

## DEFINITIONS

“**Agreement**” means these Terms and Conditions, which cover the operation of Your PCFT AUX Gold Account.

“**Account**” is your PCFT AUX Account where your gold is held.

“**Available Funds**” means at any given time any funds from the proceeds of the sale of the gold held in your PCFT AUX Card Account, which is available to pay for transactions and fees and charges payable under this Agreement.

“**Commencement Date**” means the date you apply for your PCFT AUX Gold Account and have Your “KYC” documentation verified.

“**We**”, “**Us**” or “**Our**” means Power Capital Financial Trading Limited.

“**Business Day**” means any day other than a Saturday, Sunday or national public holiday on which banks are open for business in the UK.

“**You**” or “**Your**” refers to the account holder.

“**Website**” means our website at [www.auxonline.com](http://www.auxonline.com).

## 1. INFORMATION ON WHO WE ARE AND THIS AGREEMENT

### 1. 1 POWER CAPITAL FINANCIAL TRADING (UK) LTD. LEGAL ENTITY

Power Capital Financial Trading Limited (PCFT) is a UK incorporated company with company number 07363659 and with registered office at 16-18 Monument Street, London, EC3R 8AJ, United Kingdom. PCFT is authorised and regulated by the Financial Conduct Authority (FCA) in the United Kingdom, FCA Register number 531771.

AUX Technology Pte Ltd is a company incorporated in Singapore and manages the AUX program.

PCFT acts as custodian for the customers of AUX Gold whose gold and currency is held in independent vaults. The gold is regularly verified against the ownership register.

### 2. Registration and Acceptance of Terms and Conditions

You become a new Customer of AUX by registering for a Gold account online. In becoming a Customer you are deemed to accept that PCFT’s Terms and Conditions define the entire business relationship between PCFT and you.

These are AUX’s Terms of Business as of 1st January 2015.

By giving thirty days’ notice of modifications AUX may from time to time modify its Terms and Conditions. For modified Terms and Conditions to become effective they must be published on the AUX website and must also send an advice to the email address provided as a contact point by you. During a thirty day notice period you have the right to terminate the relationship under the previous terms and conditions. This can be effected by selling your bullion and withdrawing your money under the previous Terms and Conditions. If you do not terminate the relationship in this way you are deemed to accept the new Terms and Conditions. New Customers opening accounts within the thirty day notice period accept the Terms and Conditions then in effect and accept that they will be bound by the new Terms and Conditions which come into effect at the end of the stated 30 day notice period.

Please note if your account does not get validated the money you used to deposit and buy Gold will be sent back to the client minus the bank charges.

### **3. The purpose of our business relationship**

You have chosen to become an AUX Customer in terms for trading in and storing gold, silver bullion and currency. You expect to enjoy efficient and substantially automated service, and pay competitive levels of commission and competitive levels of custody charges by comparison with alternate mechanisms for buying, holding and selling gold and silver bullion. In order to deliver against your expectations, AUX offers a service designed for high levels of automation across the internet and expects to earn a profit from the commissions and custody fees it charges.

### **4. Data about you**

To provide the service AUX needs to retain on its computers information about you and you permit AUX to do so. AUX undertakes not to disclose data about you to third parties except:

- (i) in order to set-up or administer your account
- (ii) to provide general AUX communications or
- (iii) where required by law.

### **5. Use of Cookies**

AUX uses cookies. By using our websites and applications, you consent to the use of cookies in accordance with the terms of our policy.

### **6. Recording the source of your incoming money**

Where supplied by your bank on your incoming payment you permit AUX to both record your banking details and to check them against identity documents you submit.

### **7. Identifying yourself**

You undertake to identify yourself upon registration for your account, and according to the identity verification procedures required by AUX.

You authorize AUX to make such enquiries as it may feel necessary to satisfy itself about the validity of your identity.

You undertake to provide a minimum of one accepted form of government issued photographic identity.

You understand and accept that where an ownership interest is shared you may be required to provide additional photographic identities of the sharing owners, and/or institutional documentation – for example copies of trust deeds, or incorporation documents.

You undertake to provide clear evidence of the single bank account from which your AUX deposits originate and to which your money will be returned. This evidence, which will usually be visible on the top page of your bank statement, will detail:

- Your bank's country
- Your bank's name
- Its branch name or address
- Its branch identifying code (e.g. transit, sorting or routing code)
- Your bank account name
- Your bank account number

...and for accounts outside of the USA and UK:

- Your bank's SWIFT BIC (Bank Identifier Code)
- Your IBAN (International Bank Account Number)

You accept that your documents should be written in English, or any other language that AUX actively supports. Where this is not so you undertake to provide certified translations along with your documents, at your expense.

## **8. Power Capital Financial Trading Limited Custodian for AUX funds**

Your funds will be held in safe custody by Power Capital Financial Trading Ltd. PCFT receives and holds your funds in each nominated currency, in customer segregated accounts with Hong Kong and Shanghai Banking Corporation Ltd UK (HSBC). PCFT is authorized and regulated by the Financial Conduct Authority to hold client monies.

## **9. Setting your linked bank account**

By comparing the details you submit with the details submitted by your bank on your funds transfer to AUX, we will set your linked bank account, and email you that we have done so. You are responsible for checking the details, and notifying AUX immediately if the details are incorrect.

AUX will always present to you the current details of your linked bank account at the time you request a funds withdrawal, which you will do via a logged-in session on the AUX website. When you accept those bank account details you agree that you are requiring AUX to remit the funds you withdraw to your linked bank account. AUX will not be responsible for any loss where you have accepted the banking details presented to you and they have turned out to be incorrect.

## **10. Modifying your linked bank account**

Ordinarily your AUX account will be permanently associated with your linked bank account. However your link may be changed should your bank fail, or for other reasons.

Your formal request to change your linked bank account will be accepted only via a logged-in session on the AUX website.

Where you seek a change to your linked bank account you accept that your new bankers, or an alternative and qualified professional, who can be contacted by AUX, will be required by AUX to endorse the continuity of your identity by agreeing to send us a standard letter, the text of which we will provide you with – on request – when you contact us.

Where you request a change to your linked bank account, you accept that the new bank account must be held in exactly the same name(s) as the old bank account.

Where you change your name you will re-validate your old linked bank account on your new name. You accept that AUX cannot accept a simultaneous change of name and a change of bank account number.

AUX undertakes to acknowledge a change to your linked bank account, via email, to your registered email address.

Where AUX operates according to these above procedures you accept that it has applied an appropriate degree of diligence and care with regard to such changes. A failure by AUX to operate according to these above procedures controlling changes in your linked bank account, and resulting in subsequent loss to you, is the financial responsibility of AUX, subject to the provisions of these Terms and Conditions.

You accept that AUX is entitled to charge you an administration cost for changing your linked bank account, according to its published Tariff.

Where these procedures cannot for any reason be met but where, for whatever reason, your original linked bank account cannot be used for the return of your money from AUX, then AUX is entitled to use an appropriate process and/or seek appropriate insurance cover against identity fraud, all at your expense. Under these circumstances AUX is also entitled to charge you on a time and materials basis according to the published Tariff.

## **11. If you fail to validate your account**

You understand and accept that AUX will ordinarily refuse to pay monies requested for withdrawal from an un-validated account. You understand and accept that a persistent failure by you to validate your account, after having received reminders, may incur penalty charges. AUX acknowledges that no such penalty charge will be applied where it is clear you are making a genuine effort to validate your account, but are being prevented from doing so by circumstances beyond your reasonable control.

You understand and accept that were you to fail to validate your account in suspicious circumstances then AUX would be legally obliged to notify anti-money-laundering authorities, without notifying you.

You hereby indemnify and keep indemnified AUX against any and all losses and costs which arise out of your failure to identify yourself and validate your account promptly.

## **12. Your AUX MasterCard**

AUX cards will be issued according to the jurisdiction of the account holder. We currently have two card programs.

IDT Card is issued by IDT Financial Services Limited pursuant to a license from MasterCard International Incorporated. IDT Financial Services Limited is regulated and authorised by the Financial Services Commission, Gibraltar. Registered Office: 57-63 Line Wall Road, Gibraltar. Registered No. 95716. At all times the card remains the property of IDT Financial Services Limited.

MoneyTrac Card is issued by North International Bank Ltd. Suite 203, Village Walk Commercial Center, Friars Hill Road, St. John 's Antigua. And is regulated under the banking laws of Antigua. At all times the card remains the property of North International Bank Limited.

This Agreement and all communications between us and you shall be in the English language. In some cases, the AUX Gold MasterCard will be distributed by one of our commercial partners. Whilst our commercial partner may distribute the card, this agreement is separate and distinct from any agreement you may have with our commercial partner.

## **13. Cards**

The AUX card is a prepaid card which may be used to access your gold and pay for goods and services at participating retailers that accept MasterCard. It is designed for use in shops and retail locations where you are physically present and for online purchases. Like any payment card, we cannot guarantee that a particular retailer will accept the card – please check with the retailer before attempting the transaction if you are unsure. The card is an electronic money (“e-money”) product, regulated in the country of issue. . It is a debit card not a credit card and is loaded from your gold account. You must ensure that you have sufficient gold in your account when sold at today’s market rate to load the card in order to pay for each purchase, payment or cash withdrawal using the card. The card gives you access to the value of your gold is intended for use as a means of payment.

When you receive your card, it will be issued to you in an inactive state. You will need to activate in accordance with the cards Terms and conditions.. If you don’t activate your Card, any transactions that you attempt to carry out may be declined.

## **14. Customer Services**

Our Customer Services team are normally available 8am to 5pm Monday to Friday. Our Customer Services helpline is available 24 hours Monday to Sunday. During these hours we will endeavour to resolve all enquiries immediately, however please note that certain types of enquiry can only be resolved during normal business opening hours. You can contact our Customer Services team by the following methods:

- telephoning xxxxxxxx
- emailing: support@auxonline.com
- writing to Power Capital Financial Trading Ltd 16-18 Monument Street. London, EC3R 8AJ, United Kingdom.

Our business opening hours are Monday to Friday, 8am to 5pm. Correspondence received after the close of business on a particular day will be treated as having arrived on the following business day.

If you are not satisfied with any element of the service you receive, any complaints should also be made to our Customer Services team using the contact details above. Calls may be monitored or recorded.

If, having exhausted our complaints procedure, you remain unhappy, you may complain to the Financial Ombudsman Service, South Quay Plaza, 183 Marsh Wall, London E14 9SR, United Kingdom, e-mail [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk), web [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

## **15. Changes to these Terms and Conditions**

These Terms and Conditions may be changed or amended by us at any time for legal, regulatory, commercial or security reasons or to enable the proper delivery of or to improve the delivery of the card scheme.

If any changes are made they will be publicised on our website 2 months before the changes take effect (unless the law requires or permits us to make a more immediate change or in the event of a change to the exchange rate). Copies of the most up-to-date version of the Terms and Conditions will be made available on our website at all times and will be available on request.

It is your responsibility to check the website regularly for changes to our Terms and Conditions. We will assume that you have done so, and will be entitled to assume you have accepted any changes to these Terms and Conditions if you have not notified us that you do not accept the change prior to the date the change takes effect and continue to use the card. If you do not accept a change, you may end this Agreement.

## **16. Law and Courts**

The laws of England apply to these Terms and Conditions and to our dealings with you and you and will be subject to the jurisdiction of the courts of England.

## **17. Assignment**

We may assign the benefit and burden of this Agreement to another company at any time by giving you 2 months' notice of this. If we do this, your rights will not be affected

## **18. Contact Details**

AUX maintains contact details for you at an email address and optionally at:

- a mobile telephone
- a home telephone
- a home address

You accept a duty to keep your contact details held by AUX up to date and accurate, which you can do via the website. AUX is entitled to rely on the accuracy of the contact details supplied.

AUX accepts an obligation to notify changes to your contact details to your contact email address, and a further obligation to notify changes to your contact email address itself to both your old and new contact email addresses.

You accept that your failure to maintain your contact details correctly may negate some of the protections you seek in AUX. You hereby indemnify and keep indemnified AUX against losses which arise out of your failure to maintain your contact details correctly.

## **19. What details of your activity are publicly visible?**

In the interest of transparency and good marketplace practice certain information is made freely available to users:

- Bank statements of segregated accounts and the gold held by the Custodian are independently reconciled and verified every day. Together these reconciliations enable you to see that your property is an identified part of a reconciled pool of all users' property, held at arm's length from AUX.
- AUX may report your activity to duly authorized government agencies with a formal right either to monitor bullion trading activity or investigate activity which arouses suspicion of money laundering.

## **20. Security**

### **Passwords**

Your personal and financial data held at AUX are protected from unauthorized access by a password and other access data which you have a duty to keep secret.

You accept that in order to provide reliable customer access AUX must have a robust procedure for re-issuing forgotten passwords. You accept the details of this password reset process.

You accept that the re-issue of a password entitles AUX to suspend your right to immediate withdrawal for a period not exceeding six weeks.

## **21. Communication between us**

You accept that the primary means of communication with AUX is via the Internet.

## **22. Transmissions**

You accept that during a logged-in session on AUX all data which pass between you and AUX, in either direction, are passed across the internet using the https protocol, which incorporates a level of security widely accepted as offering extremely reliable privacy and accuracy in data transmission.

## **23. Email**

You accept that AUX will send off-line information to you by email, including – but not limited to – acknowledgements of changes to your key account settings, login notifications, order confirmations, execution advices, contracts, monthly statements, and changes to Terms and Conditions. You may not unsubscribe from emails relating to your account and its administration. AUX may also send you general information regarding updates to its products and services. You may unsubscribe from these general updates by following the instructions included in such emails. The AUX system records all outward email transmissions.

It is your responsibility to ensure that you have a reliable email service provider that allows messages from AUX and properly displays them to you in a timely fashion.

AUX is entitled to rely on your receipt and acceptance of the content of an email if within 3 calendar days of the transmission no response from you has been received by AUX.

In the event that you communicate an issue with content of an AUX email after this date any resolution will be considered in the context of the delay, which you accept may have a bearing on the value of any resolution proposed either by AUX management, or through complaints arbitration.

You understand and accept that email is not encrypted and that it operates with a similar degree of privacy as physical post, in that a network engineer, like a postman, has the ability to see email and attachments if he chooses to open your mail. You accept and understand that easily comprehended open format feedback to a known and used address is appropriate for reporting your completed business to you, off-line, and after the event.

## **24. SMS**

AUX may use voice or SMS on mobile phones as a means of contacting you rapidly. AUX is entitled to rely on your receipt and acceptance of the content of SMS communications if within five minutes of the transmission no rejection of the information has been received by PCFT. AUX is entitled to rely in this regard on the accuracy of its own transmission records when backed up by the independent confirmation of its telecommunications provider's records.

AUX is responsible for initiating SMS messages correctly according to the settings on your account, and ensuring that they are received by its SMS technology provider. But AUX is not responsible for losses you may incur as a result of an SMS message not being delivered in circumstances beyond AUX's direct control. This might occur if your mobile phone was switched off, or was operating in a zone or on a service technology which was not reachable via the SMS technology providers employed by AUX.

If your account diminishes in size below a level at which it is reasonable to communicate via SMS then AUX reserves the right to suspend SMS outputs.

## **25. Mail**

AUX may send information to you by mail to your address on AUX records. AUX is entitled to rely on your receipt and acceptance of the content of posted communications if within 7 calendar days of the communication being sent no rejection of the information by you has been received by AUX.

If your account diminishes in size below a level at which it is reasonable to communicate via the mail then AUX reserves the right to suspend posted outputs.

## **26. Special measures for your extra protection**

### **Account feedback**

You are entitled to rely on AUX sending you emails in confirmation of any changes to the contact details, and the linked bank account settings on your AUX account.

A failure by AUX in these obligations, and resulting in loss to you, is the financial responsibility of AUX, subject to the provisions of these Terms and Conditions.

## **27. Care of your money - Custodian**

### **Pooled Accounts**

You accept that PCFT is authorized and regulated by the Financial Conduct Authority is acting as Custodian to look after your cash and gold balances. PCFT operates through customer segregated accounts with the banks which it does banking transactions.

The Custodian accepts a duty to place funds received from you directly into segregated client accounts maintained for multiple currencies at the bank for the express purpose of pooling un-invested AUX customer money.

PCFT confirms that the bank has acknowledged and accepted in writing that the money on AUX's Client Accounts is held by PCFT as trustee. The bank has further acknowledged and accepted that it is not entitled to combine these accounts, or to exercise any right of set off or counterclaim against money in this account in respect of any money owed to the bank on any other PCFT account.

On your behalf PCFT is permitted to manage your money on the segregated client account exclusively for the following purposes:

1. It may be used to buy physical bullion from another AUX account holder according to your order placed on the AUX website. In this case your money does not move from the bank account but the entitlement to it is transferred within AUX's records to the selling holder of vaulted bullion, while simultaneously the outright ownership of vaulted bullion is transferred to you.
2. It may be used to pay withdrawals of your money back to you – but never beyond the extent to which you have available funds.
3. It may be used to pay AUX in respect of service and other charges earned according to the prevailing Terms and Conditions.
4. It may be used to buy physical bullion from the recognized bullion market on your behalf, where you have exercised your right to trade on a local bullion market.
5. Subject to the segregation of client property being maintained it may be transferred between accounts held at the different banks.

AUX undertakes to maintain at all times within the segregated client account sufficient funds to pay back the gross credit balances of all AUX Customers, and to have that money held at call for return, if required, within one business day.

AUX undertakes to operate robust internal controls such that payments of Customer money at withdrawal get authorized only when at least 2 senior officers of PCFT have inspected and approved the payment instructions.

The client account statement from the bank shall be fully reconciled to AUX 's own records every London banking day, and so far as is practicable the reconciliation shall be published on that day on the AUX website and shall be accessible via the DAILY AUDIT link on AUX 's front page.

You acknowledge that the Custodian is entitled to act in good faith according to instructions given by AUX's officers.

You accept and acknowledge that interest is not payable to you on any uninvested cash balance held in your AUX account.

## **28. Acceptable ways of making deposits**

You agree to fund your AUX account from your linked bank account or by personal debit card associated with your bank account.

Your money deposits are acceptable only through recognized banking channels which may change from time to time according to the details on AUX's website.

Whether depositing through a physical paper transaction, or by electronic transfer, you understand that your bank will be expected to identify standard banking data on each incoming payment to AUX including (i) your bank name (ii) your branch identifying code, (iii) your account name (iv) your bank account number and (v) your AUX user name (as the payment reference).

You accept that a failure by your bank to identify the source of your money may delay your AUX account being credited. Then PCFT will place your money safely in suspense, pending your contact with us, at which time your advice of the correct remittance details will cause the money to be placed directly into your AUX account where it will be capable of being used to buy bullion immediately.



You accept that where you have provided us with necessary details independently of the actual bank transfer on which your money was received AUX is entitled to suspend your right to immediate withdrawal for a period not exceeding 60 days.

### **29. Your deposit and your linked bank account**

You agree that you will not merge funds belonging to different parties within a single AUX account.

You agree that you will not deposit in any way which obscures the source of your funds. For example, you will not deposit cash, bankers' drafts or make anonymous/unreferenced credits at a counter. All your deposits must come from a clearly identifiable source.

You accept that where AUX is not satisfied about the source of funds it may return the funds, where possible, via the procedures of the banking system, to the source. Whenever this occurs you accept that AUX is entitled to apply a fee according to the published Tariff for a return of deposits from a bank account which has not been validated as yours.

Nevertheless PCFT may exercise its discretion to allow the funds to be applied to your AUX account, provided it is our reasonable belief, supported by evidence you provide, that the deposit has come from you. PCFT may also seek additional information concerning the deposit's source, which you agree to provide.

You hereby indemnify and keep indemnified AUX against any and all losses which arise out of your failure to fund your AUX account directly and identifiably from your linked bank account.

### **30. Reversible international deposits**

AUX recommends that wherever possible you deposit funds by wire.

Where you do not fund by wire (for example, where you deposit by check, by BillPay, or by e-check from the USA) you acknowledge that PCFT may apply special security procedures before processing any subsequent withdrawal request.

Under some jurisdictions (e.g. in the USA) there is a right to repudiation by your bank of a fraudulent check debited to your bank account. Instead of accepting the loss itself your bank transmits the cost internationally, in this case to PCFT, exercising a unilateral right to debit AUX 's British bank accounts with funds previously paid to us by check, and duly cleared. This right does not apply to funds remitted to us by wire, because you and your bank are deemed sufficiently protected from fraud when using wire transfers.

Accordingly if you have deposited money in AUX by a method on which this repudiation right applies, and if you seek to withdraw within the period of possible repudiation (e.g. 60 days from the USA), then we will require formal notice from your bankers that your earlier deposit will not be repudiated. You will therefore be required to provide details to us of a named staff member at your bank who can provide this notice. Otherwise you accept that the repudiation delay will expire before you will be allowed to withdraw.

You accept that AUX is entitled to charge according to the published Tariff for contacting your bank in these circumstances.

### **31. Unidentifiable deposits**

Where we are unable to identify the AUX account to be credited, and it is not possible to return the funds to their source, client funds remaining in our suspense account for a period of 5 years or more may – at PCFT's discretion – be accumulated and irrevocably contributed in a single payment to a recognized children's charity, on Customers' joint behalf.

### **32. Withdrawing your money**

Subject to your previous and correct verification of your identity, and to the irrevocable clearance of your deposited funds, you may make withdrawals of your available money balance to your linked bank account.

You undertake to re-check the details of your linked bank account presented to you as you make your withdrawal request during a logged-in session, and you undertake to confirm your withdrawal only if you are satisfied with the linked bank details presented to you. Provided that it is satisfied with the security of your withdrawal request AUX will instruct PCFT to remit funds to your linked bank account via SWIFT (international), CHAPS, BACS or other banking system generally considered appropriate to the payment.

AUX is entitled to subtract bank transfer costs from the sum to be remitted.

If your withdrawn funds are to be received outside the UK and your bank is not itself a SWIFT participant you accept that a correspondent bank – being a bank in your country which receives money via the international SWIFT transfer system, and which routes it to your bank – may deduct from the money sent a fee consistent with normal international banking practice.

You accept that AUX may need to perform additional security checks and there may be some delay prior to sending you your money. Any delay will depend both on the recent operation of your AUX account and on other circumstances of the withdrawal. Where your AUX account was promptly validated, and where your linked bank account has been long-standing and stable, you have the right to expect your money to leave the AUX Client Custody account by the end of the business day following a request for payment received before midnight GMT.

### **33. How we treat small cash balances**

Because of the cost of bank-to-bank transfers, AUX will not pay residual account balances of less than \$100 or other currency equivalent.

Ordinarily sums below this threshold will be retained for account re-activation except that after an account has been empty of bullion and inactive for 2 years or more and remained beneath a currency equivalent balance of \$20, this small balance may – at AUX's discretion – be accumulated and irrevocably contributed in a single payment to a recognized children's charity, on Customers' joint behalf. AUX may then close the account.

Where a small balance arises from an AUX promotion, and the account has neither been funded nor had the account holder's identity verified according to AUX's identity verification procedure, then after any period of inactivity exceeding 3 months the balance may be returned to AUX's own resources as an unclaimed promotion.

AUX reserves the right to claim back promotional balances where it reasonably believes the account has been set up to abuse the promotion.

### **34. Unsettled charges**

If you retain a bullion balance but do not have a sufficient available money balance to settle your custody charges accrued, then AUX has the right to redeem its entitlement by a sale of your bullion but only to the extent needed, and to the nearest gram of bullion.

AUX accepts a duty to inform you by email a minimum of 7 days prior to selling your bullion for this reason. Provided you remit sufficient funds in the intervening period AUX will not sell any of your bullion.

If you withdraw an amount while you have unsettled charges, AUX is entitled to deduct from the amount withdrawn the amount of the outstanding charges.

Where unsettled charges exceed the value of holdings within an account then subject to providing you with 7 days' notice AUX has the right to sell any remaining bullion and close the account.

### **35. Account suspension and closure**

Where AUX reasonably believes your security or the security of AUX is at risk, it reserves the right to suspend or close any account without prior warning, but never to the extent that it would amount to an expropriation of your property.

### **36. Confidentiality, money laundering, and the linked bank account**

AUX is designed to be a very secure home for legally acquired wealth. It is not a useful or secure resource for money launderers.

For reasons relating to both security and anti-money-laundering legislation AUX requires deposits to come from a single bank account, or, after prior approval by AUX when the account was first set up, from a second bank account listed under identical name(s) and address as the linked bank account.

For reasons relating both to security and anti-money-laundering legislation AUX will monitor and when required obtain supporting information for the exit of funds.

AUX recognises your right to confidentiality where your identity has been validated. However where for whatever reason AUX becomes suspicious of an attempt at money laundering AUX actively assists the appropriate authorities in their efforts to detect it. AUX also keeps comprehensive records of cash and bullion dealing activity in order to assist the authorities in this regard.

### **37. Care of your bullion**

#### **Form and location**

You are entitled to expect that AUX takes assayed bullion bars as good delivery from recognized market professionals, and according to the practices which exist in the local market.

Bullion which you buy through AUX remains in the location which was selected by you on your order.

This bullion is held as weighed and numbered bars in a form generally acceptable in settlement of local bullion markets sales.

Gold bars constitute investment gold bullion (as defined by UK Customs and Excise 701/21) being not less than 99.5% purity and of a weight and manufacturer accepted by the bullion markets.

AUX accounting units of gold, in line with standard bullion-market practice, are expressed in fine gold content. The fine gold content of each bar is its weight multiplied by its purity. The resulting units of gold applied on your AUX account are LBMA good delivery of not less than 99.5% pure gold, and are denominated in kilograms and grams.

Silver bars are not less than 99.9% pure and of a weight and manufacturer accepted by the bullion markets.

AUX accounting units of silver, in line with standard bullion-market practice, are expressed in gross weight, not fine. They are denominated in kilograms and grams.

#### **Warranted bullion content**

AUX warrants that:

- every gram of gold on your account is a gram of the 100% pure gold content (fine gold) of a 99.5% (or greater) assayed bullion bar held in the relevant vault;
- Every gram of silver on your account is a gram of an assayed silver bullion bar which is a minimum 999 parts per thousand silver.

Any breach of this warranty shall be remedied by AUX itself arranging a replacement through the procedures of the professional bullion markets, or, failing that, by replacing any shortfall, or substandard material out of its own funds.

### **38. Vault Operators**

A Vault Operator is a professional organization of the highest reputation which is in the business of managing the receipt, storage and re-delivery of bullion bars according to the practices of a local professional bullion market.

You accept the Vault Operator(s) engaged by AUX for each metal and storage location. Each Vault Operator has warranted to AUX that its status within the bullion industry permits bullion stored within its vaults to retain the high levels of integrity expected by the professional bullion market.

### **39. Your bullion is held as a bailment**

Your bullion is held in vaults controlled by each Vault Operator pursuant to a Storage Agreement (the "Storage Agreement") executed between AUX's Custodian and each Vault Operator.

In each Storage Agreement, the Vault Operator acknowledges that your bullion is the subject of a bailment.

AUX undertakes to pay fees to the Vault Operator on your behalf to cover the costs of storage and insurance of your bullion, and thereby evidence the bailment nature of the storage service provided by the Vault Operator.

AUX confirms that your bullion safekeeping is structured as a bailment for the purpose of arranging the strongest and simplest legal protection for your bullion within a professional bullion vault, and for no other reason.

### **40. Bailments in AUX**

You agree that when your purchase of bullion is transacted within the AUX system, the bullion purchased is to be delivered by the seller within the Vault Operator's premises, so as to become a bailment of your property, according to your instructions submitted exclusively to AUX.

From that point forward the Vault Operator has agreed to act as physical custodian of your bullion until the bailment is terminated at your instruction, again submitted exclusively via PCFT/AUX.

You agree that when your sale of bullion is transacted within the AUX system, the bullion sold is to be delivered to the buyer, within the Vault Operator's premises, on your behalf, terminating your bailment to the extent sold, as per your instructions submitted exclusively to AUX/PCFT.

You agree that the record keeping of the creation and termination of the bailment is to be performed by AUX according to these Terms and Conditions, while the bullion rests throughout with the Vault Operator.

You acknowledge that your ownership does not necessarily relate to a specific bar but to a specific quantity of bullion in a specific vault. AUX acknowledges that the bullion you own exists, is in the vault, is yours, and that being physical it is ultimately capable of being sub-divided into measurable amounts of material which you could take into your possession, subject to paying the physical withdrawal fee according to the Tariff.

### **41. Your right of individual bar ownership**

AUX allows you to own specific whole bars of gold or silver outright.

When you have within one vault an available balance of gold or silver which matches or exceeds in fine gold or gross silver content the smallest unreserved gold or silver bar in that vault, then you may elect to have individual bar(s) reserved exclusively to you as your property.

You will undertake the reservation process online. When you do so the specific bar(s) you select becomes your property.

The bar you own in this way will be eliminated from the pool of liquidity on AUX – meaning no-one, including you, can sell it while it is reserved.

You may pledge the reserved gold to a financial institution as collateral against a loan.

You will be able to release this bar, which you will again be able to do online, and thereafter you will be able to sell it through the AUX system after the lien from the financial institution has been removed. You accept the charges applied for individual bar ownership according to the published Tariff.

#### **42. AUX's Storage Agreement(s) with the Vault Operator(s)**

You authorize AUX to act as your agent for arranging custody of your bullion through PCFT with the relevant Vault Operator. AUX confirms to you that in each "Storage Agreement" it is acknowledged by the Vault Operator that the bullion stored under the agreement is allocated and is the property of PCFT/AUX Clients.

AUX confirms to you that in each "Storage Agreement" it is acknowledged by the Vault Operator that this allocated gold and silver shall be specifically identified, and physically segregated at all times.

AUX/PCFT confirms to you that in each "Storage Agreement" the Vault Operator accepts responsibility for the bullion from the time of full custody and control of the consignment, through transportation and storage, until the custody and control has been relinquished by the Vault Operator to a third party, according to PCFT's instructions for making a withdrawal.

AUX/PCFT confirms to you that in each "Storage Agreement" the Vault Operator undertakes that prior to executing any authorized withdrawal of bullion from a vault, the Vault Operator will, independently of the Custodian, satisfy itself:

- (i) that AUX has publicised the withdrawal on the AUX website; and
- (ii) that the holder identified has a sufficient gold or silver balance according to the website's Daily Audit; and
- (iii) that, for gold, the withdrawal does not cause more than both 25 kilograms and 5% of the gold in the vault to be withdrawn on any one day;
- (iv) that, for silver, the withdrawal does not cause more than both 1 tonne and 5% of the silver in the vault to be withdrawn on any one day.

AUX/PCFT confirms to you that a minimum of 12 months' notice from a Vault Operator is required to terminate the "Storage Agreement". In the event that such notice has been received by AUX/PCFT, and if no alternate storage solution has been put in place in the intervening period, then a minimum of 3 months prior to the termination of the storage service AUX undertakes to inform you of the situation, thereby allowing you such time as you may need to arrange an alternate mechanism for owning and storing your bullion.

AUX /PCFT undertakes that your bullion will not be subject to any kind of lending, collateral, hypothecation, or derivative transaction of any type and will remain your property in the safekeeping the Vault Operator(s) until sold or withdrawn according to your instructions received via AUX/PCFT.

#### **43. Insurance**

AUX undertakes to ensure your bullion is insured against theft and damage according to the accepted insurance standards of the bullion industry, and at a cost which is included in the charge you pay to AUX in respect of custody of your bullion.

AUX/PCFT confirms to you that in each "Storage Agreement" the Vault Operator undertakes to provide documentary Evidence of Insurance.

AUX undertakes to you to make available the Evidence of Insurance for each Vault Operator to be viewable on AUX's website by AUX Clients who have an interest in the insurance cover provided.

#### **44. Ownership records**

AUX maintains the master copy of ownership records. AUX agrees with you that in so far as they relate to you these records shall only be modified upon the execution of your valid instructions, made according to these Terms and Conditions.

AUX ensures that at least two widely separated data storage sites receive duplicates of the full AUX database.

#### **45. How we treat small bullion balances**

Where a small bullion balance arises from an AUX promotion, and the account has neither been funded nor had the account holder's identity verified according to AUX's verification procedure, then after any period of inactivity exceeding 3 months the balance may be returned to AUX's own resources as an unclaimed promotion.

AUX reserves the right to claim back promotional balances where it is believed that the account has been set up to abuse the promotion. AUX reserves the right to stop a promotion at any time and without prior warning.

#### **46. Your right to trade on local bullion markets**

Where your cash balance or bullion holding enables you to settle either:

- one or more whole bars of gold; or
- one tonne or more of silver

On the local bullion market, you have a right to trade gold directly on the local professional spot bullion market, but only via bullion dealers which AUX itself has a regular dealing relationship with.

The local good delivery unit for gold is usually a 400 troy oz bar (about 12.441 kg).

The local good delivery unit for silver in London is usually a 1,000 troy oz bar and they are processed on sealed pallets of usually 32 bars, being approximately one tonne.

If you use this right you will pay AUX's normal commission rates, and the Armoured Transportation fee according to our published Tariff.

Where you elect to take up this right AUX will act as your agent in the transaction.

To exercise this right you will need to contact AUX directly by telephone during London office hours and you will be provided with the prevailing details of the procedure.

#### **47. Your right of withdrawal**

You have a right of withdrawal of your gold and silver from AUX, but you acknowledge AUX is not designed primarily as a service for those who wish to take physical possession of bullion.

Your wish to withdraw gold will be accommodated only for quantities above 50 grams and in the form of whole numbers of appropriate gold bars of varying sizes and of generally accepted gold bullion coins to be selected at AUX's discretion.

Your wish to withdraw silver will be accommodated only in the form of whole numbers of 1,000 troy oz bars.

You understand and accept that AUX charges withdrawal fees according to its published Tariff.

By using standard bullion products of its choice AUX undertakes to meet your withdrawal request to the nearest 10 grams, and to debit your AUX account to the nearest gram of the actual delivery made. It further undertakes that to the extent that rounding in whole grams favours either party, through the

acquisition or disposal of partial grams of gold or silver, AUX will adjust the monetary balance on your account to within \$2 of the value of the partial gram so acquired or disposed.

To make physical withdrawals you will be required to provide reliable forms of identification and may in addition be required to indemnify AUX against identity fraud through the purchase of appropriate insurance.

You understand that you cannot claim withdrawal directly from a Vault Operator. Your right to withdrawal is to be effected through AUX/PCFT who have the means and responsibility for identifying you reliably. Depending upon the quantity withdrawn you may be required to identify a local bank or equivalent institution to which your bullion can be delivered.

Upon withdrawing bullion you accept that you may lose anonymity where these transactions are monitored by appropriate authorities.

Upon withdrawing bullion you accept that you may become liable to taxes which you would otherwise not become liable to, and you permit AUX to deduct those taxes appropriately.

#### **48. Your right of transfer to an alternate vault**

Where international law permits it you have a right of transfer of bullion within AUX from one vault location to another, but only in the form of entire and appropriate bars. Transfers of this kind are performed through accredited bullion couriers. Vault and courier charges are variable, are payable by you, and can be quoted at the time.

If it is not possible for transferred bars from one location to be accepted as good delivery in the alternate location of your choice there may be additional charges to cover either the selling of your bullion and its replacement with a locally acceptable form, or its refining and manufacture into a locally acceptable form.

Upon transferring bullion you accept that you may lose anonymity where these transactions are monitored by appropriate authorities.

Upon transferring bullion you accept that you may become liable to taxes which you would otherwise not become liable to, and you permit AUX to deduct those taxes appropriately.

You accept the charges as stated.

#### **Procedures for bullion withdrawal from a vault**

AUX/PCFT accepts responsibility for implementing security procedures which prevent the unauthorized removal of bullion from a vault.

Excepting only duly authorized shipments to another AUX storage location – such as might be requested by customers in response to an international crisis – AUX undertakes that on no single day shall any amount exceeding both 25 kilograms and 5% of the gold, or 1 tonne and 5% of the silver vaulted at a AUX location be authorized for removal.

Where from time to time AUX/PCFT needs to authorize removal of up to 25 kilograms or 5% (whichever is the larger) of gold from a given vault, for example to settle a main market sale, it accepts an obligation openly to declare the fact on the front page of its website at <http://www.auxonline.com> and it shall link conspicuously to details explaining both the quantity of gold due to be removed and the published nickname of the user(s) whose gold is to be removed.

Where from time to time AUX needs to authorize removal of up to 1 tonne or 5% (whichever is the larger) of silver from a given vault, for example to settle a main market sale, it accepts an obligation openly to declare the fact on the front page of its website at <http://www.auxonline.com> and it shall link conspicuously to details explaining both the quantity of silver due to be removed and the published nickname of the user(s) whose silver is to be removed.

These public notices shall appear not later than the business day before removal is scheduled and shall remain visible to all visitors of the AUX website until the bullion has been delivered out of the vault.

The declaration is an obligation on AUX/PCFT known to each Vault Operator and AUX/PCFT confirms that each of the Vault Operators is contractually bound to check adherence to the publication of the withdrawal declaration when clearing gold or silver for withdrawal.

The withdrawing customer having been publicly identified by nickname AUX undertakes to ensure that this customer has sufficient bullion to cover the withdrawal – as publicly evidenced on the Daily Audit.

Checking that the customer has sufficient bullion is an obligation on AUX/PCFT known to each Vault Operator and AUX/PCFT confirms that each Vault Operator is also contractually bound independently to check that the nicknamed investor has sufficient bullion to cover the withdrawal, according to AUX's published Daily Audit.

#### **49. How your orders are processed**

You acknowledge your competence to trade having read and understood relevant aspects of the operation of the AUX system from the online help system accessed from <http://www.auxonline.com>

You understand that you may enter orders to buy and sell bullion on the AUX Order Board, at quantities, prices and physical locations under your control, but only when having sufficient resources already at AUX to effect immediate settlement. You understand that you may enter orders to buy or sell at the London Fix at quantities or values under your control, but only when having sufficient resources already at AUX at the time the order is submitted.

You agree that your orders are to be submitted to AUX's servers by yourself via the internet.

#### **50. Order validation**

AUX will ordinarily accept your orders to buy bullion in any vault offered for that metal, provided the purchase limit price is specified in a currency in which you have sufficient available funds to settle the entire purchase.

AUX will ordinarily accept your orders to sell bullion from a given vault for any currency offered, provided the quantity specified is currently stored and available on your behalf in the vault specified.

AUX accepts your orders within 10% above and below prices broadly consistent with current market prices.

If your order does not comply with the terms of the order type, or one or more of the above conditions are not met your order will be rejected.

#### **51. Order matching**

##### **Order board**

Your Order Board orders on AUX are always limited as to price. Purchase limits place a maximum buying price on your purchase orders. Sale limits place a minimum selling price on your selling orders.

Your orders are also limited as to quantity of bullion (measured in kilograms).

On receipt of your order the AUX system automatically attempts to match the order with another customer's prior and opposing order denominated in the same currency and location, and subject to both customers' limits. The system will trade at the most attractive prices for your new order, achieving lowest possible price within the limit for purchases, and highest possible price above the limit for sales.

Any pre-existing order posted on the Order Board against which a new order is matched will achieve exactly its limit price.



To the extent that an order can be executed against pre-existing limit orders posted by other AUX users the order is executed immediately, and to as great an extent as possible (i.e. the smaller quantity of the two orders) before any other order received subsequently is processed. To the extent that it cannot be executed it may – at your request – be itself posted as a limit order on the AUX Order Board until it expires through age, cancellation or otherwise.

Your order ranks behind all valid limits past or future which offer a more attractive price. It ranks ahead of all valid orders past or future which offer a less attractive price. It ranks behind all valid orders at the same price, received by AUX before it, and ahead of all valid orders at the same price received by AUX after it.

## **52. Order removal**

### **Order board**

You have the right at any time to transmit a request to remove an unexecuted element of any open order you placed on the Order Board. Upon receipt AUX must respond by removing your order such that it will not match with any subsequently received order.

You understand and accept that where another user has entered an opposing and matchable order instruction, which arrived at AUX before your request for removal, then the match will occur, and to the extent that the match occurred your order will have matched and will not be capable of removal, although any remaining open element of the order will be removed.

AUX may at its discretion remove from the Order Board your unexecuted purchase and sale orders where they are both (i) older than one week and (ii) where they are limited at prices which for sales exceed 110% of the prevailing price of bullion, or which for purchases are less than 90% of the prevailing price of bullion.

Where AUX removes your orders from the Order Board it accepts an obligation to send an email to your registered email address.

## **53. Dealing Advice and Contract**

AUX will acknowledge executed orders and parts thereof to you via email shortly after each execution occurs.

The completion of an order – either through deal executions or order cancellation when only part executed – will result in AUX sending you, via email, a formal contract after settlement in respect of the complete amounts traded as a result of the original order.

## **54. Settlement**

### **Order Board Trades**

You authorise AUX to accept your Order Board order as an instruction to settle immediately in the event that your order executes, whether in whole or in part. AUX accepts full responsibility for the ability of executed orders to settle. It stands as guarantor behind any purchase that the seller is able to deliver bullion to the purchaser in the quantity purchased. It stands as guarantor behind any sale that the purchaser is able to pay currency to the seller for the consideration of the sale.

Settlement of an AUX Order Board transaction happens instantaneously at the point of trade. The inward delivery of bullion for a buying customer is always matched exactly with a simultaneous but opposite outward delivery of bullion for a selling customer. No material changes arise at the vault as a result of instantaneous settlement of your bullion trade.

### **All Trades**

Upon settlement a buyer receives and becomes the owner of bullion and a seller is credited with money held in trust, net of trading expenses. Similarly a buyer is debited with money previously held in trust, net of expenses, and a seller makes delivery of bullion.

The delivery of bullion in settlement is effected by book entry within the AUX system. Your resulting bullion custody balance represents outright ownership of bullion held at the relevant vault.

AUX instructs each Vault Operator in AUX's capacity as your agent.

The payment of money is effected by book entry within the AUX system. Your resulting AUX money balance represents your currency assets of segregated Client money held at the relevant bank in trust.

AUX instructs the bank in AUX's capacity as your agent.

AUX guarantees that the settlement of funds occurs simultaneously with the delivery of bullion.

Your overall balance is composed as the sum of your custody balance and your unsettled balance. An overall balance is maintained for each of the currencies and classes of Bullion you hold.

Your settled balance of Bullion is held for you in custody by the Vault Operator. Your settled balance of cash is held for you in trust by the bank.

Your unsettled balance is applied to your custody balance when your trade settles.

You can see your new custody bullion and trust money balances on the AUX system immediately after settlement occurs.

Each business day AUX undertakes, so far as is practicable, to publish online a full customer by customer reconciliation of bullion and money to the underlying currency statements from the bank, and bar lists from the vault, in both cases as at the close of business on the previous business day.

## **55. Risk Warnings**

The following lists indicate such risks as AUX considers material. It does not constitute a statement of all possible risks.

### **Risks which are not a AUX responsibility**

**Gold and silver price movements** — You are exposed to the risk of potential loss arising from a falling bullion price during the time in which you own bullion. This risk is not an AUX responsibility.

**Money politics** — Governments and other agencies seeking currency stability, or for other reasons, might seek to constrain or tax the ownership of bullion to the disadvantage of its owners. AUX provides for multiple locations from which you may choose one or more. The actuality or fear of government action might affect the value of bullion stored in a given location. This risk is not a AUX responsibility.

**Bank insolvency** — Your cash balances at AUX are held in custody in segregated accounts at a highly rated bank, but your money's safety is dependent on bank integrity. All banks are subject to possible failure. Depending on a number of factors in the event of bank failure you might be entitled to receive compensation from appropriate authorities, but the terms of such compensation are complex and the timescale for receiving compensation might be long. This risk is not a AUX responsibility. [Note that when your money is used to buy bullion your exposure to bank insolvency ceases.]

**Identity theft** — If your AUX account number and password are compromised, you are at risk of unauthorized access to your account. Any change of your account details would be acknowledged to you. Any withdrawal resulting from use of a compromised password would only be to your linked bank account. As a result the most serious risk arising from the theft of a password are (i) loss of privacy and (ii) the entering of mischief orders on AUX – which would execute at market prices and thereby potentially switch you between bullion and money – or vice versa – at prevailing values but not according to your wishes. An attempt to bleed your account of value in favour of another account

would be reversed whenever advised in reasonable time, and would of course lead to detection and prosecution of any criminal activity without gain. In these ways AUX seeks to minimise the risks to you associated with identity theft but these are **not** an AUX responsibility unless the breach of security can be shown to have occurred because of AUX's error.

**Liquidity risk** — The risks associated with a lack of immediate liquidity are not an AUX responsibility.

**System availability** — AUX's computerized machinery, which is accessed by you across the Internet, might become inaccessible for periods of time. This could prevent you from executing a transaction which you would otherwise have made. This risk is not an AUX responsibility.

**Insurance exclusions** — As your property your bullion is subject to insurance exclusions imposed by insurance underwriters in line with established insurance practice regarding the physical protection of your bullion. These excluded risks are presented on the evidence of insurance published on the AUX site and include events like nuclear war. These risks are not an AUX responsibility and are risks you undertake with respect to your bullion, except that no exclusion absolves AUX in undertaking its correct duties of care in arranging the security of your property to levels considered commercially acceptable.

**Force Majeure** — The risks described under Force Majeure are not AUX responsibilities.

### **Risks which are an AUX responsibility**

AUX accepts it has duties of care with regard to aspects of risk to your property and undertakes to manage risks so as to contain them at minimal levels, consistent with best business practices. Subject to the provisions for Exclusions and Limits of liability in these Terms and Conditions AUX accepts liability for failing in this duty.

**Physical bullion theft** — Your bullion could conceivably be stolen from a vault by determined thieves. It is the Vault Operator which accepts a duty to retain sufficient security measures, and to maintain cover against such an eventuality either in terms of its own resources or its insurance policies. AUX/PCFT accepts a duty to regularly monitor the Vault Operator to ensure the maintenance of a limit sufficient to cover at least the value of the bullion stored. Subject to the provisions for Exclusions and Limits of liability in these Terms and Conditions AUX accepts liability for failing in this duty.

**Theft of Customer money** — Money held in the segregated Client accounts could be illegally transmitted through the banking system by a determined thief, or thieves, operating within AUX. Subject to the provisions for Exclusions and Limits of liability in these Terms and Conditions AUX accepts liability for failing in this regard.

**AUX segregation management** — A failure by AUX's system to prevent a customer from over-purchasing beyond his cash balance, or over-selling beyond his bullion balance would render a segregated account temporarily incapable of meeting its obligations to other customers. All AUX software is designed to eliminate this eventuality. Moreover AUX checks its accounts daily for such eventualities. The risk of material loss is extremely small, because any such over-trading would be substantially offset by a surplus in the opposite segregated account. Subject to the provisions for Exclusions and Limits of liability in these Terms and Conditions AUX accepts liability for failing in this duty.

**AUX record keeping** — a risk in all business record keeping systems is that internal records may show a position which satisfies the organization's officers but does not represent the real world, and where the problems only come to light when it is too late. The risk rises with increasing complexity of transactions and the availability of credit, neither of which apply to AUX. For all businesses the record keeping risk is statutorily addressed by annual audit. In addition AUX controls its record set by voluntarily submitting its daily reconciliations of Customer property to public inspection on the web. Subject to the provisions for Exclusions and Limits of liability in these Terms and Conditions AUX accepts liability for failing in this duty.

**AUX insolvency** — Unforeseen events could conceivably damage the financial strength of AUX rendering it insolvent. The insolvency of AUX **would not affect your property rights with regard to money or bullion in an AUX account**, but it would be likely to create some inconvenience and delay for you in taking hold of that property.

**Disastrous data loss** — AUX's system contains data in electronic form which could conceivably be lost in a widespread and catastrophic machinery failure. AUX operates a redundant machinery policy which means that every component of its data storing capability is protected by both local and remote data duplication. The likelihood of a simultaneous loss of all data copies is extremely low. However, in addition to this the system sends an encrypted copy of full ownership records to remote data vaults identified to AUX's auditors, Custodian and Vault Operators, ensuring that data loss is a temporary inconvenience, not a disaster. Moreover you can save the published reconciliation of your property on your own computer, thereby duplicating that part of the records which relates to your own property.

## **56. In the event of your death or incapacity**

In the event that you become incapacitated you permit AUX to allow your account to be maintained on your behalf by your duly authorized attorney.

In the event of your death there are different procedures depending on the jurisdiction in which you die.

AUX undertakes to process your AUX account in accordance with the instructions of your authorised executors or administrators.

You permit AUX to seek legal advice in the jurisdiction of your estate's administration, at the expense of your account but limited to the relevant charges detailed in the Tariff.

## **57. API and trading robots**

You agree to abide by [terms for using the AUX API](#). You acknowledge that these terms may be amended from time to time. AUX reserves the unilateral right to suspend or switch off your access to the API and remove all orders should you be in breach of these terms.

AUX takes no responsibility for the performance of any unofficial product making use of the API.

## **58. Affiliate Sales**

AUX runs an affiliate programme which allows AUX clients to earn a portion of the commission charged on trades made by customers they have referred to us.

By becoming an affiliate, you consent to the Terms and Conditions of our referral programme.

## **59. Tariff**

The prevailing AUX Tariff is published on the AUX website.

Charges are ordinarily settled out of your cash resources on AUX. In the event that charges are outstanding because you have neither paid money in, nor raised cash by selling bullion, AUX has the right to sell bullion to raise money sufficient to pay the charges.

## **60. System availability and downtime**

The system is scheduled to operate continually except where planned software updates and maintenance is necessary, usually carried out on weekends. AUX will always provide an advance warning notice via the website for planned downtime. There may also be planned service interruptions at other times where maintenance requires urgent action which cannot wait until a weekend. Such service interruptions will where possible be planned at times of lower public demand for the service.

Where service interruption is planned and you have an open order your order will ordinarily survive the service interruption.

When an unscheduled service interruption occurs and you have an open order your order will ordinarily survive. However, in some instances these orders may be removed at the resumption of the service and any un-traded element of the order will be treated as cancelled.

We will endeavour to keep you informed via email when you have open orders during a period of unscheduled service interruption, but you accept that the nature of the service interruption may make it impractical for us to do this.

You accept that service interruption is an unavoidable event on networked computers. You accept our terms for handling service interruption vis-a-vis your open orders. You understand that leaving a firm order on the Order Board can expose you to risks which are increased in the event of a service interruption, and you accept those risks.

### **External regulation of AUX**

AUX is a Singapore Private Limited Company regulated by Singapore Law which covers well established Western principles of statutory property rights and statutory company law.

All customer monies and assets are held in custody by Power Capital Financial Trading (UK) Limited, (PCFT) a UK registered company authorised and regulated by the UK Financial Conduct Authority. All purchase and sale of assets both Bullion and currency for both AUX and customers is conducted by PCFT.

In addition to the Financial Conduct Authority regulatory responsibility rests on three mutually independent arms of law enforcement: (i) the investigating authority, (ii) the prosecuting authority and (iii) the Criminal Courts.

- The investigating authority is the UK Police Force. It is independently funded out of civil taxation and its role is to investigate reports of crimes and to produce a report for the prosecuting authority. Theft and Fraud fall under its areas of responsibility.
- The prosecuting authority is the UK Prosecution Service. It is independently funded out of civil taxation and its role is to prosecute breaches of statute law where evidence gathered by the investigating authority produces a reasonable prospect of conviction.
- The Criminal Court system hears the cases of the prosecuting authority, establishes guilt or innocence through the jury system, and empowers judges to punish. It too is independently funded out of civil taxation.

There is no cost to you in reporting a crime and it is the duty of the above authorities to bring before the courts a case against AUX or its officers arising from a breach by AUX or its Custodian of statute law.

In addition you have recourse to the civil law, which would rule on disputes between you and AUX arising when either alleges against the other a damaging breach of these stated Terms and Conditions. Bringing and defending a case under civil law would ordinarily incur costs.

**You understand and acknowledge that together with the whole of the London bullion market, AUX's regulatory status is markedly different from the financial services industry.**

Modern financial services businesses throughout Europe, Asia and America tend to be companies which deal in paper based instruments generally called 'securities', and these are subject to increasing legal sophistication and regulation.

Because AUX offers a credit-free environment, and because it deals in the absolute ownership of physical metal acquired on the spot market, and not paper based contractual rights extending beyond the normal settlement period of the spot market, it falls outside the defined scope of formal financial services regulation, as does the rest of the spot physical bullion industry in London.

The London bullion market – which is the biggest in the world – is instead regulated by traditional English property law, and not by the United Kingdom's Financial Conduct Authority.

### **61. Correction or Errors**

## **Record Keeping Error**

In the event of administrative error AUX is entitled after the event to make appropriate adjustments to records of your account.

## **Trading System Error**

Neither AUX nor you have the right to make profits from trading system failures.

The AUX system is designed to protect all users from clear trading errors by rejecting orders priced substantially away from the prevailing bullion price. This protection depends on receiving currency and bullion market price data from a variety of digital sources. The effectiveness of this protection is to an extent out of AUX's reasonable control. In the event of a failure to protect participants in this way both AUX and you accept that reasonable adjustments may be made after the event in order to ensure the marketplace operates fairly to all participants.

## **62. Exclusions and Limits of Liability**

(a) The following provisions set out the entire financial liability of AUX (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you in respect of:

- (i) any breach of these Terms and Conditions; and
- (ii) any representation, statement or tortious act or omission including negligence arising under or in connection with these Terms and Conditions.

(b) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded here from.

(c) Nothing in these Terms and Conditions excludes or limits the liability of AUX:

- (i) for death or personal injury caused by AUX's negligence; or
- (ii) under section 2(3), Consumer Protection Act 1987; or
- (iii) for any matter in which it would be illegal for AUX to exclude or attempt to exclude its liability; or
- (iv) for fraud or fraudulent misrepresentation.

(d) Subject to paragraphs (b) and (c) above:

- (i) AUX's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms and Conditions shall be limited to the value of your cash balance and/or bullion from time to time deposited with or by AUX; and
- (ii) AUX shall not be liable to you for any pure economic loss, fall in the value of your bullion or currency, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with these Terms and Conditions.

## **63. Tax**

You are responsible for paying such local taxes as are or may be applied on bullion purchases, bullion sales and bullion custody, and on any associated charges, and such taxes are added to charges where appropriate.

## **64. Force Majeure**

AUX shall not be liable to you for any delay or failure by it to perform its obligations if such delay or failure arises from any unforeseeable causes beyond its reasonable control including, but not limited to, acts of God, floods, lightning, earthquakes, labor disputes, shortages, rationing, utility failures, war, terrorism, riot, embargoes, and actions of any government agency or subdivision thereof.

## **Language**

You are entitled to consider that reasonable care has been taken by AUX in the translation into different languages of AUX's procedural and operational material, and that these translations fairly reflect the underlying meaning of an original document in the reference language of AUX, which is English. In the event of any differences between the English version of these Terms and Conditions and any non-English versions, the English version shall prevail.

You can contact AUX in any language in which the AUX site is published.

You can make informal complaints in any language in which the AUX site is published.

You can make formal complaints in any language in which the AUX site is published.

You will provide a translation into English to enable the adjudicating council to assess your complaint fairly in words submitted by you or your translator.

Dispute resolution shall take place in English and communicated to you in English, and in as far as possible, in the language of your complaint.

## **65. Law**

The law governing the provision of the AUX service to the Customer is the laws of England and any disputes arising in respect hereof shall be governed exclusively by the courts of England.