

## Mobile Services Terms and Conditions

You may access our mobile trading platform or website through a mobile telephone, PDA or other mobile device ("Mobile Device").

These Mobile Services Terms and Conditions ("Mobile Terms") apply to your access and use of our website and mobile trading platform via a Mobile Device (our "Mobile Services") together with our Terms and Policies (and including where relevant our Demo Account Terms). If there is any inconsistency between these Mobile Terms and our Terms and Policies, these Mobile Terms and Policies shall prevail.

If you do not agree with any of our Mobile Terms then you should not use our Mobile Services.

### 1. Use

You agree to comply with these Mobile Terms when using our Mobile Services and all applicable laws and regulations, together with any specific usage rules that may be posted in relation to any material and content that you access via the Mobile Services.

Unless we agree for a demo account, our Mobile Services are only available following successful completion of our account opening requirements. We have made every effort to describe the benefits and risks associated with our products and services which you should ensure you understand before contemplating an application.

Our Mobile Services are not directed at or intended for distribution to, or use by, any person in any country or jurisdiction where such distribution or use would be contrary to local law or regulation. It is your responsibility to comply with any local law or regulation to which you are subject.

You agree that you will not use the Mobile Services in any way that may lead to the encouragement, procurement or carrying out of any criminal or unlawful activity, or cause distress, harm or inconvenience to any other person. You will not do anything that may cause damage to the Mobile Services or our servers, systems or equipment or those of third parties, nor access or attempt to access any users' data or to penetrate or attempt to penetrate the Mobile Services' security measures.

You agree to compensate us in respect of any damages suffered by us or any of our losses resulting from any claim made by a third party in each case in respect of any matter arising from your use of the Mobile Services in breach of these Mobile Terms or from your violation of any applicable law or regulation.

Where mobile services are provided to you directly by a distributor, network operator or other third party, the take up and use of those services by you may be subject to the terms and conditions of those third parties. However, you will also remain bound by these Mobile Terms where applicable and in the event of a conflict between any third parties' terms and these terms, these Mobile Terms will take precedence.

You will take all reasonable steps to ensure that no computer viruses, worms, software bombs or similar items are introduced into the Mobile Services, our software or any

Mobile Device that is used to access or use the Mobile Services.

### 2. Content

You acknowledge and agree that the Mobile Services are provided by us on an "as is" and "as available" basis without any representations or any kind of warranty made (whether express or implied) to the extent permitted by law, including the implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy. Any material downloaded or otherwise obtained through the use of the Mobile Services is used at your own discretion and risk.

City Index has provided the information available on our Mobile Services and we take great care in ensuring that the information is accurate, however we accept no liability in this respect.

**NOTE: You should be aware that the mobile trading platform may have more limited functionality and content than the online Trading Platform. The content is subject to change without notice.**

The contents of the Mobile Services and any software provided to you by us may not be copied, reproduced, communicated and/or made available to the public, republished, downloaded, posted, recorded, broadcast or transmitted or used in any other way, except for your own personal, private and non-commercial use, unless otherwise expressly permitted by us.

### 3. Availability

We endeavour to provide a satisfactory level of performance for our Mobile Services. However it is not technically possible or practical for us to provide our Mobile Services free of all faults at all times. The information and material provided on our Mobile Services may include some inaccuracies or typographical errors, which we will endeavour to correct as they come to our notice. Our Mobile Services may sometimes be unavailable for technical reasons, for maintenance or for us to make editorial changes. We may also decide at any time to discontinue providing certain of our freely available Mobile Services.

Our Mobile Services are subject to the limitations of the technology on which they rely and may be adversely affected by network performance and other technological or operational factors beyond our control such as congestion, network coverage, dropped connections and the performance of your mobile device.

### 4. Security

You acknowledge and agree that any instruction given by you or on your behalf via our Mobile Services is made at your own risk.

You will be responsible for keeping your account number and password ("Security Details") confidential and acknowledge that we shall be entitled to rely upon these details to identify you.

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- 4.1. You must keep your Security Details secret.
- 4.2. You must take all reasonable precautions to prevent the fraudulent use of your Security Details.
- 4.3. You should not record your Security Details in any way which may result in them becoming known to another person.
- 4.4. If you suspect someone knows your Security Details you must contact us immediately. If you fail to do so, you will be liable for any unauthorised transactions on your account confirmed by use of the Security Details.
- 4.5. You will be responsible for all instructions received by us between the time you pass the security procedure until you exit from the Mobile Service.

Please note that this includes any input errors or instructions sent by someone other than yourself.

### 5. Authority

In using our Mobile Services, you will be able to open and close positions with us and view your account information. You authorise us to accept and act on your instructions and to pay from your account the amounts involved when a transaction using the Mobile Services has been authenticated by the use of the security procedure we require you to follow.

### 6. Third Party Material

Use of the Mobile Services are at your own risk and we are specifically not endorsing or associating with any particular person, business or material that may be featured on the mobile trading platform.

The mobile trading platform may contain links to other third party sites and services through advertising or otherwise. These links are provided for your ease of reference and convenience only. We have no control over those third party sites or services and are not responsible for their contents. We do not endorse the material contained in their sites or services, and have no association with their operators.

You agree that we won't be party to any transaction or contract with a third party that you may enter into and we won't be liable to you for any loss or damage which you may suffer by using those third party sites and services. You agree that you will not involve us in any dispute you may have with such third party sites and services.

### 7. Charges

We reserve the right to charge you and you agree to pay the charges for the Mobile Services or any part of it. Details of new charges and changes to charges will be notified to you in accordance with our Agreement.

### 8. Intellectual Property

All copyright, trade marks and other intellectual property rights in the content of the Mobile Services and mobile trading platform (including any software) belong to us or our

licensors. Except where necessary for the provision of the Mobile Services to you, no such information may be reproduced, adapted, uploaded to a third party, or distributed or transmitted in any form by any process without our specific written consent.

### 9. Liability

We do not give any guarantee or warrantee as to the accuracy, suitability, reliability, completeness, performance, satisfactory quality, fitness for a particular purpose, or freedom from viruses, or other harmful programs contained in or accessed through the Mobile Services.

Results of any error or failure may result in loss or damage to you that may include (but is not limited to):

- your placing or not placing trades on the basis of receiving misleading or inaccurate information, including information about our prices;
- your being unable to open or close positions via our Mobile Services;
- your failing to receive messages that we send to your Mobile Device; and
- your believing that you have placed a trade when our records show that we have not accepted a trade from you, or your believing that you have not placed a trade when our records show that we have accepted a trade from you.

You understand and accept these risks when you trade with us through our Mobile Services and to the maximum extent permitted by law, we will not be liable in any way for any loss or damage suffered by you through access to or use of the Mobile Services, our failure to provide the Mobile Services, or the incompatibility of the Mobile Services (or any software) with any Mobile Device.

We do not accept any liability whether in contract or in tort (including negligence) for damage to your Mobile Device or for any loss of data that results from your use of the Mobile Services and we cannot guarantee that any files that you download are free from viruses, contamination or destructive features or for any problems or inadequacies with your Mobile Device or software.

We shall not be liable to you for any indirect, consequential, special or exemplary damages arising from the use, non-use, defects or delays in the Mobile Services however arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable and including but not limited to any loss of profit or opportunity.

We do not limit or exclude our liability for death or personal injury arising from our negligence, nor our liability for fraudulent misrepresentation.

### 10. Variation and Termination

We reserve the right to change these Mobile Terms at any time in our sole discretion and without prior notice. By continuing to use the Mobile Services you are deemed to have accepted the varied Terms. We will provide you with

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notification of any change in accordance with our Terms and Policies.

We have the right to suspend or terminate your access to our Mobile Services or any aspect of them if you do not comply with these Mobile Terms or our other Terms and Policies. We may also end the Mobile Services or any part of the Mobile Services at any time by giving you reasonable notice.

You may end your subscription to our Mobile Services by notifying us. The notification will not be effective until we receive it.

We will not be liable to you or to any other person in the event that all or any part of the Mobile Services are discontinued, modified or changed in any way.

### **11. Privacy and Data Protection**

Any personal data you supply to us will be processed in accordance with our Privacy Policy, a copy of which can be downloaded from our Website. By using the Mobile Services you consent to such processing.

### **12. Severance**

If any provision of these Mobile Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Mobile Terms which shall remain in full force and effect.

### **13. Governing Law and Jurisdiction**

These Mobile Terms are governed by the laws of Australia. The federal courts of Australia and the courts of the state of New South Wales will have exclusive jurisdiction to settle any disputes in relation thereto.

### **14. General**

The Mobile Services are provided to you by GAIN Capital Australia Pty Ltd (CAN 141 747 727). We are regulated by the Australian Securities and Investments Commission and hold an Australian financial services licence (AFS licence number 345646). Our registered branch office is at Level 1, 62 Pitt Street, Sydney NSW 2000.

This document was last updated on 7th April 2015.