

Margin Trading Terms and Conditions

Issue Date: 1 November 2019 - Version 1.4

Monex Securities Australia Pty Ltd

AFSL No: 363972 | **ABN:** 84 142 210 179

Registered Office: Level 11, 300 George Street, Sydney NSW 2000

1. Introduction

1.1 Information about us

Monex Securities Australia Pty Ltd ABN 84 142 210 179 (“**Monex AU**,” “**we**,” “**us**” or “**our**”) is authorised and regulated by the Australian Securities and Investments Commission (**ASIC**) under Australian Financial Services Licence (**AFSL**) No. 363972. Monex AU’s registered office is at Level 11, George Street, Sydney, NSW 2000, Australia. We are required to conduct our business and dealings with you in accordance with the *Corporations Act 2001* (Cth) as varied from time to time (“**Corporations Act**”).

These Terms and Conditions are part of the agreement between Monex AU and you, the client (“you”, “your”, “yourself”). This agreement governs our dealings with you in the Products, being Margin Foreign Exchange Contracts (“Margin FX”) and Contracts for Difference (“CFDs”).

Please read these Margin Trading Terms and Conditions (“Agreement”) carefully as they contain important information concerning you and Monex AU’s rights and obligations in relation to the services we agree to provide to you.

Please retain these Terms and Conditions for future reference and let us know as soon as possible if there is anything contained within which you do not understand.

1.2 Our capacity (acting as principal)

We will deal with you as principal unless we inform you unless expressly stated that we are dealing with you as agent. With respect to any Transaction or class of Transactions (including orders) entered by you, or that we take under your instruction, they are accepted and executed on the basis that we at all times act on our own account as principal and not as your agent, unless stated by us at the time your transaction/s and orders are taken.

1.3 Your capacity

You will enter into Transactions as principal unless otherwise agreed in writing by us.

1.4 Language of communications

All communications accepted with us must be in English. All Monex AU documentation will be available in English (Australia). If a document is translated into another language, this will be for information purposes only and the English (Australia) version will prevail.

1.5 Commencement

This Agreement will be effective from the date we accept your completed and signed application form to open an Account with Monex AU that fulfils the requirements requested by us, and you receive from us a welcome written confirmation advice (or email) that confirms your new account details. By completing the Account Opening Form available on our website forex.monexsecurities.com.au, you confirm that you have read, understand and agree to be bound by this Agreement, and our Financial Services Guide (FSG), the Product Disclosure Statement (PDS), Hedging Policy and Risk Warning also published on our website.

The agreement between us and you are constituted by the following documents:

1. This Agreement
2. Our Margin Trading Product Disclosure Statement (PDS)
3. Our Financial Services Guide (FSG)
4. The Margin Trading Account Opening Form
5. Our website and our Electronic Trading Platform.

By electronically completing your application process through our Website, you acknowledge and agree that:

- You have read and understood all documentation provided to you by us including this Agreement and PDS in relation to any of our Products which you request us to make available to you in relation to your Account;
- You authorise Monex AU to open an Account for you;
- You have received, read and understood our FSG. Our FSG may change from time to time. A copy of the current FSG can be obtained on our Website forex.monexsecurities.com.au or on request;
- All dealings in our products and the performance by us of our obligations under the Agreement are subject to the Applicable Laws in Australia; and
- You accept the Terms and Conditions of this Agreement.

When we open an Account for you, you will be bound by this Agreement in all your dealings with us. Contracts that arise out of the transactions we conduct with you under this Agreement are legally binding and enforceable.

You agree that we may amend, change, revise, add or modify this Agreement at any time. The most current Agreement will be posted to our website. You understand that this Agreement cannot be modified by any verbal statements or written amendments by you without written acceptance or confirmation by us.

You must read this Agreement carefully in its entirety and we recommend that you seek independent professional advice. Without limitation, we particularly draw your attention to those Terms and Conditions which deal with:

- the risks of dealing in the Products;
- other important documents that relate to your Account with us;
- our rights to void and/or close one or more of your Transactions in the specific circumstances;
- our rights if you owe any amounts to us; and
- those that relate to termination of this Agreement and the closing of your Account.

1.6 Amendments

We may from time to time vary this Agreement. The changes shall apply to all dealings between you and us on and from the day on which the variation takes effect. We will communicate with you within seven (7) days in the form of written notice. Any changes to this Agreement will also be published on our website. The earlier of the continued use of the services under this Agreement after receipt of the notice of amendment or the expiration of 7 days will be deemed to be the date of acceptance of the new agreement. Should you have any query, please contact us immediately.

1.7 Duty to you

Nothing in this Agreement excludes or restricts any duty or liability owed by us to you under the Corporations Act. If there is any conflict between this Agreement and the Corporations Act, the

latter will prevail.

1.8 Duties and responsibilities

Nothing in this Agreement excludes or restricts any duty or liability owed by us to you under the Corporations Act. If there is any conflict between this Agreement and the Corporations Act, the latter will prevail.

1.9 Investment Products

The Investment Products which are available to trade from Monex AU are listed on the Electronic Trading Platform and are updated from time to time. This Agreement governs your relationship with Monex AU for all Investment Products traded.

1.10 Restricted choice

Your choice of Investment Products is limited to those on the Electronic Trading Platform.

1.11 No responsibility for processing delays

We take no responsibility for any delays in processing Transactions entered into using the Electronic Trading Platform or for their temporary disengagement or breakdown.

1.12 Definitions

Please pay particular attention to the stated meaning of capitalised terms used in this Agreement.

2. Definition and Interpretation

2.1 Definitions

The words and phrases whenever used in this Agreement, unless inconsistent with the subject matter or context, have the following meaning:

Account	means Your Margin FX and CFD account opened with us.
Account Opening Form	means the application form prepared by Monex AU for completion by the client to enable Monex AU to open an account for the client.
Affiliate	means any company or partnership controlled by, or controlling, or in common control with, another person. A person, company or partnership will be deemed to control another person, company or partnership if the former person, company or partnership possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other person, company or partnership, whether through the ownership of voting securities or partnership interests, representation on its board of directors or similar governing body, by contract or otherwise.
Affiliated Company	means (in relation to a person) an undertaking in the same group as that person.

AFSL	Australian Financial Services Licence.
Agreement	means these Terms and Conditions, as varied from time to time.
AML/CTF Act	means the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth), as amended from time to time.
Applicable Laws	means the Corporations Act, the Corporations Regulations 2001, or any other rules of a relevant regulatory authority, including ASIC or any rules of a relevant Market and all other applicable laws, acts, rules, and regulations as in force from time to time.
ASIC	means the Australian Securities and Investment Commission or any regulatory body which replaces it or performs its functions.
Base Currency	is defined in clause 13.4.
Business Day	means a day on which commercial banks are open for business (including dealings in foreign exchange) in the place specified by Monex AU for that purpose.
CFD	means a Contract for Difference, which is a leveraged financial instrument that changes in value by reference to fluctuations in the price of an Underlying Instrument.
Client	means the Client named in the Account Opening Form or, in the appropriate context, another person who has accepted these Terms and Conditions.
Client Money	has the meaning given in the Australian Client Money Rules.
Commission	means the commission, charges or other remuneration for the conduct of the business by Monex AU as disclosed and as notified to you time to time.
Complaints Officer	means the person appointed from time to time by Monex AU to handle Client complaints.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Counterparty	means, in a transaction with two sides (buy and sell), the party holding the opposite position to you.
Currency	shall be constructed so as to include any units of accounts.
Electronic Trading Platform	means any of the online trading platforms provided by Monex AU for accessing your Account and placing Orders.
Event of Default	means any of the events of default listed in clause 20.1 of this Agreement.
Exceptional Market Event	means the suspension, closure, liquidation, imposition of limits, special or unusual terms, excessive movement, volatility or loss of liquidity in any relevant market or Underlying Instrument, or where Monex AU reasonably anticipates any of the above circumstances are about to occur.

Exchange	means any exchange where securities, commodities, derivatives and other financial instruments are traded.
Force Majeure Event	means any of the events listed in clause 24.6 of this Agreement.
Forex	is an abbreviation for foreign exchange.
GST	means goods and services tax.
Initial Margin	has the meaning given in clause 14.1 of this Agreement.
Insolvency Officer	has the meaning given in clause 20.1(f) of this Agreement.
Investment Product	means a financial instrument or any asset or commodity or other investment product, including Margin FX and CFDs.
Login Information	means your username and password to access the Electronic Trading Platform.
Manifest Error	is defined in clause 22.1.
Margin	has the meaning set out in clause 14.2 of this Agreement.
Margin Call	means the amount of Margin required to satisfy a Margin requirement.
Margin Call Liquidation	means the outcome caused by Monex AU closing an open position held by the customer in a Transaction as a result of the customer failing to satisfy a Margin requirement.
Margined Transaction	means any Transaction liable to Margin.
Margin FX	means Margin Foreign Exchange, which is a leveraged financial instrument that changes in value by reference to fluctuations in exchange rates.
Market	means any market or multilateral trading facility subject to government or state regulation with established trading rules and trading hours.
Monex Group	includes companies within the Monex Group, Inc (Japan), namely, Monex Securities Australia Pty Ltd and any other subsidiaries established from time to time.
Normal Market Size	means the maximum number of Underlying Instruments that we reasonably believe the underlying Market to be good in at the relevant time.
Order	means an instruction to purchase or sell a Margined Transaction at a price quoted by Monex AU.
OTC	means over the counter and, in this context, covers a contract not traded on a Stock Exchange or Market.

Product Disclosure Statement	means a Product Disclosure Statement issued by Monex AU and as varied from time to time, as defined in the Corporations Act .
Proscribed Person	means a person who appears to us either: <ul style="list-style-type: none"> (a) to be a proscribed person or entity under the <i>Charter of the United Nations Act 1945</i> (Cth); (b) to be in breach of the laws of any jurisdiction relating to money laundering or counter-terrorism; (c) to appear in a list of persons with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction; or (d) acts on behalf, or for the benefit of, a person listed in subclauses (a) – (c).
Retail Client	means retail client as that term is defined in section 761G of the Corporations Act in relation to a financial service provided to a person in respect of a financial product that is a derivative.
Rolling Spot Forex Contract	means any over the counter contract which is a purchase or sale of foreign currency entered into between you and Monex AU, excluding forward contracts.
Rules	means articles, rules, regulations, procedures and customs, as in force from time to time.
Schedule	means a schedule to this Agreement.
Security	has the meaning given in s 761A of the Corporations Act.
Spread	means the difference between the lower and higher figures of a quoted two-way price for a market.
Stamp Duty	has the meaning given in clause 8.2 of this Agreement.
Stock Exchange	means any exchange where a Security has its primary listing.
Terms and Conditions	means the Terms and Conditions contained within this Agreement.
Transaction	means a contract in an Investment Product or any other contractual arrangement entered into between you and Monex AU including a Margined Transaction as defined in this Agreement.
Underlying Instrument	means any security, financial product, foreign exchange, cryptocurrency, commodity, index or other item (or any combination of one or more of those) the subject of a Transaction, including a value determined by reference to an index or an index multiplied by an amount of currency, in any jurisdiction, whether or not through an Exchange.
Variation Margin	has the meaning given in clause 14.2 of this Agreement.
Wholesale Client	has the same meaning as provided in s 761G of the Corporations Act.

You or your means the person/s named in the Account Opening Form requesting to deal in Margin FX and CFDs.

2.2 General interpretation

- a) Reference within this Agreement to:
 - I. A “clause” or “Schedule” will be constructed as a reference to, respectively, a clause or Schedule to this Agreement, unless the context requires otherwise;
 - II. Any statute or statutory instrument or applicable regulations include any modification, amendment, extension or re-enactment thereof;
 - III. “Document” will be constructed to include any electronic document; and
 - IV. “Persons” include bodies corporate, unincorporated associations and partnerships/persons, firms, companies, corporations, governments, states or agencies of a state or any associations or partnerships (whether or not having a separate legal personality) of two or more of the foregoing.
- b) The masculine includes the feminine and the neuter, and the singular includes the plural, and vice versa as the context admits or requires.
- c) Words and phrases defined in the Corporations Act have the same meaning in this Agreement unless expressly defined in this Agreement.

2.3 This Agreement and the Schedules

The clauses contained within this Agreement and its Schedules together constitute the Terms and Conditions. We may from time to time send to you further schedules with respect to a specific Market or classes of Investment Products which will also form part of this Agreement.

2.4 Headings

Headings are for ease of reference only and do not form part of this Agreement.

3 Client classification

3.1 Treatment as Retail Client unless exceptions apply

For the purpose of the services provided by Monex AU under this Agreement we will act as principal and not as agent on your behalf. We will treat you as a Retail Client, subject to the following:

- a) If you satisfy the definition of a Wholesale Client, we may notify you that we will treat you as such; and
- b) You may request a different client classification from the one we have allocated to you, but please be aware that we may decline such a request. If you do request a different categorisation and we agree to such a request, you may lose the protection afforded by certain parts of the Corporations Act.

4 Risk warning

4.1 High Risk Investment

Margin FX and CFD trading carries a high level of risk, and may not be suitable for all investors. Before deciding to trade Margin FX and CFDs offered by us, you should carefully consider your investment objectives, financial situation, circumstances, needs and level of experience.

4.2 Margined trading

Margin trading carries a high level of risk. Please note:

- a) You may sustain a total loss of Initial Margin funds and any additional funds deposited with Monex AU to maintain your position;
- b) You are responsible for debit balances directly resulting from trading activity, except in the case of a Force Majeure Event as detailed in clause 24.6;
- c) If the market moves against your position or Margin levels are decreased, we may request you to deposit additional funds to maintain your position;
- d) If your account does not maintain sufficient Margin levels at any time, we in our sole discretion may liquidate any or all of your positions at a loss to you;
- e) Whether you make a profit or loss will depend on fluctuations in the market which are outside our control.

4.3 Margined Transactions

You have discretion and must make a decision as to whether or not to enter into Margined Transactions with Monex AU. Any communication with our employees, representatives or appointed service providers is general in nature. Please note:

- a) Monex AU does not provide personal advice and Monex AU will not advise on the merits or otherwise of your Margined Transactions;
- b) The decision to place a Margined Transaction is yours alone. You (and not Monex AU) are responsible for the effect a Margined Transaction may have on any open positions;
- c) We deal with you on an execution only basis at all times; and
- d) It is in your interests to take independent advice before entering into a Margined Transaction with Monex AU.

4.4 Magnification of gains and losses

The leveraged nature of Margin FX and CFD trading means that any market movement will have an amplified effect on your deposited funds. The possibility exists that you could sustain a total loss of Initial Margin funds, including beyond your initial deposit amount, and be required to deposit additional funds to maintain your position. If you fail to meet any Margin requirement, your position may be liquidated, and you will be responsible for any resulting losses. To manage exposure, employ risk-reducing strategies such as 'stop-loss' or 'limit' orders. We are not responsible for indirect or consequential losses, nor are we liable to you for any loss of profit or opportunity.

4.5 Market Opinions

Any news, analysis, research and opinions provided by Monex AU, its employees, representatives and appointed service providers are not guaranteed in any way and do not constitute financial product advice. Monex AU is not responsible for any losses incurred in connection with any decision made, action or inaction taken by any party in reliance upon the information provided verbally or via the Internet, nor for any delays, inaccuracies, errors in, or omissions of information.

4.6 Internet trading

There are risks associated with utilising an internet-based trading system. These include but are not limited to: the failure of hardware, software, internet connection and any Force Majeure

Event. Since Monex AU does not control signal power, its reception or routing via Internet, configuration of your equipment or reliability of its connection, we cannot be responsible for communication failures, distortions or delays when trading via the Internet. We will attempt to minimise the possibility of system failure. Please use our telephone trading service if necessary.

4.7 Trade at your own risk

You agree that all trades will be made at your own risk and to the maximum extent permitted by law, we are not liable for any claims, damages, losses (including consequential losses) or injury suffered or incurred by you as a result of:

- a) any statement, information or communication provided by, or on behalf of, us relating to a trade entered into or proposed to be entered into by you under the Agreement; or
- b) any statement, information or communication provided by, or on behalf of, us in relation to any financial product that you may deal in under the Agreement.

5 Applicable Laws, Market and Stock Exchange requirement

5.1 Agreement subject to Applicable Laws

This Agreement and all Transactions are subject to the Applicable Laws such that:

- a) If there is any conflict between this Agreement and any Applicable Laws, the latter will prevail; and
- b) We may take or omit to take any action we consider necessary to ensure compliance with any Applicable Laws, and whatever we do or fail to do in order to comply with them will be binding on you.

5.2 Market, price providing bank and Stock Exchange action

If a Market, price providing bank or Stock Exchange (or intermediate broker or agent, acting at the direction of, or as a result of action taken by, a Market or Stock Exchange) takes any action which affects a Transaction, then we may take any action which we, at our discretion, consider desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on you. You acknowledge that all Transactions will be OTC Transactions and will not be conducted on Market.

6 Execution and advice

6.1 Execution only

We deal with you on an execution-only basis and will not make personal recommendations or advise on the merits of purchasing, selling or otherwise dealing in particular Investment Products or executing particular Transactions, their taxation consequences or the composition of any account or any other rights or obligations attaching to such Investment Products or Transactions. You should bear in mind that merely explaining the terms of a Transaction or Investment Product or its performance characteristics does not itself amount to advice on the merits of the investment.

6.2 Incidental information

Where we do provide general trading recommendations, market commentary, guidance on shareholding disclosure or other information:

- a) this is incidental to your dealing relationship with us. It is provided solely to enable you to make your own investment decisions and does not amount to a personal recommendation or to personal advice;
- b) we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the legal, tax or accountancy consequences of any Transaction; and

- c) where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction.

7 Charges and Payments

7.1 Charges

Any profit or loss net of any fees and charges arising on closing out a Transaction will be credited or debited against the Account value, in the Account Base Currency. You must pay to us or as we direct any fees and charges including Transaction fees (Spread), finance charges (also known as 'rollover' or 'swap'), Commission and rebates, administration charges, conversion fees, bank fees and taxes (including GST). You will pay our charges as agreed with you from time to time or we may deduct such charges from any funds held by us on your behalf. The charges are described in the Margin FX and CFD Product Disclosure Statement, and the Monex AU Product and Charges list published on our website at forex.monexsecurities.com.au.

7.2 Currency fluctuations

If you direct Monex AU to enter into any Transaction:

- a) Any profit or loss arising from a fluctuation in the exchange rate affecting such Currency will be entirely for your Account and risk; and
- b) Monex AU is authorised to convert funds in your Account for Margin into and from such foreign currency at a rate of exchange determined by Monex AU on the basis of the then prevailing money market rates. In such circumstance, Monex AU will not be liable to you for any loss suffered by you as a result of such action (although Monex AU will use reasonable endeavours to only convert such funds as may prudently be required to cover the position in respect of the relevant Transaction).

7.3 Payments and deliveries net

Unless we give you written notice to the contrary, all payments and deliveries between you and us will be made on a net basis and we are not obliged to deliver or make payment to you unless and until we have received from you the appropriate banking documents and cleared funds.

7.4 Remuneration and sharing charge

Subject to the Applicable Laws, we may pay to and accept from third parties (and not be liable to account to you) benefits, Commissions or remunerations, which are not deducted from your Account and are NOT built-in to the cost of the transaction (i.e. a wider Spread) or a cost to you.

8 Taxes

8.1 Client's personal responsibility

You are responsible for all taxes (Australian or foreign) that may arise in relation to a Transaction, whether under current or changed law or practice. We have no responsibility for any of your tax liabilities, nor for providing information or advice in respect of such liabilities, and will not be responsible for notifying you of a change in tax law or practice.

8.2 Reimbursing Monex AU for tax or duties

In the event that we become liable to pay any tax on your behalf arising from or incidental to Transactions executed by you with us, you must reimburse us on demand in full for the amount of such tax paid by us. In the event that we become liable to pay any stamp duty, stamp duty reserve tax or any other similar documentary tax or duty in any jurisdiction (collectively "Stamp Duty") in respect of any Investment Products purchased or otherwise acquired by us, you must reimburse us on demand in full for the amount of such Stamp Duty paid by Monex AU.

8.3 Client's indemnity

You indemnify us and keep us indemnified from and against all costs, claims, demands and expenses arising in connection with:

- a) any failure by you to reimburse us in accordance with clauses 8.1 and 8.2 of this Agreement; and
- b) any late payment or non-payment of any tax, GST or Stamp Duty payable by you in respect of any Transaction executed by you with us.

9 Conflict of interest

9.1 We are required by law to take all reasonable steps to identify conflicts of interests between ourselves, our Affiliated Companies and our Clients, or between one Client and another, that arise in the course of providing our financial services. We manage any conflicts arising in accordance with our Conflicts of Interest Policy.

9.2 Subject to the Applicable Laws, we may pay to and accept from third parties (and not be liable to account to you) benefits, Commissions or remunerations which are paid or received as a result of Transactions entered into by you. Further information is contained within our Monex AU Financial Services Guide.

9.3 We are not under any obligation to account to you for any profit, Commission or remuneration made or received from or by reason of Transactions or circumstances in which we have a material interest or where in particular circumstances a conflict of interest may exist.

9.4 You acknowledge that you are aware of the possibility that the conflicts disclosed in this Agreement will arise and consent to us acting notwithstanding such conflict.

10 Market abuse

By entering into any Transaction, you represent and warrant that you will act in accordance with any Applicable Laws, you are not acting in any way which is intended to or may be considered to be 'market abuse', nor are you acting with the intention of contravening any other provision of any Applicable Laws. If we reasonably suspect that you are engaged in market abuse, we may terminate your Account without notice. Market abuse includes:

- a) insider trading;
- b) any form of market manipulation or attempted market manipulation; and
- c) any other conduct prohibited by the Corporations Act.

11 Account opening

11.1 An Account is compulsory

- a) An Account must be opened prior to entering into any Transaction with Monex AU. No Orders can be placed until an Account has been opened and cleared funds received. Without prejudice to the foregoing, if Monex AU permits you to place an Order notwithstanding that an Account has not been opened, or cleared funds received, this will not limit your liability to Monex AU pursuant to this Agreement in respect of the Order placed.
- b) Monex AU may, at our absolute discretion, refuse to accept you as a client for whatever reason but will notify you of any such refusal, without giving any reasons, within 10 Business Days following receipt of your application request.

11.2 Trading positions

Each Transaction must relate to either a 'buy' or 'sell' position in a nominated Transaction available as listed on the Electronic Trading Platform.

11.3 Authorisation for checks

To assess your credit worthiness, manage credit risk, fraud prevention, and to comply with the AML/CTF Act, you acknowledge and agree that we may:

- a) make periodic searches and enquiries about you and any related party at credit reference agencies;
- b) disclose information to organisations involved in fraud prevention or as required under the AML/CTF Act;
- c) obtain information from and disclose information to other broker-dealers which deal for you concerning any payment or security default or concerning any investment which is related to or connected with Margined Transactions which you seek to open with us; and
- d) require detailed personal information from you and documentation to establish your identity for the purposes of the AML/CTF Act and our internal policies.

11.4 Account limits

Any limits for your Account (including any credit limits) will be set and varied from time to time with regard to your credit status and, where applicable, the amount of funds deposited by you with us. We may, in our sole discretion, apply a limit to:

- a) the size of any Transaction or series of Transactions that you may enter into; and
- b) the amount of any loss or liability to which you may be exposed.

11.5 Liability for losses

Account limits do not limit or represent your liability for losses to Monex AU, and the funds you may have from time to time on deposit with us as Margin or otherwise do not represent any limit upon your financial liability to us.

12 Account closing

12.1 How to close

An Account opened by you will be closed:

- a) Under our discretion, when it has a nil or deficit balance, subject to any arrangements made acceptable to us through which your Account will later have a credit balance;
- b) in the circumstances disclosed in clauses 14.4 and 20.2(g).

12.2 Effect of closure

Closure of an Account by us will not affect our rights to recover from you any unpaid amounts of money due or owed to us. Once an Account has been closed, we are under no obligation to reopen that Account or to open a new Account.

13 Account payment

13.1 Payment

We will only accept deposits via a bank wire transfer, BPAY® or POLi Payments®. No cash will be accepted. Payments may be denominated in Australian Dollars or any other Currency agreed in advance with us.

In determining whether to accept payments from you under this Agreement, we will have utmost regards to our duties under law regarding the prevention of fraud, countering terrorism financing, insolvency, money laundering and/or tax offences. To this end, we may at our absolute discretion having regard to the law, reject payments from you or a third party and return funds to the source. In particular, we may not accept payments from a bank account if it is not evident to us that the bank account is in your name.

13.2 Payment Terms

You agree to make any payment due to us under this Agreement in accordance with the following terms:

- a) Monex AU is not responsible for any fees or charges imposed by third party banks or other counterparties, which are incurred by you in connection with the use of Monex AU's services.
- b) You must pay to us on demand on a full indemnity basis all costs, charges and expenses incurred by us in relation to any overdue payment;
- c) You must have sufficient cleared funds deposited in Monex AU's designated trust account before we will execute any contracts. Any payment made to us will only be deemed to have been received when we receive cleared funds; and
- d) It is your responsibility to ensure that payments made to us are correctly designated in all respects.

13.3 Payment withheld

If the statement of your Account shows a credit balance, you may request us to send you a bank wire in respect of such amount. However, we may at our discretion elect to withhold (or if applicable, deduct) any payment requested (in whole or in part) due to you if:

- a) open Margined Transactions on the Account show notional losses;
- b) we reasonably consider that funds may be required to meet any current or future margin requirement on open Margined Transactions due to underlying market conditions;
- c) we reasonably determine that there is an unresolved dispute between you and us in connection with this Agreement or any related contract.

13.4 Designating a Base Currency

You must designate a base currency of your Account which is either in Australian Dollars or any other Currency agreed in advance with us ("Base Currency"). Any sums deposited in your Account, if in a Currency other than the Base Currency of the Account, may be converted to that Base Currency at the prevailing conversion rate as designated by us unless alternative instructions from you are accepted by us. If any conversion fees to be debited to your Account are in a Currency other than the Base Currency, they may be converted to that Base Currency at the prevailing conversion rate as designated by us. Monex AU will charge a conversion fee, not exceeding a 2% deviation from the rate as provided to Monex AU.

13.5 Base Currency payments

All payments from your Account will be made on your request in the Base Currency of that Account. We are not obliged to make any payment to you unless your cash balance remaining after making the payment would be sufficient to cover your Margin and any unrealised losses in relation to your open Margined Transactions.

13.6 Funds transfer failure

In the event the applicable paying agent declines to transfer funds from you to us for any reason, then we may treat any Margined Transaction placed or entered into in reliance upon receipt of the funds as void and of no further effect, and we will be entitled to recover any losses arising from any such Margined Transaction from you.

13.7 Cash balance

Your cash balance in your Account:

- a) will be credited with the amount of each payment of Margin and any other payment received by us from you pursuant to this Agreement; and
- b) will be debited by:
 - I. the amount of each payment made by us to you at your request pursuant to clause 13 of this Agreement; and
 - II. realised losses payable.

13.8 Cost and expenses indemnity

You hereby indemnify and hold us harmless against any costs or expenses (including all legal costs) which we may incur, either before or after the commencement of any legal action, to recover the requisite payment as a result of your failure to make payment within the stipulated period. We may convert money standing to your credit on your Account or paid by you to us or due to be paid by us from one Currency to another at prevailing market rates available to us (after accounting for fees and charges).

13.9 Cleared funds

We are under no obligation to implement a Transaction or to accept instructions from you until all cleared funds are available and accessible for the purpose of settling your initiated transaction.

14 Margin

14.1 Initial Margin

As a condition of entering into a Margined Transaction, we may in our sole discretion require the deposit of funds or other collateral acceptable to us as security for payment of any losses incurred by you in respect of the Transaction (**Initial Margin**). Initial Margin is due and payable immediately as a condition to opening the relevant Margined Transaction and we may decline to open any Margined Transaction if you do not have sufficient available cash in your Account to satisfy the Initial Margin required for that Transaction at the time the relevant Order is placed.

14.2 Margin requirements

Margin requirements may be set and varied without prior notice from time to time at our discretion including without limitation subsequent variation of any Margin rates set at the time

that a Margined Transaction is opened (**Variation Margin** and together with Initial Margin, **Margin**). We will be entitled, at any time, to increase or decrease the Margin required from you on open Transactions or to change the credit arrangements for your Account. You are obligated to maintain in your Account, at all times, sufficient funds to meet all Margin requirements. We are not under any obligation to keep you informed of your Account balance and Margin required. (i.e. We are not obliged to make Margin Call warnings of you at all or within any specific time period.)

14.3 Paying a Margin

We are entitled to require payment of Margin from you by bank wire transfer or any other method of immediate/electronic funds transfer acceptable to us. Only funds received net of any bank fees, which relate to the transfer, will be credited as paid. You acknowledge the following:

- a) It is your responsibility to be aware of, and further that you agree to pay, the Margin required at all times for all Transactions that you open with us;
- b) Your obligation to pay Margin will exist whether or not we contact you regarding an outstanding Margin obligation;
- c) Your failure to pay any Margin required in relation to your Transactions will be regarded as an Event of Default for the purpose of clause 20.

14.4 Margin Call Liquidations

You are required to maintain a sufficient level of Margin deposit. We reserve our full rights to close out all open positions, without any warning (a "Margin Call Liquidation"):

- a) If at any time Margin deposit held by Monex AU is approaching or is no longer sufficient to cover the negative mark to market value of any or all open positions that you have open with Monex AU; or
- b) If at any time the pre-agreed credit limit assigned to you by Monex AU is no longer sufficient to cover the negative mark to market value of any or all open positions that you have open with Monex AU.

Monex AU shall have the right, at our sole discretion, to determine the mark to market value from time to time. In addition to other remedies available to Monex AU, if the client fails to pay an amount when due under this Agreement, Monex AU has the right to buy or sell any or all of the Client's open positions and terminate the Account at your risk.

Order placement

15 Trading Platform access

15.1 Access to Electronic Trading Platform

We make available to you an Electronic Trading Platform provided by a third party. It is your sole responsibility to understand and evaluate the functionality of any such Electronic Trading Platform before agreeing to download or access or enter into a Transaction with us using such Electronic Trading Platform.

We do not control, endorse or vouch for the accuracy or completeness of the Electronic Trading Platform or its suitability to you. Monex AU makes no warranties, express or implied,

representations, or guarantees as to the merchantability, fitness for any particular purpose or otherwise with respect to the Electronic Trading Platform, its content, any documentation or any hardware or software provided.

Technical difficulties may be encountered in connection with the Electronic Trading Platform. These difficulties may involve, among others; failures, delays, malfunction, software erosion or hardware damage; which difficulties could be the result of hardware, software or communication link inadequacies or other causes. Such difficulties could lead to possible economic and/or data loss. In no event will Monex AU or our Affiliates or any of our directors, employees, agents or authorised representatives be liable for any loss (including loss of profit or revenue whether direct or indirect), cost or damage including, without limitation, consequential, unforeseeable, special or indirect damages or expense which might occur as a result of or arising out of using, accessing, installing, maintaining, modifying, de-activating or attempting to access the Electronic Trading Platform or otherwise.

You use the Electronic Trading Platform at your own risk. In no event will we be held liable for any claim, damages or other liability, including loss of funds, indirect losses (such as loss of profits), data or service interruptions, whether in an action of contract, tort or otherwise, arising from, out of or in connection with the use, operation, performance and/or error or malfunction of the Electronic Trading Platform and/or any services provided by the Electronic Trading Platform provider, other than as a result of our fraud, willful default or negligence.

15.2 Conditions applying to Login Information

In order to use the Electronic Trading Platform, you will need to login with your user name and password ("Login Information"). Your Login Information will be provided to you upon completion of us establishing your Account. You will need to provide the Login Information each time you wish to use the Electronic Trading Platform.

In relation to Login Information you acknowledge and undertake that:

- a) you will be responsible for the confidentiality and use of your Login Information;
- b) other than with our prior written consent, you will not disclose your Login Information to persons other than yourself for any purpose whatsoever;
- c) Monex AU may rely on all instructions, orders and other communications entered using your Login Information, and you will be bound by any Transaction entered into or expense incurred on your behalf in reliance on such instructions, orders and other communications; and
- d) you will immediately notify us if you become aware of the loss, theft or disclosure to any third party, or of any unauthorised use of, your Login Information.

15.3 Unauthorised use of Login Information

If Monex AU believes that your Login Information is being used without your knowledge by unauthorised persons, we may without prior notice suspend your rights to use the Electronic Trading Platform. Further, if Monex AU believes that you have supplied your Login Information to other persons in breach of clause 15.2(b) of this Agreement, then we may terminate this Agreement forthwith.

16 Instructions and Basis of Dealing

16.1 Placing of instructions

Unless otherwise agreed by Monex AU, all Orders for execution of Transactions between you and us must be given to us electronically through the Electronic Trading Platform or by telephone. You acknowledge and agree that your Order may be received, transmitted and executed by Monex AU.

16.2 Communication of Orders

a) Any Order or instruction sent by you via an Electronic Trading Platform will be deemed to have been received, and will only constitute a valid instruction and binding contract between you and us. At our discretion, we may accept orders by telephone from time to time. In doing so, we will require certain information for us to reasonably accept your order/s. It is your responsibility for ensuring the accuracy of the information to fulfil your Order. While we will make reasonable attempts to authenticate such instructions, it is your responsibility to ensure your Account details and personal information that may be used to identify you when you are placing orders with us are kept secure and not disclosed to others. This may include login credentials and other identifiable information that associates you to your trading Account. When you place an order by telephone, you can do so only by talking directly to a Monex AU representative. No messages may be left, and no Orders may be placed using answer phone or voicemail facilities or by facsimile.

b) All telephone calls are recorded for the purposes of fraud prevention and quality control and by agreeing to this Agreement you agree to the recording of such telephone conversations. For more about keeping your personal information and data secure, please refer to the Privacy Policy on our website.

When you contact us via telephone, you consent to:

- 1) the electronic recording of your telephone discussions with us, with or without an automatic tone warning device; and
- 2) the recording and retention of all electronic communications with us, including but not limited to communications by email or through the Electronic Trading Platform, with or without any further warning to this effect during the communication; and
- 3) the use of recordings, transcripts or electronic communications from such recordings for any purpose, including, but not limited to, their use as evidence by either party in any dispute between you and us.

16.3 Orders need receipt by Monex AU

Any Order to execute a Transaction will not take effect unless actually received by Monex AU. Monex AU is entitled to rely upon any instruction given or purporting to be given by you only. Any delay or errors in the transmission of an Order or the execution of your instructions will not be our responsibility nor are we liable for them (except to the extent that responsibility cannot be excluded by law).

16.4 Refusal of Orders

Monex AU may, at our discretion, refuse to accept any Order from you. Should this occur, we will notify you of any such refusal, without giving any reasons, promptly following receipt of your instructions. Monex AU may cancel any instructions previously given by you provided

that Monex AU has not acted on your instructions. Acceptance of your Order will be evidenced by Monex AU's confirmation of that Order. The validity of any Order will not, however, be affected by you not receiving confirmation of an Order. Acceptance of any Order does not constitute any agreement or representation that your Initial Margin or Margin requirement in respect of the Order or your existing Order is satisfied.

We may cancel or amend your Order:

- a) if required by the Applicable Laws to do so;
- b) in the event of an error (including Manifest Error);
- c) if we consider the cancellation or amendment appropriate, having regard to the desirability to maintain a fair and orderly market, our obligations as the holder of an AFSL or as a participant or user of the relevant Exchange and our other legal and regulatory obligations; or
- d) if the Underlying Instrument the subject of the Transaction has been subject to a trading halt on an Exchange and you have not reconfirmed instructions.

We reserve the right to refuse an Order which is larger than the Normal Market Size. Our quote for a Transaction equal to or greater than Normal Market Size is not guaranteed to be within any specific percentage of any underlying Market or related market quotation and our acceptance of your Order may be subject to special conditions and requirements that we will notify you at the time we accept your Order.

We will make reasonable efforts to effect any instructions to cancel or amend Orders as quickly as possible. If, however, an Order is filled prior to a cancellation or amendment instruction being effected, you are obliged to accept the Transaction on the original terms prior to your amendment or cancellation instruction, unless the Transaction is itself cancelled or amended.

Unless otherwise specified in this Agreement, all Orders will remain open until either cancelled by you or purged by the Electronic Trading Platform. We do not accept responsibility for reinstating lapsed Orders or for contacting you to seek new instructions.

You must not instruct us to submit an Order to enter into a Transaction which would breach or cause us or any other person to breach the Corporations Act, the Applicable Laws or any other laws including, without limitation, any law or the Rules in relation to:

- a) market manipulation, false trading, market rigging, fictitious transactions, black box trading, high frequency trading, scalping, wash trading or matching of Orders;
- b) insider trading;
- c) creating a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
- d) misleading or deceptive conduct.

16.5 Confirmations and Account statements

Monex AU will provide to you a confirmation of every trade conducted in your Account. In accordance with the Applicable Laws, we will also provide information about each Transaction

that we open or, as the case may be, close for you by providing you with a statement. Statements can be downloaded through our Electronic Trading platform (and you specifically consent to our providing you with statements in this manner) and, if so requested by you, will also be emailed to you.

17 Client Monies/ Trust account

- 17.1** All moneys deposited by you to credit your Account is Client Money within the meaning of the Australian Client Money Rules, which are provisions of the Corporations Act, and will be held in an account with an Australian ADI or an approved foreign bank in accordance with the Australian Client Money Rules. Client Money is held on trust for the client entitled to it, or if the money is invested in accordance with the Australian Client Money Rules, the investment is held on trust, in accordance with the Agreements, for the party entitled to it. In our sole discretion, we may also deposit and hold other monies received from you or referable to you in such a client segregated account.
- 17.2** You acknowledge and agree that Monex AU must deal with your moneys in accordance with the Client Money Rules, including not using Retail or sophisticated Client money:
- a) for Monex AU's use for working capital;
 - b) for Monex AU meeting obligations incurred by it other than on behalf of you; and
 - c) for the purpose of Monex AU entering into, or meeting obligations under, transactions that Monex AU enters into to hedge, counteract or offset the risk to Monex AU associated with a Transaction between Monex AU and you.
- 17.3** You acknowledge that we will be under no obligation to pay interest on balances on your Account (and any fees we may take from such interest) and that you are therefore waiving and foregoing any entitlement to interest (and fees if any) under the Applicable Laws or otherwise. You hereby acknowledge that we will not pay you any interest on your Account and that any interest will accrue to us and (insofar as you are able and/or required to do so) you assign and convey to us the beneficial entitlement to such interest.
- 17.4** You authorise Monex AU to withdraw any or all moneys to which you are otherwise entitled in any client segregated account maintained by Monex AU to meet any liability, obligation or other loss which you owe to Monex AU, including, without limitation, to pay for your Financial Products, an amount in respect of any realised/unrealised loss on your Account, any fees and charges, Margin, or Variation Margin.
- 17.5** When you pay monies to Monex AU in connection to a Transaction, you are also authorising us for those monies to be paid into a client segregated account and those monies will remain in there until withdrawn by Monex AU to pay you amounts you are entitled to receive or to pay for amounts to which Monex AU is entitled including to pay for your Investment Products (including, without limitation an amount in respect of any realised/unrealised loss on your Account). If there has been a realised/unrealised loss on your Account after Monex AU re-values your Account, Monex AU is authorised under this Agreement to withdraw the equivalent amount of that realised/unrealised loss from the client segregated account to pay Monex AU an amount to which Monex AU is entitled.
- 17.6** You acknowledge that from the time any funds are withdrawn from the client segregated account in connection with your Transactions:

- a) you lose the protections given to a client segregated account of that kind;
- b) you are an unsecured creditor of Monex AU for its obligations on your Transactions; this includes exposure as an unsecured creditor for payment to you of the net Account balance (if any) after closing all your open positions; and
- c) the funds are no longer held beneficially for you, and become funds belonging to Monex AU.

17.7 If you pay monies into any client segregated account maintained by us in anticipation of you creating and meeting any liability, obligation or other loss which you will owe to us including to pay for your Investment Products (including payment for Margin), by this Agreement you authorise us to withdraw those monies to pay us for any liability which later arises.

17.8 We retain all additional interest earned on client money held in a client segregated account, or other approved deposit-taking institution. You agree that you will not be entitled to any such additional interest.

17.9 In the event that there has been no movement on your Account for a period of six years after the date you become entitled to a transfer of your money held in such account (notwithstanding any payments or receipts of interest or similar items), and we are unable to trace you despite having taken reasonable steps to do so, such money shall be treated by us as unclaimed money and dealt with in accordance with the provisions of the *Unclaimed Money Act 1995* (NSW).

17.10 All monies to which you are entitled under this Agreement will be paid to you directly to the bank account nominated by you in your Account Opening Form to us (and not to any third party or third party bank account).

17.11 Naming of Client: Where two or more natural persons and no others are named as the client, the Account will be established in the names provided to us on the Account Opening Form as joint tenants unless you specifically request otherwise. In all other cases, the Accounts will be established in the names as tenants in common.

17.12 Two or more persons: Where you are two or more persons in relation to one Account: (a) the liability of each person will be joint and several; (b) we may receive instructions from any one person who is, or appears to us to be, such a person, whether or not such person is an authorised person; (c) any notice or other communication given by us to one person will be deemed to be notice to all persons in relation to the Account; and (d) any Event of Default in respect of any one person will be an Event of Default in respect of you.

18 Set off

18.1 If you fail to pay any amount when due under this Agreement and/or if an Event of Default occurs, Monex AU may set-off such amount against any amount payable by Monex AU to you.

18.2 We are entitled to set-off against any amount due to us by you, any amounts received by Monex AU from or on behalf of you including but not limited to monies received as Margin deposit or Margin Calls. Monex AU may determine the application of any amounts which are to be set-off at our discretion.

18.3 You must not set-off against any amounts you owe to us by any amounts we owe to you.

Representations and undertakings

19. Representations, Warranties and Covenants

19.1 Representation and warranties

You represent and warrant to us on the date this Agreement comes into effect and as of the date of each Transaction that:

- a) For individuals, you are of sound mind, legal age and legal competence:
 - I. the information provided to us in your application form and at any time thereafter is true and accurate in all respects. Any change to the details supplied on your Account Opening Form must be immediately notified to us in writing;
 - II. regardless of any subsequent determination to the contrary, you are suitable to trade Margined Transactions and that you are aware of the risks involved with such transactions;
 - III. you have all necessary authority, powers, consents, licenses and authorisations and have taken all necessary action to enable you to lawfully enter into and perform this Agreement and each Transaction and to grant the security interests and powers referred to in this Agreement;
 - IV. this Agreement, each Transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms and do not and will not violate the terms of any regulation, Order, charge or agreement by which you are bound;
 - V. no Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination of the above) an Event of Default has occurred and is continuing with respect to you or any credit support provider;
 - VI. unless you have informed us and we agree to otherwise, you act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Transaction;
 - VII. you are willing and financially able to sustain a total loss of funds resulting from Transactions;
 - VIII. except as otherwise agreed by us, you are the sole beneficial owner of all Margin you transfer under this Agreement;
 - IX. if you are not a resident in Australia, you are solely responsible for ascertaining whether any Transaction entered into under this Agreement is lawful under applicable laws of the jurisdiction of your residence.
- b) For a corporation, you are duly incorporated according to law and:
 - I. are empowered to open an Account, to place an Order and to enter into each Transaction;
 - II. you have nominated and satisfactorily identified a representative or representatives who can represent you and give us instructions; and
 - III. can meet and agree to meet the criteria for individuals set out in clauses 19.1(a)(I) to 19.1(a)(IX).

19.2 Covenants

You covenant to us that:

- a) you will at all times obtain and comply and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licenses and authorisations referred to in this Agreement;

- b) you will promptly notify us of the occurrence of any Event of Default or potential Event of Default with respect to yourself or any credit support provider;
- c) you will use all reasonable steps to comply with all Applicable Laws in relation to this Agreement and any Transaction, so far as they are applicable to you or us;
- d) upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Laws; and
- e) you will notify us immediately of any changes in your contact details, such as change of name, change of residential address, contact telephone number and email address. You acknowledge that we are not liable for any losses (including indirect or consequential losses), costs, expense or damages incurred or suffered by you as a consequence of your failure to do so.

20 Event of Default

20.1 Itemised events

If at any time:

- a) you fail to comply fully and immediately with any obligation to make any payment when due under this Agreement or to make or take delivery of any property when due under this Agreement;
- b) we have reasonable grounds to believe that you are in breach of any material provision of this Agreement;
- c) we consider it necessary or desirable for our own protection or any action is taken or event occurs which we consider might have a material adverse effect upon your ability to perform any of your obligations under this Agreement;
- d) we consider it necessary or desirable to prevent what is considered to be or might be a violation of any laws, Applicable Laws, or good standard of market practice;
- e) you die; become of unsound mind; are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you, or any indebtedness of yours is not paid on the due date or becomes capable at any time of being declared due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable; or any suit, action or other proceedings relating to this Agreement are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);
- f) you commence voluntary legal action or other procedure seeking or proposing bankruptcy, liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, insolvency officer or other similar official (each an "Insolvency Officer") of you or any substantial part of your assets, or if you take any corporate action to authorise any of the foregoing;
- g) an involuntary legal action, cause or other procedure is commenced against you seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of an Insolvency Officer of you or any substantial part of your assets;

- h) you or any credit support provider (or any Insolvency Officer acting on behalf of either of you) disaffirms, disclaims or repudiates any obligation under this Agreement; or any guarantee, hypothecation agreement, margin or security agreement or document; or any other document containing an obligation of a third party, or of you, in favour of us supporting any of your obligations under this Agreement;
- i) any representation or warranty made or given or deemed made or given by you under this Agreement or any credit support document proves to have been untrue, false or misleading in any material respect as at the time it was made or given or deemed made or given;
- j) any credit support provider fails to comply with or perform any agreement or obligation to be complied with or performed by you or it in accordance with the applicable credit support document;
 - I. any credit support document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations under this Agreement, unless otherwise agreed in writing by us;
 - II. any representation or warranty made or given or deemed made or given by any credit support provider pursuant to any credit support document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
 - III. any event referred to in clauses 20.1(d) to 20.1(g) or 20.1(j) occurs in respect of any credit support provider; or
 - IV. you are dissolved, or, if your capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedures are commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration;
- k) where you or your credit support provider is a partnership, any of the events referred to in clauses 20.1(d) to 20.1(g) or 20.1(j) occurs in respect of one or more of your or its partners;
- l) an Event of Default (however described) occurs in relation to you under any other agreement between us;

then we may exercise our rights under clause 20.2 of this Agreement.

20.2 Consequences of an Event of Default

Upon occurrence of an Event of Default we may by notice specify a date and time for the termination of any outstanding Transactions entered into between us, except the occurrence of an Event of Default under 20.1(d) to 20.1(g) or 20.1(j) which will result in the automatic termination of any outstanding Transaction. Neither you nor we are obliged to make any further payments or deliveries under any Transactions which, you or we would but for this clause, have fallen due for performance on or after the termination of any outstanding Transactions. We will be entitled without prior notice to you:

- a) instead of returning to you investments equivalent to those credited to your Account, to pay to you the fair market value of such investments at the time we exercise such right;
- b) to sell your investments in our possession or in the possession of any nominee or third party appointed under or pursuant to this Agreement, in each case as we may in our absolute discretion select or and upon such terms as we may in our absolute discretion

think fit (without being responsible for any loss or diminution in price) in order to realise funds sufficient to cover any amount due by you hereunder;

- c) to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments;
- d) to realise in accordance with this clause or to sub-pledge any securities or other assets of yours held by Monex AU;
- e) to call any guarantee or indemnity provided by or on behalf of you;
- f) to exercise our rights of set-off pursuant to this clause;
- g) to close any and all of your Accounts; and/or
- h) to treat any or all Transactions then outstanding as having been repudiated by you, in which event our obligations under such Transaction or Transactions shall thereupon be cancelled and terminated.

20.3 Monex AU not prejudiced by your default

We will not lose any of our rights under this Agreement by reason of any delay on our part in the exercise thereof, but in no circumstance will we be under any obligation under these clauses to exercise any such right or, if we do exercise any such right, to do so at a time or in a manner beneficial to you. We may at our absolute discretion close out Transactions either on a single or collective basis. This clause 20.3 will survive the termination of this Agreement.

20.4 Closing Account on default

Where we exercise our right under this clause to close out a Transaction, the closing out will be effected by us in whole or in part at such time or times and at such price or prices as determined by us at our reasonable discretion. The amounts payable under the Transaction being closed out will be due immediately.

20.5 Selling Investments

Where we exercise our right under this clause to realise any Investment Products or other assets of yours held by us, we are entitled to sell those Investment Products or assets at the market price (as determined by us in our reasonable discretion) at the time the sale takes place. We have the right to choose the time, place and method of such sale at our discretion. Any costs of sale will be borne by you.

20.6 Settling open Transactions

If any Event of Default specified in this clause occurs, we may by notice in writing to you require settlement of all open Transactions to take place in accordance with this clause on the settlement date which for this purpose shall be the date on which notice is given.

20.7 Effect on your Transaction

Where settlements of all Transactions are to be made under this clause, no further payments will be made in respect of any open Transaction after the settlement date, and each open Transaction will immediately be settled by your payment of the settlement amount.

20.8 Notice of Event of Default

You must give us notice of an event specified in clause 20.1 as soon as you become aware of its occurrence. A failure to do so will also constitute an event of default.

20.9 Net settlement

Any obligations will be satisfied by the net settlement (whether by payment, set-off or otherwise) of the amounts due between us with respect to all the outstanding terminated Transactions. With respect to each outstanding terminated Transaction, we will determine its total cost, loss or gain (including, if appropriate, any loss of bargain, cost of funding or other loss or gain as a result of the termination), and any net amount for all the outstanding terminated Transactions determined by us in accordance with the foregoing due either from you to us or from us to you will be immediately payable upon its calculation. We are not obliged to make any payment or delivery, scheduled to be made by us under a Transaction or this Agreement, for as long as an Event of Default has occurred or is continuing.

21 Termination and Suspension

21.1 You agree that we reserve the right to immediately remove, revoke or restrict your access to the facilities described in this Agreement or immediately terminate this Agreement should your usage constitute any breach of this Agreement or otherwise be considered by us in our discretion to be unreasonable, fraudulent, insider trading, money laundering or otherwise illegal.

21.2 You agree that:

- a) if you appear to be a Proscribed Person, then we may immediately refuse to process or complete any transaction or dealing in relation to your account. Further, we may suspend the provision of a product or service to you and refuse to allow or to facilitate any of your assets held by us to be used or dealt with. We will be under no liability to you if we decide to do any or all of the actions stipulated above. We reserve full rights under this clause, which are in addition to all other rights we have under this Agreement and at common law;
- b) If we exercise our rights under sub-clause 21.2(a), you must pay us any damages, losses, costs or expenses that we incur in relation to any action taken under sub-clause 21.2(a), including without limitation, administrative costs and/or costs of sale or purchase of any transaction or deal put in place for the purposes of meeting our obligations under this Agreement.

21.3 Either you or we may terminate the Agreement between us by giving not less than seven (7) days' prior written notice to the other.

21.4 We may terminate this Agreement between us immediately if:

- a) you breach a representation or warranty;
- b) you fail to make any payment when due under this Agreement;
- c) we have liquidated your positions and a shortfall amount remains outstanding;

- d) you fail to observe or perform any provision of this Agreement, or upon the occurrence of any Event of Default, or if you have no open Transactions in your Account at the time when the notice of termination is sent;
- e) you have died or have become of unsound mind; or
- f) we consider it desirable for our own protection with respect to our licence conditions and obligations under the Corporations Act.

21.5 Effect of termination

Termination will be without prejudice to accrued rights and remedies and the existence and enforceability of any open Transaction, which continue until closed in accordance with this Agreement, unless otherwise specified.

21.6 Payment following termination

Upon terminating this Agreement, all amounts payable by you to us will become immediately due and payable, including (but without limitation):

- a) all outstanding fees, charges and commissions;
- b) any dealing expenses incurred by terminating this Agreement; and
- c) any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.

21.7 Suspension of your Account

We may suspend the operation of your Account at any time without the need for an Event of Default or a potential Event of Default if we have concerns as to your ability or financial capacity to meet future Margin requirements which will prevent you from increasing your exposure to future Margin requirements but nevertheless, suspension will still enable you to close, part close or to reduce your exposure under Transactions already entered into.

22 Manifest Error

22.1 Meaning of Manifest Error

A 'Manifest Error' means a manifest or obvious misquote by us, including through the Electronic Trading Platform, or by or to, any Market, Stock Exchange, price providing bank, information source, commentator or official on whom we reasonably rely, having regard to the current market conditions at the time an Order is placed. When determining whether a situation amounts to a Manifest Error, we may consider all information in our possession including, without limitation, information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement.

22.2 Determination and consequences of Manifest Error

We will, when making a determination as to whether a situation amounts to a Manifest Error, act fairly towards you but the fact that you may have entered into, or refrained from entering into, a corresponding financial commitment, contract or Transaction in reliance on an Order placed with us (or that you have suffered or may suffer any loss of profit, consequential or

indirect loss) will not be taken into account by us in determining whether there has been a Manifest Error. We reserve the right, without prior notice, to:

- a) amend the details of such a Transaction to reflect what we consider in our discretion, acting in good faith, to be the correct or fair terms of such Transaction absent such Manifest Error/s;
- b) if you do not promptly agree to any amendment made under clause 22.2(a) herein, we may void from its inception any Transaction resulting from or deriving from a Manifest Error; and/or
- c) refrain from taking any action at all to amend the details of such a Transaction or void such Transaction.

We are not liable to you for any loss, cost, claim, demand or expense you suffer (including loss of profits or any indirect or consequential losses) resulting from a Manifest Error or our decision to enforce the details of a Transaction notwithstanding any Manifest Error, except to the extent caused by our own fraud, willful default or gross negligence. In the event that a Manifest Error is made by any Market, Stock Exchange, price providing bank, information source, commentator or official on whom we reasonably rely, we will not be liable to you for any loss, cost, claim, demand, or expense, except to the extent caused by our own fraud, willful default or gross negligence.

23 Arbitrage

23.1 Monex AU not liable for distortions or market abuse

Internet, connectivity delays and price feed errors sometimes create a situation where the price displayed on the Electronic Trading Platform does not accurately reflect the market rates. The concept of arbitrage and 'scalping', or taking advantage of these internet delays, cannot exist in an OTC market where the client is buying or selling directly from the principal. Monex AU does not permit the practice of arbitrage on the Electronic Trading Platform. Transactions that rely on price latency arbitrage opportunities may be revoked, without prior notice. We reserve the right to make the necessary corrections or adjustments on the Account involved, without prior notice. Accounts that rely on arbitrage strategies may at our sole discretion be subject to our intervention and our approval of any Orders. Any dispute arising from such quoting or execution errors will be resolved by us in our sole and absolute discretion.

23.2 Monex AU not obligated to personally report distortions or market abuse

Monex AU has no obligation to contact you to advise upon appropriate action in light of changes in market conditions or otherwise.

23.3 General indemnity to Monex AU

You agree to indemnify and hold Monex AU, its Affiliates and any of our directors, officers, employees, authorised representatives and agents harmless from and against any and all liabilities, losses, damages, costs and expenses, including legal fees, incurred in connection with the provision of the services under this Agreement to you provided that any such liabilities, losses, damages, costs and expenses have not arisen from our gross negligence, fraud or willful default.

24 Exclusions, Limitations and Indemnity

24.1 No exclusions of Act's obligation

Nothing in this Agreement excludes or restricts any duty or liability owed by us to you under the Applicable Regulations or at law.

24.2 General exclusion

- a) Except as set out in clause 24.1 above, neither we nor our directors, officers, employees, authorised representatives or agents (each a "Monex AU Party") are liable for any losses, damages, costs or expenses (including direct, indirect, incidental, punitive, or consequential loss, loss of profits, lost data, loss of use of the Electronic Trading Platform, business interruption, costs of substitute, services or downtime costs), whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under this Agreement (including any Transaction or where we have declined to enter into a proposed Transaction) unless such loss arises directly from the gross negligence, willful default or fraud of the applicable Monex AU Party.
- b) In no circumstance will our liability include losses suffered by you or any third party for any special damage, or loss of profits, goodwill, reputation or business opportunity arising under or in connection with this Agreement, whether arising out of negligence, breach of contract, misrepresentation or otherwise.

24.3 Trading losses

For the avoidance of doubt, in no circumstances will we be liable to you or responsible, for any losses or other costs or expenses of any kind arising out of or in connection with the placement of Orders by you, or the execution of Transactions with us.

24.4 Tax implications

Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.

24.5 Changes in the market

Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular Transaction is effected.

24.6 Force Majeure Event

- a) Since we do not control signal power, its reception or routing via Internet, configuration of your equipment or reliability of its connections; we are not liable for any claims, losses, damages, costs or expenses, including attorney's fees, caused directly or indirectly by any breakdown or failure of any transmission or communication system or equipment or computer facility or trading software, whether belonging to us, our Affiliates, you, any market, or any settlement or clearing system when you trade online (via Internet), or for any cause preventing us from performing any or all our obligations, any act of God, war, terrorism, malicious damage, civil commotion, industrial acts, loss of power supply,

access to Electronic Trading Platforms, any Exceptional Market Event, or acts and regulations of any governmental or judicial bodies or authorities which in our opinion prevent an orderly market in relation to your Orders ("Force Majeure Event").

- b) Upon the occurrence of a Force Majeure Event, we must use commercially reasonable efforts to resume performance and we may give you written notice. Upon occurrence of a Force Majeure Event, all of our obligations under this Agreement will be immediately suspended for the duration of such Force Majeure Event. Additionally, we may take any one or more of the following steps:
- I. alter normal trading times;
 - II. alter the Margin requirements;
 - III. amend or vary this Agreement and any Transaction contemplated by this Agreement, insofar as it is impractical or impossible for us to comply with our obligations;
 - IV. close any or all open Transactions, cancel instructions and orders as we deem to be appropriate in the circumstances; and/or
 - V. take or omit to take all such other actions as we deem to be reasonably appropriate in the circumstances having regard to the positions of you, Monex AU and our other customers.

24.7 Indemnity

Without prejudice to our rights in clause 14 of this Agreement, you must pay to us such sums as we may from time to time require in any of your Accounts with us and, on a full indemnity basis, any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your Accounts or any Transaction or any matching Transaction on a Market or with an intermediate broker or as a result of any misrepresentation by you or any violation by you of your obligations under this Agreement (including any Transaction) or by the enforcement of our rights. Notwithstanding anything to the contrary, you will be liable for any and all debit balances not directly resulting from trading activity.

24.8 Indemnity re programmable trading systems

You agree to indemnify and hold Monex AU, its Affiliates, employees, agents, authorised representatives, successors and assigns harmless from and against all liabilities, losses, damages, costs and expenses, including attorney's fees resulting from use of programmable trading systems, whether built by you yourself or by any third party and executed on or using the Electronic Trading Platform.

25 Dispute Resolution

We are committed to providing you with a high standard of service. If we have failed to meet your expectations, we would like to hear from you. If you have any complaints about Monex AU, resulting from the services provided to you, please contact us:

Telephone: +61 2 9103 9600
Email: complaints@monexsecurities.com.au

If your complaint cannot be resolved at the first point of contact, you should write to:

By mail: The Complaints Officer
Monex Securities Australia
Level 11, 300 George Street
Sydney, NSW, 2000 Australia

Our Complaints Officer will contact you within 2 Business Days acknowledging receipt of your complaint and we will try to resolve any issues you may have. If we do not resolve your complaint within 45 days to your satisfaction, you may lodge a complaint with the Australian Financial Complaints Authority (AFCA), which is an external dispute resolution scheme of which Monex AU is a member (Member No. 24293). To lodge a complaint with AFCA you should send the necessary documents and information to:

Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001
Australia
Phone: 1800 931 678
Fax: +61 (03) 9613 6399
Email: info@afca.org.au

Alternatively, you can now lodge complaints online by visiting their website at www.afca.org.au. You may also contact ASIC by telephone on 1300 300 630 or using ASIC Connect Online Services at www.asic.gov.au.

Monex AU has a complaint handling and dispute resolution procedure. A copy of our procedure is available on our website forex.monexsecurities.com.au, alternatively a copy can be provided to you by contacting our office.

Disputes must be resolved in accordance with this clause 25.

26 Information and Intellectual Property

26.1 Information and intellectual property

Where we grant you access to an Electronic Trading Platform, we shall grant you, for the term of this Agreement, a personal, limited, non-exclusive, revocable, non-transferable and non-sublicensable licence to use that Electronic Trading Platform pursuant to and in strict accordance with this Agreement. We may provide certain portions of our Electronic Trading Platform under licence from third parties, and you will comply with any additional restrictions on your usage that we may communicate to you from time to time, or that are otherwise the subject of an agreement between you and such licensors.

We provide the Electronic Trading Platform to you only for your personal use and only for the purposes, and subject to the terms of, this Agreement. You may not sell, lease, or provide, directly or indirectly, the Electronic Trading Platform to any third party except as permitted by this Agreement. You acknowledge that all proprietary rights in our Electronic Trading Platform are owned by us or by any applicable third party licensors or service providers engaged by us to provide the Electronic Trading Platform, and are protected under copyright, trademark and other intellectual property laws and other applicable law. You receive no

copyright, intellectual property rights or other rights in or to the Electronic Trading Platform, except those specifically set out in this Agreement. You will protect and not violate those proprietary rights in our Electronic Trading Platform and comply with our reasonable requests to protect our and our third party service providers' contractual, statutory and common law rights in our Electronic Trading Platform. If you become aware of any violation of our, or our third party service providers', proprietary rights in the Electronic Trading Platform, you will notify us in writing immediately.

26.2 No IP rights

You do not obtain any intellectual property rights in or to the IP rights.

27 Identification and Disclosure of Information

27.1 The information we collect, why we collect it and the purpose of its use

We collect information from you and about you. The information we collect from you includes (but is not limited to) your full name, registered address, date of birth, citizenship, trading history, tax residency and contact details. Information gathered about you may come from your interactions with us, access to your Account and any publicly available information accessible over the Internet and other publicly available resources. This information is collected from you and about you as we are required to identify you in accordance with the AML/CTF Act and where applicable, to comply with taxation laws such as the Tax Administration Act 1953, Income Tax Assessment Act 1936, Income Tax Assessment Act 1997 and the new Common Reporting Standards introduced effective 1 July 2017.

Further, we collect your information to administer your Account in accordance with the products and services you have acquired, offered by Monex AU. We may also use the information provided to provide you with alternate products and services that may be of interest to you. If you do not want to receive any marketing information, please contact our office as you can opt out of these notifications. By doing so, you will not be opted out of account specific information pertaining to the administration of your Account.

By providing telephone, mobile or email contact details to us, you agree to receive electronic communications unless you specify otherwise.

It is your responsibility to provide us with accurate and complete information at the time of making an application in our products and services. If you change your personal details, whether it is your registered address, your name, email address or any other contact details, you acknowledge it is your responsibility to inform us immediately.

27.2 Identification –Electronic Verification terms and conditions

Further to clause 27.1, Monex AU and our related entities are required in accordance with the AML/CTF Act to verify your identity prior to providing you with a financial product or service. Electronic verification enables us to verify your identity electronically and via data sources external to Monex AU.

The information we collect will be forwarded to external organisations in order to electronically match your information with the information on databases they have access to.

These organisations will assess and advise us whether all or some of the information can be verified. We have an agreement with GB Group plc who will complete the electronic verification on behalf of Monex AU.

The external data sources used to verify your identity include:

1. Credit information held by GB Group plc for the sole purpose of confirming your identity;
2. Publicly available information such as the Australian Government electoral roll and the Australian white pages;
3. Any other information held by an official record holder via third party systems such as Commonwealth and State government departments.

Any personal information provided to us will be shared with GB Group plc for the purpose of preparing their assessments. It is an offence under the AML/CTF Act to provide false and misleading information pertaining to your identity.

If you do not agree with electronic verification, please contact our office on +61 2 9103 9600 to discuss alternate arrangements and documentations required by Monex AU to verify your identity.

By agreeing to the 'electronic verification terms and conditions' you agree that:

1. The information you are providing is your personal information and you have authority to provide it to us; and
2. You grant us authority to use and disclose your personal information for the purposes of electronic verification as described within this section of the terms and conditions.

27.3 Disclosure of information

When submitting your Account Opening Form to open an Account with Monex AU, you will be providing Monex AU with your personal information. Monex AU or other entities in Monex Group may maintain records of all transactions and activities on your Account(s), including, but not limited to, details of liquidations on your Account(s). Monex AU or other entities in Monex Group may also collect information about you from publicly available sources such as company registers. We will also collect and hold information about you when you complete an online application or other type of form or operate and deal on your Account through Monex AU's websites. Your personal information will be held by us in accordance with *Privacy Act 1988* (Cth) and the Australian Privacy Principles. At any time, upon request, you may gain access to the information Monex AU holds about you.

27.4 Our Privacy Policy

Our Monex AU privacy policy is available on our website at forex.monexsecurities.com.au/page/privacy/ and should be read in conjunction with this Agreement. It contains additional information on the collection of personal information, handling processes, the reasons for collection, what access is given to your information and how to make a complaint about a breach of your privacy rights. Our privacy policy will be updated from time to time. We encourage you to visit our website regularly to ensure you are up to date on policy changes.

Your privacy is important to us. Please contact us if you have any privacy related enquires by contacting our Client Service team on +61 2 9103 9600 or email: cfdservices@monexsecurities.com.au. We aim to resolve any enquiry or complaint as your point of contact. If you have attempted to resolve your complaint and are not satisfied with the outcome, you may send a written communication to our Complaints Officer, Monex Securities Australia Pty Ltd, Level 11, 300 George Street, Sydney NSW 2000.

Please refer to our Complaint Handling Policy available on our website for further information at forex.monexsecurities.com.au/page/complaints/

28 General

28.1 Assignment

The following provisions apply in relation to assignment and delegation:

- a. You may not assign any of your rights or delegate any of your obligations under this Agreement to any person without our prior written consent.
- b. You may not charge any or all of their rights under this Agreement, including any rights to deposits held by us.
- c. Without prejudice to paragraph 28.1(a) of this Agreement, we may assign our rights or delegate any of our obligations under this Agreement to any person on giving not less than seven (7) business days' notice to you, subject to obtaining ASIC approval where, and to the extent that such approval is required by law.
- d. If you are in default of any of your obligations under this Agreement, we will be entitled (without prejudice to any other rights it may have) at any time thereafter to assign to any person with immediate effect all or any of our rights in respect of moneys owing to us under this Agreement, as well as any security or other remedies available to us in respect of such moneys. If any such assignment is made, you will, if so required by us and the assignee, acknowledge in writing that the assignee has assumed our rights and obligations under this Agreement in relation to the relevant moneys owing by you.
- e. Despite anything to the contrary contained in this Agreement, we may disclose to any actual or potential delegate or assignee as referred to in Paragraph 28.1(c) of this Agreement, such information relating to you and your relationship with us, as we see fit.

28.2 Severance

If any provision of this Agreement is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provision shall be and continue to be valid and enforceable in accordance with their terms.

28.3 Entire agreement

This Agreement, our Product Disclosure Statement and Financial Services Guide shall constitute the sole understanding between you and Monex AU with respect to the subject matter and replaces all other agreements with respect hereto.

28.4 Governing law

This Agreement shall be governed by and construed in accordance with the law from time to time in the State of New South Wales and Commonwealth of Australia and both you and Monex AU agree to submit to the exclusive jurisdiction of the courts of New South Wales and the courts which hear appeals therefrom.

28.5 Delay, omission and waiver

The following provisions apply to any delay, omission and waiver:

- a) No delay or omission on our part in exercising any right, power or remedy provided by law or under this Agreement, or partial or defective exercise thereof, will:
 - 1) Impair or prevent further or other exercise of such right, power or remedy; or
 - 2) Operate as a waiver of such right, power or remedy.

- b) No waiver of any breach of any term of this Agreement will (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of the particular breach.

Schedule 1

Effect of electronic consent:

By reading and electronically agreeing to our Margin Trading Terms and Conditions, Product Disclosure Statement and Financial Services Guide, you acknowledge receipt of these and related documents contained in our electronic account package and you agree to be bound by their terms and conditions. In addition, by agreeing to our Margin Trading Terms and Conditions and related documents, you are consenting to our maintaining and your receiving electronic records of your Transactions and Account(s).