



Terms of Business



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IMPORTANT NOTE TO CLIENT

YOUR ATTENTION IS DRAWN, IN PARTICULAR, TO THOSE TERMS THAT ARE FULLY CAPITALISED AND BOLDED INCLUDING BUT NOT LIMITED TO CLAUSES: 4 (RELATING TO RISKS), 7.5 (RELATING TO OUR RIGHT TO VARY YOUR SPREADS AND/OR MOVE YOU TO A DIFFERENT PRICE STREAM), 9.6 (RELATING TO OUR RIGHT TO REFUSE TO ACCEPT, REFUSE TO EXECUTE AND/OR TO CANCEL INSTRUCTIONS FROM YOU), 14.11 (RELATING TO OUR RIGHT TO SET-OFF), 20.4 (RELATING TO OUR RIGHT TO CLOSE OUT YOUR POSITIONS IN THE EVENT OF INSUFFICIENT MARGIN), 20.5 (RELATING TO OUR RIGHT TO CLOSE OUT YOUR POSITIONS WHEN YOU REACH OR FALL BELOW YOUR LIQUIDATION LEVEL), 20.7 (RELATING TO OUR RIGHT TO INCREASE MARGIN REQUIREMENTS), 23.2 (RELATING TO OUR RIGHTS IN THE EVENT OF DEFAULT BY YOU), 24.3 (RELATING TO OUR RIGHTS IN THE CASE OF AN EXCEPTIONAL EVENT), 25.1 (RELATING TO OUR RIGHTS IN THE CASE OF MANIFEST ERROR OR A DETERMINATION THAT YOU ARE USING AN ABUSIVE STRATEGY), AND 6.3 OF SCHEDULE B (RELATING TO OUR RIGHTS TO CLOSE CERTAIN CFD CONTRACTS).

1. Introduction

- 1.1 Stratos Trading Pty. Limited (“we”, “us”, or “our”) is authorised and regulated by the Australian Securities and Investments Commission (“ASIC”). We are the holder of an Australian Financial Services Licence (“AFS Licence”) issued by ASIC and numbered 309763. Our registered address is Suite 2, Part Level 12, 530 Collins Street, Melbourne, VIC, 3000, Australia. We operate these services under the trading name “FXCM”.
- 1.2 This document together with its schedules constitutes our terms of business and is referred to as the “Terms”. These Terms set out the basis upon which we will provide you with the Services detailed in clause 7.
- 1.3 **THESE TERMS ARE A LEGALLY BINDING CONTRACT BETWEEN YOU AND US AND SO IT IS IMPORTANT THAT YOU READ THEM CAREFULLY.** If there is anything in these Terms which you do not understand you should contact us as soon as possible or take independent advice. These Terms may be executed electronically with your electronic signature. If you choose to adopt this method of signing, you warrant and represent that you have requisite authority and capacity to execute these Terms with your electronic signature and you intend to be bound by the Terms you sign electronically.
- 1.4 These Terms supersede all our previous terms and conditions and any amendments thereto and are effective from either the specified issue date or the date you start conducting business with us.
- 1.5 Capitalised words or phrases used in these Terms are defined at clause 2 and throughout these Terms and have, unless the context requires otherwise the meanings set out in that clause.
- 1.6 For the avoidance of doubt, the schedules attached hereto form part of the Terms.
- 1.7 For the purposes of these Terms references to “you” or “your” refer to you, unless otherwise stated.
- 1.8 In addition to these Terms, our agreement with you consists of the following documents:
- (a) our Rate Card;
 - (b) if you are a Retail Client, the Product Disclosure Statement (“PDS”) for each product made available by us, which contains information about the product including significant risks associated with trading in the product, key features of the product, and fees and charges that may be payable by you;
 - (c) our Execution Risks Policy;
 - (d) any application or form that you submit to open, maintain or close an Account; and
 - (e) any specific terms and conditions relating to our website, which will be clearly displayed on the website.

All of these documents plus these Terms are together referred to as the “Agreement”. Unless we have agreed

in writing with you that any part of this Agreement is not to apply, the Agreement constitutes the entire agreement between us with respect to the Products and Services we may provide to you under the Agreement. These documents are available on our website at www.fxcm.com/au or from us on request. By signing our application form or by electronically submitting your application on our website or, if applicable, via a mobile application, you confirm that you accept and agree to be bound by the terms of the Agreement. When we open an Account for you, you will be bound by the Agreement in your dealings with us. If you are a Retail Client, to the extent of any inconsistency between the PDS and the remainder of the documents forming the Agreement, the terms of the PDS will prevail.

- 1.9 There is some further information available, which provides more detail about us and our services, but which do not form part of the Agreement. This includes:
- (a) the Financial Services Guide, which explains the range of financial services and types of financial products that we are authorised to provide under our AFS Licence;
 - (b) our ‘Conflicts of Interest Policy’, which explains how we handle conflicts of interest in a manner that treats customers fairly;
 - (c) our ‘Privacy Policy’, which explains how we deal with personal information that you provide to us;
 - (d) any instructions, guides and worked examples published or provided by us explaining how to enter into and close Transactions on the Trading Facility;
 - (e) our ‘Risk Warning Notice’, which summarises the key risks of our Products and Services; and
 - (f) our ‘Complaints Handling Procedure’, which details how we deal with customer complaints.

- 1.10 These Terms and any other documents constituting the Agreement, and all information, statements and notifications will be in English and we will communicate with you in English. We may provide you with copies of documents (including these Terms) in other languages, however only the English versions of documents will represent the Agreement between us.

2. Definitions and Interpretation

- 2.1 In these Terms, the following words and phrases shall, unless the context otherwise requires, have the following meanings and may be used in the singular or plural as appropriate:

“Access Code” means any password(s), username, or any other security code issued by us to you, which would allow you to utilise our Services;

“Account” means any account that we maintain for you for dealing in the Products or Services made available under these Terms and in which your money is held and to which P&L is debited and credited;

“Account Statement” shall mean a periodic statement of the Transactions and/or charges credited or debited to an Account at a specific point in time;

“AFS Licence” means Stratos Trading Pty. Limited’s Australian Financial Services License (Number 309763);

“Agency Agreement” means the document, being a simple contract, letter of direction, power of attorney or otherwise, through which you appoint an Agent or representative to act and/or give instructions on your behalf in respect of the Agreement;

“Agent” means an individual person or legal entity undertaking a Transaction on behalf of another individual person or legal entity in his/its own name or in your name;

“Applicable Regulation” means the Corporations Act 2001 (Cth), Corporations Regulations 2001 (Cth), or any other rules of a relevant regulatory authority including ASIC, or any other rules of a relevant Market and all other applicable laws, rules and regulations as in force from time to time;

“ASIC” means the Australian Securities and Investments Commission or any successor organisation or authority;

“Associated Company” means us, and any associated entity as defined by section 9 of the Corporations Act 2001 (Cth);

“Base Currency” is the currency in which your Account is denominated and in which we will debit and credit your Account;

“Business Day” means any day other than a Saturday or Sunday where the banks are open for general commercial business in NSW, Australia;

“CFD” means a ‘contract for difference’ which is a contract based upon the price of an Underlying Instrument and for which the profit and loss is determined by the opening and closing price of the contract;

“Client Money” has the meaning given in the Client Money Rules;

“Client Money Rules” means the client money rules set out in Part 7.8 of the Corporations Act 2001 (Cth) and the Applicable Regulations;

“Closing Date” means the date on which a Transaction is closed by either you or us in accordance with these Terms;

“Closing Notice” means a notice given to you by us to close all or part of any Transaction (margined or otherwise) via the Trading Facility or by telephone;

“Closing Price” means the price as reasonably determined by us at the time a Transaction is closed out in accordance with these Terms;

“Confirmation” means a notification from us to you confirming your entry into a Transaction;

“Contract Quantity” means the total number of shares, contracts or other units of the Underlying Instrument that you are notionally buying or selling;

“Contract Value” means the Contract Quantity multiplied by our then current quote for closing the Transaction;

“Credit Support Document” means any guarantee, hypothecation agreement, margin or security agreement, or any other document containing an obligation of a third party or of you in favour of us supporting any of your obligations under these Terms;

“Credit Support Provider” means any person who has entered into any guarantee, hypothecation agreement, margin and/or security agreement in our favour with respect to your obligations under these Terms;

“Custodian” has the meaning given to it in clause 23.1(e) of these Terms;

“Event of Default” means any of the events listed in clause 23.1 of these Terms;

“Exceptional Event” has the definition given to it in clause 24.1 of these Terms;

“Exceptional Market Event” means the suspension, closure, liquidation, imposition of limits, special or unusual terms or circumstances (including, without limitation, negative price of a Product or Underlying Instrument), excessive movement, volatility, or loss of liquidity in any relevant market or Underlying Instrument, or where we reasonably believe that any of the above circumstances are about to occur;

“Execution Risks Policy” means the document available on our website that describes all of the Order execution arrangements that we have in place to ensure that, when executing Orders, we take all reasonable steps to obtain the best possible results for clients;

“Governmental Authority” means any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation anywhere in the world with competent jurisdiction;

“Hedging Setting” is an optional feature on the Trading Facility allowing you to hedge positions, which may be enabled or disabled by you;

“Intellectual Property Rights” means all patents, rights to inventions, copyright, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or

equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world;

“Introducing Broker” means a person or firm who acts on your behalf to effectuate an introduction of you to us;

“Limit Order” means an Order to buy or sell a financial instrument at its specified price limit or better, and for a specified size;

“Loss” means any losses, damages, costs, fines, liabilities or expenses, costs of investigation, litigation, settlement, judgment, interest and penalties, including reasonable legal fees, direct, indirect, special, incidental, punitive, or consequential loss, loss of profits, loss of goodwill or reputation, lost data, business interruption, loss of business opportunity, costs of substitute services or downtime costs, whether arising out of negligence, breach of contract, misrepresentation or otherwise;

“Manifest Error” has the meaning given to it by clause 25.1 of these Terms;

“Margin” means the money you hold with us as security for payment of any potential losses incurred by you in respect of any Margined Transaction;

“Margin Call Warning” means a demand for such sums by way of Margin as we may reasonably require for the purpose of protecting ourselves against loss or risk of loss on present, future or contemplated transactions under these Terms;

“Margin Requirement” means the amount of money that you are required to deposit and/or hold with us as consideration for entering into a Transaction and/or maintaining an Open Position;

“Margined Transaction” means any Transaction liable to Margin;

“Market” means any Regulated Market or MTF (as defined in Trading Venue) with established trading rules and trading hours;

“Market Order” means an Order to enter the market at the best current price available from us at the time of execution;

“Non-Hedging Setting” is enabled when you disable the Hedging Setting on the Trading Facility, preventing you from hedging positions;

“Open Position” means a Transaction which has not been closed in its entirety under these Terms;

“Order” means an instruction to purchase or sell a CFD Contract (as defined in Schedule B), a Rolling Spot Forex Contract, and/or any other Products offered by us from time to time, at a price quoted by us as appropriate;

“OTC” is an abbreviation of ‘Over the Counter’ and means any kind of transaction concerning a commodity, Security, currency or other financial instrument or property, including any option, future, or

CFD which is traded off exchange by us (whether as market maker or otherwise) rather than on a regulated stock or commodity exchange or other Trading Venue;

“P&L” means the total of your profits (whether realised or not) less your losses (whether realised or not);

“Position Limit” means a maximum amount of Contract Quantity of any Product you are permitted to maintain as an Open Position in your Account, as reasonably determined by us from time to time, which will be made available to you on our website, Trading Facility or other means of notice;

“Potential Event of Default” means any event or circumstance which, with the giving of notice or the lapse of time or both, would constitute an Event of Default;

“Principal” means the individual person or legal entity which is a party to a Transaction;

“Products” means the financial instruments and financial products that we make available as part of the Services;

“Rate Card” means the details of any interest, costs, fees or other charges, as varied from time to time, which apply to your Account with us. The Rate Card is available on our website;

“Regulated Market” means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments, in the system and in accordance with its non-discretionary rules, in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with Applicable Regulation;

“Retail Client” has the meaning given to it in the Corporations Act 2001 (Cth);

“Rolling Spot Forex Contract” means any OTC contract which is a purchase or sale of currency entered into between you and us, excluding forward contracts;

“Secure Access Website” means the password protected part of our website (or any website notified to you by us) through which you can view your Account information;

“Security” means investments within section 92 of the Corporations Act 2001 (Cth);

“Service Provider” means a person or firm who provides a third party service to you which is compatible with or enhances our Services, including any provider of market data;

“Services” means the services to be provided to you by us under these Terms;

“Sophisticated Investor” means a client who would be a Wholesale Client only through the application of section 761GA of the Corporations Act 2001 (Cth);

"Stop Orders" means an Order to buy or sell a financial instrument once the price of that financial instrument reaches a specified price (which is known as the stop price);

"Terms" has the meaning given to it in clause 1.2;

"Trading Agent" means an Agent or representative authorised by you under an Agency Agreement who we agree may act for you and or give instructions to us on your behalf in respect of these Terms;

"Trading Facility" means the password protected online or downloadable electronic facility where you can trade with us under these Terms;

"Trading Venue" means a Regulated Market, a 'multilateral trading facility' ("MTF") or an organised trading facility ("OTF");

"Transaction" means a contract in any of the Products between you and us;

"Underlying Instrument" means the index, commodity, currency, Security or other instrument, asset or factor whose price or value provides the basis for us or any third party to determine its price or the executable price for a Product; and

"Wholesale Client" has the meaning given to it in section 761G of the Corporations Act 2001 (Cth) but does not include a Sophisticated Investor.

3. Complaints and Compensation Schemes

3.1 We take complaints very seriously and have established procedures, in accordance with Applicable Regulations, for complaint consideration and handling, to ensure that complaints are dealt with fairly and promptly. A summary of our complaints policy, which is prepared in compliance with the Corporations Act 2001 (Cth) and other Applicable Regulation, is available on our website.

3.2 If you would like to make a complaint, you should contact Customer Services to raise your complaint. You may do this in a number of ways, including by email, telephone or by submitting a complaint form online which is available on our website. We will investigate your complaint and provide you with a final response in writing within required timeframes. Where you do not agree or are dissatisfied with the outcome of our final response, you may refer your complaint to the Australian Financial Complaints Authority ("AFCA") which is an independent dispute resolution service of which we are a member. AFCA can be contacted at: The Australian Financial Complaints Authority, GPO Box 3, Melbourne VIC 3001. AFCA may also be contacted by phone: 1800 931 678, by email: info@afca.org.au or via the internet: www.afca.org.au.

4. Risks

4.1 OUR PRODUCTS ARE TRADED ON A MARGIN OR LEVERAGE BASIS, A TYPE OF TRADING WHICH CARRIES A HIGH DEGREE OF RISK TO YOUR CAPITAL. PRICES MAY CHANGE QUICKLY AND MAY RESULT IN SIGNIFICANT LOSSES.

4.2 YOU SHOULD BE PREPARED TO LOSE ALL THE MONIES YOU DEPOSIT WITH US AND YOU MAY LOSE THE ENTIRE AMOUNT IN YOUR ACCOUNT. IF YOU ARE A WHOLESALE CLIENT OR SOPHISTICATED INVESTOR YOU MAY BE LIABLE TO PAY US FURTHER SUMS.

4.3 IF YOU DO NOT HOLD SUFFICIENT FUNDS TO MEET YOUR MARGIN REQUIREMENTS, THEN WE MAY, SUBJECT TO THESE TERMS, CLOSE YOUR OPEN POSITIONS IMMEDIATELY AND WITHOUT NOTICE.

4.4 YOU SHOULD NOT DEAL IN OUR PRODUCTS UNLESS YOU UNDERSTAND AND ACCEPT THE RISKS OF MARGIN TRADING. PLEASE READ THE RISK WARNING NOTICE CAREFULLY TO UNDERSTAND THE RISKS OF TRADING ON A MARGIN OR LEVERAGE BASIS. TRADING IN THESE PRODUCTS MAY NOT BE SUITABLE FOR EVERYONE.

4.5 YOU ARE RESPONSIBLE FOR MONITORING YOUR OPEN POSITIONS, YOUR MARGIN REQUIREMENT AND ALL OTHER TRANSACTIONS AND ACTIVITY ON YOUR ACCOUNT. WE SHALL NOT MONITOR YOUR ACCOUNT OR ADVISE YOU ON THE EFFECT OF AN INSTRUCTION, CONTRACT, OPEN POSITION OR YOUR MARGIN REQUIREMENT. WE CANNOT BE HELD RESPONSIBLE FOR ANY TRANSACTIONS THAT MAY DEVELOP DIFFERENTLY FROM HOW YOU MIGHT HAVE EXPECTED.

4.6 YOU ACKNOWLEDGE YOU HAVE READ AND UNDERSTOOD THE RISK OF ENTERING INTO TRANSACTIONS, AS DESCRIBED IN THE RELEVANT PDS.

5. Your Relationship with Us

5.1 In accordance with Applicable Regulations we have classified you as a Retail Client. However, where the information provided to open your Account shows that you satisfy the requirements to be a Wholesale Client or Sophisticated Investor under the Corporations Act 2001 (Cth) and you request to be treated as a Wholesale Client or Sophisticated Investor, we may treat you as a Wholesale Client or a Sophisticated Investor. We will write to you separately to notify you of this classification.

5.2 Where we have notified you separately that we have assessed and classified you as a Wholesale Client or Sophisticated Investor, you may request to be treated as a Retail Client at any time.

5.3 Where we have notified you that we have assessed and classified you as a Wholesale Client or Sophisticated Investor, you agree to keep us informed about any change that could affect your client categorisation.

6. Capacity

6.1 We will effect any Transactions as Principal and as market maker for all Products.

6.2 In relation to all Transactions, we will deal with you on the basis that only you are our client under the Agreement even if you are acting on behalf of another person or taking instructions from another person.

7. Products and Services

7.1 We may enter into Transactions with you in the following Products:

- (a) Rolling Spot Forex Contracts (as defined in Schedule A);
- (b) CFD Contracts (as defined in Schedule B); and
- (c) such other investments and instruments as we may offer from time to time.

7.2 The Products may be provided either as:

- (a) Margined Transactions (Margin is explained further in clause 20); or
- (b) Transactions in instruments which are:
 - (i) traded on recognised or designated investment exchanges;
 - (ii) traded on exchanges which are not recognised or designated investment exchanges;
 - (iii) not traded on any stock or investment exchange; and/or
 - (iv) not immediately and readily realisable.

7.3 We may, at any time, cease to offer any Services and/or remove Products from our offering. If you have an Open Position under a Service that is being terminated or in a Product that is being removed, we will provide you with 30 days prior written notice, where possible, that we intend to terminate a Service or remove a Product, to allow you to close any Open Position that you may hold in such a Product or Service. Upon such notice being given, you should cancel any Orders and/or close any Open Positions in respect of such affected Products or Services before the 30 days expires. If you do not do this, we will cancel any Orders and close any Open Positions after the 30 days has expired in the manner explained to you in the notice. There may be occasions where we cannot give you 30 days' written notice where, for example, to continue offering a Product or Service would breach Applicable Regulations. If this is the case we will give you as much written notice as possible but we may have to close any of your Orders or Open Positions without notice.

7.4 Unless otherwise agreed between us in writing we will deal with you on an execution only basis. This means that we will not make personal recommendations or advise on the merits of purchasing, selling, or otherwise dealing in particular Products or executing particular Transactions, any tax consequences or the composition of any Account or any other rights or obligations attaching to any Products or Transactions. Any advice provided by us is general advice only and we are not

authorised to provide, nor will we provide, advice that takes into account your personal objectives, financial situation or needs. You should not regard any discussion or communication regarding a proposed Order or Transaction, suggested trading strategies, factual market information or analysis, market commentary, or any other written or oral communications from us as personal recommendations or specific advice, or as expressing our view as to whether a particular Order or Transaction is suitable for you or meets your financial situation, needs or objectives. You must rely on your own judgement for any decision you make in relation to your Account at all times.

7.5 **WE MAY OFFER VARIOUS SPREADS AND PRICE STREAMS FROM TIME TO TIME. WITHOUT PREJUDICE TO OUR RIGHTS UNDER CLAUSES 20, 23, AND 25, WE MAY, AT ANY TIME WITHOUT NOTICE TO YOU, VARY YOUR SPREADS AND/OR MOVE YOU TO A DIFFERENT PRICE STREAM. WE WILL ONLY EXERCISE THE RIGHTS LISTED IN THIS CLAUSE 7.5 WHERE WE REASONABLY CONSIDER IT NECESSARY, FOR EXAMPLE BUT WITHOUT LIMITATION, IN RESPONSE TO OR IN ANTICIPATION OF ANY OF THE FOLLOWING:**

- (a) **AN EVENT OF DEFAULT;**
- (b) **TECHNICAL ISSUES WITH ANY SYSTEM BY WHICH WE TRADE WITH YOU OR ANY OTHER COUNTERPARTY;**
- (c) **A LACK OF LIQUIDITY IN THE MARKET CONCERNING INSTRUMENTS IN WHICH YOU TRADE;**
- (d) **A CHANGE IN THE MARKET TO WHICH YOUR MARGINED TRANSACTIONS RELATE OR IN THE FINANCIAL MARKETS MORE GENERALLY;**
- (e) **ECONOMIC NEWS WHICH MAY ADVERSELY IMPACT ANY MARGINED TRANSACTIONS;**
- (f) **YOU CHANGING YOUR DEALING PATTERN WITH US SUCH THAT WE DETERMINE IN OUR REASONABLE DISCRETION ACTION IS REQUIRED IN ORDER TO MANAGE THE RISKS ASSOCIATED WITH YOUR TRANSACTIONS;**
- (g) **YOUR CREDIT CIRCUMSTANCES CHANGING; OR**
- (h) **YOUR EXPOSURE TO US BEING CONCENTRATED IN A PARTICULAR CURRENCY PAIR OR UNDERLYING INSTRUMENT.**

8. Access and Use

8.1 In order to use the Trading Facility and/or Secure Access Website, we will provide you with an Access Code. You will need to provide the Access Code each time you wish to use the Trading Facility and/or Secure Access Website.

8.2 In relation to the Access Code, you acknowledge that:

- | | |
|--|--|
| <p>(a) you are responsible for keeping the Access Code confidential and you agree that you will not disclose your Access Code to any third party unless with our prior written consent;</p> <p>(b) where with our consent you disclose your Access Code to a third party you agree that any instructions, Orders or Transactions entered into by that third party will be treated by us as if entered by you;</p> <p>(c) we may rely on all instructions, Orders and other communications entered using your Access Code, and you will be bound by any Transaction entered into or expense incurred on your behalf in reliance on all such instructions, Orders and other communications, unless and until you have notified us that your Access Code has been or may have been compromised; and</p> <p>(d) you will immediately notify us if you become aware of the loss, theft or disclosure to any third party or of any unauthorised use of your Access Code.</p> | <p>(a) Data is provided on an 'as is', 'as available' basis without warranties of any kind, either express or implied, including, without limitation, those of merchantability and fitness for a particular purpose;</p> <p>(b) neither we nor any Service Provider guarantee the accuracy, completeness, timeliness or performance of Data;</p> <p>(c) in the absence of fraud or wilful default, no responsibility is accepted by or on behalf of us and the Service Providers and their appointed agents for any errors, omissions, or inaccuracies in the Data;</p> <p>(d) we, the Service Providers and their appointed agents, in the absence of fraud or wilful default, accept no liability for the results of any acts or omissions taken on the basis of the Data;</p> <p>(e) you should not rely on any opinion derived from such Data nor consider them to represent our views, opinions or recommendations or of any Service Provider;</p> <p>(f) the Data does not constitute legal or financial investment advice or contain any investment recommendation of the Company;</p> <p>(g) we and any Service Provider are not, in the absence of fraud or wilful default, responsible or liable for any actions that you take or do not take based on the Data;</p> <p>(h) you will use Data solely in connection with our Services and for the purposes set out in the Agreement;</p> <p>(i) Data is proprietary to us and any Service Provider (as applicable) and you will not retransmit, redistribute, publish, disclose or display in whole or in part such data or information to third parties;</p> <p>(j) you will use such Data solely in compliance with the Applicable Regulations;</p> <p>(k) if required at any time by us or any such provider, you will promptly complete and submit to us any information declaration in respect of your status as a user of Data and/or, agree to any licence terms and conditions or such other agreement relating to your use and/or redistribution of such Data; and</p> <p>(l) we, or the relevant Service Provider, may terminate and/or suspend your access to the Data immediately, in full or in part, at any time.</p> |
| <p>8.3 If we reasonably believe that unauthorised persons are using your Access Code we may, without prior notice, suspend your access to the Trading Facility. Where we do this we will attempt to contact you as soon as possible to inform you and re-arrange access.</p> | |
| <p>8.4 You should be aware that the Trading Facility or Secure Access Website may from time to time experience technical difficulties which are outside our reasonable control, such as failures, delays, malfunction, software erosion or hardware damage, which could be the result of hardware, software or communication link inadequacies. Such difficulties could lead to possible economic and/or data loss. Where this happens, in the absence of our fraud or wilful default neither we, nor any Associated Company, will be liable for any possible Loss which might occur as a result of or arising out of using, accessing, installing, maintaining, modifying, deactivating, or attempting to access either the Trading Facility or Secure Access Website or otherwise.</p> | |
| <p>8.5 We may suspend access and use of our Trading Facility or Secure Access Website to carry out maintenance, repairs or upgrades. We shall use reasonable endeavours to give you notice of this and to provide alternative ways for you to trade or obtain information as to your Account but this may not be possible in an emergency.</p> | |
| <p>8.6 You are responsible for ensuring that your information technology is compatible with ours and meets the minimum system requirements set out on our website as may be amended from time to time.</p> | |
| <p>8.7 With respect to any market data, market commentary or analysis, charting package or any other data or information ("Data") that we or any third party Service Provider provides to you in connection with the provision of our Services to you under the Agreement, you agree and confirm that:</p> | <p>8.8 You will indemnify and hold us and our Associated Companies harmless against all Losses and all other reasonable professional costs and expenses suffered or incurred arising out of or in connection with any use of</p> |

Data by you or any person receiving Data from you in breach of these Terms.

9. Dealings between Us and You

9.1 All requests for indicative quotes, Orders for execution of Transactions and other trade matters must be given to us electronically through the Trading Facility or by telephoning us on the numbers provided to you for this purpose. You will only be able to give Orders or instructions to trade by telephone, directly to a broker during the times which we notify you of. Any Orders or instructions to trade left on an answering machine or sent by facsimile will not be actioned.

9.2 Quotes provided by us either via the Trading Facility or over the telephone are indicative, provided for information purposes only and do not constitute an offer to buy or sell any Product or instrument at that price or at all. Where you place an Order following an indicative quote, your instruction to trade constitutes an offer to trade at our then current price available. You acknowledge that such rate may differ from the indicative quote previously provided.

9.3 Any Order or instruction to trade sent by you via the Trading Facility or given by telephone shall only be deemed to have been received, and therefore be a valid instruction, when we have confirmed to you either orally or through the Trading Facility that we have received it. Acknowledgement of any Order or instruction to trade does not constitute any agreement or representation that we will execute such Order or instruction. A valid instruction will not be a binding Transaction between us until such instruction is accepted, executed, recorded and confirmed by us via the Trading Facility, a trade Confirmation and/or Account Statement.

9.4 Unless we have actual knowledge to the contrary, we shall be entitled to rely on any instructions relating to your Account (including instructions to trade) which we reasonably believe to be from you or from your Agent(s), whether received by telephone, electronically, or in writing, which we have accepted in good faith. If we need clarification in relation to any instructions or if we fail to receive the instructions during normal business hours or in reasonably sufficient time for us to act upon them, you acknowledge and agree that there may be a reasonable delay in us acting on your instructions.

9.5 In executing any instructions relating to your Account, the Products and Services, we shall not be required to do anything or refrain from doing anything which would in our reasonable opinion infringe any Applicable Regulation to which we are subject.

9.6 **WE ARE ENTITLED, AT ANY TIME WITH OR WITHOUT NOTICE TO YOU, TO REFUSE TO ACCEPT AND/OR EXECUTE ANY INSTRUCTION FROM YOU (INCLUDING ANY ORDER), AND/OR, PROVIDED THAT WE HAVE NOT ALREADY ACTED ON YOUR INSTRUCTIONS, TO CANCEL INSTRUCTIONS PREVIOUSLY GIVEN BY YOU. WE WILL ONLY EXERCISE THE RIGHTS LISTED IN THIS CLAUSE 9.6 WHERE WE REASONABLY CONSIDER IT NECESSARY, FOR EXAMPLE BUT WITHOUT LIMITATION, IN RESPONSE TO OR IN ANTICIPATION OF ANY OF THE FOLLOWING:**

- (a) **WE REASONABLY CONSIDER THE INSTRUCTION WAS NOT GIVEN BY YOU;**
- (b) **AN EVENT OF DEFAULT;**
- (c) **TECHNICAL ISSUES WITH ANY SYSTEM BY WHICH WE TRADE WITH YOU OR ANY OTHER COUNTERPARTY;**
- (d) **A LACK OF LIQUIDITY IN THE MARKET CONCERNING INSTRUMENTS IN WHICH YOU TRADE;**
- (e) **A CHANGE IN THE MARKET TO WHICH YOUR MARGINED TRANSACTIONS RELATE OR IN THE FINANCIAL MARKETS MORE GENERALLY;**
- (f) **ECONOMIC NEWS WHICH MAY ADVERSELY IMPACT ANY MARGINED TRANSACTIONS;**
- (g) **YOU CHANGING YOUR DEALING PATTERN WITH US SUCH THAT WE DETERMINE IN OUR REASONABLE DISCRETION ACTION IS REQUIRED IN ORDER TO MANAGE THE RISKS ASSOCIATED WITH YOUR TRANSACTIONS;**
- (h) **YOUR CREDIT CIRCUMSTANCES CHANGING;**
- (i) **YOUR EXPOSURE TO US BEING CONCENTRATED IN A PARTICULAR CURRENCY PAIR OR UNDERLYING INSTRUMENT.**

9.7 Orders may be placed as Market Orders to buy or sell as soon as possible at the price then offered by us, or on selected Products as Limit Orders and Stop Orders to trade when the price reaches a pre-defined level. Limit Orders to buy and Stop Orders to sell must be placed below the then current price offered by us, and Limit Orders to sell and Stop Orders to buy must be placed above the then current price offered by us. If the bid price for sell orders or ask price for buy orders is reached, the Order will be filled as soon as possible at the price then offered by us. Limit Orders and Stop Orders are executed consistent with our Execution Risks Policy and are not guaranteed executable at the specified price or amount, unless explicitly stated by us for the specific Order.

9.8 We will try to execute Limit Orders, Stop Orders and Market Orders as soon as practicable but market conditions, available liquidity and technological issues can affect the sequence and time it takes to execute such Orders. We cannot guarantee that a Limit Order or a Stop Order will be executed even if the limit or stop price is reached or the execution may be at a price above or below that specified in the Order. In the absence of our fraud or wilful default, we do not accept any liability for any actual or potential loss you may suffer if there is a delay in execution for any reason and/or the execution price is greater or less than the price specified in the Order.

9.9 We will not offer a negative price for any of the Products we make available to you or for any Transactions between you and us.

10. Trading Confirmations and Account Statements

- 10.1 We will provide you with general Account information through the Trading Facility and/or Secure Access Website. Account information will usually include Confirmations with ticket numbers, purchase and sale rates, used margin, amounts available for Margin trading, statements of profits and losses, current open and pending positions and any other information as required by the Applicable Regulations. Updated Account information will generally be available within twenty-four hours after any activity takes place on your Account.
- 10.2 We will deliver Confirmations to you by posting them within the Trading Facility and/or Secure Access Website. These are available for you to download, store or print. You may request to receive Confirmations in hard copy or via email at any time by submitting a written request to our Compliance Officer by email to compliance@fxcm.com.
- 10.3 Through the Trading Facility and/or Secure Access Website, you can generate Account Statements and/or access daily, monthly and/or yearly reports for your Account, including your balance and trading history. These are available for you to download, store or print. You may also request to receive information in hard copy at any time. You agree that you will generate and/or access your Account Statement at least once a month through the Trading Facility and/or Secure Access Website.
- 10.4 You must immediately notify us of any errors or abnormalities in any Confirmations and Account Statements.
- 10.5 Should you notify us of any errors or abnormalities in any Confirmations and Account Statements, we shall review your Confirmations and Account Statements for any error and notify you of the results of our review.

11. Joint Accounts

- 11.1 Where the Agreement is entered into between us and more than one person, (except where we have agreed otherwise in writing):
- (a) each person shall be considered a client and the owner of and Principal for the Account. The obligations and liabilities under the Agreement are joint and several (which means, for instance, that any one person can withdraw or transfer the entire balance of the Account to their personal bank account and/or investment account, and in the case of a Wholesale Client or Sophisticated Investor with a debit balance or debt owed to us, each account holder is responsible for the repayment of the entire balance and not just a share of it);
 - (b) each person shall have full authority (as full as if they were the only person entering into the Agreement) on behalf of the others to give or

receive any instruction, notice, request or acknowledgement without notice to the others, including an instruction to liquidate and/or withdraw investments from the Account and/or close any Account;

- (c) any such person may give us an effective and final discharge in respect of any obligations under the Agreement; and
- (d) upon the death of any joint account holder, we will transfer any Transactions and the responsibility for any obligations connected with the Account into the surviving joint account holder's sole name. These Terms will remain in full force between us and the surviving joint account holder.

11.2 We may in our reasonable discretion, require an instruction, request or demand to be given by all joint account holders before we take any action.

11.3 Unless otherwise agreed in writing, you agree that we may contact and deal only with any one of the account holders named in our records subject to any legal requirements to the contrary.

11.4 Either account holder may ask us to convert the Account into a sole Account however we will require authority from all Account holders before doing so. Any person removed from the Account will continue to be liable for all obligations and liabilities under the Agreement relating to the period before they were removed from the Account.

12. Order Execution

- 12.1 We will execute your Orders in accordance with our Execution Risks Policy, a copy of which is available on our website. The Execution Risks Policy must be read in conjunction with these Terms and forms part of the Agreement.
- 12.2 On opening your Account, you confirmed that you have read and explicitly agreed to the Execution Risks Policy. The continued placement of Orders by you constitutes your continued consent to the policy as in effect from time to time.
- 12.3 We may amend our Execution Risks Policy from time to time by giving you not less than ten (10) Business Days' written notice unless otherwise required in order to comply with any applicable law, rules or regulations.

13. Commissions, Charges and Other Costs

- 13.1 You agree to pay us the commissions, costs and charges which are set out in our current Rate Card, and any additional commissions and charges notified to you by us from time to time prior to any Transaction or as they otherwise fall due for payment. Our standard Rate Card is always available on our website and it will apply to you unless we provided you with a custom Rate Card in which case the custom Rate Card will apply to you. You may request a more detailed cost and charges

breakdown by contacting compliance@fxcm.com. We may from time to time amend the Rate Card as set out in clause 29.3.

13.2 Where we hold monies on your behalf, we may first deduct all amounts due to us, Associated Companies, our Agents or your Agents from the monies we hold for you.

13.3 We may receive payment from, or share commissions and charges with our Associated Companies, your Introducing Broker or other third parties in connection with Transactions carried out on your behalf. We or any Associated Company may benefit from commission, mark-ups, mark-downs or any other remuneration where we act for the counterparty to a Transaction. Further details of this are available on request. Where we receive payments in compliance with our conflicts of interest policy, these payments form part of our remuneration and you explicitly agree that we may retain these monies without being accountable to you. We shall have no fiduciary, equitable or other duty to account to you or reimburse you in respect thereof.

13.4 If we receive any amounts in respect of your obligations under these Terms in a currency other than that in which the amount was payable, (whether pursuant to a judgment of any court or otherwise), you agree that we may convert that sum into the currency in which it was payable and deduct the costs of doing so from that amount (e.g., the cost of conversion).

14. Deposit, Payment, Withdrawal and Set-Off

14.1 You will be asked to designate a Base Currency for your Account which shall either be Australian Dollars, New Zealand Dollars, Pounds Sterling, United States Dollars, Euros or any other currency permitted by us from time to time.

14.2 Deposits and payments due should be made in your Base Currency. Where you wish to deposit funds in your Account in a currency other than its designated Base Currency or if any credit is to be applied to the Account in a currency other than the designated Base Currency by reason of a Transaction, fee or otherwise, we will convert such funds into the Base Currency at the time of the credit or a reasonable time thereafter unless we accept alternative instructions from you.

14.3 You agree to comply with the following when making payments to us under these Terms:

- (a) you may make any payment due to us (including deposits) by an approved card (for example credit or debit cards), or bank wire or any other method specified by us from time to time. We will not accept payments or deposits in the form of physical cash;
- (b) you are responsible for all third party electronic, telegraphic transfer or other bank fees in respect of payment as well as any fees or charges imposed by us, which may be based on the elected payment method. Any

fees or charges imposed by us will be listed on the Rate Card;

- (c) if any payment is not received by us on the date such payment is due, then we will be entitled to charge interest on the overdue amount (both before and after any court judgment) at the interest rate prescribed in the Rate Card from the date payment was due until the actual date of payment;
- (d) any payment made to us will only be deemed to have been received when we receive cleared funds; and
- (e) you are responsible for ensuring that payments made to us are correctly identified, specifying your Account details, plus any other information we tell you is required.

14.4 Where you have a positive balance on your Account, you may request a withdrawal, for any amount of the positive balance. We may at our reasonable discretion withhold, deduct or refuse to make a payment (in whole or in part), where:

- (a) you have Open Positions on the Account showing a loss;
- (b) the requested withdrawal would reduce your Account balance to less than the Margin required for your Open Positions;
- (c) we reasonably consider that funds may be required to meet any current or future Margin Requirement on Open Positions due to underlying market conditions;
- (d) you have any actual or contingent liability to us, our associates or our Associated Companies;
- (e) we reasonably determine that there is an unresolved dispute between us relating to these Terms or the Agreement and which may affect your Account balance; and/or
- (f) you instruct us to pay the money to a third party.

14.5 All withdrawals from your Account shall be made in the form of a return payment to an approved card in your name, by bank wire naming you, or any other method specified by us from time to time.

14.6 All withdrawals from your Account will be made in the Base Currency of that Account unless we agree in advance that such payment should be made in a different currency. Where we agree with you that the payment should be made in a different currency, we will convert the relevant payment amount from the Base Currency to the then agreed currency for payment and deduct the costs of doing so from that amount (i.e. the cost of conversion).

14.7 We reserve the right to convert any or all credits and/or debits standing in your Account, irrespective of the currency of such credit or debit, into your Base Currency

at any time and to deduct the costs of doing so from that amount (i.e. the cost of conversion).

14.8 Whenever we conduct currency conversions for you, including conversions to or from your Base Currency, we will do so at a rate of exchange reasonably determined by us in accordance with the prevailing market rates.

14.9 All payments by us to you will be made on a net basis after the deduction of applicable fees, charges or other amounts that you owe to us, and in accordance with Schedule C (Master Netting Agreement) of these Terms.

14.10 You should ensure at all times that you have a positive balance across all Accounts which you hold with us or an Associated Company. If you are a Wholesale Client or Sophisticated Investor and any loss or debit balance exceeds all amounts we hold for you such that you have an overall negative balance, you must immediately transfer funds to put your Account back into credit, however we may waive any negative balance in our sole discretion. If you are a Retail Client, our recourse is limited to the monies held in your Account, such that if a Retail Client's Account balance falls below zero, that Retail Client Account balance will be restored to zero.

14.11 **UNLESS YOU ARE CLASSIFIED AS A RETAIL CLIENT AND EXCEPT AS PROHIBITED BY APPLICABLE REGULATIONS, WHERE ANY ACCOUNT WHICH YOU HOLD WITH US OR WITH AN ASSOCIATED COMPANY IS IN DEBIT, WE MAY IN OUR REASONABLE DISCRETION USE ANY CREDIT AMOUNTS WHICH EITHER WE OR AN ASSOCIATED COMPANY HOLD FOR YOU TO REDUCE THE AMOUNT THAT IS OWED TO US IN THE ACCOUNT, OR TO THE RELEVANT ASSOCIATED COMPANY. THIS IS KNOWN AS A "SET OFF" AND WE MAY EXERCISE THIS RIGHT EVEN IF IT MAY RESULT IN THE CLOSURE OF OPEN POSITIONS IN ANY ACCOUNT FROM WHICH FUNDS ARE TRANSFERRED. WHERE WE HAVE EXERCISED OUR RIGHT TO SET OFF WE WILL NOTIFY YOU OF THE SUMS WHICH WERE USED AGAINST THE DEBIT.**

15. Client Money

15.1 Subject to clause 15.2:

(a) we will treat money received from you or held by us on your behalf in accordance with the Client Money Rules. Client Money will be received into and held at all times in an account exclusively designed to hold Client Money separate from our money on trust for you. In the event of our insolvency, Client Money will be excluded from the assets available to our creditors to the extent permitted by the Client Money Rules;

(b) you specifically agree that we may:

(i) hold Client Money on trust in accounts with an Australian authorised deposit taking institution (ADI) or in an approved foreign bank cash management trust and that such accounts will be established, maintained and operated in

accordance with the Client Money Rules; and

(ii) hold client money in segregated client money bank accounts with fixed term deposits or notice periods. Such fixed term deposit accounts or notice periods will not affect your ability to deal with or withdraw funds from your Account in the ordinary course of business. In exceptional circumstances or in the unlikely event of our insolvency amounts held in such fixed term deposit accounts may not be immediately available;

(c) unless otherwise specified in the Rate Card or agreed in writing with you, we will not pay you interest on Client Money or any other money transferred to us. You expressly waive any entitlement to interest under the Client Money Rules or otherwise. Subject to Applicable Regulations, you agree that we are solely entitled to any interest or earnings derived from the Client Money being invested by us;

(d) we will exercise due skill, care and diligence in the selection and monitoring of any bank or third party with which Client Money is held. Outside of the aforementioned obligations, we are not responsible for the solvency, acts or omissions of any bank or other third party with which Client Money is held;

(e) you acknowledge and agree that where any obligations owing to us from you are due and payable to us under these Terms, we shall cease to treat as Client Money so much of the money held on your behalf as equals the amount of those obligations in accordance with the Client Money Rules. You further agree that we may apply that money in or towards satisfaction of all or part of those obligations due and payable to us. For the purposes of these Terms, any such obligations become immediately due and payable without notice or demand by us when properly incurred by you or on your behalf;

(f) you agree that we may cease to treat as Client Money any balance held by us on your behalf where we have determined that there has been no movement on the balance for a period of six years (notwithstanding any payments or receipts of charges, interest or similar items) and we are unable to trace you after taking reasonable steps to contact you. Such money shall be treated by us as unclaimed money and dealt with in accordance with Applicable Regulations; and

(g) in the event that your Account(s) and/or our business covered by these Terms is transferred to another person in whole or in part, whether by way of an assignment or novation of these Terms under clause 36 or otherwise, you authorise us to transfer any

Client Money relating to the business being transferred to that person or someone nominated by that person to the extent permitted by the Agreement and the Client Money Rules and subject to the following:

- (i) any Client Money transferred shall be transferred on terms which require the other person to return the transferred sums to you as soon as practicable following your request subject to any liabilities for payment you may have to the other person under your agreement with that other person; and
- (ii) the sums transferred shall be held by the person to whom they are transferred in accordance with the Client Money Rules for you; or
- (iii) if the sums transferred will not be held by the person to whom they are transferred in accordance with the Client Money Rules for you, we will exercise all due skill, care and diligence in assessing whether the person to whom the Client Money is transferred will apply adequate measures to protect such monies.

Where we intend to transfer your Client Money under the terms of this clause 15.1(g), we will give you not less than ten (10) Business Days written notice and following any transfer, we will write to you within seven (7) days to inform you (A) that the transfer has taken place; (B) whether or not the sums will be held by the person to whom they have been transferred in accordance with the Client Money Rules and, if not, how the sums transferred will be held; (C) the extent to which the sums transferred will be protected under a compensation scheme, and (D) that you may opt to have the transferred sum returned to you by the transferee as soon as practicable at your request. If you do not want your Client Money transferred in accordance with the terms of this clause 15.1(g), you are entitled to terminate these Terms before the transfer takes place in accordance with the provisions of clause 31 of these Terms in which event we will not transfer your Client Money as notified and we will return your monies to you subject to your rights and obligations under the Agreement.

- 15.2 If you are a Wholesale Client, subject to clause 15.3, we will treat any money we receive from or hold on your behalf as Client Money under the Corporations Act in accordance with clause 15.1.
- 15.3 As a Wholesale Client you may provide your written consent to opt out of the Client Money Rules ("Exempt Wholesale Client"). Where such written consent is provided by you, your money will not be held as Client Money in accordance with clause 15.1, and you agree and acknowledge that your funds can be used, amongst

other things, to meet our operating costs and to meet obligations incurred by us when hedging with other counterparties.

- 15.4 If you are a Sophisticated Investor, we will continue to treat any money we receive from or hold on your behalf as Client Money under the Corporations Act in accordance with clause 15.1 of the Terms.

16. Tax

- 16.1 We shall not provide any advice to you on any tax issue related to any Transactions, Products or Services. You should obtain individual and independent tax advice from a financial advisor, auditor or legal counsel with respect to the tax implications of the Transactions, Products or Services.
- 16.2 You are responsible for the payment of all taxes that may arise in relation to your Transactions. If we are required to pay any withholding tax or other levies on your behalf, we reserve the right to deduct such amounts from your Account or otherwise require you to pay or reimburse us for such payments. We are entitled to deduct or withhold, in our sole discretion, any tax required by any Applicable Regulation from any payment or credit made to your Account.

17. Conflicts of Interest

- 17.1 We are required to take reasonable steps to identify and manage conflicts of interest between us and you as well as conflicts of interest between customers that arise in the course of our provision of Services. We operate in accordance with a Conflicts of Interest Policy designed for this purpose (where we have identified those situations in which conflicts of interest may arise, and in each case, the steps we have taken to mitigate and manage that conflict).
- 17.2 Conflicts of Interest may exist. Without limiting the nature of these interests, such examples include where we or an Associated Company or agent deal in the Product, related products or in the asset underlying any Product, as Principal for our own account or that of someone else. Such dealing could include entering into hedging activities in connection with any Transaction with you. Further we may share fees collected or received and other payments and inducements with Associated Companies and vice versa. You may obtain a copy of the Conflicts of Interest Policy upon written request, by emailing compliance@fxcm.com.
- 17.3 In providing our services under this Agreement, we will not be subject to any fiduciary or equitable duties which oblige us to accept responsibilities more extensive than those set out in this Agreement or in Applicable Regulation.

18. Introducing Brokers and Service Providers

- 18.1 Where you have been referred to us by an Introducing Broker or you utilise a third party trading system,

course, program, software or trading platform offered by a Service Provider, we shall not be responsible for any agreement made between you and your Introducing Broker or Service Provider. You acknowledge that any such Introducing Broker or Service Provider will either be acting as an independent intermediary or an Agent for you and that your Introducing Broker or Service Provider is not an Agent or employee of ours and is not acting on our behalf. You further acknowledge that the Introducing Broker or Service Provider is not authorised to make any representations concerning us or our Services.

18.2 We do not control, and cannot endorse or vouch for the accuracy or completeness of any information, advice or product you may have received or may receive in the future from an Introducing Broker or Service Provider. Moreover, we do not endorse or vouch for the services provided by an Introducing Broker or Service Provider. Since an Introducing Broker or Service Provider is not our Agent or employee and is not acting on our behalf, it is your responsibility to properly evaluate prospective Introducing Brokers and/or Service Providers before engaging their services.

18.3 We specifically make you aware that your agreement with an Introducing Broker or Service Provider may result in additional costs for you as we may pay one-off or regularly scheduled fees or commissions to such person or entity from your Account where you have agreed this with them.

18.4 Where you engage the services of an Introducing Broker or Service Provider, you understand and agree that the Introducing Broker or Service Provider will have access to your personal information held by us including your trading activity. You further understand that the Introducing Broker or Service Provider may have been introduced to us by a third party who is compensated in part based on the introduction of you to us or on your trading history. Where this occurs, you agree that the third party who introduced the Introducing Broker or Service Provider will have access to your personal information held by us including your trading activity.

18.5 If the Introducing Broker or Service Provider undertakes any deductions from your Account according to any agreement between you and the Introducing Broker or Service Provider, we have no responsibility as to the existence or validity of such an agreement. Any commissions, fees or charges may be shared between the Introducing Broker or Service Provider, us and third parties according to the Introducing Broker or Service Provider's written instructions and/or at our discretion subject to Applicable Regulations. More information can be found in our Managing Conflicts of Interest Policy.

18.6 You may request that we provide, at any time, a breakdown of all sums paid by you to the Introducing Broker or Service Provider.

19. Managed Accounts

19.1 At your request, we may allow a third party selected and authorised by you to manage your Account as your Trading Agent. Where you wish to have your Account managed by a third party, you must submit an Agency

Agreement between you and the Trading Agent to us in a form acceptable by us in our reasonable discretion. These Terms and the provisions of the Agency Agreement will govern the relationship between you, your Trading Agent and us.

19.2 You agree to have full responsibility and liability for any unlawful conduct by your Trading Agent and agree to reimburse us for any loss, damage or expense incurred by us as a result of your Trading Agent's unlawful actions.

19.3 We may in our reasonable discretion, refuse to accept instructions from the Trading Agent in relation to the Account on a one-off or on-going basis and where we do so we will notify you and the Trading Agent in writing. We need not specify reasons for refusing instructions from the Trading Agent.

19.4 By submitting an Agency Agreement to us, you consent to and authorise us to disclose to the Trading Agent all information that we hold in relation to the Account, including personal information that we hold in relation to you.

19.5 We reserve the right, at our reasonable discretion and where reasonably necessary without notice to you and your Trading Agent, to terminate a Trading Agent's rights in relation to any Account. This would mean that you would then have to take all actions on your Account yourself or appoint another Trading Agent in accordance with this clause 19. We need not provide you with reasons for this decision.

19.6 If you wish to revoke or amend an Agency Agreement, you must provide written notice to us by submitting the relevant form. Any such notice shall not be effective until two Business Days after we receive it (unless we advise you that a shorter period will apply). You acknowledge that you will remain liable for all instructions and Orders given to us prior to the revocation/variation being effective, and that you will be responsible for any Orders and any Transactions that are open at such time.

20. Margin and Position Limits

20.1 As a condition of entering into and maintaining a Margined Transaction, you are required to pay us the Margin required by us for that Transaction. Accordingly, you are obligated to maintain in your Account, at all times, sufficient funds (taking into account P&L) to meet all Margin Requirements. If you believe that you cannot or will not be able to meet all Margin Requirements, you should reduce your Open Positions or transfer adequate funds to us. You must ensure your Account complies with all applicable Positions Limits at all times.

20.2 You may obtain details of Margin Requirements and Position Limits from our website, by logging into the Trading Facility or by calling Customer Services. It is your obligation to monitor and maintain your Account balance, Margin Requirement, and Position Limit at all times.

20.3 Where you are close to breaching your Margin Requirements (including your Liquidation Level as

specified in clause 20.5), we may make a Margin Call Warning in accordance with these Terms however, such notifications are not sent in real time and you may not receive our notification prior to liquidation, so you should not expect that we will. Margin Call Warnings may be made at any time and in any way permitted under these Terms. For this reason, it is in your best interest to keep us regularly apprised of changes in your contact details.

20.4 WHERE THERE IS ANY SHORTFALL BETWEEN YOUR ACCOUNT BALANCE (TAKING INTO ACCOUNT P&L) AND YOUR MARGIN REQUIREMENT FOR ALL OPEN POSITIONS, OR WHERE YOU ARE IN BREACH OF AN APPLICABLE POSITION LIMIT, WE MAY CLOSE OR TERMINATE ONE, SEVERAL, OR ALL OF YOUR OPEN POSITIONS IMMEDIATELY, WITH OR WITHOUT NOTICE TO YOU. WE WILL CLOSE YOUR OPEN POSITIONS AT OUR PRICE PREVAILING AT THE TIME WHEN YOUR OPEN POSITIONS ARE CLOSED.

20.5 IF YOU ARE A RETAIL CLIENT AND YOUR ACCOUNT BALANCE (TAKING INTO ACCOUNT P&L) REACHES OR FALLS BELOW 50% OF THE MARGIN REQUIREMENT FOR YOUR ACCOUNT ("LIQUIDATION LEVEL") WE MAY, AS REQUIRED BY APPLICABLE REGULATION, CLOSE ALL YOUR OPEN POSITIONS IMMEDIATELY WITH OR WITHOUT NOTICE TO YOU. IN ADDITION WE MAY, AMONG OTHER THINGS, REFUSE TO EXECUTE NEW ORDERS UNTIL YOUR ACCOUNT BALANCE EXCEEDS THE LIQUIDATION LEVEL ONCE MORE. WE WILL CLOSE YOUR OPEN POSITIONS AT OUR PRICE PREVAILING AT THE TIME WHEN YOUR OPEN POSITIONS ARE CLOSED.

20.6 Notwithstanding clause 20.5 we do not guarantee that your Open Positions will be closed exactly at the point when your Account balance reaches the Liquidation Level. This may be due, for example, to market gapping.

20.7 WE WILL BE ENTITLED, AT ANY TIME UPON REASONABLE NOTICE TO YOU, TO MODIFY ANY POSITION LIMIT AND/OR INCREASE OR DECREASE THE MARGIN REQUIRED FROM YOU ON OPEN POSITIONS. YOU AGREE THAT, REGARDLESS OF THE NORMAL WAY IN WHICH YOU AND WE COMMUNICATE, WE WILL BE ENTITLED TO NOTIFY YOU OF A CHANGE TO POSITION LIMIT OR MARGIN LEVELS BY ANY OF THE FOLLOWING MEANS: TELEPHONE, POST, FAX, EMAIL, TEXT MESSAGE OR BY POSTING NOTICE OF THE CHANGE ON OUR WEBSITE OR IN THE TRADING FACILITY. ANY INCREASE IN MARGIN LEVELS WILL BE DUE AND PAYABLE IMMEDIATELY ON OUR DEMAND. WE WILL ONLY INCREASE MARGIN REQUIREMENTS WHERE WE REASONABLY CONSIDER IT NECESSARY, FOR EXAMPLE BUT WITHOUT LIMITATION, IN RESPONSE TO OR IN ANTICIPATION OF ANY OF THE FOLLOWING:

- (a) AN EVENT OF DEFAULT;
- (b) A CHANGE IN THE MARKET TO WHICH YOUR MARGINED TRANSACTIONS RELATE OR IN THE FINANCIAL MARKETS MORE GENERALLY;
- (c) ECONOMIC NEWS WHICH MAY ADVERSELY IMPACT ANY MARGINED TRANSACTIONS;
- (d) YOU CHANGING YOUR DEALING PATTERN WITH US SUCH THAT WE DETERMINE IN OUR

REASONABLE DISCRETION FURTHER MARGIN IS REQUIRED IN ORDER TO MANAGE THE RISKS ASSOCIATED WITH YOUR TRANSACTIONS;

(e) **YOUR CREDIT CIRCUMSTANCES CHANGING; AND**

(f) **YOUR EXPOSURE TO US BEING CONCENTRATED IN A PARTICULAR CURRENCY PAIR OR UNDERLYING INSTRUMENT.**

21. Appropriateness

21.1 Trading in our Products involves significant risks and may not be appropriate for all investors. We are required to assess whether it is appropriate for you to trade our Products by requesting from you certain information, relating to you and to your knowledge of trading such Products. This information will help us assess whether our Products are appropriate for you. Typically, we will ask you for this information during the Account opening procedure but we may need to ask you for additional information in the future if you decide to deal in a new Product type or sector. If you do not provide sufficient information to allow us to carry out the appropriateness assessment, or do not provide any information at all, we will be unable to assess whether our Products are appropriate for you, and you will not be allowed to trade our Products. If, on the basis of the information that you have supplied to us in relation to you and your knowledge, we consider that our Products are not appropriate for you, you will not be allowed to trade our Products.

21.2 In all circumstances, you may wish to obtain independent advice from an authorised investment adviser regarding dealing in our Products.

22. Representations, Warranties and Covenants

22.1 Representations and warranties are personal statements, assurances or undertakings given by you to us on which we rely when dealing with you. By entering into the Agreement and every time you place an Order, enter into a Transaction, or give us any other instruction you make the following representations and warranties to us:

- (a) where you are a natural person, you are of sound mind, and over 18 years old;
- (b) you are aware of the risks involved in trading each Product with us;
- (c) you and/or any person(s) entering into these Terms and entering Orders on your behalf, has all necessary authority, powers, consents, licenses and authorisations, and has taken all necessary actions to enable you to lawfully enter into and perform your obligations under these Terms, and/or to place any Orders or instructions;

- (d) no Event of Default has occurred with respect to you or any Credit Support Provider;
 - (e) these Terms as well as each Transaction and the obligations created under them are binding upon you and enforceable against you and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound;
 - (f) you act as Principal and are not acting as any other person's Agent or representative;
 - (g) all information which you provide or have provided is true, accurate and not misleading in any material respect;
 - (h) you are willing and financially able to sustain a total loss of funds resulting from Transactions plus, if you are a Wholesale Client or Sophisticated Investor, any liability you may incur in excess of your funds, which may be significant;
 - (i) money, investments or other assets supplied by you for any purpose shall, subject to the Terms, at all times be free from any and all rights of a third party to withhold or retain it (such as a lien) or security rights over it (such as a mortgage or a charge) or any pledge or other right of a third party person to make claims against it and are beneficially owned by you, unless otherwise allowed by these Terms;
 - (j) where you are not a resident of, or physically present in Australia, placing any Order, entering into any Transaction, or giving us any other instruction will not violate any law or regulation in the jurisdiction in which you are a resident or physically present; and
 - (k) you are not a resident of the United States of America.
- (f) if you are replaced or joined as trustee, you will make sure the new trustee becomes bound to our satisfaction by the Agreement and any other agreement relating to a Transaction contemplated by the Agreement to which you are expressed to be a party, or by a document which is identical in effect;
 - (g) you will not resettle, set aside or distribute any of the assets of the trust without our written consent unless compelled to do so by the trust instrument;
 - (h) you will not amend or vary the trust instrument without our written consent; and
 - (i) if you are not the sole trustee of the trust it is a requirement that each and every trustee agrees in writing to be bound by the terms of the Agreement and by any Transactions entered into in connection with the Agreement.

22.3 A covenant is a promise to do or not do something. Your covenant to us:

- (a) that for the duration of this Agreement, you will promptly notify us of any change to the details you supplied during the account opening process, including in particular any change of address, and any change or anticipated change in your financial circumstances or employment status (including redundancy and/or unemployment) which may affect the basis on which we do business with you;
- (b) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself or any Credit Support Provider;
- (c) you will comply with the terms of this Agreement and you will take all reasonable steps to comply with all Applicable Regulation to which you are subject in relation to provision of Products and Services to you under the Agreement;
- (d) where you are a partnership, any new partner to such partnership will adopt these Terms and all Open Positions and outstanding Orders in a form and substance to our satisfaction; and
- (e) use the Products and Services offered by us pursuant to the Agreement honestly, fairly and in good faith.

22.2 If you enter into the Agreement in your capacity as trustee of a trust, you make the following representations and undertakings:

- (a) the relevant trust instrument is valid and complies with all Applicable Regulations which apply to you;
- (b) you are properly appointed as the trustee of the trust;
- (c) you have a right of indemnity from the trust assets in respect of this Agreement and the Transactions contemplated by it;
- (d) you will comply with your duties as trustee of the trust;
- (e) you will not do anything which may result in the loss of your right of indemnity from the trust assets;

23. Default and Default Remedies

23.1 Each and any of the following shall constitute an "Event of Default":

- (a) you fail to make any payment when due under this Agreement;

- (b) you breach, fail to observe or perform any provision of this Agreement (including for the avoidance of doubt the representations, warranties and covenants given by you under clause 22);
- (c) you lose, fail to renew or have revoked any licence, approval or other act necessary for conducting business that you are conducting as your core business, or are permanently prohibited from conducting such business, be it by the regulator, courts or tribunals;
- (d) where you are a natural person, you die or become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or commit an act of bankruptcy, as defined under any bankruptcy law applicable to you; or you are sequestered; or any of your indebtedness is not paid on the due date thereof or becomes, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings are commenced for any execution, any attachment or garnishment, or any distress or diligence against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible or intangible), or you sign a trust deed for your creditors to enter into a debt payment programme; or an application for ancillary relief relating to your property or an entitlement of a contract you are a party to is made in any matrimonial proceedings relating to you or any process is commenced by any person which may result in you being declared "bankrupt";
- (e) where you are or your Credit Support Provider is a corporation, you or your Credit Support Partner commence a voluntary case or other procedure seeking or proposing liquidation, dissolution, reorganisation, or an arrangement or composition, receivership, adjudication, compromise, moratorium, or other similar relief (by way of voluntary arrangement, scheme or arrangement or otherwise) with respect to yourself or to your debts under any, insolvency, regulatory, or similar law or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, receiver and manager, custodian, examiner, factor or other similar official (each a "**Custodian**") of you or any of your assets, or you take any corporate action to authorise any of the foregoing; or you are dissolved; or an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganisation, receivership, adjudication, compromise or moratorium, or other similar relief with respect to you or your debts under any insolvency, regulatory, or similar law or seeking the appointment of a Custodian of you or any of your assets or any process is commenced by any person which may result in you being declared "insolvent"; or any similar or analogous actions or events to those set out above or in Clauses 23.1 (d), (f) or (h) in any relevant jurisdiction relating to your or your Credit Support Provider;
- (f) where you are or your Credit Support Provider is a limited partnership, any change of general partner in circumstances where any outstanding transactions under this Agreement have not been novated to the incoming general partner; or any similar or analogous actions or events to those set out in Clause 23.1(e) in respect of any general partner of the limited partnership or you;
- (g) you commence a voluntary case or other procedure seeking or proposing liquidation, reorganisation, judicial management, an arrangement or composition, a freeze or moratorium, or other similar relief (by way of voluntary arrangement scheme or arrangement or otherwise) with respect to yourself or to your debts under any bankruptcy, insolvency, receivership, adjudication, compromise, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Custodian or judicial manager of you or any of your assets; or take any corporate action to authorise any of the foregoing; and, in the case of a reorganisation, judicial management, arrangement or composition, we do not consent to the proposals;
- (h) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganisation, judicial management, receivership, adjudication, compromise, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Custodian or judicial manager of you or any of your assets or any process is commenced by any person which may result in you being declared "bankrupt" or "insolvent";
- (i) we reasonably consider it necessary for our own protection or to prevent what we reasonably consider to be or might be a violation of any Applicable Regulation, or good standard of market practice, including the rules in relation to appropriateness, or any action is taken or event occurs which we consider might have a material adverse effect on your ability to perform your obligations under the Agreement;
- (j) if any material information provided by you was untrue at the time it was given to us or any material information provided by you has

become untrue since the time that it was originally given and you failed to notify us of the same within a reasonable time;

- (k) if any representations, warranties or covenants given by you or any Credit Support Provider in these Terms or any Credit Support Document, are or become untrue in any material respect; or if you or any Credit Support Provider fails to comply with or perform any obligation under an applicable Credit Support Document;
- (l) if any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all of your obligations under these Terms, unless otherwise agreed by us;
- (m) you breach any applicable Position Limit or, in our reasonable discretion are likely to breach any applicable Position Limit;
- (n) any acts or omissions on the part of you, any Trading Agent or your or a Trading Agent's employee, agent or assignee (whether known to us, and whether or not acting in concert with other natural persons or algorithmic tools), which in our sole and reasonable discretion, are deemed to be negligent, a mistake, or an act of wilful misconduct including commission churning, sniping, causing or contributing to or benefiting from a Manifest Error, moving the price of an Underlying Instrument or Transaction, scalping, arbitrage off-market pricing, money laundering, different accounts being traded by one trader simultaneously, churning, same electronic identification point (e.g. IP address) as other clients or communication with other clients or placement of opposing orders so as to abuse a guaranteed fill; or
- (o) similar or analogous actions or events to those set out in this clause 23.1 above, under the laws of any relevant jurisdiction that may be applicable to you.

23.2 UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, WE MAY BY WRITTEN NOTICE TO YOU:

- (a) **CLOSE ANY OPEN POSITIONS OR CANCEL ANY ORDERS ON YOUR ACCOUNT;**
- (b) **PROHIBIT YOU FROM ACCESSING OR USING YOUR ACCOUNT;**
- (c) **SUSPEND OR IN ANY WAY LIMIT OR RESTRICT YOUR ABILITY TO PLACE ANY ORDER, GIVE ANY INSTRUCTION OR PLACE ANY TRANSACTION IN RELATION TO YOUR ACCOUNT;**
- (d) **VARY THE MARGIN REQUIREMENTS APPLICABLE TO YOU;**

- (e) **REQUIRE YOU TO CLOSE ANY OR ALL OF YOUR OPEN POSITIONS BY A SPECIFIED DATE NOTIFIED TO YOU;**
- (f) **MAKE APPROPRIATE DEDUCTIONS FROM OR CREDITS TO YOUR ACCOUNT;**
- (g) **TERMINATE ANY SERVICES PROVIDED TO YOU;**
- (h) **TERMINATE THE AGREEMENT IMMEDIATELY OR ON A SPECIFIED DATE SELECTED BY US; AND/OR**
- (i) **MODIFY, CHANGE, OR SWITCH YOUR ACCOUNT TYPE, PRICE STREAM, SPREADS OR SETTINGS WITHIN YOUR ACCOUNT OR THE TERMS OF OR PARAMETERS REGARDING ANY SERVICES WE PROVIDE TO YOU.**

24. Exceptional Events

24.1 In the absence of our wilful default or fraud, we shall not be liable for any Loss caused directly or indirectly, by any breakdown or failure of any transmission or communication system or equipment or computer facility or trading software, loss of use of the Trading Facility, whether belonging to us or our Associated Companies, you, any Market, or any settlement or clearing system when you trade online (via the internet) or for any cause preventing us from performing any or all of our obligations, any act of God, war, terrorism, malicious damage, civil commotion, industrial acts, pandemic, any Exceptional Market Event, or acts and regulations of any governmental or supra national bodies or authorities which in our reasonable opinion prevent an orderly market in relation to your Orders (an "Exceptional Event").

24.2 Upon the occurrence of an Exceptional Event, we shall use commercially reasonable efforts to resume performance and will endeavour to give you written notice that an Exceptional Event has occurred, however, where we reasonably believe that immediate action is required to protect ourselves and/or our clients, we reserve the right to take any action under clause 24.3 without notice to you. In such an event, we will endeavour to provide notice as soon as reasonably practicable after the Exceptional Event.

24.3 UPON OCCURRENCE OF AN EXCEPTIONAL EVENT, ALL OF OUR OBLIGATIONS UNDER THESE TERMS SHALL BE IMMEDIATELY SUSPENDED FOR THE DURATION OF SUCH EXCEPTIONAL EVENT. ADDITIONALLY, UPON THE OCCURRENCE OF AN EXCEPTIONAL EVENT, WE MAY TAKE ANY ONE OR MORE OF THE FOLLOWING STEPS WITH OR WITHOUT NOTICE TO YOU:

- (a) **ALTER NORMAL TRADING TIMES AND/OR EXPIRATIONS;**
- (b) **ALTER THE MARGIN REQUIREMENTS;**
- (c) **CLOSE ANY OR ALL OPEN POSITIONS, CANCEL INSTRUCTIONS AND ORDERS AS WE REASONABLY DEEM TO BE APPROPRIATE IN THE CIRCUMSTANCES; AND/OR**

- (d) **TAKE OR OMIT ALL SUCH OTHER ACTIONS AS WE DEEM TO BE REASONABLY APPROPRIATE IN THE CIRCUMSTANCES HAVING REGARD TO YOUR OPEN POSITIONS AND THE OPEN POSITIONS OF OUR OTHER CUSTOMERS.**

24.4 Upon the occurrence of an Exceptional Event, you may be obliged to deposit further Margin or close certain Open Positions at short notice in order to stop the Exceptional Event causing you Losses, or further Losses, on your Account.

25. Manifest Errors and Abusive Strategies

25.1 **IN THE ABSENCE OF OUR FRAUD OR WILFUL DEFAULT, WE RESERVE THE RIGHT WITHOUT YOUR CONSENT AND WITHOUT PRIOR NOTICE TO YOU TO VOID AND/OR AMEND THE TERMS OF ANY TRANSACTIONS:**

- (a) **CONTAINING OR BASED ON ANY ERROR THAT WE REASONABLY BELIEVE TO BE OBVIOUS OR PALPABLE (A "MANIFEST ERROR"). AN EXAMPLE OF A MANIFEST ERROR WITHOUT LIMITATION WOULD BE AN OBVIOUS MISQUOTE BY US; AND/OR**
- (b) **THAT WE REASONABLY BELIEVE TO BE A RESULT OF A STRATEGY BY YOU TO CAPITALISE ON OPPORTUNITIES WHERE THE EXECUTABLE PRICE OF A TRANSACTION DOES NOT ACCURATELY REFLECT MARKET RATES (AN "ABUSIVE STRATEGY").**

WHERE WE REASONABLY BELIEVE THAT YOU ARE UTILISING AN ABUSIVE STRATEGY, WE MAY ALSO WITHOUT YOUR CONSENT AND WITHOUT PRIOR NOTICE TO YOU, INCREASE YOUR SPREADS ON ANY OR ALL OF YOUR ACCOUNTS WITH US, OR MOVE YOU TO AN ALTERNATIVE PRICE STREAM. WE WILL NOTIFY YOU OF ANY CHANGES WE MAKE TO YOUR TRANSACTIONS OR ACCOUNTS IN REASONABLE TIME AFTER THE FACT WHERE WE EXERCISE OUR RIGHTS UNDER THIS CLAUSE 25.1.

25.2 If, in our discretion, we choose to amend the terms of any such Transaction specified in clause 25.1 above, the amended level will be such level as we reasonably believe would have been fair at the time the Transaction was entered into. In deciding whether an error is a Manifest Error or a Transaction was a part of an Abusive Strategy, we shall act reasonably and we may take into account any relevant information available to us, including, without limitation, the state of the underlying market at the time of the Transaction.

25.3 In the absence of our fraud or wilful default, we will not be liable to you for any Loss following off-market prices and/or a Manifest Error (including where the Manifest Error is made by any information source, commentator or official on whom we reasonably rely).

25.4 If we choose to exercise any of our rights under clause 25.1, and if you have received any monies from us in connection with the Manifest Error or Abusive Strategy, you agree that those monies are immediately due and

payable to us and you agree to return an equal sum to us without delay.

25.5 You represent and warrant to us at the time you enter into the Agreement and every time you enter into a Transaction that: (i) you will not place and have not placed a Transaction with us if to do so would result in you, or others with whom you are acting in concert with, having an interest in the Underlying Instrument which is equal to or exceeds the amount of a declarable interest in the Underlying Instrument prevailing at the relevant time, as set by law or by the relevant exchange; (ii) you will not place and have not placed a Transaction that contravenes any law or regulation prohibiting insider dealing, market manipulation or any other form of market abuse or market misconduct; and (iii) you will not place, and have not placed a Transaction with non-public knowledge of: a) a placing, issue, distribution or other similar event; b) an offer, takeover, merger or other similar event; or c) any corporate finance activity.

25.6 If you enter a Transaction that causes you to breach Clause 25.5 or we have reasonable grounds to suspect a breach of Clause 25.5, it shall be considered an Event of Default and we may: (i) enforce the Transaction; (ii) void the Transaction; and/or (iii) withhold any profits to the extent required by Applicable Regulation, unless and until you produce conclusive evidence to our satisfaction that you have not in fact committed any breach. These actions may be taken without any obligation to inform you of our reason to do so.

26. Exclusions and Limitations of Liability

26.1 Neither we nor our directors, officers, employees, or Agents shall be liable to you or any third party for any Loss incurred or suffered by you under these Terms or in relation to our Products and Services (including any Transaction or where we have declined to enter into a proposed Transaction) unless such Loss arises directly from our breach of contract, wilful default or fraud. Nothing in these Terms shall exclude or restrict any duty or liability owed by us to you under Applicable Regulation.

26.2 Subject to clause 26.1, we do not accept liability for any Loss arising from or in connection with the following:

- (a) an event where any computer viruses, worms, software bombs, or similar items are introduced into your computer hardware or software through your own failure to install adequate virus protection or your loss of internet connectivity for any reason;
- (b) the placement of Orders by you or the execution of Transactions with us;
- (c) your use of your own or a third party software; technology; trading platform; trading strategy; algorithm; advice; trading service or resource; even if we authorise or facilitate such use;
- (d) acts or omissions of any third party, including without limitation, Service Providers, Introducing Brokers, Trading Agents, or any

person or entity that you cause or permit to access your Account;

- (e) any adverse tax implications of any Transaction whatsoever;
- (f) any delay or change in market conditions before any particular Transaction is effected; and
- (g) any Exceptional Market Event.

27. Reimbursement

27.1 To the extent you use, or used, the Trading Facility for a commercial purpose and entered Orders for the account of your customers, you shall on demand reimburse, protect and hold us harmless from and against all Loss resulting from or arising out of claims raised by your customers. This clause 27 shall not be affected by the termination of these Terms.

27.2 Except as prohibited by Applicable Regulation and in the absence of our fraud or wilful default, you undertake and warrant that you will reimburse us, defend us, hold us harmless, and keep us indemnified on demand, in respect of all Loss that may be incurred by us as a direct or indirect result of:

- (a) your trading activity and/or any and all Transactions;
- (b) any breach, failure to observe or perform any provision of this Agreement (including for the avoidance of doubt the representations, warranties and covenants given by you under clause 22) or in relation to any false information or declaration made either to us or any third party, in particular to any exchange;
- (c) your use of your own or a third party trading platform, trading strategy, algorithm, advice, trading service or resource, even if we authorise or facilitate such use; and
- (d) any act or omission by any third party, including without limitation, Service Providers, Introducing Brokers, Trading Agents, or any person or entity that you cause to access your Account.

28. Information Collection and Reporting

28.1 You shall promptly provide us with such information as we may reasonably require from time to time, and shall update that information as required by us from time to time, to enable us or any Associated Company to comply with any Applicable Regulation.

28.2 We may, in accordance with any Applicable Regulation, make any deduction or withholding from a payment to or from you where we are required to do so by Applicable Regulation and to pay the amount so withheld or deducted to any authority in accordance

with Applicable Regulation. Notwithstanding any provision of these Terms to the contrary, we shall not be required to increase any payment in respect of which we make such a deduction or withholding or otherwise compensate you for that deduction or withholding.

28.3 We, our Associated Companies and their agents and service providers may collect, store and process information obtained from you or otherwise in connection with the Agreement and the Transactions for the purpose of complying with Applicable Regulation, including disclosures between us, our Associated Companies and their agents and to Governmental Authorities. You acknowledge and specifically agree that this may include transfers of information to jurisdictions which do not have strict data protection, data privacy laws or banking secrecy laws, inside or outside of Australia. You shall ensure that, before you or anyone on your behalf discloses information relating to any third party to us, our Associated Companies or their agents or service providers in connection with these Terms or any Transactions that said third party has been provided with such information and has given such consents or waivers as are necessary to allow us, our Associated Companies and their agents and service providers to collect, store, process and disclose his, her or its information as described in this clause 28.

28.4 Without prejudice to any provision of these Terms relating to information or data or its disclosure, you consent to the disclosure by us, our Associated Companies and their agents and service providers of any information or data in connection with or relating to you, the Agreement and/or any Transaction (including, without limitation, pricing data) to the extent that we determine it is required or permitted to comply with Applicable Regulation.

29. Amendments

29.1 We may from time to time make amendments to the Agreement, Rate Card or other policies. Reasons for doing so may include but shall not be limited to:

- (a) to comply with or reflect a change of Applicable Regulation or a decision by a court, tribunal or ombudsman;
- (b) to make them clearer or to correct a mistake or oversight;
- (c) to provide for the introduction of new, or the amendment of existing, systems, Services, procedures, processes, changes in technology and Products;
- (d) to reflect increases or reductions in the cost of providing Products and Services; or
- (e) to remove an existing Product or Service.

29.2 Subject to 29.3, we may amend the Agreement by giving no less than thirty (30) calendar days' notice in writing to you.

29.3 We may amend the Rate Card by giving no less than fifteen (15) calendar days' notice in writing to you.

29.4 We will notify you of any proposed change to the Agreement or Rate Card by giving you written notice of the proposed changes prior to the changes becoming effective in accordance with clauses 29.2 and 29.3. We will give you notice by email sent to the email address most recently notified by you to us and/or by sending you an electronic communication via our Trading Facility. You specifically agree to receive such notifications in this way.

29.5 Amendments to the Agreement or Rate Card shall become effective and shall be deemed to have been accepted by you and therefore binding, unless you notify us of your objection to those changes in writing and within the notice period. In the event that you object to any proposed amendment we may, at our sole and absolute discretion, terminate the provision of any Product or Service to you in accordance with clause 31.

29.6 If you wish to terminate our relationship as a result of the amendments we propose to make, you may do so in accordance with clause 31 by sending notice to us within the period set out in the amendment notice after which the changes will become effective.

29.7 Any other amendments to the Agreement must be agreed to in writing between us.

30. Trade Reporting

30.1 Our Transactions with you may need to be reported under the Applicable Regulations. If those Transactions must be reported, we will generate a unique trade identifier in relation to each relevant Transaction as required.

30.2 You agree that we may obtain a legal entity identifier (LEI) on your behalf, if required, for the purposes of complying with the Applicable Regulations. You agree that we may do so if we consider that it is necessary, so that you may enter into Transactions with us and you agree that we may require you to pay any costs and expenses we incur in obtaining a Legal Entity Identifier (LEI) on your behalf and to charge you for our administration costs.

31. Termination

31.1 You may terminate the Agreement immediately by giving written notice to us.

31.2 We may terminate the Agreement:

- (a) by giving thirty (30) calendar days' written notice to you at any time; or
- (b) immediately on written notice to you if you have no Open Positions in your Account at the time of notice; or
- (c) immediately on written notice to you in an Event of Default under clause 23.

31.3 Where you or we provide notice of termination in accordance with clauses 31.1 or 31.2(a), until Your Account is closed, during any termination notice period

any Open Positions or any legal rights or obligations which have already arisen will remain unaffected. We may however refuse to allow you to enter into any new Orders or Transactions, cancel pending Orders, or lock your account from all trading activity (in which case you will be required to contact us by phone to manage existing Open Positions). Your Account will be closed as soon as practicable once any relevant notice period has expired and all Open Positions are closed, all Orders are cancelled and all your obligations to us are discharged.

31.4 On termination by us in accordance with clauses 31.2(b) or (c) or upon termination given in accordance with clauses 31.1 or 31.2(a), we will, after the expiry of any relevant notice period:

- (a) Close any Open Positions;
- (b) cancel any Orders; and
- (c) be entitled to receive from you all fees, costs, charges, expenses and liabilities accrued or incurred under this Agreement up to the date of termination.

31.5 Termination of the Agreement will not affect any rights or obligations, which may already have arisen between us. The termination of these Terms will not affect the coming into force or the continuance in force of any provision in these Terms which is expressly, or by implication, intended to come into, or continue in force, on or after such termination.

32. In the Event of Death

32.1 In the event of your death, the Agreement will immediately terminate (unless there is a surviving joint account holder in which case it will continue in their sole name) and any person(s) purporting to be your legal personal representative(s) or surviving joint account holder must provide us with formal notice of your death in a form acceptable to us, for example an original death certificate.

32.2 Upon the receipt and acceptance of the death certificate, we will proceed, where there are no remaining account holders, under clause 23.2 and treat this as an Event of Default and exercise rights including but not limited to closing any and all Open Positions within the Account.

33. Notices and Communication

33.1 Subject to specific methods of communication and notice specified in this Agreement, you agree that we may notify, instruct, or communicate with you by telephone, short message service (text messages), post, email, or by posting a message or document on our website or Trading Facility. We will use the address, phone number, or email address specified in your Account opening documentation or such other contact information as you may subsequently provide to us.

33.2 Any notice specified to be provided to you in writing under these Terms will be provided by letter, email or by posting a message or document on our website or

Trading Facility. You specifically agree to the receipt of written notices in this way.

33.3 Any notice, instruction or other communication will be deemed to have been properly given by us to you if:

- (a) hand delivered, when left at your last known home or work address;
- (b) sent by post: the next Business Day or second Business Day after posting if not sent on a Business Day;
- (c) given verbally over the telephone, immediately where we speak with you. If we are unable to connect with you via phone, we may leave a voicemail. In such an event, the notice, instruction or other communication will be deemed to have been properly given one hour after the message is left;
- (d) sent by email, immediately after we have transmitted it to the email address last notified by you to us;
- (e) sent by short message service (text message), immediately after we have transmitted it to the short message service (text message) enabled phone number or ID last notified by us to you; or
- (f) posted on our website or Trading Facility, as soon as it has been posted.

33.4 You may notify us by post or email, each of which shall constitute written notice. You will use our registered address or email address specified by us from time to time in accordance with any notice requirement. Any notice will be deemed to have been properly given by you to us if:

- (a) hand delivered, when left at our registered address;
- (b) sent by post: the next Business Day or second Business Day after posting if not sent on a Business Day;
- (c) sent by email, immediately after you have transmitted it to the email address last notified by us to you.

33.5 Telephone calls or electronic communications between us are routinely recorded for the purposes of fraud prevention, quality control, compliance, training and to meet Applicable Regulations. By agreeing to these Terms, you consent and agree to the recording of any such telephone conversations by us or anyone on our behalf. The telephone recording remains our property.

34. Intellectual Property

34.1 Our website, Trading Facility, Secure Access Website and any and all information, data or materials that we may supply or make available to you (including any software which forms part of those items) ("Our Materials") are and will remain our property or that of

our service providers. Such service providers may include providers of real-time price data to us.

34.2 All Intellectual Property Rights in Our Materials, including without limitation all updates, modifications, compilations and enhancements, and all derivative works based on any of Our Materials, are and will remain our property (or those of our third party service providers).

34.3 You may access and use Our Materials only as expressly permitted for the operation of your Account in accordance with the Agreement. You must comply with any policies or additional terms relating to any of Our Materials or their use that we or our service providers may issue and which are notified to you.

34.4 You must not supply all or part of Our Materials to anyone else and you must not copy or reproduce all or part of them without our prior written permission. If we have provided any materials to you in connection with the operation of your Account, you must return those to us on closure of your Account.

34.5 Except to the extent expressly permitted by us you must not:

- (a) modify, translate or create derivative works based upon any of Our Materials;
- (b) take any action to compromise or challenge the enjoyment or use by any other person of any of Our Materials or the rights of us or any of our service providers in any of Our Materials; or
- (c) reverse engineer, decompile or disassemble any of Our Materials comprising software or otherwise attempt to discover the source code of such software.

34.6 You must notify us immediately of any unauthorised use or misuse of any of Our Materials of which you become aware and, to the extent reasonably requested by us, provide us cooperation in remedying such violation and/or taking steps to prevent any future violation.

35. Privacy

35.1 We obtain information from you during the course of our relationship, including such that can identify you (personal information). Protecting your privacy is very important for us. This section describes some of the key elements in relation to how we process and use your personal information, which you should be aware of. Please note that this description is not comprehensive and our Privacy Policy contains additional information about your privacy rights and the way we collect, use, store, share and protect your personal information. The Privacy Policy is available on our website and should be read alongside this clause 35.

35.2 Any personal information provided by you through your interaction with us will be handled, in accordance with these Terms, our Privacy Policy, and the Privacy Act 1988 (Cth).

35.3 Subject to the following we will treat all information we hold about you as private and confidential, even when you are no longer a client. You acknowledge and agree that we and/or parties that are entrusted by us, including any of our Associated Companies may process and use your personal information necessary to provide Products and Services to you. In particular we may:

- (a) use your personal information to determine your identity and background before and during the term of the Agreement for money laundering and regulatory purposes, to administer and operate your Account and monitor and analyse its conduct, provide Products and Services to you, improve any of our operations, procedures, Products and Services during the term of the Agreement, assess any credit limit or other credit decision (and the interest rate, fees and other charges to be applied to your Account) and enable us to carry out statistical and other analysis;
- (b) use your personal information including your contact details, application details and details of the Products and Service we provide to you and how you use them, to decide what Products and Services may be of interest to you;
- (c) to contact you by post, email and other electronic messages such as short message service, video and picture messaging, and fax, with information, promotions, educational materials, news, events and seminars on or related to our Products and Services; and
- (d) use your personal information and other relevant information to comply and cooperate with regulators, Governmental Authorities and the courts in all jurisdictions applicable to ours and our Associated Companies business and to comply with Applicable Regulations.

35.4 We may share your personal information with any of our Agents, Service Providers, or Introducing Brokers including data processors, or any Associated Company in the United States of America, United Kingdom, Europe, India, Israel, Hong Kong or other jurisdictions in or outside Australia who may only use it for the same purposes as us. Such purposes include those listed in clause 35.3 (above), in addition to the processing of instructions and generation of Confirmations and Account Statements, the operation of control systems, the operation of management information systems and allowing staff of Associated Companies who share responsibility for managing your relationship from other offices to view information about you. Please note that the national regimes outside Australia relating to the protection of personal information and privacy are not necessarily harmonised with those within Australia and do not necessarily offer the same level of protection for personal information. We will therefore take appropriate measures to ensure an adequate level of data protection standards and to protect the security of your personal information and details of the companies and countries involved in processing your personal information will be provided upon your request to our

Data Protection Officer, who may be reached by email at: dataprotection@fxcm.com.

35.5 You have the right free of charge to receive a copy of the information we hold about you, to the extent that it constitutes your personal information. If you wish to exercise this right, you should write to the Data Protection Officer.

35.6 You have the right, at any time, to request information about your personal information stored and processed by us, the purpose of such storage and processing as well as the recipients with whom your personal information is shared. To the extent your personal information is incorrect or not required for the purposes defined in these Terms; you have the right to require correction, blocking or deletion of such data. You also have the right to object to our processing of your personal information and to rectify processed data anytime. In such circumstances, you acknowledge that we may no longer be able to provide you with Products and Services.

35.7 If you have any questions regarding your rights or if you have any specific requests relating to personal information please contact the Data Protection Officer.

36. Assignment

36.1 We may arrange for any Associated Company or appropriate third party to perform any functions which are required to be performed by us under this Agreement, but this shall not affect our liability to you.

36.2 We may at any time novate this Agreement to a third party, or assign or transfer any of our rights and/or obligations under this Agreement to a third party, provided that we comply with Applicable Regulations and give you at least fourteen (14) days' written notice. Where we do this we will treat all Client Money held for you in accordance with clause 15.1(g).

36.3 If you object to any novation, assignment or transfer we make under this clause 36, you may terminate this Agreement with immediate effect by providing us with notice of this in writing.

36.4 You may not in any way assign or transfer your rights, obligations or interests under this Agreement or in any Transaction or monies or assets held by us for you in any way.

37. Miscellaneous

37.1 Our rights, remedies and powers set out in the Agreement are not exhaustive of any rights, remedies or powers provided by Applicable Regulation. No failure to exercise or delay in exercising them shall operate as a waiver of them, nor shall any single or partial exercise of them preclude any other or further exercise of them.

37.2 If, at any time, any provision of these Terms is or becomes illegal, invalid, or unenforceable in any respect under the law or regulations of any jurisdiction, then such provision or part of such provision will, to that extent, not form part of these Terms. Neither the legality, validity or enforceability of the remaining

provisions of the Terms under the law or regulations of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.

- 37.3 You accept that we may be closed on significant holidays in Australia. This means that we may not offer Services, in whole or in part, every day of the year. You should make yourself aware of our regular hours of business and closure schedule to avoid any service disruption or inconvenience when trading. These are available on our website.

- 37.4 A person who is not a party to the Agreement has no right to enforce any part of the Agreement.

38. Governing Law

- 38.1 This Agreement is governed by and construed in accordance with the law of New South Wales. The Courts of New South Wales have exclusive jurisdiction to settle any dispute arising in connection with the Agreement and both we and you irrevocably submit to the jurisdiction of the courts of New South Wales.

Schedule A: Business Terms for Rolling Spot Forex

1. Scope

1.1 This Schedule A supplements and amends the Terms as expressly provided below. In the event of any conflict or inconsistency between the main body of the Terms and this Schedule A the provisions in this Schedule A shall prevail.

1.2 Clauses 2 through and including 5 of this Schedule A together with the main body of the Terms shall govern the relationship between you and us when you enter into a Rolling Spot Forex Contract (defined below).

2. Definitions

2.1 Words or phrases defined in the main body of the Terms shall have the same meaning in this Schedule A unless otherwise defined.

2.2 In this Schedule A, the following words and phrases shall, unless the context otherwise requires, have the following meanings and may be used in the singular or plural as appropriate:

- (a) **"Rolling Spot Forex Contract"** also known as a **"Forex CFD Contract"** means a CFD contract entered into between us with foreign exchange pairs as the Underlying Instrument;
- (b) **"Roll-Over Fee"** has the meaning given to it in clause 5.4 of this Schedule A.

3. Opening Rolling Spot Forex Contracts

3.1 A Rolling Spot Forex Contract will only be formed when you provide an instruction to place an Order on a quote provided by us (either through the Trading Facility or via telephone), and we execute the instruction in accordance with clause 9 of the main body of the Terms.

3.2 You may cancel any Order, other than a Market Order, at any time by providing notice to us (by telephone or in writing) unless and until the Order has been executed in whole or in part. If an Order has been executed in whole or in part it will not be possible for you to cancel the Order to the extent that the Order has been executed. If an Order is a Market Order, it will not be possible for you to cancel the Order at any time.

3.3 For Accounts where you are using the Non-Hedging Setting, if you:

- (a) give an Order to open a long position in relation to a currency pair on an Account where at that time you already have on that Account a short position in relation to the same currency pair; or

- (b) give an Order to open a short position in relation to a currency pair where you already have a long position in relation to the same currency pair;

then we will treat your instruction to open the new position as an instruction to close the existing position to the extent of the size of the new position. If the new position is greater in size than the existing position, then the existing position will be closed in full and a new Rolling Spot Forex Contract will be opened in relation to the excess size of the new position.

3.4 For Accounts where you are using the Hedging Setting, if you:

- (a) give an Order to open a long position in relation to a currency pair on an Account where at that time you already have on that Account a short position in relation to the same currency pair; or
- (b) give an Order to open a short position in relation to a currency pair where you already have a long position in relation to the same currency pair;

then we will not treat your instruction to open the new position as an instruction to close the existing position.

4. Closing a Rolling Spot Forex Contract

4.1 On any Business Day on which you wish to close any Rolling Spot Forex Contract (whether in whole or in part) you may give a Closing Notice to us specifying the Rolling Spot Forex Contract you wish to close, the related currency pair, the Contract Quantity and the Closing Date.

4.2 Following receipt of a Closing Notice, we shall inform you of the Closing Price of the Rolling Spot Forex Contract and the Rolling Spot Forex Contract will be closed at that price on the Closing Date. Any amounts payable by you to us as a result of the closed Rolling Spot Forex Contract are immediately due and payable on the Closing Date. Conversely, any amounts payable by us to you as a result of the closed Rolling Spot Forex Contract will, where reasonably practicable, be deposited into your Account on the Closing Date.

5. Rollover

5.1 A Rolling Spot Forex Contract is generally considered an open-ended contract with no definitive close date. Open ended Rolling Spot Forex Contracts will roll over each trading day until you instruct us to close the Rolling Spot Forex Contract.

5.2 For the purposes of determining and fulfilling your obligations with respect to a Rolling Spot Forex Contract, including but not limited to your Margin obligations under these Terms, a Rolling Spot Forex Contract shall be deemed to be a single Rolling Spot Forex Contract which is initiated when the Rolling Spot

Forex Contract is first opened and closed when you instruct us to close the Rolling Spot Forex Contract.

5.3 We reserve the right to discontinue any Product (including any Rolling Spot Forex Contract) at any time, where you have Open Positions in that Product, we will give you 30 days written notice, unless we are required by any Applicable Regulation to discontinue it immediately, in which case we will notify you as soon as possible.

5.4 Where you enter into a Rolling Spot Forex Contract with us and you roll that contract from one day to the next, we will charge you a Roll-Over Fee relative to that Transaction, which:

(a) will vary between currency pairs;

(b) depend on the Contract Quantity; and

(c) is subject to change from time to time.

The Roll-over Fee may be positive or negative, meaning that you will either owe money to us or receive money from us each night a Rolling Spot Forex Contract is rolled over. Details about the Roll-Over Fee are available on the Trading Facility, our website, and/or the Rate Card.

5.5 Unless you close a Rolling Spot Forex Contract before 17:00 EST, we will automatically roll over such open Rolling Spot Forex Contracts on your Account to the next Business Day, and subsequently charge you the relevant Roll-Over Fee.

Schedule B: Business Terms for CFD Contracts

1. Scope

- 1.1 This Schedule B supplements and amends the Terms as expressly provided below. In the event of any conflict or inconsistency between the main body of the Terms and this Schedule B the provisions in this Schedule B shall prevail.
- 1.2 Clauses 2 through and including 9 of this Schedule B together with the main body of the Terms shall govern the relationship between you and us when you enter into a CFD Contract (defined below).

2. Definitions

- 2.1 Words or phrases defined in the main body of the Terms shall be assigned the same meaning in this Schedule B unless otherwise defined.
- 2.2 In this Schedule B, the following words and phrases shall, unless the context otherwise requires, have the following meanings and may be used in the singular or plural as appropriate:
- (a) **"CFD Contract"** means any CFD entered into between you and us other than a Rolling Spot Forex Contract;
 - (b) **"Finance Charge"** means the fee charged by us to you for rolling a CFD Contract from one day to the next;
 - (c) **"Transaction Charge"** means the fee charged by us to you for opening and/or closing a CFD Contract where the Underlying Instrument is a Security.

3. Services

- 3.1 Subject to you fulfilling your obligations under the Terms, we may enter into CFD Contracts with you, the subject of such contracts relating to any Underlying Instrument offered by us from time to time.
- 3.2 A CFD is a cash-settled contract, which seeks to confer similar economic benefits to an investment in the relevant Underlying Instrument, without the usual costs and rights associated with an investment in the Underlying Instrument, although other costs and rights will apply to a CFD. Therefore, you acknowledge and agree that you will not be entitled to delivery of, or be required to deliver, the Underlying Instrument to which a CFD Contract relates, nor will you acquire any interest in the relevant Underlying Instrument or be entitled to receive dividends or any equivalent thereof, to exercise voting rights, to receive any rights pursuant to any rights or bonus issue, or to participate in any placing or open offer by virtue of its CFD Contract where an Underlying Instrument is a Security. The payment of any dividend or occurrence of any rights or bonus issue, placing, open offer or take-over in respect

of a CFD Contract where the Underlying Instrument is a Security, shall be dealt with in accordance with these Terms.

4. Opening CFD Contracts

- 4.1 A CFD Contract will only be formed when you provide an instruction to place an Order on a quote provided by us (either through the Trading Facility or via telephone), and we accept the instruction in accordance with clause 9 of the main body of these Terms.
- 4.2 You may cancel an Order, other than a Market Order at any time by providing notice to us (by telephone or in writing) unless and until the Order has been executed in whole or in part. If an Order has been executed in whole or in part it will not be possible for you to cancel the Order to the extent that the Order has been executed. If an Order is a Market Order, it will not be possible for you to cancel the Order at any time.
- 4.3 For Accounts where you are using the Non-Hedging Setting, if you:
- (a) give an Order to open a long position in relation to an Underlying Instrument on an Account where at that time you already have on that Account a short position in relation to the same Underlying Instrument; or
 - (b) give an Order to open a short position in relation to an Underlying Instrument where you already have a long position in relation to the same Underlying Instrument;

then we will treat your instruction to open the new position as an instruction to close the existing position to the extent of the size of the new position. If the new position is greater in size than the existing position, then the existing position will be closed in full and a new CFD Contract will be opened in relation to the excess size of the new position.

- 4.4 For Accounts where you are using the Hedging Setting, if you:
- (a) give an Order to open a long position in relation to an Underlying Instrument on an Account where at that time you already have on that Account a short position in relation to the same Underlying Instrument; or
 - (b) give an Order to open a short position in relation to an Underlying Instrument where you already have a long position in relation to the same Underlying Instrument;

we will not treat your instruction to open the new position as an instruction to close the existing position.

- 4.5 We may stipulate a minimum and/or maximum Contract Quantity per Underlying Instrument from time to time and we reserve the right to vary such stipulations according to market conditions.

5. Closing CFD Contracts

- 5.1 On any Business Day on which you wish to close any CFD Contract (whether in whole or in part) you may give a Closing Notice to us specifying the CFD Contract you wish to close, the related Underlying Instrument, the Contract Quantity and the Closing Date.
- 5.2 Following receipt of a Closing Notice, we shall inform you of the Closing Price of the CFD Contract and the CFD Contract will be closed at that price on the Closing Date. Any amounts payable by you to us as a result of the closed CFD Contract are immediately due and payable on the Closing Date. Conversely, any amounts payable by us to you as a result of the closed CFD Contract will, where reasonably practicable, be deposited into your Account on the Closing Date.

6. CFD Contracts on Securities

- 6.1 Clause 6 of this Schedule B will apply to you when you enter into a CFD Contract with us, the Underlying Instrument of which is a Security.
- 6.2 If any Securities become subject to a dividend, stock split, reverse stock split, ticker change and/or name change, we shall determine in accordance with market practice the appropriate adjustment, if any, to be made to the current Contract Value or Contract Quantity of any related CFD Contract in order to preserve the economic equivalent of the CFD Contract prior to the relevant event or to reflect the effect of the event on the relevant Underlying Instrument. Such adjustments will be effective as of the date reasonably determined by us.
- 6.3 **A CORPORATE ACTION IS SOMETHING WHICH WILL BRING ABOUT A CHANGE TO A SECURITY, SUCH AS A RIGHTS ENTITLEMENT ISSUE. WE DO NOT PROCESS MOST CORPORATE ACTIONS. IF THERE IS A CORPORATE ACTION ON A SECURITY AND THAT SECURITY IS THE UNDERLYING INSTRUMENT OF A CFD CONTRACT YOU HAVE WITH US, UNLESS THE CORPORATE ACTION IS A DIVIDEND, STOCK SPLIT, REVERSE STOCK SPLIT, TICKER CHANGE AND/OR NAME CHANGE, YOU AGREE THAT WE MAY WITH OR WITHOUT NOTICE TO YOU CLOSE THE RELEVANT CFD CONTRACT ANYTIME WITHIN TWO DAYS OF THE EFFECTIVE DATE OF THE CORPORATE ACTION. YOU SHOULD THEREFORE MONITOR ACTIONS RELEVANT TO THE UNDERLYING INSTRUMENTS OF YOUR CFD CONTRACTS AND TAKE PROACTIVE STEPS TO MANAGE YOUR POSITIONS ACCORDINGLY.**

7. Suspensions and De-listings

- 7.1 If at any time trading on an exchange or Market or Trading Venue is suspended which affects the Underlying Instrument to a CFD Contract, we shall calculate the value of the CFD Contract with reference to the last traded price before the time of suspension, or the Closing Price if no trading in that Underlying Instrument is undertaken during the Business Day on which a suspension occurs. If the suspension continues for 5 business days, we may close the CFD

contract and will in good faith determine the closing date and value of the CFD contract.

- 7.2 During the term of a CFD Contract, in the event that the Underlying Instrument to a CFD Contract is suspended, we may in our reasonable discretion terminate the CFD Contract and/or to amend or vary any Margin Requirements and Margin rates for that CFD Contract. Where we do this we will give you three Business Days' notice, unless in our reasonable view immediate action is required to minimise potential detriment to you, when we will notify as soon as possible after we have taken any action.
- 7.3 If a Market or Trading Venue on which an Underlying Instrument is principally traded announces that pursuant to the rules of such Market or Trading Venue the relevant Underlying Instrument has ceased, or will cease to be listed, traded or publicly quoted on such Market or Trading Venue for any reason and is not immediately re-listed, re-traded or re-quoted on such a Market or Trading Venue or quotation system located in the same country as such Market or Trading Venue, or already so issued, quoted or traded, and you have a CFD Contract relating to the affected Underlying Instrument, the day on which such an event occurs, or (if earlier) is announced, shall be the Closing Date. The Closing Price will be such price as we reasonably determine, as notified by us to you.

8. CFD Contracts on Cryptocurrencies

- 8.1 "Cryptocurrencies" means a cryptographically encrypted digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value, does not have legal tender status in any jurisdiction and is traded on non-regulated decentralised digital exchanges. Cryptocurrencies include but are not limited to Bitcoin, Litecoin, and others.
- 8.2 When trading in CFD Contracts where the Underlying Instrument is a Cryptocurrency, you should be aware that the Cryptocurrencies may not be recognised as financial products under Applicable Regulation. Cryptocurrencies are traded on non-regulated decentralised digital exchanges. Accordingly, price formation and price movements of the Cryptocurrencies depend solely on the internal rules of the particular digital exchange, which may be subject to change at any point in time and without notice. This often leads to a very high intra-day volatility in the prices of the Cryptocurrencies which may be substantially higher compared to other Underlying Instruments. Therefore, by trading CFD Contracts in Cryptocurrencies you accept a significantly higher risk of loss of your deposited amounts which may occur within a very short time frame as a result of sudden adverse price movements of the Cryptocurrencies.
- 8.3 Due to the non-regulated nature of such exchanges, the market data and price feed information provided by such exchanges may be subject to the internal rules and practices of such exchanges which may significantly differ from the rules and practices observed by the regulated exchanges. In particular,

you should be aware that the pricing formation rules of the Cryptocurrency exchanges are not subject to any regulatory supervision and may be changed at the relevant digital exchange's discretion at any time. Similarly, such digital exchanges may introduce trading suspensions or take other actions (for example, without limitation, "fork", discontinuation, and/or "hard fork") that may result in suspension or cessation of trading or pricing and the price and market data feed becoming unavailable to us (herein referred to as "Disruptions"). The above Disruptions could result in material adverse effect on your Open Positions, including the loss of all of your deposited amounts. You accept that in the event of any Disruptions we shall determine in accordance with market practice the appropriate adjustment, if any, to be made to the current Contract Value or Contract Quantity of any related CFD Contract in order to preserve the economic equivalent of the CFD Contract prior to the relevant event or to reflect the effect of the event on the relevant Underlying Instrument. Such adjustments will be effective as of the date reasonably determined by us.

9. Transaction Costs and Rollover

- 9.1 In respect of Transactions in certain CFD Contracts, we may charge you a Transaction Charge and/or a Finance Charge. Transaction Charges and Finance Charges will be specified in the Rate Card as amended from time to time. Transaction Charges and Finance Charges will be deducted from your Account as set out in clause 9.7 of this Schedule B below. You must have sufficient money on your Account at the relevant time to meet such obligations.
- 9.2 Where you open or close a CFD Contract with us and the Underlying Instrument of that contract is a Security, we will charge you a Transaction Charge to open and close the CFD Contract. Details behind the Transaction Charge, including its calculation, are set out in the Rate Card.
- 9.3 A CFD Contract is generally considered an open-ended contract with no definitive close date unless we, the Underlying Instrument or the Market otherwise requires. Both open ended and fixed-term CFD Contracts will roll over each trading day until you instruct us to close the open CFD Contract (and we accept and act on that instruction), the CFD Contract is otherwise closed in accordance with the Terms or the definitive close date is reached. The Contract Value of

an open CFD Contract is adjusted with reference to the market price of the Underlying Instrument each trading day that a CFD Contract remains open.

- 9.4 For the purposes of determining and fulfilling your obligations with respect to a CFD Contract, including but not limited to your Margin obligations under these Terms, a rolling CFD Contract shall be deemed to be a single CFD Contract which is initiated when the CFD Contract is first opened and closed when you instruct us to close the open CFD Contract (and we accept and act on that instruction), the CFD Contract is otherwise closed in accordance with the Terms or the definitive close date is reached.
- 9.5 We reserve the right to discontinue any Product (including any CFD Contract) at any time, where you have Open Positions in that Product, we will give you 30 days written notice unless we are required by any Applicable Regulation to discontinue it immediately, in which case we will notify you as soon as possible.
- 9.6 Where you enter into a CFD Contract with us and you roll that contract from one day to the next, we will charge you a Finance Charge relative to that Transaction, unless you close the CFD Contract before the applicable time for such CFD Contract as specified in our Rate Card.
- 9.7 The Finance Charge may be positive or negative, meaning that you will either owe money to us or receive money from us each night a CFD Contract is rolled over. Details about the Finance Charge are available on the Trading Facility, our website, and/or the Rate Card.
- 9.8 The Finance Charge:
- (a) will vary between Underlying Instruments;
 - (b) may be incurred at different times depending on the Underlying Instrument;
 - (c) depends on the Contract Quantity; and
 - (d) is subject to change from time to time.
- 9.9 If you open a CFD Contract on a fixed term the CFD Contract will have a defined close date, which will be notified to you on our website and may be subject to a Finance Charge. If you fail to close such CFD Contract before the definitive close date, we will automatically close it.

Schedule C: Master Netting Agreement

1. Introduction

- 1.1 This Schedule C supplements and amends the Terms as expressly provided below. In the event of any conflict or inconsistency between the main body of the Terms and this Schedule C the provisions in this Schedule C shall prevail.

2. Definitions

- 2.1 Words or phrases defined in the main body of the Terms shall be assigned the same meaning in this Schedule C unless otherwise defined herein.

- 2.2 In this Schedule C, the following words and phrases shall, unless the context otherwise requires, have the following meanings and may be used in the singular or plural as appropriate:

- (a) **"Liquidation Date"** has the meaning given to it in Clause 5.1 of this Schedule C; and
- (b) **"Liquidation Amount"** has the meaning given to it in Clause 5.2 (c) of this Schedule C.

3. Settlement and Exchange or Clearing Organisation Rules

- 3.1 Unless a Liquidation Date has occurred or has been effectively set, we will not be obliged to make any payment or delivery scheduled to be made by us under a Transaction governed by the Agreement for so long as an Event of Default or Potential Event of Default with respect to you has occurred and is continuing.
- 3.2 Unless otherwise agreed in writing between us, if we enter into any Transaction governed by this Agreement to close out any existing Transaction between us then each of our obligations under such Transactions shall automatically and immediately be terminated upon entering into the second Transaction, except for any settlement payment due from one of us to the other in respect of such closed-out Transactions.
- 3.3 These terms shall not be applicable to any Transaction to the extent that action which conflicts with or overrides the provisions of this Agreement has been started in relation to that Transaction by a relevant exchange or clearing organisation under applicable rules or laws and is continuing.

4. Representations, Warranties and Covenants

- 4.1 You represent and warrant to us as of the effective date of this Agreement and, in the case of the representation and warranty in (v) of this Clause 4.1 relating to the entering into of Transactions, as of the date of entering into each Transaction governed by

these terms that: (i) you have authority to enter into this Agreement; (ii) the persons entering into the Agreement on your behalf have been duly authorised to do so; (iii) this Schedule C and the Agreement as supplemented and amended hereby and the obligations created under the same are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any other agreements to which you are bound; (iv) no Event of Default or Potential Event of Default has occurred and is continuing with respect to you; and (v) you act as principal and sole beneficial owner (and not as trustee) in entering into these terms and each and every Transaction governed by our Agreement.

- 4.2 You covenant to us that: (i) you will at all times obtain and comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required to enable it lawfully to perform its obligations under this agreement; and (ii) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to yourself or any Credit Support Provider.

5. Termination and Liquidation

- 5.1 Subject to this Schedule C and the Applicable Regulation, if at any time an Event of Default occurs then, in addition and without prejudice to any rights or remedies that we may have under the Terms we may, by notice to you, specify a date (the **"Liquidation Date"**) for the termination and liquidation of Transactions in accordance with the provisions of Clause 5.2 of this Schedule C. If required by Applicable Regulations, the Liquidation Date might occur automatically as of the time immediately prior to or upon the occurrence of an insolvency event as an Event of Default.

- 5.2 Upon the occurrence of a Liquidation Date:

- (a) neither of us shall be obliged to make any further payments or deliveries under any Transactions governed by the Agreement, which would, but for this Clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount;
- (b) we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Transaction governed by the Agreement, our total cost, loss or, as the case may be, gain, in each case expressed in the Base Currency as specified by the parties in the Terms (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position), as a result of the termination, pursuant to the Agreement, of each payment or delivery which would otherwise have been

required to be made under such Transaction (assuming satisfaction of each applicable condition precedent and having due regard to, if appropriate, such market quotations published on, or official settlement prices set by, a relevant exchange or clearing organisation as may be available on, or immediately preceding, the date of calculation); and

- (c) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the “**Liquidation Amount**”).

5.3 If the Liquidation Amount determined pursuant to Clause 5.2 of this Schedule C is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the Liquidation Amount, and by which party it is payable, immediately after the calculation of such amount.

5.4 The amount payable by one party to the other pursuant to the provisions of Clause 5.3 of this Schedule C, or any applicable laws or regulations, shall be paid in the Base Currency by the close of business on the Business Day following the completion of the termination and liquidation under Clause 5.2 of this Schedule C, or any laws or regulations having a similar effect, (converted as required by Applicable Regulation into any other currency, any costs of such conversion to be borne by, and (if applicable) deducted from any payment to, you). Any such amount which is not paid on the due date therefore shall bear interest in accordance with the Terms.

5.5 For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as we shall reasonably select.

5.6 Our rights under this Clause 5 shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise).

5.7 The Terms, this Schedule C and the terms of the Transactions constitute a single agreement and each and all Transactions are entered into in reliance upon the fact that such agreement and all such terms constitute a single agreement.

6. Set-Off and Application of Client Money

6.1 If there is an Event of Default or this Agreement terminates, we may, set off Margin owed by us to you against any and all obligations owed by you to us as they become due and payable to us under or in respect of the Agreement or any Transaction and we shall be obliged to pay to you (or entitled to claim from you, as appropriate) only the net balance after all such obligations have been taken into account. The net amount, if any, payable between us following such set-off, shall take into account the Liquidation Amount payable under Clause 5 of this Schedule C. For these purposes, we may ascribe a commercially reasonable value to any amount which is contingent or which for any other reason is unascertained.

6.2 As a continuing security for the payment and discharge of your obligations under or in respect of the Agreement or any Transaction you grant to us, with full title guarantee, a first fixed security interest in all your money that we may cease to treat as Client Money in accordance with the Client Money Rules. You agree that we shall be entitled to apply that money in or towards satisfaction of all or any part of such obligations which are due and payable to us but unpaid.