5. **MARGIN REQUIREMENTS.** Customer shall provide and maintain with GAIN Capital margin in such amounts and in such form that GAIN Capital, in its sole discretion may require. GAIN Capital does not require Customers to pay the full price of Foreign Currencies or metal Customer may buy and sell. Instead, Customer is required to post a small percentage of the full amount which Customer is obligated to pay to GAIN Capital under the Contract, to secure Customer's obligations to GAIN Capital. Margin includes Required Margin for Open Positions, which is based on (i) the Opening Margin Requirement; (ii) the Minimum Margin Requirement; (iii) the market value of Open Positions; and (iv) any additional amount as GAIN Capital, in its sole discretion, believes is prudent to require. Customer must maintain the Minimum Margin Requirement on their Open Positions at all times. GAIN Capital has the right to liquidate any or all Open Positions whenever the Minimum Margin Requirement is not maintained, according to paragraph 6 hereof. Margin requirements are subject to change at any time in GAIN Capital's sole discretion and without prior notice. No previous margin requirement shall preclude GAIN Capital from increasing that requirement without prior notice. GAIN Capital may, in its sole discretion, elect to impose on a disclosed on undisclosed basis limitations on the maximum number of Open Positions allowed at any time

6. **LIQUIDATION LEVEL.** Subject to all additional rights of GAIN Capital under the Customer Agreement, in the event that, in the sole opinion of GAIN Capital and in accordance with GAIN Capital's reasonable best estimate of then prevailing obtainable market Spot Rates, and regardless of whether or not prior Margin Calls have been issued or met, if the Margin Balance should at any time equal or fall below the Minimum Margin Requirement for Customer's Account in the aggregate, GAIN Capital will have the right but not the obligation to liquidate any part of or all Open Positions in Customer's Account. Clients are responsible for placing their own Stop Loss Orders to minimize losses. Any failure by GAIN Capital to enforce its rights hereunder shall not be deemed a future waiver of such rights by GAIN Capital. GAIN Capital does not make margin calls in the ordinary course of business. GAIN Capital maintains the right to liquidate Customer positions as described above. However, GAIN Capital may from time to time and in its sole discretion, call Customer and request that Customer deposit additional Collateral to secure Customer's obligations to GAIN Capital, over and above the balance in Customer's Account. Any call for additional margin without exercising the rights to liquidate Customer positions shall not be deemed precedent for future calls nor future waiver of such liquidation rights by GAIN Capital.

7. **WITHDRAWALS.** Payments from a Customer Account require a withdrawal request form signed by all required account holders and submitted in writing to GAIN Capital. The Withdrawal Request Form requires a minimum of two (2) Business Days from receipt of the withdrawal request for issuance of a check or wire transfer of funds.

8. **MARGIN CALLS.** GAIN Capital does not make margin calls in the ordinary course of business. GAIN Capital maintains the right to liquidate Customer positions as described above. However, GAIN Capital may from time to time and in its sole discretion, call Customer and request that Customer deposit additional Collateral to secure Customer's obligations to GAIN Capital, over and above the balance in Customer's Account. Any call for additional margin without exercising the rights to liquidate Customer positions shall not be deemed precedent for future calls nor future waiver of such liquidation rights by GAIN Capital.

**GAIN CAPITAL**

**THIS IS A LEGALLY BINDING CONTRACT.**

**DO NOT SIGN UNTIL YOU HAVE CAREFULLY READ ALL OF THE FOREGOING COMPLETELY  
AND COMPLETED THE CUSTOMER ACCOUNT APPLICATION.**

**Your signature below acknowledges that you have carefully read, in its entirety, and understood the Customer Agreement, Social Security or Tax ID Certification, Authorization to Transfer Funds, Consent to Electronic Statements, Agreement to Use Collateral, Risk Disclosure Statement, Secondary Risk Disclosure (High Risk Investment), and Trading Policies and Procedures, and that you agree to all of the provisions contained therein.**

**Your signature below further represents, warranties and certifies that the information provided by you in the Customer Account Application is correct and complete.**

Name of Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Secondary Risk Disclosure: High Risk Investment**

Trading is very speculative and risky. Foreign Exchange Trading is highly speculative and is suitable only for those customers who (a) understand and are willing to assume the economic, legal and other risks involved, and (b) are financially able to assume losses significantly in excess of margin or deposits. Customer represents, warrants and agrees that Customer understands these risks; that Customer is willing and able, financially and otherwise, to assume the risks of Foreign Exchange Trading and Spot Metal Trading and that loss of Customer's entire Account Balance will not change Customer's life style.

The high leverage and low margin associated with Foreign Exchange Trading and Spot Metal Trading can result in significant losses due to price changes in Foreign Exchange Contracts, Cross Currency Contracts and Metal Contracts. Company's margin policies may require that additional funds be provided to properly margin Customer's Account and that Customer must immediately meet such margin requirements. Failure to maintain the Minimum Margin Requirement may result in the liquidation of any open positions with resultant loss to Customer.

FOREX IS AN OVER THE COUNTER (OTC) MARKET, MEANING THE FOREIGN CURRENCY TRADING YOU ARE ENTERING INTO IS NOT CONDUCTED ON AN EXCHANGE. AS A MARKET MAKER, GAIN CAPITAL IS THE COUNTERPARTY IN THESE TRANSACTIONS AND, THEREFORE, ACTS AS THE BUYER WHEN YOU SELL AND THE SELLER WHEN YOU BUY. AS A RESULT, GAIN CAPITAL'S INTERESTS MAY BE IN CONFLICT WITH YOURS. UNLESS OTHERWISE SPECIFIED IN YOUR WRITTEN AGREEMENT OR OTHER WRITTEN DOCUMENTS GAIN CAPITAL ESTABLISHES THE PRICES AT WHICH IT OFFERS TO TRADE WITH YOU. THE PRICES OFFERED MIGHT NOT BE THE BEST PRICES AVAILABLE AND DIFFERENT PRICES MAY BE OFFERED TO DIFFERENT CUSTOMERS.

IF GAIN CAPITAL ELECTS NOT TO COVER ITS OWN TRADING EXPOSURE, THEN YOU SHOULD BE AWARE THAT GAIN CAPITAL MAY MAKE MORE MONEY IF THE MARKET GOES AGAINST YOU. ADDITIONALLY, SINCE GAIN CAPITAL ACTS AS THE BUYER OR SELLER IN THE TRANSACTION, YOU SHOULD CAREFULLY EVALUATE ANY TRADE RECOMMENDATIONS YOU RECEIVE FROM GAIN CAPITAL OR ANY OF ITS SOLICITORS.

Name of Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **RISK DISCLOSURE STATEMENT**

OFF-EXCHANGE FOREIGN CURRENCY TRANSACTIONS INVOLVE THE LEVERAGED TRADING OF CONTRACTS DENOMINATED IN FOREIGN CURRENCY CONDUCTED WITH A FUTURES COMMISSION MERCHANT OR A RETAIL FOREIGN EXCHANGE DEALER AS YOUR COUNTERPARTY. BECAUSE OF THE LEVERAGE AND THE OTHER RISKS DISCLOSED HERE, YOU CAN RAPIDLY LOSE ALL OF THE FUNDS YOU DEPOSIT FOR SUCH TRADING AND YOU MAY LOSE MORE THAN YOU DEPOSIT.

YOU SHOULD BE AWARE OF AND CAREFULLY CONSIDER THE FOLLOWING POINTS BEFORE DETERMINING WHETHER SUCH TRADING IS APPROPRIATE FOR YOU.

(1) TRADING IS NOT ON A REGULATED MARKET OR EXCHANGE—YOUR DEALER IS YOUR TRADING PARTNER WHICH IS A DIRECT CONFLICT OF INTEREST. BEFORE YOU ENGAGE IN ANY RETAIL FOREIGN EXCHANGE TRADING, YOU SHOULD CONFIRM THE REGISTRATION STATUS OF YOUR COUNTERPARTY.

The off-exchange foreign currency trading you are entering into is not conducted on an interbank market, nor is it conducted on a futures exchange subject to regulation as a designated contract market by the Commodity Futures Trading Commission. The foreign currency trades you transact are trades with the futures commission merchant or retail foreign exchange dealer as your counterparty. WHEN YOU SELL, THE DEALER IS THE BUYER. WHEN YOU BUY, THE DEALER IS THE SELLER. As a result, when you lose money trading, your dealer is making money on such trades, in addition to any fees, commissions, or spreads the dealer may charge.

(2) AN ELECTRONIC TRADING PLATFORM FOR RETAIL FOREIGN CURRENCY TRANSACTIONS IS NOT AN EXCHANGE. IT IS AN ELECTRONIC CONNECTION FOR ACCESSING YOUR DEALER. THE TERMS OF AVAILABILITY OF SUCH A PLATFORM ARE GOVERNED ONLY BY YOUR CONTRACT WITH YOUR DEALER.

Any trading platform that you may use to enter off-exchange foreign currency transactions is only connected to your futures commission merchant or retail foreign exchange dealer. You are accessing that trading platform only to transact with your dealer. You are not trading with any other entities or customers of the dealer by accessing such platform. The availability and operation of any such platform, including the consequences of the unavailability of the trading platform for any reason, is governed only by the terms of your account agreement with the dealer.

(3) YOUR DEPOSITS WITH THE DEALER HAVE NO REGULATORY PROTECTIONS.

All of your rights associated with your retail forex trading, including the manner and denomination of any payments made to you, are governed by the contract terms established in your account agreement with the futures commission merchant or retail foreign exchange dealer. Funds deposited by you with a futures commission merchant or retail foreign exchange dealer for trading off-exchange foreign currency transactions are not subject to the customer funds protections provided to customers trading on a contract market that is designated by the Commodity Futures Trading Commission. Your dealer may commingle your funds with its own operating funds or use them for other purposes. In the event your dealer becomes bankrupt, any funds the dealer is holding for you in addition to any amounts owed to you resulting from trading, whether or not any assets are maintained in separate deposit accounts by the dealer, may be treated as an unsecured creditor's claim.

(4) YOU ARE LIMITED TO YOUR DEALER TO OFFSET OR LIQUIDATE ANY TRADING POSITIONS SINCE THE TRANSACTIONS ARE NOT MADE ON AN EXCHANGE OR MARKET, AND YOUR DEALER MAY SET ITS OWN PRICES.

Your ability to close your transactions or offset positions is limited to what your dealer will offer to you, as there is no other market for these transactions. Your dealer may offer any prices it wishes, and it may offer prices derived from outside sources or not in its discretion. Your dealer may establish its prices by offering spreads from third party prices, but it is under no obligation to do so or to continue to do so. Your

dealer may offer different prices to different customers at any point in time on its own terms. The terms of your account agreement alone govern the obligations your dealer has to you to offer prices and offer offset or liquidating transactions in your account and make any payments to you. The prices offered by your dealer may or may not reflect prices available elsewhere at any exchange, interbank, or other market for foreign currency.

(5) PAID SOLICITORS MAY HAVE UNDISCLOSED CONFLICTS.

The futures commission merchant or retail foreign exchange dealer may compensate introducing brokers for introducing your account in ways which are not disclosed to you. Such paid solicitors are not required to have, and may not have, any special expertise in trading, and may have conflicts of interest based on the method by which they are compensated. Solicitors working on behalf of futures commission merchants and retail foreign exchange dealers are required to register. You should confirm that they are, in fact registered. You should thoroughly investigate the manner in which all such solicitors are compensated and be very cautious in granting any person or entity authority to trade on your behalf. You should always consider obtaining dated written confirmation of any information you are relying on from your dealer or a solicitor in making any trading or account decisions.

FINALLY, YOU SHOULD THOROUGHLY INVESTIGATE ANY STATEMENTS BY ANY DEALERS OR SALES REPRESENTATIVES WHICH MINIMIZE THE IMPORTANCE OF, OR CONTRADICT, ANY OF THE TERMS OF THIS RISK DISCLOSURE. SUCH STATEMENTS MAY INDICATE POTENTIAL SALES FRAUD.

THIS BRIEF STATEMENT CANNOT, OF COURSE, DISCLOSE ALL THE RISKS AND OTHER ASPECTS OF TRADING OFF-EXCHANGE FOREIGN CURRENCY TRANSACTIONS WITH A FUTURES COMMISSION MERCHANT OR RETAIL FOREIGN EXCHANGE DEALER.

For the calendar quarter ending December 31, 2018, there were 30,632 active non-discretionary trading accounts of which 32% were profitable and 68% unprofitable. For the calendar quarter ending September 30, 2018, there were 30,283 active non-discretionary trading accounts of which 31% were profitable and 69% unprofitable. For the calendar quarter ending June 30, 2018, there were 34,000 active non-discretionary trading accounts of which 38% were profitable and 62% unprofitable. For the calendar quarter ending March 31, 2018, there were 35,139 active non-discretionary trading accounts of which 28% were profitable and 72% unprofitable.

PAST PERFORMANCE IS NOT NECESSARILY INDICATIVE OF FUTURE RESULTS.

I hereby acknowledge that I have received and understood this risk disclosure statement.

Name of Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_