



CLIENT AGREEMENT – TERMS AND CONDITIONS OF BUSINESS

Version Log

Original Issue Date:	November 2019
Approver(s):	Board of Directors
Owner(s):	Kimbo LLC
Contact Person:	Chief Executive Officer
Classification:	Client Agreement – Terms and Conditions of Business
Operational Applicability:	All personnel
Geographic applicability:	Belarus
Last Revision Date:	May 2020
Last Reviewed Date:	May 2020
Version:	1
Other Languages:	N/A



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SCHEDULE A: GLOSSARY31

CLIENT AGREEMENT – TERMS AND CONDITIONS OF BUSINESS

1. INTRODUCTION

- 1.1. This Client Agreement (the ‘**Agreement**’), including the Schedules, as amended from time to time, is the document which governs the relationship between you (also, referred to as ‘**Client**’, ‘**Customer**’, ‘**your**’ and ‘**yourself**’ as appropriate) and **Kimbo LLC** (also, referred to as ‘**Kimbo**’, the ‘**Firm**’, ‘**we**’, ‘**us**’, ‘**our**’ and ‘**ourselves**’ as appropriate) concerning the services we provide and your activity with us.
- 1.2. Kimbo LLC is a limited liability company incorporated and registered in the Republic of Belarus with company registration number 193295922 and registered office address at 69A-2 Minskaya str., of. 34, Kolodishchi, 223050, Minsk, Republic of Belarus.
- 1.3. Kimbo LLC is authorized and regulated by the National Bank of Belarus (the “**NBB**”) and has a special certificate of registration in the National Forex Register of Belarus, issued by the National Bank of Belarus, Certificate No.21 (identification code 40021) dated March 11, 2020.
- 1.4. The payment processing of Kimbo LLC is handled by its EU subsidiary Leverage (CY) Limited, a limited liability company duly registered and existing under the laws of the Republic of Cyprus, with company registration number HE 288 882, having its registered office address at 116 Gladstonos, M. Kyprianou House, 3rd and 4th Floor, 3032 Limassol, Cyprus.
- 1.5. **This is the standard ‘Client Agreement’ upon which we intend to rely. For your benefit and protection, please ensure you take sufficient time to read the Agreement as well as any other additional documentation and information available to you via our Website prior to opening an account and/or carrying out any activity with us. If you have any questions, please contact us for clarifications or seek independent professional advice (if necessary).**

2. SCOPE OF THE AGREEMENT

- 2.1. By accepting these terms, you enter into a legally binding agreement with us. To protect your interests, please read these terms carefully before opening an account with us.
- 2.2. A glossary of any Capitalized terms used in this Agreement, can be found in **SCHEDULE A** hereto.
- 2.3. The Agreement includes, in addition to any Schedules and the ‘**Account Opening Form**’ completed by you through our Website, any information provided to you during the Account registration procedure.

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- 2.4. Please note that there are other documents and information available on our Website, which do form part of the Agreement, and provide more details on us and your activities carried on with us, such as:
- a) our **'Order Execution Policy'**, which explains how trades are executed;
 - b) our **'Leverage, Margin, Margin Call and Margin Close-out Policy'**, which explains the leverage and margin conditions applicable when you trade with us;
- and
- c) our **'Risk Disclosure Notice'**, which summarizes the key risks involved in investing in CFDs.
- 2.5. There are additional documents and information available to you on our Website and through our trading platforms, which contain useful information, but are not part of the Agreement.
- 2.6. These include the following:
- a) our **'Conflicts of Interest Policy'**, which explains how we handle any conflicts of interest in order to treat our Clients fairly;
 - b) our **'Investor Compensation Notice'**, which provides details on the Investor Compensation Arrangements to protect our Client's funds;
 - c) our **'Client Categorization Policy'**, which specifies how a client is being categorized in accordance with applicable legislation;
 - d) our **'Complaints Handling Procedures'**, which set out the procedures that needs to be followed in the event that a Client wishes to complain about our services and explains how your complaint will be handled;
 - e) our **'Privacy Policy'**, which explains how we deal with certain information you provide to us; and
 - f) various instructions, guides and working examples.

3. COMMENCEMENT, DURATION OF THE AGREEMENT AND RIGHT TO CANCEL

- 3.1. The Agreement shall commence once we have informed you about your account being activated/verified. This is, once we have completed due diligence and satisfied our requirements in terms of *'Know-Your-Customer'* or any other procedures.
- 3.2. You have the right to cancel the Agreement by giving us notice in writing within the first fourteen (14) days of your account being activated/verified. We will return to you any amount you have transferred to us, subject to you not having entered into any trades via our platform(s).
- 3.3. Where the Agreement has not been cancelled, it will continue to be in effect until its termination, in accordance with the provisions contained in the Agreement.

4. THE SERVICES WE PROVIDE

- 4.1. We will offer you, on an execution-only basis, access to trading a number of instruments in the form of CFDs (also referred to as '**Leveraged Products**').
- 4.2. Kimbo LLC acts, at all times, as a principal. Kimbo LLC offers, on an execution-only basis, a number of financial instruments to the Client, the contract specifications of which are available on our Website.
- 4.3. In addition, Kimbo LLC provides the ancillary service of foreign exchange, connected with the provision of the investment service of execution of orders and the provision of investment research and financial analysis. For a full description of the services that Kimbo LLC offers, please visit our Website.
- 4.4. It is not within the scope of the Agreement to provide investment, financial, legal, tax or regulatory advice nor do we provide any other form of recommendation. You understand that you shall make your own assessment of any transaction prior to entering into a trade and shall not rely on any opinion, material or analysis provided by us or any of our affiliates, employees, or other related parties as being advice or recommendation.
- 4.5. If you are unsure whether you should proceed with the Agreement, seek independent advice.
- 4.6. By entering into the Agreement, you accept that we do not offer investment research; any material containing market analysis is marketing communication and should not be construed as advice, recommendation or research.
- 4.7. You understand that CFDs are derivative products and therefore you will not be entitled to own any underlying instrument. You also understand that no physical delivery of any underlying asset shall occur.
- 4.8. You accept that Kimbo LLC is the only execution venue in relation to your trading activity under the Agreement. Although we can transmit your orders for execution to third-party liquidity providers through an electronic communication platform, contractually we are the sole counterparty to your trades and any execution of orders is done in our name. Further information can be found in our '**Order Execution Policy**'.
- 4.9. You can trade during our normal trading hours for the specific financial instrument during which our platform provides prices and during which you can give instructions or place orders to trade a CFD on a financial instrument, as specified on our Website.
- 4.10. You will only be able to trade during these trading hours specified on our Website for that relevant financial instrument. It should be noted that certain financial instruments have specific trading timeframes, which can be found in the contract specifications on our Website.
- 4.11. You are responsible for looking at these contract specifications, for further details, prior to trading. You will be notified of any Company holidays either through the internal e-mailing system or via other means, such as through our Website.
- 4.12. We will only provide you with our services in accordance with our policies and procedures and so long as we are not in breach of any of our legal and/or regulatory obligations.

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- 4.13. There can be instances where we will not be able to provide you with a reason for refusing the provision of our services, where for instance doing so would be in contrast with the law.
- 4.14. Examples of when we will not provide services (or cease providing services) to you include instances:
 - a) where we reasonably believe that you are abusing any of our offerings (e.g., where you are involved in latency abuse, insider trading or other abusive trading techniques);
 - b) where there is a regulatory justification for doing so;
 - c) where you have breached our risk parameters; or
 - d) where you have been using inappropriate/ defamatory language.

5. CLIENT CATEGORISATION

- 5.1. We will treat you as 'Regular Client' in accordance with applicable law, unless we have informed you otherwise.
- 5.2. You have the right to request a different client categorization. Please refer to the '**Client Categorization Policy**' available on our Website.
- 5.3. We can review your Client categorization at any time, in accordance with the applicable rules.
- 5.4. We will notify you in the event a change affects you.

6. OPENING AN ACCOUNT

- 6.1. Following receipt of your '**Account Opening Application Form**', we will use the information you have provided us with to conduct further enquiries about you as we may deem necessary or appropriate in the circumstances in order for us to fulfil our legal obligations; we will further use the information you provide us with to assess and determine the appropriateness of you entering into a business relationship with us.
- 6.2. This includes, but it is not limited to, verifying your identity information, obtaining references from third party database list, other financial institutions or your employer. In some instances, either on a sample basis or because we have reason to believe that further searches are necessary, in order for us to satisfy any legal or regulatory requirement, we will conduct other searches with third-party information providers and databases (public or otherwise), including credit searches that appear on your credit history.
- 6.3. You understand that such enquiries can be conducted at any stage of the relationship, and we expect you to assist us with any additional information, as failure to do so would lead to termination of the relationship between you and us in accordance with the terms of the Agreement.
- 6.4. You are responsible for providing us with correct and accurate information at all times and we can rely on the information you have provided us with, both during on-boarding in the '**Account Opening Application Form**' as well as throughout our relationship, unless we have reason to believe that the information you have provided us with is inaccurate. If any of the information you have provided us with changes, you need to notify us in writing.



- 6.5. Based on the information provided by you, and in accordance with the applicable rules, we will assess whether you have sufficient knowledge and/or experience to understand the risks associated with trading Leveraged Products. The acceptance of your account will be subject to the outcome of this assessment and we reserve the right to refuse to provide any of our services to any person, who, in our reasonable opinion, is not suitable to receive such services.
- 6.6. When we receive your application to open an account, we will confirm this to you by e-mail and we will provide you with details to access your account, specifically your account number and password (the '**Access Codes**'). We will review your application and only if we are satisfied with the information/ documentation received, we will accept you as a Client and therefore activate/verify your account.

7. OUR PLATFORMS

- 7.1. You will be able to:
 - a) download and install (where applicable) the trading platforms (the '**Software**'), or use a web-based version of the Software (where available) and you need to ensure they are accessible and operational;
 - b) use your Access Codes to login to the Software. It is your responsibility to keep your Access Codes private and confidential.
- 7.2. Further to the above, you are responsible for ensuring that you are able to access our Software when you need to and during the times the Software is available. Your responsibility extends to ensuring you have access to a reliable internet connection or any other necessary connection and maintaining any devices used to this end.
- 7.3. The Software may have been developed by a third party, unrelated to Kimbo LLC. Kimbo LLC will use its best efforts to ensure that the Software is properly operational for the purposes of providing our services under this Agreement to you, by conducting reasonable tests. However, we cannot guarantee, that the Software is free of any errors or deficiencies.
- 7.4. We will, to a reasonable extent, maintain the Software and any other related systems up to date. We and/or any relevant third party may perform this maintenance from time to time, which includes shutting down, restarting and/or refreshing the servers to ensure, or procure to ensure the effective and efficient operation of the Software.
- 7.5. These actions may cause the Software to be inaccessible and/or inoperative for a period of time. We will use best efforts to ensure that any maintenance activity will take place outside trading hours, however, you understand and accept that this may not always be possible. Therefore, you accept that we will bear no responsibility for any loss, including financial loss and/or loss of opportunity due to maintenance and/or any action or omission of Kimbo LLC and/or the third-party software provider.
- 7.6. For instance, such maintenance activity will occur in order to, for instance, add a new symbol or remedy any technical issue.



- 7.7. We will use best efforts to make the Software and any other systems available. Where this is not possible, we will endeavor, within reason, to provide you with prior notice. You do understand and accept, however, that we cannot guarantee their continuous availability at all times, due to instances including:
 - a) failures and/or errors, including failures and/or errors of technological nature such as failure of internet connectivity that may affect the access to the Software, which either you or we rely on;
 - b) suspension of service availability due to maintenance, repairs, updates, developments and other issues outside of our control.

7.8. We will do our best to maintain the operation of the Software. We cannot and do not accept any responsibility for any means (including computer equipment), which you use to access the Software and cannot guarantee its continued availability.

8. SECURITY, AUTHENTICITY AND ACCESS

8.1. We will only accept instructions from you and/or your Authorized Representative pursuant to a duly executed 'Power of Attorney'.

8.2. For the avoidance of doubt, Authorized Representatives shall not be considered as Clients of Kimbo LLC. However, we will consider any instructions from an Authorized Representative as coming directly from you, and we may act upon such instructions without the need to confirm their authenticity or validity.

8.3. In addition to anything else specified above, we may rely on any instructions coming from any person in possession of your Access Codes as if these instructions were coming from yourself, without us making any further enquiry.

8.4. It is your responsibility to keep your Access Codes confidential and not to reveal them to any person, whether intentionally or unintentionally. We cannot control how you treat your Access Codes and you are responsible to ensure that no third party obtains any unauthorized access. We will not be liable for any unauthorized access, unless this has occurred due to gross negligence from our part.

8.5. You are responsible for keeping any information regarding your dealings with us, private and confidential. We will bear no responsibility in the event that any person attains unauthorized access to any information regarding your dealings with us, where that information is:

- a) held by you;
- b) being transmitted via electronic or any other means, by you to Kimbo LLC and/or any other party authorized by us;
- c) being transmitted via electronic or any other means, by us to you and/or any Authorized Representative.

8.6. You must notify us as soon as possible, if you become aware of your Access Codes or any other information regarding your dealings with us being used or becoming known by any person without your authorization. You

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accept that we are unable to identify any instances where a person, other than yourself or your Authorized Representative (where applicable), is accessing our Software with your credentials without your express consent.

- 8.7. We reserve the right to revoke your access and/or the access of any Authorized Representative to our Software at any time, where we deem necessary.
- 8.8. Where you have not carried any activity and/or transactions for a period, as determined within reason by us, we reserve the right to carry out additional checks and/or request additional documentation from you before we allow you to resume any activity with us.

9. INSTRUCTIONS AND ORDERS

- 9.1. We will only accept instructions transmitted via a durable medium approved by us, including the Software and your registered e-mail address (as indicated in our records). Under certain circumstances, provided, that we are satisfied of your identity and of the clarity of the instructions received, we can accept instructions via telephone or in person; note that each Client is responsible to ensure that any instruction provided has been completely understood by the operator.
- 9.2. Orders via telephone may be accepted only if they are received in our official language (see below for more information). It should be noted that Kimbo LLC reserves the right to reject such verbal orders when the operator of the Dealing Department is not satisfied with the Client’s identify or clarity of the orders, request additional information, verify such orders via any means or take any other action Kimbo LLC deems necessary in the circumstances.
- 9.3. Contact details of all departments (including the Dealing Department) can be found on our Website; note that at times of excessive transaction flow there might be a delay in connecting over the telephone with an operator, especially when there are important market announcements.
- 9.4. You may choose to communicate with us for support and any instructions, other than orders, in any of the languages available on our Website during business hours. Communication after business hours that requires immediate action on our behalf will only be accepted in our official language, which is English.
- 9.5. Where information has not been transmitted to us via approved means, or where you have misinterpreted any instruction and/or information, it is your responsibility to make the necessary amendments and we will bear no responsibility for any loss, be it financial or of opportunity in connection to said instruction.
- 9.6. We bear no responsibility for any loss that arises because of delayed or unreceived communication sent by us to you.
- 9.7. You understand that time is important when trading on Leveraged Products; therefore, you are responsible for ensuring that any communication in relation to your dealings with us is sent to us on time.
- 9.8. We will execute an instruction received from you, without any further enquiry. However, you consent that we reserve the right to accept, either in part or in full, or reject, any instructions from you. Also, we may contact you if we intend to execute any transactions or future transactions differently following patterns in your trading

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activity (for instance, where your account balance frequently results in negative equity, we may propose that you continue trading with a higher margin requirement, irrespective of the applicable trading conditions of other clients).

- 9.9. We may, at our discretion confirm any instructions received from you via any durable medium or telephone. However, you understand that you should not communicate with any of our employees, contractors or otherwise via any means or on any other equipment, which are not our equipment. For example, you should not communicate with any of our employees on his/her mobile phone or on any other personal account.
- 9.10. Where you have appointed an Authorized Representative to deal with us on your behalf, and you wish to cancel his/her appointment you must notify us in writing immediately. Until we process the said notice, any instructions we may receive from the Authorized Representative shall (a) be deemed valid, and (b) shall fully commit you.
- 9.11. Essential information concerning the execution of any order (among other information), can be obtained through the Software, and our trading platforms, were you are able to download reports which document, in durable medium, information including the execution and status of your order, as well as review the current and historic state of your trades and Account(s). You understand and agree that such reports are deemed reports provided by us to you in a durable medium. We might not provide you with statements of account in relation to the financial instruments traded through your Account(s) or the availability of your Client Money or any other detail in any other form other than what is stated above.
- 9.12. Except where the Software permits, all orders to trade on the financial instruments we offer are final and cannot be cancelled or deleted, unless we expressly agree to such cancellation or deletion and/or unless otherwise provided in any of our legal documentation.

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10. UNDERSTANDINGS OF BOTH PARTIES

- 10.1. We shall enter into transactions with you and conclude them in good faith.
- 10.2. You understand and accept that we will execute all your orders outside a Regulated Market, Multilateral Trading Facility or an Organized Trading Facility (i.e. all Client orders will be executed over the counter ('OTC')). For more information, you should read the '**Order Execution Policy**', as amended from time to time. By accepting the Agreement and placing any order with us, you expressly provide your prior express consent before proceeding to execute your orders outside a trading venue. This consent is hereby provided in the form of a general agreement and not in respect of individual transactions.
- 10.3. We will take necessary steps to ensure compliance with the applicable rules and regulations.
- 10.4. Therefore, you agree to be bound by any decision we make in order to comply with any rule, regulation or statutory or regulatory obligation of Kimbo LLC.
- 10.5. Where we provide you via our Website and/or the Software with any links to other websites and/or resources from third parties, these links are provided for information only. We have no control over the content, quality or security of the information contained on those websites and/or resources, and therefore we cannot be made responsible for any losses that may arise from your use of these.
- 10.6. We take reasonable care in trying to ensure that any information and/or content, including third-party features on our Website, the Software and/or e-mail communications from us is accurate and complete. However, some information may be provided 'as is' and on an 'if available' basis and therefore we cannot give any warranties or representations (either expressed or implied), relating to the said features and any third-party information.
- 10.7. The product specifications and/or conditions are to be found on our Website, as amended from time to time. It is your responsibility to ensure that you remain updated with regard to our product specifications and conditions, as well as any other information and you shall take all necessary actions to safeguard your interest where you believe you may be affected.
- 10.8. You understand that the product specifications and/or conditions may be varied.
- 10.9. You will continue to be bound by the Agreement in the event of any of these amendments taking place. However, nothing in this clause will affect your right to terminate the Agreement, without any penalty whatsoever, subject to any existing obligations.
- 10.10. Further to the preceding clauses, you understand that we may remove any of our products and/or cease providing you with the ability to place an order at any time. Where we have ceased to provide any product and you have a previously open position in that product, it is your responsibility to cancel and/or close such position, otherwise we will close the position at the last available price for the relevant instrument. You also understand that any open positions on CFDs with expiration date will be automatically closed at the end of the last trading day.

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- 10.11. You understand that in order for us to provide you with our services, we may enter into agreements with external service providers for any activity and/or operation we may conduct. As stated above, we will do our best to maintain the operation of our systems. Further, you understand and accept that we cannot and do not accept any responsibility for any means you use to access the services we provide and cannot guarantee the continued availability of any other person's site or address.
- 10.12. Where your relationship with us is between one or more persons, for example through a joint account or a legal entity, all obligations and liabilities under the Agreement shall be joint and several. Any communication, including but not limited to notices and orders shall be considered as delivered to all persons that together constitute the Client.
- 10.13. We reserve the right to reverse any transactions, which we deem to be contrary to your interest or ours, for any reason.
- 10.14. Where you are in breach (or we have reasonable grounds to believe you may be in breach) of any term contained in the Agreement, we reserve the right to temporarily or permanently suspend your access to our Website, the Software, your Account(s), and/or terminate the Agreement, and/or take any other actions as we may see fit in the circumstances.
- 10.15. By becoming a client of Kimbo LLC, you do not obtain any rights in any intellectual property belonging to us. Our Website, the Software, any data, information, documentation and/or creation shall be protected in accordance with the applicable laws and regulations and you shall have no right, neither at the time of entering into the Agreement, nor at any point of time in the future. All rights whether expressed or implied, and whether existing now or in the future are reserved.
- 10.16. You shall not cause or permit any actions to be caused, which might endanger or damage any intellectual property belonging to us and/or do any other act which would be damaging and or defamatory against Kimbo LLC.
- 10.17. You understand that you shall not copy, reproduce, duplicate, translate, assume ownership or otherwise of any rights belonging to Kimbo LLC.

11. PROHIBITED TRADING TECHNIQUES

- 11.1. **Circumvention and Reverse Engineering:** You shall not unlawfully access or attempt to gain access, reverse engineer or otherwise circumvent any security measures that we have applied to our trading platform(s) and/or computer system(s). If, at our sole discretion, we were to determine that you are in breach of blocking access to our trading platform(s), blocking and/or revoking your Access Codes and/or terminating your Account. Under these circumstances, we reserve the right to seize any profits and/or revenues generated directly or indirectly by exercising any such prohibit trading activity and we shall be entitled to inform any Interested third parties of your breach of this clause; we have, and will continue to develop any tools necessary to identify fraudulent and/or unlawful access and use of our trading platform(s); any dispute arising from such fraudulent and/or or unlawful trading activity will be resolved by us in our sole and absolute discretion, in the manner we deem to be

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the fairest to all concerned; that decision shall be final and/or binding on all participants; no correspondence will be entered into.

- 11.2. **Artificial Intelligence Software:** It is absolutely prohibited to use any software, which we determine, at our sole discretion, to have as its purpose to apply any kind of artificial intelligence analysis to our trading platform(s) and/or computer system(s) with an ultimate goal to gain unfair advantage and exploit our trading platform(s); in the event that we determine, in our own discretion, that any such artificial intelligence software has been used, or is being used, we reserve the right to take all action as we see fit, including, without limitation, completely blocking access to our trading platform(s), blocking and/or revoking your Access Codes and/or terminating your Account. Under these circumstances, we reserve the right to seize any profits and/or revenues generated directly or indirectly by exercising any such prohibit trading activity and or charge you with extra fees. In addition, we shall be entitled to inform any Interested third parties of your breach of this clause; we have, and will continue to develop any tools necessary to identify fraudulent and/or unlawful access and use of our trading platform(s); any dispute arising from such fraudulent and/or or unlawful trading activity will be resolved by us in our sole and absolute discretion, in the manner we deem to be the fairest to all concerned; that decision shall be final and/or binding on all participants; no correspondence will be entered into.
- 11.3. Moreover, it is absolutely prohibited to use any software in such a way, which can cause serious negative impact on the performance of our servers and may prevent us from achieving the best possible result for our Clients as regards the execution of their orders. In the event that we identify any such activity, we reserve the right to take all action as we see fit, including, without limitation, completely blocking access to our trading platform(s), blocking and/or revoking your Access Codes and/or immediately terminating your Account. Moreover, you acknowledge that once your Account has been terminated, we may liquidate any outstanding contracts/positions you have with us. In view of the above, please note that you will be strictly prohibited from opening any new trading Account(s) and trade with us. Nonetheless, in cases where you may successfully open an Account and trade with us due to any technical and/or human error, we reserve every right to immediately close your Account upon identification, nullify any profit/loss generated and refund the original amount of deposit, excluding any deposit and withdrawal charges.
- 11.4. **Unlawful trading techniques:** Internet, connectivity delays, and price feed errors sometimes create a situation where the price(s) displayed on our trading platform(s) do(es) not accurately reflect the market rates. In that regard, we reserve the right, in our sole discretion, NOT to permit the use of trading strategies aimed at exploiting errors in prices and/or concluding trades at off-market prices and/or by taking advantage of internet delays (commonly known as “arbitrage”, “sniping” or “Scalping” hereinafter, collectively, referred to as “**Arbitrage**”) on our trading platform(s) and/or in connection with our Services; any indication or suspicion, in our sole discretion, of any form of Arbitrage (including but not limited to risk free profiting), abuse (including but not limited to participant's trading activity patterns that indicate that the participant solely aims to benefit financially without being genuinely interested in trading in the markets and/or taking market risk), internal hedging in coordination with other parties, abuse of our ‘no negative balance’ policy, fraud, manipulation, cash-back arbitrage or any other forms of deceitful or fraudulent activity, may, in our sole discretion, render all related Orders, Transactions and/or Contracts void, without prior notice being required; furthermore, in those instances, we reserve the right,

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in our sole discretion and without prior notice being required: (a) to make the necessary corrections or adjustments on the Account(s) involved (including, without limitation, adjusting the price spreads available to the Client); (b) to restrict the Account(s) involved access to streaming, instantly tradable quotes (including, without limitation, providing manual quotations only and submitting any Orders to our prior approval); (c) to retrieve from the Account(s) involved any historic trading profits that we can document as having been gained through such abuse of liquidity at any time during the Client relationship; (d) to terminate the Client relationship and/or close all Accounts involved (including, without limitation all other Accounts held by the same Account holder with us) immediately by giving written notice; and/or (e) to inform any interested third parties.

- 11.5. Furthermore, in these circumstances, you will be strictly prohibited from opening any new trading Account(s) and trade with us. Nonetheless, in cases where you may successfully open an Account and attempt to trade with us due to any technical and/or human error, we reserve every right to immediately close your Account upon identification, nullify any profit/loss generated and refund the original amount of deposit, excluding any deposit and withdrawal charges.
- 11.6. We have, and will continue to develop any tools necessary to identify fraudulent and/or unlawful access and use of our trading platform(s); any dispute arising from such fraudulent and/or or unlawful trading activity will be resolved by us in our sole and absolute discretion, in the manner we deem to be the fairest to all concerned; that decision shall be final and/or binding on all participants; no correspondence will be entered into.
- 11.7. **Algorithmic trading or high-frequency algorithmic trading techniques.** Article 17 of MiFID II introduces regulation and monitoring of ‘algorithmic trading’ and ‘high frequency algorithmic trading’ through the introduction of requirements on algorithmic traders and the trading venues on which they trade (regulated markets, MTFs and OTFs).
- 11.8. We do not allow Clients to use algorithmic trading or high-frequency algorithmic trading techniques when using our trading platform(s), without our prior written consent.
- 11.9. Where we give Clients permission to use algorithmic trading and/or high-frequency algorithmic trading techniques, we may disclose, without prior notice to the Client(s) involved being required, information on the computer algorithms to the National Bank of Belarus (“**NBB**”) or other competent authorities, Trading Venues, Liquidity Providers and such other persons as are required by the Law;
- 11.10. Furthermore, in these circumstances, we reserve the right, in our sole discretion and without prior notice to the Client(s) involved being required, to take any action in connection with such algorithmic trading and/or high-frequency algorithmic trading techniques or any orders generated by such algorithmic trading and/or high-frequency algorithmic trading techniques, which we, in our sole discretion, deem necessary in order to ensure compliance with the Law.
- 11.11. In particular, any such actions which we may take in connection with such algorithmic trading and/or high-frequency algorithmic trading techniques or any orders generated by such algorithmic trading and/or high-frequency algorithmic trading techniques, may include, without limitation, any of the following:
 - a) the implementation and maintenance of limitations on the ratio of unexecuted orders to transactions

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entered through such algorithmic trading and/or high-frequency algorithmic trading techniques;

- b) the implementation and maintenance of restrictions to limit, block, cancel or otherwise restrict the use of our trading platform(s) in relation to any aspect of such use (hereinafter “**Limits**”), including, without limitation:
 - (i) Instruments;
 - (ii) Orders;
 - (iii) positions and other risks taken;
 - (iv) messages;
 - (v) methods of trading (for example, using algorithmic trading and/or high-frequency algorithmic trading techniques);
- c) increasing or decreasing the rate of execution of orders to transactions entered through such algorithmic trading and/or high-frequency algorithmic trading techniques;
- d) imposing additional ‘Pre-Trade Risk Controls’, consisting of any of the above-mentioned Limits to all or certain ‘orders’ placed via our trading platform(s) by a computer algorithm, including controls filtering order price and quantity;
- e) imposing additional ‘Post-Trade Risk Controls’, consisting of any of the above-mentioned Limits to all or certain ‘trades, positions, strategies and Instruments relating to orders’ placed via our trading platform(s) by a computer algorithm, including controls filtering order price and quantity;
- f) implement and maintain Limits on the minimum tick size that may be executed via our trading platform(s) on the Trading Venue; and/or
- g) take any other action as we deem fit in order to maintain orderly trading conditions.

11.12. You hereby expressly acknowledge and agree that any such actions taken by us may cause Orders to be delayed, executed, partially executed, amended or cancelled.

12. CONFLICTS OF INTEREST

12.1. A conflict of interest may arise when our interests compete or interfere or appear to compete or interfere with your interests under the Agreement.

12.2. You understand and agree that such circumstances may arise and where they do, we will exercise our best endeavors to mitigate them.

12.3. We endeavor to take all reasonable steps to identify and manage any potential or actual conflicts of interest between:

- a) Us and any Affiliate Entity or third-party.

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- b) You and us.
- c) You and any other client.

- 12.4. Further details can be found in our ‘**Conflicts of Interest Policy**’, available on our Website.
- 12.5. Where any conflicts of interest cannot be mitigated effectively, we will disclose the general nature and/or sources of such conflicts.

13. YOUR MONEY

- 13.1. Your money shall be treated, at all times, in accordance with the applicable legal and regulatory requirements regarding the handling of Client Money.
- 13.2. Unless otherwise indicated, we will deposit your money in one or more segregated accounts held with a financial institution within or outside the European Economic Area (‘EEA’), separated from Kimbo’s LLC money.
- 13.3. By accepting the Agreement and commencing a business relationship with us, you expressly provide your consent for keeping your funds in an omnibus account. This means that all Client Money is treated as belonging to our clients and under no circumstance, we will use it to meet any of our obligations, at any time.
- 13.4. An omnibus account means that your funds will be pooled with money belonging to other clients in a Segregated Account.
- 13.5. In general, accounts held with financial institutions, including omnibus accounts, face various risks. For instance, in the event of default, no single Client will have a claim against a specific sum in a specific account in the event of insolvency or default of the financial institution. Any Client’s claim shall be against the money held in the Segregated Account according to the laws of that jurisdiction. Under such circumstances, the enforcement of the respective national deposit guarantee scheme may apply without consideration of the ultimate beneficial owners of an omnibus account.
- 13.6. Client Money held in Segregated Account(s) may be exposed to obligations of Kimbo LLC connected with the positions of other Clients.
- 13.7. We are a member of the Guarantee Fund of the National Forex Center. The Fund creates a security deposit on the accounts with special operation mode, in the amount of no less than 50% of clients’ funds.
- 13.8. We will exercise reasonable skill, care and diligence in the selection, appointment and periodic review of the financial institutions with which we will hold Client Money, in accordance with our legal and regulatory obligations.
- 13.9. To this end, we take into account the credit rating of the institution(s) prior to depositing any Client Money and take reasonable steps to monitor their credit risk periodically.
- 13.10. We may use multiple institutions to ensure diversification and allocate internal percentage limits for each institution we decide to use. We will give instructions to these institution(s) regarding the transfer and movement(s) of Client Money.

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- 13.11. Where you have an open position, we will set-off any unrealized losses incurred against any of the Client Money held by us, in any account. This means that we may transfer any or part of any unrealized losses incurred by you from the Segregated Account to an account of Kimbo LLC. Conversely, we may transfer any unrealized profits incurred by you because of an open position from an account of ours to the Omnibus Account.
- 13.12. Provided, that we comply with our legal and regulatory obligations, we can hold Client Money outside of the EEA. Any such Client Money will be subject to the laws of that territory and therefore your rights differ accordingly. According to applicable legislation, we will apply adequate organizational arrangements to comply with any requirement concerning Client Money and we will exercise all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those financial instruments. Yet, we will not be held responsible for the solvency, acts or omissions of any institution with which Client Money is held, regardless of the jurisdiction.
- 13.13. We will not pay any interest on any Client Money held on your behalf, regardless of whether we receive interest on those deposits from the financial institution(s) with which we hold the Client Money or not.
- 13.14. We will carry out reconciliation of funds on a regular basis as per applicable legislation and in line with our internal policies and procedures, and we will proceed with any required transfer to or from the Segregated Account on the next business day, unless this is not possible for any reason.
- 13.15. Any amounts corresponding to liabilities you have towards us, including liabilities arising because of abusing the negative balance protection, can be deducted directly from the balance of any of your Account(s).
- 13.16. You have the right to withdraw any part of the Client Money equal to the free Margin available in your Account(s), subject to any applicable restrictions regarding its operation, and any other right or limitation on such withdrawal. We reserve the right to reject a withdrawal request in instances where we have reasonable grounds to believe that the said instruction is being placed to abuse our Negative Balance Protection Policy ('NBP'). Please refer to our Website for further information on withdrawal times.
- 13.17. Any transfers shall only be effective after our systems have made the relevant credit or debit of the funds to the relevant Account(s), and whilst we will make all reasonable efforts to ensure any transfers are made effective in a timely manner, we cannot guarantee how long this process may take. It is your responsibility to provide us with complete and accurate information -in a prompt manner- to ensure that you do not experience any delays or other losses.
- 13.18. Any monies you transfer to us for the purposes of funding your Account shall be deposited in your Account on the Value Date, net of any transfer fees or other charges imposed by the financial institution(s), or any intermediary involved in the process of sending or receiving the funds. We may, at our sole discretion and under no obligation, credit funds that are still in transfer before the Value Date to your Account. We will try our best to ensure that any transfers are processed without any delay, provided, that this is within our reasonable control.
- 13.19. We will deposit funds into your Account only after we are satisfied, amongst other criteria, that the funds are being sent by you or your Authorized Representative from an account in your name, and that the funds do not breach any term contained within the Agreement and/or the law.

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- 13.20. We reserve the right to request additional information and/or documentation, at any time, in order to be satisfied that your dealings with us, including, but not limited to deposits and withdrawals, are legitimate or for any other reason to fulfil and comply with our regulatory obligations. It is your responsibility to provide us with complete and accurate information and your failure to do so may result in delays with processing any requests, and/or any of your requests may be rejected.
- 13.21. Further, if we are not satisfied as to the above and reject an incoming transaction, we reserve the right to return the funds to the sender, net of any transfer fees or charges which we may incur. Any refund will be sent to the same source from where the funds were received. We will only deviate from this policy where we have been satisfied that this will not be contrary to any of our policies and applicable legislation.
- 13.22. It is our policy to ensure that all withdrawals, either in part or in full of the funds you deposit with us is sent to the same source where the funds came from. Where we are unable to do so, for whatever reason, and subject to any restriction under the regulatory regime, we shall return the funds as requested in part or in full, net of any transfer fees, charges or other deductions incurred by us.
- 13.23. We reserve the right to accept or decline any funding and/or withdrawal request by you depending on the payment method you choose, and we may suggest to you an alternative for your request. More information on our accepted payment methods can be found on our Website. For instance, where a client has requested to withdraw with a different method compared to the method, he/she used to deposit, the request may be rejected, and you will be permitted to withdraw via another method you have used in the past.
- 13.24. You understand that we should process any funding request in accordance with applicable rules and regulations, therefore any requests, which are not in line with our legal obligations, may not be processed. For example, this might include instances where we are not satisfied with the documentation provided by you. In this case, we reserve the right to reverse the transaction in part or in full, net of any transfer fees, charges or other deductions incurred by us. You understand that there may be instances where we will be unable to provide you with an explanation as to why we cannot proceed with your request.
- 13.25. You shall make any requests relating to the administration of your Account(s) via your Client Member Area of our Website.
- 13.26. We will take reasonable steps to ensure keeping you informed about the progress of any funding and/or withdrawal request, specifically in relation to processing times and any required documentation that if not in place may result in delays. Further information about the processing times can be found on our Website, however, this information is provided for indicative purposes only. You understand that there may be instances where we cannot guarantee these times because of events outside of our control.
- 13.27. Where you receive money from us by mistake, you agree to hold such amount of money in trust for the benefit of Kimbo or the beneficial owner. In the event you use any funds sent to you by mistake, we will have a claim on those funds, together with any profit derived from the use of those funds, on behalf of the beneficial owner. In the same way, we shall not compensate you for any losses incurred by you because of you using the said funds. The claim for the full amount shall remain.

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- 13.28. Where we are required to do so by law and/or any applicable rules, we reserve the right to deduct or credit any amount from your Account(s). We will exercise our best efforts to ensure that we do not deduct an amount unless this is necessary. Examples of when this right may be exercised includes instances where we offer instruments, which we may be required to withhold part of the profit for tax purposes.
- 13.29. You understand and accept that we have the right to set-off any liability of yours under the Agreement. Where the liabilities to be set-off are expressed in different currencies, we may convert the said liabilities at a market rate of exchange.
- 13.30. You understand and accept that we have the right to net-off any amount due by deducting it from your Account(s). Where this is done, we will consider the obligation as satisfied and discharged. We reserve our rights on any obligation, which cannot be considered satisfied.
- 13.31. Where your Account is inactive for a period of five (5) years with a positive balance (i.e. there are funds available on your Account) and during that period no transactions have been carried out in relation to the account or on the instructions of the holder of the account and we are unable to contact you after we take reasonable efforts to achieve this, we will have the right to cease treating those funds as Client Money and make a deduction from your Account in accordance with paragraph 13.7. If you later make a valid claim to us, we may pay you any amount owed to you by us.

14. OUR CHARGES

- 14.1. Prior to entering into any transaction with us via the Software or otherwise, please ensure you have understood and considered all applicable charges such as Spread(s), Commissions and Swap(s), full information for which is available on our Website. It is your responsibility to ask for further clarifications should you require so.
- 14.2. Any applicable charges are deducted from your Account(s) directly. Charges may not all be represented in monetary terms but may also appear in other units such as spread, which can vary depending on the instrument and market conditions. Spread cost is measured in pip value and you will be able to find the value of a pip across all of our instruments on our Website, by accessing the Trading Specification section on our Website (you will find the information for all of the asset classes in separate tabs).
- 14.3. Any of the charges applicable to your dealings with us may be amended from time to time.
- 14.4. Where there is any material change in any applicable charges, you will be informed in writing in advance, unless such change comes because of an unforeseen market circumstance, where we may notify you on or after the event. You will find the most up-to-date information about our charges on our Website. In the event you do not agree with any change, you have the right to terminate the Agreement as per the 'Termination' section of the Agreement without any penalty. For instance, swap charges are amended weekly because banks change their charges on a weekly basis, and we base our swaps on the relevant average.
- 14.5. In the event you are dissatisfied with any changes we may make to our charges, you may contact our Customer Support Department, and/or terminate the Agreement in accordance with the provisions contained herein without having to pay any penalty other than any fees due.

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- 14.6. For Swaps, depending on the position held and the prevailing interest rates of the currency pair involved in a transaction, your Account may be credited or debited with financing. The operation is conducted at 23:59 (Server Time) and the resulting amount is automatically converted into your Balance Currency.
- 14.7. From Mondays to Fridays (Server Time), Swaps are charged once for every business day, but on Wednesday, Swaps are charged three times the size in order to account for the weekend. Further information on Swaps can be found on our Website. We update our Swap rates as often as necessary.
- 14.8. If your Account(s) remain inactive for three (3) months, we reserve the right to charge you a one-off account maintenance fee of USD 50 (or currency equivalent), followed by a monthly fee of USD 25 for each month that the Account remains inactive. The status of your Account can be viewed via your Client Member Area on our Website, and you can request to re-enable your Account at any time. We reserve the right to change the three (3) month inactivity period, as we deem necessary.
- 14.9. For some payment methods, there may be transaction fees. Where you engage in deposit and withdrawal activity without entering into any trading activity with us, fees or charges may be imposed depending on the specific payment methods used. These fees are available on our Website.

15. TAXATION

- 15.1. Investing in financial instruments may be subject to tax depending on the jurisdiction where you are residing. However, this will depend on your personal circumstances. You should seek for independent tax advice if you are unsure on how this may affect you, as we do not provide any financial advice, including tax advice.
- 15.2. You understand that tax laws are subject to change and in the event they do, we reserve the right to debit from your Account any tax payment, including, but not limited to stamp duty, capital gains tax or other forms of tax, which may be levied in relation to your transactions with us.
- 15.3. You understand that certain transactions in certain financial instruments may carry a tax obligation under any applicable tax regime, stamp duty, transfer tax, dividend tax, withholding tax or other taxes or duties in any jurisdiction. Where there is such tax obligation, we shall pass it on to you by debiting from your Account.

16. CONFIDENTIALITY AND DATA PROTECTION

- 16.1. We shall process your personal data during and after your relationship with us in accordance the terms of our Privacy Policy, as published on our Website, and the data protections rules and principles deriving from applicable law, such as the Belarus Law on Information, Informatization and Information Protection of November 10, 2008 No. 455-Z (the “**Information Protection Law**”) and the Law on Population Register of July 21, 2008 No. 418-Z (the “**Population Register Law**”) and, in regard to clients who are in the European Union, the General Data Protection Regulation (GDPR) (EU) 2016/679 effected as from the 25th of May 2018.
- 16.2. By entering into the Agreement, you agree and acknowledge that we shall process your personal data including special categories of personal data (subject to your documented consent), which you provided to us upon registering for an Account and/or in the course of our business relationship.

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- 16.3. We will process your personal data for the purposes of (i) providing our services to you, (ii) providing you with information about us and our services and improving our services from time to time, (iii) maintaining our IT systems, including our administrative and client management systems, (iv) complying with any requirement of law and/or regulation and/or of any competent authority or professional body (where applicable) of which we are a member.
- 16.4. We process your personal data for the purposes mentioned in our Privacy Policy on the lawful basis that (i) you have given consent (where applicable); (ii) the processing is necessary for the performance of our contract and in order to take steps at your request prior to entering into our contract; (iii) the processing is necessary for compliance with a legal obligation to which we are subject; and (iv) the processing is necessary for the purposes of the legitimate interests pursued by us (subject to the relevant individual's fundamental rights and freedoms overriding such interests).
- 16.5. You have the right to request from us access to and rectification or erasure of personal data or restriction of processing concerning you or to object to processing and to withdraw your consent (where applicable) at any time by notifying us in writing as well as the right to data portability.
- 16.6. You acknowledge that we shall store your personal data (and records of your dealings with us) for as long as your Account is active and registered with us / we are providing the services to you and/or as required under applicable law.
- 16.7. We shall disclose your personal data to member companies of the Kimbo LLC group of companies, marketing companies, business partners, IT service providers and other financial institutions such as payment services providers and banks and third-party introducers (relevant to you), for the purposes described in clause 15.4 above. In the event that a transfer of personal data is made to countries located outside of the EEA, we shall carry out such disclosure to a recipient (i) who is in a country, which provides an adequate level of protection for personal data or (ii) under appropriate safeguards pursuant to the provisions of applicable data protection laws.
- 16.8. Further details of how we process personal data including inter-alia our lawful basis of processing personal data, rights of the data subject and principles and information in respect of transfers of personal data are specified in our Privacy Policy.
- 16.9. If, during the course of our business relationship, there is a change in your personal data you must ensure that this data is updated and accurate by contacting us as soon as practically possible via e-mail our through your Client Member Area on our Website.
- 16.10. We shall implement appropriate technical and organizational measures to ensure an adequate level of security appropriate to the applicable risk. Transmission of data via the internet and/or other networks does not always ensure appropriate security of personal data hence you must always ensure that you transfer data to us via secure means.

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17. OUR COMMUNICATIONS WITH YOU

- 17.1. We will communicate with you about any notice, instruction, request or any other communication via your registered e-mail, the Software, telephone or, where we wish to send a formal communication to you in writing, via post to your registered address. All our contact details are available on our Website.
- 17.2. Any communication from you to us shall be deemed effective on the date and time of receipt by us. It is your responsibility to ensure you have read all and any communication we may send you from time to time, via any approved communication method.
- 17.3. You specifically consent to the provision of Key Information Documents through our Website. You may request a hard copy of Key Information Documents free of charge at any time.
- 17.4. Both prior and following the establishment of the business relationship, you consent and agree that Kimbo's LLC official language is English. The provision of any information, including marketing material, any translated version of the Agreement and/or any other communication, in a language other than our official language, is provided solely for convenience purposes and the legally binding version shall be the English language version of such documentation. In the event of a dispute, the English version shall prevail.
- 17.5. You further consent that, both prior and following the establishment of the business relationship, we may provide you with information that will be partly in English and partly in a language of your preference. By accessing and using our Website, in a language other than in English, shall be considered a demonstration of your preference to be provided with information in a language other than English.
- 17.6. You consent that where we provide you with information by means of a website, that information is not personally addressed to you. Yet, you specifically consent to the provision of information in that form and that this form is considered to being provided in a durable medium. Further, you agree that we provide you with information in form other than on paper (*i.e.*, website, your Client Member Area on our Website, the Software, and our trading platforms and through other software) because this is appropriate in the context in which our business is being or will be carried out. By maintaining your account and/or by opening an account with us and placing a trade, you expressly consent to us sending this information to you in this format.
- 17.7. Any communication sent to you by Kimbo LLC is intended to be received by you only. You are therefore responsible for keeping any information we send to you private and confidential.
- 17.8. We may communicate with you from time to time, and in accordance with the applicable rules on Client communications, about any business, marketing and/or promotional reasons.
- 17.9. Any orders or instructions you provide us with via e-mail or any other electronic means will constitute evidence of the orders or instructions given.
- 17.10. It is your responsibility to ensure that if you wish to communicate with us about any matter, you should do so on time as we cannot accept any liability for any loss that arises because of delayed or unreceived communication sent to you by us.

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18. RECORDING OF COMMUNICATIONS

- 18.1. As a regulated entity, we are obliged to keep records of all services and activities we are providing as well as for all transactions undertaken. We therefore record all communication including any incoming and outgoing telephone conversations as well as all other electronic communications relating to any transactions concluded when dealing on our account, providing services that relate to reception, transmission and execution of client orders as well as for quality monitoring, training and other regulatory purposes.
- 18.2. We will also record any other communication between you and us, including chat messages, e-mails and other electronic communications, even if those conversations or communications do not result in the conclusion of such transactions or in the provision of client order services. We reserve the right to use these records where we deem it necessary, including, but not limited to dispute resolution situations.
- 18.3. We may record telephone conversations without use of a warning tone to ensure that the material terms of any transaction and any other material information relating to such a transaction is promptly and accurately recorded.
- 18.4. We store all records in a durable medium, which allows us to replay or copy them and retain such records in a form that does not allow us to alter or delete the original version. We may provide copies of such recordings to regulatory authorities upon their request in order to comply with our regulatory obligations without your consent.
- 18.5. We will keep copies of any such records for any period of time, which is required by applicable legislation, starting from the date on which the record is created. You have the right to request a copy of the recorded communications. We will provide these to you following a written request by you.
- 18.6. You understand and accept that you have been notified, in advance, about the recording of any telephone conversation or electronic communication between you and us, according to the above notification.

19. WARRANTIES & REPRESENTATIONS

- 19.1. **Important Note:** A 'warranty' is a promise made by you providing assurance to us that what is stated is true. If not, this will give us the right to terminate our relationship and take any other action if necessary.
- 19.2. You hereby represent and warrant that you have not been coerced, or otherwise persuaded to enter into the Agreement, nor have you entered into the Agreement based on any representation other than what is included herein.
- 19.3. If you are an individual (i.e. natural person), you warrant that you are over 18 years of age at the moment of entering into the Agreement.
- 19.4. If you are a legally incorporated entity (i.e., a legal person), you warrant that by entering into the Agreement you are not in breach of your own constitutional documents or any law from the jurisdiction where you are incorporated.

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- 19.5. Further, you warrant that you are aware of any requirements and implications, including, but not limited to any restrictions or reporting requirements set by your local jurisdiction because of entering into the Agreement.
- 19.6. Kimbo LLC shall not be liable for any requirements imposed to you by your local authorities; therefore, you undertake to comply with any applicable requirements.
- 19.7. You represent and warrant that you have been provided with our Risk Warnings and understand that trading on complex Leveraged Products involves a significant risk of loss and that due to the speculative nature of trading you should not invest more than you can afford to lose.
- 19.8. You also represent and warrant that the information you provided us during your registration for opening an Account accurately reflects your personal circumstances and you have not provided us with false or misleading information. Further, you warrant that should any information provided during the registration process becomes invalid, you will immediately notify us in writing of the change in your circumstances.
- 19.9. You further represent and warrant that you will not redistribute information concerning financial instruments, including, but not limited to pricing information and chart data on offer by Kimbo LLC to any third-party for commercial purposes.
- 19.10. You warrant and covenant that:
 - a) The funds you will use to trade with us belong to you and are free of any lien, charge, pledge or other encumbrance;
 - b) The funds are not the direct or indirect proceeds of any illegal act or omission, nor are they product of any criminal activity which constitutes a predicate offence under the applicable money laundering rules and regulations, or any other Anti-Money Laundering and Countering the Financing of Terrorism legislation, as amended or replaced from time to time.
 - c) Unless you are entering into the Agreement as a representative or trustee of a third party and you provide us with the necessary documentation to satisfy our regulatory requirements, you are acting in your own name and you are not acting in representation or in trust of a third party.
- 19.11. You warrant that any documents sent to us during your Account opening process, as well as throughout the duration of the Agreement, are valid and authentic. In the event that we believe, in our sole discretion, that any document is incorrect or invalid, we will request for alternative documentation. Failure from you to provide such documentation may lead to us taking action, as we deem necessary.

20. EXCLUSION OF LIABILITY

- 20.1. In the absence of any negligence or fraud from Kimbo LLC (including its employees), the use of our services by a Client or the use of any systems owned or used by Kimbo LLC is entirely at the Client's own risk.
- 20.2. In general, neither party shall be liable for any losses, which may arise because of unforeseeable events at the time when the Agreement was made effective, nor shall any party be liable for any losses that were not caused by any breach of the terms contained herein.

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- 20.3. Where we use any third parties, in order to be able to provide you with our Services under the Agreement, we will exercise all reasonable endeavors prior to contracting with them. However, you understand that it is not possible to control the activities of such third parties. Our responsibility, therefore, shall be to exercise all efforts to minimize any losses that you may suffer because of an act and/or omission of the third parties. Nonetheless, we shall not be liable for any loss that you may suffer because of such acts and/or omissions from third-party service providers, unless we have acted negligently.
- 20.4. You acknowledge and accept that you are entering into all and any transactions with us at your own risk, and we assume no liability for any loss whatsoever because of your trading activity with us, unless in the event of any wrongdoing from our behalf. Nothing in this clause shall be taken to exclude any liability for death or personal injury.
- 20.5. Notwithstanding any other provision in the Agreement, we will not be liable to you under the Agreement for any loss or damage caused by us or our employees or agents in circumstances of:
- a) Negligence, fraud, breach of the Agreement, breach of any law and/or any other act and/or omission by you;
 - b) Unavailability of the Software and/or our systems, other than in instances of wrongdoing by us;
 - c) You are being unable to access our Software and/or our Website or any other system, or any delay you may suffer when attempting to contact any of our staff, unless this is due to wrongdoing by us.
 - d) Us taking measures to ensure compliance with any applicable law or regulation, including where we are precluded from processing any instruction from you, which may result in us breaching the applicable law.
 - e) Such loss or damage, which is not a reasonably foreseeable result of any such breach.
 - f) Any other event and/or circumstance, which is outside our reasonable control.
- 20.6. We shall not be liable for any failure to access the Software and/or our website. We are not responsible for any delays, delivery failures, or any loss or damage, which results from the transmission of information over any network, including but not limited to the internet.
- 20.7. The limitations and/or exclusions included in the Agreement shall apply irrespective of whether we, including any of our employees and/or affiliates are aware of any losses you may incur, or any claims you may make against Kimbo LLC.
- 20.8. Where you have trusted a third party and/or followed any instruction, indication or advice from a third party, including trading signals and/or copy trading strategies, which resulted in any loss for you, we shall not be liable.
- 20.9. You understand that the service we provide is on an execution-only basis and therefore we are not responsible for any losses you may incur because of these circumstances.
- 20.10. Where you download, install and/or use any trading solutions such as algorithms, 'Expert Advisors' ('EA') or trailing stops, we shall not be held responsible for any losses which may be incurred by you pursuant to its use.

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If it comes to our attention that you are using any of these solutions, in bad faith or contrary to the terms contained herein, we reserve the right to terminate the Agreement.

21. INDEMNITY

21.1. You shall indemnify us on demand against all liabilities, costs, expenses, damages (including reputational) and losses (including, but not limited to any direct, indirect or consequential losses), and all interest, penalties and professional costs and expenses (calculated on a full indemnity basis) incurred by us as a result of:

- a) your breach or default in the discharge of your obligations pursuant to the Agreement;
- b) the provision by you of any false or misleading information to us; and/or
- c) the enforcement of the Agreement because of any action described in (a) or (b) above.

21.2. In general, indemnity means a sum of money paid as compensation for losses suffered.

22. EVENTS OUTSIDE OUR REASONABLE CONTROL (FORCE MAJEURE)

22.1. This section refers to events, which may occur from time to time, and which prevent us from performing any or all of our obligations ('**Specific Events**'). Specific events may include:

- a) any natural, technological, political, governmental, social, economic, act of god, pandemic, civil emergency, act of terror, interruption or failure of utility service;
- b) non-performance by a third party, destruction caused by man or any similar event which is outside our reasonable control;
- c) instances of illegitimate actions, errors, failures, disruptions in our systems, technological or other infrastructure (irrespective of whether it belongs to us or a third party) against our servers;
- d) changes in the applicable legislation and/or regulations, any action of an official body or any other change in our legal or regulatory obligations as a result of unforeseen events;
- e) an act or omission by any financial or other institution that we are unable to predict and/or prevent;
- f) any event that prevents the Software or the systems from operating on an orderly or normal basis;
- g) abnormal market conditions, such as significant volatility or instability in the markets, or the industry as a whole, preventing us from providing our services in an orderly manner, including any instances where we are unable to receive data and/or we receive incorrect data from our service providers;
- h) any other event and/or circumstance, which cannot be foreseen, within reason.

22.2. For the avoidance of doubt, a Specific Event is an event outside our control that, whilst it is reasonably likely to occur, or may be imminent, we cannot be expected to be prepared for, or we cannot prevent its occurrence.

22.3. Where we determine that a Specific Event has occurred, without prejudice to any other rights of ours under the Agreement, or the law, we may take the following course of action(s):

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- a) inform you, where we have sufficient time to do so in the circumstances;
- b) increase margin requirements/ decrease leverage;
- c) increase spreads;
- d) change fixed spreads to floating spreads (only applicable to 'Fixed Spreads' Accounts);
- e) close any Open Position(s) at the price available in the circumstances, which may include:
 - (i) combine or close any open positions at 'Volume-Weighted Average Price' ('VWAP')
 - (ii) request amendments to any closed position(s);
- f) suspend, limit or restrict the provision of our services to you;
- g) amend any part of the Agreement on the basis that it is no longer feasible for us to comply with it;
- h) cease trading;
- i) precluding you from accessing or using the Software, our Website or any other system;
- j) make any necessary amendments to open trades;
- k) allow close-only functionality;
- l) reject or delay the processing of any withdrawal request from your Account(s)
- m) impose special or different terms regarding any of your orders in relation to size, volatility and/or liquidity of the instrument, amongst others;
- n) remove or temporarily suspend any products, or change any contract specifications;
- o) exercise any right to which we are entitled under the Agreement and our Order Execution Policy.

22.4. We will exercise all necessary endeavors to resume the orderly provision of our services as soon as reasonably possible. Where this is not possible at all, we will inform you of the necessary actions to be taken in order to protect your interests and ours, where possible.

22.5. Where we are unable to perform any of our obligations to you under the Agreement due to a Specific Event, we will not have breached the Agreement.

23. AMENDMENTS TO THE AGREEMENT

23.1. Subject to the clause below, we reserve the right to amend, from time to time, any part of the Agreement, especially in, but not limited to, circumstances where we deem that such changes are necessary in order to comply with any obligation under the regulatory system. In these circumstances, unless unable to do so, we will notify you either in writing or via our Website.

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- 23.2. Where we deem that any amendments are material and/or would change the balance in our favor or to your detriment, such amendments will take effect on the date specified in our notice to you, in order to provide you with prior notice along with your right to cancel the Agreement without any penalty.
- 23.3. You have the right to cancel the Agreement where you do not agree with any amendments made by Kimbo LLC. In the same way, we reserve the right to terminate the Agreement where you do not agree with any amendments we may make.
- 23.4. Any amendments will affect all ongoing business between you and us, unless stated otherwise in our notice.
- 23.5. Any error or omission in any information, or document issued by us shall be subject to correction if the correction does not materially affect the Agreement.
- 23.6. It is your responsibility to remain up to date with any changes we make to the Agreement. The applicable version at any time shall be the latest version available on our Website. In the event of a dispute, the latest version available at the time of the dispute shall prevail.

24. TERMINATION

- 24.1. You can terminate the Agreement at any time and for whatever reason and without any penalty by providing us with an immediate notice via e-mail using your registered e-mail address, provided, that there are no open positions on your Account, nor are there any outstanding obligations to us.
- 24.2. We can terminate the Agreement at any time and for whatever reason by providing you with a minimum of five (5) days' notice, except in the event of any of the provisions set out in the clause below occurring.
- 24.3. Where we decide to terminate the Agreement, we will specify the termination date and close any open positions on your Account.
- 24.4. We shall terminate the Agreement with immediate effect, notwithstanding any other action, in the event of:
 - a) a breach of any part of the Agreement by you;
 - b) where we have reasonable grounds to believe that you have not acted in good faith, including, but not limited to where we determine that you have, willingly or not, abused our '**Negative Balance Protection**' policy. This includes, but it is not limited to you hedging your exposure using multiple trading Accounts, whether under your same profile or in connection with another Client.
 - c) an issuance of an application, order, resolution or other announcement in relation to bankruptcy or winding-up procedures involving you;
 - d) your death or incapacity (please note that in the event of death, any funds available in your
 - e) Account(s) shall form part of your estate);
 - f) a breach of any applicable law by you, including, but not limited to any applicable anti- money laundering laws and regulations;

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- g) you have acted contrary to our 'Order Execution Policy' or any other of our policies or procedures.
- h) all your accounts being inactive for a period of 12 months.

24.5. Termination of the Agreement shall not imply that any of your or our responsibilities cease to exist. Upon termination:

- a) any amount due;
- b) any expenses incurred by us as a result of the termination of the Agreement; or
- c) any damage arisen after an arrangement or settlement should be settled immediately.

24.6. Unless both parties agree in writing otherwise, any amount due or outstanding will be deducted and/or credited to the Clients' Account.

24.7. If upon termination of the Agreement, we need to transfer any amount available in your Account(s) to you, such a transfer will be net of any outstanding amount due, [except where we are prohibited to do so by law].

25. GOVERNING LAW AND JURISDICTION

25.1. Relevant Belarus law will apply to the Agreement.

25.2. In the event a dispute arises, we will try to resolve any disagreements quickly and efficiently. If you are not happy with the way we deal with any disagreements and you want to take court proceedings, you must do this within Belarus.

26. GENERAL PROVISIONS

26.1. **Assignment:** You cannot assign this Agreement and/or any of your rights and obligations hereunder.

26.2. Provided, that we are able to transfer or assign any rights and obligations under the Agreement without reducing any guarantees over to you, we can do so provided we act in accordance with applicable legislation and provide you with due notice.

26.3. **Entire agreement:** All services provided to you are subject to these terms alone. If you require any changes, please make sure you ask for this to be put in writing. In that way, we can avoid any issues surrounding what you or we are expected to do.

26.4. **Severance:** If, for any reason, part of the Agreement and/or any part of a specific clause is deemed unenforceable by a court of a competent jurisdiction then such part shall be severed from the rest of the Agreement or the term, and the remainder of the Agreement shall remain unaffected and enforceable.

26.5. **Delay or inaction:** No failure or delay by us to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that right, or any other right or remedy, nor shall it prevent or restrict the further exercise of that right, or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that right, or any other right or remedy.

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26.6. **Meaning of certain words and phrases:**

- a) Unless indicated to the contrary words and expressions that begin with a capital letter in the Agreement will have a specific meaning.
- b) Capitalized terms can be used in the singular or plural (as appropriate).
- c) A reference to a statute or a statutory obligation is a reference to it as extended or re-enacted from time to time.
- d) Any reference to a document (including any information provided) shall include a reference to that document as amended from time to time.
- e) Where there is a reference to 'including' or 'includes', this should be interpreted as including 'without any limitation'.
- f) Any 'sub-sections', 'clauses', 'titles', and/or 'headings' have been inserted for convenience purposes only and shall not affect the construction of the Agreement.
- g) The bolding of certain paragraphs, words or phrases in the Agreement is for ease of reference only. You should ensure that you read these Terms in full.
- h) An obligation on one party not to do something shall include an obligation not to allow that thing to be done.

26.7. **Survival:** Clauses from the sections 'Understandings of Both Parties', 'Confidentiality and Data Protection', 'Warranties and Representations', 'Exclusion of Liability', 'Indemnity', 'Termination', 'Governing Law and Jurisdiction', 'General Provisions' or any other clause that can be required to give effect to the meaning of the Agreement, shall survive termination of the Agreement.

SCHEDULE A: GLOSSARY

- a) **Account:** means the trading account(s) and/or your Client Member Area on our Website (as the context requires), which has a unique number, maintained by a Client for the purposes of trading financial instruments through our trading platform(s).
- b) **Affiliate Entity:** means any company or entity, which includes any subsidiaries and/or holding companies of Kimbo LLC and each and any subsidiary of such a holding company and/or any other entity from time to time controlling, controlled by or under common control with Kimbo LLC, being under common control either directly and/or indirectly and/or otherwise.
- c) **Authorized Representative or Attorney** means the person who is expressly authorized by the Client to act on his/ her behalf; the above-mentioned relationship is documented through a Power of Attorney, a copy of which is held by Kimbo LLC.
- d) **Balance Currency:** means the currency in which Account(s) are denominated. All charges including spread(s), commission(s), and swap(s), will be calculated in that currency.
- e) **Balance:** means the funds available in an Account that can be used for trading on financial instruments.
- f) **Client Member Area:** means the account, which has a unique number, maintained by the Client for the purposes of funding (i.e. depositing, withdrawing and transferring money) his/her Account.
- g) **Client Money:** means money that is paid into Kimbo LLC and is held for the Client. It is calculated as money deposited by the Client in his/her Account, plus or minus any unrealized or realized profit or loss of an open position, plus or minus any amount that is due by the Client to Kimbo LLC and vice versa.
- h) **Contracts for Difference (CFDs):** CFDs are derivative financial products that are traded on margin ('**Leveraged Products**'). CFDs, which are traded off-exchange (or OTC), are agreements to exchange the difference in value of a particular instrument or currency between the time at which the agreement is entered into and the time at which it is closed. This allows the Clients to replicate the economic effect of trading in particular currencies or other instruments without requiring actual ownership of those assets; a full list of the CFDs on offer by us is available on our Website.
- i) **Equity:** means the balance plus or minus any profit or loss that derives from any Open Positions.
- j) **Instructions:** means any request made by you in relation to your account, other than an order to buy or sell any of the financial instruments available on our platform(s).
- k) **Required Margin:** means the required funds available in an Account for the purposes of opening a position.
- l) **Margin level:** means the required funds to maintain a position and is calculated as:

Equity / Margin.

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The payment processing of Kimbo LLC is handled by its EU subsidiary Leverage (CY) Limited, a limited liability company duly registered and existing under the laws of the Republic of Cyprus, with company registration number HE 288 882, having its registered office address at 116 Gladstonos, M. Kyprianou House, 3rd and 4th Floor, 3032 Limassol, Cyprus.



- m) **Segregated Account:** means an account held with a banking institution for the purposes of holding Client money. The account is held in trust with Clients as ultimate beneficiaries, in accordance with the applicable rules.
- n) **Server Time:** means UTC+2 (or, UTC+3 if daylight saving time applies).
- o) **Value Date:** means the clearing date of funds.
- p) **Website:** means <https://fxpn.com>.