

# Kasih AP Gold Terms and Conditions

## 1. INTERPRETATION

In this Agreement, unless otherwise expressly stated or if the context requires otherwise, the following terms shall have the meanings set out below:

1. **"Agreement"** means these terms and conditions, any account-opening documentation (including an electronic registration form you complete when applying for a Kasih AP Gold Account) and any other documents, terms and conditions, or policies which are expressly stated by Kasih AP Gold to form part of the agreement between us and you;
2. **"Kasih AP Gold Account"** means the electronic record of:
  - i. gold that you own, identified by quantity and purity of the gold, and delivered to us for storage in the Vault;
  - ii. payments to and from us in relation to the purchases, sales and withdrawals of gold and any other transactions between you and us under this Agreement;
  - iii. the fees levied by us for services provided to you, if applicable.
3. **"Customer", "you" or "your"** means a person who has registered and has been accepted by us for a Kasih AP Gold Account on the Kasih AP Gold Website including satisfactorily completing the applicable verification requirements in accordance with this Agreement;
4. **"Force Majeure"** means any circumstance, act, or event beyond our reasonable control, including (but not limited to) any:
  - i. lock outs, strikes or other industrial disputes (in each case, whether or not relating to our workforce and whether or not beyond our reasonable control);

- ii. changes to applicable laws, acts, or regulations of any governmental or supranational bodies or authorities;
  - iii. breakdown, failure, malfunction, or hacking of telecommunications or computer services or systems (including the internet) including, without limitation, any third party services or systems or acts of hackers;
  - iv. unusual volatility in the market, hacking, Denial of Service (DoS) attack, deliberate market distortion or manipulation, and disruptions to trading or the trading price;
  - v. act of God, fire, act of government or state, terrorist act, war, civil commotion, insurrection or embargo, earthquake, nuclear incident, floods, volcanic action;
  - vi. inability to communicate with brokers or market makers for whatever reason or late or mistaken delivery or payment by any bank or counterparty;
  - vii. prevention from or hindrance in obtaining any energy or other supplies; and
  - viii. any other reason (whether or not similar in kind to any circumstance, act or event described in (a) to (g) above).
5. **"Kasih AP Gold", "we", "us", or "our"** means Kasih AP Gold Sdn Bhd, a company incorporated in Malaysia with its registered address at No 18 Menara 2, Menara Kembar Bank Rakyat, No 33 Jalan Rakyat, Brickfields, 50470 Kuala Lumpur, Wilayah Persekutuan.
6. **"Kasih AP Gold Platform"** means the Kasih AP Gold private and public website accessible at [www.kasihapgold.com](http://www.kasihapgold.com) amended from time to time (the "Website"), the Kasih AP Gold Application Programming Interface ("API"), and any associated Kasih AP Gold-hosted websites or

mobile applications ("Mobile App") (collectively the "Kasih AP Gold Platform");

7. **"Kasih AP Gold Services"** means any and all of the services provided to you through the Kasih AP Gold Platform and includes the use of the Kasih AP Gold Platform;
8. **"Password"** means the string of at least eight (8) characters in length that you may use to access your Kasih AP Gold Account;
9. **"Privacy Notice"** means the privacy notice of Kasih AP Gold that is available on the Kasih AP Gold Website (as amended from time to time);
10. **"Personal Data"** means information provided by you or through documents given to us through Kasih AP Gold Platform;
11. **"Vault"** means the location where gold is physically stored pursuant to an agreement entered into by or on behalf of Kasih AP Gold with a Vault Operator;
12. **"Vault Operators"** means one or more service providers appointed by us (or our agent) in accordance with clause 8 to store gold on behalf of our customers.

## 2. ACCEPTANCE OF AGREEMENT

1. This Agreement takes effect upon acceptance by the Customer of these terms and conditions during the account opening process through the Kasih AP Gold Mobile App. The relationship between Kasih AP Gold and the Customer arising from or in connection with the Customer's Kasih AP Gold Account shall be defined and governed by this Agreement.
2. This Agreement applies to your Kasih AP Gold Account and your use of:
  - i. the Kasih AP Gold Platform; and

- ii. any of the services provided to you by Kasih AP Gold together with the Kasih AP Gold Platform (the “Kasih AP Gold Services”).
- 3. By signing up to use the Kasih AP Gold Platform through the Kasih AP Gold Website, you agree:
  - i. that this Agreement will document the contractual relationship between you and us;
  - ii. to be bound by the provisions of this Agreement;
  - iii. to comply with all relevant laws of any territory of which you are a citizen, national, or subject, and of any territory in which you are resident from time to time, and of any other territory from which you access the Kasih AP Gold Platform, the laws of the countries in which the Vaults are located (where applicable), and including, without limitation, the laws of Malaysia; and
  - iv. to authorize and allow Kasih AP Gold to disclose your personal information and documents to parties providing loan, credit and/or any other financial services to you.
- 4. You understand, acknowledge and agree that:
  - i. the gold recorded in your Kasih AP Gold Account is held by Kasih AP Gold as bailee and is stored in a Vault;
  - ii. if you register and hold a Kasih AP Gold Account, the total value of all your transactions (buying and selling gold) is unlimited subject to availability of Gold during the transaction period.
  - iii. you may only sell your gold in denomination of 1 gram and the proceed of sale will be credited into your personal bank account registered in Kasih AP Gold Account;

- iv. you may purchase gold without any transaction limit. This limit may be varied from time to time at the discretion of Kasih AP Gold, without prior notice to you.
- v. you are entitled to use a promotion code only once in your lifetime as a Customer. For the avoidance of doubt, if you have used a promotion code to claim a reward, you are not eligible to use any other code to claim another reward.
- vi. any gold purchased and recorded in your Kasih AP Gold Account is not a deposit with or loan to us and your Kasih AP Gold Account is not a bank account under the Financial Services Act 2013 (as amended);
- vii. any money or gold balance incorrectly credited to any of your Kasih AP Gold Accounts shall be subject to a clawback or recoupment policy currently in effect or as may be adopted by Kasih AP Gold. Such a decision is at the sole discretion of Kasih AP Gold.
- viii. any money standing to the credit of your Kasih AP Gold Account represents payment for gold that you intend to purchase under this Agreement and Kasih AP Gold is authorized without any further action required from you and without prior notice to you to convert such money to gold, at a price and subject to fees determined under clauses 6 and 8, at any time and from time to time
- ix. any money unutilized constitutes a non-interest bearing security deposit that is held by us as security against any breach of your obligations under this Agreement and may be applied by us

towards the performance of any obligation you owe to us under this Agreement;

- x. there is no interest payable to you on any amount in your Kasih AP Gold Account;
- xi. the gold in your Kasih AP Gold Account is insured under insurance policies arranged by the Vault Operators and are not insured by the Perbadanan Insurans Deposit Malaysia.
- xii. you are only allowed one Kasih AP Gold Account per mobile phone and per mobile phone number and it is your responsibility to retain control of your mobile number. If you change your phone or phone number, then you are to delete the Kasih AP Gold app and re-install the same onto your new phone. It is your duty and obligation to inform us if your mobile phone is lost or stolen. Kasih AP Gold reserves the right to close the account(s) where there is duplication of transactions on different phones. Kasih AP Gold reserves the right to close accounts which are dormant and/or lock accounts whenever necessary.
- xiii. it is your responsibility to verify the email address and details of the person you are sending gold to, and also to approve yourself as a gift contact via email.
- xiv. the Kasih AP Gold Account can be operated on most Android devices and iOS devices subject to any restrictions or settings applicable to the devices.
- xv. except as required by law, no person shall be recognized by Kasih AP Gold as holding any gold under this Agreement upon any trust, whether, express, implied or constructive, and Kasih AP Gold shall not be bound by or be compelled in any way to

recognize (even when having notice thereof) any equitable, contingent, future, or partial interest in your Kasih AP Gold Account except an absolute right to the entirety of the Kasih AP Gold Account.

5. You acknowledge that the Kasih AP Gold Platform and the Kasih AP Gold Services do not constitute a “capital market service” under the Capital Markets and Services Act 2007 (as amended), trading of, or an exchange in, securities, investment contracts or any document, instrument or writing commonly known as a “security” or “derivative”, at law or otherwise.
6. You understand that you may only purchase or sell gold through your Kasih AP Gold Account by way of:
  - i. transfers to, or from, a personal bank account, in your own name which you have linked to your Kasih AP Gold Account; or
  - ii. physical withdrawals of gold as described in clause 6.2 & 9;
7. To be eligible to use the Kasih AP Gold Services, you must be at least 18 years old or the applicable age of majority and contractual capacity if you reside in a jurisdiction where the age of majority or contractual capacity is above 18 years of age. By accessing or using the Kasih AP Gold Services, you represent and warrant that you are both over the age of 18 years old and of the applicable age of majority and contractual capacity in the jurisdiction in which you reside.
8. If you intend to do gold saving for your children below 18 years of age, you shall nominate as beneficiary the name of the said children together with proof of birth certificate.

9. The nominated children will be given the option to take over the Kasih AP Gold Account once reaching age of 18 years and 1 day.

### **3. COMMUNICATIONS**

1. Communications between you and Kasih AP Gold may be conducted through Kasih AP Gold Platform only. Any instructions that you give to us in any such manner will have the same legal effect as if you gave them to us in traditional written form. You agree that all telephone calls and electronic communications may be recorded and kept by us as a record of your communications only.
2. You are responsible for the accuracy of your instructions for all transactions in your Kasih AP Gold Account and through the Kasih AP Gold Platform. Instructions once sent, in any form acceptable under the Kasih AP Gold Platform in relation to your Kasih AP Gold Account, are final and irrevocable. It is your responsibility to ensure that your personal information registered on the Kasih AP Gold Platform is accurate at all times.
3. You agree to promptly review the transaction history and any account statements pertaining to your Kasih AP Gold Account that you receive to ensure that your instructions have been carried out and that there have been no unauthorized dealings in your Kasih AP Gold Account. You must inform us of any errors or omissions within seven (7) calendar days of the disputed transaction(s).

### **4. CUSTOMER DUE DILIGENCE**

1. You agree to provide Kasih AP Gold with such information as Kasih AP Gold may require or request, in its discretion, in relation to this



Agreement and your relationship with Kasih AP Gold, including all information required to comply with all applicable laws and regulations, including all applicable anti-money laundering rules and regulations.

2. Without prejudice to the generality of the foregoing, you must provide a copy of your current valid government-issued photo identification document with MRZ (Machine Readable Zone) details visible and/or such other identifying and verifying information or documents as we determine from time to time in our discretion (the "ID Documentation") at a time to be determined by us, including prior to opening a Kasih AP Gold Account, prior to funding your Kasih AP Gold Account, prior to purchasing gold or withdrawal of any gold or money in your Kasih AP Gold Account, upon your funding reaching a certain level prescribed by us, or at any other time at our discretion.
3. You agree that your ID Documentation will be a colour reproduction of the original document without obstruction, of sufficient size, resolution and legibility. You agree that Kasih AP Gold is entitled to perform a background check prior to approving your application to open a Kasih AP Gold Account or at any other time during the course of the relationship at our discretion. You further consent to Kasih AP Gold contacting credit bureaux to obtain information about you for purposes of confirming your identity under applicable "know-your-customer" rules. You understand that failure to provide any of the information we request from time to time under such rules may result in your Kasih AP Gold Account being frozen and/or terminated without any notice to you.
4. You represent and warrant to us at all times that, to the best of your knowledge, any information provided to us by you is complete,

accurate, and not misleading in any material respect and you agree to notify us should such information change.

## **5. SECURITY AND PRIVACY**

1. To protect your privacy and information about your Kasih AP Gold Account and access to your account, when you open a Kasih AP Gold Account, you must create a Password. Unless you enter the correct Password upon logging in to your Kasih AP Gold Account, we are unable to take your instructions regarding your Kasih AP Gold Account. You are responsible for, and give us your authorization to carry out, all instructions given to us online where and when your correct Password is entered to access your Kasih AP Gold Account. Kasih AP Gold will not be liable to you for any loss or claim arising out of our relying on oral or electronic instructions provided to us using your Password.
2. You accept that it is your responsibility to keep your Password confidential. You alone are responsible for your Password security. When you give us instructions by cellular phone, email, or other non-secure methods, including instructions sent through the Mobile App, we cannot guarantee confidentiality because third parties can intercept those methods of communication. If you suspect that any other person has become aware of your Password, you must immediately notify us in writing by email or via the Kasih AP Gold Application customer service chat and you agree to cooperate with us in any subsequent investigation. Until you notify us, you will be liable for all transactions that are made using your Password. In addition to Passwords, you may be required to adopt other security measures that we make available to protect the security of your information.

3. You must exercise safe security practices when accessing and conducting electronic transactions. This includes signing out and closing any online electronic transaction services once all transactions have been completed regardless of your method of accessing the Kasih AP Gold Platform. You must also maintain any security measures that we recommend relating to requirements for encryption technology, virus scanning, software, firewall systems, anti-spyware software, cybersecurity measures and similar safeguards to maintain security for all electronic transaction activities.
4. Kasih AP Gold does not store Passwords on the backend, only on the user's phone; consequently only one device can be used by a user for one account at any point in time.
5. Every network communication with Kasih AP Gold servers is secured by the Transport Layer Security (TLS) protocol.
6. Kasih AP Gold maintains the master copy of ownership records. Records relating to you and your Kasih AP Gold Account will only be modified upon the execution of your valid instructions, in accordance with the terms of this Agreement.
7. On a regular and frequent basis, but no more frequently than daily, Kasih AP Gold will publish reconciled and anonymized customer-by-customer records of ownership of all the bullion in the vaults held by customers to both internal and independent external sources.

## **6. PRICE**

1. You agree that the price for any purchase or sale of gold for any transaction within your Kasih AP Gold Account will be based on the Best

Bid or Offer (“BBO”) as calculated by our pricing engine. The pricing engine, among other things, collects and distributes real-time gold prices from its bullion counterparties quoting bids and offers for the purchase or sale of physical gold bullion from each respective Bullion Provider Kasih AP Gold transacts with. You accept that the BBO is determined at Kasih AP Gold’s sole and absolute discretion taking into account all factors it deems relevant, including without being limited to the prevailing world and local market conditions for gold, the exchange rate between United States Dollar (or any other foreign currency adopted) and Ringgit Malaysia and the gold fineness. Every gold transaction in your Kasih AP Gold Account is executed at the BBO plus the current prevailing fee published, if applicable on the Kasih AP Gold Platform.

2. Physical deliveries of gold are subject to a processing fee to be paid separately upon notification and instruction given by Kasih AP Gold. Taking possession of physical gold will incur shipping and insurance surcharges which will be confirmed with you in advance. Requested transactions may not be processed if payment has not been properly paid.
3. Storage fees will apply for gold stored with the Vault Operators, at rates prescribed by Kasih AP Gold from time to time.

## **7. GOLD QUALITY, PURITY, AND AUDITING**

1. Kasih AP Gold takes only assayed bullion bars as good delivery from recognized counterparties, bullion-dealers, and bullion-banks according to best industry-practices which exist in the market.

2. All physical gold purchased by you will be stored at a Vault Operator upon purchasing the metal in your Kasih AP Gold Account.
3. Kasih AP Gold deals exclusively in investment gold bullion being not less than 99.5% purity and of a weight and manufacturer accepted by the global bullion markets such as LBMA, COMEX or other globally recognized bullion markets.
4. Kasih AP Gold accounting units of gold, in accordance 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 Kasih AP Gold Account are 99.99% pure gold content (fine gold) of a 99.5% (or greater) assayed bullion bar denominated in grams.
5. Kasih AP Gold confirms that it has obtained a representation from its gold bullion counterparties that every gram of gold purchased by Kasih AP Gold for Kasih AP Gold Accounts is a gram of the 99.99% pure gold content (fine gold) of a 99.5% (or greater) assayed bullion bar held in the relevant Vault.

## **8. STORAGE AND INSURANCE**

1. You authorize us to arrange for the storage, transportation, and insurance of your gold. We will hold your gold as bailee and enter into storage agreements with gold vault operators selected by Kasih AP Gold in its sole discretion (a "Vault Operator").
2. All storage agreements with Vault Operators are entered into by Kasih AP Gold.

3. Any storage agreement entered into by Kasih AP Gold with a Vault Operator provides that gold allocated under the storage agreement will be specifically identified and physically segregated at all times.
4. You authorize us to act as bailee and to provide instructions to the Vault Operator and insurance company in such capacity under the terms of the bailment.
5. Notwithstanding any other term, Kasih AP Gold is not responsible for the physical storage and safekeeping of your gold bullion. That responsibility lies with the Vault Operator. Beyond committing to ensure adequate insurance is in place in relation thereto, as set forth in clause 8.6 below, Kasih AP Gold has no responsibility or liability relating to the storage of gold.
6. Kasih AP Gold will 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 Kasih AP Gold in respect of custody of your bullion.
7. Kasih AP Gold confirms to you that, in each storage agreement, the Vault Operator agrees to provide Kasih AP Gold with documentary evidence of insurance.

## **9. FEES AND LIMITS**

1. You may, by initiating a withdrawal request via the Kasih AP Gold Platform, together with such identifying information as requested by Kasih AP Gold and on behalf of the Vault Operator, at any time request physical delivery of your gold to you, provided that you hold sufficient

gold (as specified in clause 9.2) and subject to the withdrawal limits described below.

2. Physical withdrawals of gold are subject to a minimum quantity in the form of whole grammes when making a physical withdrawal request through the Kasih AP Gold Platform. Physical withdrawals of gold may be subject to daily maximum withdrawal limits. You are responsible for the payment of any insurance, delivery, and transportation fees, which will be advised to you and agreed with you in advance.
3. You may sell the gold in your Kasih AP Gold Account by transferring funds to your personal bank account. You may make a request to withdraw your funds in your Kasih AP Gold Account. The gold in your Kasih AP Gold Account will then be sold at the prevailing market price at the time of the withdrawal pursuant to clause 6. The transfer of funds between your Kasih AP Gold Account and your personal bank account may be subject to spending limits based on your gold balance and maximum daily allowance that is prescribed by our third-party banking operator.
4. Kasih AP Gold reserves the right to reject any incoming or outgoing wire. Outgoing wire instructions may be rejected if the details provided are insufficient, the receiving institution cannot be identified, it is uneconomical to do so, the currency is not one of currencies accepted by Kasih AP Gold from time to time or if there are insufficient net funds in the Kasih AP Gold Account. Incoming wire transfers will be rejected if they are sent from a third party or from a bank in a country which Kasih AP Gold deems to pose a high risk.

## **10. USAGE OF PERSONAL DATA**

We use Personal Data provided to us by you or through documents sent to us via Kasih AP Gold Platform for only the following purposes ("Purposes"):

1. to communicate with you;
2. to maintain and improve customer relationship;
3. to assess, process and provide products, services and/or facilities to you;
4. to administer and process any payments related to products, services and/or facilities requested by you;
5. to establish your identity and background;
6. to respond to your enquiries or complaints and resolve any issues and disputes which may arise in connection with any dealings with us;
7. to provide you with information and/or updates on our products, services, upcoming promotions offered by us and/or events organised by us and selected third parties which may be of interest to you from time to time;
8. for direct marketing purposes via SMS, Whatsapp, Telegram, phone call, email, fax, mail, social media and/or any other appropriate communication channels to members of our loyalty programmes in accordance with their consent;
9. to facilitate your participation in, and our administration of, any events including contests, promotions or campaigns;
10. to maintain and update internal record keeping;
11. for internal administrative purposes;



12. to send you seasonal greetings messages from time to time;
13. to send you invitation to join our events and promotions and product launch events;
14. to monitor, review and improve our events and promotions, products and/or services;
15. to process any payments related to your commercial transactions with us;
16. to process and analyse your Personal Data either individually or collectively with other individuals;
17. to conduct market research or surveys, internal marketing analysis, customer profiling activities, analysis of customer patterns and choices, planning and statistical and trend analysis in relation to our products and/or services;
18. to share any of your Personal Data with the auditor for our internal audit and reporting purposes;
19. to share any of your Personal Data pursuant to any agreement or document which you have duly entered with us for purposes of seeking legal and/or financial advice and/or for purposes of commencing legal action;
20. to share any of your Personal Data with our joint venture/business partners to jointly develop products and/or services or launch marketing campaigns;

21. to share any of your Personal Data with insurance companies necessary for the purpose of applying and obtaining insurance claims, if necessary;
22. for audit, risk management and security purposes;
23. for detecting, investigating and preventing fraudulent, prohibited or illegal activities;
24. for enabling us to perform our obligations and enforce our rights under any agreements or documents that we are a party to;
25. to transfer or assign our rights, interests and obligations under any agreements entered into with us;
26. for meeting any applicable legal or regulatory requirements and making disclosure under the requirements of any applicable law, regulation, direction, court order, by-law, guideline, circular or code applicable to us;
27. to enforce or defend our rights and your rights under, and to comply with, our obligations under the applicable laws, legislation and regulations;
28. for other purposes required to operate, maintain and better manage our business and your relationship with us, which we notify you of at the time of obtaining your consent;

## **11. LIMITATION OF LIABILITY; NO WARRANTIES**

1. Kasih AP Gold, its agents, employees, or officers, shall under no circumstances be liable:

- i. to you, whether in contract, tort, breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement;
- ii. for any special, general, direct, indirect, incidental or consequential damages, even if we had been advised of the possibility thereof;
- iii. for any fees, duties, taxes, or loss as a result of theft or any other loss of gold after it has been removed from the Vault at your request for delivery or collection;
- iv. for any damages resulting from latent defect, loss of data or loss of profits;
- v. for any damages resulting from any of your instructions not being sufficiently clear or any failure by you to provide correct or requested information;
- vi. for any loss as a result of risks associated with online trading, including software and hardware failure latent defect, loss of data, delays, failure, errors, omissions, or losses of transmitted information or instructions, power outages, internet failure, hackers, denial of service (DoS) attacks, viruses, or other contaminating or destructive properties;
- vii. for any penalties, fees, interest, costs or damages imposed upon or incurred by you with respect to any transfers or payments, or for our inability to retrieve electronic payments from accounts held at financial institutions.

2. Kasih AP Gold will not be in breach of this Agreement or otherwise liable for any loss suffered or incurred as a result of any delay in performance or any non-performance of any obligations under this Agreement (and, where relevant, the time for performance will be extended accordingly) if and to the extent that the delay or non-performance is owing to:
  - i. Force Majeure; or
  - ii. neglect, serious fault or wilful misconduct on the part of you including any failure to keep your Password secure and any failure to comply with this Agreement or associated policies.
3. In case of Force Majeure, we will use our reasonable endeavours to mitigate the effect of the Force Majeure and to carry out our obligations under this Agreement in any other way that is reasonably practicable. We will, as soon as reasonably practicable, notify you of the nature and extent of the circumstances giving rise to Force Majeure. If the Force Majeure in question prevails for a continuous period in excess of six (6) months after the date on which the Force Majeure begins, you shall be entitled to give notice to us to terminate this Agreement in accordance with clause 13.
4. In the case of market distortion, volatile markets, systems (including third party systems upon which Kasih AP Gold is reliant) being hacked, and market disruption, Kasih AP Gold reserves the right to adjust an order if the metal and currency quotes received from Kasih AP Gold's data source, when the order was placed, is found to be incorrect. Kasih AP Gold will contact you if an order needs to be adjusted due to incorrect market data, and you may cancel the order if you do not want to trade on the corrected market rate.

5. Our total liability to you in respect of any losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Kasih AP Gold Account at the time of the alleged claim, subject always to a maximum liability limit of \$10 (ten) United States dollars or equivalent.
6. Information sent over the Internet may not be completely secure and the Internet and related online systems may not function at all times. We are not responsible for any loss or damages you may incur if a third party obtains access to your confidential information transmitted over the Internet or if you are temporarily unable to determine your balance on the Kasih AP Gold Platform.
7. If you grant express permission for a third party to connect to your Kasih AP Gold Account, either through the third party's product or through the Kasih AP Gold Services, you acknowledge that granting permission to a third party to take specific actions on your behalf does not relieve you of any of your responsibilities under this Agreement. Further, you acknowledge and agree that you will not hold Kasih AP Gold responsible for, and will indemnify Kasih AP Gold from, any liability arising from the actions or omissions of this third party in connection with the permissions you grant.
8. Kasih AP Gold shall not be responsible for any loss or damages resulting from any failure on your part to conduct appropriate due diligence on parties with whom you choose to deal. You accept that you may make and receive payments from other Kasih AP Gold users and understand that Kasih AP Gold does not accept liability for the fraudulent or

misleading actions of parties to whom you make and from whom you receive payments. It is your entire responsibility to conduct appropriate due diligence and your choice whether or not to make a payment or agree to receive a payment in return for goods or services.

9. You will not be held responsible for any fraudulent transactions on your Kasih AP Gold Account directly resulting from:

- i. fraudulent, or grossly negligent acts committed by us; or
- ii. a breach of security of the Kasih AP Gold Platform except where such transactions resulted from the misuse of your Password.

10. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, KASIH AP GOLD DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

11. This clause 11 shall survive termination of the Agreement or closure of any Kasih AP Gold Account.

## **12. INDEMNITY**

1. Subject to clause 11 above, except to the extent that it results from Kasih AP Gold's gross negligence or wilful default or arises from any contravention or breach by Kasih AP Gold of any applicable law, you irrevocably and unconditionally agree to indemnify and keep Kasih AP Gold and its directors, officers, employees, and agents indemnified against any loss, claim, damage, cost, or expense or any other liability whatsoever (including, without limitation, legal fees on a full indemnity basis and all taxes and other duties payable in connection therewith) which may be suffered:

- i. in connection with any service provided to you under this Agreement;
  - ii. as a result of your failure to comply with its obligations under this Agreement;
  - iii. in the enforcement of this Agreement; or
  - iv. in connection with any instruction given by you, any transaction effected for you or any service provided to you, including any action properly taken by Kasih AP Gold or by its agents under this Agreement.
2. The indemnity in this clause 12 shall continue notwithstanding the termination of this Agreement or closure of any Kasih AP Gold Account.

### **13. TERM AND TERMINATION**

1. This Agreement will remain in effect and will bind you and us until such time as your Kasih AP Gold Account is closed. We may, at our absolute discretion, close your Kasih AP Gold Account and terminate this Agreement by notice to you with immediate effect for any reason whatsoever, including any breach of this Agreement by you or if you become a bankrupt. You may close your Kasih AP Gold Account and terminate this Agreement by giving written notice to us if your Kasih AP Gold Account has a nil or zero balance.
2. Kasih AP Gold reserves its right to immediately suspend or terminate your access to any or all of the Kasih AP Gold Services and/or deactivate or cancel your Kasih AP Gold Account if you are in default, including if
3. Kasih AP Gold is required to do so by a valid subpoena, court order, or order from a regulatory authority, or otherwise required by law,

- i. your Kasih AP Gold Account is being misused or Kasih AP Gold suspects that it is being used in furtherance of illegal activity (with or without actual knowledge of the same),
  - ii. you take any action to circumvent Kasih AP Gold's controls, including, but not limited to, opening multiple Kasih AP Gold Accounts or abusing promotions which Kasih AP Gold may offer from time to time, or
  - iii. if you are in breach of this Agreement.
- 4. You will be permitted to transfer the balance in your Kasih AP Gold Account after ninety (90) days have elapsed following Kasih AP Gold Account deactivation or cancellation unless such transfer is prohibited by a valid subpoena, court order, order from a regulatory authority, or otherwise prohibited by law. You are responsible for arranging the transfer by way of physical withdrawal of gold or movement of funds to a bank account after your Kasih AP Gold Account deactivation or cancellation.
- 5. You will not be charged for cancelling your account and will only be required to pay for those Kasih AP Gold Services used that are subject to charges. If any transaction is in a pending state at the time your account is cancelled or suspended, such transaction may be cancelled and/or refunded as appropriate. You may not cancel your account to evade an investigation or avoid paying any amounts otherwise due to Kasih AP Gold.
- 6. Upon suspension or cancellation of your account, you authorize Kasih AP Gold to cancel or suspend pending transactions and hold the funds associated with such transactions until Kasih AP Gold is certain that



funding reversal windows are complete. In the event that Kasih AP Gold closes your account or terminates your access to the Kasih AP Gold Services, or deactivates or cancels your account, you will remain liable for all amounts due hereunder.

7. Any accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination. Any clauses of this Agreement which expressly or by implication have effect after termination shall continue in full force and effect.
8. In the event that a technical problem causes system outage or account errors, Kasih AP Gold may temporarily suspend access to your Kasih AP Gold Account until the problem is resolved.

#### **14. DEATH OR INCAPACITY**

1. If you die or otherwise become incapacitated, and evidence of such is produced to us by your legal personal representative(s), which we deem to be sufficient in our absolute discretion, you authorize us to sell the gold in your Kasih AP Gold Account at the prevailing market price and release the funds (after deducting all applicable fees and charges) to your legal personal representative. In such an event, your legal personal representative shall be the only person(s) recognised by Kasih AP Gold as having any title or legal rights to your Kasih AP Gold Account.
2. Nothing in this Agreement shall release the estate of a deceased Customer from any liability in respect of the Kasih AP Gold Account.

#### **15. TAX**

1. You are responsible for paying all local taxes and tariffs that are or may be applicable to purchases, conversion, sale or custody of gold, and any associated charges.

## **16. INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

1. You acknowledge that any and all of the intellectual property rights including, without limitation, the Kasih AP Gold trademark, any other trademarks, trade names, copyright and other rights used or embodied within the Kasih AP Gold Platform are and will remain Kasih AP Gold's sole property.
2. All information and material which we supply to you, excluding your account balances and other information specific to your account, constitutes part of our confidential and proprietary information except for any such information or material in the public domain through no fault of yours. You may not reproduce, copy, or disclose such confidential and proprietary information without our prior written consent.
3. You warrant that you will not, nor will you attempt to, tamper with, modify, reverse engineer, gain unauthorised access to, or in any way alter any of our software or the Kasih AP Gold Platform. You understand that we may close your account immediately, and may take legal action against you if you breach, or we reasonably suspect that you may have breached, this warranty.

## **17. MISCELLANEOUS**

1. Assignment

- i. Kasih AP Gold may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.
- ii. You shall not, without the prior written consent of Kasih AP Gold, assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights or obligations under this Agreement.

## 2. Right of set-off

- i. You shall be under an obligation to pay all amounts due under this Agreement in full without any deduction or withholding except as required by law and you shall not be entitled to assert any credit, set-off, or counterclaim against Kasih AP Gold in order to justify withholding or disputing payment of any such amount in whole or in part.
- ii. Kasih AP Gold may, without limiting its other rights or remedies, set-off any amount owing to it (or to any of its affiliates) by you against any amount payable by Kasih AP Gold to you.

## 3. Currency

- i. Any and all monetary amounts displayed in the Kasih AP Gold Platform are in Ringgit Malaysia.
- ii. Currency conversions are performed from time to time.
- iii. Kasih AP Gold itself does not charge currency conversion fees and shall not be liable for any fees, charges, or conversion rates on international transactions which may be charged by credit card issuers, financial institutions, or banks.

#### 4. Entire agreement

- i. This Agreement constitutes the whole and only agreement between the parties relating to the subject matter of the Agreement. Each party to the Agreement acknowledges that, except in the case of fraud, in entering into this Agreement, it is not relying on any pre-contractual statement which is not repeated in this Agreement.
- ii. Except in the case of fraud by either party, no party shall have any right of action against the other party arising out of or in connection with any pre-contractual statement except to the extent that it is repeated in this Agreement.
- iii. This Agreement applies to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

#### 5. Variation

- i. Except as set out in this Agreement, any variation, including the introduction of any additional terms and conditions, to the Agreement, shall only be binding when agreed in writing and signed by an authorised signatory of Kasih AP Gold.
- ii. We shall have the right, by notice in writing to you, to add to, alter, vary, supplement, or modify all or any parts of the Agreement at any time as we may consider necessary or desirable in order to reflect changes in the law, to meet regulatory requirements or to reflect new industry guidance and codes of practice or changes to our notices, policies and operating procedures.

- iii. We may vary or amend the terms or provisions of this Agreement (including those relating to fees), by giving you written notice of any variation or amendment, which notice, if posted to your Kasih AP Gold Account or email address, shall be deemed to have been received by you on the day it was posted.
- iv. You shall be deemed to have agreed to any variation or amendment of the terms or provisions of this Agreement if you continue to use our services after the date specified in the notice as the effective date of such variation or amendment. If you do not wish to be bound by any variation or amendment notified to you in accordance with this clause 17.5, you may terminate this Agreement in accordance with clause 13.1 and must notify us in writing without delay and, in relation to variation or amendment under clause 17.5(c), before the expiry of the notice period.

#### 6. Severability

In the event any provision (or part of any provision) of this Agreement shall for any reason be held by a court or any other competent authority to be invalid, illegal, or unenforceable, that provision, to the extent required, shall be deemed deleted and the remaining provisions shall remain valid and enforceable.

#### 7. Rights of third parties

A person who is not a party to this Agreement shall not have any rights under or in connection with it.

#### 8. No agency or partnership

Except as otherwise expressly provided for in this Agreement, nothing in this Agreement is intended to, or shall be deemed to, constitute a trust, partnership or joint venture of any kind between any of the parties, nor constitute any party a fiduciary or agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

#### 9. Notices

- i. Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be sent to the other party, such notice shall be deemed to have been duly received on the same day as it is sent.
- ii. This clause 17.9 shall not apply to the service of any proceedings or other documents in any legal action, which documents must be sent to Kasih AP Gold's registered address, as published on the Kasih AP Gold Website from time to time.

#### 10.No waiver

- i. A waiver of any right under this Agreement is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- ii. Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

#### 11. Governing law

- i. This Agreement is governed by the laws of Malaysia applicable therein. In the event of a dispute but subject to clause 17.11(b) below, you agree that the courts of Malaysia will be competent to hear such dispute, and you agree to be bound by any judgment of that court.
- ii. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be decided by arbitration in accordance with the Rules for Arbitration of the Asian International Arbitration Centre. The number of arbitrators shall be three. The place of arbitration shall be Kuala Lumpur. The language used in the arbitration proceedings shall be English. Any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction.

#### 12. Void where prohibited

Although the Kasih AP Gold Platform is accessible worldwide, not all features, products or services discussed, referenced, provided or offered through or on the Kasih AP Gold Platform are available to all persons or in all geographic locations, or appropriate or available for use outside of Malaysia. Kasih AP Gold reserves the right to limit, in its sole discretion, the provision and quantity of any feature, product or service to any person or geographic area. Any offer for any feature,

product or service made on the Kasih AP Gold Platform is void where prohibited. If you choose to access the Kasih AP Gold Platform from outside Malaysia, you do so on your own initiative and you are solely responsible for complying with applicable local laws. Kasih AP Gold is not responsible or liable for any legal action, loss or damage arising from or in connection with any illegality or breach of law arising from you accessing or initiating a transaction on the Kasih AP Gold Platform outside Malaysia.

### 13. Language

The parties to this Agreement have requested that this Agreement and any related document be written in English. Notwithstanding any other provision of this Agreement, any translation of this Agreement is provided solely for your convenience. The meanings of terms, conditions and representations herein are subject to definitions and interpretations in the English language. Any translation provided may not accurately represent the information in the original language of English.

### 14. Stamp Duty

The stamp duty for this Agreement shall be borne by Kasih AP Gold.