

CBTFX INTERNET SERVICE AGREEMENT

This Service Agreement (“**Agreement**”) is entered into as of _____, _____ (“**Effective Date**”) by and between California Bank & Trust (“**Bank**”) and the customer whose name and address are as follows (“**Customer**”):

Customer Name:	_____
Customer Address:	_____
Branch of Customer Account:	_____
Address of Branch of Customer Account:	_____

In consideration of the mutual promises and covenants herein, the parties agree as follows

1. **Provision of Service.** The Customer requests and the Bank by acceptance of this Agreement agrees to provide to the Customer the CBTFX Internet Service which provides foreign exchange and money markets quotes and dealing between the Customer and the Bank (the “Service”). The Service will be used and operated in accordance with this Agreement and with the user guide relating to the Service, which has been issued by the Bank to the Customer. The Customer acknowledges that it has received and reviewed a copy of the relevant user guide and has reviewed and familiarized itself with the Bank’s Terms of Use for CBTFX Services and Internet Privacy Policy posted on the Bank’s Internet site.
2. **Internet Access.** The Customer is solely responsible for (i) arranging access to the Service using the Internet, including communications, equipment, software and any Internet service provider, (ii) any costs associated with the foregoing, (iii) any actions (including instructions to deal) or omissions of its employees or agents using the Service, and (iv) ensuring that all application forms and other information submitted to the Bank in connection with the Service are and remain correct.
3. **Transaction Confirmation Number and Documentation.** The Bank shall issue to the Customer, via the Service, a deal number for each transaction (“**Transaction**”) that has been made using the Service. A valid and binding Transaction will occur only upon the issuance by the Bank of such deal number. If the Customer discovers what it believes to be an error or discrepancy in relation to a Transaction, the Customer shall notify the Bank immediately at the address and using the communications methods indicated by the Bank to Customer from time to time.
4. **Revisions to the Service and User Guide.** The Bank reserves the right to modify the Service and any user guides from time to time without prior notice and without the Customer’s consent.
5. **Credit and Transaction Limits.** The Bank may from time to time change limits agreed with the Customer in relation to any aspect of the Service, including the aggregate monetary amount of Transactions outstanding at any one time and the monetary amount of any one Transaction. The Bank will use reasonable endeavours to inform the Customer of any change in limits. The Bank will not be obliged to deal with the Customer outside limits set by it, if the Agreement has terminated, or if it has reasonable grounds for believing it would be inadvisable in general, or with respect to a particular transaction, for legal or other reasons.
6. **Bank’s Liability.** The Bank shall not be liable for any failure or delay in the performance of its obligations or the consummation of transactions hereunder if such failure or delay results from a cause or causes beyond it’s the Bank’s reasonable control. The Bank is not responsible for any actions or inactions of third parties, including without limitations, telecommunication carriers, Internet Service providers or vendors contracted with the Bank to help provide this Service. (See the Bank’s Terms of Use for CBTFX Services at the Bank’s Internet site in this regard). **EVEN IF BANK IS ADVISED OF THE POSSIBILITY OF LOSS, LIABILITY, DAMAGE OR EXPENSE, BANK SHALL NOT BE LIABLE IN ANY RESPECT UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE PROVISION OF THE SERVICE FOR: (i) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS, LIABILITY, DAMAGE OR EXPENSE WHATSOEVER, WHICH THE CUSTOMER OR ITS COUNTERPARTIES OR ANY OTHER THIRD PARTY MAY SUFFER AS A RESULT OF OR IN CONNECTION WITH THE SERVICE, OR (ii) LOSS OF PROFITS, DATA, BUSINESS, GOODWILL, ANTICIPATED SAVINGS, OPPORTUNITY OR USE, WHICH THE CUSTOMER MAY SUFFER AS A RESULT OF OR IN CONNECTION WITH THE SERVICE OR (iii) ANY LOSS, LIABILITY, DAMAGE OR EXPENSE NOT CAUSED BY THE BANK INVOLVING ERRORS IN TRANSACTIONS OR INABILITY TO EXECUTE TRANSACTIONS DUE TO ANY ERROR OR DELAY IN THE SERVICE (OR ANY ASPECT OF IT) OR FAILURE OR LACK OF AVAILABILITY OF THE SERVICE.** Notwithstanding any other arrangement with the

Bank, in no event will the Bank's maximum aggregate liability to Customer with respect to this Agreement and the Services contemplated hereunder for occurrences for which Bank is liable exceed \$5,000.00. Said amount is deemed a reasonable estimate of the damages anticipated by Customer as a result of such occurrences because the parties recognize the impracticality and difficulty in quantifying actual damages. No claim arising out of or pertaining to this Agreement may be brought by the Customer unless it has provided to the Bank written notice of the claim within ninety (90) days of the date on which the Customer first became aware or could reasonably have been expected to become aware of the claim.

7. **Bank's Representations and Warranties.** BANK'S OBLIGATIONS AND LIABILITIES AND CUSTOMER'S RIGHTS AND REMEDIES SPECIFICALLY SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND CUSTOMER WAIVES AND RELEASES ANY OTHER WARRANTY, OBLIGATIONS AND LIABILITIES OF BANK AND ITS OWNERS, OFFICERS OR EMPLOYEES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY AND ALL DOCUMENTS, SERVICES, INFORMATION, ASSISTANCE, SOFTWARE PRODUCTS OR OTHER MATTERS PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION: (1) IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE OR OTHER IMPLIED CONTRACTUAL WARRANTY, IF ANY; (2) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; AND (3) ANY OTHER WARRANTY WITH RESPECT TO QUALITY, ACCURACY OR FREEDOM FROM ERROR.
8. **Indemnity.** The Customer shall indemnify the Bank fully against any liability, loss or damage suffered or incurred by the Bank howsoever arising and by whomsoever caused, whether arising directly or indirectly from the Customer's use or operation of the Service, except to the extent that such liability, loss or damage is caused by the gross negligence or willful default of the Bank.
9. **Passwords and Security.** The Customer shall undertake reasonable security and confidentiality measures in relation to its use of the Service. The Customer is responsible and liable for all electronic communications made to the Bank using security codes, digital certificates and/or passwords assigned to the Customer, including without limitation any transaction entry errors, unauthorized use of the Service by persons having access to the Service and fraudulent or unauthorized transactions from the Customer's site or systems. The Customer acknowledges and agrees that persons involved in providing the Service (such as Bank's employees and third party vendors) will have access to data of the Customer, but the Bank agrees that such persons shall only access such information on condition that they are bound by confidentiality obligations no less onerous than those which the Bank owes the Customer in respect of such data.
10. **Authorized Persons.** The Customer authorizes the Bank to provide the following to the persons named and designated by the Customer in the Customer Application Form (which has been completed by Customer and returned to Bank): the user guide and any revisions thereto, any software or any security devices, including security cards, codes, digital certificates and passwords relating to the Service. Said authorized persons may determine and set levels and limits of authority applicable to individual security devices for the Customer. A change to the list of authorized persons of the Customer must be made in writing by the Customer and shall be effective two (2) business days after the Bank's receipt thereof.
11. **Termination.** Each party may terminate this Agreement by giving at least thirty (30) days prior written notice to the other party. In the event of a material adverse change in the financial condition of the Customer or a breach by the Customer of this Agreement, the Bank may terminate the Agreement with immediate effect. Termination will not affect any obligations incurred by either party to the other prior to termination.
12. **Miscellaneous.**
 - 12.1 **Survival.** The provisions of Sections 6 and 12 shall survive the termination of this Agreement for whatever reason.
 - 12.2 **Severability.** If any part of this Agreement is or becomes or is declared unenforceable by a court of competent jurisdiction, it shall be severed from this Agreement in the jurisdiction in question and that unenforceability shall not in any way impair or affect the remaining parts of this Agreement, which shall continue in full force and effect.
 - 12.3 **Assignment.** Neither party may assign this Agreement without the prior written consent of the other; provided however, that the Bank may assign this Agreement to any of its affiliates or to any party that acquires all a substantial part of its business.
 - 12.4 **Governing Law.** This Agreement shall be governed by the laws of the state of California without reference to its conflict of law provisions. All disputes between arising out of this Agreement shall be subject to the exclusive jurisdiction of the state or federal courts located in San Diego, California, to which the parties irrevocably submit.

12.5 **Entire Agreement; Modification.** This Agreement is the entire, final agreement between the parties and supersedes all prior oral or written understandings, representations or agreements between them relating to the CBTFX Internet Services. No modification or supplement to this Agreement shall be valid unless agreed in writing and signed by a duly authorized representative of each party.

Each party's duly authorized representative executes this Agreement as of the Effective Date.

CUSTOMER:

[Typed Name of Customer]
By: _____
[Signature of authorized signer]
Name: _____
[Printed name of signer]
Title: _____

ACCEPTED:

[Type Name of Bank]
By: _____
[Signature of authorized signer]
Name: _____
[Printed name of signer]
Title: _____