

# **Hantec Bullion Limited**

## **亨達金銀投資有限公司**

**Client's Agreement 客戶協議**

亨達金銀投資有限公司為金銀業貿易場行員，行員編號為163。

## 注意

金銀買賣涉及潛在的利潤與損失，若買賣情況不利，損失有可能超過最初保證金的金額。金銀買賣的價位波動受全球性的多種因素所影響。這些因素許多是難以預計的，金銀價格的劇烈波動可能導致投資者無法把失利的買賣結算。亨達金銀的職員雖然不斷注意市況，但他們並不能作出任何預測準確性的保證，也不能保證任何損失不超過一定的金額。

請詳細閱讀本協議內容。

## 條款及條件

### 1. 定義及釋義

1.1 在本協議中，除非文義另有所指，否則下列詞語有以下涵意：

「**金銀**」指貴金屬包括本地倫敦金銀交易。

「**營業日**」就倫敦金銀交易而言，指任何倫敦金銀市場的交易日。

「**客戶**」此詞無論在何種場合使用，若客戶屬個人，則包括客戶及其遺囑執行人和遺產管理人；若客戶是獨資經營的商號，則包括獨資經營者及其遺囑執行、遺產管理人，以及其業務的繼承人；若客戶是合夥經營商號，則包括在客戶帳戶維持時的商號合夥人、其各自遺囑執行人和遺產管理人，以及在其後任何時候將成為或已成為商號合夥人的任何其他人士、其各自遺囑執行人和遺產管理人，以及該合夥業務的繼承人；若客戶是一間法人團體，則包括該法人團體及其繼承人。

「**確認書**」指由亨達金銀不時給予客戶有關辦理交易及調整客戶於亨達金銀所開立的帳戶的書面聲明。

「**契約**」指一份由雙方遵循此份協議內條款所同意買賣金銀的契約。

「**契約價格**」指遵循此份協議內條款所買入或賣出每一金銀單位價格乘以金銀總量。

「**亨達金銀**」指亨達金銀投資有限公司以及其業權繼承人和受讓人，擔任客戶交易的委託人。

「**未有履約事故**」指具有本協議第9條1款給予該詞的涵義。

「**集團公司**」指亨達金銀的最終控股公司，以及該家最終控股公司旗下各家附屬公司（定義見《香港公司條例》（香港法例第32章））。

「**本地倫敦金銀交易**」除雙方另行同意且聲明於確認書外，指具有0.995純度的金及／或具有0.999純度的銀，均需以盎司／美元計價且適合於倫敦金銀市場交割。

「**保證金**」指亨達金銀要求客戶存入的一筆類似押金的存款，以保障交易。

「**雙方**」指亨達金銀與客戶；而「**一方**」則是指其中之一。

「**證券**」包含但不限制於由公司或非公司、政府、或當地主管機關等所發行包含權利、選擇或利息的類似工具或參與權益證明書、暫時中期證明書、收據、認購權證的股份、股票、債券、借貸股票、金錢、公債、票據或其他任何類似的金融工具。

1.2 各項標題只為方便查閱而加插，解釋本協議時毋須理會。

1.3 在本協議中，除非文義另有所指，否則：

(a) 「條」、「款」、「段」和「附錄」等詞均指本協議的條、款、段和附錄；「本協議」一詞包括其附錄；

(b) 複數詞語包括單數，反之亦然；有性別含義的詞語包含所有性別；「人士」一語包括個人、機構、公司、法人團體、非屬法人的團體、國家、國家機關；以及

(c) 本協議所提及的法定條文，須解釋為不時修訂或重新頒佈的條文（不論在本協議簽署之日前，還是之後修訂或重新頒佈），並包括重新頒佈的條文（不論有否修訂），以及據之制訂的附屬法例。

## 2. 保證及聲明

2.1 客戶特此給與亨達金銀下列保證、聲明：

(a)（如果客戶是個人）其已達成年之齡，在法律上有行事能力可有效簽訂本協議；神智清醒；在法律上具有資格；沒有破產；本協議及所有已訂立及將會訂立的協議均構成對客戶具約束力及可強制執行的義務；

(b)（如果客戶由超過一人組成，並屬帳戶聯名持有人之一）組成客戶的任何一人或經理人（若已根據附於本協議的「聯名帳戶持有人專用附錄」任命了經理人），有十足授權就帳戶給予指示（包括但不限於指示買賣、提取超逾的款項），收取要求付款書、通告、確認書、報告、結單及其他各類通訊。組成客戶的人士明白並同意，若該等要求付款書、通告、確認書、報告、結單及其他通訊以客戶或經理人為收件人，就對各人具約束力，即使沒發給任何一人或未為任何一人收到亦如是。任何一人還有十足授權，一般跟亨達金銀全面處理所有與本協議有關的事宜，猶如其他聯名持有人在該協議中沒有權益；以及

(c)（如果客戶或其中一人是法人團體）

(i) 其根據註冊成立國，以及營業所在國的法律正式組建，有效存續；

(ii) 本協議以及在亨達金銀開立帳戶一事，已獲客戶恰當的公司行動有效批准。本協議一經簽蓋、交付，就根據本身條款，對客戶構成有效而具約束力的義務；所有已訂立或將訂立的契約，均構成對客戶具約束力並可強制執行的義務；

(iii) 客戶註冊成立證書（或商業登記證書）、規章、規程、章程大綱、章程細則，或其他用來組建公司（或界定公司組建）的文件的經核證真實副本，以及客戶交付亨達金銀的董事會決議，皆為真實、準確，仍然有效；以及

(iv) 就客戶所知，無人已經或正在採取步驟，委任接管人和／或財產接收管理人、司法接管人、清盤人，接收客戶，或將之清盤。

2.2 客戶特此聲明載於「金銀買賣戶口開戶申請表」的資料及由客戶或代表客戶在與本協議有關連的情況下所提供的其他資料，皆為真實、完整、最新及準確；亨達金銀可為一切事完全依賴該等資料。

- 2.3 客戶特此授權亨達金銀隨時聯絡任何人，包括客戶的銀行或任何信貸調查機構，以核証客戶提供給亨達金銀的資料。

### **3. 交易**

- 3.1 亨達金銀的僱員或代表一概不得接受客戶委任其為代理以操作客戶的帳戶。
- 3.2 亨達金銀可以與客戶的買賣指示進行對盤。
- 3.3 除先得亨達金銀批准外，亨達金銀的任何僱員及代表概不得為本身利益買賣契約。
- 3.4 亨達金銀與客戶於業務過程中進行的所有電話談話，將會被亨達金銀操作的中央錄音系統錄音。所有錄音將只用作核證交易準確之用，亨達金銀訂有嚴格規則及步驟將以確保交易得以保密。
- 3.5 所有指令、交易及指示需透過亨達金銀或亨達金銀經紀人執行，且須符合倫敦金銀市場或其他市場的章程、規定、條例、慣例、使用方式、規則及解釋所規範。所有在此份協議下的交易將受任何法律、規定或條例所規範。
- 3.6 若發出任何指令的方式與上述3.5款所述不同，亨達金銀在此已獲客戶授權，可在不預先告知客戶的前提下，選擇駁回該指令或在依循相關必要規定下修改或變更執行該指令。
- 3.7 客戶同意且聲明其完全意識金銀交易的風險，且同樣知悉給予亨達金銀的指令將取決於市場當時條件，當無法執行時（尤其客戶欲以指令方式做一張對沖契約為任何現存契約平倉）客戶將負擔契約可能產生的所有損失。客戶也同意亨達金銀毋須對契約所引致的任何損失或因客戶發出指令的執行方式或執行時間所產生的任何損失負責。
- 3.8 亨達金銀在接獲客戶指令或執行客戶帳戶內的契約後發出確認聲明，且有關聲明為不可推翻的證據。
- 3.9 亨達金銀在任何時間均無義務接受任何指令或契約，包括但不限於任何對沖契約或欲平全部或部分已存在契約的任何契約。

### **4. 佣金及收費**

- 4.1 如客戶帳戶出現借方餘額，亨達金銀將按其決定收取合理的費用，以補償其提供的設施及額外服務（包括一切託收手續費及合理的法律費用）。在亨達金銀提出要求時，客戶須即時清償欠亨達金銀的一切未償債務。
- 4.2 亨達金銀有權向客戶徵收或要求客戶支付費用，而客戶同意在亨達金銀要求時（不論在指令執行之前或之後）支付亨達金銀不時以書面就每份契約指定的佣金，費率由亨達金銀不時釐定。

- 4.3 客戶與亨達金銀訂立的所有交易，均基於以下理解：亨達金銀及／或有關經紀有權在交易中收取佣金及／或回佣。

## 5. 訂金及保證金的規定

- 5.1 亨達金銀可規定客戶於開立新帳戶前支付最低存款。為了交易需要及保障能為客戶履行其契約表現，客戶需在亨達金銀維持必要的保證金，有關保證金將由亨達金銀不時全權釐定。
- 5.2 亨達金銀並不受限於過往任何保證金的要求，因此可全權酌情決定變更（增加或減少）現有倉盤或變更日期後所建新倉的保證金要求。客戶若無法履行亨達金銀催繳的保證金催繳通知，亨達金銀便有權取消或清算客戶帳戶內任何或所有未平倉契約。
- 5.3 客戶同意依照亨達金銀需求於其帳戶內維持一定抵押品及／或保證金。客戶也同意在其帳戶出現積欠時依要求即支付任何金額。
- 5.4 倘若客戶持有不同時間訂立的契約持倉，亨達金銀有權選擇將哪些契約斬倉，並決定斬倉次序。
- 5.5 客戶可從保證金帳戶中提取款項，惟須在一個營業日前以書面通知亨達金銀，表明其提款意願。亨達金銀須在接獲通知後的下一個營業日內付款予客戶。計算客戶提款限額的方法，是以該帳戶的貸方餘額減去 (i) 所需保證金；以及 (ii) 亨達金銀接獲客戶通知當天客戶未平倉盤／契約的浮動虧損額。
- 5.6 亨達金銀所發出的保證金收據為客戶於亨達金銀帳戶內已存入指定金額保證金的確認，並無其他特殊用途。
- 5.7 保證金須以亨達金銀接受的貨幣存入。若存入的貨幣並非港元，亨達金銀須按其本於真誠的安排所取得的匯率，將之兌換港元或美元或人民幣。客戶在亨達金銀的帳目，概以港元或美元或人民幣入數，而客戶結束帳戶時，亦須接受以港元或美元或人民幣支付其帳戶結餘。
- 5.8 亨達金銀應有權利，包括 (i) 亨達金銀在任何時候均可自行決定保障自身，因保證金需求或其他方面；(ii) 當客戶被提出訴訟、或被申請破產或被申請指定管理人；(iii) 當客戶與亨達金銀所開立的帳戶遭扣押；以及 (iv) 當客戶死亡或遭判定確定為無行為能力時，需 (a) 在亨達金銀的監控下所有屬於客戶的財產中滿足客戶在亨達金銀（無論直接或由保證人或具保證人資格）可能有的任何義務；(b) 賣出所有客戶帳戶內的多頭單；(c) 買入所有客戶帳戶內可能的空頭單；以及 (d) 取消所有未執行指令以關閉客戶帳戶均不需保證金或額外保證金，也不需通知客戶、客戶繼承人、執行人員、行政人員、遺產承受人、個人受讓人或個人代表；沽出或購入或其他通知或公告無論其所有利益將為客戶獨自或與他人所共享。亨達金銀將自行判斷及決定沽出帳戶內任何未平倉多頭單或買回未平倉空頭單，無論以直接買入或沽出相同月份契約均將依亨達金銀自行判斷決定並於此類交易通常進行的交易所或其他市場進行。客戶明白在任何情況下，先前提出的要求或催繳，或先前通知的買賣時間或地點，均不應視為亨達金銀放棄本協議所賦予不作要求或通知即可買賣的權利；客戶亦明白到，客戶在任

何時候均有責任應亨達金銀的要求，繳付有關帳戶的任何結欠款項；且無論如何，亨達金銀或客戶若為有關帳戶全面或局部平倉，客戶均須負責有關帳戶內餘下的任何不足差額。倘有關合併、抵銷或轉讓事宜須由一種貨幣轉換為另一種貨幣時，則轉換貨幣所按的匯率將由亨達金銀依照兩種貨幣當前的市場兌換率作最終決定。

- 5.9 在亨達金銀獲悉數償還欠款前，亨達金銀將持有其不時（不論以保管或其他方式）替客戶持有的所有款項、證券及其他財產，作為附有一般留置權以亨達金銀為受益人的抵押品。
- 5.10 亨達金銀收到的與客戶在亨達金銀開立的帳戶有關的任何款項，應按照當時適用的金銀業貿易場的客戶款項規則被視為「客戶款項」，除非客戶因某個目的而將該等款項的所有權完全轉讓予亨達金銀，包括但不限於為擔保或為支付當前或將來的債務、實際債務、或有負債或預期債務，例如保證金，在這種情形下，該等款項不會被視為客戶款項。
- 5.11 凡交予亨達金銀的款項，不論作為存款、保證金、證券或作任何其他用途，均不享有從亨達金銀賺到利息的權益。客戶存入亨達金銀的保證金抵押品，其利息，股息或其他利益，一概屬於亨達金銀所有。

## **6. 亨達金銀的免責**

- 6.1 客戶認識到，現貨金銀交易價格會因不同機構而異，並且會隨時變動；客戶亦認識到，即使按公佈的價格亦可能無法完成交易。因此，客戶同意接受亨達金銀不時向其提供的報價為當時可獲取的最佳價格。
- 6.2 亨達金銀毋須就任何經紀、代理或往來商號的任何行為、不履約事件、疏忽、遺漏或失職承擔任何責任。

## **7. 墊款及利率**

- 7.1 客戶須於交收日或亨達金銀規定的結算日期結算每份契約。倘若客戶未能或不願在交收日或於亨達金銀要求結算之日結算契約，亨達金銀可（但無義務）為客戶提供墊款，墊款方式為直接結算整份契約或其中部分，而客戶承諾在亨達金銀索償時，以等值港元償還該筆墊款（匯率由亨達金銀指定），另加墊款利息，利息以當時在香港有效的最優惠利率加三厘為年利率，自墊款日起至完全清償款項之日（包括該日）止，逐天計算。
- 7.2 除上文第7條1款外，以下情況亦徵收利息，利率如上文所訂：
- (a) 尚未以現金繳付或存入的任何保證金；以及
  - (b) 應付予亨達金銀而未付的任何款項。
- 7.3 本條款所載規定，不得理解為構成亨達金銀須向客戶提供上述墊款的義務，亦無損於亨達金銀按本協議，各契約或其他根據法律、衡平法或慣例可向客戶或其他人士行使的權利或可從客戶或其他人士取得的補償。

## **8. 留置權、帳戶整合及抵銷**

- 8.1 客戶在任何時間及為任何目的，包括：(i) 用作客戶帳戶一切借方餘額的抵押；(ii) 用作客戶以當事人、擔保人、保證人或其他身份欠下或應付予亨達金銀或尚未與亨達金銀確定的一切債項的抵押；以及(iii) 用作客戶與亨達金銀之間任何其他債款或與亨達金銀的任何集團公司之間的債款的抵押（不論此等債項如何引致），因

而交由亨達金銀管有及／或登記於客戶帳戶內（不論是其個人或與人聯名持有）或以其他方式交由亨達金銀管有、或由亨達金銀的集團公司在香港或世界各地管有的一切財產、證券、股票、貸款及結存，亨達金銀對之一律享有留置權。

- 8.2 亨達金銀有權隨時結合及／或整合客戶在亨達金銀及其集團公司開立的所有或任何帳戶，毋須另行通知。亨達金銀亦有權出售上文第8條1款所列的全部或任何財產（亨達金銀獲授權做出與行使權力有關的，而又必需的一切事情），及利用出售所得款項以抵銷並解除客戶對亨達金銀或亨達金銀任何集團公司所負債務，不論其他人士對此等財產是否享有權益或亨達金銀對此等財產是否曾經墊支款項，亦不論客戶在亨達金銀設有多少個帳戶。
- 8.3 就亨達金銀付款，以抵銷並解除客戶欠亨達金銀集團公司的款項而言，客戶同意亨達金銀毋須關心有關欠款是否存在，但前提是有關集團公司已要求亨達金銀付款。在不規限或更改本協議一般條文的前提下，亨達金銀特此獲明確授權，可調動客戶在亨達金銀及其集團公司所開立的不同帳戶內的款項，惟有關市場或交易所的一切規則、規例及程序均須一直以遵守。
- 8.4 亨達金銀特此獲授權可從客戶所存的保證金或證券調撥款項，以彌補客戶在亨達金銀帳戶中的借方餘額，而毋須事先要求客戶補倉或向客戶發出通知。
- 8.5 亨達金銀特此獲授權可將客戶在亨達金銀買賣帳戶中的超逾款額，轉入客戶的保證金帳戶內，而毋須事先要求客戶補倉或向客戶發出通知，並在此後將該筆款項當作保證金使用。

## **9. 未有履約事故**

- 9.1 下列事項皆屬「未有履約事故」：

(a) 就任何買賣而言：

(i) 客戶未有支付催繳的保證金；或

(ii) 客戶未能按照任何契約的條款履行義務；

(b) 客戶逝世或神智不清；

(c) 有人入稟法院，要求法院宣佈客戶破產，或申請將之清盤；或有人任命接管人或司法接管人，接管客戶；

(d) 客戶在亨達金銀開立的帳戶，成為扣押令的對象；

(e) 客戶未有妥善履行或遵守本協議中須由其履行、遵守的條款及條件；

(f) 在本協議中給與的，或根據本協議給與的聲明、保證，或已經交付的証書、說明、其他文件，屬於或變成嚴重不正確；或

(g) 亨達金銀秉誠認為，有關行動是保障、行使、保存其在本協議中的權利所必需的。

9.2 在不妨礙亨達金銀可獲其他權利、補償的前提下，如果發生未有履約事故，亨達金銀就獲授權單方面酌情採取下列行動（或其中之一）：

(a) 在未經客戶同意的情況下，把亨達金銀與客戶或代客戶訂立的契約平倉；

(b) 取消尚未完成的買賣盤、買賣，以及其他代表客戶做出的承諾；

(c) 行使任何抵押物，包括但不限於可能本已開給亨達金銀的擔保、信用証（作為帳戶擔保）；

(d) 將客戶在亨達金銀或其集團公司的帳戶結合或整合；

(e) 出售上文第8條1款所述的全部或任何財產；以及／或

(f) 立即終止本協議。

9.3 亨達金銀有權自行作出選擇，採取上文第9條2款提及的任何行動，將上文第8條1款提及的全部或任何財產公開或私下出售，以完全或局部地了結客戶帳戶；亨達金銀毋須事先要求客戶補倉或向客戶發出通知，而一切引致損失的風險，概由客戶承擔。在亨達金銀提出要求時，客戶須即時支付其帳戶中不足的款項，不論該等不足之數的原因為何。客戶亦同意倘若因其失當行為或坐視不理而使亨達金銀遭受任何損失、索償或損害，客戶須對亨達金銀作出補償。行使本協議中的任何權利，概不構成對客戶在亨達金銀所開立帳戶中任何虧損或借方餘額的任何豁免、解除或撤銷。

9.4 即使亨達金銀的業務出現任何變化或由他人承繼，本協議的條款仍保持有效，而在客戶逝世後，本協議的條款對其遺產代理人（如客戶為公司，則對其承繼人及承讓人）具約束力。亨達金銀可酌情決定結束客戶全部或部分帳戶，毋須等待委出客戶遺產代理人，亦毋須通知任何已委出的遺產代理人。

9.5 倘客戶逝世或結束營業，其未執行的指令須視為已被取消，惟在亨達金銀的授權行政人員實際接獲該客戶逝世或結束業務的書面通知前，亨達金銀對本身因該等指令而作出的任何行動，一概毋須負責。

## 10. 結算契約及調撥

客戶同意確保與亨達金銀保持良好聯絡，以便在緊急事件發生時能有效地處理。在不妨礙亨達金銀可獲其他權利、補償的前提下，若亨達金銀在二十四小時內無法與客戶聯絡，亨達金銀毋須通知客戶：

(a) 以客戶名義訂立相配契約（客戶特此授權），將未履行的全部或任何契約平倉（不論是沽出或買入的契約），此等相配契約的成交的市場、成交時間及價格，由亨達金銀全權決定，客戶須承擔一切費用，並在亨達金銀要求時立即償還；以及



(b) 將在客戶名下或屬客戶所有的物業撥歸亨達金銀所有，以全部或部分清償客戶欠亨達金銀的款項，為此目的，須把被調撥物業的價值視為等同於由亨達金銀全權釐定的市值，亨達金銀對市值的釐定即為該市值的決定性憑證。

## 11. 通訊、結單及文件

- 11.1 客戶或被授權人士可以書面或口頭（以電話或實際接洽）或電傳或傳真或其他電子方式發出執行契約的指令。未得亨達金銀書面同意或確認指令一經發出即不可撤銷或撤回。亨達金銀有權信賴及以誠信態度合理相信由客戶所發出的任何指示、指引、通知或其他通訊，而客戶同意就亨達金銀因信賴上述事項而蒙受或發生的損失、費用及開支（包括惟不限於法律費用）向亨達金銀作出彌償並使亨達金銀不會因此而蒙受損失。
- 11.2 凡發給客戶的報告、確認書、通知及其他通訊、文件（包括但不限於還款要求、令狀、傳票、命令、狀書、呈請），可發往本協議所列的地址、電話號碼、電傳號碼或傳真號碼，或發往客戶此後以書面通知亨達金銀的其他地址、電話號碼、電傳號碼或傳真號碼（如客戶是持有聯名帳戶，而無指定聯絡人，則以「聯名帳戶持有人專用附錄」所列首名人士作收件人）；凡據此發出的通訊，不論以郵遞、信差、電話、電傳、傳真或其他方式發出，亦不論客戶實際有否收到，如以人手、電傳機、傳真機或電話發出，則在傳送時視為已經收到；如以郵遞，則在發送後四十八小時視為已經收到。倘若客戶未能通知亨達金銀，指出其保存在亨達金銀的個人資料紀錄須作更改，客戶同意對此負全責，及承擔一切後果。
- 11.3 執行客戶命令的確認書及客戶帳戶的結單均具決定性，倘在經郵遞或其他方式送交客戶後兩個工作日未接獲反對，則被視為已獲接納。然而，如有令其滿意的證明，亨達金銀會改正任何報告或結單中的錯誤。
- 11.4 倘若雙方有爭議或意見分歧，客戶接受並同意亨達金銀的買賣紀錄的副本為證明該等買賣紀錄本身內容真確的決定性憑證，並可獲任何法院或仲裁機構接納，而毋須對該等記錄再作證明或提供確切證明。
- 11.5 除非雙方另有協議，否則每張契約須受本協議的條款、條件及有關確認書所規範。
- 11.6 每份確認書均補充及成為本協議的一部分，其所有條款亦受本協議的條件所規範，而所有確認書及其任何修訂構成客戶與亨達金銀的單一項協議。

## 12. 披露

客戶承認，任何政府或監管機關可根據適用法律的規定要求披露有關客戶帳戶的資料。客戶特此不可撤銷地授權亨達金銀或其代理在沒有通知客戶或取得客戶同意的情況下，向有關機構披露所有該等資料，並向其提供亨達金銀或其代理管有的一切資料、文件（或副本），包括但不限於客戶姓名／名稱、帳戶的最終受益人（如有）及亨達金銀或其代理所知的客戶當時的財政狀況。亨達金銀或其代理毋須對上述披露事項的後果負責。凡亨達金銀及其代理為遵守該披露規定而承擔的一切費用及開支（包括法律費用），客戶均須向亨達金銀償付。

### 13. 《個人資料（私隱）條例》

若亨達金銀持有《香港個人資料（私隱）條例》（香港法例第486章）所界定的個人資料，客戶同意亨達金銀可以運用該等個人資料於下列用途（惟須受制於該條例的規定限制）：

- (a) 在新客戶或現有客戶驗證程序、持續帳戶行政管理或市場推廣上，與亨達金銀的任何集團公司互相分用、反覆查證及轉移該等個人資料；
- (b) 比較該等個人資料及／或將該等個人資料轉移給第三者，作為信貸查證及／或資料驗證用途；
- (c) 關於或有關遵守任何法律、規例、法院命令或監管機構命令的任何用途，包括提供任何該等監管機構要求的任何該等資料（而亨達金銀毋須事前就該等要求的合法性取得法律意見）；及／或
- (d) 關於或有關亨達金銀的業務或往來事務，或亨達金銀的任何集團公司的業務或往來事務的任何其他用途。

### 14. 終止

客戶可給與亨達金銀不少於四個營業日書面通知，終止本協議。亨達金銀可隨時以書面通知客戶終止本協議。凡亨達金銀在收到書面通知前訂立的交易，都不會因此而受影響；亨達金銀和客戶在收到書面通知前已有的權利、權力、責任，都不會受該份通知妨礙。在以上任何一種情況，亨達金銀可按上文規定了結客戶帳戶或將客戶的帳戶轉到雙方同意的經紀或代理商。

### 15. 授權書

客戶承諾會作出及簽署任何亨達金銀就有關任何本協議所授予或因本協議所產生的條款的實施、執行及強制履行所要求客戶作出的行動及簽署的任何契約、文件或事物。客戶並委任亨達金銀為客戶的授權人，代表客戶作出及簽署亨達金銀認為就有關上述實施、執行及強制履行必需或適宜作出的任何行動及簽署的任何契約、文件或事項。客戶將會追認及確認一切亨達金銀合法地及本著真誠地作出及簽署的上述行動、契據、文件或事項。

### 16. 非常事故

客戶同意，凡亨達金銀直接或間接因亨達金銀、亨達金銀董事、高級職員、僱員或代理所不能控制的情況、環境導致亨達金銀延誤或未能履行本身在本協議中的義務，或因前述情況、環境直接或間接導致的損失或損害，亨達金銀、亨達金銀董事、高級職員、僱員及代理毋須負責。該等情況、環境包括但不限於火災、風暴、天災、罷工、封閉工廠、戰爭、不利的政治或經濟情況、政府管制、本地或國際間的限制或禁制、任何設備或通訊機器的技術性故障、電力中斷、停電、任何導致或可能導致金銀價走勢異常的原因、國際或本地市場休市或停業或其他影響亨達金銀運作的原因。

### 17. 自行判斷

客戶同意，就各項契約而言，他須被視為按其獨立判斷訂立契約，並自身承擔風險，即使亨達金銀、其行政人員或職員曾向客戶提供意見。客戶並知悉亨達金銀的行政人員及職員概不獲授權代表亨達金銀提供任何意見。

## 18. 其他事項

18.1 本協議取代客戶和亨達金銀以往就在亨達金銀開立帳戶而達成的一切協議、安排（如有）。

18.2 本協議所載的條款，在任何方面均不獲豁免、更改、修改或修訂，除非該等豁免、更改、修改或修訂以書面寫明，並由亨達金銀其中一名授權職員在其上簽署。客戶除非向亨達金銀遞交書面撤銷通知，否則不得撤銷本協議，亨達金銀在接獲書面撤銷通知前，按本協議訂立的任何交易均不受該撤銷影響。

18.3 亨達金銀沒有採取行動、遺漏採取行動，或延期採取行動，概非（亦不可視為）放棄針對客戶的權利。亨達金銀給與同意或豁免，只視為同意或豁免與之有關的個別事宜，不得視為同意、豁免、免除任何條款，亦不得解釋為他日不須取得亨達金銀的明確書面同意，除非亨達金銀及其代表以書面明文規定，並在規定上正式簽署。

18.4 本協議所列條文具有持續性，對客戶在亨達金銀所開立或重新開立的帳戶均個別地或共同地有效，對亨達金銀、亨達金銀繼承人及承讓人（不論是由於合併、整合抑或其他方式而產生），以及客戶的繼承人、遺囑執行人、遺產管理人、遺產承受人、遺產繼承人、遺產代理人及承讓人亦同樣有效。

18.5 未經亨達金銀事先書面同意，客戶不得將其在本協議中的權利及／或義務轉與他人。

18.6 客戶履行本協議所載的，或與之有關的義務時，時間在各方面均為關鍵。

18.7 本協議中的任何條文均不得視為可用以移除、排除或限制客戶在香港特別行政區法律上的任何權利或亨達金銀在香港特別行政區的法律上的責任。倘若本協議中的任何條文被法院或監管機關、團體裁定為不能執行或無效者，該（等）條文不影響本協議中其餘條文的可執行性或效力。

18.8 若本協議任何條款在現時，或在任何時間變得與任何市場、國家、政府或監管團體的現行或將來制訂的法律、規則或規例有抵觸，而該等市場、國家、政府或監管團體對本協議的內容有管轄權，則有關條款須視為被取代或修改，以符合該等法律、規則或規例；但除此之外，本協議在其他方面仍保持十足效力及作用。

18.9 客戶同意，如果本協議的中、英文本相悖，則以英文本為準。

## 19. 管轄法律

本協議及其下的所有權利、義務及責任均受香港法律管轄，並須據之詮釋。客戶特此不可撤銷地同意接受香港法院的非專屬性司法管轄權。

## 20. 重大變更

客戶及亨達金銀謹此訂立契諾，如一方在「金銀買賣戶口開戶申請表」及本協議中提供的資料出現重大變化，將立即通知對方。

## 客戶協議（補充協議）



## 額外條款及條件

### 1. 定義及釋義

1.1 在本補充協議中，除非文義另有所指，否則下列詞語有以下涵意：

「接達碼」 指密碼和用戶名稱；

「亨達金銀郵件」 指亨達金銀為交付、收取通知而操作的保密傳訊設施；

「亨達金銀網服務」 指亨達金銀根據本補充協議提供之電子交易服務，包括服務、亨達金銀郵件、亨達金銀網站所載的資訊，以及其中包含的軟件；

「資訊」 指數據、數據庫、報價、新聞、研究、圖形、繪圖、文本，以及其他可藉服務取閱的資訊，包括但不限於有關金銀市場的金銀價格和資料；

「資訊提供者」 指提供資訊的第三方；

「知識產權」 指在任何法域的專利權、設計（不論已否註冊）、商標、服務商標、版權、訣竅、商業秘密、商譽，以及相關或類似的權利；

「密碼」 指客戶的私人密碼，與用戶名稱一併使用，接達服務、資訊、亨達金銀郵件，以及亨達金銀提供的其他服務；

「服務」 指亨達金銀和／或代表亨達金銀提供的設施，讓客戶可給與電子指示，買入、出售若干金銀，並收取資訊、亨達金銀郵件及使用相關服務；以及

「用戶名稱」 指客戶的私人識別，與密碼一併使用，接達服務、資訊、亨達金銀郵件，以及亨達金銀提供的其他服務。

1.2 除非另有說明，否則本補充協議沒定義的詞語，沿用客戶協議所賦的涵義。

1.3 除非另有說明，否則本補充協議並不妨礙（而是附加於）客戶協議所有其他條款。

### 2. 適用客戶協議

本補充協議（包括不時作出的修訂）構成客戶協議的一部份。客戶承認並同意客戶協議連同本補充協議條款，均適用於客戶利用服務跟亨達金銀進行金銀交易。

### 3. 服務

3.1 客戶同意只根據本補充協議的條款使用服務。凡他日藉亨達金銀網服務提供的額外服務，客戶都只會根據本補充協議的條款使用。

3.2 客戶可不時通過服務發出為客戶於亨達金銀所開立戶口買賣若干金銀的指示。

- 3.3 客戶同意是本補充協議所述服務之唯一獲授權使用者，須對亨達金銀所發的接達碼之保密、安全和使用自行承擔全部責任。
- 3.4 客戶承認並同意，無論客戶有否授權，凡以接達碼經服務發出的指示，都由客戶自行承擔全部責任。亨達金銀、亨達金銀高級職員、僱員、代理毋須為處理、不當處理或遺失指示而負責。若指示經服務發出，凡亨達金銀因此而招致或蒙受的損失、損害、費用、開銷及法律責任，客戶都會給與免責補償。
- 3.5 客戶承認並同意，利用服務發出指示的先決條件之一，是倘遇下列情況，客戶會即時通知亨達金銀：
- (a) 客戶已利用服務發出指示，但沒收到命令編號或對買賣指示或其執行的準確確認（不論是書面、電子，還是口頭）；
  - (b) 無論是書面、電子，還是口頭，客戶收到交易確認，但交易並非客戶所指示，或有類似爭論；
  - (c) 客戶察覺有人擅自使用客戶接達碼；或
  - (d) 客戶使用服務時，遇到困難。
- 3.6 客戶同意，支付亨達金銀可能就服務收取的一切費用、服務費、使用費，亦同意該等費用可以更改，毋須通知。
- 3.7 客戶明文同意，在下文第3.8條的規限下，亨達金銀可經電子方式或設施，與客戶通訊，或給與客戶通知；該等通知或通訊若經亨達金銀郵件或其他方式以電子設備發出，都在訊息傳給客戶之時，視為收訖。
- 3.8 客戶承認並同意，雖然可以利用服務取閱備考確認書和戶口結單，但以亨達金銀發出的戶口日結單和月結單為準，並受之約束。
- 3.9 客戶承認並同意，亨達金銀可披露客戶的電子通訊，披露範圍與亨達金銀可按客戶協議規定，披露客戶或其戶口其他資料的範圍相同。
- 3.10 客戶明白並接受，亨達金銀可隨時自行酌情中止、禁止、限制、終止客戶接達服務，以及買賣的能力，毋須事先通知。亨達金銀結束客戶戶口，不會影響各方在結束之日前承受的權利和／或義務。

#### **4. 買賣指示**

- 4.1 客戶可通過服務發出買賣指示。向亨達金銀發出買賣指示（不論以電子或其他方式）不保證該指示得到執行。客戶明白，亨達金銀或其高級職員、僱員或代理對任何沒有執行的指示概毋須負上責任。
- 4.2 客戶給予的每一買賣指示，須包括並遵照亨達金銀不時通過互聯網指定並通知客戶的詳情及限制。任何沒有遵

從亨達金銀所指定限制而作出的買賣指示，亨達金銀沒有義務接受，但可酌情決定接受。接受該等沒有遵從限制而作出的指示，不會使亨達金銀負有日後須接受該等指示的義務。

4.3 亨達金銀可拒絕接受及／或執行任何買賣指示而毋須為此提出任何理由。為免生疑問，亨達金銀可因任何理由拒絕接受買賣指示，包括但不限於下列各項：

(a) 買賣指示沒有遵照本條2款所載列的限制及規定。

(b) 在亨達金銀網站公布的價格到時將會失效或已經撤回。

(c) 亨達金銀無法確定買賣指示的條款。

(d) 客戶戶口內沒有足夠資金為交易進行結算。

4.4 如因任何原因（包括服務未能傳送買賣指示），買賣指示沒有以可以處理的方式為亨達金銀所收到，則該買賣指示須當作已被亨達金銀拒絕。

4.5 除非及直至客戶收到亨達金銀的認收訊息（不論經電子方式或書面），否則不可把亨達金銀當作已經收到客戶的買賣指示。然而，收到客戶的買賣指示，概不保證亨達金銀會執行該等指示。

4.6 客戶同意，在發出每一指示之前先作審閱，因指示一經發出就可能無法取消。客戶可要求取消或修改其指示，但亨達金銀沒有義務接受該要求。客戶承認，指示只可在未經執行的情況下取消或修改。若客戶被取消的指示已經全部或部份執行，客戶須就已執行的交易承擔全部責任而亨達金銀對此不發生任何義務。

4.7 客戶承認並同意，倘在服務過程中客戶使用的通訊方式暫時無法使用，客戶在該段期間仍可操作其戶口，惟亨達金銀有權按亨達金銀不時認為適當的方式取得有關核證客戶身份的資料。

4.8 客戶承認並同意，資訊提供者並非亨達金銀與客戶之間交易（不論為以電子或其他方式訂立）的一方；在亨達金銀與客戶的交易中或就該等交易亦不承擔任何義務。

## 5. 知識產權

5.1 客戶承認並同意，凡資訊、有關亨達金銀網服務的軟件程式和源碼所包含的知識產權，亨達金銀都是擁有人或經授權獲特許人。客戶不會試圖竄改、修改、掩蓋、解編、還原、損害、毀壞或以任何方式改變或再特許，亦不試圖擅自閱資訊、資訊所包含任何軟件的源碼或亨達金銀網服務任何部份。客戶承諾，若察覺他人正做出本段前述的行為，就立即通知亨達金銀。

5.2 客戶承認，亨達金銀從資訊提供者取得資訊。客戶同意遵守資訊提供者就資訊的供應和使用而施加的一切條件、

限制。客戶尤其同意：

- (a) 提供給客戶的資訊，僅供客戶個別使用；除非在自己日常業務中使用（但不包括向第三方散播資訊），否則客戶不得使用資訊或其中部份；
- (b) 未經亨達金銀和資訊提供者明文書面同意，不得以任何方式向他人複製、轉送、散播、出售、經銷、出版、廣播、傳閱，或用於商業用途；以及
- (c) 不將（亦不容許）資訊用於非法用途。

5.3 客戶同意，不會轉讓、出讓、再特許本補充協議給與客戶的所有或部份權利。

5.4 客戶同意，收到亨達金銀書面通知後，容許亨達金銀或亨達金銀書面授權的人士，隨後為合法目的，就本補充協議的條款，儘促檢查客戶房舍、紀錄；檢查目的包括但不限於信納客戶沒有在違反本補充協議條款的情況下，使用資訊或其所載的軟件。

## **6. 無保證、擔保**

6.1 客戶承認並同意，服務照「原樣」供給客戶；使用服務的風險，由客戶自行承擔。客戶承認，亨達金銀和資訊提供者都沒就服務（包括經服務提供的資訊以及報價是否一般地反映金銀市場的情況）給與明示和默示保證，包括但不限於沒保證不侵犯第三方權利，可以商售，或適合個別目的、用途。

6.2 客戶承認，由於市場情況變化不定，數據傳送過程亦可能有延誤，數據可能並非金銀的實時市場報價。客戶承認，亨達金銀並無獨立依據，核實或質疑收到的資訊是否準確、齊全。客戶不得從收到的資訊，推論亨達金銀有何建議或認可。

6.3 客戶明白，亨達金銀、亨達金銀代理、資訊提供者都沒保證資訊合時、順序、準確、連續、即時、齊全。

## **7. 責任限制**

7.1 客戶同意：

(a) 凡因接達或使用，或無法接達或使用服務而導致的各類直接、間接、特殊、隨之而起、附帶損害，包括但不限於因資訊提供者的行為、遺漏、錯誤、延誤、中斷而導致的損害，亨達金銀、亨達金銀高級職員、僱員、代理、資訊提供者都毋須就任何損失承擔賠償責任，亦毋須負任何責任。即使亨達金銀、亨達金銀高級職員、僱員、代理、資訊提供者曾獲告知該等損害、損失可能出現，亦毋須負責；或

(b) 凡因亨達金銀、亨達金銀高級職員、僱員、代理、資訊提供者不能控制的原因而導致的損害，亨達金銀、亨達金銀高級職員、僱員、代理、資訊提供者都毋須就任何損失承擔賠償責任，亦毋須負任何責任。有關原因包括但不限於政府限制、暫停交易、電子或機械設備或通訊線路失靈；電話或其他互聯網設施遇



障；電腦硬件或軟件無法兼容；互聯網未能或不可接達；互聯網服務供應商或其他與客戶電腦有關的設備、服務遇障、電力中斷、數據傳送設施遇障、有人擅自接達、盜竊、火災、戰爭、罷工、民眾騷亂、恐怖主義行為（或恐怖組織威脅做出的行為）、天災、勞資糾紛。

7.2 客戶同意，若客戶因使用服務而令本身電腦、軟件、調制解調器、電話、其他財物受損，亨達金銀毋須負責。

## 8. 免責補償

客戶同意，凡因客戶使用服務（包括但不限於客戶違反本補充協議，或侵犯知識產權）而引起的，或與之有關的申索、損失、責任、費用、支出，客戶都會給與亨達金銀、亨達金銀高級職員、僱員、代理、資訊提供者免責補償。本補充協議終止後，是項義務仍會有效。

## 9. 風險披露

客戶承認並接受：

- (a) 須求達頂點、市況反覆、系統升級或維修期間，或因其他原因，服務之接達可能受到限制，甚或不可供客戶接達；
- (b) 由於無法預期的網絡擁擠和其他原因，電子傳送可能並非可靠的通訊媒介，而此事又非亨達金銀所能控制；
- (c) 由於網絡擁擠，傳送可能受阻、中斷、耽誤；又因互聯網可供大眾使用，可能會有數據誤傳。經電子工具進行的交易，可能因此而受影響；
- (d) 指示可能不獲執行，或可能有延誤，因此執行價可能與客戶給與指示時通行的價格有異；
- (e) 第三方可能擅自取閱通訊和個人資料；
- (f) 客戶的指示可能未經人手複核，就予以執行；
- (g) 通常指示一經發出，就不可取消；以及
- (h) 系統可能故障，包括軟、硬件失靈，或通訊設施失效，可能導致客戶的指示沒按照客戶的指示執行，或根本沒有執行。

## 10. 其他條款

10.1 客戶承認，已閱讀、明白本補充協議的條款，並同意受之約束。

10.2 亨達金銀書面確認收到客戶根據客戶協議第14條發出之書面指示，終止客戶協議前，本補充協議仍有十足效力。

Hantec Bullion Limited is a member of The Chinese Gold & Silver Exchange Society, the member number is 163.

## **NOTICE**

Please be advised that trading in Bullion involves the potential for profit as well as the risk of loss which may under adverse trading conditions exceed the amount of initial margin deposit. Movements in the price of Bullion are influenced by a variety of factors of global origin and dimension many of which are unpredictable. Violent movements in the price of Bullion may result in action by the market as a result of which the Client may be unable to settle adverse trades. Although the staff of HB are in constant touch with market movements, they are unable to guarantee the accuracy of their predictions nor could they guarantee any loss shall not exceed a specified figure.

Please read carefully this Client's Agreement.

## **TERMS AND CONDITIONS**

### **1. Definitions and Interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall bear the following meanings:

<b>"Bullion"</b>	means precious metals including Loco London Bullion.
<b>"Business Day"</b>	means in respect of Loco London Bullion, any day on which London Bullion Market is open for business.
<b>"Client"</b>	wherever used shall in the case where the Client is an individual include the Client and his respective executors and administrators and in the case where the Client is a sole proprietor include the sole proprietor and his executors and administrators and his successors in the business and in the case of a partnership include the partners who are the partners of the firm at the time when the Client's account is being maintained and their respective executors and administrators and any other person who shall at any time hereafter be or have been a partner of and in the firm and his respective executors and administrators and the successors to such partnership business and where the Client is a corporation include such corporation and its successors.
<b>"Confirmation"</b>	means a written statement dispatched from time to time by HB to the Client relating to trading and other adjustments relating to the Client's account with HB.
<b>"Contract"</b>	means a contract as may be agreed by the Parties from time to time in respect of the purchase and sale of Bullion pursuant to the terms and subject to the conditions of this Agreement.
<b>"Contract Price"</b>	means the price per unit of Bullion multiplied by the total quantity of Bullion bought or sold pursuant to the terms and subject to the conditions of this Agreement.
<b>"HB"</b>	means Hantec Bullion Limited and its successors in title and assigns who act as a principal in transactions with the Client.
<b>"Event of Default"</b>	has the meaning ascribed to it in Clause 9.1 below.
<b>"group company"</b>	means the ultimate holding company of HB and each and every subsidiary of such holding company (as defined in the Hong Kong Companies Ordinance (Cap. 32)).
<b>"Loco London Bullion"</b>	means gold having a fineness of at least 0.995 and/or silver having a fineness of at least 0.999, both of which shall be valued in U.S. dollars per troy ounce and be suitable for delivery through the London

Bullion Market Association, unless otherwise agreed by the Parties and stated in the relevant Confirmation.

**"Margin"** means a deposit as collateral required by HB to be placed by the Client as a guarantee of performance in trading.

**"Parties"** means HB and the Client and "Party" means either of them.

**"Securities"** includes but is not limited to shares, stocks, debentures, loan stocks, money, bonds, or notes or other similar instruments of any kind whatever or howsoever, of or issued by, any body, whether incorporated or unincorporated, or of any government or local authority, and include rights, options, or interests in or in respect of any of the foregoing as well as Certificates of interest or participation in, or temporary or interim certificates for, receipts for, or warrants to subscribe to or purchase, any of the foregoing.

1.2 The headings in this Agreement are inserted for convenience only and shall be ignored in the interpretation of this Agreement.

1.3 In this Agreement, unless the context otherwise requires:

- (a) references to Clauses, Sub-clauses and Appendices are to be construed as references to the clauses and sub-clauses of, and appendices, to this Agreement and references to this Agreement include its Appendices;
- (b) words importing the plural shall include the singular and vice versa; reference to one gender shall include all genders; and references to a person shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons or any state or any agency thereof; and
- (c) references to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted (whether before or after the date hereof) from time to time and shall include any provision of which they are re-enactments (whether with or without modification) and any subordinate legislation made under those provisions.

## 2. Warranties and Representations

2.1 The Client hereby warrants and represents as follows:

- (a) where the Client is an individual, that he has attained the age of majority and that he is legally capable of validly entering into this Agreement and is of sound mind and legal competence and is not a bankrupt, and that this Agreement and all Contracts made or to be made shall constitute binding and enforceable obligations of the Client;
- (b) where the Client consists of more than one person and the Client is a joint holder of the account, that any one of the Client or the Manager (where a Manager has been appointed pursuant to the Appendix for Joint Account Holders attached to this Agreement) shall have full authority to give any instruction with respect to the account (including but not limited to instructions with respect to buying or selling or withdrawals of excess funds), to receive demands, notices, confirmations, reports, statements and other communications of any kind it being understood and agreed that such demands, notices, confirmations, reports, statements and other communications if addressed to the Client or the Manager shall be binding on each of the Client notwithstanding that they

have not been sent to or received by any of the Client, generally to deal with HB in connection herewith as fully and completely as if the other joint account holder or holders had no interest herein; and

(c) where the Client or any one of the Client is a corporation:

- (i) that it is a corporation duly organized and is validly existing under the laws of the country of its incorporation and in every other country where it is carrying on business;
- (ii) that this Agreement and the opening of any account with HB has been validly authorized by the appropriate corporate action of the Client and when executed and delivered will constitute valid and binding obligations of the Client in accordance with the terms herein, and that all Contracts made or to be made shall constitute binding and enforceable obligations of the Client;
- (iii) that the certified true copies of the Client's certificate of incorporation or registration, charter, statute or memorandum and articles or other instruments constituting or defining its constitution and the board resolutions of the Client delivered to HB are true and accurate and still in force; and
- (iv) that to the best of the knowledge of the Client, no steps have been taken or are being taken to appoint a receiver and /or manager, judicial manager or liquidator over, or to wind up the Client.

2.2 The Client hereby declares that the information contained in the Bullion Trading Account Openig Form and other information supplied by or on behalf of the Client to HB in connection with this Agreement is true, complete, up-to-date and correct and that HB may rely fully on such information for all purposes.

2.3 The Client hereby authorizes HB at any time to contact anyone, including the Client's bankers or any credit agency, for the purposes of verifying the information provided to HB.

### **3. Dealings**

3.1 None of HB's employees or representatives shall accept appointment by the Client as agent to operate the Client's account.

3.2 HB may take the opposite position to the Client's order.

3.3 No employee or representative of HB shall be allowed to trade Contracts on his own account, without prior consent from HB.

3.4 All telephone conversations between HB and the Client made in the course of business will be recorded on a centralized tape recording system operated by HB. All recordings shall be used solely for the purpose of verifying the accuracy of transactions and strict rules and procedures are in place to ensure the confidentiality of those transactions.

- 3.5 All orders, transactions and instructions shall be subject to the constitution, rules, regulations, customs, usages, rulings and interpretations, from time to time extant or in force of the London Bullion Market Association or other markets concerned, where the orders, transactions and instructions are executed by HB or the agents of HB. All transactions under this Agreement shall also be subject to any law, rule or regulation then applicable thereto.
- 3.6 In the event that any order has been given otherwise than in accordance with clause 3.5 above, HB is hereby authorized by the Client to elect without prior notice to the Client either to ignore the order or to execute the order with such modifications or changes as may be necessary to comply with the applicable rules.
- 3.7 The Client agrees and declares that he is fully aware of the risks involved in trading in Bullion, and is also aware that orders given to HB may, depending on prevailing conditions, fail to be executed (in particular an order to settle any existing Contract by entering into a matching Contract) and all losses incurred in any Contract shall be borne by the Client. The Client further agrees that HB shall not be liable for any loss incurred in any Contract or by reason of the manner or timing of execution of any order given by the Client.
- 3.8 A statement by HB confirming that an order has been received from the Client or a Contract has been executed for the account of the Client shall be conclusive evidence thereof.
- 3.9 HB is under no obligation whatsoever at any time to accept any order or enter into any Contract, including but not limited to any matching Contract or any Contract to settle or any existing Contract in whole or in part.

#### **4. Commission and Charges**

- 4.1 Debit balances in the Client's account(s) shall be charged with such reasonable charges as HB may determine to cover its facilities and extra services (including all costs of collection and legal fees). The Client shall promptly settle, upon demand, all outstanding liabilities owed to HB.
- 4.2 HB shall be entitled to charge or demand payment from the Client and the Client agrees to pay upon demand at any time whether prior to or after execution of any order or orders commission at such rate or rates as HB shall specify in writing from time to time in respect of each Contract.
- 4.3 All transactions between the Client and HB are concluded on the understanding that HB and/or the broker concerned is entitled to receive commissions and/or rebates in the transaction.

#### **5. Deposit and Margin Requirements**

- 5.1 A minimum deposit prescribed by HB may be paid by the Client prior to opening new account(s) with HB. The Client shall maintain any necessary Margin with HB, such Margin to be determined by HB from time to time at its absolute discretion, as required for all trading transactions in order to ensure performance on his commitments.

- 5.2 No previous Margin requirement shall limit HB's right to vary at its absolute discretion any Margin requirement (increase or decrease) for existing positions as well as new positions after the date of such change. Any failure by the Client to meet calls for Margin by HB shall entitle HB to cancel or liquidate any or all open Contracts in any account of the Client.
- 5.3 The Client agrees to maintain such collateral and/or Margin as HB may from time to time at the discretion of HB requires. The Client also agrees to pay immediately on demand any amount owing with respect to any of the Client's account.
- 5.4 Where the Client holds positions in any Contracts taken out at different times, HB shall have the right to choose which Contracts should be liquidated and in which order.
- 5.5 The Client may make withdrawals from his Margin account(s) by giving HB at least one (1) business day's notice in writing of his intention to withdraw. Payment will be made to the Client before the expiration of the next business day after receipt of such notice. The amount to be withdrawn by the Client must not exceed the credit balance in his account less (i) the necessary Margin and (ii) the amount of the Client's floating loss calculated on his open positions/Contracts at the date the Client's written notice being received by HB.
- 5.6 The issue of HB's Margin receipt shall be conclusive acknowledgment of the deposit of the specified amount of Margin in the Client's account(s) with HB and shall serve no other purpose whatsoever.
- 5.7 Margin shall be in such currency as may be acceptable to HB but such currency not being Hong Kong dollars shall be converted into Hong Kong dollars or US dollars or RMB at the rate to be arranged bona fide by HB. The Client's ledger with HB will be made in Hong Kong dollars or US dollars or RMB at all times and at the closing of the Client's account(s), the Client shall be obliged to accept payment of any balance in Hong Kong dollars or US dollars or RMB.
- 5.8 HB shall have the right (i) whenever in HB's sole discretion HB shall consider it necessary for the protection of HB, because of Margin requirements or otherwise, or (ii) in the event that a petition in bankruptcy, or a petition for the appointment of a receiver, is filed by or against the Client or, (iii) when an attachment is levied against the account(s) of the Client with HB, or (iv) in the event of the death or judicial declaration of incompetence of the Client, to: (a) satisfy any obligation the Client may have to HB (either directly or by way of guaranty or suretyship) out of any property belonging to the Client in the custody or control of HB, (b) sell any or all existing long in the Client's account(s), (c) buy any or all existing which may be short in such account(s), and, (d) cancel any outstanding orders in order to close the account or account(s) of the Client, all without demand for Margin or additional Margin, notice to the Client, the Client's heirs, executors, administrators, legatees, personal representatives or assigns, of sale or purchase or other notice or advertisement and whether or not the ownership interest shall be solely the Client's or jointly with others. Any sale of existing long in an account or purchase of existing short in an account may be made according to the judgement of HB and at the discretion of HB either by direct sale or purchase in the same Contract month or according to the judgement of HB and at the discretion of HB on any exchange or other market where such business is then usually transacted. It is understood that, in all cases, a prior demand or call, of prior notice of the time or place of sale or purchase shall not be considered a waiver of the right of HB to sell or to buy without demand or notice as herein provided, that the Client shall at all times be liable for the payment of any debit balance

owing in such account(s) with HB upon demand, and that in all cases, the Client shall be liable for any deficiency remaining in such account(s) in the event the liquidation thereof in whole or in part by HB or by the Client. When such combination, set-off or transfer requires the conversion of one currency to another, such conversion shall be at a rate of exchange determined conclusively by HB on the basis of the then-prevailing market rates of exchange between the two currencies.

5.9 Until any amount owed to HB has been paid in full, HB shall hold as security and subject to a general lien in HB's favor all money, Securities and other property of the Client held from time to time by HB, whether held for safe-keeping or otherwise.

5.10 Any money received by HB in respect of your account with HB shall be treated as "Client Money" in accordance with the then applicable The Chinese Gold & Silver Exchange Society's Client Money Rules except where you transfer full ownership of money to HB for, amongst other things, the purpose of securing or otherwise covering present or future, actual or contingent or prospective obligations, such as margin, in which circumstances such money will not be regarded as Client Money.

5.11 All monies paid to HB whether as deposit, Margin, Securities or for any purpose whatsoever shall not be entitled to earn interest from HB. All interest, dividends or other benefits derived from the Client's Margin collateral shall belong to HB.

## **6. No Liability for HB**

6.1 The Client recognizes that Bullion trading spot prices may vary from institution to institution and from minute to minute and that it may prove impossible to effect trades even at advertised prices. Thus the Client agrees to accept that such price as HB may offer him from time to time is the best price then available.

6.2 HB shall not be liable for any act, default, negligence, omission or neglect on the part of any broker, agent or correspondent.

## **7. Advances and Interest Rate**

7.1 The Client is required to settle each Contract on the value date or on such date as HB shall require settlement. In the event of the Client not being able or not willing to settle any Contract on the value date or on such date as HB shall require settlement, HB may (but without obligation to do so) make advance to the Client by way of direct settlement of any Contract in whole or in part and the Client undertakes to repay the Hong Kong dollar equivalent (at the exchange rate or rates as HB shall stipulate) of any such advance to HB upon demand with interest therein at the rate of 3% per annum above the prime lending rate in Hong Kong for the time being in force calculated on a daily basis from the date of such advance up to and including the date of repayment in full.

7.2 In addition to Clause 7.1 above, interest at the said rate shall be chargeable on the following items:

- (a) any Margin not paid or deposited in the form of cash; and
- (b) any amount due to HB and remaining outstanding.

7.3 Nothing herein shall be construed as creating a binding obligation on HB to make any advance to the Client as aforesaid nor shall prejudice any of the rights and remedies of HB against the Client or any other persons under this Agreement, the Contracts or otherwise conferred by law, equity or usage.

## **8. Lien, Consolidation of Accounts and Set-off**

- 8.1 HB shall have a lien on all properties, Securities, equities, credit and credit balances carried by and/or with it in any account for the Client (whether individually or jointly with others) or otherwise in HB's possession, or in the possession of any group company of HB in Hong Kong or elsewhere, at any time and for whatsoever purpose including safekeeping as security for (i) all debit balances in any of his account(s); (ii) all his liabilities accrued due or contingent to HB whether as principal, guarantor, surety or otherwise; and (iii) any other liability owed by the Client to HB or to any of its group companies howsoever arising.
- 8.2 HB shall be entitled at any time without notice to combine and/or consolidate all or any of the Client's accounts with HB and its group companies. HB shall also have the right to sell all or any of the properties mentioned in Clause 8.1 above (and HB is authorized to do all such things necessary in connection with the exercise of such power) and utilize the proceeds to offset and discharge all of the obligations of the Client to HB or to any group company regardless of whether any other person is interested in or HB has made advances in connection with such property, and irrespective of the number of accounts the Client may carry with HB.
- 8.3 In respect of any payments by HB to offset and discharge any of the Client's obligations to any of HB's group companies, the Client agrees that HB shall not be concerned whether or not such obligations exist, provided demand has been made on HB by such group company. Without limiting or modifying the general provisions of this Agreement, HB is hereby specifically authorized to transfer any sum or sums among the different accounts that the Client has with HB and with any of its group companies provided that all rules, regulations and procedures of the relevant market or exchange are complied with at all times.
- 8.4 HB is specifically authorized to transfer such amount from the Margin or Securities deposited with it by the Client without call or notice as may be necessary to cover all debit balances which may arise in his account(s) with HB.
- 8.5 HB is specifically authorized to transfer excess funds available in the Client's trading account(s) or any other accounts with HB to the Client's margin account(s) without any call or notice and utilize the same as Margin thereafter.

## **9. Event of Default**

- 9.1 Any of the following shall each constitute an "Event of Default":
- (a) in respect of any transaction, the Client shall fail:
    - (i) to provide the required Margin when called upon to do so; or
    - (ii) to perform any obligations under the terms of any Contract;
  - (b) the death or insanity of the Client;
  - (c) the filing of a petition in bankruptcy or a petition for the winding-up or the appointment of a receiver or judicial manager against the Client;
  - (d) an attachment is levied against the account(s) which the Client has with HB;



(e) the Client defaults in the due performance or observance of any of the terms and conditions of this Agreement on the part of the Client to be observed and performed;

(f) any representation or warranty made in or in pursuance of this Agreement or in any certificate statement or other documents delivered shall be or become incorrect in any material aspect; or

(g) HB forms the view in good faith that action is necessary to protect, enforce or preserve its rights hereunder.

9.2 Without prejudice to any other right or remedy which HB may have, if any Event of Default shall occur, HB shall be authorized, in its absolute discretion, to take one or more of the following actions:

(a) close out the Contracts which HB entered into with or on behalf of the Client without the Client's consent;

(b) cancel any or all outstanding orders or transactions or any other commitments made on behalf of the Client;

(c) call upon any security including but not limited to any guarantees and letters of credit which may have been issued in favour of HB as security for the account;

(d) combine or consolidate any accounts of the Client with HB and its group companies;

(e) sell all or any of the properties mentioned in Clause 8.1 above; and/or

(f) terminate this Agreement forthwith.

9.3 HB shall have the right at its election to take any of the actions mentioned in Clause 9.2 above without call or notice and at the Client's risk as to loss to liquidate his account(s) in whole or in part by public or private sale of all or any of the properties mentioned in Clause 8.1 above. Upon demand, the Client shall pay promptly any deficiency in any of his account(s) howsoever the same may arise and agree to indemnify HB fully against any loss, claim or damage suffered by HB as a result of the Client's misfeasance or non-feasance. The enforcement of any right hereunder shall not operate as any waiver, release or discharge of any deficit or debit balance which may occur in the Client's account(s) with HB.

9.4 All provisions hereof shall survive any change or succession in HB's business and shall be binding after the Client's death upon his personal representative(s) (or if the Client is a company upon its successors and assigns). HB may, at its discretion, close out all or any of the accounts of the Client without awaiting the appointment of a personal representative for the estate of the Client and without notification to any such personal representative.

9.5 In the event of the death or winding-up of the Client, all open orders shall be deemed cancelled but HB shall not be responsible for any

9.5 In the event of the death or winding-up of the Client, all open orders shall be deemed cancelled but HB shall not be responsible for any action taken on such orders prior to the actual receipt by the authorized executive of HB of written notice of the death or winding-up of the Client.

## 10. Settlement and Appropriations

The Client undertakes to ensure the maintenance of good communications with HB in order to deal effectively with emergencies as they occur. Without prejudice to any other right or remedy which HB may have, if HB is unable to communicate with the Client within a period of 24 hours, HB may without notice to the Client:

- (a) settle all or any unperformed Contracts (whether short position or long position) by entering into matching Contract or Contracts on behalf of the Client (which the Client hereby authorizes), such matching Contracts shall be made at such markets at such time or times and at such price or prices as HB shall at its absolute discretion determine and the expense shall be borne by the Client and repaid to HB forthwith upon demand; and
- (b) appropriate in favour of HB all property standing to the credit of the Client or which belongs to the Client, in satisfaction or partial satisfaction of any amount owing to HB, and for this purpose the value of property appropriated shall be deemed to be equivalent to the market value to be determined by HB at its absolute discretion, and such determination shall be conclusive evidence of such market value.

## 11. Communications, Statements and Documents

11.1 Orders to execute Contracts may be given in writing or orally (whether by telephone or actual meeting) or by telex, facsimile or other electronic means and whether by the Client or the Authorized Person, and once given may not be rescinded or withdrawn without the written consent or confirmation of HB. HB shall be entitled to rely on any instructions, directions, notices, or other communications which HB reasonably believes in good faith to be from the Client and the Client agrees to indemnify HB and hold HB harmless from and against all losses, costs and expenses (including but not limited to legal costs) suffered or incurred by HB in reliance thereon.

11.2 Reports, written confirmations, notices and any other communications and documents (including but not limited to demands, writ, summonses, orders, pleadings and petitions) may be transmitted to the Client (who, in the case of a joint account without nominating a person thereof will be deemed for these purposes to be the person whose name first appears in the Appendix For Joint Account Holders hereto) at the address, or telephone, telex or facsimile number given herein, or at such other address or telephone, telex, facsimile number as the Client hereafter shall notify HB in writing, and all communications so transmitted, whether by mail, messenger, telephone, telex, facsimile or otherwise, shall be deemed to have been received at the time of transmission if delivered personally, by telex, facsimile or telephone or 48 hours after despatch if sent by post, whether actually received by the Client or not. The Client accepts full responsibility and all consequences arising out of any failure to notify HB of any necessary alteration in his particulars kept in the records of HB.

11.3 Written Confirmations of the execution of the Client's orders and statements of the Client's accounts shall be conclusive and deemed to be accepted if not objected to in writing by the Client within 2 working days from the date of transmittal to the Client by mail or other

wise. HB may, however, rectify any error in any report or statement proved to its satisfaction.

11.4 In the event of a dispute or difference arising between the two parties, the Client accepts and agrees that copies of HB's trading records shall be conclusive proof of the truth of the contents thereof and shall be admissible in any court of law or arbitration without further or proper proof thereof.

11.5 Each Contract shall be governed by the terms and conditions of this Agreement and the relevant Confirmation, unless otherwise agreed by the Parties.

11.6 Each Confirmation shall supplement and form a part of this Agreement and all the terms are subject to the conditions of this Agreement and all Confirmations, and their amendments, constitute a single agreement between the Client and HB.

## **12. Disclosure**

The Client acknowledges that any government or regulatory authority may pursuant to the applicable laws require the disclosure of information relating to the Client's accounts. The Client hereby irrevocably authorizes HB or its agents, without notice to or consent from the Client, to disclose to the relevant authorities all such information and to provide such authorities with all such documents or copies thereof in the possession of HB or its agents as may be required for this purpose, including but without limitation to the name of the Client, the ultimate beneficial owner(s) of the account (if any) and the financial position of the Client for the time being, as may be known to HB or its agents. The Client shall not in any way hold HB or its agents liable for any consequences arising out of such disclosure, and the Client shall reimburse HB and its agents on demand for all costs and expenses, including legal costs, incurred by HB and its agents in complying with the requests for such disclosure.

## **13. Personal Data (Privacy) Ordinance**

Where HB holds personal data, within the meaning of the Hong Kong Personal Data (Privacy) Ordinance (Cap. 486), the Client agrees that (subject to the provisions of that Ordinance) any such data may be used for the following purposes:

- (a) sharing, cross-checking and transferring that personal data with any of HB's group companies whether in relation to new or existing client verification procedures, ongoing account administration or marketing;
- (b) the comparison and/or transfer to third parties of such personal data for the purposes of credit checking and/or data verification;
- (c) any purpose relating to or in connection with compliance with any law, regulation, court order or order of a regulatory authority including the provision of any such data to any such regulatory authority which shall request the same (without HB having to obtain prior legal advice as to the competence of such a request); and/or
- (d) any other purpose relating to or in connection with HB's business or dealings or the business or dealings of any group company.

#### **14. Termination**

This Agreement may be terminated by the Client by giving no less than four (4) business days' written notice to HB. HB may terminate this Agreement at any time by written notice to the Client. Such notice shall not affect any transaction entered into by HB prior to its receipt of such written notice and shall be without prejudice to any of the rights, power or duties of HB or the Client prior to such receipt. HB may liquidate the Client's account(s) as herein before provided or transfer the Client's account(s) to such broker or commission merchant as may be agreed by the Client and HB.

#### **15. Power of Attorney**

The Client undertakes to do and execute any act, deed, document or thing which HB requires the Client to do in connection with the implementation, execution and enforcement of any of the terms conferred by or arising out of this Agreement and the Client appoints HB as his attorney to do and execute all acts, deeds, documents or things on his behalf as HB considers necessary or desirable in connection with such implementation, execution and enforcement. The Client will ratify and confirm all such acts, deeds, documents or things so done by HB acting lawfully and in good faith.

#### **16. Extraordinary Events**

The Client agrees that HB, its directors, officers, employees and agents shall not be liable to the Client for any delay or failure to perform any obligations on its part hereunder or for any loss or damage caused directly or indirectly by any condition or circumstances over which HB, its directors, officers, employees or agents do not have control, including but not limited to fires, storms, acts of God, strikes, lockouts, wars, adverse political or economic conditions, governmental control, restriction or prohibition whether local or international, technical failure of any equipment or communication facilities, power failure, black-outs or any other causes which result or are likely to result in the erratic behavior of the bullion prices, the closure of international or local market or any other causes affecting the operation of HB.

#### **17. Own Judgment**

The Client hereby acknowledges that in respect of all and any Contracts he shall be deemed to have entered into the same upon his own judgment and at his sole risk, notwithstanding that he may have been advised by HB, its executives or staff, and he is further aware that none of the executives and staff of HB is authorized on behalf of HB to give any representation of advice.

#### **18. Miscellaneous**

18.1 This Agreement supersedes all previous agreements and arrangements (if any) between the Client and HB in relation to the opening of the account with HB.

18.2 All provisions of this Agreement shall not in any respect be waived, altered, modified or amended unless such waiver, alteration, modification or amendment be committed to writing and signed by one of the authorized officers of HB. This Agreement shall not be revoked by the Client except in writing delivered to HB. Such revocation, however, shall not affect any transaction entered into by HB pursuant to this Agreement before written notice of the revocation has been received by HB.

18.3 No act or omission to act or forbearance by HB shall be or be deemed to be a waiver by HB of any rights against the Client. Any consent or waiver given by HB shall operate as a consent or waiver only in relation to the particular matter it relates and shall in no way be considered as a consent waiver or release of any of the provisions hereof nor shall it be construed as dispensing with the necessity of obtaining the specific written consent of HB in future unless expressly so provided in writing and duly signed by and on behalf of HB.

18.4 The provisions of this Agreement shall be continuous, shall cover individually and collectively all accounts which the Client may open or re-open with HB, and shall enure to the benefit of, and bind HB, HB's successors and assigns, whether by merger, consolidation or otherwise, as well as the heirs, executors, administrators, legatees, successors, personal representatives and assigns of the Client.

18.5 The Client shall not assign any of his rights and/or obligations under this Agreement to any other party except with HB's prior written consent.

18.6 Time shall in all respects be of the essence for the performance of the Client's obligations under or in relation to this Agreement.

18.7 No provisions of this Agreement shall operate to remove, exclude or restrict any rights of the Client or obligations of HB under the laws of the Hong Kong Special Administrative Region. If any provision of this Agreement shall be rendered unenforceable or invalid by any court or regulatory agency or body, such unenforceability or invalidity shall not affect the enforceability or validity of the other remaining provisions of this Agreement.

18.8 If any provision hereof is or at any time should become inconsistent with any present or future law, rule or regulation of any market or of any sovereign, government or a regulatory body thereof, and if any of these bodies have jurisdiction over the subject matter of this Agreement, the said provision shall be deemed to be superseded or modified to conform to such law, rule or regulation, but in all other respects, this Agreement shall continue and remain in full force and effect.

18.9 The Client agrees that if there is any inconsistency between the Chinese and English versions of this Agreement, the English version shall prevail.

## **19. Governing Law**

This Agreement and all rights, obligations and liabilities under it shall be governed by and construed in accordance with Hong Kong law and the Client hereby irrevocably submits to the non-exclusive jurisdiction of the Hong Kong Courts.

## **20. Material Changes**

The Client and HB covenant to notify each other forthwith of any material changes in the information supplied in the Bullion Trading Account Opening Form and this Agreement.

## **SUPPLEMENTAL CLIENT'S AGREEMENT**



## **ADDITIONAL TERMS AND CONDITIONS**

### **1. Definitions and Interpretation**

1.1 In this Supplemental Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

"Access Codes"	means together the Password and the User Name;
"HB Mail"	means the secured messaging facility operated by HB for the delivery and receipt of notices;
"HB Web Service"	means the electronic trading service provided by HB under this Supplemental Agreement comprising the Service, the HB Mail, the Information contained in the HB Website and the software comprised in them;
"Information"	means data, database, quotes, news, research, graphics, drawings, text and other information accessible through the Service, including but not limited to bullion prices and information relating to the bullion market;
"Information Providers"	means the third parties who provide the Information;
"Intellectual Property Rights"	means any patents, designs (whether registered or not), trade mark, services mark, copyright, know-how, trade secrets, goodwill and any associated or similar rights in each case and in any jurisdiction;
"Password"	means the Client's personal password, used in conjunction with the User Name to gain access to the Service, the Information, the HB Mail and other services offered by HB;
"Service"	means any facility provided by, and/or on behalf of, HB which enables the Client to give electronic instructions to buy and sell certain bullion and to receive the Information, the HB Mail and related services; and
"User Name"	means the Client's personal identification used in conjunction with the Login ID to gain access to the Service, the Information, the HB Mail and other services offered by HB.

1.2 Unless otherwise specified, terms not defined in this Supplemental Agreement shall have the same meanings assigned to them in the Client's Agreement.

1.3 Unless otherwise specified, this Supplemental Agreement is made without prejudice and in addition to all other provisions in the Client's Agreement.

### **2. Application of the Client's Agreement**

This Supplemental Agreement (including amendments to it from time to time) forms part of the Client's Agreement. The Client acknowledges and agrees that the terms and conditions of the Client's Agreement together with the terms and conditions of this Supplemental Agreement shall be applicable to the Client in connection with his bullion trading with HB through the Service.

### **3. Service**

3.1 The Client agrees to use the Service only in accordance with the terms and conditions of this Supplemental Agreement. Any additional services offered through the HB Web Service in the future shall only be used by the Client in accordance with the terms and conditions of this Supplemental Agreement.

- 3.2 The Client may from time to time, enter instructions to buy and sell certain bullion for his account with HB through the Service.
- 3.3 The Client agrees that he shall be the only authorized user of the Service under this Supplemental Agreement. The Client shall be wholly and solely responsible for the confidentiality, security and use of the Access Codes issued to him by HB.
- 3.4 The Client acknowledges and agrees that he shall be wholly and solely responsible for all instructions entered through the Service using the Access Codes (whether authorized by him or not). Neither HB nor any of its officers, employees or agents shall incur any liability for the handling, mishandling or loss of any instruction. The Client shall indemnify HB upon demand against any loss, damage, costs, disbursements and liabilities that HB may incur or suffer as result of any instructions entered through the Service.
- 3.5 The Client further acknowledges and agrees that, as a condition of using the Service to give instructions, the Client shall immediately notify HB if:
- (a) an instruction has been placed through the Service and he has not received an order number or has not received an accurate acknowledgement of the instruction or of its execution (whether by hard copy, electronic or verbal means);
  - (b) he has received acknowledgement (whether by hard copy, electronic or verbal means) of a transaction which he did not instruct or any similar conflict;
  - (c) he becomes aware of any unauthorized use of his Access Codes; or
  - (d) he has difficulties with regard to the use of the Service.
- 3.6 The Client agrees to pay all subscription, service and use fees, if any, that HB may charge him for the Service and agrees that such fees may be changed without notice.
- 3.7 The Client expressly agrees that subject to Clause 3.8 below, HB may communicate with or give notice to the Client through the Service and that any such notice or communication delivered to the Client by HB by electronic devices through the HB Mail or otherwise shall be deemed to have been received at the time of transmission of the message to him.
- 3.8 The Client acknowledges and agrees that although he may be able to access pro forma confirmation and statement of accounts through the Service, only the daily and monthly statements of accounts issued by HB shall be conclusive and binding.
- 3.9 The Client acknowledges and agrees that HB may disclose the Client's electronic communications to the same extent HB may disclose other information about him or relating to his account as provided elsewhere in the Client's Agreement.
- 3.10 The Client understands and accepts that HB may at any time in its sole discretion and without prior notice to the Client, suspend, prohibit,



3.10 The Client understands and accepts that HB may at any time in its sole discretion and without prior notice to the Client, suspend, prohibit, restrict or terminate the Client's access to the Service and his ability to trade. The closing of the Client's account by HB will not affect the rights and/or obligations of either party incurred prior to the date the account is closed.

#### **4. Trade Instructions**

4.1 The Client may enter trade instructions through the Service. The giving of a trade instruction with HB (whether by electronic means or otherwise) does not guarantee execution of an order. The Client understands that neither HB nor any of its officers, employees or agents shall be responsible for any order that is not executed.

4.2 Each trade instruction given by the Client shall include the details and comply with the limitations as specified by HB and notified to the Client from time to time through the Internet. HB shall have no obligation to accept any trade instruction which does not comply with the limitations specified by HB, but may do so in its discretion. Acceptance of any such nonconforming instruction shall not obligate HB to accept any subsequent nonconforming instructions.

4.3 HB may refuse to accept and/or carry out any trade instruction without being obliged to give any reasons for such refusal. For the avoidance of doubt, HB may reject a trade instruction for any reason whatsoever, including but not limited to the following:

(a) The trade instruction does not comply with the limitations and requirements set forth in Clause 4.2 above.

(b) The price published in the HB Website shall have expired or has been withdrawn.

(c) The terms of the trade instruction cannot be determined with certainty by HB.

(d) There is lack of sufficient funds in the Client's account to settle the transaction.

4.4 A trade instruction which for any reason, including failure of the Service to transmit such instruction, is not received by HB in a manner in which it can be processed shall be deemed rejected by HB.

4.5 HB shall not be deemed to have received the Client's trade instructions unless and until the Client is in receipt of HB's message acknowledging receipt, either electronically or by hard copy. Receipt of the Client's trade instructions, however, does not guarantee such trade instructions will be executed by HB.

4.6 The Client agrees to review every order before entering it as it may not be possible to cancel his instructions once given. The Client may request to cancel or amend his instructions but HB is not obliged to accept any such request. The Client acknowledges that instructions may be cancelled or amended only before execution. In the case of full or partial execution of the Client's cancelled instructions, the Client accepts full responsibility for the executed transactions and HB shall incur no liability in connection therewith.

4.7 The Client acknowledges and agrees that if the mode of communication used by him in the course of the Service becomes temporarily unavailable, he can during such period continue to operate his account subject to HB's right to obtain such information regarding the verification of the Client's identity as HB may from time to time think fit.

4.8 The Client further acknowledges and agrees that none of the Information Providers shall be a party to, nor shall it have any obligations under or with respect to, any transaction (whether entered electronically or otherwise) between HB and the Client.

## **5. Intellectual Property Rights**

5.1 The Client acknowledges and agrees that HB is the proprietor or the authorised licensee of all Intellectual Property Rights subsisting in the Information, software programmes relating to the HB Web Service and the source code thereof. The Client shall not attempt to, tamper with, modify, disassemble, decompile, reverse engineer, damage, destroy or otherwise alter in any way or sub-license, and shall not attempt to gain unauthorized access to, the Information, the source code of any software contained in the Information or any part of the HB Web Service. The Client undertakes to notify HB immediately if he becomes aware that any of the actions described above in this paragraph is being perpetrated by any other person.

5.2 The Client acknowledges that HB obtains the Information from the Information Providers. The Client agrees to comply with all conditions and restrictions imposed by the Information Providers in relation to the supply and use of the Information. In particular, the Client agrees:

(a) that the Information provided to him is for his individual use only and that he shall not use the Information or any part thereof other than in the ordinary course of his own business (which shall not include any dissemination to third parties);

(b) not to reproduce, retransmit, disseminate, sell, distribute, publish, broadcast, circulate or commercially exploit the Information in any manner to any other person without the express written consent of HB and the Information Providers; and

(c) not to use or permit the use of any Information for any illegal purpose.

5.3 The Client agrees that he shall not assign, transfer or sub-license all or any part of his rights under the provisions of this Supplemental Agreement.

5.4 The Client shall allow HB or any person authorized by HB in writing to, upon receiving its written request, inspect promptly thereafter the premises and records of the Client for any lawful purpose in connection with the provisions of this Supplemental Agreement including but not limited to the purpose of satisfying that the Client is not using the Information or the software comprised in it contrary to any provision contained herein.

## **6. No Warranty or Guarantee**

6.1 The Client acknowledges and agrees that the Service is provided to him on an "as is" basis and that the use of the Service is at his sole risk. The Client accepts that neither HB nor the Information Providers make any warranty of any kind whatsoever relating to the

Service (including any Information furnished through the Service and whether those prices contained therein are reflective of the bullion market generally), express or implied, including without limitation, non-infringement of third party rights or merchantability or fitness for any particular purpose or use.

6.2 The Client acknowledges that owing to market volatility and possible delay in the data transmission process, the data may not be real-time market quotes for bullion. The Client acknowledges that HB has no independent basis to verify or contradict the accuracy or completeness of the Information provided. No recommendation or endorsement from HB shall be inferred from the Information provided.

6.3 The Client understands that neither HB nor any of its agents or the Information Providers guarantee the timeliness, sequence, accuracy, continuity, promptness or completeness of the Information.

## **7. Limitations of Liability**

7.1 The Client agrees that neither HB nor any of its officers, employees, agents or the Information Providers shall be liable for any loss or have any responsibility:

(a) for damages of any kind, whether direct, indirect, special, consequential or incidental, resulting from access or use of, or inability to access or use, of the Service, including without limitation damages resulting from the act, omission, mistake, delay or interruption of the Information Providers, even if HB, its officers, employees, agents or the Information Providers have been advised of the possibility of such damages or losses; or

(b) for damages resulting from a cause over which HB, its officers, employees, agents or the Information Providers do not have control, including but not limited to any government restriction, suspension of trading, failure of electronic or mechanical equipment or communication lines; telephone or other interconnection problems; incompatibility of computer hardware or software; failure or unavailability of Internet access; problems with Internet service providers or other equipment or services relating to the Client's computer; power failure; problems with data transmission facilities; unauthorized access, theft, fire, war, strikes, civil disorder, acts or threatened acts of terrorism, natural disasters or labour disputes.

7.2 The Client agrees that HB shall not be responsible for any damage to the Client's computer, software, modem, telephone or other property resulting from his use of the Service.

## **8. Indemnification**

The Client agrees to defend, indemnify and hold HB, its officers, employees, agents and the Information Providers harmless from and against any and all claims, losses, liability, costs and expenses arising out of or in connection with the Client's use of the Service, including but not limited to his violation of this Supplemental Agreement or infringement of any Intellectual Property Rights. This obligation will survive the termination of this Supplemental Agreement.

## **9. Risk Disclosure**

The Client acknowledges and accepts that:

- (a) access to the Service may be limited or unavailable during periods of peak demand, market volatility, systems upgrades or maintenance or for other reasons;
- (b) due to unpredictable traffic congestion and other reasons, electronic transmission may not be a reliable medium of communication and that such unreliability is beyond HB's control;
- (c) transactions conducted via electronic means may be subject to interruption, transmission blackout, delayed transmission due to Internet traffic or incorrect data transmission due to the public nature of the Internet;
- (d) instructions may not be executed or may be delayed so that they may be executed at prices different from those prevailing at the time the Client's instructions were given;
- (e) communications and personal data may be accessed by unauthorized third parties;
- (f) the Client's instructions may be executed without being subject to human review;
- (g) it is usually not possible to cancel an instruction after it has been given; and
- (h) there may be system failure, including the failure of hardware and software or breakdown of communication facilities, which may result in the Client's instruction not being executed according to his instruction or is not executed at all.

#### **10. Miscellaneous**

10.1 The Client acknowledges that he has read, understood and agreed to be bound by the terms and conditions of this Supplemental Agreement.

10.2 This Supplemental Agreement shall remain in full force until HB acknowledges receipt of the Client's written instruction to terminate the Client's Agreement in accordance with Clause 14 thereof.

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## 亨達金銀投資有限公司 Hantec Bullion Limited

### MT4 帳戶補充協議 Supplemental agreement for MT4 trading accounts

1. 客戶須遵循亨達金銀的MT4電子交易平台的交易規則。  
The Client should comply with the trading rules of MT4 trading platform before starting using the Service.
2. 除非另有說明，否則本補充協議沒定義的詞語，沿用客戶協議所賦的涵義。  
Unless otherwise specified, terms not defined in this Supplemental Agreement shall have the same meanings assigned to them in the Client's Agreement.
3. 除非另有說明，否則本補充協議並不妨礙（而是附加於）客戶協議及其他補充協議所有其他條款。  
Unless otherwise specified, this Supplemental Agreement is made without prejudice and in addition to all other provisions in the Client's Agreement.
4. 本補充協議（包括不時作出的修訂）構成客戶協議的一部份。  
This Supplemental Agreement (including amendments to it from time to time) forms part of the Client's Agreement.
5. 客戶承認並同意客戶協議連同本補充協議條款，均適用於客戶利用服務與亨達金銀進行金銀交易。  
The Client acknowledges and agrees that the terms and conditions of the Client's Agreement together with the terms and conditions of this Supplemental Agreement shall be applicable to the Client in connection with his bullion trading with HB through the Service.
6. 客戶同意並遵守因使用MT4而受MT4開發及生產商MetaQuotes軟件公司所附加的一切條件及限制約束。  
The Client agrees and complies with any applied terms and conditions associated with the Service provided by MetaQuotes Software Corp., which is the provider and developer of MT4 trading platform.
7. 客戶於亨達金銀MT4交易平台內的保證金、所產生的手續費、盈虧、利息等並不適用於亨達金銀其他的電子交易平台。  
The Client acknowledges and agrees that all interests, service and use fees, if any, charged by the MT4 trading platform for the Service, does not apply to other trading platforms issued by Hantec Bullion.
8. 客戶同意且聲明其完全意識金銀交易的風險，且同樣知悉給予亨達金銀的指令將取決於市場當時條件，當無法執行時或對於已執行的指令，客戶將負擔契約可能產生的所有損失。客戶也同意亨達金銀毋須對契約所引致的任何損失或因客戶發出指令的執行方式或執行時間所產生的任何損失負責。  
The Client agrees and declares that he is fully aware of the risk involved in trading in Bullion, and is also aware that orders given to HB may, depending on prevailing conditions, fail to be executed or executed order and all losses incurred in any Contract shall be borne by the Client. The Client further agrees that HB shall not be liable for any loss incurred in any Contract or by reason of the manner or timing of execution of any order given by the Client.
9. 客戶同意且聲明其完全意識買賣成交與否，將取決於市場當時條件，成交價格與客戶所指定的買賣價格有機會因市價浮動而有所偏差，甚至不能成交。  
The Client agrees and declares that he is fully aware of trading in Bullion/Silver, executed or fail to executed, depends on prevailing conditions, may lead to differences in the prices quoted and final execution received, or even execution failure.
10. 客戶承認並同意，資訊提供者並非亨達金銀與客戶之間交易（不論為以電子或其他方式訂立）的一方，因此在亨達金銀與客戶的交易中或就該等交易不會承擔任何責任和義務。  
The Client further acknowledges and agrees that none of the Information Providers shall be a party to, nor shall it have any obligations under or with respect to, any transaction (whether entered electronically or otherwise) between HB and the Client.