

CMC Markets Stockbroking Limited

Institutional Client

Terms and Conditions

5 October 2023

AFSL No. 246381 and ABN 69 081 002 851



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Terms and Conditions

This agreement is made between the Broker and the Client (**'Agreement'**). This Agreement comes into effect when the Broker accepts an application from the Client to open a Trading Account in the name of the Client, following receipt by the Broker of an Application Form from the Client. This Agreement comprises a number of separate parts:

Part A General Terms and Conditions

This part applies to all Trading Accounts.

Part B Online Trading

This part applies if the Broker allows the Client to use its Online Service.

Part C Conditional Orders

This part applies if the Broker allows the Client to use its Conditional Order service.

A. General Terms and Conditions

1 Definitions

In this Agreement the following terms have the meanings set out below:

Application Form means the application form or application forms completed by the Client and given to the Broker, requesting that the Broker open one or more Trading Accounts.

ASIC means the Australian Securities and Investments Commission.

ASIC Rules means the ASIC Market Integrity Rules (Securities Market) 2017, as applicable and as amended or replaced from time to time.

ASX means ASX Limited (ABN 98 008 624 691).

ASX Clear means ASX Clear Pty Ltd (ABN 48 001 314 503) or another clearing facility approved to clear Transactions.

ASX Clear Rules means the operating rules, procedures, directions, decisions, requirements, customs, usages and practices of ASX Clear, as amended from time to time.

ASX Rules means the operating rules, procedures, directions, decisions, requirements, customs, usages and practices of ASX, as amended from time to time.

ASX Settlement means ASX Settlement Pty Ltd (ABN 49 008 504 532) or another settlement facility approved to settle Transactions.

ASX Settlement Rules means the operating rules, procedures, directions, decisions, requirements, customs, usages and practices of ASX Settlement, as amended from time to time.

ASX Transaction means a transaction to which the ASX Rules and the ASIC Rules apply.

At Market means a price which is no more than 3 steps less (in the case of an instruction to sell the financial product) or 3 steps more (in the case of an instruction to buy the financial product) than the last sale price when the Order is processed.

Authorised Agent means any person that is authorised as an authorised agent by the Client in the Application Form or any other person notified by the Client to the Broker pursuant to clause 4.

Authorised Agent Form means a physical or electronic document in a form prescribed by the Broker from time to time, pursuant to which the Client authorises an Authorised Agent to operate the Client's Trading Account.

Automated Order Processing means the process by which the Client's Orders are registered in the Broker's system, and if accepted for submission into the relevant Exchange System by the Broker, submitted as corresponding trading messages without being re-keyed by a designated trading representative (DTR) of the Broker.

Broker, we or us means CMC Markets Stockbroking Limited (ABN 69 081 002 851)

Business Day means a day other than:

- (a) a Saturday, Sunday or any declared public holiday in New South Wales, Australia; or
- (b) any other day that the ASX (or its related bodies corporate advise is not a business day or is a day that the ASX (or its related bodies corporate) is not open for business.

Cboe means Cboe Australia Pty Ltd (formerly known as 'Chi-X Australia Pty Ltd').

Cboe Rules means the operating rules, procedures, directions, requirements, customs, usages and practices of Cboe, as amended from time to time.

Cboe Transaction means a transaction to which the Cboe Rules and the ASIC Rules apply.

Claim means a claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Client, or you means the person or persons described as the client in the Application Form.

Conditional Order means an instruction the Client gives to the Broker to place an Order to enter into a Transaction on the Client's behalf:

- (a) when the Trigger occurs; and
- (b) in accordance with the Specified Instructions.

Confirmation means a trade confirmation issued by the Broker in respect of a Transaction.

Corporations Act means the *Corporations Act 2001 (Cth)* and any regulations made under it as amended and in force from time to time.

Discretionary Order means an Order in which the Client has requested that the Broker exercises discretion as to certain conditions of the Order (i.e. price and volume).

Exchange means ASX, Cboe or SSX.

Exchange System means any computer system utilised by ASX, Cboe, SSX, ASX Clear or ASX Settlement in connection with trading, matching, price reporting, clearing, settlement or registration.

GST Law has the same meaning as the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

GST has the same meaning as in the GST Law except that it includes any related interest, penalties, fines or other changes which arise as a result of a default of the recipient.

Intellectual Property Rights means any and all:

- (a) intellectual property rights, including copyright and related rights, patents, utility models, trademarks, service marks, trade names, domain names, moral rights, trade secrets, rights to inventions, logos, rights in get-up, goodwill and the right to sue for passing off and unfair competition, rights in computer software (including to the source code and object code), inventions, semi-conductor topography rights, database rights, rights in databases, rights in designs, design rights, know-how and confidential information whether in software or otherwise and whether registered or unregistered;
- (b) applications for registration, and the right to apply for registration, renewal or extension of any of these rights, the rights to claim priority from any such rights; and
- (c) any and all other intellectual property and proprietary rights and equivalent forms of protection or of similar effect existing, now or in the future, anywhere in the world.

Limit Price means the minimum price at which the Broker is instructed to sell, or the maximum price at which the Broker is instructed to purchase.

Linked Order has the meaning given to that term in Part C (if applicable).

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Loss in relation to a person means a damage, loss, cost, expense or liability incurred by the person, however it arises and whether it is present or future, fixed or unascertained, actual or contingent, and includes any loss of profit and opportunity cost.

One Cancels the Other Order means a part of Conditional Orders either of which will cancel the other Order in the pair if it meets the Trigger.

Online Service means the online trading and information service provided by the Broker to the Client and includes the Automated Order Processing facility.

Order means any Order placed by the Client with the Broker to purchase or sell or otherwise deal in a Transaction.

Rules mean the ASX Rules, the Cboe Rules the SSX Rules, the ASIC Rules, the ASX Clear Rules and the ASX Settlement Rules (as applicable).

Security Information means any of the Client's email address, logon code, password or trading PIN.

Settlement Account means a delivery versus payment (DvP) settlement facility with an authorised settlement participant, which may be used to settle the obligations of the Client arising out of Transactions made by or on behalf of the Client in connection with this Agreement.

Settlement Date in relation to a Transaction means the date specified on the relevant Confirmation, or if no date is specified, the date determined in accordance with the Rules.

Settlement Time in relation to a Transaction means the time on the Settlement Date specified on the relevant Confirmation, or if no time is specified, the time determined in accordance with the Rules.

Specified Instructions means in relation to a Conditional Order, the instruction as to the price at which an Order is to be placed when the Trigger occurs, which may be an instruction to place an Order:

- (a) at a Limit Price;
- (b) At Market; or
- (c) on any other basis permitted by the Broker.

SSX means the Sydney Stock Exchange (previously APX or Asia Pacific Stock Exchange).

SSX Rules means the operating rules, procedures, directions, decisions, requirements, customs, usages and practices of SSX, as amended from time to time.

SSX Transaction means a transaction to which the SSX Rules and the ASIC Rules apply.

Trading Account means the Client's trading account with the Broker.

Transaction means an ASX Transaction, a Cboe Transaction or a SSX Transaction.

Trigger means criteria (for example a price or some other fact or event) specified by the Client that is acceptable to the Broker, which, when satisfied, causes the Broker to place an Order to enter into a Transaction.

Website means cmcmarkets.com.au.

Wholesale Client has the meaning given in sections 761G and 761GA of the Corporations Act.

2 Interpretation

2.1 The following rules apply when interpreting this Agreement:

- (a) Headings are for reference only and do not in any way affect the meaning of this Agreement.
- (b) Unless the context requires otherwise or a word is defined in this Agreement, words defined in the Corporations Act, or the Rules have the same meaning in this Agreement.
- (c) The single includes the plural and vice versa.
- (d) Unless the context otherwise requires, a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision

substituted for, and any subordinate legislation issued under that legislation or legislative provision.

- (e) Each part of this Agreement is severable from the balance of this Agreement and if any part of the Agreement is illegal, void, invalid or unenforceable, then that will not affect the legality, effectiveness, validity or enforceability of the balance of this Agreement.
- (f) No failure by the Broker to exercise, and no delay by the Broker in exercising, any right, power or remedy in connection with this Agreement will operate as a waiver of that right, power or remedy. No single or partial exercise of any right, power or remedy will preclude any other or further exercise of such right, power or remedy or the exercise of any other right, power or remedy.
- (g) This Agreement is not to be interpreted against the Broker's interests merely because the Broker proposed these provisions or because the Broker relies on a provision of this Agreement to protect themselves.
- (h) Unless the context otherwise requires, expressions used to denote persons generally (such as "person", "someone", "third party" and "other party"), include body corporate as well as individual.

2.2 Where any term of Part A of this Agreement is inconsistent with a specific provision in Parts B and C which is part of the Agreement between the Broker and the Client, the specific provision shall prevail over the term in Part A with which it is inconsistent, to the extent of the inconsistency.

3 Rules and regulations

3.1 The Client and the Broker agree that the terms of their relationship in respect of Transactions (including this Agreement) and any dealings between them concerning Transactions are subject to, and that they are bound by, the Corporations Act and the Rules.

3.2 By opening a Trading Account with the Broker, the Client acknowledges:

- (a) the Broker does not provide you with settlement services and is not the Client's CHES Sponsor and the financial products subject to a Transaction will be settled by a separate legal entity; and
- (b) the Broker only owes obligations to and only has rights against the Client, under this Agreement. The Broker does not owe any obligations to and is not liable for any Loss to any other entity or person.

4 Appointment of Authorised Agents

4.1 The Client appoints the Broker as its agent for the purpose of executing Orders as instructed by the Client from time to time, clearing and settling such Transactions, and to do all things necessary or incidental to the execution, clearing and settlement of those Transactions, in accordance with the terms of this Agreement. The Client authorises the Broker to:

- (a) open one or more Trading Accounts for the Client, as requested in the Application Form or otherwise in writing; and
- (b) act on the instruction of the Client or any person appointed as an Authorised Agent in accordance with this clause 4.

4.2 The Client may authorise another person ('Authorised Agent') to:

- (a) open and close one or more Trading Accounts for the Client; and
- (b) give instructions and place Orders on the Client's behalf.

4.3 The Client must notify the Broker in the Application Form, an Authorised Agent Form or otherwise in writing in a form acceptable to the Broker of any such authorisation, setting out the name, and where the Authorised Agent is a specified natural person, the specimen signature of the relevant Authorised Agent.

4.4 If the Client appoints any Authorised Agent, the Client authorises:

- (a) the Broker to provide access to any Authorised Agent to personal information (which includes but is not limited to transaction data and account identifier data, related to, or in connection with, the Client's Trading Account and Settlement Account); and

(b) any Authorised Agent to collect, use and disclose the information specified in clause 4.4(a) on behalf of the Client.

- 4.5 The Client may at any time, by notice to the Broker in a form acceptable to the Broker, revoke the appointment of an Authorised Agent.
- 4.6 The Broker may treat a communication given, or apparently given by an Authorised Agent, as having been given by the Client, and rely on that communication without further enquiry.
- 4.7 The Client is and remains solely liable and responsible for all acts and omissions of any of its Authorised Agents notwithstanding the act or omission of any such Authorised Agent was:
- (a) outside their actual or ostensible authority; or
 - (b) in error, fraudulent, negligent, in breach of its fiduciary duties or criminal, but only to the extent the Broker was not actually aware such Authorised Agent was acting outside authority or aware of any fraud, negligence or breach.
- 4.8 The Client agrees not to make, and releases the Broker from any right the Client may have to make, any Claim against the Broker for any Loss incurred or suffered by the Client which may arise in connection with any act or omission by any Authorised Agent, but only to the extent the Broker was not actually aware such Authorised Agent was acting outside authority or of any error, fraud, negligence or breach.

5 Instructions and Orders

- 5.1 The Client may from time to time place Orders with the Broker to enter into Transactions. Subject to this Agreement, the Broker will deal (or will instruct third parties to deal) on the Client's behalf in financial products in accordance with the Client's instructions or, where no specific instructions are provided, at the discretion of the Broker in accordance with applicable Rules and any applicable policies of the Broker.
- 5.2 The Broker will use its reasonable endeavours to execute or arrange the execution of the Client's instructions in accordance with the Broker's Best Execution Policy, available on the Broker's Website. Without limiting clause 25, the Broker will not be responsible for delays or errors in the transmission or execution of the Client's instructions (except to the extent that responsibility can not be excluded by law).
- 5.3 The Broker may, acting reasonably, decline instructions provided by or on behalf of the Client at any time. The Broker is not required to provide a reason for declining any instructions.
- 5.4 The Client acknowledges that the Broker has no obligation to resubmit any Orders purged from any trading facility operated by an Exchange.
- 5.5 The Client acknowledges that unexecuted Orders in respect of some financial products (such as Warrants and Derivatives Products) may be purged by an Exchange at the end of the relevant Business Day.
- 5.6 The Client must not instruct the Broker to submit an Order to enter into a Transaction which would breach or cause the Broker to breach the Corporations Act, any other applicable laws or the Rules including, without limitation, any law or rules in relation to:
- (a) market manipulation, false trading, market rigging, fictitious transactions, wash trading or matching of Orders;
 - (b) insider trading;
 - (c) short selling (including any requirement referred to in clause 13);
 - (d) creating a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
 - (e) misleading or deceptive conduct.
- 5.7 The Client undertakes to ensure that it does not knowingly give an Order that, if executed, will result in there being no change of beneficial ownership of the relevant financial product that is the subject of the Order.

6 Confirming Transactions

- 6.1 The Client acknowledges that Transactions effected for the Client by

the Broker are subject to:

- (a) the directions, decisions and requirements of the Exchange operator on which the Transaction was executed and the Rules;
 - (b) the customs and usages of the Exchange on which the Transaction was executed; and
 - (c) the correction of errors and omissions.
- 6.2 On the basis that the Client is a Wholesale Client and has been notified of the matters set out in clause 6.1, the Broker is not obliged to give the Client a confirmation (**Confirmation**) in respect of any Transaction.
- 6.3 If the Broker does give the Client a Confirmation, the Client consents to receiving that Confirmation by electronic means. The Broker may accumulate and average the price of two or more Transactions in a single Confirmation. The Client is responsible for checking the accuracy of each Confirmation received from the Broker.
- 6.4 The Client must immediately notify the Broker if the Client becomes aware that there is an error in the Confirmation. If the Broker does not receive any such notification from the Client within 24 hours, the Client will be taken to have accepted the accuracy of the Confirmation.
- 6.5 The Broker may, at any time, reissue a Confirmation in order to correct any errors or omissions.

7 Cancellation of Orders and Transactions

- 7.1 The Broker may request, agree to or effect the cancellation of any Order or Transaction without the consent of the Client in circumstances where:
- (a) the Broker considers the cancellation appropriate, having regard to its obligations as a participant of ASX, Cboe, SSX, ASX Clear or ASX Settlement or as the holder of an Australian Financial Services Licence or the desirability of maintaining a fair and orderly market;
 - (b) ASX, Cboe, SSX, ASX Clear or ASX Settlement requests or directs that the Order or Transaction be cancelled;
 - (c) the Rules require or contemplate that the Order or Transaction will be cancelled;
 - (d) the security or other financial product the subject of the Order has been subject to a trading halt and the Client has not reconfirmed instructions;
 - (e) the Broker reasonably believes there has been a clear error on the part of the Broker and/or the Client;
 - (f) the Broker suspects on reasonable grounds that the Client has not complied or is unable to comply with any other term of this Agreement; or
 - (g) reasonably required by the Broker to comply with its regulatory, legal or other obligations.
- 7.2 The obligations of the Client and the Broker under this Agreement in relation to the settlement of a Transaction which is cancelled in accordance with clause 7.1 cease to apply in respect of that cancelled Transaction from the time it is cancelled (whether or not the Broker has given the Client a Confirmation in respect of the Transaction).
- 7.3 The Client acknowledges that under the Rules applicable to an Exchange, the Exchange has a range of powers including the power to cancel or amend a Transaction. The Client agrees not to make, and releases the Broker from any right the Client may have to make, any Claim against the Broker for any Loss incurred or suffered by the Client which may arise in connection with the exercise of any power pursuant to any Rules (whether or not the Broker has given the Client a Confirmation in respect of the Transaction).

8 Brokerage, fees and commission arrangements

- 8.1 The Client must pay to the Broker or as the Broker directs:
- (a) brokerage at such rates as the Broker may determine and notify the Client from time to time; and
 - (b) any fees, taxes, stamp duty or other charges as may from time to time be levied on or in connection with any dealings in financial

products entered into on the Client's behalf.

The amount of brokerage payable by the Client to the Broker in respect of any Transaction will be set out in the Confirmation of that Transaction or as otherwise notified by the Broker to the Client.

8.2 The Client acknowledges that:

- (a) the Broker may receive commissions and other benefits from other parties in relation to Transactions the Broker enters into on the Client's behalf including for example, commissions or benefits from the issuer of various financial products, such as Warrants. The Broker is entitled to retain such commissions and benefits;
- (b) if the Client has been referred to the Broker by another broker or other third party, that broker or third party may receive benefits in the form of a commission or rebate from the Broker; and
- (c) pursuant to clause 17, the Broker may receive commissions on Transactions between the Client and the Broker's other clients (from both parties) and from Transactions between the Client and the Broker as "Principal" (as defined in the ASIC Rules).

9 Settlement of purchases

- 9.1 The Client agrees to and must ensure that all funds required by the Broker to settle a Transaction for the purchase of a financial product, and all brokerage, taxes, costs, duties and charges in respect of that Transaction, are paid to or otherwise made available for use by the Broker at the time the Order in respect of that Transaction is processed unless otherwise agreed by the Broker and in any event prior to the Settlement Time. Payment in cash is not acceptable.
- 9.2 On the execution of a Transaction for the purchase of a financial product, the Client acknowledges that that amount will be 'locked' in the Settlement Account of the Client. From that time, the Client will not be entitled to withdraw those 'locked' funds from the Settlement Account. Only the Broker will be entitled to use those funds for the purposes of settling the relevant Transaction or otherwise as permitted under this Agreement.
- 9.3 The Client authorises the Broker to:
 - (a) appropriate any credits, payments, receipts or amounts to which the Client is entitled; and
 - (b) set off those credits, payment, receipts or amounts against any amount due or owing by the Client to the Broker, whether under this Agreement or otherwise.
- 9.4 The Broker is not required to transfer to the Client any securities or other financial products acquired or purchased by the Broker on behalf of the Client, until the Broker has been paid all amounts payable by the Client in respect of the relevant acquisition or purchase.
- 9.5 Pending settlement by the Client, in accordance with the provisions of the Corporations Act, the relevant Confirmation constitutes notice to the Client that the Broker may deposit the securities or other financial products described in the Confirmation as security for a loan if the Broker has received and paid for them on behalf of the Client.

10 Settlement of sales

- 10.1 The Client must provide all documents and security holder information (including its HIN or personal identification number and, if applicable, security holder reference number) to the Broker prior to the Settlement Time.
- 10.2 Credits in respect of sales will not be made available to the Client until the latest of:
 - (a) the Settlement Time;
 - (b) the time at which all documents and security holder information (required by clause 10.1) have been received by the Broker; and
 - (c) all amounts due and payable by the Client to the Broker have been paid.
- 10.4 All proceeds of sale to which the Client is entitled under this Agreement will be paid directly to the Client, and not to any third

party, unless the Client gives different instructions to the Broker.

11 Failure to settle or other breach

- 11.1 If the Client fails to settle any Transaction in accordance with the relevant Confirmation and this Agreement, or if the Client fails to comply, or the Broker suspects on reasonable grounds that the Client is unable to comply with any other term of this Agreement, the Broker may do one or more of the following:
 - (a) pass on to the Client all costs incurred as a result of that failure;
 - (b) in the case of a sale of financial products by the Client, buy any financial products sold in Order to cover the settlement (with the Client being fully responsible for any Loss in connection with such purchase) and recover any costs in so acting from the Client and the Client acknowledges and agrees that the Broker may be obliged to do so under the Rules if the Client failed to settle the sale or ensure that the sale is settled by the fifth Business Day after the relevant sale Order was executed;
 - (c) charge an administration fee calculated by reference to the additional cost which may be incurred by the Broker as a result of the Client's failure to settle;
 - (d) levy a default charge on the amount from time to time outstanding at a rate of up to the rate which the Broker would be required to pay on an overdraft facility with its then current bankers;
 - (e) use its own securities or other financial products or obtain securities or other financial products from third parties (by an on-market purchase or otherwise) and use those securities or financial products to settle any sale executed by the Broker on behalf of the Client;
 - (f) sell any securities or other financial products purchased on behalf of the Client at the risk and expense of the Client;
 - (g) sell out any securities or other financial products otherwise held on behalf of the Client and apply the proceeds to reduce the Client's liability to the Broker and to recover the Broker's costs in so acting;
 - (h) apply any cash held by the Broker or to which the Broker has access, or payments received for or from the Client, to reduce the Client's liability to the Broker;
 - (i) cancel any unexecuted Orders of the Client;
 - (j) close the Client's Trading Account and/or terminate this Agreement by providing notice to the Client.
- 11.2 Without limiting clause 24, the Client is responsible for and indemnifies the Broker against all Losses arising in connection with any settlement failure referred to in clause 11.1 including, without limitation, brokerage, stamp duty, taxes, penalties, interest and legal costs (on a full indemnity basis).
- 11.3 The Client must pay or reimburse the Broker any amounts covered by the indemnity under clause 11.2 (together with any GST payable on those amounts) immediately upon demand. The Broker may deduct any of those amounts (and any GST) from any sale proceeds or other amounts otherwise payable to the Client.

12 No personal advice provided

- 12.1 The Client acknowledges that the Broker provides an execution and settlement only service, and does not provide personal financial product advice.
- 12.2 The Client acknowledges that:
 - (a) any material or information made available or provided (whether in writing, electronically, orally, through the Online Service or otherwise) to the Client, has not been prepared taking into account or to take into account the particular investment objectives, financial situation or needs of the Client, is not personal financial product advice, and is not suitable to be relied upon by the Client as personal advice;
 - (b) it is the Client's responsibility to obtain personal financial product advice before making any investment or trading decision; and

- (c) no warranty or representation is or has been made by or on behalf of the Broker as to the current or future accuracy, completeness or currency of that material or information.

13 Short selling and disclosures in respect of sale Orders

13.1 The Client acknowledges that:

- (a) the Broker does not endorse nor provide the facility for the Client to execute short sales of securities or other financial products unless otherwise agreed by the Broker and in accordance with applicable Rules; and
- (b) when placing an Order to sell financial products, the Client (or the Authorised Agent of the Trading Account) must provide the Broker with all relevant information as required by the Corporations Act, any other applicable laws or the Rules.

13.2 When the Client places a sell Order with the Broker, the Client must notify the Broker, whether the sale is a long sale or a covered short sale. For this purpose:

- (a) a long sale is a sale of financial products that the Client already owns at the time the Client places the sale Order (but does not include financial products which the Client has borrowed from a securities lender).
- (b) a covered short sale is a sale of financial products where the Client has, at the time of placing the sell Order, a legally binding commitment from a securities lender to lend the financial products to the Client.

13.3 The Client acknowledges that the Broker will not be permitted to execute a sale Order unless the Client has informed the Broker of the relevant category of sale in clause 13.2 to which the Order relates.

13.4 The Client agrees that each time the Client places a sale Order and notifies the Broker of the relevant category of sale to which the sale Order relates, the Client will be taken to have warranted and represented to the Broker that the sale falls within the relevant category.

13.5 If the Client places the sale Order with the Broker by telephone, the Client may satisfy their disclosure obligations by advising the Broker whether the sale is a 'long sale' or a 'short sale' under an exemption.

13.6 If the Client places the sale Order through the Broker's Online Service, the Client will need to satisfy their disclosure obligations as set out in clause 13.2 by clicking on the mandatory fields provided through the Online Service software.

13.7 The Client also agrees that if the Client sells financial products as a result of the exercise of an exchange traded call option sold (written) by the Client or an exchange traded put option bought (taken) by the Client, the Client must inform the Broker whether or not the sale is a long sale; that is whether or not the Client has a presently exercisable and unconditional right to vest the financial products in the buyer of the securities at the time the relevant option is exercised. The Client must notify the Broker of this:

- (a) if the Client requests the Broker to exercise the option – at the time the request is made; or
- (b) otherwise – as soon as practicable after the Client becomes aware that the option has been exercised.

14 Information, telephone recording and privacy

14.1 The Client authorises the Broker to record any telephone conversation between the Client and the Broker, with or without an audible tone warning device. The Client agrees that the Broker may use such recordings for the purposes of monitoring compliance with the Client's and the Broker's respective regulatory and contractual obligations, and resolving disputes. If there is a dispute between the Broker and the Client, the Client has the right to listen to any recording of any conversation between the Broker and the Client. Nothing in this Agreement obliges the Broker to keep a recording longer than 90 days.

14.2 The Broker may use or disclose any information about the Client which

is collected by the Broker from the Application Form or otherwise in accordance with an authority or consent given by the Client. Without limiting the above, the Client specifically acknowledges and agrees that the Broker may:

- (a) use the information to assess the application of the Client to open a Trading Account;
- (b) use or disclose the information to a third party, (including an overseas recipient or the operator of any Settlement Account), in connection with the opening of a Settlement Account or in connection with any other services or made available through the Client's Trading Account;
- (c) unless the Client otherwise indicates on the Application Form or at any later time in writing to the Broker, disclose (including to third parties) or use the information for marketing purposes; and
- (d) provide the information on a confidential basis to a prospective purchaser of, or investor in, the Broker or all or part of the business of the Broker;
- (e) disclose any Trading Account information:
 - (i) to any third parties that make available services to the Client or the Broker in connection with the Client's Trading Account, including without limitation, any of the Client's Authorised Agents or any of the Client's financial services providers; and
 - (ii) to the extent required by law or the Rules, or otherwise required by a regulator.

14.3 The Client will take all reasonable steps to deliver information or documentation to the Broker, or cause information or documentation to be delivered to the Broker concerning Transactions which are requested by a person having a right to request such information or documentation (including, without limitation, ASIC, ASX, Cboe, SSX, ASX Clear or ASX Settlement). The Broker is authorised to produce the information or documentation to the person making the request.

14.4 The Broker agrees to comply with its obligations under the *Privacy Act 1988* (Cth) as amended from time to time, to the extent that they are relevant to this Agreement.

15 Anti-money laundering and counter-terrorism financing

15.1 The Client acknowledges that:

- (a) the Broker is subject to various anti-money laundering and counter-terrorism financing laws ('AML/CTF Laws') which include among other things prohibitions against any person dealing with the proceeds of, or assets used in, criminal activity (wherever committed) and from dealing with any funds or assets of, or the provision of services to, any person or entity involved (or suspected of involvement) in terrorism or any terrorist act; and
- (b) the AML/CTF Laws may prohibit the Broker from providing services to the Client as contemplated by this Agreement.

15.2 The Client agrees that:

- (a) the Broker is not required to accept or execute any Order, or take any other action or perform any obligation under, or in connection with, this Agreement if the Broker is not satisfied as to the Client's identity, or if the Broker suspects on reasonable grounds that by doing so the Broker may breach the AML/CTF Laws;
- (b) the Broker may delay, block or refuse to make any payment, or refuse to release any funds that the Broker holds on the Client's account, if the Broker believes on reasonable grounds that to do so may breach any law in Australia or of any other country including, without limitation, the AML/CTF Laws; and
- (c) the Broker will incur no liability to the Client for any Loss the Client suffers (including consequential loss) however caused by reason of any action taken or not taken by the Broker as contemplated in paragraph (a) or (b) above.

15.3 The Client agrees to provide all information and documents to the Broker which the Broker reasonably requires to comply with any law in Australia or of any other country, including any AML/CTF Laws and agrees that the Broker may disclose information which the Client

provides to the Broker, or about Transactions the Client conducts, or seek to conduct, with the Broker where the Broker is required to do so by any such laws.

16 Representations and warranties

- 16.1 Each time the Client places an Order with the Broker, the Client represents and warrants that:
- (a) the Client is a Wholesale Client and is a holder of an Australian Financial Services Licence, and the Client agrees to provide to the Broker the necessary documentation confirming your status as Wholesale Client, at the Broker's reasonable request;
 - (b) the Order is placed by the Client:
 - (i) as principal; or
 - (ii) if not, the Client has full power and authority (including meeting the relevant regulatory requirements) to place the Order for the person for whom the Order is placed, and that person is another Wholesale Client; and
 - (c) the Client will be the legal owner of the financial products a Client purchases or sells through the Broker.
- 16.2 the Client represents and warrants that at the time the Client completes the Application Form and at all times during the term of this Agreement:
- (a) the Client has read and understood all documentation provided by the Broker to the Client in relation to the services provided by the Broker, including, without limitation, any other legal documents;
 - (b) the Client is a person with whom the Broker is lawfully entitled to deal pursuant to any statute, law, rule or regulation applicable to this Agreement and that all dealings by the Client with the Broker or requested to be done by the Broker on the Client's behalf are and will be lawful;
 - (c) all information supplied on the Application Form or otherwise to the Broker is true, complete and accurate in all respects and the Client will notify the Broker immediately of any change in any information supplied (including but not limited to any change in the Client's name, address, telephone number or email address);
 - (d) the Client will rely upon the Client's own knowledge and judgment and will seek such advice (financial or otherwise) as may be prudent before placing an Order with the Broker, and the Client assumes full responsibility for any Order placed with the Broker;
 - (e) at all times the Client will be able to make payments and fulfill all commitments on the Client's part arising under this Agreement and under the conditions applicable to dealings between the Client and the Broker;
 - (f) if the Client is acting as trustee of a trust or responsible entity of a managed investment scheme, the Client has authority to be bound by this Agreement as trustee or responsible entity, and agrees that it is liable under this Agreement both in its capacity as trustee or responsible entity and in its personal capacity;
 - (g) if the Client is a corporation, the Client holds a valid company registration number in accordance with the legislative requirements in the Client's principal place of residence; and
 - (h) the Client is solvent and none of your directors are currently the subject of bankruptcy proceedings.
- 16.3 Apart from any warranties and representations which are implied by law and cannot be excluded, the Broker makes no warranties in relation to any service or information provided or made available to the Client in connection with this Agreement. To the full extent permitted by law, the Broker excludes liability for all costs, expenses, damages and Losses arising in connection with such services or information, or this Agreement except where such liability arises as a result of the Broker's negligence, fraud or willful misconduct.

17 Principal trading by Broker

- 17.1 The Broker and its related bodies corporate may enter into Transactions in securities and other financial products as "Principal" (as defined in the ASIC Rules). Where permitted by law, the Broker

may take the opposite position in any such a Transaction with the Client, acting either for another client or on its own account.

- 17.2 The Client consents to the Broker and its related bodies entering into such Transactions with the Client. In relation to commission on such Transactions:
- (a) the Broker is entitled to receive commission from both parties, where the Client's Order matches an existing Order placed by another client of the Broker; and
 - (b) the Client consents to the Broker charging the Client commission, where the Client is a wholesale client (as defined in the Corporations Act) and the Client's Order matches an existing Order placed by the Broker as a principal trade.

18 Allocation policy

- 18.1 The Broker will deal with Orders in accordance with the allocation policy set out in this clause 18. The Broker reserves the right to amend the allocation policy at any time. The Broker may inform the Client of any updates to the policy from time to time and will provide the Client with the current allocation policy at the Client's request.
- 18.2 The Broker will deal fairly and in due turn with all Client Orders and Orders placed on the Broker's own account having regard to any Australian regulatory requirements and market practices.
- 18.3 To the extent that it is reasonably practicable to do so, the Broker will allocate all Transactions (including Transactions effected pursuant to Orders placed on the Broker's own account) in the sequence in which the Broker receives those Orders, subject to any delay or technical faults connected with or arising through the use of the Broker's systems or any other delay that is outside the control of the Broker.
- 18.4 If the Broker receives several Orders (including Orders placed on the Broker's own account) on the same terms and in respect of the same financial product, the Broker will generally allocate the Transactions to those Orders having regard to the time at which the Orders were received and generally in accordance with the following priority of allocation:
- (a) first priority will be given to an 'at market Order' being an Order in which the Client has requested that the Transaction is effected at the prevailing market price;
 - (b) second priority will be given to a 'limit Order' being an Order in which the Client has requested that the Transaction is effected only if specific conditions (i.e. price and volume) are satisfied and in relation to the priority of multiple limit Orders, the Broker will prioritise them in the sequence in which it considers that Transactions satisfying the relevant conditions are likely to be effected having regard to the prevailing market price;
 - (c) third priority will be given to a 'Discretionary Order'; and
 - (d) in the case of Conditional Orders priority will be given having regard to clause 37.
- 18.5 The priority of allocation specified in this clause 18 is generally applied and may be subject to variation.

19 Variation

- 19.1 Subject to any minimum notice period required by law, the Broker may vary this Agreement by giving the Client and/or any of its Authorised Agents not less than ten (10) Business Days' notice of any variation, in writing, by:
- (a) **(email)** sending a weblink to the updated Agreement via electronic mail;
 - (b) **(post)** sending notice of the updated Agreement via post;
 - (c) **(platform notification)** publishing a notice of the updated Agreement on the platform; or
 - (d) **(website)** updating its Website with the updated Agreement.
- 19.2 By continuing to deal with the Broker (or, with respect to a Client

who has appointed an Authorised Agent in accordance with clause 4, by continuing to allow an Authorised Agent to deal with the Broker on the Client's behalf), the Client agrees to be bound by this Agreement (including any variations to this Agreement) that are made in accordance with clause 19.1.

- 19.3 If the Broker believes a variation is necessary to maintain or restore the security of any accounts or of its systems or to comply with any legal or regulatory requirement, the Broker may make the variation without notice.

20 Termination

- 20.1 Subject to the Rules, the Broker may terminate all or part of this Agreement at any time and for any reason by giving reasonable notice to the Client, provided that the Broker may terminate all or any part of this Agreement immediately on shorter notice or without any notice where the Broker reasonably believes it is necessary to protect the Brokers' legitimate interests or it is reasonable in the circumstances to do so.
- 20.2 The Client may terminate all or any part of this Agreement at any time and for any reason by giving notice to the Broker.
- 20.3 Termination does not affect outstanding obligations under this Agreement which are undischarged at the time of termination. Each indemnity in this Agreement survives the termination of this Agreement.

21 Notices

- 21.1 Notices given by the Broker may be sent to the addressor email address specified in the Application Form or later notified by the Client, or by posting the notice on its Website or on the platform. Any notice or Confirmation given by the Broker is taken to have been received on the Business Day following the transmission or posting of the notice, demand or Confirmation. Any notice or Confirmation given by the Broker to any Authorised Agent of the Client is taken to have been given to the Client.
- 21.2 Notices given by the Client must be in writing and sent by post to the address of the Broker specified in the Application Form or later notified by the Broker. A notice given by the Client is taken to have been given at the time it is actually received by the Broker.

22 GST

- 22.1 If GST is or will be payable on a supply made under or in connection with this Agreement, to the extent that the consideration otherwise provided for that supply is not stated to include an amount in respect of GST on the supply:
- the consideration otherwise provided for that supply is increased by the amount of that GST; and
 - the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided within 5 Business Days of receiving a written demand from the supplier.
- 22.2 If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, the supplier as appropriate:
- may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving 7 days written notice; or
 - must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply; and
 - must issue an adjustment note or tax invoice reflecting the

adjustment event in relation to the supply to recipient within 28 days of becoming aware of the adjustment.

- 22.3 The right of the supplier to recover any amount in respect of GST on a supply under this Agreement is subject to the issuing of the relevant tax invoice or adjustment note to the recipient.

- 22.4 Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party or used as the basis for calculation of consideration for a supply under this Agreement must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit, and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

23 Non-Australian GST

- 23.1 In this clause 23, the expression Non-Australian GST means any goods and services tax, value added tax or similar transactional tax, however described, imposed on the supply of goods or services (however defined) under the law of any jurisdiction outside Australia, together with any related interest, penalties, fines or other charges which arises as a result of the default of the recipient of the relevant supply.
- 23.2 If any supply under or in connection with this Agreement gives rise to a liability to any non-Australian GST, clause 22 will apply mutatis mutandis to that supply.

24 Indemnity

- 24.1 To the fullest extent permitted by law, the Client releases, discharges and indemnifies and agrees to keep the Broker and their respective officers, employees, agents and representatives indemnified from and against all sums of money, actions, proceedings, suits, claims, demands, Losses and any other amounts whatsoever arising out of:
- any default, whether by the Client's act or omission under this Agreement or any Order or transaction (including any Transaction);
 - any breach by the Client of any applicable law including the Corporations Act and the Rules;
 - any representation or warranty made or given by the Client under this Agreement proving to be untrue or incorrect;
 - any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by the Client or by any client, employee, agent or Authorised Agent, consultant or servant of the Client;
 - any failure of any of the Client's computer or electronic systems or networks to perform, be available or successfully transmit data to the Broker, or any error or inadequacy in the data or information input into such systems or networks by the Client;
 - anything lawfully done by the Broker in accordance with, pursuant or incidental to this Agreement;
 - any instruction, request or direction given by the Client;
 - the Broker complying with any direction, request or requirement of the Rules or the Corporations Act or of ASIC, ASX, Cboe, SSX, ASX Clear or ASX Settlement or any other regulatory body having jurisdiction over the Broker; or
 - the Broker in good faith accepting and acting on instructions received by facsimile transmission which are signed by or purported to be signed by the Client or any Authorised Agent, provided that this clause 24.1 shall not apply to any Losses to the extent caused by the negligence, fraud or willful misconduct of the Broker or its officers, employees, agents or representatives.

25 Limitation of liability

23.1 Subject to those provisions of the *Competition and Consumer Act 2010* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth), and any other rights implied by law, which cannot be excluded by agreement between the Broker and the Client:

- (a) The Broker makes no representations or warranties either express or implied as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness or quality), with respect to the goods or services supplied under this Agreement (**Services**) including, without limitation, the Online Services.
- (b) Except where liability arises as a result of the Broker's negligence, fraud or willful misconduct, the Broker excludes all liability in contract, tort or otherwise relating to or resulting from use of a Service and for any Loss incurred by the Client directly or indirectly including, without limitation, as a result of or arising out of:
 - (i) any inaccuracy, error or delay in or omission from any information provided to the Client in connection with a Service;
 - (ii) a Service to the Client including, without limitation, any delay, failure or inaccuracy in, or the loss of access to, the Online Service or in respect of the transmission of the Client's Orders or instructions or any other communications, for any reason;
 - (iii) any misinterpretation of the Client's Orders or instructions which are unclear, ambiguous, or not specific; or
 - (iv) any government restriction, Exchange or market ruling, suspension of trading computer or telephone failure, unlawful access to the Online Service, theft, sabotage, war, earthquakes, strikes, force majeure and without limitation, any other conditions beyond the Broker's control.
- (c) The Broker is not liable in contract, tort or otherwise for any loss of prospective profits or expenses or special, indirect or consequential damages resulting from the supply of a Service including, without limitation the Online Service.
- (d) The Broker makes no representations or warranties either express or implied that:
 - (i) any Exchange System (or any part of it) or any service or any services performed in respect of it will meet the requirements of the Client or any user; or
 - (ii) the operation of, or services performed in respect of, any Exchange System will be uninterrupted or error-free.
- (e) The Broker is not liable for any breach of a provision of any relevant legislation, negligence, injury, death, lost profits, loss of files, data or use, economic loss, loss of reputation or losses or damages incidental or consequential to the operation of any Exchange System, except to the extent that it is caused by the negligence or dishonesty of the Broker or their employees, agents or representatives.
- (f) The Broker's liability shall in any event be limited to:
 - (i) in the case of goods, the replacement or repair of the goods; or
 - (ii) in the case of services, the re-supply of the services.

26 Assignment

- 24.1 The Client consents to any assignment or novation by the Broker of any rights and obligations under this Agreement (or, if applicable, a part of this Agreement) and agrees that the Broker may affect any such assignment or novation provided that the Broker gives the client written notice prior to the assignment or novation taking effect.
- 24.2 The Client may not assign or novate any of their rights and obligations under this Agreement or any part of this Agreement without the Broker's prior written consent.

27 Entire agreement

This Agreement and any relevant Application Form completed by the Client

contain the entire understanding between the Client and the Broker concerning the provision of the services referred to in this Agreement.

28 Governing law and language

28.1 This Agreement is governed by the laws of the State of New South Wales and the Client submits to the jurisdiction of the Courts of that State in relation to any Claim or dispute arising out of the performance of this Agreement.

28.2 This Agreement and all communications under or in connection with this Agreement shall be in the English language. Any translation or language assistance provided shall be for convenience only and to the extent there is a conflict between the English version and any translation, the English version shall prevail.

B. Online trading

(including Automated Order Processing)

The terms and conditions in this Part B apply if the Broker allows the Client to use the Online Service. The Client is taken to have agreed to the terms and conditions in this Part B when the Client or an Authorised Agent next accesses the Online Service.

29 Security information

29.1 Before the Broker allows the Client access to the Online Service, the Broker will provide Security Information to the Client.

29.2 The Client agrees that:

- (a) the Client must not use the Online Service (or permit or procure any other person to use the Online Service) until the Security Information has been provided by the Broker;
- (b) the Security Information is confidential;
- (c) the Client is responsible for the confidentiality and use of that Security Information at all times and must procure that any Authorised Agent maintains the confidentiality of the Security Information;
- (d) the Client will not permit, consent or allow any person to use the Security Information or to access or use the Online Service using that Security Information;
- (e) the Client will not provide, disclose or make available the Security Information to any person;
- (f) the Client must notify the Broker immediately upon becoming aware of any unauthorised use of the Security Information or the Online Service; and
- (g) the Client will:
 - (i) only use the data provided through the Online Service for its own trading purposes;
 - (ii) recognise the Intellectual Property Rights of the Broker, the Exchange and all data providers;
 - (iii) not remove any proprietary or copyright notices or labels on the Online Service;
 - (iv) not re-distribute, re-sell or sub-licence any content or data provided through the Online Service;
 - (v) not use the data provided through the Online Service for any illegal purpose.

29.3 Unless otherwise indicated, the Online Service including the Website and all of its software, algorithms, design, text, content, data, arrangement, organisation, graphics, compilation, magnetic translation, digital conversion, equipment, and any and all other electronic, computer, technical and information communications technology devices and equipment, networks, servers, applications, codes (including source and object codes) and data centres which are contained in or relate to the Website, together with all technical documentation and information necessary for the use of any of the above ("**Elements**") are protected under applicable Intellectual

Property Rights and we and/or our licensors are the owner or the licensee (as applicable) of all such Intellectual Property Rights in the Website and the Elements. All such rights are hereby reserved. The posting of the Website and any Elements on the Website does not constitute a waiver of any right in the Website or such Elements. Except as expressly granted in the Agreement, you do not acquire any rights, title or interest in or to the Website or the Elements.

We hereby grant you a personal, non-exclusive, royalty-free revocable and non-transferable licence, to access and make personal and non-commercial use of the Website for the limited purpose of trading in accordance with the Agreement. No other rights are granted in respect of the Website. In the event you do or attempt to do any of the prohibited matters set out in this section or we reasonably suspect that you have done or attempted to do any of these prohibited matters, the terms of this licence and the Agreement shall be automatically revoked and you shall have no further rights in or to the Website or any of the Elements.

You must not:

- (a) copy, reproduce, translate, duplicate, or use the Website except as expressly provided for in the Agreement;
- (b) permit any other person to copy, reproduce, translate, duplicate or use the Website except as expressly permitted in the Agreement;
- (c) create or develop any hyperlink or other form of internet weblink to the Website except with our express prior written consent;
- (d) modify, adapt, alter, translate, enhance, reverse engineer, decompile, decode, disassemble or reverse assemble (except and solely to the extent an applicable law expressly and specifically prohibits such restrictions), or create derivative works of the Website or any of the Elements (or cause or permit any of the foregoing);
- (e) modify, adapt or alter the operation of the Website in any way (other than as intended by the Agreement);
- (f) distribute, re-distribute, sell, re-sell, transmit, re-transmit, publish, make available, re-produce, sub-licence, transfer, rent, lend, re-circulate, repackage, disclose, display or make commercial use of the Website, any of the Elements or any of the materials provided by us in relation to the Agreement (either in whole or in part);
- (g) download or copy your account information other than if required to do so by law or for personal use in accordance with the provisions of the Agreement;
- (h) download or copy account information relating to any other Client;
- (i) carry out any data collection, or use data mining, screen-scraping, optical recognition software, image makers, robots or any other similar or like data gathering and extraction tools on the Website or the Elements;
- (j) use any software, algorithm, robot, applications, tools, codes or computer or electronic devices or equipment on the Website for non-human and/or high frequency trading;
- (k) make use of the Website or any of the Elements for automated purposes;
- (l) knowingly introduce any software viruses, trojans, worms, logic bombs, time bombs, "back doors" or back door devices, "drop dead devices", malware, or any other material, software or code which:
 - (i) is or is likely to be malicious or technologically harmful, destructive, or disabling or anything analogous to the foregoing to the Website or any of the Elements;
 - (ii) damages, disrupts, impairs, erases or adversely affects the normal operation of the Website or any of the Elements;
 - (iii) assists in or enables theft or alteration of data or content from

the Website or any of the Elements; or

- (iv) provides unauthorised access to the Website or any of the Elements.
- (m) permit or cause unauthorised access or attempt to gain unauthorised access to the Website or any of the Elements, including the server on which the Website or any of the Elements is stored or any server, computer or database connected to the Website or any of the Elements;
- (n) attack the Website via a denial-of-service attack or a distributed denial-of-service attack; or
- (o) do, or permit, any act or thing (or omit to do any act or thing) analogous to any of the foregoing,

We will not be liable for any Loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Website or to your downloading of any material posted on it, or on any Website linked to it.

29.4 The Client is responsible to the Broker for the consequences of any unauthorised disclosure or use of the Security Information.

30 Online trading rules

30.1 A Client is only permitted to access the Online Service using the Security Information.

30.2 The Broker is entitled to rely on all instructions given by, on behalf of, or apparently on behalf of, the Client using the Security Information. Despite any other provision of this Agreement, the Broker is not liable for any loss caused by the Broker acting on instructions or other communications using the Security Information.

30.3 The Client must not place an Order through the Online Service if:

- (a) in respect of an Order to purchase, there are not sufficient cleared funds to settle the purchase;
- (b) in respect of an Order to sell, the Client does not own the relevant securities or other financial products and have them available to sell, or otherwise have a presently exercisable and unconditional right to vest them in a buyer;
- (c) any resulting Transaction would not result in a change in beneficial ownership of the securities or other financial products;
- (d) that Order would contravene clause 5.6.

30.4 The Broker may at any time withdraw or restrict the Client's or any Authorised Agent's access to the Online Service if it is reasonably in the circumstances to do so.

31 Additional trading rules for Automated Order Processing

31.1 The Client may place Orders through the Automated Order Processing facility which is part of the functionality of the Online Service. The Client is solely responsible for placing Orders and for all errors made in placing Orders through the Automated Order Processing facility.

31.2 An order placed through the Automated Order Processing facility will only be taken to have been authorised by the Broker at the time the Broker accepts the Order for Automated Order Processing, and not before that time.

31.3 If the Client wishes to amend or cancel an Order placed through the Automated Order Processing facility, it must give the Broker specific instructions for the amendment or cancellation of that Order.

31.4 If an Order has been partially filled before it is cancelled, the Client is responsible for settling that part of the Order which has been filled.

32 Electronic communications

32.1 The Client agrees that electronic communications between the Client and the Broker will be considered valid and enforceable, and that CMC Markets will retain records of such communications. However, nothing in these Terms and Conditions prevents the Client from

raising a genuine dispute in relation to the validity or enforceability of electronic communications, provided that such dispute is made in good faith and in compliance with applicable laws.

32.2 If a failure, interruption or malfunction of electronic communication between the parties prevents an Order from being placed, cancelled or amended, without limiting clause 25, neither party shall be liable to the other party for any Loss caused by that failure, interruption or malfunction.

32.3 The Client acknowledges that, in using the Online Service:

- (a) there may be delays in the dissemination of market information or in processing an Order or instruction to amend or cancel an Order;
- (b) an Order may be wholly or partly filled before an instruction for its amendment or cancellation is processed;
- (c) the Client remains liable for the original Order until any relevant amendment or cancellation is effected in the trading facility of the Exchange; and
- (d) without limiting clause 25, the Broker will not be liable for any Loss incurred by the Client arising from any delay in the dissemination of market information or the processing of any Order or instruction to amend or cancel an Order.

32.4 The Client acknowledges that the speed of information provided through the Online Service is subject to a number of factors including, but not limited to, the speed of the user's internet connection, the user's settings, the number of concurrent users accessing the Online Service and the volume of information being received and sent by the Online Service.

32.5 Orders placed through the Online Service will be executed at the market price available on the Exchange (subject to any limit specified in the Order). The Client acknowledges that:

- (a) the market price may move and be different from the price at which the security or other financial product was trading when the Order was placed by the Client through the Online Service; and
- (b) the Broker is not liable for any Loss incurred by the Client by reason of any such movement in market price.

C. Conditional Orders

The terms and conditions in this Part C apply if the Broker allows the Client to use its Conditional Order service. The Client is taken to have agreed to the terms and conditions in this Part C when the Client or an Authorised Agent next places a Conditional Order with the Broker.

33 Placing a Conditional Order

When placing a Conditional Order, the Client acknowledges and agrees that:

- (a) the Broker is not obliged to accept the Conditional Order, and is not obliged to provide any reason to the Client for not accepting the Conditional Order;
- (b) the Client must specify the Specified Instruction;
- (c) the Conditional Order is not valid until the Broker has informed the Client that the Broker has accepted the Conditional Order; and
- (d) the Conditional Order remains valid in the event of a trading halt in respect of the relevant financial product, unless the Exchange purges Orders for the relevant financial product.

34 Variation or cancellation of a Conditional Order

34.1 The Broker may cancel a Conditional Order which relates to a financial product:

- (a) in circumstances contemplated under clause 7.1; or
- (b) if Orders in respect of that financial product are purged from the market by the Exchange, for example, if:
 - (i) the financial product goes ex-dividend;

(ii) the financial product becomes subject to a reconstruction of capital such as a share split or consolidation; or

(iii) the issuer of the financial product announces a rights issue.

34.2 The Client may request the Broker to vary, cancel or reinstate a Conditional Order. Any request for a variation, cancellation or reinstatement of a Conditional Order will be treated as a new Conditional Order for the purposes of this Agreement.

34.3 The Broker may charge a fee for a cancellation, variation or reinstatement of a Conditional Order.

35 Linked Orders

35.1 The Broker may in its absolute discretion allow the Client to place Linked Orders.

35.2 A Linked Order will only become active when the previous Order that it is linked to has been completely filled. If the previous Order is only partially filled, any subsequent Linked Orders will not be activated.

35.3 If the client or the Broker cancels an Order which has subsequent Linked Orders linked to it, the Order and all subsequent Linked Orders will be cancelled. If any Order has been partially filled before it is cancelled, the Client is responsible for settling that part of the Order that has been filled.

36 One Cancels the Other Orders

36.1 The Broker may in its absolute discretion allow the Client to place a pair of One Cancels the Other Orders.

36.2 Where a Client has placed a pair of One Cancels the other Orders, when one Order of the pair has been triggered the other Order in the pair will be cancelled.

37 Triggering a Conditional Order

37.1 The Broker will use its reasonable endeavours to place an Order arising from a Conditional Order in accordance with the Specified Instructions on or as soon as practicable following the occurrence of the relevant Trigger for that Conditional Order. However, the Broker reserves the right to review an Order that results from a triggered Conditional Order and to refuse to place that Order on the market in certain circumstances including (but not limited to) one or more of the following:

- (a) if the basis for quotation for the financial product has changed and the Client has not varied the Client's Conditional Order;
- (b) if the financial product has been subject to a trading halt and the Client has not varied the Client's Conditional Order;
- (c) if the Broker reasonably believes that the Client's instructions are ambiguous, incomplete or unclear; or
- (d) if the Broker reasonably believes that the instruction may contravene this Agreement or another agreement between the Broker and the Client, the Corporations Act, the Rules or may result in an unfair or disorderly market.

37.2 If the Conditional Order is a sell Order and a Trigger occurs, the Broker will only place the order in respect of that number of financial products which the Broker controls in respect of a holding of the Client. The Client will be taken to have represented to the Broker that the order, as submitted, constitutes a long sale for the purposes of clause 13. To the extent that the Conditional Order related to a larger number of financial products, the balance of the Conditional Order will be cancelled.

37.3 If the Conditional Order is a buy Order and a Trigger occurs, the Broker will only place the Order in accordance with the Specified Instructions where the full amount required by the Broker to settle the Transaction for the purchase of financial products, together with all brokerage, taxes, costs, duties and charges in respect of that Transaction, is available for use in the Settlement Account of the Client at the time the Trigger occurs.

37.4 If at the time the Trigger occurs, the full amount required by the Broker to settle the Transaction together with all brokerage, taxes, costs, duties and charges in respect of that Transaction, is not available for use in the Settlement Account, the Broker will only place the Order

in respect of that number of financial products which, excluding all brokerage, taxes, costs, duties and charges in respect of that transaction, is equal to the value of approximately 90% of the available balance of the Settlement Account of Client (or such other percentage as determined by the Broker), at the time the Trigger occurs.

- 37.5 If a Trigger specifies price as the criteria for the Trigger, and that criteria is satisfied in the closing price auction effected by an Exchange under the Rules, the Trigger will be deemed not to have occurred and no Order for the financial products will be placed by the Broker as a result of the criteria having been satisfied in the closing price auction.
- 37.6 The Client acknowledges that where multiple Conditional Orders are received, each with the same or similar Trigger conditions, and a Trigger occurs in respect of the Conditional Orders, the Orders will be placed into the market as expeditiously as possible, however the placement into the market, and the resulting allocation of the Orders, may not necessarily be in the same Order as the Orders were placed or created.
- 37.7 The Client acknowledges that an error, failure, delay or malfunction in the Broker's systems or the Exchange Systems may result in an Order not being entered in accordance with the terms of the Conditional Order. For example, a Conditional Order may not be triggered if the relevant Trigger occurred during an error, failure, delay or malfunction in the Broker's systems or the Exchange Systems. The Broker may cancel a Conditional Order where there has been a system error, failure, delay or malfunction.

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