

## **Introducing Broker Agreement**

## INTRODUCING BROKER AGREEMENT

This Introducing Broker Agreement is entered into by and between **TF Global Markets (STL) Limited**, incorporated and registered in Saint Lucia with company number 2023-00272, with a registered office is at Ground Floor, the Sotheby Building, Rodney Village, Rodney Bay, Gros-Islet, Saint Lucia ("**ThinkMarkets**"), and the Party whose details are set out in the Schedule to this Agreement (the "**Introducing Broker**").

ThinkMarkets is a trading name of Think Capital Limited.

This Introducing Broker Agreement is entered into as of the date set out in the Schedule to this Agreement (the "**Effective Date**").

ThinkMarkets and Introducing Broker shall collectively hereinafter be referred to as the "**Parties**" or individually as a "**Party**".

Any mention of ThinkMarkets in this Agreement refers to services that are provided by Think Capital Limited.

### BACKGROUND

- A. ThinkMarkets carries on the business of providing financial trading services, including foreign exchange, spread betting and contracts-for-difference, options, and precious metals, as well as technology and liquidity services; and
- B. ThinkMarkets and the Introducing Broker wish to enter into this Agreement pursuant to which the Introducing Broker shall refer prospective customers to ThinkMarkets in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and Agreements hereinafter set forth, the Parties hereto, intending to be legally bound, do hereby agree as follows:

### AGREED TERMS

#### 1. Definitions and interpretation

- 1.1 In this Agreement, unless the context otherwise requires:

**Account:** means a customer trading account with ThinkMarkets.

**Account Management System:** the password-protected, account management and/or administrative system offered by ThinkMarkets in connection with Introduced Clients Accounts as an additional service enabling the Introducing Broker to view account and order details relating to

Introduced Clients and, for so long as the Introducing Broker is authorised by an Introduced Client, conduct trading and account management activities on behalf of such Introduced Client.

**Affiliates:** each and any subsidiary or holding company of ThinkMarkets, and each and any subsidiary of a holding company of ThinkMarkets. Holding company and subsidiary mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006 (UK).

**Associate:** means a family member, friend, or other associate of the Introducing Broker, and includes any person who has the same personal information, IP address, physical or mailing address, telephone number, email address or passport details as the Introducing Broker.

**Associated Costs:** include but may not be limited to any and all costs associated with Client trading, including any credits, bonus incentives or promotional amounts given to the Client, processing charges, hedging costs, administration fees, charge backs, extraordinary costs, any un-collected revenue attributable to the Client or introducer fees or payments made to third Parties (including Sub Introducers), or directly attributable marketing costs.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks are open for business.

**Client Agreement:** means ThinkMarkets terms and policies as amended from time to time relating to the provision of products and services by ThinkMarkets to Introduced Clients.

**Commission:** has the meaning set out in clause 3.1.

**Confidential Information:** means (i) any and all information concerning either Party which has been or is, in the future, furnished by such Party or any of its representatives, to the other Party or any of its representatives, orally, electronically, in writing or otherwise, including, without limitation, information concerning its subsidiaries, businesses, operations, markets, products, commission plans, product specifications, designs, documentation, technical data, trade secrets, processes, computer programs (in object or source code form), know-how, research and development, financial condition, strategies, marketing information, contracts, customers, white label partners, introducing brokers, employees and prospects, and (ii) any and all notes, analyses, compilations, studies or other documents prepared by either Party or any of their representatives containing or reflecting any Confidential Information described in (i), above.

**Discretionary Services:** means all and any management and/or advisory services undertaken by the Introducing Broker, including placing any Transaction on behalf of

Introduced Clients on a discretionary basis and providing trading advice in respect of an Introduced Clients' Account. The discretionary services may be subject to the proper licensing in the jurisdiction of the Introducing Broker.


**Governmental Authority:** means any national, federal, state, provincial, county, municipal or local government, foreign or domestic, or the government of any political subdivision of any of the foregoing, or any entity, authority, agency, ministry or other similar body exercising executive, legislative, judicial, regulatory or administrative authority or functions of or pertaining to government, including any self-regulatory organization, authority, agency or body, or any quasi-governmental entity established to perform any of such functions, including, without limitations, the FCA.

**Intellectual Property Rights:** copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, whether registered or unregistered, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

**Introduced Clients:** has the meaning set out at clause 2.2.

**Marketing Materials:** means any and all ThinkMarkets issued or approved marketing and promotional materials from time to time, created by or at the direction of ThinkMarkets for the purpose of marketing the ThinkMarkets business and/or services.

**Regulations:** means all relevant laws, rules and regulatory force in Saint Lucia.

**Sub-Introducer:** means any person or entity to whom Introducing Broker has delegated its obligations, responsibilities, and rights under this Agreement. 

**Term:** means the period from the Effective Date until termination of this Agreement as set out in clause 10.

**Transactions:** any trade, contract, position, order or spread bet placed by an Introduced Client pursuant to the Client Agreement.

Unless the context otherwise requires:

- 1.2.1 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

- 1.2.2 words in the singular shall include the plural and in the plural shall include the singular;

- 1.2.3 a reference to one gender shall include a reference to the other genders; and

- 1.2.4 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

- 1.2 Clause and Appendix A headings shall not affect the interpretation of this Agreement.

- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

- 1.4 In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained in the Appendix A, the provision in the body of this Agreement shall take precedence.

- 1.5 References to clauses and Appendix A are to the clauses and the Appendix A of this Agreement.

- 1.6 The Appendix A forms part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Appendix A.

**Introduced Clients**

Introducing Broker hereby agrees to promote ThinkMarkets's business and refer prospective clients to ThinkMarkets for the purpose of opening an Account and entering Transactions with ThinkMarkets.

- 2.2 New customers introduced to ThinkMarkets by the Introducing Broker that are accepted by ThinkMarkets in accordance with ThinkMarkets's new Account opening procedures as amended from time to time and that are not, and have not been in the past, a customer of ThinkMarkets or any of its Affiliates are referred to in this Agreement as **"Introduced Clients"**.

- 2.3 ThinkMarkets shall deal with any Introduced Client as it sees fit and shall be entitled at any time to refuse to accept an applicant as an Introduced

Client, refuse to accept instructions from any Introduced Client or from the Introducing Broker on behalf of any Introduced Client or refuse to enter into any Transactions and may close an Introduced Client's account at any time.

2.4 ThinkMarkets shall provide to the Introducing Broker details of Transactions for Introduced Clients as it deems appropriate and necessary subject to such disclosure being permitted under the Regulations and under the Client Agreement, including being in possession of a valid and binding consent from the Introduced Client for ThinkMarkets to make such disclosure. The Introducing Broker acknowledges and agrees that any details of Transactions for Introduced Clients and any records containing information concerning such Introduced Clients provided to or generated by or on behalf of ThinkMarkets are and shall be treated as (both during and after the Term) ThinkMarkets's Confidential Information.

2.5 The relationship between ThinkMarkets and Introduced Clients shall be regulated by the Client Agreement only and the Introducing Broker is not a contracting party and shall have no rights in connection with or in relation to the Client Agreement and shall not in any way interfere with the Client Agreement or its operation.

2.6 In consideration of the revenues received from Introduced Clients, ThinkMarkets, acting in its absolute discretion, may supply the Introducing Broker with access to an Account Management System pursuant and subject to this Agreement. ThinkMarkets may, in its sole discretion, immediately and without notice, cease to provide access to and use of an Account Management System by the Introducing Broker.

2.7 In respect of the Account Management System, the Introducing Broker shall:

2.7.1 keep the username and password supplied by ThinkMarkets confidential, and immediately notify ThinkMarkets if it becomes aware that unauthorised users are in possession of its username or password;

2.7.2 use the Account Management System for the Introducing Broker's business purposes specified under this Agreement only, and not misuse, neglect or otherwise interfere with the Account Management System;

2.7.3 not reproduce or transmit any Transaction or other information obtained from the Account Management System in any form without ThinkMarkets's prior written consent;

2.7.4 immediately notify ThinkMarkets on becoming aware of any malfunction or error in any software provided as part of the Account Management System; and

2.7.5 at all times comply with any additional terms and conditions governing the use of an Account Management System as ThinkMarkets may communicate from time to time in its sole discretion, as well as with all applicable Regulations.

2.8 In performing the activities set forth in this Agreement, Introducing Broker will have no authority to contract for or in the name of ThinkMarkets or to bind ThinkMarkets in any way. Introducing Broker will make no representations to prospective customers, Introduced Clients or to any other person, with respect to ThinkMarkets, its business or any Transactions that are not expressly authorised under this Agreement or that have not been previously approved, in writing, by ThinkMarkets. Any communications or actions of Introducing Broker that are not in conformity with this Agreement are expressly disavowed by ThinkMarkets and are the sole responsibility of Introducing Broker. ThinkMarkets does not accept responsibility for any act or omission of Introducing Broker in carrying out its business or any activities under this Agreement.

### 3. Commission

3.1 In consideration of the Introducing Broker performing services under this Agreement, ThinkMarkets will pay to the Introducing Broker fees in respect of Transactions with Introduced Clients during the Term in the amounts and on the payment terms as set forth in the Schedule hereto ("**Commission**"), subject always to this clause 3. For the avoidance of doubt, ThinkMarkets will not and shall be under no obligation to pay Commission to the Introducing Broker (under this Agreement or otherwise) other than as listed in the Schedule.

3.2 Unless the Introducing Broker notifies ThinkMarkets within seven (7) Business Days of the relevant invoice that the Commission is incorrect

due to an underpayment, the Introducing Broker agrees that such Commission will be accepted as correct and not be subject to review absent manifest error.

3.3 The Commission plan applicable at the commencement of the Agreement shall be in accordance with the Schedule, except if:

3.3.1 ThinkMarkets determines, in its sole discretion, that any such Transactions: (i) were entered into excessively without a legitimate intent by the trading party to profit from market movements; (ii) were entered into in reliance on price latency or arbitrage opportunities; (iii) manipulated ThinkMarkets's systems and business; (iv) were a result of a Corporate Action; or (v) violate any provision of the Client Agreement;

3.3.2 ThinkMarkets determines that such payment would violate any Regulations to which ThinkMarkets and/or Introducing Broker are subject;

3.3.3 Introducing Broker, at any time, is not registered with the appropriate Governmental Authority and in such capacities as are, in each case, required for Introducing Broker's activities contemplated hereunder;

3.3.4 Introducing Broker fails to satisfy any of its obligations under clause 4 of this Agreement or any of the warranties and representations provided by the Introducing Broker under clause 5 of this Agreement are no longer accurate; or

3.3.5 ThinkMarkets otherwise deems it appropriate to withhold or revoke such Commission for reasons arising from, but not limited to, Introduced Client complaints, any investigation or complaint by any Governmental Authority or any pending or threatened litigation or other legal action.

3.3.6 ThinkMarkets determines the Introducing Broker has failed to meet the minimum requirements set.

3.4 If, in the sole discretion of ThinkMarkets, the Introducing Broker and/or Introduced Client has

engaged in any activity listed under clause 3.3 above, then ThinkMarkets may:

3.4.1 set-off any Commission described in clause 3.1 paid or payable by ThinkMarkets to the Introducing Broker against any Commission which is payable to the Introducing Broker; and

3.4.2 set-off any Commission described in clause 3.1 paid or payable by ThinkMarkets to the Introducing Broker against any amounts held in any Introducing Broker Account(s) with ThinkMarkets.

3.5 Commission will not be paid for Accounts that have been opened or traded by an Associate of the Introducing Broker, or the Introducing Broker itself.

3.6 The Introducing Broker acknowledges and agrees that the Commission received by the Introducing Broker pursuant to this Agreement fully compensates it for its obligations under this Agreement.

3.7 ThinkMarkets shall be entitled to review and revoke any pending payments to the Introducing Broker if the Introducing Broker cannot be reached for three (3) months or more to claim a pending payment.

3.8 ThinkMarkets shall be entitled to regularly review and amend the Commission plan set out in the Appendix at any time upon written notice or platform notification to the Introducing Broker.

3.9 ThinkMarkets shall be entitled to set minimum criteria to maintain an active Commission plan.

3.10 ThinkMarkets shall be entitled to withhold Commission and/or cease the accumulation of Commission where the Introducing Broker is deemed inactive, in ThinkMarkets' sole discretion, due to low or no performance.

3.11 ThinkMarkets reserves the right to downgrade or withdraw an Introducing Broker's status and/or participation if the minimum requirements for the approved Commission plan are not met.

3.12 All payments made to the Introducing Broker under this Agreement are and are deemed to be inclusive of any VAT and any other similar taxes, charges and duties payable ("**Other Tax**") in respect thereof. The Introducing Broker shall account for any VAT or Other Tax due or payable in relation to any Commission and indemnify ThinkMarkets and hold

it harmless in relation to such VAT or Other Tax due or payable and any other liability arising in relation thereto.

3.13 The Commissions, and any other earnings, shall be paid monthly in arrears, subject to satisfactory KYC and AML verification and execution of this Agreement.

3.14 As part of our Account Opening Procedure (KYC) the Introducing Broker shall provide:

3.14.1 A Proof of Identity: clear copy of a valid government issued passport and/or National Identity Card, AND

3.14.2 A Proof of Residence not older than six (6) months: clear copy of a Utility Bill (water, gas, electricity, phone, internet bill or a Bank Statement or any other government-issued document, reflecting the Introducing Broker's full name, address, date of issue and issuer.

If the Partner is a Legal Person, provide at least the following accurate and updated Corporate information and documents (list non-exhaustive):

- i Certificate of Shareholder
- ii Certificate of Directors
- iii Certificate of Good Standing
- iv Certificate of Incorporation
- v Proof of Identity and Proof of Residence of the Directors and Ultimate Beneficial Owners (holder of 25% of shares and above).

3.15 The Partner agrees and understands that the Company shall not be required and may be unable under Applicable Regulations to accept a natural or legal person as a Partner until all the information and documentation requested by the Company have been validly received, Marketing Material approved by the Company, procedure properly and fully completed and all internal Company checks (including and without limitation anti-money laundering checks or identification tests) have been duly satisfied.

3.16 If the Introducing Broker does not satisfactorily pass the KYC and AML requirements of ThinkMarkets in a timely manner, Commission accrued shall pass to the Company.

#### 4. Introducing Broker's obligations

4.1 The Introducing Broker shall provide to ThinkMarkets on the Effective Date and thereafter during the Term details and copies of any information and documents in respect of itself or its employees, agents, sub-contractors, sub-Introducers and delegates as ThinkMarkets may require. Where there is any material change to any of the information or documents (including in relation to the Introducing Broker's ability to comply with its obligations under this Agreement), the Introducing Broker shall provide to ThinkMarkets updated information and documents as soon as practicable and in any case within three (3) Business Days.

4.2 In providing the services under this Agreement, the Introducing Broker will:

4.2.1 use its best endeavours to attract prospective customers for ThinkMarkets;

4.2.2 act in accordance with good business practice;

4.2.3 follow and comply with all directions and policies provided by ThinkMarkets from time to time;

4.2.4 use the Marketing Materials provided to it by ThinkMarkets only for the purpose of providing the services under this Agreement, and only in accordance with ThinkMarkets' instructions;

4.2.5 promptly give ThinkMarkets access to information to the extent ThinkMarkets requires to satisfy any Regulation, or to comply with any request or direction from any Governmental Authority; and

4.2.6 maintain any information gathered in accordance with this document on the Introducing Broker's files for the relevant statutory period and make such information available to ThinkMarkets on request.

4.2.7 notify ThinkMarkets in writing prior to any changes in methods used to promote ThinkMarkets services.

- 4.3 The Introducing Broker must inform any person whom it introduces to ThinkMarkets under this Agreement:
- 4.3.1 that Transactions and products are offered by ThinkMarkets and not the Introducing Broker;
  - 4.3.2 any Discretionary Services are provided by the Introducing Broker, not by ThinkMarkets;
  - 4.3.3 ThinkMarkets shall not be responsible for the profitability of, and shall not be liable for any losses, costs, expenses or damages suffered by Introduced Clients arising from Discretionary Services provided by the Introducing Broker to Introduced Clients;
  - 4.3.4 that the Introducing Broker is not a representative or agent of ThinkMarkets;
  - 4.3.5 that the Introducing Broker is being compensated by ThinkMarkets for its referral of Introduced Clients to ThinkMarkets, and that Introduced Clients are able to request in writing the exact details of the Commission; and
  - 4.3.6 of any matter ThinkMarkets reasonably considers necessary for compliance by either or both of the Parties with any Regulations, or notices, directions, orders, requirements or demands of any Governmental Authority to which either Party is subject.
- 4.4 The Introducing Broker undertakes to ThinkMarkets that it will not at any time:
- 4.4.1 misrepresent ThinkMarkets or the services that are offered by ThinkMarkets, including misrepresenting that the Introducing Broker or ThinkMarkets will guarantee an Introduced Client's loss, or limit the loss of any Introduced Client;
  - 4.4.2 engage in misleading or deceptive conduct or use advertising that is misleading or deceptive;
  - 4.4.3 amend or change all or any part of the Marketing Materials, prepare letters, publish material or place any advertisements that refer to ThinkMarkets and its relationship with ThinkMarkets without the prior written consent of ThinkMarkets;
  - 4.4.4 use the Marketing Materials or references to ThinkMarkets's name or branding in any email marketing or promotional activity, on any third Party website or in any way which is contrary to the direction or instruction of ThinkMarkets, or for any purpose which is not related to the Introducing Broker's obligations under this Agreement;
  - 4.4.5 use unprincipled advertising to solicit clients. This includes, but is not limited to, approaching unsophisticated clients, or active promotion, spam or advertising on websites which ThinkMarkets in its absolute discretion considers to be inappropriate; or
  - 4.4.6 do any act or thing that would or may damage the standing or reputation of ThinkMarkets.
- 4.5 Upon request, the Introducing Broker will promptly provide ThinkMarkets with all information and access to the extent ThinkMarkets is required to satisfy itself of any Regulation or to comply with any request or direction from any Governmental Authority. ThinkMarkets may notify Referred Clients of payments made to the Introducing Broker under this Agreement.
- 4.6 Introducing Broker agrees that ThinkMarkets may at any time, review the Introducing Broker's placement of Marketing Material. ThinkMarkets has the sole right to approve/reject the use of the Introducing Broker's URL Links.
- 4.7 Introducing Broker agrees that ThinkMarkets may require that the Introducing Broker change the placement or use of Marketing Material in order to comply with the applicable regulatory framework and the Agreement.
- 5. Representations and warranties**
- 5.1 The Introducing Broker represents and warrants to ThinkMarkets that:
- 5.1.1 it has obtained all authorisations and done all things necessary in order to

- enter into this Agreement and to perform its obligations under this Agreement;
- 5.1.2 it is not aware of anything which will, or might reasonably be expected to, prevent or impair it from performing all of its obligations under this Agreement, in the manner and at the times contemplated by this Agreement;
- 5.1.3 the Introducing Broker holds all relevant permissions and consents including without limitation, all authorisations and/or licences required under all applicable Regulations to perform the acts contemplated by this Agreement; or as the case may be, it is not required to be authorised and/or licenced to perform the acts contemplated by this Agreement and/or the requirements of any exclusion(s) upon which the Introducing Broker is relying on to avoid being authorised and/or licenced with or by any applicable Governmental Authority apply to it;
- 5.1.4 where the Introducing Broker provides Discretionary Services: (a) such Discretionary Services are provided in accordance with and complies with, the Regulations and/or any rules of any applicable Governmental Authority at all times; (b) the Introducing Broker is duly authorised by the Introduced Client under a valid and enforceable discretionary trading authorisation/power of attorney and it shall provide such documentary evidence of such authority to ThinkMarkets if requested; (c) the Introducing Broker shall abide by the Client Agreement; and (d) it has, prior to providing Discretionary Services, advised the Introduced Client in writing that: (i) ThinkMarkets is not associated in any way whatsoever with any such Discretionary Services and, (ii) the Introduced Client is solely the customer of the Introducing Broker;
- 5.1.5 the Introducing Broker acknowledges and agrees that ThinkMarkets is not responsible for ensuring that it is properly licensed and/or authorised in the jurisdiction(s) governing its activities to do the acts contemplated by this Agreement which it in fact undertakes;
- 5.1.6 none of the execution, delivery or performance of the Agreement by the Introducing Broker conflicts with, results in a breach of, or constitutes a default under, or violates, as the case may be: (a) any Regulation; (b) any court, or administrative order, or process; (c) any of Introducing Broker's constitutive documents; or (d) any contract, Agreement, arrangement, commitment or plan to which the Introducing Broker is a Party or by which the Introducing Broker may be bound;
- 5.1.7 neither Introducing Broker, nor any of its Affiliates or respective Associates are or have been the subject of any disciplinary proceeding, claim, cause of action, demand, inquiry, litigation, investigation, audit, or any similar proceeding by or before any Governmental Authority (each, an "**Action**"), nor is any such Action threatened against Introducing Broker, its Affiliates or respective Associates. Neither Introducing Broker, nor any of its Affiliates or respective Associates are subject to any outstanding orders, writs, judgments, directives, injunctions, decrees, or written determinations of any Governmental Authority; and
- 5.1.8 neither Introducing Broker nor any Affiliate or Associate acting on behalf of the Introducing Broker is a person that is, or is owned or controlled by a person that is:
- (a) the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, "**Sanctions**"), or



- (b) located, organized or resident in a country or territory that is the subject of Sanctions.

5.2 The Parties each warrant and represent for themselves that:

5.2.1 (if the Introducing Broker is a company) it is duly organized and validly exists under the applicable laws of the jurisdiction of its organisation; and

5.2.2 this Agreement has been duly executed by it and constitutes binding obligations on its part, enforceable against it in accordance with its terms.

## 6. Intellectual Property Rights

6.1 ThinkMarkets hereby grants to the Introducing Broker for the Term a limited, non-transferable, non-exclusive and royalty free license to use the Marketing Materials for the sole purpose of complying with the Introducing Broker's obligations under this Agreement.

6.2 The Introducing Broker acknowledges and agrees that:

6.2.1 the Intellectual Property Rights in the Marketing Materials are, and shall remain, the property of ThinkMarkets;

6.2.2 nothing in this Agreement shall convey to the Introducing Broker any rights of ownership in the Marketing Materials; and

6.2.3 it will not take any action, or inaction, that would impair the value of, or goodwill associated with, the Marketing Materials.

## 7. Appointment of a Sub-Introducer

7.1 ThinkMarkets acknowledges that the Introducing Broker may appoint a Sub-Introducer to assist with the introduction of new customers to ThinkMarkets. The Introducing Broker acknowledges and agrees that any Sub-Introducer shall be appointed on terms substantially similar to the terms contained in this Agreement.

7.2 The Introducing Broker agrees to indemnify and keep indemnified and hold ThinkMarkets and its directors, shareholders, officers, employees, agents

and Affiliates harmless from and against any and all claims, demands, proceedings, suits and actions, losses, liabilities, damages, penalties, fines, expenses and costs (including legal and other advisers' fees) arising out of or in connection with its appointment of a Sub-Introducer under this Agreement.

## 8. Limitation of liability

8.1 Subject to clause 8.2 below, ThinkMarkets shall not in any circumstances have any liability for any losses, damages, charges or expenses which may be suffered by the Introducing Broker (or any person claiming under or through the Introducing Broker) for any matter arising out of or in relation to this Agreement, whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, including loss of profits, loss of business opportunity, special damage (even if ThinkMarkets was aware of the circumstances in which such special damage could arise) or loss or corruption of data.

8.2 Nothing in this Agreement shall exclude or limit ThinkMarkets's liability for: (i) fraud or fraudulent misrepresentation; (ii) death or personal injury caused by that the Introducing Broker's negligence; or (iii) any liability which cannot be excluded by applicable law.

## 9. Indemnity

9.1 The Introducing Broker agrees to indemnify and keep indemnified and hold ThinkMarkets, its directors, shareholders, officers, employees, agents and Affiliates (each, an "**Indemnified Party**") harmless from and against any and all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) that ThinkMarkets or an Indemnified Party may suffer or incur arising out of or in connection with:

9.1.1 any act or omission of the Introducing Broker;

9.1.2 any breach by the Introducing Broker of its obligations under this Agreement;

9.1.3 any failure of the Introducing Broker to comply with the Regulations or any

rules or regulations of any applicable Governmental Authority;

9.1.4 any inaccuracy or misrepresentation in, or breach of, any of the representations or warranties made by the Introducing Broker under the Agreement;

9.1.5 any Discretionary Services provided by the Introducing Broker to the Introduced Client; or

9.1.6 any fraud, negligence, wilful misconduct or wilful default in connection with the performance of the Introducing Broker's obligations under this Agreement.

## 10. Term and termination

10.1 This Agreement will come into effect on the Effective Date and will continue in full force and effect until terminated in accordance with this clause 10.

10.2 ThinkMarkets may terminate this Agreement at any time by giving written notice to the Introducing Broker.

10.3 The Introducing Broker may terminate this Agreement at any time by giving thirty (30) Business Days' written notice to ThinkMarkets.

10.4 ThinkMarkets may terminate this Agreement with immediate effect by notice in writing:

10.4.1 if any representation or warranty of the Introducing Broker is untrue;

10.4.2 in the event of any Governmental Authority investigation or proceedings which, in the reasonable opinion of ThinkMarkets, has a material adverse effect on the reputation of ThinkMarkets;

10.4.3 the continuance of this Agreement would mean that ThinkMarkets and/or the Introducing Broker would be in breach or contravention of any of the Regulations; or

10.4.4 in the event that the Introducing Broker fails to introduce any new Introduced Clients for a continuous period of 60 days.

10.5 Either Party may terminate this Agreement with immediate effect by notice in writing if:

10.5.1 the other Party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of fourteen (14) days after being notified in writing to do so; or

10.5.2 if liquidation, bankruptcy, or similar proceedings relating to insolvency are filed or initiated by or against the other Party.

10.6 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

10.7 Termination of this Agreement shall not affect any rights, remedies, obligations, or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

10.8 On termination:

10.8.1 ThinkMarkets may pay, within a reasonable period of time, Commission to the commission account or wallet for any closed transactions placed by Introduced Clients prior to the date of termination but shall not be liable to pay Commissions for any Transaction(s) placed by Introduced Clients on or after the date of termination, subject always to ThinkMarkets' rights of set off under clause 3 of this Agreement;

10.8.2 the Introducing Broker shall immediately cease using the Marketing Materials whether in hard copy or electronically on any website, and promptly return all Marketing Materials to ThinkMarkets; and

10.8.3 the Introducing Broker acknowledges and agrees that it has no claim against ThinkMarkets whatsoever and is not entitled to any compensation or claim arising from such termination.

10.8.4 Any funds remaining in the commission account or wallet 60 days or more after termination, or from when the Introducing Broker is deemed inactive, shall pass to the Company,

## **11. Confidential Information and publicity**

- 11.1 Each Party shall, during the term of this Agreement and thereafter, keep confidential, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third Party (except its Affiliates, professional advisors or as may be required by any law or any legal or Governmental Authority) any and all Confidential Information which may become known to such Party from the other Party and which relates to the other Party, unless that information is public knowledge or already known to such Party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such Party from a third Party. Each Party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such Confidential Information.
- 11.2 The Introducing Broker shall not issue, publish, or distribute any advertisement, market letter, market research report or other sales or promotional literature or material (in whatever form) utilising or making reference to the name or services offered by ThinkMarkets, or any of its affiliates, without ThinkMarkets's prior written consent. The Introducing Broker is not authorised to respond on behalf of ThinkMarkets to any enquiries or requests for information or comment from the press relating to ThinkMarkets and the Introducing Broker shall not make any use of ThinkMarkets's name or make any statements about ThinkMarkets without its prior written consent.
- 11.3 The Introducing Broker, its agents, Affiliates, sub-Introducers, employees and clients agree not to disparage or encourage others to disparage ThinkMarkets. For the purposes of this agreement the term disparage includes without limitation comments, statements, notifications and the like in any matter or medium which would adversely affect ThinkMarkets.
- 11.4 The obligations under this clause 11 will survive termination of this Agreement.
- 11.5 If applicable, the Mutual Non-Disclosure Agreement entered into by both Parties, prior to

the date of this Agreement, shall terminate at the Effective Date of this Agreement.

## **12. Dispute Resolution**

- 12.1 Except to the extent that this clause is inconsistent with the requirements of any legislative or regulatory regime, the dispute resolution process set out in this section shall apply. The Parties must use all their reasonable endeavours to resolve any dispute arising in connection with this Agreement or any transactions thereunder.
- 12.2 If you have a complaint in relation to the Agreement or any aspect of your Account, you should raise this with the ThinkMarkets complaints department.

## **13. Governing Law and Jurisdiction**

- 13.1 This Agreement shall be governed by and construed under the laws of Saint Lucia (without giving effect to principles of conflicts of law). The parties irrevocably agree to submit to the exclusive jurisdiction of the courts in Saint Lucia over any claim, dispute, or matter (whether contractual or non-contractual) arising under or in connection with this Agreement including its formation. If you are a foreign, non-resident alien, or if you do not reside in Saint Lucia, you agree to waive your right to file an action against ThinkMarkets and its Affiliates in any foreign venue.

## **14. Notices**

- 14.1 Any notice given to a Party under or in connection with this Agreement shall be in writing and shall be:
- 14.1.1 delivered by hand or by pre-paid post to its registered office or its principal place of business; or
- 14.1.2 sent by email to the Partners registered email address.
- 14.2 Any notice shall be deemed to have been received:
- 14.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 14.2.2 if sent by on the fifth Business Day after posting or at the time recorded by the delivery service; or
- 14.2.3 if sent by email, at the time of transmission.

14.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 15. General

15.1 This Agreement constitutes the entire Agreement between the Parties and no earlier representation or Agreement relating to any matter dealt with in this Agreement whether written, oral, or implied will have any force or effect from the Effective Date.

15.2 This Agreement does not constitute an exclusive Agreement between the Parties and nothing in this Agreement shall preclude either Party from committing to similar relationships with other persons.

15.3 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership, joint venture, or employer/employee relationship between the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

15.4 Neither Party will be liable to the other for any breach or failure to perform any of its obligations under this Agreement where such breach is caused by any cause beyond that Party's reasonable control ("**Force Majeure Event**") provided that the affected Party uses its best endeavours to mitigate the Force Majeure Event. If the Force Majeure Event continues for more than ten (10) days, the Party not suffering the Force Majeure Event may terminate this Agreement immediately.

15.5 No delay, grant of time, release, compromise, forbearance (whether partial or otherwise) or other indulgence by either Party in respect of any breach of the other Party's obligations under this Agreement is to operate as a waiver of or prevent the subsequent enforcement of that obligation or be deemed a delay, grant of time, release, compromise, forbearance (whether partial or otherwise) or other indulgence in respect of, or a waiver of, any subsequent or other breach.

15.6 ThinkMarkets may assign any or all of its rights under this Agreement, with or without notice to the Introducing Broker.

15.7 The Introducing Broker may not assign any or all of its rights under this Agreement without the prior written consent of ThinkMarkets.

15.8 The Introducing Broker's and Sub-Introducer's indemnification obligations will survive the termination of this Agreement by either Party for any reason.

15.9 Each Party will sign all documents and do all things reasonably required by the other Party to give effect to the terms and intentions of this Agreement.

15.10 If any provision of this Agreement is invalid or unenforceable, the provision shall be severed from the remainder of this Agreement and shall not render the remainder invalid or unenforceable.

15.11 A person who is not a Party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 2016 to enforce any term of this Agreement, but this does not affect any right or remedy of a third Party which exists, or is available, apart from that Act.

15.12 ThinkMarkets may, in its sole discretion, make any amendments to this Agreement upon seven (7) days written notice to the Introducing Broker. Any such amendment(s) will apply and be binding on the Introducing Broker on and from the effective date specified in that notice.

15.13 Amendments to this Agreement will not be valid and binding unless they are expressly agreed to by ThinkMarkets in writing.

15.14 This Agreement may be executed in two or more counterparts each of which will be deemed to be an original, but all of which when taken together will constitute one and the same instrument.

15.15 ThinkMarkets group does not establish business relationships with Retail Clients coming from Partners residing in Spain and/or France.

## 16. Compliance & Monitoring

16.1 All Marketing Material, educational, online or offline must be approved by the Compliance Department of ThinkMarkets prior to any use by the Introducing Broker.

16.2 ThinkMarkets may monitor the Introducing Broker's business activities, blogs, websites, social media profile, or any other site associated with the Partners, any existing or future method used to communicate with potential clients and to promote the ThinkMarkets' services and products.

16.3 ThinkMarkets may inspect and conduct any due diligence it may require from time to time, without limitation on means of investigation.

**The Parties hereto have caused this Agreement to be duly executed as of the day and year written below.**