

MARGIN FOREIGN EXCHANGE, BULLION & CFDs

Customer Agreement

GAIN Capital Australia Pty Ltd
trading as FX Solutions Australia
ACN 141 774 727
AFSL 345646
Effective Date: 18 April 2015

RISK NOTICE

We provide services for trading foreign currencies and derivative financial contracts. Trading is on a margin or leverage basis, a type of trading which carries a high degree of risk to your capital. The price of your positions may change quickly and your profits and losses may be many times the amount of your investment or deposit. If you do not hold sufficient funds to meet your margin requirements, then we may close your open positions immediately and without notice. Please read the Risk Warning Notice carefully to understand the risks of trading on a margin or leverage basis. You should not trade in foreign currencies or derivative financial contracts unless you understand and accept the risks of margin trading. Trading in these products may not be suitable for everyone.

Customer Agreement

A. The scope of the agreement

1. Introduction

1.1 This Customer Agreement is part of the agreement between GAIN Capital Australia Pty Ltd ACN 141774727 ("we", us" or "our") and its client ("you" or "yourself") which governs our trading services and all transactions we conduct with you.

1.2 We hold an Australian financial services ("AFS") licence (AFS licence number 345646). Our registered office is located at Level 1, 62 Pitt Street, Sydney NSW 2000 Australia.

1.3 The agreement between you and us relating to our trading services consists of the following documents:

- Product Disclosure Statement;
- Application Form; and
- Customer Agreement.

Together these are referred to as the "Agreement".

1.4 The Agreement supersedes all our previous terms and conditions and any amendments thereto and will be effective from the specified date or the date on which we acknowledge acceptance of your Application Form.

1.5 Other materials which explain the basis upon which we trade with you but are not part of the Agreement include:

- the Website – including our Trading Platform via which you will trade with us;
- our Financial Services Guide; and
- our notices and policies – the Risk Warning Notice, our Trade and Order Execution Policy and our Conflicts of Interest Policy (together "Notices and Policies"). These are located in the Annexes to the Customer Agreement.

1.6 Please read the Agreement and the Notices and Policies carefully and contact us if there is anything which you do not understand we would recommend you take professional advice. Unless we have agreed in writing that any part of this Agreement is not to apply, we will regard this Agreement as setting out all the relevant terms concerning our trading services. Contracts that we enter into with you under this Agreement are legally binding and enforceable. By signing the Application form or by electronically submitting your application on our Website or, if applicable, via a mobile application you confirm that you accept the terms of the Agreement. When we open an Account for you, you will be bound by the Agreement in your dealings with us.

1.7 Words and expressions have the meanings set out in the Definitions at clause 34. References to clauses are to clauses in this Customer Agreement unless stated otherwise.

1.8 Unless written notice is required in accordance with this Agreement, you may communicate with us in writing (including fax), by email or other electronic means or orally (including by telephone). Email features whether transmitted through the Internet, a proprietary network, a computer, a pager or another wireless device or otherwise may be provided to you as a convenience to enhance your communications with us. Except where otherwise provided in clause 4.2 you shall not use these features to request, authorise or effect any transaction, to send fund transfer instructions or for any other communication that requires non-electronic written authorisation. We shall not be responsible for any loss or damage that results if any request is not accepted or processed. You agree that you shall use these features in compliance with applicable laws and regulations, and you shall not use them to transmit inappropriate information, including information that may be deemed obscene, defamatory, harassing or fraudulent.

1.9 The default language of communication shall be English, and you will receive documents and other information from us in English. We may in our sole discretion provide local language support. If a document is translated into another language this will be for information purposes only and the English version will prevail.

2. General Information

2.1 Our trading service is an electronic service and you specifically consent to the receipt of documents in electronic form via email, Website or other electronic means. Upon request we will send you the PDS and Financial Services Guide in paper form at no charge.

2.2 You confirm that you have regular access to the Internet and consent to us providing you with information about us and our services, our costs and charges and our Notices and Policies by email or by posting such information on our Website or the Trading Platform.

2.3 Unless we agree otherwise, we will classify you as a Retail Client for the purpose of the Corporations Act.

2.4 You are entitled to request that we re-categorise you but we may decline such request. If we agree to your request to a different categorisation, you will lose some of the protections afforded to Retail Clients under the Corporations Act. In certain circumstances we may wish to re-categorise you, but if we do so we will explain clearly why we are doing this and the effect this will have on your rights.

2.5 We will deal with you as principal and not as agent on your behalf. This means that any Trades are agreed directly between you and us and we will be the counterparty to all of your Trades.

2.6 Unless we agree otherwise in writing, you will also deal with us as principal and not as an agent or representative of another person. You will not permit any person to deal on your behalf unless we agree that such person (the "Agent") can act on your behalf. We will be entitled to rely on any instructions given to us by the Agent in relation to your Account. We may require confirmation that the Agent has authority to act on your behalf at any time we reasonably consider appropriate.

2.7 We will not give advice to you on the merits of any Trade and will deal with you on an execution-only basis. Any advice that we provide to you is General Advice only. We will not provide you with Personal Advice. Personal Advice is advice about a financial product that is given or directed to a person in circumstances where:

- the provider of the advice has considered one or more of the person's objectives, financial situation and needs; or

- a reasonable person might expect the provider to have considered one or more of those matters.

This means that advice we do give you has been prepared without taking account of your objectives, financial situations or needs. As with any other financial product you should carefully consider the appropriateness of the advice you have received having regard to your objectives, financial situations or needs and you should obtain and read our PDS before making any decisions in relation to our Products or services. Trading in the Products is high risk and is not suitable for all investors.

2.8 You will not have any rights of ownership, dealing or otherwise in any Underlying Instrument as a result of a Trade with us. We will not transfer any Underlying Instrument or any rights (such as voting rights or dealing obligations) in it to you.

B. Dealing with us

3. Your Account

3.1 After we have accepted your Application Form we will open your Account. We may open different Accounts for you, including different Accounts for different Product types. We reserve the right to refuse to open an Account for any reason. Furthermore, we may change the features and criteria of our Accounts at any time by notifying you of the change whether on the Website or Trading Platform or otherwise.

3.2 We operate a client qualification policy which means that we obtain information about your relevant investment knowledge and experience so that we can assess whether a service or Product is appropriate for you when you open an Account. If you fail this assessment, or do not provide sufficient information we may not be able to open an Account for you. Please note that we are not obliged to assess or ensure the suitability of any Trade you place.

3.3 You warrant that any information you provide to us is correct. You must immediately inform us of any material change to the information provided to us on your Application Form, including any change to your contact details or financial status.

3.4 When we open your Account we will provide you with a unique Account number and will agree with you such other Security Information as we consider appropriate:

3.4.1 it is your responsibility to keep your Account number and Security Information confidential;

3.4.2 you agree that you will not disclose your Account number or Security Information to any other person;

3.4.3 we may agree separate Security Information with your Agent or any joint Account holders; and

3.4.4 when you deal with us or give us an instruction, we will require details of your Account number and your (or your Agent's) Security Information.

3.5 Except where otherwise provided in this clause 3.5, you are responsible for paying any losses, fees or charges arising from Trades entered into or instructions given using your Account number and Security Information. You will not be responsible for any losses after we receive a request from you that we stop using any item of the Security Information. You will also not be responsible for any losses where we have been negligent in allowing a person you have not authorised to access your Account, or where it can be shown that a person has gained access to the Trading Platform by abuse of our systems except where such loss results from your failure to comply with clause 3.4 or 26.5. If you fail to comply with these clauses then you will be liable for the resulting loss. Please note that we do not restrict the domain from which any person can access the Trading Platform.

3.6 If you open an Account in the name of yourself and others, then:

3.6.1 we may act on instructions from either you or any other person in whose name the Account is opened (each a "Joint Account Holder"), including instructions to trade. In certain circumstances we may require instructions from all Joint Account Holders;

3.6.2 we may give any notice or communication to either you or another Joint Account Holder;

3.6.3 all Account holders shall be jointly and severally liable for losses, fees or charges arising on a joint Account. Among other things, this means that any monies owed on the Account shall be payable in full by you or any of the other Joint Account Holders; and

3.6.4 if you or any other Joint Account Holder dies, we may take instructions from and pay any balance to the survivor(s).

3.7 We may inform you that your Accounts will be Linked Accounts. Your Linked Accounts will be aggregated for the purpose of calculating your Equity, Used Margin, Useable Margin or otherwise as specified in this Agreement.

3.8 Your Account will be denominated in a Base Currency. Unless otherwise agreed by us, the Base Currency for your Account will be USD. Trades for certain Instruments may be conducted in other currencies however the resulting Open Positions may be valued at or converted to the Base Currency in accordance with clause 18.

3.9 Credit and debit entries, including any Premiums, deposits and withdrawals, will be made to your Account. You are responsible for monitoring your Open Positions and any activity in your Account. We are not obliged to monitor or advise you on the effect of any Trade, Order or Open Position. You may access your Account information at any time by logging into the Trading Platform or by contacting Customer Support.

4. Instructions and Basis of Dealing

4.1 You may give us instructions for Trades via the Trading Platform, or by such other means as we may from time to time specify to you in writing. In such circumstances:

4.1.1 when you do so you are offering to enter into a Trade with us at the price we quote when you complete all obligatory fields and click the relevant icon; and

4.1.2 when we receive your offer we will provide you with an electronic acknowledgement but you and we will be bound by a Trade only when details of the Trade are reported as executed on the Trading Platform. If you do not see details of the executed Trade on the Trading Platform, please contact us immediately to confirm the status of the Trade. After we execute the Trade we will send you a contract note as described in clause 12.

4.2 We may in our sole discretion accept instructions for Trades (including closing only Trades when our Trading Platform is not in operation) by telephone or 'live chat', but not through other components of the Website such as email. If we do so:

4.2.1 your instruction to Trade will constitute an offer to enter into a Trade at the price we quote. Trades placed by telephone or 'live chat' will only be accepted at the current Our Price;

4.2.2 you can place an Order only by dealing directly with an authorised dealer. We will not accept an Order left with other employees, on an answering machine or on a voice mail facility;

4.2.3 you and we will be bound by a Trade only when our authorised dealer confirms that the offer has been accepted.

4.3 You may place an electronic Order on the Trading Platform at any time or, subject to clause 4.2, you may place a telephone or 'live chat' Order with an authorised dealer during our Trading Hours. However, we will execute Trades only during times which are both our Trading Hours and the relevant Trading Hours. Trading Hours are stated on the Website. We will advise you of any change to our Trading Hours or Trading Hours on the Website and, where reasonably practicable, we will provide you with no less than two Business Days notice of any such change.

4.4 Prices quoted by us (whether on the Trading Platform, by telephone, 'live chat' or otherwise) do not constitute a contractual offer to enter into a Trade at the prices quoted or at all. We reserve the right to refuse to enter into any Trade. Such situations include but are not limited to, when:

4.4.1 Trades are placed outside of the Trading Hours (clause 4.3);

4.4.2 Trades are requested in sizes which are different from our standard Lot Size (clause 4.6) Unit Sizes (clause 4.7) or any minimum deposit sizes we may require for an Instrument from time-to-time;

4.4.3 your Usable Margin is insufficient to fund the proposed Trade (clause 10);

4.4.4 Our Price or the Trade derives from a Manifest Error (clause 14);

4.4.5 Events Outside Our Control or Market Disruption Events have occurred (clause 15);

4.4.6 any amount you owe us has not been paid (clause 16); and

4.4.7 we believe the Trade would be in breach of this Agreement or any legal or regulatory requirement applicable to you or us.

4.5 If we accept a Trade before becoming aware of any of the events described in clauses 4.4.1 to 4.4.7, we may in our sole discretion treat the Trade as void or close the Open Position at Our Price prevailing at the time we close the Open Position. If we choose to maintain the Open Position, you will be liable for the full value of the Trade when it is closed.

4.6 A default Lot setting will be applied to all Trades placed in your Account. You may change this at any time by selecting a different Lot setting in the Account Tools (Manage Trading Rules) section of the Trading Platform. If you wish to execute a Trade whose size exceeds our maximum Lot size, you may request a quote. We may be required to execute such a Trade through several transactions at varying prices and you will be charged separate fees and commission for each individual transaction. If multiple Trade instructions are placed or triggered, which in aggregate exceed our maximum Lot size, we may in our sole discretion take any of the following actions: (a) refuse to enter into all or some of the Trades; and/or b) partially fill your Trades. We may vary the Lot sizes that we offer from time to time and new Lot sizes will be effective at the time of publication on the Website.

4.7 A default Unit Size setting will be applied to all Trades placed in your Account. You may change this at any time by selecting a different Unit Size setting in the Account Tools (Manage Trading Rules) section of the Trading Platform. We may vary the standard Unit Sizes that we offer from time to time and new Unit Sizes will be effective at the time of publication on the Website.

4.8 Subject to our right to refuse to enter into any Trade, we will endeavour to execute a Trade within a reasonable time after we receive it or after the conditions for an Order are fulfilled.

5. Our Price

5.1 During Trading Hours for the relevant Instrument or foreign currency, we will quote two prices: a higher price ("Ask") and a lower price ("Bid"); together these prices are known as "Our Price" for an Instrument or foreign currency. Our Price is determined by reference to the price of the Underlying Instrument or foreign currency which is quoted on external securities exchanges or dealing facilities that we select at our discretion. Details of how we calculate Our Price are stated in the PDS. Our Prices and how we calculate Our Prices are determined in our absolute discretion and any changes are effective immediately. If Our Price for any Instrument or foreign currency is not available on the Trading Platform, please contact Customer Support to obtain a quote.

5.2 We will accept a Trade only on the basis of a current Our Price. You may not be able to enter into Trades at Our Price where Our Price is described as "indication only" or "indicative" or "invalid" (or words or messages to the same effect).

5.3 We provide quotes for Our Price on a best efforts basis. If a Market Disruption Event or an Event Outside of Our Control occurs we may not be able to provide a quote for Our Price or execute Trades during the relevant Trading Hours.

5.4 The difference between Bid and Ask is "Our Spread". For certain Products, Our Spread may contain an element of charge or commission for us. For these Products, two spreads may apply during the relevant Trading Hours: one Spread will apply when securities exchanges or dealing facilities for the Underlying Instrument or foreign currency are open and another will apply when these are closed. Our Spreads are set in our absolute discretion and any changes are effective immediately upon publication on the Website.

5.5 Unless otherwise stated, we will provide you with best execution. Please read our Trade and Order Execution Policy which sets out the basis upon which we seek to provide best execution.

6. Closing Trades

6.1 You may close an Open Position by highlighting the position you would like to close and clicking the Close Button. Instructions placed for closing Trades are subject to clause 4.

6.2 Where you have more than one Open Position in the same Instrument, you must highlight the position you would like to close and click the Close Button

6.3 You will usually be able to close an Open Position during the relevant Trading Hours. However, we reserve the right to reject any Trade in accordance with clause 4.4. As a consequence, you may not be able to close the Open Position and your losses may be unlimited until such time as you are able to close the Open Position.

6.4 Unless Open Positions are closed in accordance with this clause 6, terminated, voided or otherwise closed in accordance with this Agreement, they will remain open until their expiry (if they have an expiry date) or will remain open indefinitely if they do not. On the expiry date (or event, if such expiration is dependent upon an event) the Open Position will be closed and settled at Our Price at the time the Open Position is closed.

6.5 Where we exercise our rights in accordance with this Agreement to close any of your Open Positions, we will do so at a time and date determined by us in our reasonable discretion.

7. Rollover and Interest Policy

7.1 Some Instruments roll over automatically and these are identified in the PDS. Rollover involves the application of a Premium to the Open Positions in your Account at the end of the trading day. Details about how we roll positions, including the time each day when we roll over all Open Positions is stated in our Rollover Policy, published on the Website.

7.2 We may vary our Rollover Policy from time to time and any change will be effective on publication on the Website.

8. Orders

8.1 The range of different Order types which we accept shall be decided by us in our absolute discretion. Certain types of Orders may only be available for a limited range of Instruments or foreign currencies.

8.2 The types of Orders we accept and which types of Orders attach to specific Open Positions or other Orders are detailed on the Website. It is your responsibility to understand the features of an Order and how the Order will operate before you place it. **Before you place an Order for the first time, we recommend that you read the trading examples on the Website so that you fully understand the features of the Order type. You may also reference a demo trading account to learn the various order types.**

8.3 We endeavour to fill Orders at the first Our Price reasonably available to us after the price specified is reached or at the occurrence of the event or condition specified in the Order. However, we may not be able to execute Orders or to execute Orders at the specified price or event if there is an Event Outside of Our Control in relation to an Underlying Instrument or foreign currency. We will endeavour to execute your Order at Our Price nearest to your specified price in such circumstances.

8.4 We may, without limitation, set a minimum price range between the current Our Price and the price or level of any Stop Orders and Limit Orders and we reserve the right not to accept any Orders which are less than this minimum price range.

8.5 Orders will be "Good until Cancelled" ("GTC"). Unless an Order is cancelled or ceases to have effect, we will regard it as valid and execute it when Our Price reaches the price you specify or the specified event or condition occurs.

8.6 You may, with our consent (which will not be unreasonably withheld), cancel or amend an Order at any time before we act upon it. Changes to Orders may be made on the Trading Platform.

9. Our Charges

9.1 Depending on the Instrument or foreign currency concerned, we may:

- 9.1.1 include an element of profit for us in Our Spread;
- 9.1.2 charge commission; and
- 9.1.3 impose a Premium on your Open Positions.

9.2 We will tell you the fees and charges including account operational fees that apply to your Account and the basis of calculation for any such fees or charges in our PDS. We may vary the fees and charges that apply to your Account (including the basis of calculation) from time to time and we will notify you of any such change to the fees and charges by any of the following means: post, telephone, fax, email, text message or by posting notice of the increase on the Website or Trading Platform.

9.3 We may from time to time share a proportion of Our Spread, commissions and other Account fees with other persons including (without limitation) Introducers. We may also receive payment in connection with certain foreign exchange transactions undertaken pursuant to clause 18.

9.4 We do not currently receive a share of commission or similar payments from other persons in connection with any Trade under this Agreement. If this changes we will inform you.

9.5 We may pass on to you charges which we may from time to time incur in borrowing stock in the external market to hedge a Short Position which you have opened with us. These charges will fluctuate depending on market conditions and the scarcity of the stock concerned. We will advise you of any such charges at the time they are incurred or as soon as possible after we become aware that they have been incurred, whether in the Trading Platform or otherwise.

9.6 We may pass on to you any additional charge for stamp duty, transfer tax or other taxes or duties which we may incur to hedge any Trade with you where the Underlying Instrument is a non-Australian security.

9.7 We will notify you of any increase in our current fees and charges or any additional fees and charges that we may apply to your Account in accordance with clause 30. In respect of clause 30.2, we will, however, provide you with 30 days' notice, as required by the Corporations Act, of any increase in our current fees and charges or any additional fees and charges.

10. Margin

10.1 You must pay Margin when you place a Trade which creates an Open Position. If your Usable Margin is less than the Margin required for the Trade you wish to place, we may reject your Trade. Margin is due and payable when you place the Trade and must be maintained at all times until the Open Position is closed. You agree to maintain Margins and Premiums for your Account at all times. Our failure at anytime to call for a deposit of Margin shall not constitute a waiver by us to do so at any time thereafter, nor shall it create any liability by us to you.

10.2 Margin is calculated using the Trading Leverage set for your Account. Trading Leverage may be expressed as a ratio, percentage, number or other form applicable to the nature of the Instrument or foreign currency. Details of how we calculate Margin for different Instruments and for foreign currencies can be found in the PDS and terms herein.

10.3 A default Trading Leverage setting will be applied to each Trade placed in your Account. You may change this at any time by selecting a different Trading Leverage setting in the Trading Tools (Manage Account Rules) section of the Trading Platform. For Open Positions, you may only increase the Trading Leverage. Margin applicable to an Open Position will change as Our Price for the relevant Instrument changes.

10.4 We reserve the right to change the way in which we calculate Margin.

10.5 We may alter Trading Leverage settings and/or Margin at any time and any change will become effective immediately. For Open Positions, subject to our rights in clauses 15 and 16, we will provide you with at least twenty four (24) hours notice of any changes in Trading Leverage settings and/or Margin. It is your responsibility to know at all times the current Trading Leverage settings and Margin applicable to your Account and your Open Positions.

10.6 We will be entitled to notify you of an alteration to the Trading Leverage settings and Margin by any of the following means: post, telephone, fax, email, text message or by posting notice of the increase on the Website.

11. Margin Close Out

11.1 If the Equity in your Account falls below Used Margin, this will be classified as an Event of Default under clause 16. In such circumstances we may close all of your Open Positions immediately and without notice and refuse to execute new Trades until your Equity is restored to an amount above Used Margin. It is your responsibility to monitor your Account(s) at all times and to maintain your Equity above Used Margin.

11.2 Our rights under clause 11.1 will apply irrespective of and will take precedence over any Orders (including Stop or Limit Orders and Entry Stop and Entry Limit Orders) placed on your Account and in the event that we close your Open Positions under clause 11.1 all pending Orders attached to that Trade will be cancelled.

11.3 We may but are not obliged to contact you before we take any action under clause 11.1.

11.4 Our rights under this clause 11 are designed to help limit the extent of your trading losses. We do not however guarantee that your losses will be limited to the amount of funds you have deposited in your Account.

12. Contract Notes and Statements

12.1 Unless we have agreed otherwise we will send you a contract note in respect of each Trade that we execute on your behalf. The absence of a contract note will not affect the validity of any Trade.

12.2 Contract notes will be sent to you as soon as reasonably practicable and no later than the next Business Day after a Trade is executed. Other than on your specific request, contract notes and statements will be sent to you by e-mail. We reserve the right to charge for contract notes and statements sent to you in a paper form.

12.3 It is your responsibility to review all contract notes and statements received to ensure that they are accurate. If you believe that a contract note or statement received by you is incorrect, because it refers to a Trade which you have not placed or for any other reason, you must tell us immediately. Contract notes and statements will, in the absence of a Manifest Error, be conclusive and binding unless we receive an objection from you in writing within 48 hours of receipt or we notify you of an error in the contract note or statement in the same period. If you do not receive a contract note for any Trade you have executed, please inform us immediately.

12.4 Periodic statements, including statements of your Balance, Open Positions and any charges made to your Account will ordinarily be sent to you no less than monthly. We will send you a statement of your Balance no less than annually.

13. Payments and Withdrawals

13.1 If your Account shows positive Equity, you may request that we make a payment to you of such amount. We may however elect to withhold any payment requested, in whole or in part, if:

13.1.1 the Net P & L is negative on your Account; and/or

13.1.2 we reasonably consider that funds may be required to meet any Margin requirement; and/or

13.1.3 there is any amount outstanding from you to us; and/or

13.1.4 we are required to do so under any relevant legislation or regulation.

13.2 We may debit the Cash balance on your Account with any amount due to us under this Agreement and with any bank transfer charges we incur in transferring funds to you. In addition, you are responsible for all costs and expenses we incur as a result of you failing to pay amounts due or if you breach the Agreement including, without limitation, bank charges, court fees, legal fees and other third party costs we reasonably incur.

13.3 If we credit a payment to your Account but subsequently discover that the credit was made in error, we reserve the right to reverse any such credit and/or cancel any Trades which could not have been made but for that credit.

13.4 Unless we agree otherwise, any amounts payable to you will be paid by direct transfer to the same source (in your name) from which you have made payment to us.

13.5 If your Account is in debit, the full amount is due and payable immediately.

13.6 Payment of any amount due to us is subject to the following conditions:

13.6.1 if made by debit or credit card, the debit or credit card must be accepted by us and we reserve the right to charge an administration fee;

13.6.2 unless otherwise agreed your Account will be credited with the net cleared funds received after all deductions of bank charges or any other costs of transfer incurred in relation to the payment;

13.6.3 if made by bank transfer, the transfer must be made from an account in your name with an approved financial institution or other bank we deem satisfactory;

13.6.4 if you wish to make a payment through any other financial institution (or card issued by such a bank) please contact us to confirm the acceptability of the bank concerned before a payment is required to be made; and

13.6.5 we do not accept cash or payments from third parties unless otherwise agreed.

13.7 We may refuse to accept payment by banker's draft and may require immediate payment by telegraphic transfer, debit card or any other method of electronic transfer acceptable to us.

13.8 If you fail to pay any sum due to us on the due date in accordance with this Agreement, we will charge interest on this amount. Interest will be due on a daily basis from the due date until the date on which payment is received in full at a rate not exceeding 4% above the applicable central bank's official base rate for short-term funds (or a rate we reasonably consider serves materially the same function) from time to time and will be payable on demand.

C. Our rights in special circumstances

14. Manifest Error

14.1 A Manifest Error is an error, omission or misquote (including any misquote by our dealer) which by fault of either of us or any third party is materially and clearly incorrect when taking into account market conditions and quotes in Instruments, Underlying Instruments or foreign currency which prevailed at that time. It may include an incorrect price, date, time or any error or lack of clarity of any information, source, commentator, official, official result or pronouncement.

14.2 If a Trade is based on a Manifest Error (regardless of whether you or we gain from the error) we may act reasonably and in good faith to:

14.2.1 void the Trade as if it had never taken place;

14.2.2 close the Trade or any Open Position resulting from it; or

14.2.3 amend the Trade so that its terms are the same as the Trade which would have been placed if there had been no Manifest Error.

14.3 We will exercise the rights in clause 14.2 as soon as reasonably practicable after we become aware of the Manifest Error. To the extent practicable we will give you prior notice of any action we take under this clause but if this is not practicable we will give you notice as soon as practicable afterwards. If you consider that a Trade is based on a Manifest Error, then you must notify us immediately. We will consider in good faith whether it is appropriate to take any action under this clause 14 taking into account all the information relating to the situation, including market conditions and your level of expertise.

14.4 In the absence of our fraud, wilful deceit or negligence, we will not be liable for any loss, costs, claims or demand for expenses resulting from a Manifest Error.

15. Events Outside Our Control and Market Disruption Events

15.1 We may determine that a situation or an exceptional market condition exists which constitutes an Event Outside Our Control and/or a Market Disruption Event.

15.2 If we determine that an Event Outside Our Control or Market Disruption Event has occurred we may take any of the steps referred to in clause 15.3 with immediate effect. We will take reasonable steps to notify you of any action we take before we take any action to the extent practicable. If it is not practicable to give you prior notice, we will notify you at the time or promptly after taking any such action.

15.3 If we determine that an Event outside our Control and/or a Market Disruption Event has occurred, we may take one or more of the following steps:

15.3.1 cease or suspend trading and/or refuse to enter into any Trades or accept any Orders;

15.3.2 alter our normal trading times for all or any Instruments and foreign currencies;

15.3.3 change Our Price and Our Spreads and/or Unit Sizes;

15.3.4 close any Open Positions, cancel and/or fill any Orders, and/or make adjustments to the price and/or Unit Size of any Open Positions and Orders;

15.3.5 change the Trading Leverage applicable to your Account in relation to both Open Positions and new Trades;

15.3.6 immediately require payments of any amounts you owe us, including Margin;

15.3.7 void or roll over any Open Positions; and/or

15.3.8 take or omit to take all such other actions as we consider to be reasonable in the circumstances to protect ourselves and our clients as a whole.

15.4 In some cases we may be unable, after using reasonable efforts, to acquire, establish, re-establish, substitute, maintain, unwind or dispose of any Underlying Instrument or foreign currency we consider necessary to hedge or protect our exposure to market and other risks arising from an Open Position. When this occurs we may close that Open Position at the prevailing Our Price.

15.5 We will not be liable to you for any loss or damage arising under this clause 15, provided we act reasonably.

16. Events of Default and Similar Circumstances

16.1 The following shall constitute Events of Default:

16.1.1 an Insolvency Event occurs in relation to you;

16.1.2 you are an individual and you die, become of unsound mind or are unable to pay your debts as they fall due;

16.1.3 the Equity in the account falls below Used Margin;

16.1.4 you act in breach of any warranty or representation made under this Agreement or any representation or warranty made by you under this Agreement and/or any information provided to us in connection with this Agreement is or becomes untrue or misleading;

16.1.5 any sum due to us is not paid in accordance with this Agreement;

16.1.6 whether or not any sums are currently due to us from you, or you have persistently failed to pay any amount owed to us on time including Margin;

16.1.7 at any time and for any periods deemed reasonable by us you are not contactable or you do not respond to any notice or correspondence from us; and

16.1.8 we reasonably believe that it is prudent for us to take any or all of the actions described in clause 16.2 in the light of any relevant legal or regulatory requirement applicable either to you or us.

16.2 If any Event of Default occurs we may take all or any of the following actions:

16.2.1 close all or any of your Open Positions;

16.2.2 in the event the Base Currency of your Account is a currency other than USD, convert any balance to USD in accordance with clause 18;

16.2.3 cancel any of your Orders;

16.2.4 change the Trading Leverage applicable to your Account in relation to both Open Positions and new Trades;

16.2.5 immediately require payment of any amounts you owe us, including Margin;

16.2.6 exercise our rights of set-off and combination;

16.2.7 foreclose any collateral that we hold on your Account;

16.2.8 suspend your Account and refuse to execute any Trades or Orders;

16.2.9 terminate this Agreement, and/or

16.2.10 take or omit to take all such other actions as we consider reasonable in the circumstances to protect ourselves and our clients as a whole.

16.3 We may also close your Account on 14 days notice in the circumstances set out below. If we rely on our rights under this clause, your Account will be suspended during the 14 day notice period and you will not be able to place Trades other than those to close existing Open Positions. If you have not closed all Open Positions within the period of 14 days notice we shall be entitled to take any action within clause 16.2. The relevant circumstances are:

16.3.1 any litigation is commenced involving both of us in an adversarial position to each other and, in view of the subject matter of or any issues in dispute in relation to that litigation, we reasonably decide that we cannot continue to deal with you while the litigation is pending;

16.3.2 where you have persistently acted in an abusive manner toward our staff (for example by displaying what we consider to be serious discourtesy or the use of offensive or insulting language);

16.3.3 where we believe on reasonable grounds that you are unable to manage the risks that arise from your Trades.

16.4 Without limiting our right to take any action under clauses 16.2 and 16.3, we may also close or void individual Open Positions and/or cancel any Orders where:

16.4.1 we are in dispute with you in respect of an Open Position. In this case we can close all or part of the Open Position in order to minimise the amount in dispute; and/or

16.4.2 there is a material breach of the Agreement in relation to the Open Position.

16.5 Without limiting our right to take action under clauses 16.2, 16.3 and 16.4, we may in our discretion suspend your Account pending investigation for any reason. Whilst your Account is suspended you will be able to close your Open Positions but you will not be entitled to place new Trades. Circumstances in which we may choose to exercise this right include but are not limited to the following:

16.5.1 when we have reasonable grounds for believing that an Event of Default has occurred or may occur but believe that it is reasonably necessary to investigate circumstances with a view to confirming this;

16.5.2 when we have reasonable grounds for believing that you do not have a sufficient understanding of the Trades which you are placing or the risks involved;

16.5.3 when we have not received within 10 days of a written request all information, which we believe that we require in connection with this Agreement; and/or

16.5.4 we have reason to believe that there has been a breach in your Account security or that there is a threat to your Account security.

16.6 If we have suspended your Account pending investigation, we will use reasonable endeavours to conclude our investigation within five (5) Business Days. When we conclude our investigation we will inform you whether trading on your Account may resume or whether we will seek to take further action pursuant to this Agreement.

16.7 Where we exercise our rights in accordance with this clause 16 to close any of your Open Positions, we will do so after the relevant event has occurred at a time and date determined by us in our reasonable discretion .

17. Netting and Set Off

17.1 The Agreement and all Trades under it shall form part of a single agreement between us and you. You and we both acknowledge that we enter into the Agreement and any Trades under it in reliance upon the fact that these are part of a single agreement between us.

17.2 When Open Positions and/or your Account are closed, we may:

17.2.1 combine and consolidate your Balance and any money we or any of our Related entities hold for you in any or all of the accounts you may have with us or with any of our Related entities or under any of our trading names; and

17.2.2 set off against each other the amounts referred to in (a) and (b) below:

a) any amounts that are payable by us or any of our Related entities to you (regardless of how and when payable) including your Balance (if positive), Premiums (if positive), MTM P & L (if positive) and any credit held on any other account you have with us or with any of our Related entities or under any of our trading names even if any of these accounts have been closed;

b) any amounts that are payable by you to us or any of our Related entities (regardless of how and when payable) including, but not limited to, Premiums (if positive), MTM P & L (if negative), interest, costs,

expenses, charges and any debit balance on any other account you have with us or with any of our Related entities or under any of our trading names even if those accounts have been closed.

17.3 You are also entitled to require us to exercise the above rights in relation to all your accounts, Open Positions or accounts which have been closed.

17.4 If the rights under clauses 17.2 or 17.3 are exercised, all the payment obligations will be consolidated into an obligation for you to pay a net sum to us or for us to pay a net sum to you.

18. Currency Conversions and Valuations

18.1 Where we are entitled to do so under this Agreement (including in connection with our rights under clauses 16 and 17) we may convert sums denominated in one currency to another currency. We may also perform a notional currency conversion where this is required for valuation purposes. We shall perform any currency conversion or valuation at rates reasonably available to us. We may receive remuneration from the counterparty to any foreign exchange transaction which we enter into.

18.2 We may in particular make currency conversions or valuations in respect of your Balance, any Realised Profits and Realised Losses or Net P & L, any money paid by you and any money due from you to us or us to you.

18.3 If we have exercised our rights in connection with clauses 16 and/or 17 or you have made a payment to us in a different currency from that in which you were obliged to pay us, we may pass on to you all commission or other charges which we incur in any currency conversion we carry out.

19. Corporate Actions and other events affecting Underlying Instruments

19.1 When a Corporate Action or an Insolvency Event occurs in relation to any Underlying Instrument and/or its issuer we may, acting in a commercially reasonable manner, make adjustments to your Open Positions and/or Orders to reflect those actions and to put you in a position as close as possible to that of a direct holder of the Underlying Instrument.

19.2 The actions we may take pursuant to clause 19.1 include, but are not limited to:

19.2.1 changing Trading Leverage settings both in relation to Open Positions and new Trades;

19.2.2 making a reasonable and fair retrospective adjustment to the opening price of an Open Position, to reflect the impact of the relevant action or event;

19.2.3 opening and/or closing one or more Open Positions on your Account;

19.2.4 cancelling any Orders;

19.2.5 suspending or modifying the application of any part of this Agreement;

19.2.6 crediting or debiting sums to your Account as appropriate; and/or

19.2.7 taking all such other action, as we reasonably consider appropriate to reflect the effect of the relevant action or event.

19.3 We shall endeavour to take any such actions as soon as we are reasonably able to do so and this will normally be as soon as is reasonably practicable after the relevant event has occurred.

19.4 When we make adjustments to Open Positions, where possible we will adjust the Open Position as held by you to be effective from the commencement of the relevant Trading Hours on the same Business Day on which the relevant event or action is effective in relation to the Underlying Instrument.

19.5 Depending on the event concerned, we may take any of the actions set out in this clause 19 without prior notice. If we do so, we shall give you notice at the time we take the action or as soon as reasonably practicable thereafter.

20. Representations and Warranties

20.1 Representations and warranties are personal statements, assurances or undertakings given by you to us on which we rely when we deal with you. You make the following representations and warranties at the time you enter into this Agreement and every time you place a Trade or give us any other instruction:

20.1.1 all information that you supply to us (whether in the Application Form or otherwise) is true, accurate and not misleading in any material respect;

20.1.2 if you are an individual, you are over 18 years old;

20.1.3 except where we have agreed otherwise in writing, you act as principal and not any other person's agent or other representative;

20.1.4 you have obtained all necessary consents and have the authority to enter into this Agreement and/or to place any Trades and instructions;

20.1.5 if you are a company or body corporate you are properly empowered and have obtained all necessary corporate or other authority under your memorandum and articles of association or other constitutional or organisational documents;

20.1.6 you are not accessing the Website or dealing with us from the United States of America or its territories, except for the exclusive purpose of Trading in foreign currencies; and

20.1.7 neither the entry into this Agreement, the placing of any Trade and/or any Order or the giving of any other instruction will violate any law, rule or regulation applicable to you.

20.2 You agree that for the duration of this Agreement you will promptly notify us of any change to the details supplied by you on your Application Form, including in particular moving to another country or territory or any change or anticipated change in your financial circumstances, regulatory or employment status (including redundancy and/or unemployment) which may affect the basis on which we do business with you.

21. Market Abuse

21.1 When we execute a Trade on your behalf, we may buy or sell on securities exchanges or directly from or to other financial institutions shares or units in the relevant Underlying Instrument or financial instruments related to that Underlying Instrument. The result is that when you place Trades with us your Trades can have an impact on the external market for that Underlying Instrument in addition to the impact it might have on Our Price. This creates a possibility of market abuse and the purpose of this clause is to prevent such abuse.

21.2 You represent and warrant to us at the time you enter into the Agreement and every time you enter into a Trade or give us any other instruction that:

21.2.1 you will not place and have not placed a Trade with us if to do so would result in you, or others with whom you are acting in concert having an interest in the price of the Underlying Instrument which is equal to or exceeds the amount of a Declarable Interest in the Underlying Instrument;

21.2.2 you will not place, and have not placed a Trade in connection with:

- a) a placing, issue, distribution or other similar event; or
- b) an offer, takeover, merger or other similar event; or
- c) any corporate finance activity.

21.2.3 you will not place and have not placed a Trade that contravenes any law or regulation prohibiting insider dealing, market manipulation or any other form of market abuse or market misconduct; and

21.2.4 you will act in accordance with all applicable laws and regulations.

21.3 In the event that you place any Trade or otherwise act in breach of the representations and warranties given in this clause 21 or any other clause of this Agreement or we have reasonable grounds for believing that you have done so, in addition to any rights we may have under clause 16, we may:

21.3.1 enforce the Trade or Trade(s) against you if it is a Trade or Trades which results in you owing money to us;

21.3.2 treat all your Trades as void if they are Trades which result in us owing money to you, unless and until you produce conclusive evidence within 30 days of our request that you have not in fact committed any breach of warranty, misrepresentation or undertaking under this Agreement.

21.4 You acknowledge that it would be improper for you to deal in the Underlying Instrument if the sole purpose of such a transaction was to manipulate Our Price, and you agree not to conduct any such transactions.

21.5 We are entitled (and in some cases required) to report to any relevant regulatory authority details of any Trade or Order. You may also be required to make appropriate disclosures and you undertake that you will do so where so required.

21.6 The exercise of any of our rights under this clause 21 shall not affect any of our other rights we may have under this Agreement or under the general law.

22. Your Right to Cancel

22.1 You are entitled to cancel this Agreement by giving us notice in writing within a 14 day cancellation period. You need not give any reason for the cancellation and the right to cancel applies even if you have already received services from us before the cancellation period expires.

22.2 The period for cancellation begins on the date the Agreement starts to apply to you.

22.3 You may only give us notice of cancellation in writing. The notice will be considered received by us in accordance with clause 32.

22.4 As the price of our contracts depend on fluctuations in the Underlying Instrument or foreign currency which are outside our control and which may occur during the cancellation period, you have no rights to cancel this Agreement if any Trade placed by you has been executed before we receive notice of cancellation.

22.5 Following a valid cancellation, and subject to clause 17.2, we will return any amounts you have deposited with us prior to receipt of your cancellation notice.

22.6 If you do not exercise the right of cancellation, the Agreement will continue in effect until either you or we terminate the Agreement by either of us giving notice in accordance with clause 30, or by our exercising any of our other rights to terminate under this Agreement. There is no minimum or fixed duration of the Agreement.

23. Complaints and Disputes

23.1 If you wish to raise any complaint or dispute you should contact us as soon as practicable.

23.2 Please keep your own record of dates or times of Trades and other issues as that will help us to investigate any complaints or disputes. It may be difficult or not reasonably possible for us to locate records/tapes in relation to Trades and other issues in the absence of information about the dates and times of any Trades or other issues in dispute.

23.3 The details of the Financial Ombudsman Service are outlined in the Product Disclosure Statement.

D. Miscellaneous and legal issues

24. Privacy and Data Protection

24.1 We will obtain and hold personal information about you in confidence and in accordance with data protection legislation and the Anti-Money Laundering/Counter-Terrorism Financing Act 2006 (Cth) ("AML/CTF Act"). You agree that we can rely on, hold and process your personal information for the purpose of performing our obligations under this Agreement, including administering the relationship with you, managing your Account, recovering amounts payable, considering any of your applications, carrying out risk assessment, complying with regulatory obligations, and undertaking product development and analysis.

24.2 You agree to our disclosing any such information referred to in this clause 24:

24.2.1 in accordance with this clause 24;

24.2.2 where we are required to by law or regulatory obligation;

24.2.3 to regulatory authorities where appropriate or on reasonable request, and to such third parties as we reasonably consider necessary in order to prevent crime, e.g. the police; and

24.2.4 where reasonably necessary, to any third party which provides a service or licence to us in connection with the Products or services we provide for your Account or this Agreement, but only for the purpose of providing that service or licence or in connection with our compliance with any reporting, audit or inspection obligations to any such third party service providers or licensors.

24.3 In order to provide services to you, you acknowledge that it may be necessary for your information to be transferred to someone who provides a service to us in other countries, including someone outside Australia, and you consent to such transfer.

24.4 You consent to us, or our agents acting on our behalf, carrying out such credit and identity checks, including money laundering checks, compliance regulatory reporting and fraud prevention checks, as we may reasonably consider necessary or desirable, including requesting a reference from your bank or any credit reference agency. You understand and agree that any third party referred to in this clause may share any information concerning you with us and other organisations involved in credit reference, the prevention of fraud and/or crime and/or money laundering or for similar purposes or to recover debts involved.

24.5 You authorise us to contact you by email, telephone or post to give you information about carefully selected products or services offered by us, that are similar or related to products or services provided or previously provided to you. You consent to us using your data for this purpose for the period you have an Account with us and after you close the Account. If you do not wish to receive such information then please tick the appropriate box on the Application Form or please contact us in writing. Our Address and contact details are stated on our Website and in the PDS.

24.6 By ticking the appropriate box on the Application Form you authorise us to pass your personal data to selected Related entities or third parties (including Introducers) for the purpose of contacting you by email, telephone or post to give you information about carefully selected products or services offered by that party that are similar or related to the Products or services provided or previously provided to you by us. You consent to us using your data for this purpose for the period you have an Account with us and after you have closed it. If you no longer wish to receive such information then please write to us at Our Address or write directly to the third party.

24.7 Where you have been introduced to us by an Introducer, you consent to us exchanging information with that Introducer in order to perform our obligations under this Agreement and as required by us to maintain our relationship with the Introducer. This may, without limitation, result in us disclosing financial and personal information about you, your application, details of trading activity in the Account and/or your conduct of the Account and/or your use of our facilities (including information gained when you use our learning tools and trading simulators). If you no longer wish us to pass on such information then please write to us at Our Address.

24.8 We will use reasonable endeavours to contact you and notify you of any change to how we hold, process or disclose information, by posting a notice on our Website or sending you an email to your last known email address. If you do not tell us you object to this change in writing within 60 days of the notice and you continue to maintain the Account after the expiry of this period of notice then we will regard you as having agreed to it.

24.9 If you wish to access information that we hold about you, or to have inaccurate information corrected please contact us by sending an email to our email address in the PDS. Please note we may require you to pay a fee for this information. Please note that certain information may be exempt from being disclosed and that in certain circumstances we may not be able to disclose certain information.

24.10 You agree that we may record all conversations and 'live-chats' with you and monitor (and maintain a record of) all emails and electronic communications sent by or to us. All such records are our property and can be used by us, amongst other things, in the case of a dispute between us or for training purposes.

25. Intellectual Property

25.1 The Website, including the Trading Platform, and any and all Information, software applications, documentation and other information, data and materials which we may supply or make available to you, either directly or through a third party service provider or licensor (collectively, the "FX Sol Materials") are and will remain our property or that of our third party service providers or licensors.

25.2 All copyrights, trademarks, design rights and other intellectual property rights in the FX Sol Materials, including, without limitation all updates, modifications, compilations and enhancements, and all derivative works based on any of the FX Sol Materials, are and will remain our property (or those of our third party service providers or licensors as applicable).

25.3 We supply or make the FX Sol Materials available to you on the basis that (a) we can also supply and make them available to other persons and (b) we can cease or suspend providing any of them, but we will only do that if your Account has been closed or if required by any of our third party service providers or licensors, by applicable law or as otherwise provided in this Agreement.

25.4 You may access and use the FX Sol Materials only as expressly permitted for the operation of your Account in accordance with this Agreement.

25.5 You must comply with any policies relating to any of the FX Sol Materials, or their use, including any additional restrictions or other terms and conditions that we or our third party service providers or licensors may issue, of which we may notify you from time to time.

25.6 You must not supply all or part of the FX Sol Materials to anyone else and you must not copy or reproduce all or part of them without our prior written permission.

25.7 You must not delete, obscure or tamper with copyright or other proprietary notices displayed on any of the FX Sol Materials.

25.8 If we have provided any materials to you in connection with the Website you must return those to us on closure of your Account.

25.9 Except to the extent expressly permitted under this Agreement or any other written agreement between you and us, you must not: (a) modify, translate or create derivative works based upon any of the FX Sol Materials; (b) take any action compromising or challenging, or threatening to compromise or challenge, the enjoyment or use by any other client of any of the FX Sol Materials or the rights of us or any of our third party service providers or licensors in any of the FX Sol Materials; or (c) reverse engineer, decompile or disassemble any of the FX Sol Materials comprising software or otherwise attempt to discover the source code thereof.

25.10 You must notify us immediately of any unauthorised use or misuse of any of the FX Sol 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 the future occurrence thereof.

25.11 We or our third party service providers or licensors may from time to time modify market data, our Trading Platform or Website, or the FX Sol Materials, and/or methods or speeds of delivering the same, which modifications may require corresponding changes to the methods or means you use to access the FX Sol Materials and/or may sever or adversely affect your access to or use of the FX Sol Materials. Neither we nor any other FX Sol Parties shall be liable for any such consequences.

26. Website and System Use

26.1 We will use reasonable endeavours to ensure that the Website and our telephone systems can normally be accessed for use in accordance with this Agreement. However all or any of these may fail to work properly or at all or our premises may suffer from power failure. On this basis:

26.1.1 we do not warrant that they will always be accessible or usable;

26.1.2 we do not warrant that access will be uninterrupted or error free.

26.2 We may suspend use of the Website to carry out maintenance, repairs, upgrades or any development related issues. We shall use reasonable endeavours to give you notice of this and to provide alternative ways for you to deal or obtain information as to your Account but this may not be possible in an emergency.

26.3 We warrant that we have the right to permit you to use the Website in accordance with this Agreement.

26.4 We will use reasonable endeavours to ensure that the Website is free from any Malicious Code, but we do not warrant that it will be free at all times of Malicious Code. You should use your own Malicious Code protection software that is up to date and of good industry standard. In addition you must not upload or transmit any Malicious Code to our Trading Platform or other aspects of our Website.

26.5 You are responsible for ensuring that your information technology is compatible with ours and meets our minimum system requirements, as may be amended from time to time. The minimum system requirements currently in effect are set out on our Website.

26.6 We or other third party service providers or licensors may provide you with Information in connection with the provision of our services. You agree that:

26.6.1 neither we nor any other FX Sol Party shall be responsible or liable if any such Information is inaccurate or incomplete in any respect or for any actions you take or do not take based on, or your reliance upon, such data or information;

26.6.2 you will use such Information solely for the purposes set out in the Agreement;

26.6.3 you will truthfully complete and submit to us in a timely fashion:

- a) any declaration as we may require at any time in respect of your status as a user of Information; and
- b) any additional agreements with us or any of our third party service providers or licensors relating to our provision to you of any Information.

26.6.4 such Information is proprietary to us or the provider and you will not retransmit, redistribute, publish, disclose, alter, amend, rent, loan, licence or display in whole or in part such data or information to third parties; and

26.6.5 you will pay any fees and other costs associated with your access to and use of any Information, of which we may notify you from time to time, and shall be responsible for payment of any and all taxes, charges or assessments by any foreign or domestic national, state, provincial or local governmental bodies, or subdivisions thereof, and any penalties or interest relating thereto, in respect of your access to and use of any Information.

27. Limitation of Liability

27.1 Nothing in this Agreement shall exclude or limit our liability for death or personal injury caused by our negligence or for fraud or fraudulent misrepresentation or for liability that cannot be excluded under any applicable laws or the requirements of any regulator.

27.2 Subject to clause 27.1, we shall not be liable for:

27.2.1 Events Outside Our Control;

27.2.2 any action we may take under:

- i. clauses 14 ("Manifest Error");
- ii. clause 15 (Events Outside Our Control or Market Disruption Events"); and/or
- iii. clause 16 ("Events of Default and Similar Circumstances") provided that we act within the terms of those clauses and in particular act reasonably where required to do so;

27.2.3 any failure of communication (for any reason) within clause 26 ("Website and Systems Use") including (without limitation) the unavailability of the Website (including the Trading Platform) or our telephone systems provided always we act within the terms of clause 26;

27.2.4 the use, operation, performance and/or any failure of any third party trading systems, software or services not provided by us;

27.2.5 any claim loss, expense, cost or liability suffered or incurred by you (together "Claims") except to the extent that such loss, expense is suffered or incurred as a result of our breach of the Agreement, negligence or wilful default.

27.3 Other than as described in clause 27.4 and subject to the limits on our liability in this clause 27, we are each only responsible for losses that are reasonably foreseeable consequences of breaches of this Agreement at the time the Agreement is entered into.

27.4 Neither we nor any other FX Sol Parties are responsible for indirect losses which happen as a side effect of the main loss or damage and which are not foreseeable by you and us. Neither we nor any other FX Sol Parties shall be liable to you for losses which you incur which are foreseeable by us or other FX Sol Parties because you have communicated the possibility of such losses or any special circumstances to us or other FX Sol Parties.

27.5 Neither we nor any other FX Sol Parties shall be liable to you for any loss of profit or opportunity, or anticipated savings on any trading losses.

27.6 The limitations of liability in clause 27 apply whether or not we or any of our employees or agents or any FX Sol Parties knew of the possibility of the claim being incurred.

27.7 We carry on the business to which this Agreement relates in reliance on the limitations and/or exclusions in this clause being enforceable. We do not insure against any of the potential liabilities described in this clause. If the exclusions and restrictions are not acceptable to you, then you should not deal with us.

27.8 Notwithstanding any other provision of the Agreement, where Sub-Division 2E of Part 2 of the Australian Securities and Investments Commission Act 2001 (Cth), or any other legislation implies in the Agreement any term, condition or warranty, and makes void or prohibits application of or exercise of, or liability under such term, condition or warranty, such term, condition or warranty is deemed to be included herein. However our liability for any breach of such term, condition or warranty is limited, at our option, to either or both of the

following:

- (a) the supplying of the services again; or
- (b) the payment of the cost of having the services supplied again.

28. Client Money and Assets

28.1 Any money you transfer to us, or which has been transferred to us on your behalf ("Your Money"), will be held by us on trust for you at all times in a designated trust account for the purpose of complying with the Client Money Rules. Your Money will be segregated from our own money in accordance with the requirements of the Client Money Rules.

28.2 Your Money will be held in an account with an Australian Deposit Taking Institution (ADI) or an approved foreign bank ("Client Money Account") which will be established, maintained and operated in accordance with the Client Money Rules and as set out in the PDS. The Client Money Rules provide that if we were to lose our AFS Licence, become insolvent or no longer carry on some of the activities authorised by our AFS Licence, then the money is held on trust for the clients entitled to it.

28.3 We will not invest any of the money held in trust in the Client Money Account.

28.4 Unless otherwise agreed, you will not be entitled to any interest on your money held by us and we will retain any interest that may be earned on your money.

28.5 You agree that you will not grant any security interest in any deposits in your Account to any person other than us.

28.6 In this clause 28 "Client Money Rules" means the provisions in Part 7.8 of the Corporations Act 2001 (Cth) and the relevant provisions of the Corporations Regulations 2001 (Cth).

29. Tax

29.1 You are responsible for the payment of all taxes that may arise in relation to your Trades.

29.2 We shall not be responsible for any taxes that may arise as a result of a change in law or practice.

29.3 We shall not be responsible for advising you on any change in tax law or practice. You shall in all circumstances be responsible for your own tax advice in relation to your Trades.

30. Amendments and Termination

30.1 We may amend or replace any clause or part of the Agreement in whole or in part by giving you written notification of the changes. Amendments to this Agreement will not be valid and binding unless they are expressly agreed by us in writing. We will only make changes for good reason, including but not limited to:

30.1.1 making them clearer or more favourable to you;

30.1.2 reflecting legitimate changes in the cost of providing the service to you;

30.1.3 reflecting a change of applicable law, regulation or codes of practice or decisions by a court, ombudsman, regulator or similar body;

30.1.4 reflecting changes in market conditions;

30.1.5 reflecting changes in the way we do business.

30.2 If you object to any change you must tell us within 14 days of the date the notice is deemed received by you under clause 32 ("Notices"). If you do not do so you will be deemed to have accepted the change(s). If you give us notice that you object, then the changes will not be binding on you, but we may require you to close your Account as soon as reasonably practicable and/or restrict you to placing Trades and/or Orders to close your Open Positions.

30.3 Subject to clause 30.2 the amendments or new terms made pursuant to this clause 30 will apply (including to all Open Positions and unexecuted Orders) from the effective date (which we will state) of the change specified in the notice.

30.4 We may end this Agreement and close your Account at any time giving you 30 days written notice. This is in addition to any other rights to end this Agreement and/or close your Account which we may have.

30.5 You may also end the Agreement and/or close your Account at any time, in whole or in part, by giving us written notice. Your Account will be closed as soon as reasonably practicable after we receive notice, all Open Positions are closed, all Orders cancelled and all of your obligations discharged.

30.6 Where either you or we provide notice to close your Account and/or end this Agreement under this clause 30, we reserve the right to refuse to allow you to enter into any further Trades or Orders which may lead to you holding further Open Positions.

30.7 If, after a period of six (6) years, there has been no movement or trading on your Account (notwithstanding the payment or receipt of charges, fees, interest or other similar items), and we have been unable to trace you after reasonable enquiry, you agree that we may cease to treat your money as Client Money, close your account and transfer ownership of any positive balance from you to us. If however you contact us at a later date we will repay the balance to you upon the provision of evidence as to the validity of your claim.

31. General Provisions Relating to the Agreement

31.1 A court or regulatory authority may decide that a part or clause of this Agreement is not enforceable. If this happens then the relevant part of the Agreement will be given no effect and will not be considered part of the Agreement. This will not invalidate any other clause or part of the Agreement.

31.2 You may not assign or transfer any of your rights or obligations under this Agreement without our prior written consent. We may assign or transfer all or any of our rights or obligations under this Agreement to any appropriately authorised and regulated person (including any of our Related entities) on 30 days written notice. We will comply with applicable laws and regulations which may apply to this transfer, including obtaining your or any other party's consent where necessary.

31.3 Either you or we may elect not to require the other party to comply with this Agreement, or may delay requiring the other party to do so. This will not amount to a waiver by the party making such election of its rights under this Agreement unless that party clearly states that this is its intention. This means that the relevant party can still require compliance with the Agreement in future.

31.4 Except as provided by clauses 25, 26, 27 and 31.5, no clause of this Agreement is intended to confer any benefit on any person who is not a party to it.

31.5 The Agreement may, however, be enforced by any of our Related entities. We do not require the consent of our Related entities to vary, amend, modify, suspend, cancel or terminate any provision of the Agreement.

31.6 In the event of any conflict between any provision of the PDS and this Customer Agreement, the Customer Agreement will prevail.

32. Notices

32.1 This clause 32 does not apply when:

32.1.1 you place Orders and execute Trades pursuant to this Agreement; or

32.1.2 we provide notice of changes to Margin and/or Trading Leverage settings.

32.2 When a notice may be given in writing, it may be provided by letter, fax, e-mail or (to the extent permitted by applicable rules and regulations), the Website including the Trading Platform.

32.3 We may send notices to you at your last known home or e-mail address, place of work, fax, telephone, pager number or other contact details.

32.4 You must send notices by letter to Customer Support at Our Address.

32.5 Unless specifically agreed otherwise in this Customer Agreement, any notice given by us to you or by you to us will be deemed given and received if:

32.5.1 delivered by hand to Our Address in this Customer Agreement or to your last known home or work address: at the time of delivery;

32.5.2 sent by post on a Business Day: the next Business Day or second Business Day after posting if not sent on a Business Day;

32.5.3 sent by air mail from outside Australia: the second Business Day after posting (or the fourth Business day after posting if not sent on a Business Day);

32.5.4 sent by fax before 4pm on a Business Day: one hour after a "transmission complete" report is received. If sent by fax at any other time: at 9 am on the next Business Day (provided a "transmission complete report" is received); and/or

32.5.5 sent by e-mail before 4pm on a Business Day: one hour after sending. If sent by email at any other time: 9:00 am on the next Business Day, (but an e-mail will not be deemed to have been delivered if the sender receives a "not sent" "not received" or similar message from the e-mail service provider).

32.6 Additionally:

32.6.1 we may give you a notice by SMS text in which case you will be deemed to have received such a message one hour after we have sent it, provided we do not receive a "not sent" message.

32.6.2 we may leave you a message on the Website and this will be deemed delivered one hour after we have posted it.

33. Governing Law, Jurisdiction and Language

33.1 The Agreement and our relations before we entered into this Agreement shall be governed by and construed in accordance with the laws of New South Wales, Australia.

33.2 The federal courts of Australia and the courts of the state of New South Wales will have exclusive jurisdiction over any claim or matter arising under or in connection with the Agreement and the legal relationships established by the Agreement.

33.3 Nothing in this clause shall limit our right to take proceedings against you in any other competent jurisdiction, and the taking of proceedings in any one or more jurisdictions will not preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

34. Definitions

In this Agreement the following words and expressions shall have the following meanings:

"Account" means any account that we maintain for you for dealing in the Products made available under this Agreement and in which your Balance, Used Margin and Margin payments are held and to which Realised Profits and/or Losses are credited or debited

"AFS licence" means our Australian financial services licence number 345646

"Agent" means an agent or representative who we agree may act for you and/or give instructions on your behalf in respect of this Agreement

"Agreement" means this Customer Agreement, together with the Application Form and the PDS

"AML/CTF Act" means the Anti-Money Laundering/Counter-Terrorism Financing Act 2006 (Cth)

"Application Form" means the form(s) (in paper or electronic form) which you complete to open an Account and to trade with us under this Agreement

"ASIC" means the Australian Securities and Investments Commission

"Ask" means the higher of the two prices we quote for each Instrument

"Balance" means a figure stated on the Trading Platform which represents the amount of cleared funds on deposit in your Account

"Base Currency" is the currency in which your Account is denominated and in which we will debit and credit your Account

"Bid" means the lower of two prices we quote for each Instrument

"Business Day" means any day (other than a Saturday, Sunday or public holiday) on which banks are open for business in Sydney, Australia

"Client Money" has the meaning given to it under Part 7.8, Division 2, Subdivision A of the Corporations Act

"Client Money Account" has the meaning given to it in clause 28.2 of this Customer Agreement.

"Client Money Rules" means the provisions in Part 7.8 of the Corporations Act, the Corporations Regulations and Regulatory Guide 166 issued by ASIC

"Conflicts of Interest Policy" means our policy on potential conflicts of interest that may arise in providing our services and how we manage them

"Corporations Act" means the Corporations Act 2001 (Cth)

"Corporate Action" means the occurrence of any of the following in relation to the issuer of any relevant Underlying Instrument:

- a) any distribution of cash or shares, including any payment of dividend; and
- b) any amalgamation or reconstruction affecting the shares/equities concerned; and/or

any other event which has a diluting or concentrating effect on the Instrument value of the share/equity which is an Underlying Instrument

"Corporations Regulations" means the Corporations Regulations 2001 (Cth)

"Customer Agreement" means these terms and conditions

"Customer Support" means our customer services team details of which are set out in the PDS or on the Website

"Declarable Interest" means the prevailing level or percentage at the material time, set by law or by the stock exchange(s) or other facility upon which the Underlying Instrument is traded, at which financial or other interests in an Underlying Instrument must be publicly disclosed

"Equity" means a figure stated on the Trading Platform which represents the Balance in your Account, plus or minus any MTM P & L

"Events of Default" has the meaning given in clause 16.1

"Events Outside Our Control" means any event preventing us from performing or otherwise delaying or hindering our performance of any or all of our obligations under the Agreement and which arises from or is attributable to any acts, events, omissions or accidents beyond our reasonable control including (but not limited to):

- a) an emergency or exceptional market condition;
- b) compliance with any law governmental order or regulatory requirement, or any change in or amendment to any law, regulation or rule (or in the application or official interpretation by any court,

- tribunal or regulatory authority);
- c) any act, event, omission or accident which prevents us from maintaining orderly trading or hedging activities or meeting increased margin payments with third party brokers in any market in one or more of the Underlying Instruments in relation to which we ordinarily accept Trades;
- d) any strike, lock-out or other industrial dispute, riot, terrorism, war, civil commotion, nuclear, chemical or biological contamination, act of God, malicious damage, accident, breakdown of equipment, fire, flood, storm, interruption of power supply, failure of a utility service or breakdown of or interruption in any electronic, communication or information system; and/or
- e) the suspension or closure of any index/market/exchange/clearing house or the abandonment or failure of any factor upon which we base, or to which we may relate, Our Prices, or the imposition of limits or special or unusual terms on any such factor

"Financial Services Guide" means a document we provide to you which includes information about us, our services and contact details

"FX Sol Materials" has the meaning as set out in clause 25.1

"FX Sol Parties" means, collectively us, our Related entities, our third party service providers, and our third party licensors, and the directors, officers, members, employees, agents and representatives of us, our Related entities, our third party service providers and our third party licensors

"General Advice" has the meaning given to it in subsection 766B(4) of the Corporations Act

"GTC" or **"Good until Cancelled"** refers to Orders which have effect until cancelled in accordance with this Agreement. If not executed, GTC Orders will cease to have effect when you cancel them in accordance with this Agreement, on expiry of the relevant Instrument, or if we cease to trade in the relevant Instrument

"Information" means such market data, news feeds and other information as we may supply or make available to you, either directly or through a third party service provider or licensor, together with any element thereof as used or processed in such a way that it can be identified, recalculated or re-engineered from or used as a substitute for such data or information

"Insolvency Event" means, in respect of any person:

- a) a resolution is passed or an order is made for the winding up, dissolution or administration of such person,
 - b) any bankruptcy order is made against such person,
 - c) the appointment of a receiver, administrator, manager, administrative receiver or similar officer, or if any encumbrancer takes possession of or sells, all or any part of the business or assets of such person, the making of an arrangement or composition with creditors generally, the filing of court documents or making of an application to court for protection from creditors generally, or any arrangement which has that effect, or
 - d) if the relevant person becomes insolvent or is otherwise unable to pay its debts as they become due, or any act of insolvency or event that is analogous to those set out in paragraph (a), (b), (c), or (d) of this definition applies to the person concerned.
- If the person concerned is a partnership, the occurrence of any of the events listed in this paragraph in relation to any partner shall be an Insolvency Event in relation to such person.

"Instrument" means a contract we make available which is comprised of a unique set of price information and other commercial features determined by reference to an Underlying Instrument

"Introducer" means a person or firm we appoint to effect introductions of potential clients to us

"Limit Order" means an Order which will be executed when the price of an Instrument reaches a price which is more favourable to you than Our Price at the time you place the Order

"Long Position" means an Open Position resulting from a Trade or Trades placed to buy units of an Instrument at Ask

"Lot" means a multiple of Unit Size that you wish to place for each Trade

"Malicious Code" means any computer virus, Trojan horse, worm, time bomb or similar code or component designed to disable, damage, or disrupt the operations of, permit unauthorised access to, or ease, destroy or modify any software, hardware, network or other technology

"Manifest Error" has the meaning given by clause 14.1

"Margin" means the amount of money required as consideration for entering into a Trade and to maintain the resulting Open Position

"Market Disruption Event" means any of the following events:

- a) trading in respect of the Underlying Instrument or foreign currency is suspended or limited for any reason whatsoever, including by reason of movements in the price of the Underlying Instrument exceeding limits permitted by the relevant exchange or limits or special or unusual terms are imposed on the trading of the Underlying Instrument by the relevant exchange;
- b) trades which we have entered into in relation to any relevant Underlying Instrument or other relevant financial instrument are cancelled or suspended by the relevant exchange;
- c) an unusual movement in the level of, or the unusual loss of liquidity in respect of, the Underlying Instrument or our reasonable anticipation of the occurrence of the same; and/or
- d) the occurrence of any other event which causes a material market disruption in respect of the Underlying Instrument

"MTM P & L" means profits or losses (as appropriate) valued on a marked-to-market basis and which are not yet realised on Open Positions before expiry or closure

"Net P & L" means MTM P & L, plus or minus Premiums

"Notices and Policies" means information we are required by law or regulation to disclose to our clients, including: the Risk Warning Notice, our Trade and Order Execution Policy, our Conflicts of Interest Policy

"Open Position" means a Trade which has not been closed in whole or in part under this Agreement

"Order" means an instruction you give us to execute a Trade when the price of an Instrument reaches a specified price or an event or condition occurs

"Our Address" means Level 1, 62 Pitt Street Square, Sydney NSW 2000 Australia

"Our Price" means the Ask and Bid for each Instrument or foreign currency.

"Our Spread" means the difference between the Bid and Ask

"Personal Advice" has the meaning given to it in subsection 766B(3) of the Corporations Act.

"Product" means each type of financial instrument, investment contract or contract for foreign currency we make available under this Agreement

"Premium" means the charge, also known as "cost of carry" or a "daily financing fee", which we apply daily to an Open Position.

"Product Disclosure Statement" or "PDS" means the document as amended and issued by us that describes our services and products, the risks and benefits and our charges. The Product Disclosure Statement is available on our Website

"Realised Profits" and **"Realised Losses"** means your profits or losses (as appropriate) which result on expiry or closure of an Open Position

"Related entity" means a 'related entity' as defined in section 9 of the Corporations Act, on the basis that:

a) the term 'related entity' applies to you, whether you are a corporation or a natural person; and

b) for the purposes of paragraph (g) of the definition of that term in section 9 of the Corporations Act, a body corporate is deemed to be related to you if it is related by operation of section 50 of the Corporations Act.

"Retail Client" has the meaning given to it under sections 761G and 761GA of the Corporations Act

"Risk Warning Notice" means the notice provided to clients in the Annex to this Customer Agreement detailing the risks associated with undertaking trading in our Products

"Security Information" means account numbers, passwords and other information required to identify you for the purposes of your trading with us under this Agreement

"Short Position" means an Open Position resulting from a Trade or Trades to sell units in an Instrument at Bid

"Stop Order" means an instruction to create a Short Position when Our Price reaches a specified price

"Stop Loss Order" means an instruction to execute a Trade to close an Open Position when Our Price reaches a specified price

"Trade" means a transaction entered into by you pursuant to this Agreement

"Trade and Order Execution Policy" means our policy on the extent to which we will be required to provide clients with best execution when executing Trades and Orders

"Trading Hours" means the hours during which we are prepared to provide quotes for Our Price and execute Trades and Orders in an Instrument or foreign currency

"Trading Leverage" means a figure by which Margin is multiplied to create the notional amount of a Trade

"Trading Platform" means the password protected trading system (including any related software and/or communications link) that we may supply or make available to you, either directly or through our third party service providers or licensors, and through which you can deal with us under this Agreement and view your Account information

"Underlying Instrument" means the instrument, index, commodity, or other instrument, asset or factor whose price or value provides the basis for us to determine Our Price for an Instrument

"Unit" means a share, contract or other individual tradable amount in an Underlying Instrument

"Unit Size" means the number of Units you select to be aggregated as one more Lots

"Usable Margin" means a figure stated on the Trading Platform which represents your Equity less your Used Margin.

"Used Margin" means a figure stated on the Trading Platform which represents the aggregate of the Margin applicable to the Open Positions your Account

"Website" means our internet address currently under the URL www.fxolutions.com.au and the Trading Platform

"We"; "us"; or "our" means GAIN Capital Australia

Pty Ltd

Annex 1: Risk Warning Notice

1. Introduction

You are considering dealing with us in financial instruments and investment contracts relating to various financial markets. Unless separately defined in this notice, words and expressions shall have the meanings given to them in the Customer Agreement.

This notice is designed to explain in general terms the nature of and some of the risks particular to our Products. We provide this warning to help you to take investment decisions on an informed basis. However, please note that each Trade will carry its own unique risks which cannot be explained in a general note of this nature.

Our Products carry a higher risk of loss than trading many traditional instruments, such as shares in many large companies or fixed income securities such as bonds issued by governments or large companies. For many members of the public trading in our Products is not suitable. It is very important that you should not engage in trading in our Products unless you know, understand and are able to manage the features and risks associated with such trading and are also satisfied that trading in our Products is suitable for you in light of your circumstances and financial resources.

In considering whether to engage in trading our Products, you should be aware of the following risks.

2. Leverage

A high degree of "gearing" or "leverage" is associated with trading our Products. This stems from the margining system applicable to our Products which generally involves a comparatively modest deposit of the overall contract value to open a Trade. This can work for you and against you. A small price movement in your favour can result in a high return on the money placed on deposit; however, a small price movement against you may result in substantial losses, possibly more than the money placed on deposit. Prices can move quickly particularly at times of high market volatility (see below) and, if these price movements are unfavourable to your Trade(s), you could quickly build up significant losses.

If you do not maintain enough funds in your Account to satisfy Margin, we may close any or all of your Open Positions (in some circumstances without warning). If we do this, your Open Positions may be closed at a loss for which you will be liable.

3. Nature of Margined Trades

Our Client Agreement explains in detail how our Products operate; see our Customer Agreement. Also you should review examples and explanations found on our Website – although these are not part of the Agreement, they provide useful guidance on trading in our Products (and the risks associated with them).

A Trade in one of our Instruments is a Trade based on movements in Our Price. Our Price for an Instrument is set by us but relates to the price of the relevant Underlying Instrument. Whether you make a profit or loss will depend on the prices we set and fluctuations in the Underlying Instrument to which your Trade relates.

Trades in our Products can only be settled in cash.

Trades in our Products are legally enforceable.

In certain circumstances your losses on a Trade may be unlimited. For instance, if you open a position with us by selling the contract in question (a practice known as "shorting a market") and the price rises, you will make a loss on that Trade and it is impossible to know the limit of your potential losses until you close the Trade or your Open Positions are closed when the Equity in your Account or Sub-account falls below the Used Margin. You must ensure that you understand the potential consequences of a particular Product or Trade and be prepared to accept that degree of risk.

You will not acquire the Underlying Instrument nor any rights or delivery obligations in relation to the Underlying Instrument.

Certain Instruments are quoted and settled in currencies other than your Base Currency. Trading in these Instruments carries the additional risk of currency risk; the exchange rate at the time your Open Positions are closed and converted into your Base Currency may be less advantageous to you than at the time you created the Open Position.

4. Volatility

As mentioned above, whether you make a profit or a loss will depend on the prices we set and fluctuations in the price of the Underlying Instrument to which your Trade relates. Neither you nor we will have any control over price movements in the Underlying Instrument. Price movements in the Underlying Instrument can be volatile and unpredictable.

A feature of volatile markets is "Gapping", the situation where there is a significant change to Our Price between consecutive quotes. Gapping may occur in fast and falling markets or if price sensitive information is released prior to market opening. The price at which we execute your Orders may be adversely affected if Gapping occurs in the relevant Instrument.

5. Liquidity

A decrease in liquidity (a term which describes the availability of buyers and sellers who are prepared to deal in an Underlying Instrument) may adversely impact Our Price and our ability to quote and trade in an Instrument. If there is a significant reduction or a temporary or permanent cessation in liquidity in an Underlying Instrument, such events may be deemed an Event Outside of Our Control or Market Disruption Event (as applicable) under the Customer Agreement and we may increase Our Price, suspend trading or take any other action we consider reasonable in the circumstances. As a result you may not be able to place Trades or to close Open Positions in any affected Instrument.

6. Dealing Off-exchange

Dealing in our Products is conducted exclusively off-exchange, a type of trading which is also called dealing "over-the-counter" or "OTC". In dealing with us off-exchange you deal directly with us and we are the counterparty to all of your Trades. There is no exchange or central clearing house to guarantee the settlement of Trades.

If there is anything you do not understand, or if you require clarification on any matter, please contact Customer Support.

Annex 2: Conflicts of Interest Policy

1. Introduction

We aim to identify and prevent conflicts of interest which may arise between us and our clients, and between one client and another, in order to avoid any adverse effect on our clients. This Conflicts of Interest Policy (the "Policy") sets out procedures, practices and controls in place to achieve this.

This Policy applies to all officers, directors (whether Executive or Non-Executive), employees and any persons directly or indirectly linked to us (together "Personnel") and refers to interactions with all of our clients.

Unless separately defined in this Policy, words and expressions shall have the meanings given to them in the Customer Agreement.

2. Regulatory Requirements Relating to Conflicts of Interest

Under section 912A(1)(aa) of the Corporations Act 2001 (Cth) (**Corporation Act**), we are required to have adequate arrangements for the management of conflicts of interest that may arise wholly, or partially, in relation to the provision of financial services by us. According to the Australian Securities and Investments Commission (**ASIC**) managing conflicts of interest is achieved by controlling, avoiding and disclosing conflicts of interest.

As with all laws and regulations applicable to our business, we take our regulatory requirements relating to conflicts of interest very seriously.

We have put in place the Policy to ensure we can satisfy our obligations relating to managing conflicts of interest under the Corporations Act.

3. Scope

We have identified the types of conflicts which may occur in our business and which carry a material risk of damage to the interests of a client. These include, but are not limited to, when we or any person directly or indirectly linked to us:

- a) are likely to make a financial gain or avoid a financial loss at the expense of our client;
- b) have an interest in the outcome of a service or product provided to, or of a transaction carried out on behalf of, our client which is distinct from our client's interest in that outcome;
- c) have a financial or other incentive to favour the interests of another client or group of clients over the interests of our client;
- d) carry on the same business as our client;
- e) receive, or will receive, from a person other than our client an inducement in relation to the service provided to our client in the form of monies, goods or services, other than the standard commission or fee for that service; or
- f) design, market or recommend a product or service without properly considering all of our other products and services and the interests of our clients.

4. Guarding Against Conflicts of Interest

We have put in place the systems and procedures described below to: minimise the potential for conflicts of interest, to ensure that we have adequate arrangements to manage all conflicts of interest, and where possible to avoid material conflicts of interest.

4.1 **Personal account dealing.** All Personnel are bound by the requirements of our Personal Account Dealing Notice. All transactions undertaken by Personnel are actively monitored by our Compliance Department.

4.2 **Production of investment research/research recommendation.** We do not produce investment research or provide investment research recommendations.

4.3 **"Need to Know" policy.** Where Personnel are in possession of confidential or inside information such as information relating to a client's Trade, Personnel may not disclose such information to another party without ensuring that:

- there is a clear need-to-know on the part of the recipient;
- the procedures set out in this Policy are adhered to;
- where the information relates to a client, the information transfer is in accordance with the best interests of the client; and
- the recipient is made aware of the requirement to treat the information as confidential.

Only information required for the intended use may be disclosed and the receiving individual is then bound by the same restrictions.

Personnel are required to take care when handling confidential information, such as information relating to a client's trades or personal details. In particular, Personnel are required to ensure that they do not leave documents containing confidential information on their desks and that they refrain from discussing confidential information in circumstances where it could be overheard by other Personnel who have no need to know such information.

4.4 **Restriction on access to information/electronic data.** The access to computer drives and to files located within drives is restricted by the use of passwords and user IDs. Computers are automatically locked if unattended for a short period. In addition, Personnel are reminded of the importance of data protection.

4.5 **Gifts and inducements.** Personnel may not solicit or accept any gift or inducement which may influence their independence or business judgment or which could create a conflict with any duty owed to us or our clients.

This restriction does not include special promotions on products and services which have been agreed by our senior management, nor does it cover corporate gifts and hospitality which are considered to be incidental to our ordinary business. Examples of gifts and inducements which may not be offered or accepted include cash, gifts readily convertible into cash or any other object of significant value.

Personnel are required to register with the Compliance Department details of hospitality or gifts, whether given or received, with an estimated value in excess of AUD500 (or the equivalent in other currencies) and to seek guidance from that department if in doubt about the suitability of any gift.

Such items are recorded in our 'Register of Gifts and Inducements' which is subject to regulatory inspection.

4.6 **External business interests.** Personnel undertake that they will not (unless granted prior written consent from our senior management or permitted under the terms of their employment) be engaged in or have an interest, either directly or indirectly, in any trade, business or occupation, which is or may be in competition with us and/or which would involve use of our time, property, facilities or resources.

Notices and Policies

4.7 **Segregation of duties.** Job roles are designed to limit the potential for conflicts of interest. Where appropriate and proportionate, systems and controls exist to prevent Personnel from undertaking roles where such a conflict may exist. However, due to the nature, scale and complexity of our business, there can be occasions when a member of staff is required to undertake duties that could give rise to a conflict. In this event, every effort is made to ensure that such circumstances exist only for a limited period or that additional controls are in place to identify inappropriate behaviour.

All Personnel are regularly assessed for competency for their roles and Personnel are required to follow the internal procedures detailed in our Compliance Manual. Where a potential conflict may exist within a role, additional monitoring, control and sign-off procedures are in place to mitigate any such conflict. Audit records, reconciliation procedures and Compliance monitoring arrangements are also in place to ensure all processes are adequately controlled and reviewed.

As part of our segregation of duties policy, no one individual (other than a director) is authorised to carry out the following four functions simultaneously:

- to initiate a transaction;
- to bind the firm;
- to make the payment; and
- to account for the above.

In so far as a conflict of interest may arise from the performance of two or more of the above functions by a director, that director will be subject to a policy of independence (see below).

As part of the Compliance Department's regular review of each department's operations, the roles undertaken by individuals within that department and the segregation of duties are reviewed as appropriate.

All departments are accountable to a specified Director and receive individual supervision from that Director. Inside information passed between departments is on a 'need-to-know' basis in accordance with the need-to-know policy described above.

4.8 **Independence policy.** In some circumstances, it may be appropriate to manage conflicts of interest by requiring Personnel to adhere to and observe a policy of independence. In such circumstances, Personnel subject to such a policy will be required to sign an undertaking to disregard relevant conflicts of interest in discharging their functions.

In such cases it is our policy that Personnel must act independently and in the interests of our clients. No employee may be swayed in any service provided to a client by the interests of any of our other departments, by us generally, or by another client. Therefore in performing any service on behalf of a client, only the client's interest is to be considered. Any interest or potential interests of ours or of any part of it, or of any other client, must be disregarded.

If any employee is aware of any circumstances which he thinks may give rise to a conflict, he must refer the matter immediately to the Compliance Officer.

4.9 **Public interest disclosure policy.** We are committed to ensuring that malpractice is prevented and, should it arise, to deal with it immediately. Employees are informed as to whom they can and should report public interest issues.

For the protection of all employees, we maintain a formal set of procedures. These procedures apply equally to all employees who have reasonable grounds to believe that malpractice has occurred, is occurring or is likely to occur. Employees are responsible for taking appropriate, reasonable and timely action wherever and whenever they become aware of any situation or matter that could expose us to loss, liability or embarrassment.

For the purposes of this procedure, the following constitute malpractice:

- a) the commission of a criminal offence;
- b) failure to comply with a legal obligation;
- c) the occurrence of a miscarriage of justice;
- d) the endangerment of an individual's health and safety;
- e) the endangerment of the environment; and
- f) the concealment of any information relating to any of the above.

Employees are encouraged to follow the steps laid out in this procedure, ensuring they are able to raise genuine concerns about malpractice without fear of harassment or victimisation.

4.10 **Training.** We provide regular training to our Personnel on conflicts of interest and the procedures for managing conflicts of interest.

4.11 **Disclosure policy.** We believe that our internal policies and procedures, systems and controls, generally mitigate the risk of any conflict of interest arising, either between us and our client or between two or more of our clients.

Where, however, the potential for conflict arises and that conflict cannot be avoided we would either make a full disclosure or, if it is considered that the disclosure is an inappropriate method of managing the conflict, we would not proceed with the matter or transaction giving rise to the conflict.

If any Personnel are aware of any circumstances which may give rise to a conflict of interest, they must immediately refer the matter to the Compliance Department.

5. Policy Review

We regularly review our Conflicts of Interest Policy to ensure that it covers conflicts that can be reasonably expected to arise within the course of our business. Any significant amendments to this Policy must be approved by our senior management.

Annex 3: Trade and Order Execution Policy

1. Introduction

Under section 912A of the Corporations Act 2001 (Cth) we have a duty to ensure that our financial services are provided efficiently, honestly, fairly and to act in your best interests in dealing with you. More specifically, we are required to provide you with best execution when we deal with you. Providing best execution means that when we deal with you we should take reasonable steps to obtain the best result for you in accordance with our Trade and Order Execution Policy (the "Policy").

This document sets out the terms of our Policy. For convenience we annex this Policy to our Customer Agreement documentation. Unless separately defined in this Policy, words and expressions shall have the meanings given to them in the Customer Agreement. However this Policy is not part of our Agreement and it does not form part of the contract between us.

2. Our trading services

We provide services for trading in various types of Products and for each type of Product we offer a range of Instruments. Our Instruments are based on Underlying Instruments and we construct Our Price for each Instrument by reference to the price of the relevant Underlying Instrument. We deal with you as principal and not as agent. We are therefore your only "execution venue". In dealing with us, you transact directly with us and not on any exchange or other external market or venue. Any Trades with us are non-transferable. If you create an Open Position with us you must close it with us.

3. Execution policy

In providing best execution we are obliged to take into account certain execution factors. We must tell you what these are and the relative importance we give to each. If you are a Retail Client, we must determine whether we have provided you with best execution by reference to the total consideration you pay (that is price and costs of execution) though we will also use our judgment and take into account other relevant factors (such as any instructions regarding price) with the aim of providing you with the best result.

Subject to section 5 of this Policy, the execution factors that we consider and their relative importance are as follows:

Price. The relative importance we attach is high. Our Price for a given Instrument is calculated by reference to the price of the relevant Underlying Instrument. We obtain this price from third party external reference sources. For some kinds of instruments, e.g. equities, there will be a third party securities exchange from which we will obtain this price. For other kinds of instruments, e.g. foreign exchange, we will collect price data from nominated wholesale market participants.

Our Price will often differ from the price of the Underlying Instrument. For some Instruments we add Our Spread to the price of the Underlying Instrument. We may also adjust Our Price for any Instrument to take into account factors such as liquidity in external markets for the Underlying Instrument, dividend amounts, financing charges in an external market or other relevant factors. You must pay a Premium, commission and other charges in addition to Our Price for some Products and Instruments – see under "Costs" below.

When trading in the Underlying Instrument is very active and the price of the Underlying Instrument changes quickly, there is no guarantee that every price movement in the Underlying Instrument will result in a change to Our Price. We aim to update Our Price as frequently as we reasonably can but our ability to do so may be limited by technological factors including current hardware, software and data and communications links.

For some Instruments we will quote Our Price outside of trading hours for the Underlying Instrument. In such circumstances Our Price are set by our dealers by reference to one or more related alternative Underlying Instruments that are then trading, and may be adjusted in response to supply and demand from our clients. This means that outside normal Exchange Hours we exercise a greater degree of discretion in the setting of Our Price. In addition, Our Spread is generally wider and our maximum Quantity is generally smaller than during normal trading hours for the Underlying Instrument. We execute all Trades at Our Price and in accordance with the Customer Agreement.

Costs. The relative importance we attach is high. For many Instruments, Our Price includes Our Spread and no additional charges or commissions are payable by you. For other Instruments you will be required to pay a separate commission charge for each Trade to open or close an Open Position.

We may pass on some charges to you arising from the Underlying Instrument traded. These include borrowing charges where an Underlying Instrument becomes expensive to borrow or stamp duty in some circumstances.

Additionally for many Instruments you will be required to pay a Premium on the full amount of an Open Position. Generally:

- if you hold a Short Position (i.e. you have executed a sell Trade), we pay you a Premium and;
- if you hold a Long Position (i.e. you have executed a buy Trade), you pay us a Premium.

Details of Premiums are set out in the Key Service Features.

Speed and Likelihood of Execution. The relative importance we attach is high. You may execute Trades either using our Trading Platform or, in our discretion, by phoning one of our dealers.

When you execute through the Trading Platform you will receive immediate execution capability: if you see an Our Price on the screen, then the Trade will, under almost all circumstances, be executed at the Our Price quoted on the deal ticket. We will execute all Trades in accordance with clause 4 of the Customer Agreement.

When executing by phone you will be quoted the same Our Price you will receive if you use the Trading Platform. In such circumstances, the dealer will generally confirm execution of your Trade immediately after you indicate that you wish to trade at the quoted Our Price.

Trades will be executed as soon as reasonably possible and in most circumstances almost instantaneously. However, there may be circumstances where Trades cannot be executed almost instantaneously, for example, due to illiquidity in the Underlying Instrument or if there is something unusual about the nature of the Order.

Unit Size and Lot size. The relative importance we attach is high. Default Lot settings and Unit Size are applied to all Trades in your Account or Sub-account. You may change Lot and Unit Size settings by accessing the Trading Platform.

4. Dealing with your Orders

In most cases when the condition or event specified in your Order occurs it will be executed at or very close to the specified Order price. However, please note that for all Orders the price you receive at execution is not guaranteed. Our Price may move from a price which is less than your specified Order price to a price which is greater than your specified Order price without a quote at any intermediate price. This will be due to rapid price changes in the Underlying Instrument (called 'gapping'), for example following a profits warning or the release of financial statistics different from those expected. In such a case, Our Price at the time of execution may be markedly different to the specified Order price.

If, when an Order is executed the Order will be executed at or near the specified Order price. However, the price at which the Order is executed will depend on the liquidity in the external market for the Underlying Instrument and may therefore be executed at a different price.

Notices and Policies

The execution prices will depend on the liquidity in the external market for the Underlying Instrument and the execution of the first Trade may affect the liquidity available for the execution of the second and any subsequent Trades.

We will execute all Orders in accordance with clause 8 of the Customer Agreement.

5. Specific instructions

You may give us a specific instruction for the execution of a Trade or an Order.

Following your specific instructions may prevent us from taking the steps set out in this Policy to obtain the best possible result for the element of the Trade or Order included in your instructions.

6. Our obligations

We will comply with our Trade and Order Execution Policy when we are required to exercise our judgment in obtaining the best outcome for the execution of clients' Trades and Orders.

7. Monitoring and review of Policy

We will monitor compliance with the Policy and maintain records of the data which is used to set Our Price.

We will review the Policy at appropriate intervals. As part of that process, we will review:

- the sources of external pricing in Underlying Instruments;
- Our Price in relation to the external pricing of an Underlying Instrument; and
- any fees or charges.

If we make any changes to this Policy, we will give you at least 14 days written notice before the change takes effect. The current version of our Policy is located on the Website.

8. Notice Regarding Third Party Trading Platform

FX Solutions serves its clients through one of the following two electronic trading platforms - the Global Trading System (GTS) and Meta Trader 4. While GTS is a trading platform proprietary to FX Solutions, Meta Trader 4 is a third-party Forex trading platform whereby FX Solutions does not own the intellectual property, these platforms may or may not run in FX Solutions datacenter, may or may not be supported by FX Solutions' IT personnel and may or may not have an application program interface (API) integrating these third-party platforms into FX Solutions dealing systems. FX Solutions offers these third-party platforms to offer traders the ability to select a platform that has the functionality that best suits their individual needs. However, users should be aware (1) that FX Solutions does not endorse such third party platforms and (2) of the additional risks associated when using such platforms.

Since the Meta Trader 4 platform is provided by a third party, FX Solutions may not have total control over this platform. Individuals that trade on such platforms are exposed to the risks associated with the system, including, but not limited to, the communication infrastructure that connects FX Solutions to the electronic trading system. As a result of any system failure or other interruption, orders either may not be executed according to your instructions or may not be executed at all. Also as a result of any system failure or other interruption, you may not be able to place or change orders or views your trading positions or market data.

As the electronic trading system is provided by a third-party provider, to the extent not prohibited by law, FX Solutions shall not be liable for any losses or damages suffered or incurred from the use, operation, or performance of the electronic trading system. In addition, FX Solutions shall have no responsibility or liability for any direct, indirect, punitive, incidental, special or consequential damages that arise from any fault, inaccuracy, omission, delay or any other failure in the electronic trading system.