



Contracts for Difference and Margined FX Contracts

Customer Agreement

GAIN Capital Australia Pty Ltd

ACN 141 774 727

AFSL 345646

Date of Issue: 9th June 2015

General Terms and Conditions

A. The scope of the agreement

1. Introduction

1.1. These General Terms are part of the agreement between GAIN Capital Australia Pty Ltd (ACN 141 774 727) (trading as City Index) (“we”, “our” or “us”) 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 at Level 1, 62 Pitt Street, Sydney, NSW 2000, Australia.

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

- Application Form;
- General Terms and the Supplemental Terms for the relevant product (located in the Appendices to the General Terms); and
- Market Information, which provides the commercial details for each Market, including Market Hours, Margin Factors and other requirements for dealing in each Market. This is available on our Trading Platform.

Together these are referred to as the “**Agreement**”.

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

1.5. Each Product we offer is subject to its Supplemental Terms. Should there be any conflict between these General Terms and the Supplemental Terms, the Supplemental Terms will prevail.

1.6. 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; and
- our Financial Services Guide and Product Disclosure Statement (“PDS”) and our Help Sheets;

1.7. **Please read this Agreement carefully and seek professional advice if necessary. 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.**

1.8. Words and expressions have the meanings set out in the Definitions at clause 36. References to clauses are to clauses in these General Terms unless stated otherwise.

1.9. You may communicate with us in writing (including fax), by e-mail or other electronic means, or orally (including by telephone). The 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 e-mail, Website or other electronic means. Upon your request we will send you the Product Disclosure Statement and Financial Services Guide in paper form.

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 (including the Market Information), our costs and charges by e-mail or by posting such information on our Website or the Trading Platform.

2.3 Unless otherwise advised by us in writing we will classify you as a Retail Client for the purposes of the Corporations Act.

2.4 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.

2.5 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.

2.6 **We shall not give advice to you on the merits of any Trade and shall 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.

- 2.7 You will not have any rights of ownership, delivery 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 delivery 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 Limited Risk Accounts and different Accounts for different Product types. When we open an Account for you we will inform you of the type of Account opened. We reserve the right to refuse to open an Account for any reason.
- 3.2. Limited Risk Accounts:
- 3.2.1. can only be operated if a Guaranteed Stop Loss Order is specified with each opening Trade placed (see clause 8);
- 3.2.2. only allow access to a limited range of available Markets (see the Market Information); and
- 3.2.3. may, in our sole discretion, be subject to a maximum Quantity for Open Positions in any given Market (see the Market Information).
- 3.3. 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.
- 3.4. You undertake 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.
- 3.5. 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:
- 3.5.1. it is your responsibility to keep your Account number and Security Information confidential;
- 3.5.2. you agree that you will not disclose your Account number or Security Information to any other person;
- 3.5.3. we may agree separate Security Information with your Agent or any joint Account holders; and
- 3.5.4. 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.
- 3.6. Except where otherwise provided in this clause 3.6, 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 our Trading Platform by abuse of our systems except where such loss results from your failure to comply with clause 3.5 or 27.5. 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.
- 3.7. If you open an Account in the name of yourself and others, then:
- 3.7.1. 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;
- 3.7.2. we may give any notice or communication to either you or another Joint Account Holder;
- 3.7.3. 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
- 3.7.4. if you or any other Joint Account Holder dies, we may take instructions from and pay any balance to the survivor(s).
- 3.8. We may inform you that your Accounts will be Linked Accounts. Your Linked Accounts will be aggregated for the purpose of calculating your Margin Level, your Total Margin or otherwise as specified in this Agreement.
- 3.9. Your Account will be denominated in a Base Currency. Your Base Currency, unless we agree otherwise, will be Australian Dollars. We will only accept funds in your Base Currency. Trades for certain Markets 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 20 or the relevant Supplemental Terms.
- 3.10. Credit and debit entries, including any Daily Financing Fees, 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 Client Management.

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 as adjusted (if applicable) within your specified Price Tolerance when you complete all obligatory fields and click the relevant button; 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 Trade Confirmation 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 component of the Website such as e-mail. When 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 Market Hours for the relevant Market. Market Hours are stated in the Market Information. We will advise you of any change to our Trading Hours or Market Hours on the Website or Trading Platform, 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 Market Hours (clause 4.3);
- 4.4.2. Trades are larger than the maximum Quantity or smaller than the minimum Quantity we set for the Market (clause 4.6);
- 4.4.3. your Trading Resource is insufficient to fund the proposed Trade (clause 10);
- 4.4.4. entry into the Trade would cause you to exceed the maximum Total Margin, if any, applied to your Account (clause 10);
- 4.4.5. Our Price or the Trade derives from a Manifest Error (clause 15);
- 4.4.6. Events Outside Our Control or Market Disruption Events have occurred (clause 16);
- 4.4.7. any amount you owe us has not been paid (clause 17); and
- 4.4.8. 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, we may in our sole discretion treat the Trade as void (as if the Trade had never occurred) 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. We may set minimum and maximum Quantities for opening and/or closing Trades in each Market and different minimum and maximum Quantities for Trades placed on the Trading Platform, 'live chat' or by telephone. Minimum and maximum Quantities are stated in the Market Information. Trades to close an Open Position are subject to the minimum and maximum Quantity valid at the time that the closing Trade is executed. We may be unable to execute Trades at Our Price which are larger than our maximum Quantity or smaller than our minimum Quantity. Where you wish to execute a Trade whose size exceeds our maximum Quantity, you may request a quote. Where a Trade is executed through several transactions at varying prices 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 Quantity for the relevant Market, we may in our sole discretion take any of the following action: (a) refuse to enter into all or some of the Trades; and/or b) partially fill your Trades. We may vary the minimum and maximum Quantity from time to time and new minimum and maximum Quantities will be effective at the time of publication.
- 4.7. Subject to our right to refuse to enter into any Trade, we will use our reasonable endeavours to execute a Trade within a reasonable time after we receive it or after the conditions for an Order are fulfilled.
- 4.8. Where your Open Position is larger than our maximum Quantity and you have not closed it before its expiry date, we may roll over the Open Position rather than settle it.
- #### 5. Our Price
- 5.1. During Market Hours, we will quote two prices for the Market: a higher price ("Our Offer Price") and a lower price

("Our Bid Price"); together these prices are known as "Our Price" for a Market. Our Price is determined by reference to the price of the Underlying Instrument which is quoted on external securities exchanges or dealing facilities that we select at our discretion. For Trades executed when the relevant exchange or dealing facility is closed or where there is no exchange or dealing facility, Our Price will reflect what we consider the market price of the Underlying Instrument is at that time. Our Prices and how we calculate Our Prices are determined in our absolute discretion and any changes are effective immediately. Details of how we calculate Our Price are stated in the Supplemental Terms. If Our Price for any Market is not available on the Trading Platform, please contact Client Management 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 Prices 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 Market Hours.
- 5.4. The difference between Our Bid Price and Our Offer Price is "Our Spread". For certain Products, Our Spread may contain an element of charge or commission for us. For some Markets our Spreads change frequently. Our Spreads are set in our absolute discretion and any changes are effective immediately. Details of Our Spread are stated in the Market Information. If Our Spread is not available in the Market Information, please contact Client Services.
- 5.5. Price Tolerance will only apply to instructions to Trade for immediate execution. Where applicable, you may change the Price Tolerance via the Trading Platform before you place a Trade. If, before we have executed your Trade, Our Price moves unfavourably away from our quoted price but remains within the specified Price Tolerance, your Trade will be executed at the current Our Price. If Our Price moves unfavourably away from our quoted price and outside the specified Price Tolerance, your Trade will be rejected. If, before we have executed your Trade, Our Price moves in your favour (irrespective of the specified Price Tolerance), we will execute the Trade at the current Our Price.

6. Closing Trades

- 6.1. You may close an Open Position by placing an opposite Trade; that is a Trade to sell (to close a Long Position) or to buy (to close a Short Position) in the same Market for the same Quantity and expiry (if the Market has an expiry). Instructions placed for closing Trades are subject to clause 4.
- 6.2. You may partially close an Open Position by entering into an opposite Trade in the same Market but for a smaller Quantity and the same expiry (if appropriate) as the Open Position. If you do so, there will be an Open Position remaining for the amount that is not offset by the closing Trade.

- 6.3. If you enter into a closing Trade in the same Market with a greater Quantity but in the same expiry as the Open Position it offsets, then the original Open Position will be closed and a new Open Position will be created for the Quantity by which the new Trade exceeds the original Open Position.
- 6.4. Where you have more than one Open Position in the same Market, any closing Trade or Trades that you place will close the Open Positions in the chronological order in which the Open Positions were created starting with your earliest Open Position.
- 6.5. An Open Position will be closed in whole or in part by an opposite Trade in accordance with clauses 6.1, 6.2 and 6.3 unless we have specifically agreed with you that this will not happen for a particular Open Position.
- 6.6. You will usually be able to close an Open Position during Market 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.
- 6.7. Unless Open Positions are closed in accordance with this clause 6, rolled over in accordance with clause 7, or are 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.
- 6.8. 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

- 7.1. Where the Supplemental Terms allow, Open Positions may be rolled in accordance with your instructions.
- 7.2. If we agree to roll over an Open Position then the original Open Position is closed, becomes due for settlement at Our Price at the time the Open Position is closed and a new Open Position is established. The times at which we will close Open Positions which are rolled are stated in the Market Information.

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, such as Guaranteed Stop Loss Orders, may only be available for a limited range of Markets.
- 8.2. The types of Orders we accept and which types of Orders attach to specific Open Positions or other Orders ("Attached Orders") are detailed in the Product Disclosure Statement. **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.**

- 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 if there is an Event Outside of Our Control in relation to an Underlying Instrument. For all Orders other than Guaranteed Stop Loss Orders, we may not be able to execute your Order at the price level you specify. We will endeavour to execute your Order at Our Price nearest to your specified price.
- 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, Guaranteed Stop Loss 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 you specify at the time of placing the relevant Order that it is only "Good for the Day" ("GFD") or "Good for the Time" ("GFT"). 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. Subject to clause 8.7 below, 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 or by contacting Client Management.
- 8.7. If you have a Limited Risk Account, a Guaranteed Stop Loss Order cannot be cancelled by you at any time. It will only be cancelled if you close the corresponding Open Position. You may, however, amend a Guaranteed Stop Loss Order in accordance with clause 8.6 above.
- 8.8. When you place an Order to close an Open Position (a "Closing Order"):
- 8.8.1. if you close the Open Position before the Closing Order is executed, we will treat this as an instruction to cancel the Closing Order; and
- 8.8.2. if you close only a portion of the Open Position before the Closing Order is executed, we will treat the Order as an Order to close only the portion of the Open Position that remains open.
- 8.9. We offer Guaranteed Stop Loss Orders for a limited range of Markets. For these Markets:
- 8.9.1. the Market Information states if a Guaranteed Stop Loss Order is available;
- 8.9.2. we may charge a premium payment for each Guaranteed Stop Loss Order. The rate or price of this payment is stated in the Market Information;
- 8.9.3. we will accept your Guaranteed Stop Loss Order only during Market Hours;
- 8.9.4. we will execute a Guaranteed Stop Loss Order at the price you specify, when that price level is reached; and
- 8.9.5. we may make available and set minimum and maximum Quantities for Guaranteed Stop Loss Orders which are different from the minimum and maximum Quantities which apply to other types of Order.
- 8.10. If you have a Limited Risk Account and, for any reason, a Guaranteed Stop Loss Order is not specified by you in relation to a Trade, a Guaranteed Stop Loss Order will be automatically placed by us on each opening Trade at our prevailing minimum stop level away from the opening Our Price of the Open Position concerned.
- 9. Our Charges**
- 9.1. Depending on the Market concerned, we may:
- 9.1.1. include an element of profit for us in Our Spread;
- 9.1.2. charge commission;
- 9.1.3. impose a Daily Financing Fee on your Open Positions; and/or
- 9.1.4. charge premiums for Guaranteed Stop Loss Orders.
- 9.2. We will tell you the fees and charges that apply to your Account and the basis of calculation for any such fees or charges in our Product Disclosure Statement.
- 9.3. We may from time to time pass on a proportion of the fees and charges applicable to your Account to other persons including (without limitation) Introducers. In respect of Introducers, and with your prior written consent, we will collect these fees and charges applicable to your Account from you, as consideration for the services the Introducer provides to you, as agent on behalf of the Introducer. We may also receive payment in connection with certain foreign exchange transactions undertaken pursuant to clause 20.
- 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 Market Information 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.
- 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 32. In respect of clause 32.2, 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 Requirement

- 10.1. You must pay a Margin Requirement when you place a Trade which creates an Open Position. If your Trading Resource is less than the Margin Requirement (plus Our Spreads and any applicable charges) for the Trade you wish to place, we may reject your Trade. The Margin Requirement is due and payable when you place the Trade and must be maintained at all times until the Open Position is closed. Failure to maintain your Margin Requirement may be treated as an Event of Default in accordance with clause 16.
- 10.2. Margin Requirement is calculated using the Margin Factor for the relevant Market. Margin Factors may be expressed as a percentage, number or other form applicable to the nature of the Market. Details of how we calculate Margin Requirement for different Markets can be found in the Supplemental Terms, but we reserve the right to increase Margin Requirements at our absolute discretion.
- 10.3. Margin Factors for each Market are stated in the Market Information. Any changes to a Margin Factor will increase or decrease your Margin Requirement. For Margin Factors expressed as a percentage and all Open Positions subject to Orders Aware Margining, the Margin Requirement will change as Our Price for the relevant Market changes. Margin Requirement may also be affected by changes in the exchange rate between the Base Currency and the currency of any Open Position.
- 10.4. Non-standard Margin Requirements may apply for the following:
- 10.4.1. for certain Markets derived from options or options-related financial instruments;
 - 10.4.2. when you are holding positions in two or more Markets in the same Underlying Instrument;
 - 10.4.3. Trades which have an attached Stop Loss Order in Markets where Orders Aware Margining is available (clause 10.6);
 - 10.4.4. when a Margin Multiplier is applied (clause 10.7); and
 - 10.4.5. when the Quantity of a Trade is greater than our maximum Quantity (clause 4.6)
- Details of how we calculate non-standard Margin requirements are set out in the Supplemental Terms.
- 10.5. We reserve the right, in our absolute discretion, to change the way in which we calculate Margin Requirements.
- 10.6. Orders Aware Margining offers the potential to reduce Margin Requirement for Trades in certain Markets which are subject to a Stop Loss Order or a Guaranteed Stop Loss Order. Orders Aware Margining is available for a limited range of Markets and details of its availability is provided in the Market Information. Details of how Orders Aware Margining is calculated can be found in the Supplemental Terms.
- 10.7. We may apply a Margin Multiplier to all Trades placed in your Account or to a specific Trade. The application of a Margin Multiplier or any change in a Margin Multiplier

will result in a change to the Margin Requirement for any Trades or Open Positions for the relevant Markets.

- 10.8. We may alter Margin Factors, Margin Multipliers and Margin Requirement at any time and any change will become effective immediately. For Open Positions, subject to our rights in clauses 16 and 17, we will provide you with at least 24 hours notice of any increase in Margin Factors, Margin Multipliers or Margin Requirement. It is your responsibility to know at all times the current Margin Factors, Margin Multiplier and Margin Requirement applicable to your Account and your Open Positions.
- 10.9. We will be entitled to notify you of an alteration to the Margin Factors, Margin Multiplier and Margin Requirement by any of the following means: post, telephone, fax, e-mail, text message or by posting notice of the increase on the Website or Trading Platform.
- 10.10. Your Total Margin will be the aggregate of all Margin Requirements in your Account. We may set a maximum figure for your Total Margin which will act as a limit on the amount of funds we hold as the Margin Requirement. If we set a maximum Total Margin we will inform you.

11. Margin Close Out Level

- 11.1. It is your responsibility to monitor your Account(s) at all times and to maintain your Margin Requirement. **If the Margin Level for your Account reaches or falls below the Margin Close Out Level, this will be classified as an Event of Default under clause 17. In such circumstances we may, among other things, close all or any of your Open Positions immediately and without notice and refuse to execute new Trades until your Margin Level is 100% or greater.** We will close your Open Positions at Our Price prevailing at the time when your Open Positions are closed.
- 11.2. We may but are not obliged to contact you before we take any action under clause 11.1.
- 11.3. You will be notified of the Margin Close Out Level applicable to your Account in the Product Disclosure Statement. We may alter the Margin Close Out Level applicable to your Account at any time. Subject to our rights in clauses 16 and 17, we will provide you with at least three (3) days notice of any change to your Margin Close Out Level. It is your responsibility to remain informed about the Margin Close Out Level applicable to your Account.
- 11.4. We will be entitled to notify you of an alteration to your Margin Close Out Level by any of the following means: post, telephone, fax, e-mail, text message or by posting notice of the increase on the Website or Trading Platform.
- 11.5. The Margin Close Out Level is designed to help limit the extent of your trading losses. We do not however guarantee that your Open Positions will be closed when the Margin Level for your Account reaches the Margin Close Out Level or that your losses will be limited to the amount of funds you have deposited in your Account.
- ## 12. Trade Confirmations and Statements
- 12.1. Unless we have agreed otherwise we will send you a Trade Confirmation in respect of each Trade executed between us. The absence of a Trade Confirmation will not affect the validity of any Trade.

- 12.2. Trade Confirmations 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, Trade Confirmations and statements will be sent to you by e-mail or made available to you on the Trading Platform.
- 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 Cash, Open Positions and any charges made to your Account will ordinarily be sent to you no less than monthly.
- 13. Payments and Withdrawals**
- 13.1. If your Account shows a positive Cash balance, 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. you have Unrealised Losses 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. Payment of any amount due to us is subject to the following conditions:
- 13.5.1. unless otherwise agreed, payment must be made in the Base Currency for your Account;
- 13.5.2. 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;
- 13.5.3. 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;
- 13.5.4. if made by cheque or bank transfer, the cheque must be drawn on or the transfer made must be made from an account in your name with an approved financial institution or other bank we deem satisfactory;
- 13.5.5. 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
- 13.5.6. we do not accept cash or payments from third parties unless otherwise agreed.
- 13.6. If your Account is in debit, the full amount is due and payable immediately.
- 13.7. We may refuse to accept payment by cheque or 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.
- 14. Credit**
- 14.1. We may at our discretion allocate Credit to your Account in accordance with this clause 14. You will be notified of the amount of Credit available on your Account in writing.
- 14.2. Credit will increase your Trading Resource and this will allow you to place new Opening Positions. You will only be able to place new Opening Positions using Credit if your Trading Resource is positive. Credit is to be used solely for Trading purposes.
- 14.3. Notwithstanding clause 14.2 above, Credit may not be used to pay Realised Losses.
- 14.4. Credit is not cash and unless we agree otherwise it may not be withdrawn or transferred from your Account to another account with us or any other financial institution. The provision of Credit is not a risk management tool and you acknowledge that the Credit on your Account and your indebtedness to us in respect of this Credit is not a limit as to your potential financial liability to us and it will not restrict your losses.
- 14.5. You acknowledge that Credit is determined by us at our discretion based on risk allocation and we may reduce your credit limit at any time. You therefore agree to inform us

immediately should your personal financial circumstances change.

- 14.6. Provision of credit is subject to various terms at the time of issue. You should make sure that you understand and accept these terms before accepting any credit from us.

We reserve the right to alter the amount of Credit on your Account or to withdraw Credit for any reason on giving you 14 days notice.

C. Our rights in special circumstances

15. Manifest Error

- 15.1. 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 Markets or Underlying Instruments which prevailed at that time. It may include an incorrect price, date, time or Market or any error or lack of clarity of any information, source, commentator, official, official result or pronouncement.

- 15.2. 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:

15.2.1. void the Trade as if it had never taken place;

15.2.2. close the Trade or any Open Position resulting from it; or

15.2.3. 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.

- 15.3. We will exercise the rights in clause 15.2 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 15 taking into account all the information relating to the situation, including market conditions and your level of expertise.

- 15.4. 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.

16. Events Outside Our Control and Market Disruption Events

- 16.1. 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.

- 16.2. 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 16.3 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.

- 16.3. If we determine that an Event outside our Control and/or a Market Disruption Event has occurred, we may, in our absolute discretion, take one or more of the following steps:

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

16.3.2. alter our normal trading times for all or any Markets;

16.3.3. change Our Price and Our Spreads and/or minimum or maximum Quantity;

16.3.4. close any Open Positions, cancel and/or fill any Orders, and/or make adjustments to the price and/or Quantity of any Open Positions and Orders;

16.3.5. change the Margin Factors and/or Margin Multipliers in relation to both Open Positions and new Trades;

16.3.6. change the Margin Close Out Level applicable to your Account;

16.3.7. immediately require payments of any amounts you owe us, including Margin Requirement;

16.3.8. alter or withdraw the Credit on your Account;

16.3.9. void (as if the Trade had never occurred) or roll over any Open Positions; and/or

16.3.10. 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.

- 16.4. 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 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.

- 16.5. We will not be liable to you for any loss or damage arising under this clause 16, provided we act reasonably.

17. Events of Default and Similar Circumstances

- 17.1. The following shall constitute Events of Default:

17.1.1. an Insolvency Event occurs in relation to you;

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

17.1.3. the Margin Level for your Account reaches or falls below the Margin Close Out Level;

17.1.4. 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;

- 17.1.5. any sum due to us is not paid in accordance with this Agreement;
- 17.1.6. whether or not any sums are currently due to us from you, where any cheque or other payment instrument has not been met on first presentation or is subsequently dishonoured or you have persistently failed to pay any amount owed to us on time including Margin Requirement;
- 17.1.7. 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
- 17.1.8. we reasonably believe that it is prudent for us to take any or all of the actions described in clause 17.2 in the light of any relevant legal or regulatory requirement applicable either to you or us.
- 17.2. If any Event of Default occurs we may, in our absolute discretion, take all or any of the following actions:
- 17.2.1. immediately require payment of any amounts you owe us, including Margin Requirement;
- 17.2.2. close all or any of your Open Positions;
- 17.2.3. convert any balance to your Base Currency in accordance with clause 20;
- 17.2.4. cancel any of your Orders;
- 17.2.5. exercise our rights of set-off and combination;
- 17.2.6. change the Margin Close Out Level applicable to your Account;
- 17.2.7. impose a Margin Multiplier to your Trades or Account;
- 17.2.8. alter or withdraw the Credit on your Account;
- 17.2.9. suspend your Account and refuse to execute any Trades or Orders;
- 17.2.10. terminate this Agreement and/or
- 17.2.11. 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.
- 17.3. We may, in our absolute discretion, 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 17.2. The relevant circumstances are:
- 17.3.1. 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;
- 17.3.2. 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);
- 17.3.3. where we believe on reasonable grounds that you are unable to manage the risks that arise from your Trades.
- 17.4. Without limiting our right to take any action under clauses 17.2 and 17.3, we may also close or void (as if the Trade had never occurred) individual Open Positions and/or cancel any Orders where:
- 17.4.1. 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
- 17.4.2. there is a material breach of the Agreement in relation to the Open Position.
- 17.5. Without limiting our right to take action under clauses 17.2, 17.3 and 17.4, 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:
- 17.5.1. 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;
- 17.5.2. 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;
- 17.5.3. 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
- 17.5.4. 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.
- 17.6. 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.
- 17.7. We may exercise our rights to close Open Positions under this clause 17 at any time after the relevant event has occurred and will do so on the basis of the next available Our Price for the affected Open Positions.

18. Ceasing to Provide a Product

- 18.1. We reserve the right to cease offering a Product at any time at our discretion, including, without limitation, if the relevant Underlying Instrument from which the CFD is derived:
- 18.1.1. becomes difficult to borrow in the underlying market; or
- 18.1.2. is prohibited from being short sold by government rules or regulations.
- 18.2. If a Product is removed from our list of Products that are available to short, we may close your Open Positions.
- 18.3. We are not liable for any loss or damage arising from or in connection with the closure of Open Positions in circumstances where we exercise this right.

19. Netting and Set Off

- 19.1. 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.
- 19.2. Without prejudice to our right to require immediate payment from you under the terms of this Agreement, we will, at any time, have the right to:
- 19.2.1. combine and consolidate your Cash 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; and
- 19.2.2. 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 Cash (if a credit balance), Unrealised Profits and any credit balance held on any account you have with us or with any of our Related Entities, even if any of those 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, Unrealised Losses, interest, costs, expenses, and/or charges incurred in respect of, or any debit balances in, any account you have with us or with any of our Related Entities, even if those accounts have been closed.
- 19.3. If any amount in clause 19.2.2(b) exceeds any amount in clause 19.2.2(a) above, you must forthwith pay such excess to us whether demanded or not.
- 19.4. You are also entitled to require us to exercise the rights in clause 19.2 above in relation to all your accounts and/or Open Positions which have been closed.
- 19.5. If the rights under clauses 19.2, 19.3 or 19.4 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.

20. Currency Conversions and Valuations

- 20.1. Where we are entitled to do so under this Agreement (including in connection with our rights under clauses 17 and 19) 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.
- 20.2. Unless we have agreed otherwise, we will automatically convert any Cash, Realised Profits and Losses, adjustments, fees and charges that are denominated in another currency to your Base Currency before applying them to your Account.
- 20.3. Unrealised Profits and Losses that are denominated in another currency may be valued at or converted in notional terms to your Base Currency. Such balances are for your information only and are not final until the Realised Profits and Losses are converted and applied to your Account.
- 20.4. We shall perform any currency conversion or valuation at commercially reasonable rates. We may receive remuneration from the counterparty to any foreign exchange transaction which we enter into.
- 20.5. If we have exercised our rights in connection with clauses 17 and/or 19 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.

21. Corporate Actions and other events affecting Underlying Instruments

- 21.1. 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.
- 21.2. The actions we may take pursuant to clause 21.1 include, but are not limited to:
- 21.2.1. changing Margin Factors, Margin Multipliers and/or the minimum level of Guaranteed Stop Loss Orders both in relation to Open Positions and new Trades;
- 21.2.2. 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;
- 21.2.3. opening and/or closing one or more Open Positions on your Account;
- 21.2.4. cancelling any Orders;
- 21.2.5. suspending or modifying the application of any part of this Agreement;

- 21.2.6. crediting or debiting sums to your Account as appropriate;
- 21.2.7. taking all such other action, as we reasonably consider appropriate to reflect the effect of the relevant action or event; and/or
- 21.2.8. in respect of Limited Risk Accounts, making a reasonable and fair retrospective adjustment to the Guaranteed Stop Loss Order, to reflect the impact of the relevant action or event.

- 21.3. We shall use best endeavours 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.
- 21.4. 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 Market Hours on the same Business Day on which the relevant event or action is effective in relation to the Underlying Instrument.
- 21.5. Depending on the event concerned, we may take any of the actions set out in this clause 21 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.

22. Representations and Warranties

- 22.1. 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:
- 22.1.1. all information that you supply to us (whether in the Application Form or otherwise) is true, accurate and not misleading in any material respect;
- 22.1.2. if you are an individual, you are over 18 years old;
- 22.1.3. except where we have agreed otherwise in writing, you act as principal and not any other person's agent or other representative;
- 22.1.4. you have obtained all necessary consents and have the authority to enter into this Agreement and/or to place any Trades and instructions;
- 22.1.5. 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;
- 22.1.6. you will not conduct any transactions (including Trades) which contravene laws or regulations in any jurisdiction in relation to inside information, market manipulation or market abuse;
- 22.1.7. you are not accessing the Trading Platform or dealing with us from the USA;
- 22.1.8. you have not and will not upload or transmit any Malicious Code to our Trading Platform or Website or otherwise use any electronic device, software,

algorithm, and/or any dealing method or strategy that aims to manipulate any aspect of our Trading Platform or Website, including, but not limited to, the way in which we construct, provide or convey Our Price; and

- 22.1.9. you will use the Products and services offered by us pursuant to this Agreement honestly, fairly and in good faith.

- 22.2. 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 or employment status (including redundancy and/or unemployment) which may affect the basis on which we do business with you.
- 22.3. Any breach by you of any warranty or representation made under this Agreement, including, but not limited to, the representations and warranties given in clause 22.1, renders any Trade voidable or capable of being closed by us at our then prevailing Our Price, at our discretion.

23. Market Abuse

- 23.1. 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.
- 23.2. 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:
- 23.2.1. 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;
- 23.2.2. you will not place, and have not placed a Trade in connection with:
- a placing, issue, distribution or other similar event; or
 - an offer, takeover, merger or other similar event; or
 - any corporate finance activity.
- 23.2.3. 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
- 23.2.4. you will act in accordance with all applicable laws and regulations.

23.3. In the event that you place any Trade in breach of the representations and warranties given in this clause 23 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 17, we may:

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

23.3.2. treat all your Trades as void (as if the Trade had never occurred) 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.

23.4. 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.

23.5. 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.

23.6. The exercise of any of our rights under this clause 22 shall not affect any of our other rights we may have under this Agreement or under the general law.

24. Your Right to Cancel

24.1. 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.

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

24.3. You may only give us notice of cancellation in writing. The notice will be considered received by us in accordance with clause 34.

24.4. As the price of our contracts depend on fluctuations in the Underlying Instrument 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.

24.5. Following a valid cancellation and subject to clause 19.2, we will return any amounts you have deposited with us prior to receipt of your cancellation notice.

24.6. 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 32, or by our exercising any of our other rights to terminate under this Agreement. There is no minimum or fixed duration of the Agreement.

25. Complaints and Disputes

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

25.2. 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.

25.3. A copy of our Internal Dispute Resolution Policy and details on how to lodge a complaint can be found on our website www.cityindex.com.au.

25.4. As an AFS licensee dealing with retail customers, we are a member of the Financial Ombudsman Service ("FOS"). Complaints that cannot be resolved via the internal procedure detailed on the web may be referred to FOS:

Financial Ombudsman Service
GPO Box 3
Melbourne VIC 3001

25.5. In most cases FOS will then facilitate discussion and, as appropriate, negotiation between the parties. At this stage the issues that are in dispute will be identified. If the dispute cannot be resolved through discussion, FOS will facilitate conciliation and between the parties. The conciliation will attempt to assist the parties to settle the dispute and agree on the terms of such settlement.

25.6. We understand that if conciliation does not result in a resolution of the dispute, FOS will appoint an independent adjudicator to make a decision taking into account the relevant law, fairness and reasonableness of the dispute. As a member of FOS, any decision by the adjudicator is binding on us. If you have agreed to resolve the dispute through FOS then the decision will also be binding on you. The services provided by FOS are free of charge. Further information on FOS can be found on its website www.fos.org.au.

D. Miscellaneous and legal issues

26. Privacy and Data Protection

26.1. We will obtain and hold information about you (including, without limitation, personal information and information relating to your Account and your Account history) in accordance with data protection and anti-money laundering legislation. You agree that we can rely on, hold and process your 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.

26.2. You agree to our disclosing any such information referred to in this clause 26:

26.2.1. in accordance with this clause 26;

26.2.2. where we are required to by law or regulatory obligation;

- 26.2.3. 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
- 26.2.4. 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.
- 26.3. 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 some outside of Australia, and you consent to such transfer.
- 26.4. 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.
- 26.5. You authorise us to contact you by e-mail, 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 or by telephone. Our Address and contact details are stated in the Financial Services Guide and in the Product Disclosure Statement.
- 26.6. 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 e-mail, 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.
- 26.7. 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.
- 26.8. 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 e-mail to your last known e-mail address. If you do not tell us you object to this change in writing within 14 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.
- 26.9. If you wish to access information that we hold about you, or to have inaccurate information corrected please contact us by sending an e-mail to our Client Management 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.
- 26.10. You agree that we may record all conversations and 'live chats' with you and monitor (and maintain a record of) all e-mails 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.
- 27. Intellectual Property**
- 27.1. 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 "City Index Materials") are and will remain our property or that of our third party service providers or licensors.
- 27.2. All copyrights, trademarks, design rights and other intellectual property rights in the City Index Materials, including without limitation all updates, modifications, compilations and enhancements, and all derivative works based on any of the City Index Materials, are and will remain our property (or those of our third party service providers or licensors as applicable).
- 27.3. We supply or make the City Index 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 required by any of our third party service providers or licensors, by applicable law or as otherwise provided in this Agreement.
- 27.4. You may access and use the City Index Materials only as expressly permitted for the operation of your Account in accordance with this Agreement.
- 27.5. You must comply with any policies relating to any of the City Index 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.
- 27.6. You must not supply all or part of the City Index Materials to anyone else and you must not copy or reproduce all or part of them without our prior written permission.

- 27.7. You must not delete, obscure or tamper with copyright or other proprietary notices displayed on any of the City Index Materials.
- 27.8. If we have provided any materials to you in connection with the Website you must return those to us on closure of your Account.
- 27.9. 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 City Index 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 City Index Materials or the rights of us or any of our third party service providers or licensors in any of the City Index Materials; or (c) reverse engineer, decompile or disassemble any of the City Index Materials comprising software or otherwise attempt to discover the source code thereof.
- 27.10. You must notify us immediately of any unauthorised use or misuse of any of the City Index 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.
- 27.11. We or our third party service providers or licensors may from time to time modify market data, our Trading Platform or Website, or the City Index 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 City Index Materials and/or may sever or adversely affect your access to or use of the City Index Materials. Neither we nor any other City Index Parties shall be liable for any such consequences.

28. Website and System Use

- 28.1. 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:
- 28.1.1. we do not warrant that they will always be accessible or usable;
- 28.1.2. we do not warrant that access will be uninterrupted or error free.
- 28.2. 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.
- 28.3. We warrant that we have the right to permit you to use the Website in accordance with this Agreement.
- 28.4. 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.

- 28.5. 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.
- 28.6. 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:
- 28.6.1. neither we nor any other City Index 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;
- 28.6.2. you will use such Information solely for the purposes set out in the Agreement;
- 28.6.3. 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.
- 28.6.4. 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
- 28.6.5. you will pay any fees and other costs associated with your access to and use of any Information, of which as 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.

29. Limitation of Liability

- 29.1. 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.
- 29.2. Subject to clause 29.1, we shall not be liable for:
- 29.2.1. Events Outside Our Control;
- 29.2.2. any action we may take under:
- (i) clauses 15 (“Manifest Error”);
- (ii) clause 16 (Events Outside Our Control or Market Disruption Events”); and/or

- (iii) clause 17 (“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;

29.2.3. any failure of communication (for any reason) within clause 28 (“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 28;

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

29.2.5. 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.

29.3. Other than as described in clause 29.4 and subject to the limits on our liability in this clause 29, 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.

29.4. Neither we nor any other City Index 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 City Index Parties shall be liable to you for losses which you incur which are foreseeable by us or other City Index Parties because you have communicated the possibility of such losses or any special circumstances to us or City Index Parties.

29.5. Neither we nor any other City Index Parties shall be liable to you for any loss of profit or opportunity, or anticipated savings or any trading losses.

29.6. The limitations of liability in clause 28 apply whether or not we or any of our employees or agents or any City Index Parties knew of the possibility of the claim being incurred.

29.7. 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.

29.8. Notwithstanding any other provision of this Agreement, where Sub-Division 2E of Part 2 of the Australian Securities and Investments Commission Act 2002 (Cth), or any other legislation implies in this 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 shall be deemed to be included herein. However our liability for any breach of such term, condition or warranty shall be 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.

30. Your money

30.1. 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.

30.2. 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.

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

30.4. 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.

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

30.6. In this clause 30 “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).

31. Tax

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

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

31.3. 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.

32. Amendments and Termination

32.1. 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:

- 32.1.1. making them clearer or more favourable to you;
- 32.1.2. reflecting legitimate changes in the cost of providing the service to you;
- 32.1.3. reflecting a change of applicable law, regulation or codes of practice or decisions by a court, ombudsman, regulator or similar body;
- 32.1.4. reflecting changes in market conditions;
- 32.1.5. reflecting changes in the way we do business.

- 32.2. 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 34 (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.
- 32.3. Subject to clause 32.2 the amendments or new terms made pursuant to this clause 32 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.
- 32.4. 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.
- 32.5. 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.
- 32.6. Where either you or we provide notice to close your Account and/or end this Agreement under this clause 32, 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.
- 32.7. If, after a period of six 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.
- 33. General Provisions Relating to the Agreement**
- 33.1. 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.
- 33.2. 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 Associates) on 14 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.
- 33.3. 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.
- 33.4. Except as provided by clauses 27, 28, 29 and 33.5, no clause of this Agreement is intended to confer any benefit on any person who is not a party to it.
- 33.5. 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.
- 33.6. In the event of any conflict between any provision of the Product Disclosure Statement and this Agreement, the provisions of this Agreement shall prevail.
- 34. Notices**
- 34.1. This clause 34 does not apply when:
- 34.1.1. you place Orders and execute Trades pursuant to this Agreement;
- 34.1.2. we provide notice of changes to Margin Requirements, Margin Factors or Margin Multipliers pursuant to clause 10; or
- 34.1.3. we provide notice of changes to the Margin Close Out Level applicable to your Account pursuant to clause 11.3.
- 34.2. 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.
- 34.3. 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.
- 34.4. You must send notices by letter to Client Management at Our Address.
- 34.5. Unless specifically agreed otherwise in these General Terms, any notice given by us to you or by you to us will be deemed given and received if:
- 34.5.1. delivered by hand to Our Address in these General Terms or to your last known home or work address: at the time of delivery;
- 34.5.2. sent by post on a Business Day: the next Business Day or second Business Day after posting if not sent on a Business Day;
- 34.5.3. 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);
- 34.5.4. 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
- 34.5.5. sent by e-mail before 4pm on a Business Day: one hour after sending. If sent by e-mail 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).

34.6. Additionally:

34.6.1. 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.

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

35. Governing Law, Jurisdiction and Language

35.1. 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.

35.2. 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. 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.

36. 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 Cash, Margin Requirements and Margin Payments are held and to which Realised Profits and/or Losses are credited or debited

“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 the General Terms, together with the Supplemental Terms, the Application Form and Market Information.

“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

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

“Business Day” means Monday through Friday, on which banks are open for business in New South Wales;

“Cash” means a figure stated on the Trading Platform which represents the amount of cleared funds available in your Account
“City Index Materials” has the meaning as set out in clause 27.1

“City Index 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

“Client Management” means our customer services team

“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

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

- (a) any rights, scrip, bonus, capitalisation or other issue or offer of shares/equities of whatsoever nature or the issue of any warrants, options or the like giving the rights to subscribe for shares/equity;
- (b) any acquisition or cancellation of own shares/equities by the issuer;
- (c) any reduction, subdivision, consolidation or reclassification of share/equity capital;
- (d) any distribution of cash or shares, including any payment of dividend;
- (e) a take-over or merger offer;
- (f) any amalgamation or reconstruction affecting the shares/equities concerned; and/or
- (g) any other event which has a diluting or concentrating effect on the market value of the share/equity which is an Underlying Instrument

“Corporations Act” means the Corporations Act 2001 (Cth)

“Corporations Regulations” means the Corporations Regulations 2001.

“Credit” is a fixed amount determined by us and allocated to your Account

“Daily Financing Fee” means the charge which we apply daily to an Open Position. Details of the Daily Financing Fees are set out in the Product Disclosure Statement.

“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

“Events of Default” has the meaning given in clause 17.1

“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 which includes information about Us, our services, charges and contact details.

“General Terms” means these terms and conditions

“GFD” or “Good for the Day” refers to Orders which have effect on the day on which they are given in accordance with clause 8. If not executed, GFD Orders will cease to have effect when cancelled in accordance with this Agreement, on the expiry of the relevant Market or if we cease to trade in the relevant Market

“GFT” or “Good for the Time” refers to Orders which have effect until a time specified by you. If not executed, GFT Orders will cease to have effect when cancelled in accordance with this Agreement, on the expiry of the relevant Market or if we cease to trade in the relevant Market

“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 Market, or if we cease to trade in the relevant Market

“Guaranteed Stop Loss Order” means an instruction to execute a Trade to close an Open Position at a pre-agreed price and subject to the terms of clause 8

“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,

- (d) the making of an arrangement or composition with creditors generally or the or the filing with court documents or making of an application to court for protection from creditors generally, or any arrangement which has that effect, or
- (e) 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.

“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

“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 a Market reaches a price which is more favourable to you than Our Price at the time you place the Order

“Limited Risk Account” means an Account we designate as a limited risk account, as further described in clause 3.2

“Linked Accounts” means those Accounts which we inform you are linked for the purpose of calculating your Total Margin and/or your Trading Resource under this Agreement

“Long Position” means an Open Position resulting from a Trade or Trades placed to buy units of a Market at Our Offer Price

“Malicious Code” means any computer virus, Trojan horse, worm, time bomb or similar code or component designed to disable, damage, disrupt, manipulate, amend or alter 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 15.1

“Margin Close Out Level” means the Margin Level at or below which we may close your Open Positions and take other actions to restrict your Account under clause 11. We will notify you of your Margin Close Out Level

“Margin Factor” means the percentage or number of units we set for each Market and which is multiplied by the Quantity to determine the relevant Margin Requirement

“Margin Level” means the ratio of Net Equity (the sum of your Cash and Unrealised P & L) to Total Margin (expressed as a percentage). Your Margin Level is stated on the Trading Platform

“Margin Multiplier” means the number by which a Margin Requirement is multiplied to increase the amount you are required to hold as security for a Trade

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

“Market” means a contract we make available which is comprised of a unique set of price information, minimum and maximum Quantity, expiry and other commercial features determined by reference to an Underlying Instrument

“Market Disruption Event” means any of the following events:

- (a) trading in respect of the Underlying Instrument 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 or clearing house;
- (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

“Market Hours” means the hours during which we are prepared to provide quotes for Our Price and execute Trades and Orders in a Market, as further specified in the Market Information

“Market Information” means an electronic document located on the Trading Platform which sets out the commercial details for each Market, including but not limited to: Margin Factors, the minimum and maximum Quantity and Our Spread

“Net Equity” means a figure stated on the Trading Platform which represents the sum of your Cash and Unrealised P & L

“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 a Market reaches a specified price or an event or condition occurs

“Orders Aware Margining” means a reduced Margin Requirement that applies to Trades in certain Markets which have attached Stop Loss or Guaranteed Stop Loss Orders

“Our Address” means: Level 15, Chifley Tower, 2 Chifley Plaza, Sydney NSW 2000

“Our Bid Price” means the lower of two prices we quote for each Market

“Our Offer Price” means the higher of the two prices we quote for each Market

“Our Price” means Our Offer Price and Our Bid Price for each Market.

“Our Spread” means the difference between Our Bid Price and Our Offer Price

“Price Tolerance” is a feature which allows you to adjust the amount of slippage you will accept on applicable Trades, where slippage is the difference between Our Price quoted on the Trading Platform and the price the Trade is executed

“Product” means each type of financial instrument or investment contract we make available under this Agreement, subject to additional terms set out in the relevant Product Supplement

“Product Disclosure Statement” means the document produced and issued by us which describes our services and products, the risks and benefits and our charges. The Product Disclosure Statement is available at our website www.cityindex.com.au

“PDS” means the Product Disclosure Statement issued by us from time to time.

“Quantity” means the amount of units traded in a Market, synonymous to “stake” or “trade size”

“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 Australian Corporations Act (Cth) 2001 (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

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

“Short Position” means an Open Position resulting from a Trade or Trades to sell units in a Market at Our Bid Price

“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

“Supplemental Terms” means the supplemental terms to the General Terms for each Product type

“Total Margin” means a figure stated on the Trading Platform which represents the aggregate of the Margin Requirements applicable to your Account

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

“Trade Confirmation” means a communication sent by us confirming transactions conducted on your Account.

“Trading Day” means, in respect of a Product, a day on which we are prepared to provide a quote for the Product.

“Trading Hours” means, in respect of a Product, the hours as specified in the Market Information from time to time on a Trading Day.

“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

“Trading Resource” means a figure stated on the Trading Platform which represents your Net Equity less your Total Margin. This is subject to:

- any additional factors which need to be taken into account under the Supplemental Terms for any particular Product type;
- any additional factors which we may agree will be taken into account in assessing your Trading Resource

“Underlying Instrument” means the instrument, index, commodity, currency (including currency pair) or other instrument, asset or factor whose price or value provides the basis for us to determine Our Price for a Market

“Unrealised Losses” and “Unrealised Profits” means the profits or losses (as appropriate) that have not as yet been realised on Open Positions before expiry or closure

“Unrealised P & L” means a figure stated on the Trading Platform which represents your Unrealised Profits less your Unrealised Losses

“Website” means our internet address as amended from time to time and which comprises (among other things) the Trading Platform and the Market Information.

“Wholesale Client” has the meaning given to it under section 761G of the Corporations Act