

**INTERACTIVE BROKERS AUSTRALIA PTY LIMITED**ABN 98 166 929 568  
AFSL number 453554**GENERAL TERMS AND CONDITIONS**

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## 1. INTRODUCTION

These terms and conditions ("**Terms**") govern the relationship and constitute the entire agreement between you and Interactive Brokers Australia Pty Limited ABN 98 166 929 568 ("**IBA**"). By opening an Account or placing an Order with IBA to purchase or sell Financial Products, you accept and agree to be bound by these Terms.

These Terms constitute a legally binding contract which you accept for yourself, if acting as a trustee of a trustee for yourself personally and as trustee of such trust(s), or on behalf of any principal, principals, persons or entities, on whose behalf you are acting as agent by opening an Account with, or giving, IBA instructions to deal or accepting services ("**Service**") from IBA. All Services are subject to the terms set out in this document.

- 1.1 The additional terms (which form part of the Terms) which apply to particular Services are as follows:

Service	Addendum of additional terms	Application
Cash Market Products and Derivatives Products	Addendum [A]	This Addendum will apply to Customer trading in Cash Market Products and Derivatives Products on ASX and Cboe Australia
ASX 24 Futures	Addendum [B]	This Addendum will apply to Customer trading in ASX 24 Futures
International Financial Markets Transactions	Addendum [C]	This Addendum will apply to Customers trading on International Financial Markets
Short Selling and Stock Borrowing Agreement	Addendum [D]	This Addendum will apply to Customers who undertake short selling on ASX or Cboe Australia markets

- 1.2 In order to establish your Account, you will need to complete and submit (or in the case of a physical version, return) your completed Application Form to IBA for its acceptance. IBA may, in its absolute discretion, accept or decline to provide any one or more Services that you have selected in the Application Form. IBA may, in its absolute discretion, not require you to complete an Application Form.
- 1.3 You acknowledge and agree that you have read and understood all documentation provided to you by IBA including these Terms and any product disclosure statement(s) in relation to any Financial Products you wish IBA to make available to you in relation to your Account. You authorise IBA to open an Account for you.
- 1.4 You acknowledge that you have received, read and understood IBA's financial services guide. IBA's financial services guide may change from time to time. A copy of the current financial services guide can be obtained on IBA's website or on request.
- 1.5 You acknowledge that all dealings in Financial Products and the performance by IBA of its obligations under these Terms are subject to the Corporations Act, the operating

rules of relevant financial markets and clearing and settlement facilities and other Applicable Laws. You agree that in the event of any inconsistency between these Terms and any Applicable Laws, the latter will prevail to the extent of the inconsistency.

1.6 You acknowledge that:

- (a) IBA will not provide legal, tax, financial or accounting advice to you as part of the Services that we provide to you in accordance with these Terms.
- (b) Except as required by Applicable Laws, we do not act in a fiduciary capacity and IBA does not owe any fiduciary obligations to you in respect of its services provided to you in connection with these Terms. Nothing on IBA's website is or shall be deemed a recommendation or solicitation to buy or sell securities, futures or any other investment products, or as to the manner in which those products are bought or sold, or to engage in any investment strategy.
- (c) And agree, you will not seek, accept or rely on any Financial Product Advice from IBA or its representatives, or any communication that could be construed as such. Discussion of alternatives, such as the different types of Financial Products available to you, is not Financial Product Advice.
- (d) Notwithstanding IBA's obligations under Part 7.8A of the Corporations Act 2001, IBA is not responsible for the suitability or appropriateness of any order, trade, investment, investment strategy, selection of advisor or other activity you may take. You agree that any order submitted to or transaction executed by IBA is solely your own decision and is based on your own evaluation of your personal financial situation, needs, and investment objective(s). IBA does not endorse and is not responsible for any advice, representation, content or other information provided by third parties, including but not limited to any such information or third party referenced by or accessed through any Interactive Brokers website, IB System, including but not limited to the "IBKR Investors Marketplace."

1.7 You are responsible for knowing the terms of all Financial Products in your Account or which you propose to acquire for your Account, including, as applicable but not limited to, upcoming corporate actions (e.g., takeovers, reorganizations, stock splits, rights issues etc.), contract multipliers, present and future deliverable/settlement/(re)payment obligations, or expirations dates of futures, options or other derivative products. You acknowledge that IBA has no obligation to notify you of any deadlines or required actions or dates of meetings or to take any action without your specific written instructions given electronically in the manner specified on IBA's website.

1.8 Fractional shares: if you receive fractional shares as a result of a stock split or other corporate action and,

- (a) if IBA supports holding such fractional interest and your account is enabled for fractional trading, IBA may credit your Account fractional shares; or
- (b) where fractional interests are not supported and enabled per subsection (a) above, then IBA may, and is instructed by you to, sell the fractional shares, and you are entitled to receive your pro rata share of the proceeds of such sale. If sold on the open market, the sale price may differ from that offered to certain registered owners by the issuer or transfer agent.

## 2. **INTERPRETATION**

**Account** means an account held, solely or jointly, in your name or on your behalf with IBA for the purposes of these Terms.

**Affiliate** means, in respect of an entity or other person, an entity or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the entity or other person.

**Applicable Laws** means, in relation to a matter, all laws, legislation, regulation and subsidiary regulation, instruments and orders of a regulatory authority or a court, rules and procedures of a Financial Market or a CS Facility which apply to the relevant matter in the relevant jurisdiction, including for example, and without limitation, the Corporations Act and regulations made pursuant thereto, ASIC Class Orders, the Market Integrity Rules and other instruments.

**Application** means any electronic, web or internet based, or paper form IBA requires you to complete, and all material, information and documentation submitted by pursuant in conjunction therewith to apply to open an Account.

**ASIC** means the Australian Securities and Investments Commission.

**Business Day** means a day other than Saturday or Sunday, and which is not a public holiday.

**Business Continuity Plan** means the business continuity plan of IBA from time to time.

**Clearing Participant** means, in relation to a Transaction, the participant of the relevant CS Facility which has the responsibility for clearing that Transaction.

**Change of Control** means a substantive change in the equity interest or managerial control of the Client, including but not limited to a change in majority ownership which changes the identity of the majority shareholder to cast the presiding vote in a general meeting of the Client or a change in the direct or indirect management of the Client.

**Confirmation** has the meaning in clause 10.1.

**Consumer** has the meaning given section 12BC of Division 2 of Part 2 of the Australian Securities and Investment Commission Act 2001 (Cth) or, if applicable, Section 3 of Chapter 1 of Schedule 2 "the Australian Consumer Law" to the Competition and Consumer Act 2010 (Cth).

**Corporations Act** means the *Corporations Act 2001* (Cth).

**CS Facility** means a clearing and settlement facility, within the meaning of the Corporations Act whether located in Australia or overseas, and includes ASX Clear and ASX Clear (Futures) (as defined in Addendum [A]).

**Default** has the meaning in clause 27.1.

**Financial Product Advice** has the meaning given to that term in section 766B of the Corporations Act.

**Financial Market** means, as applicable:

- (a) the financial markets operated by ASX or Cboe (as defined in Addendum [A]) and any other financial market licensed under Parts 7.2 or 7.3 of the Corporations Act; and
- (b) any International Financial Market.

**Financial Product** has the meaning given to that term in section 761A of the Corporations Act.

**Foreign Exchange Contract** has the meaning given to that term in section 761A of the Corporations Act.

**IBA website** means <http://www.interactivebrokers.com.au> and includes the webpages which are accessible from links on this webpage provided that such pages are hosted by IBA or Interactive Brokers Group affiliate.

**International Financial Market** means any financial market operated outside of this jurisdiction to which Orders may be transmitted for execution, and any CS Facility which provides clearing or settlement services in respect of Transactions on such a market.

**International Financial Market Participant** means an international broker or market participant, or clearing or settlement participant, which may be an Affiliate of IBA, with whom IBA enters into an arrangement for execution, clearing and/or settlement services in connection with Transactions on or through an International Financial Market.

**GST** means:

- (c) the same as in the GST Law;
- (d) any other goods and services tax, or any tax applying to any transaction envisaged under this document in a similar way; and
- (e) any additional tax, penalty tax, fine, interest or other charge under the GST Law or any other law for such a tax.

**GST Law** means the same as "GST law" means in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**IBA Nominees** means Interactive Brokers Australia Nominees Pty Limited ACN 600 903 259.

**IB System** has the meaning in clause 13.1.

**Loss** means any damage, loss, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Managed Discretionary Account (MDA)** means a facility, other than a registered managed investment scheme or an interest in a registered scheme, with the following features: a person (**MDA client**) makes contributions, the client portfolio assets are managed on an individual basis another person (**MDA provider**) at the MDA provider's discretion subject to any agreed limitation, and the client and the MDA provider intend that the MDA provider will use the client portfolio assets to generate a financial return or other benefit for the client.

**Market Integrity Rules** means the market integrity rules made by ASIC in accordance with Part 7.2A of the Corporations Act, as amended from time to time, that apply to a relevant Financial Market.

**Order** has the meaning in clause 5.1.

**PPS Act** means the *Personal Property Securities Act 2009* (Cth).

**Retail Client** has the meaning given to that term in section 761G of the Corporations Act.

**Securities** has the meaning given to that term in section 92(1) of the Corporations Act.

**Securities System** means any authorised domestic or foreign depository or clearing or settlement system, including a transnational book-based system or other common system or registry for holding securities such as marketable and other securities, units, managed investments, deposits, bonds, notes, debentures, commercial paper and other equity, fixed interest or discount securities or derivatives of them.

**Security Information** has the meaning in clause 13.3.

**Service** has the meaning in clause 1.

**Service Disruption Event** means an event or matter which is not within the control of IBA, including, sabotage, war, earthquake, strike, acts of any third party, exchange or market rulings, suspension of trading, computer or telephone failure, force majeure, acts of God, public health events (including pandemics), unlawful access to the IB System, lock outs or other obstruction of IBA's usual business operation, trade or business embargoes impacting IBA's business whether directly or indirectly, government or quasi-governmental restrictions, actions or inactions and, without limitation, any other conditions which is beyond IBA's control.

**Sub-custodian** means any person appointed by IBA to hold Financial Products as sub-custodian for IBA, which may be an Affiliate of IBA, and any International Financial Market Participant or any sub-sub-custodian appointed by any of them.

**Transaction** means a transaction for one or more Financial Products which arises on the execution of an Order or otherwise pursuant to these Terms and includes, for example, a transaction for the sale and purchase of Financial Products and a transaction for the entry into or close out of a derivative.

**We, us, our or IBA** means, as applicable, Interactive Brokers Australia Pty Ltd ABN 98 166 929 568 and any of its related entities, affiliates, successors or assignees.

**Wholesale Client** has the meaning given to that term in section 761G of the Corporations Act.

### 3. **APPOINTMENT AND CAPACITY**

3.1 You appoint IBA as your agent for the purposes of providing the Services to you in accordance with these Terms. You acknowledge and agree that IBA may:

- (a) act as agent, in relation to the execution or arrange execution of Orders and Transactions on your behalf;
- (b) act as principal, in relation to the execution of Orders and Transactions as contractual counterparty with you; and
- (c) act as custodian, in relation to any Financial Products held by IBA for you.

3.2 Other than as described in clause 3.1, IBA does not act on behalf of, owe any duty to, have any liability to and need not recognise the interest of any other person, other than you, including, without limitation, if you are a trustee any beneficiary of such trust or if the you are body corporate any shareholder or beneficial owner of you.

3.3 IBA and its Affiliates may enter into Transactions with you as principal, whether in respect of Financial Products able to be traded on a Financial Market or in respect of over-the-counter Transactions such as Derivatives or Foreign Exchange Contracts. Where permitted by law, IBA or its Affiliate may take the opposite position in a Transaction with you. You authorise IBA to execute proprietary trades for itself and its affiliates, even though IBA may simultaneously hold your unexecuted Orders for the same products at the same price. You acknowledge that your Orders may match opposite Orders of another person who is IBA's client, and this may entitle IBA to receive commission from both sides of the Transaction. Similarly, if IBA deals as principal, then your Orders may match opposite Orders entered on IBA's own behalf as principal and you authorise IBA to charge you commission in respect of the Transaction in those circumstances where permitted by Applicable Laws.

3.4 In respect of any obligations you owe in relation to a Transaction entered into by IBA or any third party on your behalf or in your name, you appoint IBA and each of its officers and employees severally as your attorney (with full power of substitution) in order to execute or procure any document, security holder information, collateral or settlement monies and deliver any such documents, security holder information, collateral and settlement monies as required to the entity responsible for settlement.

#### 4. **ACCOUNTS**

4.1 IBA will establish one or more Accounts or sub-accounts in respect of the Services it provides to you.

4.2 The calculations, reporting and administration may be performed by IBA separately for each Account or sub-account, so that (without limitation):

- (a) margin calculations may be managed and enforcement action may be taken for each Account or sub-account separately; and
- (b) IBA may at any time aggregate one or more Accounts or sub-accounts (for reporting or managing margins or position limits or otherwise for the purposes of these Terms), even if you cannot immediately access reports for aggregated accounts.

4.3 **IBA'S RIGHT OF SET OFF:** You agree that IBA may offset any amount owing by you, which is overdue for payment, (including any negative balance in one or more Accounts or sub-accounts) against any amount IBA owes you in any Account or sub-account, without notice and without your agreement. IBA will nonetheless endeavour to provide you with commercially reasonable notice under the circumstances before exercising this right. IBA may choose, in its absolute discretion which Financial Products, cash, or account balance or other property to apply to offset the debt. For the avoidance of doubt, this right of set off (and other rights of set off under these Terms) applies in respect of rights and obligations across more than one Account or sub-account.

4.4 Position Limits

- (a) You agree that IBA may, in its sole discretion, acting reasonably and after providing reasonable notice where possible, establish position limits for the Account or sub-accounts and may limit the number of open positions (net or gross) that you may execute, clear and/or carry with or acquire through IBA's Services. You agree:
  - (i) not to enter into any transaction that would have the effect of exceeding such position limits; and

- (ii) that IBA may at any time reduce open positions by issuing closeout or offsetting trades, or require you to reduce open positions with IBA.
- (b) IBA may, in its sole discretion, impose and enforce such limits, reduction or refusal whether or not the same are required by any Applicable Laws.
- (c) You shall comply with all position limits established by any regulatory or self-regulatory organisation or by any Financial Market. In addition, you agree to notify IBA of any position reports you are required to file with any regulatory or self-regulatory organisation or with any Financial Market or CS Facility and agree to promptly provide IBA with copies of any such position reports upon request. IBA, and each of its Affiliates, expressly disclaims any liability for any Loss incurred by you relating to or in exceeding any position limits. You acknowledge and understand that IBA is under no obligation, and is in no way agreeing or is obliged to monitor, on your behalf, your trading activities and/or compliance with any position limits.

4.5 If IBA reasonably forms the belief, in its sole discretion, that an Account has been involved in fraud or a contravention of the Applicable Laws or any relevant rules, has been accessed unlawfully, or is otherwise involved in any suspicious activity, IBA may, without limitation:

- (i) take any reasonable action a prudent broker may take in the circumstances,
- (ii) suspend or freeze the account or any privileges of the Account or deny access to the Account,
- (iii) freeze or liquidate funds or assets in the Account,
- (iv) exercise any rights under these Terms, or,
- (v) treat the Account as if there has been a default as set out in clause 27.

You waive any claim for loss or damages against IBA arising out of or related to IBA exercising its rights under this clause, except for loss or damage caused by IBA's gross negligence, wilful misconduct or fraud.

4.6 Under the laws applicable to your account, IBA may be required to turn over to government authorities property that is deemed abandoned. To avoid such escheatment of property, you must periodically show activity on your account (by logging in) or otherwise contact IBA. Before remitting abandoned property, IBA will send written notice to the last known physical and email address on the account. IBA is not liable for any loss arising from or related to escheatment of your property under applicable law.

## 5. **ORDERS**

5.1 You may from time to time place orders with IBA for the sale or purchase of Financial Products ("**Order**"). Subject to these Terms, IBA will execute your Orders (or will instruct third parties to execute your Orders) in accordance with your instructions and on your behalf as agent or with you as principal. Without limiting clause 25, IBA will not be responsible for delays or errors in the transmission or execution of your Orders (except to the extent that responsibility cannot be excluded by Applicable Laws).

5.2 IBA may at any time refuse to accept an Order from, or execute Orders for, you and IBA may place a limit on any Order or place other conditions on the receipt of

instructions or Orders, in its absolute discretion and for any reason IBA considers necessary to protect its legitimate interests.

5.3 IBA may cancel or amend an Order:

- (a) if required by a relevant Financial Market, regulator, CS Facility or Applicable Laws to do so;
- (b) in the event of an error;
- (c) where IBA considers the cancellation appropriate, having regard to the desirability to maintain a fair and orderly market, its obligations as the holder of an Australian financial services licence or as a participant or user of the relevant Financial Market and other legal and regulatory obligations; or
- (d) where the Financial Product the subject of the Transaction has been subject to a trading halt on a Financial Market and you have not reconfirmed instructions.

5.4 IBA will make reasonable efforts to effect any instruction to cancel or amend Orders as quickly as possible. However, should an Order be filled prior to a cancellation or amendment instruction being effected, you will be obliged to accept the Transaction or Transactions on the original terms prior to your amendment or cancellation instruction, unless the Transaction is itself cancelled or amended. You acknowledge you understand it may not be possible to cancel or modify an Order and you are responsible for executions notwithstanding a request to cancel or modify an Order.

5.5 IBA may execute Orders for you in circumstances where IBA or any Affiliate may have a conflict of interest including, for example, where IBA or an Affiliate:

- (a) holds a principal position or deals in the relevant Financial Products;
- (b) provides similar services to other persons in relation to the relevant Financial Products; or
- (c) has material price sensitive information relating to the relevant Financial Products where the individuals processing your Order are prevented from knowing or taking into account such information by reason of Chinese walls.

5.6 You acknowledge that IBA does not operate any discretionary accounts and will, unless otherwise expressly provided by these Terms, only act on your instructions.

5.7 Unless otherwise specified in these Terms (or in the terms of your Order), all Orders will remain open until either cancelled by you or purged by the trading system of the relevant Financial Market or the IB System. IBA reserves the right to acting reasonably automatically cancel any Order or unfilled part of an Order. Once an Order has partially traded, only the remaining volume can be cancelled and you remain liable for the volume traded. IBA does not accept responsibility for reinstating lapsed Orders or for contacting you to seek new instructions.

5.8 If a security code or identifier changes, you are responsible for replacing all live and contingent Order codes with the new relevant security code or identifier. IBA will not be responsible for any live or contingent Orders with the incorrect security code or identifier.

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

- (a) market manipulation, false trading, market rigging, fictitious transactions, wash trading or matching of orders;
- (b) insider trading;
- (c) unauthorised short selling;
- (d) creating a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
- (e) misleading or deceptive conduct.

5.10 Automated Client Order Processing:

- (a) Automated Client Order Processing is the process by which your Orders are registered in IBA's system and, if accepted by IBA (and, if applicable, the relevant International Financial Market Participant) for submission into the Relevant Financial Market, submitted as corresponding Trading Messages without being re-keyed by a Designated Trading Representative (DTR) of IBA.
- (b) You may place Orders through the Automated Client Order Processing facility which is part of the functionality of the IB System. You are solely responsible for placing Orders and for all errors made in placing Orders through the Automated Client Order Processing facility. An Order placed through the Automated Client Order Processing facility will only be taken to have been authorised by IBA at the time IBA accepts the order for Automated Client Order Processing, and not before that time.

5.11 Exchanges and regulators require brokers to impose various pre-trade filters and other checks to try to ensure that orders do not disrupt the market or violate market rules. Exchanges, other markets and dealers also apply their own filters and limits to orders they receive. These filters or order limits may cause your Orders, including but not limited to market orders, to be delayed in submission or execution, either by IBA or by the market. Filters may also result in an Order being cancelled or rejected. IBA may also cap the price or size of your orders before they are submitted to an exchange. IBA reserves the right in its sole discretion, acting reasonably without notice, to impose filters and order limits on any of your Orders and will not be liable for any effect of filters or Order limits implemented by IBA or an exchange, market or dealer.

**6. EXECUTION AND ALLOCATION POLICY**

6.1 IBA will deal with all Orders in accordance with this clause 6 and to the extent applicable, its best execution policy (which includes a summary of this allocation policy). IBA reserves the right to amend its best execution and allocation policy at any time. The most current version of IBA's best execution policy is available on the IBA website. IBA will inform you of any updates to its best execution policy from time to time and will provide you with the current policy at your request.

6.2 Unless otherwise directed, IBA will select the Financial Market to which to route your Orders. IBA will use reasonable endeavours to execute or arrange the execution of your Orders in accordance with its best execution policy, which is available on its website. IBA does not guarantee execution of every Order and does not guarantee execution at best posted price; IBA may not have access to every market or dealer; orders of others may trade ahead of your Order; market centres may not honour posted prices or may re-route Orders; and market rules, decisions, system failures or other matters may prevent or delay execution of your Orders or cause orders not to receive the best price. For Financial Products traded

at multiple Financial Markets, IBA may provide "Smart Routing", which seeks the best Financial Market for each Order through a computerised algorithm. You should choose Smart Routing if available. If you direct Orders to a particular Financial Market, you assume responsibility for knowing and trading in accordance with the rules and policies of that Financial Market.

- 6.3 IBA makes available various order types that use computerized algorithms. These order types allow you to input various conditions as part of an order placed with IBA. You agree that if algorithmic order types are used, it is your responsibility to understand how the order type works, including thorough review of the information on the IBA website describing particular order types. Algorithmic trading involves special risks, including, among others, the risk of software or design flaws, technical errors, adverse market impacts from algorithmic orders and rapid losses. You understand and agree to accept these risks when using algorithmic orders and you waive any right to make claims against IBA in connection with such Orders.
- 6.4 IBA will deal fairly and in due turn with all Orders and Orders placed on IBA's own account (including where any orders of Affiliates are deemed to be principal orders) having regard to the Applicable Laws and market practices.
- 6.5 To the extent it is reasonably practicable to do so, IBA will allocate all Transactions (including Transactions effected pursuant to Orders placed on IBA's own account) in the sequence in which IBA received the relevant Orders, subject to any delay or technical faults connected with or arising through the use of the IB System, the system of the Relevant Financial Market or any other delay that is outside the control of IBA.

## 7. **PAYMENT FOR ORDERS AND REBATES**

- 7.1 IBA may receive discounts, rebates, payments or other consideration from an exchange, market, dealer or other party in exchange for routing an Order to them or in connection with an Order that they trade against or permit others to trade against. In consideration of services provided by IBA to you, IBA is authorized to receive and retain such payments, rebates, or other consideration in whole or in part for its own account and not that of you, and do so without disclosing the amount received. In some instances, but at its sole discretion, IBA may share this consideration with you.

## 8. **FOREIGN EXCHANGE AND FOREIGN EXCHANGE CONVERSION**

- 8.1 All currency exchange risks regarding any payment instruction or any Order or Transaction entered into or arranged for you by IBA will be your responsibility. Other than a foreign exchange Transaction executed in accordance with terms agreed between you and IBA, any conversion from one currency to another required to be made for performing or executing any payment instruction, Order or Transaction may be effected by IBA, acting reasonably, in the manner and at the time and at the exchange rates that IBA in its absolute discretion decides and in accordance with the Spot FX Product Disclosure Statement on IBA's website. You agree that foreign exchange transaction determined and conducted by IBA on your behalf will be binding on you, and you agree not to hold IBA liable for any losses you may incur as a result of such exchange transaction conducted in this manner.

### 8.2 **Automatic foreign currency conversion to facilitate a transaction:**

If, in respect of an Account you hold with IBA and which is not a margin account, you incur an obligation to make a payment in respect of a Transaction or an International Transaction (as defined in Addendum C) in a currency (Purchase

Currency) in which you do not have sufficient funds to meet such obligation in the Purchase Currency at the time you enter into such transaction, you

- (a) authorise and direct IBA to enter into a foreign exchange transaction with you and on your behalf to buy the requisite amount (including commissions and fees) of the Purchase Currency necessary to settle such obligation by selling one or more of the other currencies you hold (or will hold, for instance as result of a foreign exchange transaction) in the Account (Available Currencies); and,
- (b) for the purposes of such foreign exchange transaction, appoint IBA to determine in its sole discretion, acting reasonably, which of the Available Currencies to sell in order to buy the Purchase Currency, having regard to, without limitation, the balances of the Available Currencies and the number of transactions IBA itself is required to enter into or arrange in order to make delivery of the Purchase Currency to meet your settlement obligation in respect of the Transaction or International Transaction; and,
- (c) Acknowledge that such foreign exchange transaction will be undertaken at a foreign exchange rate derived from prevailing market conditions at the time of the execution and adjusted for any costs which arise due to the differences between the agreed settlement cycle for the Transaction or International Transaction and the standard settlement cycle for that applicable currency pair plus any fees or charges applicable. The costs and charges IBA applies for automatic currency conversion trades are detailed on the Commissions and Fees page on the IBA website.

**8.3 Automatic foreign currency conversion for foreign currency receipts/amounts:**

- (a) Subject to these Terms, if IBA, a Sub-Custodian, or an International Financial Market Participant, receives or holds an amount of money in relation to your Account,
  - (i) in a currency for which IBA does not maintain a client money account under the Corporations Act, or
  - (ii) that amount is in an currency for which IBA does maintain a client money account but such amount is a 'nominal balance' (as set out in our financial services guide),

you authorise and direct IBA to enter into a foreign exchange transaction with you and on your behalf to sell such currency and purchase an amount of the nominated base currency of your Account determined with reference to the amount of currency to be sold. You further direct IBA to pay to itself or such other person as it nominates the amount of currency being sold on or around the time of receipt of same in satisfaction of your obligation to deliver the currency being sold. You agree that IBA will undertake this foreign exchange transaction for and with you using an exchange rate that IBA determines, acting reasonably, is appropriate at the time IBA undertakes the conversion.

- (b) You acknowledge that IBA may aggregate transactions undertaken under this clause for you with the transactions undertaken for IBA's other clients and will typically deliver the amount of currency purchased to your Account on the second business day after the day on which the foreign currency transaction is undertaken. You agree that IBA is entitled to charge its usual fees and

commissions, if any, as set out on its website, or its financial services guide, for such transactions.

**9. CLIENT MONIES AND ACCOUNT**

- 9.1 IBA must deal with any money which you pay or give to IBA, or which is otherwise received by IBA in connection with financial services provided by IBA, in accordance with the Corporations Act and Applicable Laws. For example, IBA may be required to pay such monies in a clients' segregated account or into a trust account which complies with the requirements of the Corporations Act. You acknowledge that your monies and the monies of other clients of IBA may be combined and deposited by IBA in a trust account or clients' segregated account. You also acknowledge that all monies credited to the clients' segregated account maintained by IBA may be used by IBA to meet the default of any client of IBA.
- 9.2 You authorise IBA to, acting reasonably, withdraw any or all monies to which you are otherwise entitled in any clients' segregated account or trust account maintained by IBA to meet any liability or obligation incurred on your behalf or on your instruction (including in accordance with these Terms as amended or supplemented).
- 9.3 **IBA'S RIGHT OF SET-OFF:** You acknowledge and agree that IBA is entitled, but not obligated, and you authorise IBA to set-off any amount which you owe IBA in respect of any Account or other Loss which you owe to IBA against any amount IBA receives or holds or owes you in respect of any Account without your agreement. Prior to exercising this right, IBA agrees to endeavour to provide you with reasonable notice under the circumstances.
- 9.4 You agree that IBA is entitled to all interest earned on monies credited to a clients' segregated account or trust account unless you and IBA have otherwise agreed in writing. Separate to IBA's right to retain interest on client money accounts, IBA may, in its sole discretion, elect to pay interest from time to time on certain eligible cleared and settled client money balances attributable to your Account.
- 9.5 If you instruct IBA to pay an amount to you, IBA will (subject to these Terms) pay such amount to which you are entitled under these Terms directly to you and not to any third party, unless you have otherwise instructed IBA to do so and IBA has agreed. You must provide the relevant account details for payment instructions in respect of payments to be made by IBA to you. Whilst IBA will take reasonable steps to comply with your payment instructions, IBA accepts no responsibility for any failure to comply with those instructions and, if such failure occurs, the relevant monies will continue to be held by IBA in accordance with the Corporations Act and Applicable Laws.
- 9.6 You acknowledge that monies paid by you or IBA to an International Financial Market Participant or other service provider outside Australia, or received by such a person outside Australia in connection with services provided to you or IBA, will not be subject to the Australian laws and rules governing client money, but instead will be subject to the Applicable Laws of the relevant jurisdiction.
- 9.7 **INVESTMENT OF CLIENT MONEY:** You agree that IBA may invest client money pursuant to the terms set out in this clause as follows:
- (a) IBA may invest some or all of the client money that it holds for you and its other clients in any client's segregated account or trust account in any investment permitted under corporations regulations 7.8.02(2)(c); and,
  - (b) IBA is absolutely entitled to any investment return on any investment of client money in excess of the principal amount invested. For the purposes of this

clause only, 'investment return' means any amount of money earned on any investment of client money including without limitation any interest earned on such investment in excess of the principal amount of money invested; and,

- (c) if any investment contemplated under this clause 9.7 is realised by being sold, exchanged, redeemed, or terminated prior to its maturity by IBA (or any investment issuer) or matures according to its terms, IBA may re-invest any amount realised or paid on the investment's maturity (less any investment return to which IBA is entitled pursuant 9.7(b));
- (d) that if any "losses" are made on any investment that IBA makes pursuant to this clause 9.7 only, IBA will (if required) credit to a client's segregated account or trust account that it holds for client money, an amount equal to such loss for the particular investment. For the purposes of this clauses 9.7 only, a "loss" means the difference, if negative, between (i) the amount returned on realisation (whether by termination or otherwise) or maturity of the particular investment less any investment return to which IBA is entitled pursuant to 9.7(b) and (ii) the original principal amount of client money IBA originally invested; and
- (e) any fees or charges incurred or otherwise payable on any such investment will be otherwise borne by IBA.

If IBA invests any client money under this clause, it acquires such investment for itself and not as agent for you.

## 10. **CONFIRMATIONS AND REPORTS**

### 10.1 Confirmations

- (a) IBA will, where required by Applicable Laws, give you a confirmation in respect of a Transaction ("**Confirmation**") IBA enters into or arranges for or with you. You consent to receiving all Confirmations by electronic means of a Standing Facility ("IB System") and acknowledge that your access to and use of such is subject to these Terms. IB may consolidated Confirmations in a report. IBA may, but is not obliged to, e-mail you a copy of such a report or e-mail you notification that such is available in the IB System.
- (b) Confirmations issued by IBA are subject to the Applicable Laws, the directions, decisions and requirements of the relevant market operator, the clearing rules and where relevant, the relevant settlement rules, the customs and usages of the relevant Financial Market and the correction of errors and omissions. IBA may, at any time, reissue a Confirmation in order to correct any errors or omissions.
- (c) You agree and authorise IBA to accumulate and average the price of two or more Transactions in a single Confirmation, where permitted under Applicable Laws. If you require IBA to do so, IBA will provide you with a statement of the individual prices of the Financial Products that are accumulated and averaged in accordance with these Terms.
- (d) You are responsible for promptly checking each Confirmation. You must immediately notify IBA if you become aware that there is an error in the Confirmation. We are entitled to assume that the Confirmation is correct unless you notify us of any error within 24 hours following IBA (or someone on its behalf) giving you the Confirmation. You are bound by your trades as executed, if execution is consistent with your Order as entered.

- (e) You agree to monitor each Order until IBA confirms execution or cancellation. Confirmations of executions or cancellations may be delayed or erroneous (e.g., due to computer system issues or inaccurate reporting), or may be cancelled or adjusted by an exchange, market or dealer. You are responsible to submit Notice to IBA immediately (but in no event within more than 24 hours) if: (i) you fail to receive an accurate confirmation; (ii) you receive a confirmation that is different than your Order; or (iii) you receive a confirmation for an order that you did not place. If you fail to provide such Notice, IBA reserves the right to remove the Transaction from the account or require you to accept the Transaction, in IBA's absolute discretion. You shall provide IBA with immediate Notice upon receipt of erroneous information in any account statement or other form not addressed in (i) - (iii) above.
- (f) If you are a Wholesale Client, IBA may elect not to give any Confirmation to you in relation to Transactions executed for you. If IBA so elects, these Terms are taken to be the notification required to be given by IBA to you under the Market Integrity Rules.

## 10.2 Records and Reports

- (a) IBA keeps records of the Financial Products held by it in a way that enables it to readily identify the Financial Products which are held by you. The records include information about the transactions in Financial Products. IBA will apply reasonable verification procedures for the appropriately frequent reconciliation of the Financial Products held by IBA as custodian. IBA will make available to you reports on the activity of your account(s) on a daily, monthly and yearly basis, detailing the profit and loss across all transactions, positions and underlying instrument and asset class and which show the change in position value for the statement period ("**Reports**").
- (b) IBA will provide such other information as may be reasonably requested by you in relation to any Financial Products IBA holds for you as custodian, including to acknowledge the manner in which IBA holds Financial Products for you.
- (c) You consent to receiving any reports or confirmations that IBA may make available by electronic means via the IB System and acknowledge that your access to and use of such Reports is subject to these Terms.
- (d) You acknowledge and agree that the Reports made available by IBA may not be sufficient for you to discharge any obligations you have under law, whether statutory or otherwise, and that you should seek independent verification of the sufficiency of the Reports for any purpose.

## 10.3 Electronic Records and Communications

- (a) IBA provides electronic Confirmations, Reports, account statements, tax information, proxy materials, its Financial Services Guide, Product Disclosure Statement(s) and other disclosure documents, relevant policies and agreements, and other Customer records and communications (collectively, "Records and Communications") in electronic form to the maximum extent permitted by applicable law. Electronic Records and Communications may be sent to the Customer's Trader Workstation ("TWS") or to Customer's Email address, or for security purposes may be posted on the IBA website or on the secure website of one of IBA's service providers and customer and will need to log in and retrieve the Communication. By entering into this Agreement, Customer consents to the receipt of electronic Records and Communications, including, as applicable, where these Records and Communications are published on IBA's website, and acknowledges that this agreement is proper

notification that these Records and Communications are available in electronic form on IBA's website for the purpose of ASIC Corporations (Facilitating Electronic Delivery of Financial Services Disclosure) Instrument 2015/647. Such consent will apply on an ongoing basis and for every tax year unless withdrawn by Customer. Customer may withdraw such consent at any time by providing electronic notice to IBA through the IBA website. If customer withdraws such consent, IBA will provide required Records and Communications (e.g., tax documents, proxy materials, etc.) in paper form upon request by telephone or via the IBA website. However, IBA reserves the right to require Customer to close Customer's account if Customer withdraws consent to receiving electronic delivery of Records and Communications. In order to trade using TWS, and to receive Records and Communications through the TWS, there are certain system hardware and software requirements, which are described on the IBA website. Since these requirements may change, Customer must periodically refer to the IBA website for current system requirements. To receive electronic mail from IBA, Customer is responsible for maintaining a valid email address and software allowing customer to read, send and receive email. Customer must notify IBA immediately of a change in Customer's e-mail address by using those procedures to change a Customer e-mail address that may be available on the IBA website.

## 11. **FAILURE TO SETTLE**

11.1 If you fail to make payment, deliver any documents, security holder information or property to us in accordance with the relevant Confirmation and these Terms, IBA may, acting reasonably, do one or more of the following:

- (a) pass on to you all costs incurred by IBA (including any Affiliate) or any International Financial Market Participant (which may be an Affiliate) as a result of that failure;
- (b) in the case of a sale of Financial Products or other property by you, buy-in any Financial Products or other property sold (with you being fully responsible for any Loss in connection with such purchase) and recover any costs in so acting from you and you acknowledge and agree that IBA may be obliged to do so under Applicable Laws if you failed to settle the sale or ensure that the sale is settled by the fifth Business Day after the relevant sale Order was executed;
- (c) charge an administration fee calculated by reference to the additional cost which may be incurred by IBA as a result of your failure to settle;
- (d) levy a default charge on the amount outstanding from time to time at the regular margin rate specified on IBA's website, which IBA would be required to pay on an overdraft facility with its then current bankers;
- (e) use its own Financial Products or other property or obtain Financial Products or other property from third parties and use those Financial Products or other property to settle any sale executed by IBA on your behalf;
- (f) charge interest on any debit balances resulting from your failure to settle any Transaction;
- (g) sell any Financial Product or other property purchased on your behalf at your risk and expense;
- (h) sell any Financial Product or other property that IBA or an Affiliate otherwise holds on your behalf and apply the proceeds to reduce your liability to IBA and to recover IBA's costs in so acting;

- (i) apply any cash held by IBA or to which IBA has access, or payments received for or from you, to reduce your liability to IBA; and
- (j) cancel any of your unexecuted Orders.

11.2 Without limiting clause 26.3, you are responsible for and indemnify IBA against all costs, expenses, damages and Losses arising in connection with any failure by you to settle an executed Transaction including, but without limitation to, any brokerage, stamp duty, taxes, penalties, interest and legal costs reasonably incurred by IBA. You must pay or reimburse IBA any amount covered by the indemnity in this clause 11 immediately upon demand. **IBA'S RIGHT TO SET OFF:** IBA may, acting reasonably and providing you with reasonable notice where possible, deduct any of the amounts contemplated in this clause 11 (and any applicable GST) from any sale proceeds or other amounts otherwise payable to you without your agreement.

11.3 IBA may require you to complete a direct debit request, by which you:

- (a) request IBA to arrange for any amount IBA may debit or charge you, to be debited through the Bulk Electronic Clearing System and paid to IBA from an Account; and
- (b) authorise IBA to debit an Account with any amount IBA may debit or charge you in accordance with these Terms.

You must not revoke or purport to revoke any direct debit request without IBA's prior written approval.

11.4 The rights described in this clause 11 are in addition to any rights that are conferred to IBA under the Applicable Laws.

## 12. **BROKERAGE, FEES, TAXES AND INTEREST**

12.1 You must pay to IBA or as IBA directs:

- (a) IBA's brokerage fees at such rates as specified on the IBA website which is available to you prior to you entering into a transaction with IBA;
- (b) any fees, taxes, stamp duty or other charges as may from time to time be levied on or in connection with any Transactions entered into with you or on your behalf that is incurred by IBA; and
- (c) interest on any unpaid amounts due under these Terms (as amended, supplemented or varied from time to time), accrued from the due date until the date the amount(s) are repaid in full, at the margin rate specified on IBA's website unless (i) otherwise agreed in writing by IBA (through its Chief Executive Officer or General Counsel) or (ii) a separate commission, fee and/or interest schedule applies to your Account based on your relationship with your nominated third-party intermediary.

The amount of brokerage or other amounts payable by you to IBA in respect of any Transaction will be set out in the Confirmation of that Transaction.

12.2 You authorise IBA to deduct brokerage, taxes and fees or other amounts (including interest) payable by you directly from your Account. If the Account incurs a deficit, the margin rate specified on IBA's website will apply until the balance is repaid, and IBA has the right, but not the obligation, to take any actions which it is authorised to take in accordance with clause 17 in order to resolve any such deficit.

- 12.3 If you have been referred to IBA or on behalf of a broker or other third party, that broker or third party may receive benefits in the form of a commission or rebate from IBA.
- 12.4 IBA reserves the right to, at any time, change or impose fees in connection with the Services it provides to you. IBA will provide reasonable notice to you of such imposition or change prior to its occurrence.
- 12.5 Unless otherwise agreed, all amounts payable by you under these Terms are inclusive of GST.
- 12.6 Notwithstanding any other provision of these Terms, Client acknowledges and agrees:
- (a) To reimburse IBA for any and all taxes, duties, levies or similar charges that IBA or its affiliates are obligated to pay, whenever and wherever incurred or imposed and including all accrued obligations, to any tax authority which arises in respect of any transactions and services rendered to or related to assets acquired or monies held by Client through IBA or its affiliates, including in respect of any dividends or other distributions, rights, interests or proceeds of sale accruing on or in respect of the Client's assets or monies in Client's Account and any withholding tax, goods and services tax (GST) or any other applicable ad valorem or consumption tax, but excluding any income tax that IBA is itself obligated to pay on its taxable income and subject to Applicable Law ("Recoverable Amounts")
  - (b) IBA reserves the right to and may in its discretion calculate acting reasonably and deduct or recover from Client's Account or withhold from any amount to be paid to Client or Client's Account, as the case may be, Recoverable Amounts.
  - (c) That the laws and practices relating to tax, duties and levies in Australia and other countries may not always be clearly established, and it is therefore possible that current interpretations of law or practices may change, or that the law may be changed or clarified with retrospective effect. In accounting for any Recoverable Amounts or in making deductions or withholding or recovery of Recoverable Amounts, IBA may estimate in good faith the amounts concerned. Any excess of such estimated amounts over the final confirmed liability shall typically be credited to Client's Account. Any deficiency of such estimated amounts under the final confirmed liability may be deducted or retained from any amounts that IBA or its affiliates, or any agents or sub-custodians of them, may owe to, or be holding for Client.
  - (d) Save for any circumstances attributable to the gross negligence or wilful misconduct of IBA or its affiliates, or any of their officers, agents and/or employees, to indemnify IBA for any Recoverable Amounts and any penalty or fine in relation to the non-or-under-payment thereof, to the extent that such obligations arise from any inaccurate or incomplete information, including any misrepresentation or omission of material information, provided by Client to IBA or its affiliates, and any reasonable actions undertaken by IBA or its affiliates in good faith to enforce and preserve its rights.
- 12.7 IBA may, in its sole discretion, pay you credit interest on certain eligible balances from time to time. The rate at which IBA pays interest, the period over which it is calculated and paid, and the eligibility criteria will be specified on IBA's website unless (i) otherwise agreed in writing by IBA (through its Chief Executive Officer or General Counsel) or (ii) a separate commission, fee and/or interest schedule applies to your Account based on your relationship with your nominated third-party intermediary.

### 13. **IB SYSTEM**

- 13.1 This clause 13 contains provisions which, in addition to the other Terms, govern the use of any on-line or electronic trading or information services IBA provides and make

available to you (including, without limitation, all software and communication links) under which you may:

- (a) place your Orders or transmit other instructions to IBA in relation to Services which IBA provides to you, including in respect of Financial Products held for you;
- (b) receive information as to the pricing or value of one or more Financial Products;
- (c) receive market data and other information in relation to one or more Financial Products; or
- (d) receive Confirmations, Account or sub-account balances or other information or Reports in connection with your Account, sub-accounts or your Transactions and Financial Products.

In these Terms we refer to such a service as the **IB System**.

13.2 IBA grants a non-exclusive, non-transferable licence to you to use the IB System solely as provided herein. Title to the IB System and updates shall remain the sole property of the owner of the IB System, including all patents, copyrights and trademarks. You must not sell, exchange, or transfer your right to use the IB System to others. You must not copy, modify, translate, decompile, reverse engineer, disassemble or reduce to a human readable form, or adapt, the IB System or use it to create a derivative work, unless authorised in writing by IBA and the owner of the IB System.

13.3 You acknowledge that:

- (a) you are only permitted to access and use the IB System, using your designated email address, logon code, account ID, password or trading password ("**Security Information**");
- (b) IBA is entitled to rely on all instructions given, or apparently given, by you or on your behalf using the Security Information and you are bound by any Transaction or any dealing or other action or omission in connection with your Account or any Financial Products held for you in reliance on such instructions. Despite any other provision of these Terms, IBA will not be liable for any Loss caused by us acting on instructions or other communications using the Security Information;
- (c) there may be delays in the processing, execution, amendment or cancellation of an Order entered through the IB System and:
  - (i) an Order may be wholly or partly filled before an instruction for its amendment or cancellation is processed;
  - (ii) you remain liable to settle the original Order, until any relevant amendment or cancellation is effected; and
  - (iii) without limiting clause 26, IBA will not be liable for any Loss incurred by you arising from any delay in the dissemination of market information or the processing any Order or instruction to amend or cancel an Order;
- (d) the execution of an Order placed through the IB System may be prevented or delayed by filters or other electronic features of the IB System (including but not limited to credit check filters, regulatory compliance filters and filters to prevent trades that would breach the Applicable Laws) or systems operated by the relevant Financial Market;

- (e) IBA will not be responsible for the processing, execution or cancellation of any Orders submitted through the IB System, regardless of who enters such Orders and regardless of whether or not there is an error in the Order entry or for any delays;
- (f) the IB System is provided on an "as is" basis and, except as required by law, IBA makes no representations or warranties express or implied with respect to the IB System;
- (g) the speed of information provided through the IB System is subject to a number of factors including, but not limited to, the speed of the user's internet connection, the user's settings, the number of concurrent users accessing the IB System and the volume of information being received and sent by the IB System;
- (h) there are risks in trading through the IB System because the service is provided by means of computer and shared telecommunications systems and facilities (even where generally accepted industry standards and practices are followed). These risks include that; the information you send to, and receive from, the IB System may be accessible by third parties, that other users of the IB System, institutions or brokers may be able to see your Orders and other communications relating to trading and execution without your (or IBA's) consent; and that third parties may have access to your network without your (or IBA's) consent;
- (i) IBA is not liable to you for any loss you may suffer due to any restrictions on your account or interruptions, delays or failure of the IB System. In order to mitigate the risk of loss to you that may be caused by such an event, or due to any other disruption in your ability to use your IBA account, you are responsible for ensuring you have in place alternative arrangements for the execution of Orders or other services available through the IB System of sufficient capacity and utility to allow you to open, close or change positions as necessary to mitigate risk of loss to you, should the IB System or any aspect of it cease to be available or subject to failure (including, for example, arrangements for the use of telephone or facsimile and alternative brokerage accounts with other brokers);
- (j) During periods of heavy trading and/or fast or volatile market conditions with wide price fluctuations ("Fast Markets"), there may be delays in IBA executing your orders or providing trading activity reports to you. If you place a market order in a Fast Market, there may be significant difference in the quote you receive prior to or at the time you place the Order and the execution price you receive. By placing a market order under such conditions, you accept this risk and waive any claim related to a difference between quoted and execution price. If IBA, in its sole discretion, believes any particular stock is or may be volatile, IBA may, but is not obligated to, decline to allow customers, including you, to place Orders for that stock through the IB System. In addition, IBA reserves the right, but is not obligated, to prevent any IPO stock from being traded through IBA's services. IBA is not liable to you for any losses, lost opportunities or increased commissions that may result from you being unable to place orders for these stocks through IBA's services.
- (k) you will notify us immediately if you become aware of any inaccurate information being transmitted through the IB System including, for example, inaccurate content as to Orders, Transactions or Account balances; and
- (l) you will only use the IB System for your own internal business and investment purposes. You are responsible for reading, understanding and keeping up to

date with the details of the operational aspects of the IB System as set out on IBA's website.

13.4 Either you or an authorised person may place Orders with us or instruct us using the IB System. Any authorised person must be:

- (a) an officer or representative who is permitted to use the IB System on your behalf; or
- (b) your agent who you have appointed to use the IB System on your behalf.

You must provide prior notice to us in a form agreeable to us (which may be in writing) of any authorised person permitted to use the IB System on your behalf. You must also notify us immediately should there be any changes to the person and/or authorisation.

13.5 Orders placed through the IB System will be executed at the market price available on the relevant Financial Market (subject to any limit specified in the Order). You acknowledge that:

- (a) the market price may move and be different from the price at which the relevant Financial Product was trading when the Order was placed by you through the IB System; and
- (b) IBA is not liable for any Loss incurred by you by reason of any such movement in market price.

13.6 You are responsible for the consequences of: any unauthorised disclosure or use of the Security Information; a failure to prudently keep such Security Information secure (including but not limited to changing such Security Information as necessary) which may or may not result in the forgoing; and, for any actions or omissions of an authorised person. You agree to provide immediate notice to IBA of any theft or loss of Security Information, or any unauthorised access to your account. Use of your credentials to effect any action will constitute conclusive evidence that IBA may treat such action as authorised. IBA is not liable for loss or damages caused by any third party using your credentials and Security Information. Unless IBA agrees in writing, you will not permit any third party access to your account using your account credentials and Security Information.

13.7 IBA may suspend, terminate or impose conditions on the use by you or any authorised person of the IB System at any time. IBA may also decline to accept, to execute or to cancel any Order, or may otherwise restrict, in whole or in part, your use of IBA's services at any time, for any length of time, in IBA's sole discretion. Such restrictions on trading activity may include, but are not limited to: (i) prohibiting you from engaging in trading of (or entering Orders to open or increase the size of a position in) any individual instrument or category of instrument (whether stock, option, or another security, or a commodity, or other investment product); (ii) prohibiting certain types of trades or orders; or (iii) limiting Order size or value at risk. For the avoidance of doubt, IBA agrees to not unreasonably exercise its rights under this clause to refuse to execute a closing order for you. Where IBA exercises its rights under this clause, IBA will use reasonable endeavours to provide notice to you, where possible, but in any event IBA will not be liable for failure to provide such prior notice to you.

Notwithstanding the above, you remain responsible for your Orders and transactions without regard to whether IBA restricts, or does not restrict, your trading activity. All transactions are subject to rules and policies of relevant markets and clearinghouses, and applicable laws and regulations. **IBA IS NOT LIABLE FOR ANY ACTION OR DECISION OF ANY EXCHANGE, MARKET, DEALER, CLEARINGHOUSE OR REGULATOR, OR THE DIRECT OR INDIRECT CONSEQUENCES THEREOF.**

- 13.8 If you are uncertain as to whether your Order has been received, you will make all reasonable attempts to verify whether the Order has been received, approved and effected prior to taking further action. You agree to issue, and are responsible for the issuance of, specific cancellation or amendment instructions with respect to an existing Order and not to attempt to effect changes by placing a second or duplicate Order. You will be solely responsible and liable for any duplicate instruction that you place.
- 13.9 If a failure, interruption or malfunction of electronic communication between the parties prevents an Order from being placed, cancelled or amended, without limiting clause **25**, neither party shall be liable to the other party for any Loss caused by that failure, interruption or malfunction.
- 13.10 You acknowledge that all market data and information in relation to trading, volumes and pricing for a Financial Market provided through any IB System may be proprietary information of the relevant Financial Market or another person and any display, dissemination or other use of that information may be subject to restrictions imposed by the Financial Market or other person. You are responsible for complying with any such restrictions.

#### 14. **CANCELLATION**

- 14.1 Applicable Laws may give the operator of a Financial Market, a CS Facility or a regulator the power to cancel, amend or require the cancellation or amendment of a Transaction. This power can be exercised without your permission or IBA's agreement.
- 14.2 You authorise IBA, and agree that IBA may, without your consent, cancel or amend (or request or agree to the cancellation or amendment of) any Transaction:
- (a) if the operator of a Financial Market or CS Facility exercises any power under their respective operating rules to cancel or amend (or require the cancellation or amendment of) that Transaction;
  - (b) if so directed by a regulator under Applicable Laws;
  - (c) in the event of an error (if relevant, as defined in the Rules of the relevant Financial Market) or otherwise in circumstances required or contemplated by the Applicable Laws; or
  - (d) where IBA consider the cancellation appropriate, having regard to the desirability to maintain a fair and orderly market and our obligations as the holder of an Australian financial services licence or as a participant or user of the relevant Financial Market and our other legal and regulatory obligations.
- 14.3 The obligations of you and IBA under these Terms in relation to the settlement of a Transaction which is cancelled in accordance with this clause, cease to apply in respect of that cancelled Transaction from the time it is cancelled (whether or not IBA or someone on behalf of IBA has given you a Confirmation in respect of any affected Transaction).

#### 15. **CUSTODY**

- 15.1 You appoint IBA as custodian in respect of any Financial Products held by IBA for you (excluding where the holding of any Financial Product does not constitute the provision of a custodial and depository service under Section 766E of the Corporations Act 2001).
- 15.2 You acknowledge and agree that IBA as custodian is authorised to hold Financial Products with any person appointed by IBA as Sub-custodian, who may in turn appoint

a sub-custodian. IBA will generally provide you with written notice of and contact information of any other person to be engaged by IBA to hold your Financial Products as soon as reasonably practicable and in any event, before the Financial Products are held by such person for you by posting such notice on IBA's website<sup>1</sup>. You agree to access the notice at IBA's website and to check the notice regularly as the information will change from time to time. However there may be circumstances where prior notice will not be provided, for example, in the event that the Sub-custodian is or may become insolvent.

15.3 Where IBA acts as your custodian, IBA will:

- (a) act on legally valid instructions in relation to the Financial Products held for you in accordance with these Terms;
- (b) provide reports as detailed at 10.2;
- (c) exercise reasonable care in engaging and monitoring the performance of any Sub-custodian it appoints;
- (d) exercise the care, skill and diligence in the provision of the above services as custodian that a reasonable person would exercise, having regard to the relevant Financial Product, Financial Market, jurisdiction and the Applicable Laws.
- (e) IBA accepts liability under these Terms for direct loss suffered by you resulting from a failure by IBA or any Sub-Custodian to comply with any duties it has under these Terms or other agreement relating to the holding of Financial Products or to observe reasonable standards of care generally applicable to providers of custodial or depository services in the relevant jurisdiction. However, IBA is not liable to you for any
  - (i) loss arising from the acts or omissions of any Securities System; or
  - (ii) loss arising from or attributable to the insolvency of any Sub-custodian where IBA has not failed to take reasonable care in engaging and monitoring compliance by that Sub-custodian. Notwithstanding any other provision of these Terms, in the absence of a failure by IBA to take reasonable care in engaging and monitoring compliance by a Sub-custodian, IBA will only be obliged to return Financial Products held for you with a Sub-custodian who is insolvent if and to the extent that those Financial Products are recovered from that Sub-custodian.

15.4 Where IBA acts as an external MDA custodian for an MDA Operator with which you have an agreement, with respect to the Financial Products held by IBA for you in relation to the MDA, IBA undertakes to:

- (a) act honestly;
- (b) exercise the degree of care and diligence that a reasonable person would exercise if it was in IBA's position;
- (c) act in your best interests and if a conflict of interest were to arise between your interests and IBA's own interests, give priority to your interests;

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<sup>1</sup> [https://gdcyn.interactivebrokers.com/Universal/servlet/Registration\\_v2.formSampleView?formdb=4323](https://gdcyn.interactivebrokers.com/Universal/servlet/Registration_v2.formSampleView?formdb=4323)

- (d) not to use your information that it obtained through acting as external MDA custodian to gain an improper advantage for itself or any other person, or to otherwise cause any detriment to you;
- (e) comply with such terms and conditions of ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968 applying to IBA;
- (f) provide you with compensation for any loss arising directly from an act or omission of any representatives or agents acting on IBA's behalf, or that of a Sub-custodian appointed by IBA, as if the acts of omissions were those of IBA;
- (g) maintain at all times professional indemnity insurance and insurance covering fraud by its officers and employees that is adequate in IBA's opinion having regard to the nature of the activities carried out by IBA in accordance with ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968; and
- (h) to continue to hold such licenses and authorities as are required to lawfully perform its obligations under this agreement and to comply with any terms and conditions of such license or authorities.

15.5 You acknowledge that:

- (a) IBA will generally maintain an omnibus account for holding of Financial Products for its customers (including you) unless otherwise specifically required by the Applicable Laws;
- (b) IBA will generally maintain an omnibus account with any Sub-custodian appointed by IBA and will not maintain a separate account for you;
- (c) When IBA appoints a Sub-custodian, that Sub-custodian holds Financial Products for IBA and not for you;

15.6 Where IBA acts as your custodian, IBA will hold such Financial Products on trust for you as bare trustee in accordance with these Terms. However, IBA will not hold a Financial Product on trust for you where you have instructed IBA to deal or arrange for a dealing in the Financial Product as Broker in a place outside of this jurisdiction where either (i) trusts are not known or (ii) it is not reasonable for the Financial Product to be held on trust in accordance with the law of that place and IBA has determined that the Financial Product is held in a manner which, having regard to the laws in place in that jurisdiction, provides reasonably effective protection for such Financial Product in the case of the insolvency of the relevant Sub-custodian or International Financial Market Participant. In these situations, the Financial Product will be held in accordance with the law of that jurisdiction.

15.7 IBA will use reasonable endeavours to deal with all rights in respect of Financial Products (including, for example, voting rights) in accordance with your instructions provided that such instructions are received in such manner and at or before such times as notified to you. IBA will not exercise any voting rights attached to Financial Products except in respect of instructions received from you. In the absence of receiving instructions from you, IBA may take or forbear from taking any other action in relation to Financial Products which IBA considers appropriate.

15.8 You must pay on demand any call, subscription amount or other amount payable in respect of any Financial Products held by IBA as custodian for you. If you fail to make such a payment, IBA may (but is not obliged to) make the payment itself and you must on demand indemnify IBA against such payment and acknowledge that IBA may deduct such amount from any money held in your Account.

15.9 IBA has and will maintain a Business Continuity Plan which in its opinion is adequate to address any contingency for which it should reasonably plan having regard to the services it provides.

**15.10 Unsupported Products or markets:**

- (a) You acknowledge and agree we reserve the right to restrict or remove access to any particular Financial Product or other product or Financial Market or Foreign Financial Market and may refuse to receive (by way of transfer) on your behalf or cease to provide custody for certain Securities or Derivatives, or product, and refuse or remove support for any currency (Unsupported Product). We may do this for a variety of reasons but not limited to any Sub-custodian of ours becoming or anticipating of becoming unable to hold or facilitate transactions in the relevant Unsupported Product or if required by Applicable Law or in management of its risks (or that of its Affiliates).
- (b) If we cease to support any Financial Product or currency or provide access to any market, we will, acting reasonably, endeavour to:
  - (i) provide you with as much prior notice as is reasonably possible in the circumstances but you acknowledge that it may not, due to factors beyond IBA's control, be possible to provide you with notice;
  - (ii) facilitate your disposal (whether by sale or entering an offsetting transaction to effect close out) of or transfer of any Unsupported Product to another provider if permissible and applicable.
- (c) You agree that should we be able to provide you notice of ceasing to support your ability to transact in or hold any Unsupported Product and you fail to provide instructions as to the disposal or transfer of such during the period specified by us for taking action in relation to same, then we reserve the right to, or in the circumstances that it is not reasonably practicable for IB to provide notice, or if compelled by law (or to avoid a breach of law), then IB reserves the right to:
  - (i) Sell or enter into a trade to close out, as the case may be, any unsupported Financial Product on your behalf and meet any obligation in relation to such transaction from money held for you, and,
  - (ii) convert the proceeds (if any) arising from such transaction to Australian dollars or the base currency of your Account.

**16. DESIGNATION OF A TRUSTED CONTACT PERSON**

16.1 You are encouraged, but not required, to designate a Trusted Contact Person ("TCP") for your account. A TCP is someone who is 18 years of age or older that you authorize IBA to contact for assistance if IBA is concerned that you may be the victim of financial exploitation or experiencing mental or physical impairment that is affecting your ability to manage your account.

16.2 By designating a TCP, you authorize IBA (and your advisor or introducing broker if you have one) to contact the TCP in IBA's sole discretion and to disclose to the TCP any information in IBA's possession about you and your account, including financial information, your identity and contact information, the identity of any legal guardian, executor, trustee or holder of power of attorney, and facts regarding the circumstances that have caused IBA to contact the TCP for assistance.

16.3 Designating a TCP does not ensure that financial exploitation will not be attempted or occur and does not obligate IBA to contact the TCP. You waive any claim for loss or damages

against IBA arising out of or relating to IBA contacting (or not contacting) your designated TCP.

**17. SECURITY INTEREST AND PPS ACT**

17.1 You hereby,

- (a) subject to clause 17.2 instruct and agree that all assets of any kind held by or on behalf of IBA for you (including without limitation any Financial Products held by IBA as custodian under clause 15) are subject to a perfected first priority lien and security interest in IBA's favour, and to the extent allowable pledged to IBA, to secure performance of obligations and liabilities to IBA arising under these Terms or any other document. If you fail to fulfil your payment (including margin) obligations under these Terms, IBA may combine or consolidate any of your Accounts with IBA, convert to money, or under IBA's control, a requisite portion of your property sufficient to satisfy the outstanding obligations under these Terms and apply the proceeds or any property over which IBA or an Affiliate (including without limitation, IBA Nominees) holds or controls in or towards payment of your liabilities to IBA;
- (b) subject to clause 17.2, further instruct and agree that if you have not provided cash in the relevant currency to meet your margin obligations (as contemplated in clause 18), IBA may, up to a value equal to your margin obligation, grant a first priority lien and security interest with the power of sale over Financial Products, collateral and/or property (subject to IBA's ability to apply a haircut), including all proceeds of the foregoing, held by or on behalf of IBA for your Account in favour of an International Financial Market Participant in order to secure IBA's obligations and liabilities incurred to such International Financial Market Participant in respect of Orders or Transactions undertaken in accordance with your instructions or otherwise in accordance with this Agreement. You acknowledge that (i) if IBA defaults on its obligations (including payments or margin) to such International Financial Market Participant, it may enforce its lien and security interest, including by power of sale, regardless of whether you are in default under these Terms, and (ii) agree in the event of any such sale your interest in those assets is extinguished and any party to that dealing may take the assets free of any interest you may have had. You hereby instruct IBA to take any steps required to create, perfect (by control) and permit the enforcement of the security interest in favour of the International Financial Markets Participant under this clause pursuant to the Applicable Laws and the laws in force in the relevant jurisdiction;
- (c) agree these rights are in addition to any rights IBA may have at law or equity; and,
- (d) acknowledge that this clause 17 may create a security interest in IBA's favour under the PPS Act and accordingly:
  - (i) without limiting the extent to which our security interest may be perfected by control or any other method under the PPS Act, IBA may, at your cost, register one or more financing statements or financing change statements in relation to IBA's security interest (if any) under the PPS Act;
  - (ii) to the extent permissible, you waive your right under section 157 of the PPS Act to receive notice of any verification statement relating to the registration of any such financing statement or any related financing change statement;
  - (iii) you agree to provide IBA with all information that IBA requires to ensure that any registration of its security interest on the PPS Register is, and remains, fully effective or perfected (or both), and that the security interest has the priority required by IBA; and

- (iv) to the extent the PPS Act allows them to be excluded, the enforcement provisions in Chapter 4 of the PPS Act do not apply to these Terms.

17.2 IBA acknowledges that it is prohibited from taking or granting a charge, mortgage, lien or other encumbrance over, or in relation to, the Financial Products which it holds on your behalf as custodian, unless it is for expenses and outlays made in accordance with these Terms (other than our unpaid fees) or in accordance with your instructions in these Terms or otherwise.

## 18. **MARGINS AND AUTOMATIC LIQUIDATION**

18.1 This clause applies in the circumstances where IBA requires you to maintain margin in respect of the Orders you submit and Transactions entered into with or for you. IBA may allow, at its discretion, you to meet margin obligations in cash or with acceptable collateral, such as but not limited to Securities. Where IBA accepts collateral (for example, Securities) in lieu of cash margin or where IBA is required to meet obligations incurred on your behalf in cash itself and you do not have sufficient cleared funds to reimburse IBA in a currency with IBA or sub-custodian appointed by IBA, you agree IBA may treat your account as in deficit and charge you interest at margin rates specified on its websites accordingly.

18.2 Unless you have notified IBA to the contrary, no assets held as collateral in your Account are restricted securities, as such term is defined pursuant to Rule 144 under the United States Securities Act of 1933, (the U.S. Securities Act), or securities of an issuer with which you are an affiliate, and you will not attempt to sell such shares through IBA without prior notice to and consent of IBA.

18.3 You are required to monitor your Account at all times to ensure that it meets its margin requirements at all times. IBA may modify its margin requirements at any time in IBA's sole discretion. IBA will use commercially reasonable endeavours to provide notice to you, where possible, of changes in margin requirements, but in no event will IBA be held liable for its failure to provide notice to you prior to IBA exercising its rights under clause 18. You acknowledge and agree that IBA may provide notice to you of margin requirements via IB System. IBA may reject any order if your Account does not meet its margin requirements (or would not do so on execution of the Order). You acknowledge that formulas for calculating margin requirements on IBA's website are indicative only and may not reflect actual margin requirements.

18.4 IBA has no obligation to, will generally not issue margin calls and will not notify you in advance if your Account does not meet the margin requirements. IBA will, however, endeavour to provide you with electronic warnings via IB System to alert you when your Account is approaching a margin violation. IBA will use commercially reasonable endeavours to provide notice prior to exercising any of its rights under this agreement if your Account does not meet the margin requirements at any time, but in no event will IBA be held liable for its failure to provide notice to you.

18.5 If at any time your Account does not meet the margin requirements specified by IBA, IBA may, without limiting its other rights, sell, close out or otherwise liquidate all or part of your positions in any of your accounts held with IBA or with any International Financial Market Participant or Affiliate of IBA with no prior notice to you. IBA will use commercially reasonable endeavours to provide notice to you, where possible, but in no event will IBA be held liable for its failure to provide notice to you. This liquidation will usually occur automatically but notwithstanding the foregoing, IBA has no obligation to take any action if your Account does not meet the margin obligations.

18.6 You will be liable and must promptly pay IBA any amount owing to IBA arising from any such liquidation or remaining after any such liquidation. IBA has no liability to you for any loss arising from any such liquidation.

- 18.7 IBA may allow you to pre-request the order of liquidation of your assets in the event that you no longer meet the margin requirement, but you acknowledge that such requests are not binding on IBA and IBA retains sole discretion to determine the assets to be liquidated and the order of their liquidation.
- 18.8 You acknowledge that the market values/prices used to calculate the equity in your Account (and/or sub account) and to calculate the margin requirements, shall be determined by IBA in its sole discretion and varied without prior notice to you and may differ from the values/prices disseminated by Financial Markets or other market data sources. Among other things, IBA may calculate its own index values, exchange traded fund values or derivatives values, and value securities or futures or other Financial Products based on bid price, offer price, midpoint or using some other method. IBA may use a valuation methodology that is more conservative than the marketplace as a whole and this may effectively constitute a higher "house" margin requirement, which IBA has the right to establish. IBA may raise Margin Requirements in advance of an upcoming change in the required exchange or clearinghouse margin even before the effective date of such change. If you have multiple accounts with IBA (or if you utilize IBA's partition function to create subaccounts), at IBA's sole discretion IBA may treat such accounts (and/or subaccounts) either as separate or as one account for purposes of applying the Margin Requirements. You acknowledge that this may cause the total Margin Requirement to be higher than otherwise and could cause positions to be liquidated in one account or subaccount notwithstanding excess equity in another account or subaccount.
- 18.9 You will not rely on IBA to close or liquidate positions in your account in the event your account does not comply with Margin Requirements. You will not rely on IBA's liquidation rights and auto-liquidation systems to function as a stop-loss order. You cannot assume that IBA's general policy to liquidate positions will prevent you from losing more than you have deposited. Among other things, market prices may not rise or fall incrementally and IBA may not be able to close out a position at a price that would avoid losses greater than the margin deposit. Likewise, IBA may in its discretion delay or decide not to liquidate positions in an account with a margin deficit and shall have no liability for any loss sustained by you in connection with such delay of or forbearance from liquidation.
- 18.10 IBA's margin requirements or risk control parameters may include leverage ratio limits or position size limits for securities, derivatives, currencies or other Financial Products. If these limits are reached or exceeded, you may not be able to place new Orders and you authorise IBA to liquidate existing positions and/or enter into risk-reducing Transactions on your behalf without notice, in order to bring your Account back into compliance with the relevant limits. You acknowledge that IBA is under no obligation to do so.
- 18.11 You acknowledge that IBA and/or its Affiliates may take the other side of any liquidation transaction or risk reducing transaction.
- 18.12 You must reimburse and hold IBA harmless for any acts, omissions, costs, fees or liabilities associated with any liquidation undertaken by IBA save for any fraud, wilful default or gross negligence on the part of IBA or its agents or employees.
- 18.13 Notwithstanding the above, if for any reason you fail to meet the margin requirements and IBA does not liquidate your positions but instead issues you with a margin call, you must satisfy such call within a commercially reasonable time and the manner specified by, or otherwise acceptable to, IBA. You acknowledge that even if a margin call is issued, IBA does not waive any of its other rights against you, including the right to immediately liquidate positions in order to meet margin requirements.
- 18.14 You acknowledge and agree that Margin Requirements and related rules of exchanges, clearinghouses and regulators generally are designed to protect the integrity of markets and the capital of broker-dealers that are subject to such rules and are not generally intended to protect you. IBA's failure to apply or enforce Margin Requirements and related rules shall not give you any right to bring an action against IBA and nothing in this Agreement constitutes a

warranty or undertaking that IBA will apply or enforce the Margin Requirements and related rules.

- 18.15 You acknowledge that IBA may do anything under this section 18 without any prior notice to you notwithstanding anything otherwise set out in these Terms and that you do not need to be in default before IBA may take action under this section 18.

**19. INFORMATION AND ADVICE**

19.1 IBA may (but is under no obligation to) provide you with information or data concerning interest rates, securities, derivatives, foreign currency, property, other Financial Products or markets generally. If such information or data is provided, it is provided on the basis that IBA believes the sources to be reliable but has not verified that information. You acknowledge that IBA is not responsible for the accuracy, completeness or currency of any information or data provided (including the sequence of trades) and that if you rely on that information or data you do so at your own risk. You acknowledge that no information or data provided by IBA to you takes into account your objectives, your financial needs or situation or your special circumstances.

19.2 When IBA provides Services to you (including issuing to you, or dealing with you, as principal) IBA is not by these Terms providing, required to provide, or liable for, advice or recommendations in relation to the Orders or Transactions, except to the extent required by Applicable Laws.

19.3 You represent and warrant to IBA on a continuing basis that under these Terms to the extent permitted by law:

- (a) you are not relying on any communication (written or oral) from IBA as Financial Product Advice or other investment advice or as a recommendation to enter into any Transaction; and
- (b) you will not consider the information and explanations relating to the terms of a Transaction to be financial services or Financial Product Advice on, or a recommendation to enter into, any Transaction; and
- (c) you will not take any communication (written or oral) received from IBA as an assurance or guarantee as to the expected results of any Transaction.

19.4 You acknowledge that you are responsible for all Orders you place, or choose not to place, with IBA and it is your responsibility to obtain personal financial advice before making any investment or trading decision in respect of Financial Products.

19.5 To the extent that IBA would be obliged (but for this clause) to give you a statement recording any advice to you, then to the extent permitted by Applicable Laws:

- (a) you consent to receiving any such written statement of advice after having been given the advice;
- (b) you consent to receiving any such written statement of advice after making the Transaction but within the period permitted by law; and
- (c) IBA does not need to give you a statement of advice.

**20. PRIVACY AND INFORMATION**

20.1 You accept the Interactive Brokers Group Privacy Policy and all privacy supplements including the IBA Privacy Policy, as applicable ("IBKR Privacy Policy"), which is posted on IBA's website

and is incorporated herein by reference. You consent to the collection and use of your information as described in the IBKR Privacy Policy.

- 20.2 You authorise IBA to collect your personal information from you when IBA provides Services to you under these Terms. You authorise IBA to use any information IBA collects from you, or such other relevant documents, to:
- (a) assess your request for IBA to provide Services to you;
  - (b) provide Services to you in accordance with these Terms;
  - (c) to allow IBA to communicate with third parties in connection with the matters contemplated by these Terms; and
  - (d) to ensure that legal and regulatory requirements under Applicable Laws (including **AML/CTF Laws**) are met.
- 20.3 You represent and warrant that you have the necessary authority to provide personal information about your directors, officers, employees, beneficial owners (as that term is defined in the AML/CTF Laws) and if acting as a trustee, any beneficiaries, settlors, appointers or protectors.
- 20.4 You must notify IBA in writing when any of the information provided by you changes.
- 20.5 You authorise IBA to disclose personal information to:
- (a) any International Financial Market Participant and any Affiliate of IBA, whether in Australia or overseas;
  - (b) any clearing or settlement participant responsible for the clearing or settlement of the Transactions;
  - (c) IBA's service providers (including marketing companies, data consultants and IT contractors);
  - (d) IBA's agents, contractors, and external advisers;
  - (e) government and other regulatory bodies and authorities whether in Australia or elsewhere;
  - (f) payment system operators;
  - (g) other financial institutions and credit providers;
  - (h) on a confidential basis, a prospective purchaser of, or investor in, IBA or an Affiliate or all or part of the business of IBA or an Affiliate; and
  - (i) any other relevant person to the extent required by Applicable Laws.
- 20.6 You have a right to access any personal information that IBA holds about you. Sometimes there may be a reason why access will not be possible. If that is the case, you will be told why. To find out what kinds of personal information IBA may hold about you, or to request access to any personal information, please contact IBA.
- 20.7 You agree that your personal information can be used or disclosed by IBA as contemplated in these Terms. You agree to take all reasonable steps to deliver information or documentation to IBA, or cause information or documentation to be delivered to IBA concerning Transactions which are requested by a person having a right to request such information or documentation. You understand that if you do not provide any information requested by IBA

or do not agree to IBA using your information as set out in this clause 20, IBA may not be able to provide its Services to you.

- 20.8 You authorise IBA to record any or all incoming and/or outgoing phone calls with IBA without making a disclosure to you of this nature each and every time you speak with a representative of IBA. These calls may be recorded with or without an audible tone. You agree that IBA may use such recordings for the purposes of monitoring compliance with your and IBA's respective regulatory and contractual obligations, and resolving disputes. If there is a dispute between IBA and you, you have the right to listen to any recording of those conversations. Nothing in these Terms oblige IBA to keep a recording longer than the minimum periods required by the Applicable Laws.
- 20.9 IBA agrees to comply with its obligations under the *Privacy Act 1988* (Cth) as amended from time to time, to the extent that they are relevant to these Terms.
- 20.10 IBA must not disclose any confidential information relating to the Financial Products held for you apart from:
- (a) disclosure of confidential information is permitted in all of circumstances listed in clause 20.5; and
  - (b) any disclosure as required or permitted by law or by you, or a person authorised by you, in writing.
- 20.11 You acknowledge that IBA may record your telephone conversation with IBA. If there is a dispute or anticipated dispute between you and IBA, you have the right to listen to any recording of those conversations.

## 21. **YOUR CAPACITY, REPRESENTATIONS AND WARRANTIES**

- 21.1 IBA provides services under these Terms on the basis that you undertake as primary obligor all obligations arising on the execution of Transactions which IBA enters into for you.
- 21.2 You represent and warrant to us that you are:
- (a) acting as principal;
  - (b) acting as an intermediary on another's behalf and you are specifically authorised to enter into Transactions on behalf of the other person and (if required) currently have all appropriate Australian financial services licence authorisations to do so;
  - (c) acting as an authorised representative of an Australian financial services licence holder with the appropriate Australian financial services licence authorisations to enter into Transactions; or
  - (d) acting in accordance with the terms of a trust deed (if you are a trustee of a trust).
- 21.3 If you are constituted by more than one person (including, for example, if you are a partnership or joint venture), each person constituting you is jointly and severally liable for the obligations under these Terms, and IBA may act on the instructions of any one of those persons, without the necessity to refer to, or notify, any other person.
- 21.4 If you are a joint account holder (including Joint trustee, if applicable),
- (a) each account holder is jointly and severally liable for the obligations under these Terms, and IBA may act on the instructions of (including relying on information provided by) any one of those persons, without the necessity to refer to, or notify, any other person; and,

- (b) each joint account holder agrees that IBA may discharge any obligation to provide any notice, disclosure document or other information by giving such information to either account holder and the recipient agrees to receipt of such notice, disclosure or information for themselves and on behalf of the other account holder and undertakes to provide same to such other account holder.

21.5 If you are a corporation, you represent and warrant that:

- (a) you hold a valid ACN, ABN or ARBN (as applicable) under the Corporations Act;
- (b) you have full corporate power to enter into, and perform your obligations under, these Terms;
- (c) you have taken all necessary corporate action to authorise the performance of your obligations under these Terms, and these Terms constitute the legal, valid and binding obligations, enforceable against you; and
- (d) you have taken all necessary corporate action to authorise the performance of your obligations under these Terms, and these Terms constitute the legal, valid and binding obligation

21.6 If you are acting as a trustee of a trust, a responsible manager of a managed investment scheme, a trustee of a superannuation fund or an agent under an investment management agreement, you

- (a) represent and warrant that:
  - (i) you are properly appointed as the sole trustee of the relevant trust (unless otherwise advised to us) and are not in breach of trust;
  - (ii) (if required) currently have all appropriate Australian financial services licence authorisations;
  - (iii) the trust is validly subsisting and properly established;
  - (iv) you have the right to be fully indemnified out of the trust's assets for any obligations incurred under these Terms before any trust beneficiary's claim and this right has not been limited or reduced in any way;
  - (v) you are authorised under the trust deed for the trust to enter into Transactions and perform its obligations under these Terms and notwithstanding the foregoing you are personally liable for all and any obligations incurred under these Terms; and
  - (vi) if the trust is a superannuation fund, each Transaction entered into by it pursuant to these Terms will:
    - (A) comply with all laws, prudential standards and regulator issued guidelines applicable to the operation of superannuation funds, including the *Superannuation Industry (Supervision) Act 1993* (Cth) (**SIS Act**), the Regulations and the Australian Prudential Regulation Authority prudential standards;
    - (B) have been or are to be implemented in accordance with an investment strategy prepared in accordance with the SIS Act;

- (C) comply with all the requirements of the trust deed and governing rules of the trust; and
  - (D) be undertaken on an arms' length basis, for value and on commercial terms.
- (b) Covenant,
- (i) not to amend, or permit the amendment of, the trust's governing documents in a manner inconsistent with the representations and warranties provided above under Clause 21.6(a), without providing immediate notice to IBA and taking all steps necessary to ensure any transactions or positions in Financial Products or any other products are and remain in compliance with the trusts governing documents, and trustee(s); and,
  - (ii) to provide IBA with immediate notice of any change in any manner relating to this Agreement, including but not limited to any change affecting the accuracy of any representations, warranties or undertakings made herein. IBA has no duty to review or enforce the legal terms of any trust deed, regardless of whether IB has some or all of the trust documents in IB's possession

21.7 You represent and warrant that:

- (a) you have read and understood all documentation provided by IBA to you in relation to the services provided by IBA including, without limitation, any product disclosure statement;
- (b) you are a person with whom IBA is lawfully entitled to deal pursuant to any Applicable Laws and that all dealings by you with IBA or requested to be done by IBA on your behalf are and will be lawful under all Applicable Laws;
- (c) all information supplied on the Application Form or otherwise to IBA is true, complete and accurate in all respects and you will notify IBA immediately of any change in any information supplied (including but not limited to any change in your name, address, telephone number, facsimile number or e-mail address);
- (d) you will rely upon your own knowledge and judgment and will seek such advice (financial or otherwise) as may be prudent before placing an Order with IBA and you assume full responsibility for any Order placed with IBA;
- (e) at all times you will be able to make payments and fulfil all commitments on your part arising under these Terms and under the conditions applicable to dealings between yourself and IBA;
- (f) that you are free to deal with all assets of any kind, whether money or Financial Products, that you transfer to IBA and that such assets are free from all encumbrances, liens, charges or other security interests of any kind however expressed (excluding any such interest in that arises under these Terms); and
- (g) You have read and accept the Interactive Brokers Customer Code of Conduct ("Customer Code"), which is posted on IBA's website. You understand and agree that repeated or serious violations of the Customer Code may reasonably necessitate that IBA imposes restrictions on your Account and/or terminates these Terms in accordance with the provisions herein.

21.8 Apart from any warranties and representations which are implied by law and cannot be excluded, IBA makes no warranties in relation to any service or information provided or made available to you in connection with these Terms. To the fullest extent permitted by law, IBA excludes liability for all costs, expenses, damages and Losses (including consequential loss)

arising in connection with such services or information, or these Terms (including, without limitation, liability for negligence).

- 21.9 All representations, warranties and acknowledgments given under this clause 21.9 or elsewhere in these Terms are taken to have been made at the time you complete the Application Form and are taken to have been repeated by you:
- (a) each time you place an Order with IBA;
  - (b) each time you enter into a Transaction with IBA, or IBA enters into a Transaction on your behalf; and
  - (c) each time IBA does anything or refrains from doing something under these Terms or as contemplated by these Terms in connection with your Account or any Transaction.

22. **CHANGE IN CONTROL**

- (a) If you are a Corporation and you intend to undergo a Change of Control or change in the fundamental nature of business in which you operate, you shall give notice to IBA 14 days prior to implementing such a change.
- (b) If IBA, upon receiving your notice, reasonably determines that there has been an unacceptable Change of Control or change in the nature of your business, IBA may terminate this Agreement immediately by giving notice to you.
- (c) For the purposes of this section, an unacceptable Change of Control or change in the fundamental nature of your business includes, but is not limited to, a sanctioned person having assumed control of you as a result of the change, or the basis of which you operate and/or use IBA's services contemplated in these Terms no longer meets legal or statutory requirements.

23. **ANTI-TERRORISM/MONEY LAUNDERING**

23.1 You acknowledge that:

- (a) IBA is subject to various anti-money laundering and counter-terrorism financing laws (**AML/CTF Laws**) which may prohibit IBA from offering Services or entering into or conducting Transactions; and
- (b) the AML/CTF Laws include prohibitions against any person dealing with the proceeds of or assets used in criminal activity (wherever committed) and from dealing with any funds or assets of, or the provision of finance to, any person or entity involved (or suspected of involvement) in terrorism or any terrorist act.

23.2 You agree that:

- (a) IBA is not required to take any action or perform any obligation under or in connection with these Terms if IBA is not satisfied as to your identity or where IBA suspects on reasonable grounds that by doing so IBA may breach the AML/CTF Laws;
- (b) IBA may delay, block or refuse to make any payment or to provide any service if IBA believes on reasonable grounds that to do so may breach any law in Australia or any other country, and IBA will incur no liability to you if it does so; and
- (c) IBA will not incur any liability to you for any Loss you suffer (including consequential loss) however caused by reason of any action taken or not taken by us as contemplated in paragraph (a) or (b) above.

23.3 You agree to provide all information and documents to IBA which IBA may reasonably require to comply with any law in Australia or any other country, including any AML/CTF Laws. You agree that IBA may disclose information which you provide to IBA, or about Transactions you are or seek to conduct with IBA, where IBA is required to do so by any law in Australia or any other country.

23.4 You represent and warrant to IBA that the payment of monies by IBA in accordance with this document, or any instructions given by you, will not breach any law in Australia or any other country.

24. **RISKS OF FOREIGN MARKETS; AFTER HOURS TRADING**

24.1 You acknowledge that trading securities, options, derivatives, futures, currencies or any product on an International Market is speculative and involves high risk. Trading outside ordinary market hours poses special risks, including risk of lower liquidity higher volatility, changing prices, unlinked markets, news announcements affecting prices, and wider spreads. You represent that you are knowledgeable of and able to assume these risks.

25. **RISKS REGARDING POLITICAL AND GOVERNMENTAL ACTIONS**

25.1 Governments of countries in which IBA clients reside, or countries in which IBA clients invest, may take economic and/or political actions that are adverse to investors and such actions may negatively affect IBA client's account. You agree that IBA (and its affiliates) are not liable for such actions affecting your account. For example, if you invest in securities, futures, foreign currency or other investment products in a foreign jurisdiction, such assets, or cash to secure such assets, typically will be held at a bank, clearinghouse or other facility in such foreign jurisdiction. Assets and cash held in foreign jurisdictions are inherently vulnerable to the risk that the government in such jurisdiction could freeze or confiscate or take some other action against such assets for some purpose, temporarily or permanently. Likewise, even with respect to investments within your own country, governments may freeze or take other action against such assets on the basis of political, economic, or military conflict. You acknowledge and agree that IBA (and its affiliates) cannot and will not protect you from actions by any governmental, political, military, or economic actor that may adversely impact your assets held by IBA, its agents or sub-custodians. You agree that that IBA (and its affiliates) is not liable for any losses or damages you may incur as a result of any such action.

26. **DISCLAIMER OF WARRANTIES, LIMITATION OF LIABILITY AND INDEMNITIES**

26.1 Subject to clause 15.3(e) and, if you are a Consumer, those warranties and guarantees implied by the Australian Securities and Investments Commission Act 2001 (Cth) and to the extent applicable the *Competition and Consumer Act 2010* (Cth), and any other rights implied by law which cannot be excluded by agreement between the parties:

- (a) IBA makes no warranties either expressly or impliedly, as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness or quality), with respect to any services IBA provides under these Terms including, without limitation, the IB System;
- (b) IBA excludes all liability in contract or otherwise relating to or resulting from use of any service IBA provides in any capacity in which it may provide such service under these Terms and for any Loss incurred by you directly or indirectly without limitation as a result of or arising out of:
  - (i) any inaccuracy, error or delay in or omission from any information provided to you under these Terms including the IB System;
  - (ii) any delays or failures or inaccuracies, or loss of access to, the provision of a service to you including, without limitation, any delay, failure or inaccuracy in,

or the loss of access to, the IB System or in respect of the transmission of Orders or any other information;

- (iii) any misinterpretation of your Orders or instructions which are unclear, ambiguous, or not specific;
- (iv) a Service Disruption Event.

26.2 **EXCLUSION OF CONSEQUENTIAL LOSSES:** To the fullest extent permitted by Law, neither party is liable in contract, tort (excluding gross negligence) or otherwise for any loss of prospective profits or expenses or special, indirect or consequential damages resulting from the supply or use of a Service including, without limitation, the IB System and the provision of custodial or depository services.

26.3 To the fullest extent permitted by law and except to the extent of any losses or claims that are proportionately attributable to IBA's (or its agents or employees) fraud, negligence or wilful default, you release, discharge and indemnify and agree to keep IBA and its respective officers, employees, agents and representatives indemnified from and against all claims arising out of:

- (a) any default by you, whether by your act or omission under these Terms or any order or Transaction;
- (b) any breach by you of any Applicable Law;
- (c) any representation or warranty made or given by you under these Terms proving to be untrue or incorrect;
- (d) any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by you or by any of your clients, employees, agents or authorised persons, consultants or servants in relation to any obligation or service in connection with these Terms;
- (e) any failure of any of your computer or electronic systems or networks to perform, be available or successfully transmit data to IBA, or any error or inadequacy in the data or information input into such systems or networks by you;
- (f) any delays in processing any Order including, for example, as a result of systems or market delays, or due to verification procedures or unauthorised processes or due to call waiting time or adherence to internal policies and procedures;
- (g) anything lawfully done by IBA in accordance with these Terms;
- (h) IBA or any agent of or sub-custodian appointed by IBA acting in accordance with any instruction, request or direction given by you;
- (i) IBA complying with any direction, request or requirement of Applicable Law, any financial market or CS Facility, any government body or any regulatory body having jurisdiction over IBA;
- (j) and in connection with or in any way related to, IBA in good faith accepting and acting on instructions received by facsimile transmission, email or by other means which are signed by or purported to be signed by you or any authorised person;
- (k) out of IBA or a Sub-custodian holding any of the Financial Products in its name; or
- (l) payable in connection with the acquisition of any Financial Product or in relation to any calls or demands for payments (including unpaid capital) in respect of them.

**27. DEFAULT**

**27.1** Each of the following constitutes a Default:

- (a) Subject to (b) and (c), you fail to pay, or provide security for, amounts payable to IBA when due and which amounts are not of a minor or inconsequential nature;
- (b) you fail to pay any amounts due in respect of any Transaction entered into pursuant to these Terms;
- (c) you fail to perform any obligation arising pursuant to the exercise of an option contract or the settlement of a contract which arises pursuant to a Transaction;
- (d) you fail to comply with any limit or restriction imposed on you by IBA in connection with your Account (for example, a restriction on the kind, volume or value of Transactions or outstanding liabilities or satisfy margin requirements);
- (e) any security provided by you which is binding on your assets becomes enforceable and the holder of that security takes any step to enforce the security in a manner which adversely impacts on your ability to meet your obligations to IBA;
- (f) any representation or warranty which you give under or pursuant to these Terms is or becomes incorrect or misleading in any material way and you fail to notify IBA and remedy the inaccuracy within a reasonable time;
- (g) you become bankrupt;
- (h) you enter into a composition or scheme of arrangement for the benefit of creditors;
- (i) if a body corporate:
  - (i) you go into liquidation, voluntarily or otherwise (except for the purpose of reconstruction), or you or another person appoint a liquidator, receiver, administrator or official manager in respect of your assets;
  - (ii) a director has not, if requested by IBA, given a valid deed of guarantee and indemnity in respect of your obligations under these Terms in favour of IBA and in a form acceptable to IBA; or
  - (iii) you have not notified IBA of a change of any director within 10 days of the change taking effect; or
  - (iv) You had not notified IBA of a Change of Control 14 days prior to implementing the change;
- (j) if you are acting on behalf of another person pursuant to authority provided by such other person, the authority is varied in a way which negatively impacts on or restricts your authority or capacity to perform your obligations under these Terms;
- (k) if you are a trustee, the relevant fund or trust of which you are trustee is terminated, vests or a distribution of capital of the trust or fund is made which would result in there being insufficient assets of the trust or fund to meet your liabilities under these Terms or any Transaction;
- (l) if a natural person, you die or become of unsound mind or if you or your estate is liable to be dealt with in any way under any law relating to mental health;
- (m) you impose a moratorium on payments to creditors or cease, or threaten to cease, carrying on business;

- (n) if you fail to make a payment due to the Clearing Participant or deliver any documents or security holder information to the Clearing Participant or otherwise comply with the settlement obligations that you owe to the Clearing Participant;
- (o) the occurrence of any other event referred to in an applicable Addendum as constituting a Default or which IBA and you have agreed constitutes a Default or which you have agreed with us in this document or any particular Addendum which entitles us to take action under the Terms, or
- (p) you otherwise materially breach these Terms, whether by act or omission, and such breach is not remedied within a reasonable period of time upon notification to you of the said breach.

27.2 If a Default occurs, IBA may, in addition to any other rights which IBA may have against you (including rights in other parts of the Terms), take any action, or refrain from taking action, which it considers reasonable in the circumstances in connection with Transactions entered into pursuant to these Terms and, without limitation, IBA may:

- (a) cancel any outstanding Orders;
- (b) enter into one or more Transactions to effect the close out of one or more unsettled Transactions or open positions;
- (c) settle any Transaction which has not at the time of Default settled;
- (d) in the case of open positions which involve option contracts, exercise one or more of those option contracts or abandon any one or more option contracts not yet exercised;
- (e) cover in whole or in part open positions by entering into further Transactions;
- (f) take any other action a reasonably prudent broker, intermediary or principal might take in the circumstances to protect IBA's personal obligation incurred when dealing on your behalf;
- (g) sell (or arrange for the sale of) any or all of your property (including, but not limited to any property provided as security in favour of IBA, any property that is held by IBA or a nominee on your behalf or sub-custodian), in accordance with these Terms and apply the proceeds towards satisfaction of monies owing by you to IBA;
- (h) apply any money that you have deposited with, or which is held by, a CS facility or IBA, or in any Account, any trust account or clients' segregated account, and to which you are entitled, by way of set-off;
- (i) immediately, or at a later time, terminate these Terms, one or more Addendums, one or more Accounts or sub-accounts, one or more Transactions or any combination of these;
- (j) realise or enforce any security or guarantee provided by you or in respect of your obligations to IBA;
- (k) convert any or all amounts owing by you to IBA or by IBA to you in a foreign currency into Australian currency or any other currency;
- (l) calculate any or all amounts owing by you to IBA and declare such amount immediately due and payable; or
- (m) exercise any other rights conferred by Applicable Laws or these Terms or perform any other obligations arising under Applicable Laws or these Terms in respect of your Transactions.

In respect of any action which IBA takes, or refrains from taking under this clause 27.2, IBA will use commercially reasonable endeavours to provide notice to you. Where IBA takes, or refrains from taking an action under this clause, you must account to IBA as if IBA took, or refrained from taking, the action on your instructions and, without limitation, you are liable for any deficiency and are entitled to any surplus which may result.

- 27.3 In exercising any right of sale of any property, IBA may sell (or arrange for the sale of) the property:
- (a) either by public auction, private treaty or tender;
  - (b) for cash or on credit;
  - (c) in one lot or in parcels;
  - (d) with or without special conditions or stipulations as to title or time or mode of payment or purchase money or otherwise;
  - (e) with power to allow the whole or any part of the purchase money to be deferred (whether with or without any security);
  - (f) whether or not in conjunction with the sale of any property to any person; and
  - (g) upon such other terms and conditions as IBA may consider appropriate.

IBA is not liable for any Loss occasioned by a sale of the property.

- 27.4 Upon any sale purporting to be made in the exercise of the powers conferred by these Terms or otherwise, no purchaser will be:
- (a) bound to ask whether any Default has been made or otherwise as to the propriety or regularity of any sale; or
  - (b) affected by express notice that any such sale is unnecessary or improper.

Despite any irregularity or impropriety in any such sale, the sale will be deemed to be authorised by such powers, as regards the protection of the purchaser or other party to any such dealing or disposal, and will be valid accordingly.

## 28. **GST**

### 28.1 Rules for interpreting this document

- (a) Words defined in the GST Law have the same meaning in this clause, unless the context makes it clear that a different meaning is intended.
- (b) All monetary amounts stated in this document, are exclusive of GST (unless otherwise stated).

### 28.2 Liability for GST

In addition to paying the fees or any other consideration or amount (**original amount**, which is exclusive of GST) payable by you to IBA for any supply made by IBA under this document, you must:

- (a) pay to IBA an amount calculated by multiplying the original amount by the prevailing GST rate (rate specified in the GST Law) in respect of any supply by IBA under or in connection with this document, without deduction or set-off of any other amount; and

- (b) make that payment as and when the fees or other consideration or amount, or part of it, must be paid or provided, or otherwise on demand.

28.3 Tax invoice

IBA must issue a tax invoice or an adjustment note to you for any supply or adjustment event for which IBA may recover an amount for GST from you under this document, and must include in the tax invoice or adjustment note the particulars required by the GST Law for you to obtain an input tax credit for that GST.

28.4 Adjustment events

You shall pay IBA an amount equal to any GST payable as a result of any adjustment event. IBA must refund to you any overpayment by you for GST, but IBA need not refund to you any amount for GST paid to the Commissioner of Taxation unless IBA has received a refund or credit of that amount.

28.5 GST on claims

- (a) If a payment to satisfy a claim or a right to claim under or in connection with this document (including any payments made under paragraphs (b) and (c) below) gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (b) If a party has a claim under or in connection with this document for a cost on which that party must bear GST, the claim is for the cost plus any GST for which that party is not entitled to an input tax credit.
- (c) If a party has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

29. **NOTICES**

29.1 Where IBA is obliged to provide prior notice to you under these Terms, such notices may be given by IBA to you or any person notified by you as your agent or authorised person, by being sent to the address, fax number or email address notified by you, or by posting the notice on IBA's website or through the IB System.

29.2 Where IBA provides notice to you, it is received when it is actually received and when given by more than one means, it is taken to be received on the earliest occurrence of actual receipt.

29.3 Notwithstanding 29.2, in the absence of prior actual receipt, notice given by IBA will always be taken to have been received on the Business Day following the transmission or posting of the notice, demand or confirmation.

29.4 Notices given by you must be in writing and sent to an address specified by IBA in the Financial Services Guide by post or on its website, or as otherwise specified by IBA. A notice given by you is taken to have been given at the time it is actually received by IB.

29.5 Where an account is opened in the joint names of more than one person, each person agrees that IBA may discharge any obligation IBA has to give a notice or a document to those persons under these Terms or Applicable Laws by giving notice to any one of those persons.

30. **TERMINATION**

- 30.1 Without limiting clause 27.2 and subject to any outstanding obligations which are undischarged as at the time of termination, either party may terminate these Terms at any time by giving 7 days' notice to the other party save that IBA may terminate with less or no notice if required to comply with Applicable Law.
- 30.2 The termination of these Terms does not affect outstanding obligations under these Terms which remain undischarged at the time of termination.
- 30.3 Each indemnity provided within these Terms survives the termination of these Terms.
- 30.4 You or IBA may terminate an Addendum within these Terms at any time and for any reason by giving notice to the other, without terminating another Addendum of these Terms. Termination of an Addendum under this Section 30 does not affect outstanding obligations under these Terms which are undischarged at the time of termination, either under the terminated Addendum or otherwise. Each indemnity in these Terms survives the termination of any Addendum.
- 30.5 Upon termination of these Terms (or a relevant Addendum) under clause 30.4, and without limiting clause 27.2, IBA:
- (a) may do one or more of the following:
    - (i) cancel any outstanding Orders;
    - (ii) enter into one or more Transactions to effect the close out of one or more unsettled Transactions or open positions (and, where IBA has entered into a Transaction with you as principal, determine the value at which the Transaction or Transactions will be closed out);
    - (iii) settle any Transaction which has not at the time of termination settled;
    - (iv) exercise any other rights IBA has under these Terms;
    - (v) do, or refrain from doing, anything else which IBA considers reasonable in the context of these Terms (or part thereof) having been terminated; and
  - (b) will if applicable, within a reasonable time and subject to any lien IBA may exercise, transfer or cause to be transferred those Financial Products for which it is custodian according to your instructions, provided that IBA is in good faith able to arrange and is legally allowed to make such transfer.

31. **AUTOMATIC CLOSURE OF ACCOUNT**

- 31.1 Where your Account's aggregate balance is zero for a period of not less than 135 days, IBA may automatically close your Account without prior notice to you.
- 31.2 Without limiting clause 30, these Terms will be terminated upon the automatic closure of your Account described in clause 31.1.

32. **AMENDMENT**

- 32.1 These Terms may be amended by IBA from time to time, for instance, where required by Applicable Law or as reasonably necessary to protect IBA's legitimate business interests.
- 32.2 You agree that IBA, acting reasonably, may amend this Agreement by providing,
- (a) Generally, or if the amendment is disadvantageous to you, a minimum of 10 days' prior notice of the amended Agreement, or

- (b) If the amendment is not disadvantageous to you or if the amendment is necessary to protect IBA from loss, damages, legal or regulatory action or non-compliance with Applicable Law, notice that the amendment is effective immediately,

in writing via post or electronically via email or through the IB System, or through any other reasonable means.

32.3 Your (or your agent's) use of the IB System after such notice constitutes acceptance of the amended Agreement.

32.4 Each time that you (or your agent) place(s) an Order with IBA or utilize the IB System, you affirm your acceptance of, and agreement to, these Terms.

### 33. **SEVERANCE AND NON-WAIVER**

33.1 If any of these Terms or part thereof are invalid and not enforceable in accordance with their terms, such terms or part thereof shall be read down to the extent necessary to be valid and enforceable, and all other terms or part thereof which are self-sustaining and capable of separate enforcement without regard to the invalid term are and continue to be valid and enforceable. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, in whole or in part, then you and IBA will be relieved of all obligations arising under such provision, but only to the extent that it is illegal, unenforceable or void, and you and IBA agree that this Agreement will be deemed amended by modifying such provision to the minimum extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefor another provision that is legal and enforceable and achieves the same objectives.

33.2 Failure of IBA to enforce any term or condition of this Agreement is not a waiver of the term or condition. No provision of this Agreement can be waived without the written consent of IBA.

### 34. **GOVERNING LAW**

These Terms are governed by the law in force in New South Wales and you and IBA submit to the non-exclusive jurisdiction of the courts of New South Wales and courts which may hear appeals from those courts.

### 35. **TIME IS OF THE ESSENCE**

Time is of the essence under these Terms.

### 36. **ASSIGNMENT**

36.1 You consent to any assignment or novation by IBA of any rights and obligations, wholly or individually, under these Terms: by IBA to an Affiliate as part of a business reorganisation; pursuant to a business sale, in whole or in part; if you are in default of any payment obligation; or to comply with any regulatory obligation. IBA agrees to provide 10 business days' prior written notice of such assignment or novation, unless such assignment or novation must be exercised with less or no prior notice in order to protect a legitimate business interest or comply with an Applicable Law.

36.2 These Terms shall inure to the benefit of IBA's successors and assigns.

36.3 You may not assign or novate any of your rights or obligations under these Terms without IBA's express prior written consent.

## **ADDENDUM [A] - TRADING IN CASH MARKET PRODUCTS AND DERIVATIVES PRODUCTS (ASX AND CBOE AUSTRALIA)**

### **1. INTRODUCTION**

- 1.1 The following terms will apply to you in addition to the Terms and form part of the contract between you and IBA regarding Transactions in respect of Cash Market Products and Derivatives Products. You agree to be bound by these terms, each time you place an Order with IBA to deal in Cash Market Products and Derivatives Products.
- 1.2 You acknowledge and agree that all dealings in respect of Cash Market Products, Derivatives Products, and Derivative CCP Contracts and the performance by IBA of its obligations under these Terms are subject to the Corporations Act 2001 (Cth), the ASIC Market Integrity Rules, the Rules of the Relevant Financial Market, the ASX Clear Operating Rules, the ASX Settlement Operating Rules and any other directions, decisions and requirements of the Relevant Financial Market and their related entities and the customs, usages and practices of the Relevant Financial Market and their related entities, as amended from time to time, in so far as they apply to the Transactions in respect of Cash Market Products, Derivatives Products and Derivative CCP Contracts.

### **2. INTERPRETATION**

- 2.1 In this Addendum [A], the following terms have the following meanings:

**ASX** means ASX Limited, or the market operated by ASX Limited, as the case may be.

**ASX Clear** means ASX Clear Pty Ltd, or the CS Facility operated by ASX Clear Pty Ltd as the context requires.

**ASX Clear Operating Rules** means the operating rules of ASX Clear, as amended from time to time.

**ASX Settlement** means ASX Settlement Pty Limited.

**ASX Settlement Operating Rules** means the operating rules of ASX Settlement, as amended from time to time.

**Cash Cover** has the meaning given to it in the ASX Clear Operating Rules.

**Cash Market Product** means a Cash Market Product as defined in the ASIC Market Integrity Rules (Securities Markets) 2017 traded on a Relevant Financial Market and includes quoted securities, managed investment products and warrants.

**Cboe** means Cboe Australia Pty Ltd, or the market operated by Cboe Australia Pty Ltd, as the case may be.

**Clearing Participant** means (a) in respect of all Cash Market Product Transactions, the participant of ASX Clear Pty Limited appointed by IBA to clear the Transactions as set out in clause 3.5 and (b) in respect of all Derivative Product Transactions, IBA who is a participant of ASX Clear Pty Limited as set out in clause 4.18.

**Collateral** has the meaning given to it in ASX Clear Operating Rules.

**Corporations Act** means *Corporations Act 2001* (Cth).

**Cover** has the meaning given to it in the ASX Clear Operating Rules and generally means Cash Cover and Collateral.

**Derivatives CCP Contract** means a contract which arises as between the IBA and ASX Clear under the ASX Clear Operating Rules when a Derivatives Transaction is registered with ASX Clear in an account of the IBA.

**Derivatives Product** means a Derivatives Market Contract as defined in the Corporations Act or ASX Clear Operating Rules, as the context requires.

**Derivatives Transaction** means a Transaction in Derivatives Products executed on or reported to a Relevant Financial Market.

**Relevant Financial Market** means the financial market operated by ASX and/or Cboe (as the case may be).

**Rules** means the rules governing trading on a Relevant Financial Market, as amended from time to time, including the operating rules of ASX and Cboe.

**Transaction** means a transaction for the sale and purchase of Cash Market Products and Derivatives Products.

**Warrant** has the meaning given to that term in the ASIC Market Integrity Rules (Securities Markets) 2017 as the context requires.

**Warrant-Issuer** in relation to a Warrant, has the meaning given in the ASIC Market Integrity Rules (Securities Markets) 2017 as the context requires.

2.2 Capitalised terms used herein that are not defined in this Addendum or the Terms, have the meaning given to them in the ASIC Market Integrity Rules, ASX Operating Rules, Cboe Operating Rules or ASX Clear Operating Rules as the context requires.

2.3 To the extent of any inconsistency between a provision in this Addendum [A] and a provision in IBA's General Terms and Conditions, the provision in this Addendum [A] applies.

### 3. **DEALING IN CASH MARKET PRODUCTS**

#### 3.1 **Short selling**

(a) You acknowledge that IBA may not enable your account to undertake short selling or may restrict you from short selling in its absolute discretion. You also acknowledge and agree that you must not submit a short sell Order to IBA and that IBA will not accept or execute a short sell Order in respect of a Financial Product to which this addendum applies for you unless you have accepted and agreed to Addendum [D].

(b) In the event that there is a failure to deliver to IBA the relevant Financial Products required to settle a transaction entered into on your behalf by the settlement date, IBA may cancel, close out or terminate the Transaction or buy-in the Financial Products necessary to settle the Transaction entered into on your behalf and will do so at your cost.

#### 3.2 **Cancellations**

You acknowledge that Transactions in respect of Cash Market Products may be cancelled or amended by the operator of the Relevant Financial Market in accordance with the Rules and the Applicable Laws and authorise IBA to request or agree to the cancellation or amendment of Transactions without your consent.

#### 3.3 **Partly paid securities**

- (a) For the purposes of this clause 3.3, a "**Partly Paid Security**" means a Cash Market Product for which the holder may be liable to pay a call or instalment in accordance with the terms of issue and for which an amount remains unpaid. A Partly Paid Security does not include a Cash Market Product issued by a no liability company.
- (b) In its absolute discretion, IBA may allow you to instruct IBA to deal in Partly Paid Securities on your behalf.
- (c) IBA is not obliged to deal in Partly Paid Securities on your behalf and may reject your instruction to deal in Partly Paid Securities without providing a reason.
- (d) If you instruct IBA to deal in Partly Paid Securities on your behalf, you acknowledge and agree to the following terms:
  - (i) you are aware that a Partly Paid Security is a Financial Product which may require you to make a further payment or payments at some time in the future;
  - (ii) you are aware that it is your responsibility to obtain and read a copy of the prospectus, product disclosure statement or information memorandum issued by an issuer which sets out the particular features of, and rights and obligations attaching to, a Partly Paid Security before you place an order to buy a Partly Paid Security;
  - (iii) you are aware that you may be liable for further payments on a Partly Paid Security and that a failure to make a further payment by the specified date(s) may result in an issuer of a Partly Paid Security or their associates or agents taking action, including legal action, against IBA to recover the outstanding payments and/or may result in the forfeiture of your entitlement to the Partly Paid Security;
  - (iv) you are aware that in certain circumstances you may be liable to make a further payment on a Partly Paid Security despite the fact that you may have disposed of a Partly Paid Security prior to the date that a further payment falls due;
  - (v) you are aware that you should monitor announcements made by the issuer of a Partly Paid Security and that it is your responsibility to inform yourself of the date or circumstances that a further payment falls due and the last day you can dispose of the Partly Paid Security before you are liable for a further payment;
  - (vi) you are aware that the amount of a further payment may be unrelated to the financial performance of a Partly Paid Security and that the amount of the further payment may exceed the intrinsic value of a Partly Paid Security at the time a further payment falls due; and
  - (vii) you acknowledge that an obligation on you in relation to a Partly Paid Security including an obligation to make further payments, does not give rise to a claim against the Relevant Financial Market or the Securities Exchanges Guarantee Corporation Limited.

**[ASIC MIR (Securities) 3.1.9; ASX OR Appendix 3801-4]**

#### 3.4 **Acknowledgement when dealing in warrants**

- (a) The terms set out in this clause 3.4 apply if you instruct IBA to deal in warrants on your behalf.

- (b) This clause 3.4 contains important acknowledgments that IBA is required to obtain from you before you submit any Order to deal in warrants.
- (c) You acknowledge that:
  - (i) you have received and read the relevant ASX explanatory booklet on Warrants which is available on the ASX website (titled "Understanding Warrants" as at the date of these Terms, or as subsequently varied or amended) and the explanatory booklet published by Cboe in respect of Warrants which is available on the Cboe website (titled "Investing In Warrants Booklet" as at the date of these Terms, or as subsequently varied or amended);
  - (ii) a Warrant has a limited life and cannot be traded after its expiry date;
  - (iii) Warrants do not have standardised terms of issue and that it is your responsibility to become aware of the terms of issue of any warrant in which you choose to invest;
  - (iv) Warrants may be subject to adjustments after their initial issue and that it is your responsibility to become aware of any adjustments which may have been made to any warrant in which you choose to invest;
  - (v) you are aware that admission by the Relevant Financial Market of a Warrant to trading status does not imply that the Relevant Financial Market or the Securities Exchange Guarantee Corporation Limited gives any guarantee or warranty as to the viability of the warrant issuer or guarantor; and
  - (vi) the failure of the Warrant Issuer or the guarantor (if applicable) to fulfil their obligations does not give rise to a Claim against the Relevant Financial Market, handling market participants (including IBA) or the Securities Exchange Guarantee Corporation Limited.

**[ASIC MIR (Securities) 3.1.8; ASX OR Appendix 3801-3]**

**3.5 Execution, clearing and settlement arrangements**

- (a) All Transactions in Cash Market Products executed by IBA shall be cleared by:

BNP PARIBAS  
Company Number: 000000117  
AFSL 402467  
Level 6, 60 Castlereagh Street, SYDNEY NSW 2000  
+61 2 9222 0204

(For this section 3.5, "Clearing Participant")
- (b) Notwithstanding that the Cash Market Product Transaction may have been entered into on your behalf, the Clearing Participant (and not IBA) carries the clearing obligation, any settlement obligations and any other obligations which are ancillary to such purposes for all Cash Market Products Transactions of IBA, including Transactions entered into on your behalf, and must settle as principal with the clearing facility or the relevant counter-party even though the Transaction was entered into on your behalf.
- (c) The terms and conditions of the agreement between you and the Clearing Participant in respect of, among other things, the settlement of Transactions

executed for you by IBA are contained in the third party clearing disclosure statement given to you by IBA.

- (d) You owe obligations to the Clearing Participant in relation to the clearing and settlement of the Transactions.
- (e) The Clearing Participant has rights against you in the event that:
  - (i) you fail to pay the amounts due in respect of the Transactions;
  - (ii) you fail to fulfil your settlement obligations in respect of the Transactions

**[ASIC MIR (Securities) 3.1.4]**

- (f) In respect of any obligations you owe to the Clearing Participant, under this clause 3.5, you appoint and authorise IBA and each of its officers and employees severally as your attorney (with full power of substitution) in order to execute or procure any document, security holder information, collateral, settlement monies and Financial Products and deliver any such documents, security holder information, collateral, settlement monies and Financial Products to the Clearing Participant as required for settlement of the Cash Market Products Transactions entered into on your behalf.
- (g) You acknowledge that:
  - (i) In the event that you have not paid any amount due to the Clearing Participant under your agreement with the Clearing Participant in relation to any Transaction entered into on your behalf, the Clearing Participant may, without notice to you, assign that debt to IBA.

If the Clearing Participant assigns to IBA any such debt, IBA will, as agent of the Clearing Participant, provide notice to you whereupon such debt will be an obligation owed by you to IBA and IBA will have all of the rights against you in respect of that debt which the Clearing Participant had, in addition to the rights set out in the this Addendum and the Terms.

**3.6 Best execution policy**

In respect of Cash Market Transactions, you acknowledge and agree that your Order or instruction will be executed in accordance with IBA's Best Execution Policy. If not already provided, a copy of IBA's Best Execution Policy is available on IBA's website.

**4. DEALING IN DERIVATIVES PRODUCTS**

**4.1 General**

- (a) The terms set out in this clause 4 contain provisions which, in addition to the other applicable terms, govern dealings by IBA in Derivatives Products with you or on your behalf. To the extent of any inconsistency between this clause 4 and the other terms, this clause 4 prevails in relation to Derivatives Products.

**[ASIC MIR (Securities) 3.1.7(a)]**

- (b) You and IBA, and any dealings between us in relation to Derivative CCP Contracts, are subject to, and bound by the Corporations Act, the Rules, the ASX Clear Operating Rules, and the procedures, customs, usages and practices of the Relevant Financial Market, ASX Clear and their related entities, as amended from time to time, in so far as they apply to Derivatives Products traded on the Relevant Financial Market or Derivative CCP Contracts as the case may be.

**[ASX OR Appendix 3801-2, clause 1; ASX Clear OR Schedule 5 s5.1]**

**4.2 Customer documentation (retail investors only) and other acknowledgements**

- (a) You acknowledge that you have received and read each current explanatory booklet published by ASX in respect of Derivative Products (including exchange traded options available on the ASX website titled "Understanding Options" as at the date of these Terms, or as subsequently varied or amended, and where applicable, Low Exercise Options Explanatory Booklet titled "LEPOs Low Exercise Price Options Explanatory Booklet" as a the date of these Terms, or as subsequently varied or amended).
- (b) You acknowledge you have received and read a copy of:
  - (i) the product disclosure statement prepared by IBA in respect of Options; and
  - (ii) any other client documentation given to you under the Market Integrity Rules, ASX Operating Rules or the Corporations Act (these documents can be obtained by accessing [Home | Interactive Brokers Australia Pty. Ltd.](#);

**[ASIC MIR (Securities) 3.1.7(1)(b); ASX Clear OR Schedule 5 s5.3]**

- (c) You acknowledge that trading in Derivatives Products incurs a risk of loss as well as a potential for gain.
- (d) You acknowledge that you have read and understood the details of the contract specifications of the Derivatives Products in which IBA will deal on your behalf and the documents given to you as set out in this clause 4.2.
- (e) You acknowledge that you have given consideration to your objectives, financial situation and needs and have formed the opinion that dealing in Derivatives Products is suitable for your purposes.
- (f) You agree not to breach, either alone or in concert with others, the position or exercise limits referred to in an explanatory booklet or of which IBA otherwise notifies you. You acknowledge IBA's rights to close out any Derivative Products if you fail to pay any margin or other payment required by IBA in respect of those Transactions or otherwise as advised by IBA.
- (g) Orders for exchange traded options expire at the time or in the manner specified in the Order, or as set out on IBA's website.

**[ASX Clear OR Schedule 5 S5.3]**

**4.3 Authority**

- (a) You acknowledge that you are either:
  - (i) acting as principal; or
  - (ii) acting as intermediary on another's behalf and are specifically authorised to enter into Derivative Products, by the terms of:
    - (A) an Australian financial services licence held by you;
    - (B) a trust deed (if you are a trustee); or
    - (C) an agency contract.

**[ASIC MIR (Securities) 3.1.7(1)(c)]**

**4.4 Customer to provide information**

You will take all reasonable steps to deliver information or documentation to IBA, or cause information or documentation to be delivered to IBA concerning Derivative Products which are requested by a person having a right to request such information or documentation. IBA is authorised to produce the information or documentation to the person making the request.

**[ASX OR Appendix 3801-2 para(3); ASX Clear OR Schedule 5 s5.2]**

**4.5 Nature of IBA's obligations**

(a) Notwithstanding that IBA may act in accordance with your instructions or for your benefit, you acknowledge that IBA incurs obligations and contracts as principal in respect of any Derivative Product arising from an Order submitted by IB.

**[ASIC MIR (Securities) 3.1.7(1)(d)(i); ASX Clear OR Schedule 5 S5.4]**

(b) Upon registration of an Derivative Product with ASX Clear in the name of IBA as Clearing Participant (at which time a Derivative Product is created for each contract the subject of the Derivative Product), you acknowledge that IBA as Clearing Participant incurs obligations to ASX Clear as principal, even though IBA may have entered into the Derivative Product on your instructions.

**[ASIC MIR (Securities) 3.1.7(1)(d)(i); ASX Clear OR Schedule 5 S5.4]**

**4.6 Rights of Customer**

You acknowledge that any benefit or right obtained by the IBA as Clearing Participant upon registration of a Derivative Product with ASX Clear by novation of a contract under the ASX Clear Operating Rules or any other legal result of registration is personal to IBA as Clearing Participant and the benefit of that benefit, right or legal result does not pass to you. You have no rights, whether by way of subrogation or otherwise, against the Relevant Financial Market or ASX Clear in relation to any dealings by IBA in Derivative Products.

**[ASX OR Appendix 3801-1 para(3); ASX Clear OR Schedule 5 S5.4]**

**4.7 Dealing as principal**

You acknowledge that IBA may, in certain circumstances permitted under the Corporations Act and the Rules, take the opposite position in a Derivative Product, either acting for another customer or on its own account.

**[ASIC MIR (Securities) 3.1.7(1)(d)(ii); ASX Clear OR Schedule 5 S5.5]**

**4.8 Commissions and fees**

You must pay to IBA commissions, fees, taxes and charges in connection with dealings for you in Derivatives Contracts at the rates determined by IBA from time to time and notified to you in writing via the IBA website or through any methods IBA considers reasonable.

**[ASIC MIR (Securities) 3.1.7(1)(d)(iii); ASX OR Appendix 3801-2 para(2); ASX Clear OR Schedule 5 S5.8]**

**4.9 Tape recording of conversations**

You acknowledge that IBA may record telephone conversations between you and IBA. If there is a dispute between you and IBA, you have the right to listen to any recording of those conversations.

**[ASIC MIR (Securities) 3.1.7(1)(d)(iv); ASX Clear OR Schedule 5 S5.10]**

#### 4.10 **Appointment of ASX Clear and its directors and managers as agent**

You irrevocably appoint severally ASX Clear, and every director, manager and assistant manager for the time being of ASX Clear, at the option of ASX Clear to do all acts and execute all documents on your behalf for the purposes of exercising the powers conferred on ASX Clear under the ASX Clear Operating Rules including, without limitation, the power to transfer or close out an open Derivative Product if IBA commits an event of Default.

**[ASX Clear OR Schedule 5 S5.10]**

#### 4.11 **Right to refuse to deal**

You acknowledge that IBA may at any time refuse to deal in, or may limit dealings in, Derivatives Products for you. IBA is not required to act in accordance with your instructions where to do so would constitute a breach of the Rules, the ASX Clear Operating Rules or the Corporations Act. IBA will notify you of any refusal or limitation as soon as practicable.

**[ASIC MIR (Securities) 3.1.7(1)(d)(v) and (vi); ASX OR Appendix 3801-2 para(4); ASX Clear OR Schedule 5 S5.4]**

#### 4.12 **Client funds and property**

- (a) IBA will deal with any money and property, deposited with, or received by IBA in connection with dealing in Derivatives in accordance with the Corporations Act and the Rules.
- (b) You acknowledge that your monies and the monies of other customers will or may, as applicable, be combined and deposited by IBA in a client trust account or a clients' segregated account. You acknowledge that all monies credited to the clients' segregated account that IBA maintains may be used by IBA to meet the default of any client of IBA.

**[ASIC MIR (Securities) 3.5.1, 3.5.2; ASIC MIR (Futures) 2.2.5; ASX Clear OR Schedule 5 S5.15]**

#### 4.13 **Deposits and margins**

- (a) In addition and subject to clause 18 of the Terms, you also acknowledge that:
  - (i) IBA may call for payment of money or the provision of other security which IBA considers, in its absolute discretion, appropriate in connection with the obligations incurred by IBA in respect of Derivative CCP Contracts entered into for your account and you must pay such amounts or provide such security. The time by which you must pay any amount called or provide security is of the essence and you must pay the amounts or provide the relevant security immediately or otherwise within the time specified by IBA from time to time, and if no other time is stipulated by IBA then you are required to comply within twenty-four (24) hours.

**[ASIC MIR (Futures) 2.2.5 (b); ASX Clear OR Schedule 5 S5.6]**

- (ii) You acknowledge that IBA is entitled to call for payment of money which exceeds the amount which IBA is required to provide to ASX Clear in respect of transactions in Derivatives Contracts on your behalf. Your liability for margin calls is not limited to the amount, if any, deposited with IBA.
- (iii) IBA may, in its absolute discretion, vary its deposit or margin requirements. IBA is not obliged to apply the deposit requirement applicable of ASX Clear, provided that IBA calls the minimum deposit required by ASX Clear.
- (iv) If you fail to meet any call or lodge collateral, then IBA may (without prejudice to any other rights or powers under the Terms) in its absolute discretion (but is not obliged to) close out, without notice, all or some of your Derivative Products.
- (v) You must pay in cash any deficit owing to IBA after close out of Derivative Products for whatever reason. If you do not pay that deficit, IBA may (among other things) realise any Financial Products held or otherwise controlled by IBA and apply the proceeds against that deficiency, and you irrevocably authorise IBA to take such action as is necessary to give effect to this clause.
- (vi) You agree to indemnify IBA against any obligation it may have (in respect of a Derivative Product entered into on your account) to pay any amount to ASX Clear or any other person as a deposit or margin.

#### 4.14 **Options and Other Rights' Expiration**

- (a) Prior to the start of the last trading day before expiration, you agree to close out any outstanding long or short option position or other rights position (including but not limited to equity options, exchange traded fund options and non-cash settled futures options) that you hold for which you have insufficient equity or may have insufficient equity at expiration of the option position or other rights position to exercise (or to be assigned with) such position and to hold the resulting underlying position in your Account.
- (b) If you have not closed out a long or short option or other rights position prior to the start of the last trading day before expiration, and if IBA in its sole discretion determines that you have or may have insufficient equity to hold the underlying position in your Account upon expiration, you authorise IBA, in its sole discretion, to do any or all of the following:
  - (i) close out some or all of the options or rights position prior to expiration;
  - (ii) lapse some or all of the options (i.e., instruct that they not be exercised), even if in-the-money at expiration; or
  - (iii) allow some or all of the options to be exercised/assigned and then liquidate the resulting position.
- (c) IBA may automatically exercise your open option contract if your contract is in the money, in its absolute discretion and in accordance with the Applicable Laws, but it is not obliged to do so. All unexercised option contracts will expire on the expiry date.
- (d) You acknowledge that IBA has the right, but not the obligation, to do any or all of the above.

#### 4.15 **Default**

- (a) In addition to clause 27.1 of the Terms, each of the following also constitutes a Default:
- (i) you fail to pay the amounts due, or provide security for, in respect of a Derivative Product;
  - (ii) you fail to perform any obligation arising pursuant to the exercise or settlement of a Derivative Product;
  - (iii) a guarantee lodged by you, or lodged by a third party at your request, in favour of IBA or ASX Clear and pursuant to the Rules is withdrawn without IBA's consent or becomes ineffective and other replacement security acceptable to IBA is not provided;
  - (iv) you engage in conduct such that a reasonably prudent broker would be of the view that you would be unable to comply with all of your obligations under the Terms, including but not limited, strict compliance with any time limits; or,
  - (v) you fail to pay the amounts due in respect of a transaction in Derivative Product.

**[ASX Clear OR Schedule 5 S5.7]**

- (b) If a Default occurs, IBA may, in addition to any other rights which IBA may have against you (including rights in other parts of the Terms) , without giving prior notice to you, take any action, or refrain from taking action, which it considers reasonable in the circumstances in connection with Derivative Products registered in your account and, without limitation, IBA may:
- (i) enter into one or more Transactions to effect the close out of one or more Derivative CCP Contracts in accordance with the ASX Clear Operating Rules;
  - (ii) exercise one or more Derivative CCP Contracts in accordance with the ASX Clear Operating Rules;
  - (iii) cover in whole or in part open positions by entering into further Derivative CCP Contracts;
  - (iv) sell (or arrange for the sale of) any or all of your property (including, but not limited to any Collateral lodged with ASX Clear or IBA, any property that is held by IBA or a nominee), in accordance with these Terms and apply the proceeds towards satisfaction of monies owing by you to IBA;
  - (v) apply any Cover or other monies that you have deposited with ASX Clear or IBA by way of set-off;
  - (vi) do any other things IBA is able to do under the Terms as if a reference in the Terms to your failure to meet any of your obligations included a reference to a Default; and
  - (vii) exercise any other rights conferred by the Rules or the Terms or perform any other obligations arising under the Rules or the Terms in respect of those Derivative Products.

You must account to IBA as if those actions were taken on your instructions and, without limitation, you are liable for any deficiency and are entitled to any surplus which may result.

**[ASX Clear OR Schedule 5 S5.7]**

- (c) IBA may sell (or arrange the sale of) any Collateral in accordance with section 27.3 of the Terms.

**4.16 Clearing arrangement**

All Derivative Transactions shall be executed and cleared by IBA.

**[ASIC MIR (Securities) 3.1.4A]**

**4.17 Termination**

- (a) Either you or IBA may terminate this Addendum in respect of Derivative Products by giving notice in writing to the other. Termination of the Addendum in respect of Derivative Products will be effective upon receipt of the notice by the other party in accordance with the Terms.
- (b) Termination of this Addendum in respect of Derivative Products does not affect the existing rights and obligations of you or IBA at termination, and does not terminate any other part of these Terms. Upon termination, IBA will close out all Derivatives Contracts it holds for your Account, unless, in accordance with a direction from you, those contracts are to be transferred to another Clearing Participant in accordance with the Rules.

**[ASX OR Appendix 3801-1 para(6); ASX OR Appendix 3801-2 para(5); ASX Clear OR Schedule 5 S5.11-S5.12]**

**4.18 Revised terms prescribed by ASX**

- (a) If ASX or ASX Clear, as case may be, prescribes amended minimum terms for a client agreement for Derivative Product for the purposes of the Rules (the **New Terms**), to the extent of any inconsistency between these minimum terms and the New Terms, the New Terms will override the terms of this Addendum [A] and apply as if you and IBA had entered into agreement containing the New Terms.
- (b) IBA will provide a copy of the New Terms to you as soon as practicable after ASX prescribes the New Terms.

**[ASX OR Appendix 3801-2 para (6)-(7); ASX Clear OR Schedule 5 S5.13-14]**

**4.19 Change of Participant**

- (a) If you receive a Participant Change Notice from IBA and the Participant Change Notice was received at least 20 Business Days prior to the date proposed in the Participant Change Notice for the change of Participant, you are under no obligation to agree to the change of participant, and may choose to do any of the things set out at 4.19(i) or (ii):
  - (i) You may choose to terminate this Clause 4 of Annexure [A] ("Clause 4") in accordance with 4.19 above or by giving instructions to IBA indicating that you wish to transfer the Derivative Products to another participant; or
  - (ii) If you do not take any action to terminate this Clause 4 and do not give any other instructions to IBA which would indicate that you do not agree to the change of participant then, on the Effective Date, this Clause 4 will have taken to be novated to the new participant and will be binding on all parties, as if on the Effective Date:

- The new participant is a party to this Clause 4 in substitution for IBA;
  - Any rights of the IBA are transferred to the new participant; and
  - IBA is release by you from any obligations arising on or after the Effective Date.
- (b) The novation under 4.19(a)(ii) will not take effect until you have received a notice from the new participant confirming that the new participant consents to acting as the participant for you. The Effective Date may as a result be later than the date set out in the Participant Change Notice.
- (c) You will be taken to have consented to the events referred to in 4.19(a)(ii) by the doing of any act which is consistent with the novation of this Clause 4 with the novation of this Clause 4 to the new participant (for by giving instructions to the new participant), on or after the Effective Date, and such consent will be taken to given as of the Effective Date.
- (d) This Clause 4 continues for the benefit of the IBA in respect of any rights and obligations accruing before the Effective Date and, to the extent that any or provision of any agreement makes the novation not binding or effective on the Effective Date, then this Clause 4 will continue for the benefit of the IBA until such time as the novation is effective, and the IBA will hold the benefit of this Clause 4 on trust for the new participant.
- (e) Nothing in this Clause 4 will prevent the completion of Derivative Products and Derivative CC Contracts by IBA where the obligation to complete those transactions arises before the Effective Date and this Clause 4 will continue to apply to the completion of those Derivative Products, notwithstanding the novation of this Clause 4 to the new participant under 4.19.

***[ASX Clear OR Schedule 5 S5.16]***

5. **TAPE RECORDING**

You acknowledge that your telephone conversation with IBA can be recorded by IBA. If there is a dispute or anticipated dispute between you and IBA, you have the right to listen to any recording of those conversations.

***[ASIC MIR (Securities) 3.1.7(d)(iv); ASX Clear OR Schedule 5 S5.9]***

## **ADDENDUM [B] - ASX 24 FUTURES**

### **1. INTRODUCTION**

- 1.1 The terms set out in this Addendum [B] apply if you instruct IBA to execute Transactions in respect of Financial Products on ASX 24.
- 1.2 IBA is a participant of ASX 24 and ASX Clear (Futures).
- 1.3 You and IBA are bound by the Corporations Act, the ASIC Market Integrity Rules (Futures Markets) 2017, the Operating Rules of ASX 24 and ASX Clear (Futures) and the customs, usages and practices of ASX 24 and ASX Clear (Futures) in relations to Transactions in respect of futures contracts on ASX 24.

**[ASX 24 OR Procedure 3801(a); ASX Clear (Futures) Operating rules 4.14j(i)]**

### **2. INTERPRETATION**

- 2.1 In this Addendum [B], the following terms have the following meanings:

**ASX 24** means Australian Securities Exchange Limited, or the market operated by Australian Securities Exchange Limited, as the case may be.

**ASIC Market Integrity Rules (Futures Markets)** means the ASIC Market Integrity Rules (Futures Markets) 2017, as amended from time to time.

**ASX 24 Operating Rules** means the operating rules of ASX, as amended from time to time.

**ASX Clear (Futures)** means ASX Clear (Futures) Pty Ltd.

**ASX Clear (Futures) Operating Rules** means the operating rules of ASX Clear (Futures), as amended from time to time.

**Commodity Future** means a futures contract over an underlying commodity.

**Transaction** means a sale, purchase, opening or closing transaction in respect of futures contracts which are able to be traded on the ASX 24.

- 2.2 Capitalised Terms used herein that are not defined in this Addendum or the Terms, have the meaning given to them in either of the ASX 24 Market Integrity Rules, ASX 24 Operating Rules or ASX Clear (Futures) Operating Rules.
- 2.3 To the extent of any inconsistency between a provision in this Addendum [B] and a provision in IBA's General Terms and Conditions, the provision in this Addendum [B] applies.

### **3. CLIENT TO PROVIDE INFORMATION**

You will, upon IBA's request, provide all information and documentation relevant to Transactions, to IBA and IBA is authorised by you to provide that information and documentation to either or all of ASX 24, ASX Clear (Futures) or ASIC.

**[ASIC MIR (Futures Markets)2.2.5(1)(a); ASX 24 OR Procedure 3801(b); ASX Clear (Futures) Operating rules 4.14j(ii)]**

### **4. REGISTRATION OF CONTRACTS WITH ASX CLEAR (FUTURES)**

- 4.1 IBA will arrange for Transactions in respect of Financial Products able to be traded on ASX 24 to be registered with ASX Clear (Futures) in its own name.
- 4.2 Any benefit or right obtained by IBA upon registration of a Transaction with ASX Clear (Futures) by way of assumption of liability of ASX Clear (Futures) under any Transaction or any other legal result of such registration is personal to IBA and the benefit of such benefit or right does not pass to you.

**[ASX 24 OR Procedure 3801(c); ASX Clear (Futures) Operating rules 4.14j(iii)]**

5. **IBA'S LIABILITY**

In relation to all Transactions conducted on ASX 24 by IBA and all Transactions registered by IBA with ASX Clear (Futures) you have no rights whether by way of subrogation or otherwise, against any person or corporation other than IBA.

**[ASX 24 OR Procedure 3801(d); ASX Clear (Futures) Operating rules 4.14j(iv)]**

6. **APPOINTMENT OF ATTORNEY**

You agree to appoint the Managing Director of ASX Clear (Futures) as your attorney to do all things necessary to transfer any open position held by IBA on your behalf to another Trading Participant (or another Clearing Participant) where IBA's participant status (as Clearing Participant or Trading Participant) has been suspended or terminated.

**[ASX 24 OR Procedure 3801(e); ASX Clear (Futures) Operating rules 4.14j(vi)]**

7. **MARGINS**

- 7.1 You acknowledge and agree that the following terms apply in addition and subject to clause 18 of the Terms in respect of the Transactions governed by this Addendum [B]:
- (a) IBA may call for payment of margin, such money or property (or call for the lodgement of Approved Securities in lieu thereof) as IBA, in its absolute discretion, feels is necessary to protect itself from the personal obligation incurred under Transactions entered into on your behalf;
  - (b) should you fail to meet the call (or lodge Approved Securities) then IBA may (without prejudice to any other rights or powers under these Terms) in its absolute discretion, and without creating an obligation to do so, close out, without notice, all or some of your Transactions;
  - (c) the time for payment of margins is of the essence and IBA requires you to meet the obligation immediately. If no other time is stipulated by IBA prior to calling a margin then you are required to comply within twenty-four (24) hours;
  - (d) liability to pay the Initial Margin accrues at the time the Transaction is executed regardless of when the call is made;
  - (e) liability to pay Variation Margin accrues at the time the margin comes into existence regardless of when a call is made;
  - (f) you are responsible to pay in cash any deficit owing to IBA after closure and that if you default in payment of such deficit, IBA may realise any securities held by IBA and apply the proceeds against that deficiency;

**[ASIC MIR (Futures Markets) 2.2.5(1)(b); ASX Clear (Futures) Operating rules 4.14j(v)(A)-(F)]**

- (g) that if IBA accepts Approved Securities in lieu of the payment of margin(s) for a Transaction, such Approved Securities shall be retained by IBA until such time as your liability is extinguished either by the relevant contracts being Closed Out or payment being made by a Buyer or delivery in accordance with the Rules being effected by a Seller, and, if your liability is not extinguished, then the Approved Securities may be realised by IBA and the proceeds applied against that liability.

***[ASIC MIR (Futures Markets) 7.2.5(2)(a) and (b)]***

- 7.2 You acknowledge that IBA may, in accordance with the Corporations Act, pay or apply any margin received from you, or other monies due to you in respect of Transactions under this Addendum [B], to a CS Facility to meet IBA's obligations to the facility in connection with those Transactions.

**8. COMMODITY OPTIONS AND FUTURES**

- 8.1 You acknowledge that commodity options cannot be exercised and must be closed out and for futures contracts that settle only by physical delivery (including currencies not on IBA's Deliverable Currency List), you cannot make or take physical delivery.

- 8.2 If you have not closed out a commodity option or a deliverable futures position prior to the close-out deadline applicable to such product (such deadlines are set out on [IBA's website]) you hereby authorise IBA to, in its absolute discretion, close out any open position you hold in a commodity option or deliverable futures position or liquidate any position or commodity resulting from the exercise of the commodity option or deliverable futures contract prior to expiration in accordance with its close-out deadlines, and you acknowledge that you are liable for all losses and costs incurred by IBA in connection with your failure to comply with close-out requirements under these Terms.

- 8.3 Subject to 8.1 and 8.2, you also acknowledge that:

- (a) The nature of the Grain Futures Contracts and the Underlying Commodity
  - (i) ASX Clear (Futures) operates a clearing and settlement facility for deliverable Futures Contracts over an Underlying Commodity which is grain;
  - (ii) Under the ASX Clear (Futures) Operating Rules, a Clearing Participant which is a Seller under a Futures Contract must ensure that ASX Clear (Futures) holds, prior to the settlement of the contract be effecting delivery of the Underlying Commodity, an Interest in the Underlying Commodity and that Interest will be held by ASX Clear (Futures) for the benefit of that Clearing Participant;
  - (iii) ASX Clear (Futures) will hold the Interest in the Underlying Commodity for the benefit of a Clearing Participant which is a Buyer where the Buyer has taken delivery in accordance with the ASX Clear (Futures) Operating Rules;
  - (iv) ASX Clear (Futures) will not generally take or make actual physical delivery of the Underlying Commodity from or to a Clearing Participant;
  - (v) the Underlying Commodity in which ASX Clear (Futures) holds the Interest is held by a Bulk Handler in a Delivery Depot and the physical storage, transfer and physical delivery of the Underlying Commodity is governed by the terms of the relevant Bulk Handler Agreements;
  - (vi) the Bulk Handler will hold the Underlying Commodity for a number of Clients of the Bulk Handler (one of which is ASX Clear (Futures)) and will recognise the interest of ASX (Futures) in the stored Underlying Commodity with the other Clients of the Bulk Handler (as owners in common);

- (vii) the Bulk Handler will only recognise ASX Clear (Futures)'s Interest and is not bound to recognise that ASX Clear (Futures) may hold the Interest, or any part of the Interest, for the benefit of a Clearing Participant or for you;
- (viii) ASX Clear (Futures) may deal with, and exercise all rights attached to, its Interest in accordance with the ASX Clear (Futures) Operating Rules and any Bulk Handler Agreement and need not, subject to the ASX Clear (Futures) Operating Rules, have regard to any interest the Client or Clearing Participant might have in the Underlying Commodity; and
- (ix) ASX Clear (Futures) has no obligation to insure any Interest or any Underlying Commodity represented by that Interest.

(b) No representations and warranties

You acknowledge that neither the Exchange nor ASX Clear (Futures) makes any warranty or representation to the Client or the Trading Participant:

- (i) concerning the quality or suitability for any purpose of any Underlying Commodity or the correspondence of any Underlying Commodity with any description or sample;
- (ii) that any Bulk Handler Agreement or any similar agreement between the Bulk Handler and any other person is valid or enforceable;
- (iii) that the interest conferred on ASX Clear (Futures) under any Bulk Handler Agreement is a valid and enforceable interest or that it confers on or through ASX Clear (Futures) a proprietary interest in the relevant Underlying Commodity; or
- (iv) Concerning the suitability or financial viability of, or the services provided by, the Bulk Handler.
- (v) The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded from any contract created or contemplated by the ASX 24 Operating Rules.

(c) Instructions

IBA will notify you of procedures for you to give instructions for the lodgement of tender documentation prior to the settlement of Open Contracts including, without limitation, the latest time at which those instructions will be accepted.

(d) Pre-settlement arrangements for Sellers

Prior to you instructing IBA to settle a Grain Futures Contract by effecting delivery of the Underlying Commodity, the Client must have transferred, or procured the transfer, through a Clearing Participant to ASX Clear (Futures) an Interest in the Underlying Commodity at least two Business Days prior to instructing the Trading Participant to effect tender in accordance with the ASX Clear (Futures) Operating Rules and Clearing Procedures.

(e) Authority

If you transfer or deliver, or provide for transfer or delivery, of the Underlying Commodity to the IBA to enable the IBA to meet its obligations to ASX Clear (Futures) under the ASX Clear (Futures) Operating Rules, you represent and warrant to each IBA that:

- (i) it has capacity and authority to transfer or deliver (as applicable) the Underlying Commodity to the Clearing Participant;

- (ii) the Clearing Participant is authorised to transfer or deliver (as applicable) the Underlying Commodity (or an interest in the Underlying Commodity) to ASX Clear (Futures); and
- (iii) the Underlying Commodity (or an interest in the Underlying Commodity) is free from any encumbrance or lien.

- (f) Conversion of "old season grain" to "new season grain"

You acknowledges that the Bulk Handler Agreement may give ASX Clear (Futures), as the holder of the Interest, the right to convert "old season grain" to "new season grain" and that IBA is, under the ASX Clear (Futures) Operating Rules, required to indemnify ASX Clear (Futures) against any costs and expenses incurred by ASX Clear (Futures) where ASX Clear (Futures) exercises any right in respect of such conversion.

- (g) ASX Clear (Futures) directions

You acknowledge that ASX Clear (Futures) may make a direction to IBA to either:

- (i) accept the transfer from ASX Clear (Futures) of all or part of the Interest which ASX Clear (Futures) holds for the benefit of the Clearing Participant; or
- (ii) accept physical delivery from ASX Clear (Futures) (or its agent) of all or part of the Underlying Commodity represented by that Interest.

The Client also acknowledges that if the ASX Clear (Futures) Clearing Participant does not comply with a direction of that kind from ASX Clear (Futures), ASX Clear (Futures) has powers under the ASX Clear (Futures) Operating Rules to dispose of the Interest or the Underlying Commodity represented by the Interest.

- (h) Clearing Participant directions

Where the IBA holds or receives the Underlying Commodity or any interest in the Underlying Commodity for the benefit of the Client, the Client must in turn comply with any direction given in connection with the holding, transfer or delivery of the interest or the Underlying Commodity which the Clearing Participant considers necessary to comply with its obligations under the ASX Clear (Futures) Operating Rules or any agreement between the Clearing Participant and a Bulk Handler. The Trading Participant may take all necessary steps, including the execution of all necessary documents, to give effect to that direction.

***[ASX 24 OR Procedure -Grain Futures Client Agreement Minimum terms]***

## 9. EXCHANGE DATA

You acknowledge in relation to data made available by ASX 24, that:

- (a) data made available to you by access to electronic order entry facilities is not the property of IBA and remains the valuable property of ASX 24; and
- (b) you are prohibited from publicly displaying, redistributing or re-transmitting the data in any way without having executed a Market Data Distribution Agreement or similar agreement with ASX 24.

***[ASX 24 OR Procedure 3801(f); ASX Clear (Futures) Operating rules 4.14j(vii)]***

## 10. TAPE RECORDING

You acknowledge that your telephone conversation with IBA can be recorded by IBA. If there is a dispute or anticipated dispute between you and IBA, you have the right to listen to any recording of those conversations.

**[ASIC MIR (Futures) 2.2.5(1)(c); ASX Clear (Futures) Operating rules 4.14j(viii)]**

11. **RIGHT TO REFUSE TO DEAL**

You acknowledge that IBA reserves the right to refuse to deal on your behalf in relation to any Transactions (other than closing out existing open positions held in IBA's account on your behalf) or limit the number of open positions held on your behalf or both. IBA will inform you of any refusal at or before the time of you placing the Order or as soon as possible thereafter.

**[ASIC MIR (Futures) 2.2.5(1)(d); ASX Clear (Futures) Operating rules 4.14j(ix)]**

12. **TERMINATION AND CLOSING OUT**

You acknowledge that:

- (a) without affecting any existing obligations or liabilities, either you or IBA may terminate this Addendum [B] at any time by giving the other notice in writing to that effect; and
- (b) upon termination of this Addendum [B] that unless otherwise agreed in writing, IBA will close out all your futures contracts and close out, abandon or exercise any options not yet exercised.

**[ASIC MIR (Futures) 2.2.5(1)(e); ASX Clear (Futures) Operating rules 4.14j(x)]**

## **ADDENDUM [C] - FOREIGN FINANCIAL MARKET TRANSACTIONS**

### **1. INTRODUCTION**

- 1.1 The terms set out in this Addendum [C], in addition to IBA's General Terms and Conditions, apply if you instruct IBA to execute International Transactions.
- 1.2 You acknowledge and agree that all International Transactions and the performance by IBA of its obligations under these Terms in connection with such International Transactions are subject to the rules of the relevant International Financial Market, and any other directions, decisions and requirements of the relevant International Financial Market and their related entities and the customs, usages and practices of the relevant International Financial Market and their related entities, as amended from time to time, and any other Applicable Laws, and that these may differ from the laws, rules, customs and usages of Australian markets.

### **2. INTERPRETATION**

- 2.1 Explanation of terminology

In this Addendum [C], terms such "lend", "borrow" or "deliver" or "re-deliver" or similar, are used to reflect market standard terminology. Notwithstanding the use of such terms, when an International Security is lent by IBA to the you and borrowed by you from IBA, such arrangement constitutes the effective and valid transfer of full legal and beneficial ownership of the subject International Security free of any charge, lien, claim, encumbrances or other interests other than commonly imposed by any clearing house.

- 2.2 In this Addendum [C], the following terms have the following meanings:

**Anticipated Short Sale** means, in relation to a sell Order, where the amount of International Security of a particular issuer which you have instructed IBA to sell exceeds the amount of such shares which IBA holds on your behalf (or expects to hold by the settlement date of sell trade).

**Borrow Request** means a request by you to borrow the International Securities from IBA.

**Borrowed International Security** means the International Securities you have borrowed from IBA under the International Security Loan.

**Collateral Amount** means the amount as per clause 6.2(b)(i)(B).

**Equivalent Securities** means, in respect of any particular International Security, securities of an identical type, nominal value, description and amount and which are part of the same issue and have the same rights to those shares lent to you by IBA under the International Security Loan; provided that where any securities have been converted, subdivided, consolidated, redeemed, made the subject of a takeover, merger, capitalisation issue, rights issue or event similar to any of the foregoing, IBA may reasonably determine what securities or other assets (which may include money or other property) are to be treated as "equivalent" for this purpose and "Equivalent Securities" shall be construed accordingly.

**International Derivatives** means a derivative within the meaning of the Corporations Act (including, without limitation, futures and options) which are able to be traded on an International Financial Market.

**International Securities** means a financial product traded on an International Financial Market and includes quoted securities, equity or debt securities, managed investment products, collective investment schemes, exchange traded funds, exchange traded notes and warrants.

**International Transaction** means a Transaction entered into, or reported to, an International Financial Market, and any Order to enter into such a Transaction.

**Short Position** means the position in International Securities resulting from the execution of a Covered Short Sale where you have the obligation to re-deliver Equivalent Securities to IBA.

**Short Sale Order** means an order to effect a short sale pursuant to this Addendum.

**International Security Loan** means the International Securities that IBA agrees to lend to you to cover your short sale.

2.3 Capitalised Terms that are not otherwise defined herein, have the meanings given in the Terms.

2.4 To the extent of any inconsistency between a provision in this Addendum [C] and a provision in IBA's General Terms and Conditions, the provision in this Addendum[C] applies.

### 3. EXECUTION, CLEARING AND SETTLEMENT ARRANGEMENTS

3.1 IBA will determine, in its discretion, the International Financial Markets in respect of which it will accept Orders. IBA may, in its discretion, withdraw a determination made in respect of one or more International Financial Markets and will, to the extent practicable, notify you in advance of any such determination.

3.2 If you place an Order with IBA to enter into an International Transaction, IBA may arrange for that Order to be executed by an International Financial Market Participant, which may be an Affiliate of IBA.

3.3 Where IBA arranges for the execution of Orders on International Financial Markets, such Transactions shall be cleared and settled by the relevant International Financial Market Participant or its nominated clearing agent, which may be an Affiliate of IBA. IBA may appoint a sub-custodian (which may be an IBA Affiliate) to arrange for International Financial Products acquired on your behalf to be held on your behalf under a sub-custody arrangement (and such Financial Products may be held together with the assets of other clients of IBA).

3.4 You are responsible for meeting all obligations arising in respect of each International Transaction entered into or arranged by IBA on your behalf. This means that you must meet these obligations to IBA in a time and manner which will enable IBA to meet its obligations to the relevant clearing and/or settlement participant responsible.

3.5 You appoint IBA and each of its officers and employees severally as your attorney (with full power of substitution) in order to execute or procure any document, security holder information, collateral or settlement monies and deliver any such documents, security holder information, collateral and settlement monies to the International Financial Market Participant or its nominee as required for completion of an International Transaction entered into or arranged by IBA on your behalf.

3.6 IBA will, acting reasonably, determine the amounts required to meet your obligations (including without limitation for settlement, premium payments, initial or variation Margins required by either of the relevant International Financial Market or the International Financial Market Participant), and amounts to which you may be entitled (including without limitation, on settlement) in relevant foreign currencies.

3.7 If you fail to pay any amounts due under this Addendum, IBA may charge interest on such unpaid amounts due accrued from the due date until the date the amount(s) are repaid in full at the regular margin rate specified on IBA's website.

**4. INTERNATIONAL SECURITIES – SHORT SELLING**

4.1 You acknowledge and agree that IBA will not execute a Short Sale Order in respect of a International Security for you except in accordance with this clause 4 or unless you and IBA have otherwise agreed in writing.

4.2 You acknowledge that IBA will only accept a Short Sale Order and allow you to maintain a Short Position if your Account meets IBA's margin requirements as set out in clause 18 of the Terms and that failure to remain in compliance with margin requirements imposed by IBA entitles IBA to take action with respect to your Account in accordance with clause 18 of the Terms, including liquidating positions.

4.3 IBA does not permit you to maintain a long and short position in a particular International Security concurrently in the same Account. Accordingly, when you create a sell Order in respect of particular International Security(ies) (i) we will first sell any existing International Securities we hold for you, if any, and (ii) you will then be taken to have made a Borrow Request for the number of International Securities required to cover the Anticipated Short Sale in order to complete the sell Order and (iii) we will treat the Anticipated Short Sale as a Short Sale Order.

4.4 Each time you place a Short Sale Order for an International Security:

(a) will be taken to have warranted and represented to IBA that the sale will meet the requirements and conditions of all Applicable Laws.

(b) acknowledge that,

(i) IBA will not execute a short sell Order in respect of an International Security for you unless:

(A) IBA believes it (or its Affiliate) can borrow the relevant International Security for delivery pursuant to your Borrow Request, and,

(B) if IBA (or its Affiliate) cannot borrow the relevant International Security (or re-borrow after a recall notice), that IBA may (but is not obliged to) buy the relevant International Security on your behalf, without notice to you, to cover your short positions,

and,

(ii) you are liable for any losses and costs incurred in connection with any such short sale; and

(c) You acknowledge and agree that:

(i) notwithstanding the generality of clause 4.3(b)(i)(A), when you make a Borrow Request, IBA may, but is not obliged, to loan to you the entire amount of, or any other amount up to but not exceeding, the number of International Securities required to cover the Anticipated Short Sale and the actual number of International Securities that IBA agrees to lend to you may be less than the amount requested in the Borrow Request due to factors such as but not limited to: restrictions on the number of International Securities we are able to commit to lend at any given time, the terms of your Short Sale Order, other instructions received from you, and market conditions;

- (ii) only after IBA has committed to make the International Security Loan to you or buy the relevant International Security on your behalf, will IBA accept and execute your Short Sale Order, in full or in part to the extent covered by the International Security Loan ("Covered Short Sale"); the execution of the Covered Short Sale confirms IBA's agreement to make the International Security Loan and represents a firm and binding commitment to lend the International Security the subject of the loan in accordance with the terms set out in clause 5.
- (iii) Where IBA does not agree to a Borrow Request or agrees to buy the relevant International Security on your behalf for whatever reason, the Short Sale Order will not be accepted by IBA for execution.
- (d) If you fail to deliver, or procure the delivery of the relevant International Security to IBA (or its Affiliate) which is required to settle an International Transaction entered into on your behalf by the relevant settlement date for the transaction, IBA may cancel, close out or terminate the transaction and you must indemnify IBA and any Affiliate in respect of any cost, loss or damage they may incur (without limiting any indemnity otherwise provided under these Terms).

#### 4.5 **Close-out of Short Position**

- (a) To close-out the Short Position, you acknowledge that you must purchase, subject to any adjustments determined by IBA in accordance with clause 4.5(k)-(l), Equivalent Securities which must be returned to IBA free of any encumbrances, charges or interests (save those imposed by IBA). You acknowledge that you purchase such Equivalent Securities at the current market value(s) of such International Security which may be (considerably) different from the price you achieved for the sale of the International Securities for in the original Covered Short Sale. When you purchase the Equivalent Securities, such purchase will occur according to the Terms.
- (b) Upon the execution of the Order to close the Short Position, you will be taken to have elected to re-deliver Equivalent Securities to IBA and you authorise IBA to transfer to itself the Equivalent Securities (or another person at IBA's discretion) upon settlement of the Transaction.
- (c) Your obligation to deliver Equivalent Securities to IBA is not extinguished unless and until IBA (or any other person, as the case may be as IBA directs) actually receives the Equivalent Securities in accordance with any instructions provided by IBA for such re-delivery.

#### **Early re-delivery and Close-out**

- (d) IBA may call for re-delivery of all or any of the Equivalent Securities at any time. IBA may call for re-delivery of the Equivalent Securities including, but not limited to, where:
  - (i) IBA itself has borrowed the International Security the subject of the International Security Loan in order to lend such International Securities to you and that party (which may be an affiliate of IBA) has required re-delivery for any reason;
  - (ii) IBA requires re-delivery of the Equivalent Securities for the purposes of ensuring compliance with any Applicable Laws, including an relevant tax laws.
  - (iii) IBA is otherwise unwilling to continue the International Security Loan for any other reason.

- (e) Where IBA does recall the Equivalent Securities for re-delivery, you authorise IBA to close-out your Short Position without notice at your cost.

**Automatic close-out for failure to meet margin obligations**

- (f) IBA may close-out your Short Position on your behalf without notice to you if you fail to meet and remain in compliance with any margin requirements as applicable to your Account as determined by IBA in its absolute discretion.
- (g) You acknowledge and agree that we may charge our usual fees for this trade and that you are liable for the costs of IBA closing out your Short Position.

**Buy-in**

- (h) If you fail to re-deliver Equivalent Securities in accordance with this Addendum [C] for any reason, IBA may buy Equivalent Securities sufficient to cover all or some of your Short Position as it in its discretion decides is necessary ("buy-in").
- (i) If your failure to re-deliver Equivalent Securities under this agreement results in either IBA exercising its right to buy-in or, where IBA itself borrowed the International Security to you from a third party (which may be an Affiliate), a third party exercising a similar buy-in right as against IBA, then where IBA exercises the buy-in right, it will do so at your expense, or where a similar buy-in right has been exercised against IBA by a third party, you agree to indemnify IBA for all costs incurred in relation to such event.
- (j) You acknowledge and agree that IBA may apply any money it holds on your behalf and or convert to cash Financial Products which it holds on your behalf in order to realise money in order to enable it to exercise its right of buy-in and you are liable for all costs associated with the buy-in (including reimbursing IBA) and any default interest.

**Adjustments**

- (k) Where any Adjustment Event is notified to occur, then or prior to such occurrence, IBA may:
  - (i) adjust the terms of any International Security Loan, Short Sale Orders, or standing instructions given by you in order to preserve the economic equivalence of the rights and obligations of you and IBA; or,
  - (ii) require you to close-out your Short Position by requiring you to re-deliver Equivalent Securities or exercise its right of buy-in against you prior to the occurrence of such event as determined by IBA in its absolute discretion, with such discretion to be exercised on a reasonable commercial basis or take any other action it deems appropriate under the Terms.
- (l) For the purposes of this clause, an Adjustment Event means,
  - (i) A subdivision, consolidation, or reclassification of the International Security;
  - (ii) A merger, de-merger, consolidation of the International Security with or into another entity;
  - (iii) A distribution or dividend in relation to an International Security by way of a bonus, capitalisation or similar issue;
  - (iv) The announcement and or payment of a special dividend in respect of the International Security;

- (v) A redemption, cancellation or repurchase by the International Security issuer of its issued shares whether effected by out of profits, capital or in any other manner;
- (vi) A tender offer, exchange offer or bid offer or anything other similar offer in respect of the International Security;
- (vii) In respect of the issuer of the International Security, the occurrence or notice of
  - (A) The institution against the issuer of the International Security by any regulator, supervisor or authority with similar primary jurisdiction, any proceedings whether administrative or judicial;
  - (B) The institution of any against the issuer of the International Stock by any person, any proceedings in bankruptcy, insolvency or other similar action affecting creditors (and shareholders) rights; and,
- (viii) Any other event which IBA reasonably determines may have a dilutive or concentrative effect on the theoretical value of the International Security.

5. **INTERNATIONAL SECURITIES – INTERNATIONAL SECURITY LOAN**

(a) **International Security Loan**

- (i) On the settlement date, IBA will lend to you and you will borrow the International Security that is the subject of the International Security Loan ("Borrowed International Security") required to settle your obligations under the Covered Short Sale.
- (ii) IBA will deliver, or procure for the delivery of, the Borrowed International Security for the purposes of meeting your obligations to the relevant clearing participant for the International Transaction.

(b) **Collateral**

- (i) You acknowledge and agree that,
  - (A) Upon entering into the International Security Loan you are obliged to pay a Collateral Amount to IBA.
  - (B) You direct IBA to pay or transfer to itself by way of absolute transfer of title for its own benefit all proceeds from your Covered Short Sale or an equivalent amount from money or other property which IBA holds for your benefit, as it determines in its sole discretion, to meet your obligation to pay the Collateral Amount.
- (ii) Subject to a buy-in per clause 4.5(h)-(j), IBA will return the Collateral Amount only after you (or IBA) close your Short Position and minus any deductions IBA may be entitled to make for amounts due to it or required to pay for your dealings (including closing the Short Position).

(c) **Obligations of ordinary dividends on Borrowed Stock**

- (i) If during the International Security Loan the issuer of the International Security pays an ordinary cash dividend to holders, you agree you must pay to IBA an equivalent dividend amount in respect of each International Security borrowed.

- (ii) In order to make payment of the dividend amount, you authorise IBA to debit an equivalent dividend amount from monies held for or on your behalf on the dividend amount payment date and pay such amount to itself.
  - (iii) Your obligation to pay IBA an equivalent dividend amount will occur in relation to any International Security which you have borrowed from IBA where such Stock Loan exists at the close of business on the last day the International Security are traded on a 'cum-dividend' basis.
  - (iv) Your obligation to pay the equivalent dividend amount is due on the first day the International Security are quoted on an 'ex-dividend' basis ("Dividend Payment Date").
  - (v) Where the amount of the dividend in Australian dollars is not known for any reason, then IBA will determine such amount acting in good faith in a commercially reasonable manner and such determination will be final and binding on both parties.
  - (vi) IBA may determine, in its absolute discretion that the equivalent dividend amount should include an additional amount up to the value of any franking credit attached to the dividend. Without limiting any other grounds upon which IBA may exercise its discretion above, it may do so where,
    - (A) It incurs equivalent costs in hedging its obligations from your Covered Short Sale; or,
    - (B) It incurs equivalent costs in borrowing the International Security which it has lent to you under this agreement.
  - (vii) IBA undertakes to use reasonable efforts to borrow the International Security that it lends to you 'offshore' in order to minimise the impact of costs.
- (d) **Other distributions, rights and voting**
- (i) If during the International Security Loan, the issuer of the International Security makes any payment or other distribution, issues any rights or options or issues or declares any other rights or interests (including bonus shares) in relation to the International Security and the last day for qualification for such rights or interest falls during the period of the International Security Loan, then you must pay to IBA such amount (or an amount equivalent to the value of any such right or interest as determined by IBA in its sole discretion) or deliver to IBA an identical right or interest or bonus shares in relation to the International Security as we determine.
  - (ii) Any payment or delivery obligation you have under this clause is due and payable on the date of such payment or issue or on any other date as nominated and advised by IBA and you authorise IBA to debit from monies held for or on your behalf to make such payment to IBA.
- (e) **Obligation for redelivery of Equivalent Securities**
- (i) You agree that after IBA has delivered International Security in accordance 6.2(a) to meet your delivery obligation to the relevant clearing participant, you have an obligation to return Equivalent Securities to IBA. Your obligation under this clause is not satisfied unless and until IBA has taken delivery of the Equivalent Securities or the Default Value (as contemplated in clause 5(h)(ii)).
- (f) **Charges and Costs**

- (i) IBA charges fees for International Security Loans (“International Security Loan Fees”) and such fees are in addition to and separate from any brokerage payable on a sale International Transaction. The International Security Loan Fees and costs include the interest costs for the borrow and other charges and may vary depending on the availability of the particular International Security and or value of the International Security or other costs including government or bank charges, as set out on IBA’s website.

(g) **Termination**

- (i) You are entitled to terminate any International Security loan by closing out your Short Position in accordance with this Addendum, however any obligations you owe to IBA under this Addendum are not discharged or extinguished unless and until you make any and all payments or deliveries due to IBA under this Addendum or the Terms in relation to any International Security Loan or Interational Transaction herein contemplated.

(h) **Default**

- (i) If any Default occurs, IBA may terminate the International Security Loan without notice to you whereupon any obligations you (including your obligation to re-deliver to IBA Equivalent Securities) owe under this Addendum [C] become immediately due and/or payable, as the case may be.
- (ii) In lieu of re-delivery of Equivalent Securities, IBA may elect in its absolute discretion to receive an amount calculated in accordance with this clause in settlement of your obligation (“Default Value”). IBA will determine the Default Value as of the close of business on the business day of the Default, or if such day is not a business day, on the next business day. The Default Value includes all reasonable costs incurred, or that would be incurred, by IBA in acquiring Equivalent Securities should IBA choose to do so in its absolute discretion. In order to realise the Default Value, IBA may take any action under this Addendum or Terms, including liquidating other Financial Products held for you.

6. **INTERNATIONAL DERIVATIVES**

6.1 Customer acknowledgements

- (a) You acknowledge that trading in International Derivatives incurs a risk of loss as well as a potential for gain.
- (b) You acknowledge that you have read and understood the details of the contract specifications of each International Derivative in respect of which you place an Order with IBA.
- (c) You acknowledge that you have given consideration to your objectives, financial situation and needs and have formed the opinion that dealing in International Derivatives is suitable for your purposes.
- (d) You agree not to breach, either alone or in concert with others, any position or exercise limits of which IBA notifies you. You acknowledge IBA’s rights to close out any International Derivatives positions if you fail to pay any margin or to meet any

other payment obligation to IBA in respect of International Derivatives by the time required for payment.

## 6.2 **Options Expiry**

- (a) Prior to the start of the last trading day before expiry of any International Derivative which is an option position or a rights position (including but not limited to equity options, exchange traded fund options and non-cash settled futures options) (**Options**), you agree to close out any outstanding long or short Options position that you hold for which you have insufficient equity or may have insufficient equity at expiry to exercise (or to be assigned with) such position and to hold the resulting underlying position in your Account.
- (b) If you have not closed out a long or short Option position prior to the start of the last trading day before expiry, and if IBA in its sole discretion determines that you have or may have insufficient equity to hold the underlying position in your Account upon expiry, you authorise IBA, in its sole discretion, to do any or all of the following:
  - (i) close out some or all of the Options position prior to expiry;
  - (ii) allow some or all of the Options to lapse (i.e., instruct that they not be exercised), even if in-the-money at expiration; or
  - (iii) allow some or all of the Options to be exercised/assigned and then liquidate the resulting position.
- (c) IBA may automatically exercise an open Option position if the position is in the money, in its absolute discretion and in accordance with the Applicable Laws, but it is not obliged to do so. All unexercised Option positions will expire on the expiry date.

## 6.3 **Commodity Options and Futures**

- 6.4 You acknowledge that commodity options cannot be exercised and must be closed out and for futures contracts that settle only by physical delivery (including currencies not on IBA's Deliverable Currency List), you cannot make or take physical delivery.
- 6.5 If you have not closed out a commodity option or a deliverable futures position prior to the close-out deadline applicable to such product, such deadlines are set out on [IBA's website](#), you hereby authorise IBA to, in its absolute discretion, close out any open position you hold in a commodity option or deliverable futures position or liquidate any position or commodity resulting from the exercise of the commodity option or deliverable futures

## **ADDENDUM [D] - SHORT SELLING AGREEMENT – ASX AND CBOE AUSTRALIA MARKETS**

### **1. INTRODUCTION**

- 1.1 The following terms will apply in addition to the Terms and form part of the contract between you and IBA in respect of your Account if we allow short selling in your Account in shares traded on the ASX or Cboe Australia markets. By submitting an Order to short sell to IBA to short sell shares traded on the ASX or Cboe Australia markets you accept and agree to be bound by this Addendum [D]. To the extent of any inconsistency between this Addendum [D] and the Terms, this Addendum [D] prevails.

### **2. INTERPRETATION**

- 2.1 Explanation of terminology

In this Addendum [D], terms such “Lend”, “Borrow” or “deliver” or “re-deliver” or similar, are used to reflect market standard terminology. Notwithstanding the use of such terms, when a share is lent by IBA to the you and borrowed by the you from IBA, such arrangement constitutes the effective and valid transfer of full legal and beneficial ownership of the subject share free of any charge, lien, claim, encumbrances or other interests other than commonly imposed by any clearing house.

- 2.2 In this Addendum [D], the following terms have the following meanings:

**Anticipated Short Sale** means, in relation to a sell Order, where the amount of shares of a particular issuer which you have instructed IBA to sell exceeds the amount of such shares which IBA holds on your behalf (or expects to hold by the settlement date of sell trade).

**Borrow Request** means a request by you to borrow the Shares from IBA.

**Borrowed Stock** means the Shares you have borrowed from IBA under the Stock Loan.

**Cash Market Product** means a Cash Market Product (as defined in the ASIC Market Integrity Rules (Securities) 2017) traded on a Relevant Financial Market and includes quoted securities, managed investment products and warrants.

**Clearing Participant** has the meaning given in Addendum [A].

**Collateral Amount** means the amount as per clause 6.2(b)(i)(B).

**Equivalent Securities** means, in respect of any particular Shares, securities of an identical type, nominal value, description and amount and which are part of the same issue and have the same rights to those shares lent to you by IBA under the Stock Loan; provided that where any securities have been converted, subdivided, consolidated, redeemed, made the subject of a takeover, merger, capitalisation issue, rights issue or event similar to any of the foregoing, IBA may reasonably determine what securities or other assets (which may include money or other property) are to be treated as “equivalent” for this purpose and “Equivalent Securities” shall be construed accordingly.

**First Annual Anniversary** means a day that is twelve (12) months from a given date.

**Rules** means the rules governing trading on any relevant Financial Market, as amended from time to time, including the operating rules of ASX and Cboe Australia.

**Section 1020B Products** has the meaning given to that term in section 1020B of Corporations Act.

**Shares** means the quoted securities traded on the ASX or Cboe Australia.

**Short Position** means the position in particular Section 1020B products resulting from the execution of a Covered Short Sale where you have obligation to re-deliver Equivalent Securities to IBA.

**Short Sale Order** means an order to effect a short sale pursuant to this Addendum.

**Short Seller** means a 'seller' as described in section 1020AB of the Corporations Act 2001.

**Stock Loan** means the Shares that IBA agrees to lend to you to cover your short sale.

**Trading Day** means a day on which the market known as the ASX is open for trading.

2.3 Capitalised terms used in this Addendum [D] that are not defined herein, have the meaning given to them in the Terms.

### 3. CUSTOMER ACKNOWLEDGEMENTS

- (a) You acknowledge that each time you place a sell Order in respect of a Financial Product with IBA and notify IBA that the sell Order relates to a short sale (Short Sale Order), you will be taken to have warranted and represented to us that the sale will meet the requirements and conditions of the Applicable Laws including, without limitation, the Corporations Act, Corporations Regulations and ASIC Class Orders (if any) (as amended from time to time) relating to Covered Short Sales.
- (b) **Reporting:** You acknowledge you are required to comply with your obligation as a Short Seller to report certain Short Positions to the Australian Securities and Investments Commission, and any other regulatory body as required by the Rules.
- (c) **Risks:** You acknowledge that there are risks in short selling including but not limited to the risks that:
  - (i) a share price may increase and thereby move adversely to your short position and you can lose more money than you invested;
  - (ii) you may be forced at any time to re-deliver Equivalent Securities by purchasing them at a higher price than what was received for your Covered Short Sale;
  - (iii) you may be bought-in against at any time and this may occur at a time when the Shares you have short sold are at a price which is disadvantageous to you.
- (d) **Time limit of Stock Loan:** You acknowledge that notwithstanding any other provision of this Addendum [D], any Stock Loan made under this Addendum [D] may not exceed the First Annual Anniversary as from the date the Shares are borrowed from IBA.

### 4. CHARGES AND COSTS

- (a) IBA charges fees for stock loans ("Stock Loan Fees") and such fees are in addition to and separate from any brokerage payable on a sale Transaction. The Stock Loan Fees and costs include the interest costs for the borrow and other charges and may vary depending on the availability of the particular stock and or value of the stock or other costs including government or bank charges, as set out on IBA's website.
- (b) If you fail to pay any amounts due under this Addendum, IBA may charge interest on such unpaid amounts due accrued from the due date until the date the amount(s)

are repaid in full at the regular margin rate specified on IBA's website ("default interest").

5. **MARGINS**

- (a) You acknowledge that IBA will only accept a Short Sale Order and allow you to maintain a Short Position if your account meets IBA's margin requirements ('Short Stock margin') as set out in clause 18 of the Terms and that failure to remain in compliance with the margin requirements imposed by IBA entitles IBA to take action with respect to your Account in accordance with clause 18 of the Terms, including liquidating positions.

6. **SHORT SALE ORDERS AND STOCK LOANS**

6.1 **Short Sale Orders**

- (a) IBA does not permit you to maintain a long and short position in a particular share concurrently in the same Account. Accordingly, when you create a sell Order in respect of particular share(s) (i) we will first sell any existing shares we hold for you, if any, and (ii) you will then be taken to have made a Borrow Request for the number of shares required to cover the Anticipated Short Sale in order to complete the sell Order and (iii) we will treat the Anticipated Short Sale as a Short Sale Order.
- (b) You acknowledge and agree that,
- (i) when you make a Borrow Request, IBA may, but it is not obliged, to loan to you the entire amount of, or any other amount up to but not exceeding, the number of Shares required to cover the Anticipated Short Sale and the actual number of Shares that IBA agrees to lend to you may be less than the amount requested in the Borrow Request due to factors such as but not limited to: restrictions on the number of Shares we are able to commit to lend at any given time, the terms of your Short Sale Order, other instructions received from you and market conditions;
- (ii) Only **after** IBA has committed to make the Stock Loan to you will IBA accept and execute your Short Sale Order, in full or in part to the extent covered by the Stock Loan ("Covered Short Sale"); the execution of the Covered Short Sale confirms IBA's agreement to make the Stock Loan and represents a firm and binding commitment to lend the Shares the subject of the loan in accordance with the terms set out in clause 6.2.
- (iii) Where IBA does not agree to a Borrow Request for whatever reason, the Short Sale Order will not be accepted by IBA for execution.

6.2 **Stock Loan**

- (a) **Stock Loan**
- (i) On the settlement date, IBA will lend to you and you will borrow the Shares the subject of the Stock Loan ("Borrowed Stock") required to settle your obligations under the Covered Short Sale.
- (ii) IBA will deliver, or procure for the delivery of, the Borrowed Stock for the purposes of meeting your obligations to the Clearing Participant.
- (b) **Collateral**
- (i) You acknowledge and agree that,

- (A) Upon entering into the Stock Loan you are obliged to pay a Collateral Amount to IBA.
    - (B) You direct IBA to pay or transfer to itself by way of absolute transfer of title for its own benefit all proceeds from your Covered Short Sale or an equivalent amount from money or other property which IBA holds for your benefit, as it determines in its sole discretion, to meet your obligation to pay the Collateral Amount.
  - (ii) Subject to clause 8, IBA will return the Collateral Amount only after you (or IBA) close your Short Position and minus any deductions IBA may be entitled to make for amounts due to it or required to pay for your dealings (including closing the Short Position).
- (c) **Obligations for ordinary dividends on Borrowed Stock**
- (i) If during the Stock Loan the issuer of the Shares pays an ordinary cash dividend to holders, you agree you must pay to IBA an equivalent dividend amount in respect of each Stock borrowed.
  - (ii) In order to make payment of the Dividend Amount, you authorise IBA to debit an equivalent dividend amount from monies held for or on your behalf on the Dividend amount payment date and pay such amount to itself.
  - (iii) Your obligation to pay IBA an equivalent dividend amount will occur in relation to any Shares which you have borrowed from IBA where such Stock Loan exists at the close of business on the last day the Shares are traded on a 'cum-dividend' basis.
  - (iv) Your obligation to pay the equivalent dividend amount is due on the first day the Shares are quoted on an 'ex-dividend' basis ("Dividend Payment Date").
  - (v) Where the amount of the dividend in Australian dollars is not known for any reason, then IBA will determine such amount acting in good faith in a commercially reasonable manner and such determination will be final and binding on both parties.
  - (vi) IBA may determine, in its absolute discretion that the equivalent dividend amount should include an additional amount up to the value of any franking credit attached to the dividend. Without limiting any other grounds upon which IBA may exercise its discretion above, it may do so where,
    - (A) It incurs equivalent costs in hedging its obligations from your Covered Short Sale; or,
    - (B) It incurs equivalent costs in borrowing the Shares which it has lent to you under this agreement.
  - (vii) IBA undertakes to use reasonable efforts to borrow the Shares that it lends to you 'offshore' in order to minimise the impact of costs.
- (d) **Other distributions, rights and voting**
- (i) If during the Stock Loan the issuer of the Shares makes any payment or other distribution, issues any rights or options or issues or declares any other rights or interests (including bonus shares) in relation to the Shares and the last day for qualification for such rights or interest falls during the period of the Stock Loan, then you must pay to IBA such amount (or an amount equivalent to the value of any such right or interest as determined by IBA in its sole discretion)

or deliver to IBA an identical right or interest or bonus shares in relation to the Shares as we determine.

- (ii) Any payment or delivery obligation you have under this clause is due and payable on the date of such payment or issue or on any other date as nominated and advised by IBA and you authorise IBA to debit from monies held for or on your behalf to make such payment to IBA.

(e) **Obligation for redelivery of Equivalent Securities**

- (i) You agree that after IBA has delivered stock in accordance 6.2(a) to meet your delivery obligation to the Clearing Participant, you have an obligation to return Equivalent Securities to IBA. Your obligation under this clause is not satisfied unless and until IBA has taken delivery of the Equivalent Securities or the Default Value (as contemplated in clause 13.2).

7. **CLOSE-OUT OF SHORT POSITION**

- (a) To close-out the Short Position, you acknowledge that you must purchase, subject to any adjustments determined by IBA in accordance with clause 9, Equivalent Securities which must be returned to IBA free of any encumbrances, charges or interests (save those imposed by IBA). You acknowledge that you purchase such Equivalent Securities at the current market value(s) of such Shares which may be (considerably) different from the price you achieved for the sale of the Shares for in the original Covered Short Sale. When you purchase the Equivalent Securities, such purchase will occur according to the Terms.
- (b) Upon the execution of the Order to close the Short Position, you will be taken to have elected to re-deliver Equivalent Securities to IBA and you authorise IBA to transfer to itself the Equivalent Securities (or another person at IBA's discretion) upon settlement of the Transaction.
- (c) Your obligation to deliver Equivalent Securities to IBA is not extinguished unless and until IBA (or any other person, as the case may be as IBA directs) actually receives the Equivalent Securities in accordance with any instructions provided by IBA for such re-delivery.

7.2 **Early re-delivery and Close-out**

- (a) IBA may call for re-delivery of all or any of the Equivalent Securities at any time. IBA may call for re-delivery of the Equivalent Securities including, but not limited to, where:
  - (i) IBA itself has borrowed the Shares the subject of the Stock Loan in order to lend such Shares to you and that party (which may be an affiliate of IBA) has required re-delivery for any reason;
  - (ii) IBA requires re-delivery of the Equivalent Securities for the purposes of ensuring compliance with Section 26BC of the *Income Tax Assessment Act* (1936) (Cth); or,
  - (iii) IBA is otherwise unwilling to continue the Stock Loan for any other reason.
- (b) Where IBA does recall the Equivalent Securities for re-delivery, you authorise IBA to close-out your Short Position without notice at your cost.

**7.3 Automatic close-out for failure to meet margin obligations**

- (a) IBA may close-out your Short Position on your behalf without notice to you if you fail to meet and remain in compliance with any margin requirements as applicable to your Account including Short Stock margin as determined by IBA in its absolute discretion.
- (b) You acknowledge and agree that we may charge our usual fees for this trade and that you are liable for the costs of IBA closing out your Short Position.

**7.4 Automatic close-out before anniversary**

- (a) Where you hold a Short Position open at the beginning of the last Trading Day prior to the First Annual Anniversary of the opening of the Short Position, IBA may, without any notice to you, close-out such position (as adjusted) at the then current market price(s) for the Equivalent Securities.
- (b) You acknowledge and agree that we may charge our usual fees for this Transaction and that you are liable for the costs of IBA closing out your Short Position.

**8. BUY-IN**

- (a) If you fail to re-deliver Equivalent Securities in accordance with this Addendum [D] for any reason, IBA may buy Equivalent Securities sufficient to cover all or some of your Short Position as it in its discretion decides is necessary ("buy-in").
- (b) If your failure to re-deliver Equivalent Securities under this agreement results in either IBA exercising its right to buy-in or, where IBA itself borrowed the Shares the Stock Loan to you from a third party (which may be an Affiliate), a third party exercising a similar buy-in right as against IBA, then where IBA exercises the buy-in right, it will do so at your expense, or where a similar buy-in right has been exercised against IBA by a third party, you agree to indemnify IBA for all costs incurred in relation to such event.
- (c) You acknowledge and agree that IBA may apply any money it holds on your behalf and or convert to cash Financial Products which it holds on your behalf in order to realise money in order to enable it to exercise its right of buy-in and you are liable for all costs associated with the buy-in (including reimbursing IBA) and any default interest.

**9. ADJUSTMENTS**

9.1 Where any Adjustment Event is notified to occur, then or prior to such occurrence, IBA may:

- (a) adjust the terms of any Stock Loan, Short Sale Orders, or standing instructions given by you in order to preserve the economic equivalence of the rights and obligations of you and IBA; or,
- (b) require you to close-out your Short Position by requiring you to re-deliver Equivalent Securities or exercise its right of Buy-in against you prior to the occurrence of such event as determined IBA in its absolute discretion, with such discretion to be exercised on reasonable commercial basis or take any other action it deems appropriate under the Terms.

9.2 For the purposes of this clause, an Adjustment Event means,

- (a) A subdivision, consolidation, or reclassification of the Stock;
- (b) A merger, de-merger, consolidation of the Stock with or into another entity;

- (c) A distribution or dividend in relation to a Stock by way of a bonus, capitalisation or similar issue;
- (d) The announcement and or payment of a Special dividend in respect of the Stock;
- (e) A redemption, cancellation, or repurchase by the Stock issuer of its issued shares whether effected by out of profits, capital or in any other manner;
- (f) A tender offer, exchange offer or bid offer or anything other similar offer in respect of the Stock;
- (g) In respect of the issuer of the Stock, the occurrence or notice of
  - (i) The institution against the Issuer of the Stock by any regulator, supervisor or authority with similar primary jurisdiction, any proceedings whether administrative or judicial;
  - (ii) The institution of any against the issuer of the Stock by any person, any proceedings in bankruptcy, insolvency or other similar action affecting creditors (and shareholders) rights; and,
- (h) Any other event which IBA reasonably determines may have a dilutive or concentrative effect on the theoretical value of the Stock.

## 10. **CONSIDERATION**

10.1 For 26BC(3)(d) of the *Income Tax Assessment Act 1936*, you and IBA agree that

- (a) The Notifiable consideration that you pay to IBA in respect of the any Stock Loan under this Addendum is:
  - (i) Your promise to IBA to re-deliver Equivalent Securities to IBA pursuant to clause 6.2(e); and,
  - (ii) A fee for the purposes of section 26BC(3)(d)(iv)(A), being the Stock Loan Fee under clause 4(a); and,
  - (iii) other consideration for the purposes of section 26BC(3)(d)(iv)(C), specified in clauses 6.2(c) and (d); and,
  - (iv) The collateral amount specified in clause 6.2(b) transferred to IBA.

10.2 The consideration does not include any Notifiable consideration other than as specified in this clause. IBA will not dispose of (by transfer, declaration of trust or otherwise) the right to receive any part of the consideration referred to in this clause.

## 11. **REPORTING**

11.1 You represent and warrant to IBA that an order for the purposes of clause 6.1(c)(ii) is a Covered Short Sale for the purposes of section 1020AB of the Corporations Act 2001 (Cth).

11.2 You acknowledge and agree that IBA may assume the terms of the Stock Loan are conclusive information for the purposes of discharging all other reporting obligations in relation short selling in the Rules.

## 12. **TERMINATION**

12.1 You are entitled to terminate any Stock Loan by closing out your Short Position in accordance with this Addendum, however any obligations you owe to IBA under this

Addendum are not discharged or extinguished unless and until you make any and all payments or deliveries due to IBA under this Addendum or the Terms in relation to any Stock Loan or Transaction herein contemplated.

13. **DEFAULT**

13.1 If any Default occurs, IBA may terminate the Stock Loan without notice to you, whereupon any obligations you (including your obligation to re-deliver to IBA Equivalent Securities) owe under this Addendum [D] become immediately due and/or payable, as the case may be.

13.2 In lieu of re-delivery of Equivalent Securities, IBA may elect in its absolute discretion to receive an amount calculated in accordance with this clause in settlement of your obligation ("Default Value"). IBA will determine the Default Value as of the close of business on the business day of the Default, or if such day is not a business day, on the next business day. The Default Value includes all reasonable costs incurred, or that would be incurred, by IBA in acquiring Equivalent Securities should IBA choose to do so in its absolute discretion. In order to realise the Default Value, IBA may take any action under this Addendum or Terms, including liquidating other Financial Products held for you.

14. **USE OF NOMINEE**

14.1 Nothing in this Addendum should be construed as restricting IBA from entering into any transaction or effecting delivery, or accepting re-delivery of Shares (or Equivalent Securities) through its Nominee. Notwithstanding IBA's use of its Nominee, all obligations and rights in this Addendum exist as between you and IBA.