



# Terms and Conditions of Service

Pepperstone Limited

Company:	Pepperstone Limited
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## 1. Application

### Applying for an account

**Risk warning: Please note that trading in derivative financial contracts (including FX or forex and contracts for differences or CFDs) on a margin or leverage basis involves a high degree of risk to your capital and may not be appropriate for all investors. The price of the contract you make with us may change quickly due to market fluctuations that are outside our control, and your profits and losses may be more than the amount of your investment or funds. If the market moves against your position(s) or your margin levels are increased, you may be required to pay substantial additional funds on short notice to maintain your position. If you do not hold sufficient funds to meet your margin requirements, then we may close your open positions immediately and without notice, regardless of whether this would be at a loss.**

**Please read this Agreement carefully and discuss with us anything that you do not understand.**

- 1.1 You must complete an Application Form in order to apply for an Account. We will decide whether to accept your Account Application in our sole discretion.
- 1.2 Unless we agree otherwise, you agree to pay us a minimum initial amount of £100 in cleared funds and maintain those funds with us at all times. We will hold funds in accordance with clause 3.9.
- 1.3 If we accept your Application, we will:
  - (a) establish your Account; and
  - (b) if you are required to pay an initial amount under clause 1.2;
    - (i) require you to electronically transfer the amount to our segregated client funds account; and
    - (ii) once the funds have been cleared, credit your Account with the initial amount.
- 1.4 Your Account will be active once the steps in clause 1.3 have been completed.
- 1.5 You may apply for more than one Account.

### Term

- 1.6 These Terms commence once the steps in clause 1.3 have been completed and will remain in force unless terminated in accordance with these Terms.



## 2. Our Service

### Entry into contracts

- 2.1 If we accept an Order, we will enter into a Contract with you, provided that you comply with your obligations under these Terms.
- 2.2 A notice given by us stating any amount or rate for the purpose of these Terms and any Contract or Order is sufficient evidence of the amount or rate, unless it is proved to be incorrect.
- 2.3 We enter into each Contract as a principal. You enter into each Contract as principal (unless we otherwise agree in writing). If you act as an agent on behalf of a principal, we will not accept that principal as a client unless otherwise agreed in writing (whether or not you identify that principal to us).

### General advice

- 2.4 Any information or general advice that we give you about financial products is generic in nature and does not take into account your financial situation, needs or personal objectives. In particular, we do not give you advice about whether you should open, hold or Close-Out a Contract nor on the merits of any trade. You must consider the appropriateness of entering into a Contract having regard to your own financial situation, needs or personal objectives and obtain your own independent financial advice if necessary. You should not regard any of our materials or any communication (in any form) as investment advice or a recommendation.

### How we provide services

- 2.5 We quote Underlying Instrument Prices which provide an indication of the prices at which we are prepared to deal with you.

### Our trading hours

- 2.6 The Pepperstone Platform opens on Sunday at 5.01pm New York (EST) time and close at 4:55pm New York (EST) time Friday. You may view live prices and place live Orders during these hours except during rollover from 4:59pm to 5:01pm New York time, when trading is disabled. You may still access the Pepperstone Platform and view your Account, market information, research and our other services outside of these hours, but you acknowledge that you will not be able to trade or access any live prices.
- 2.7 We are under no obligation to quote Underlying Instrument Prices or accept Orders on a public holiday in any jurisdiction which, in our reasonable opinion, affects the relevant Underlying Instrument. We give notice of such public holidays and the Underlying Instruments affected on the Pepperstone Platform.



## 3. The Account

### Nature of account

- 3.1 Your Account is a record, or a series of records, maintained by us (or on our behalf) that shows, at any point in time, the net position of the payments you have made or are required to make to us and the payments we have made or are required to make to you. Your Account is not a deposit account with us and no money is held in the Account. Your Account is subject to our Order Execution Policy and risk warnings issued from time to time.

### Adjustments to amount on the account

- 3.2 You authorise and direct us and the Hedging Partner to:
- (a) debit from your Account any Free Balance you withdraw and any amounts payable by you under these Terms;
  - (b) credit to your Account any amounts deposited by you and any amounts payable by us under these Terms; and
  - (c) designate the amounts in your Account as either Free Balance or Actual Margin depending on the amounts you deposit with us, your Orders, Contract positions and market movements in accordance with these Terms.
- 3.3 We are not required to notify you before debiting, crediting or designating amounts on your Account.
- 3.4 You agree to maintain sufficient funds in your Account to satisfy all amounts payable by you under these Terms. It is your responsibility to ensure that any funds you transfer are cleared in sufficient time to meet all of your payment obligations under these Terms.

### Negative equity balances

- 3.5 Notwithstanding your obligations under clause 3.4, from time to time the Pepperstone Platform's automated stop-out procedures may not prevent your Account from incurring a negative equity balance due certain market conditions outside of our control. In these circumstances:
- (a) you will not be liable for any negative equity balance on your Account; and
  - (b) we will adjust your Account equity balance to zero within 1 Business Day.
- 3.6 If you find a negative equity balance on your Account that has not been corrected, please contact us at [support@pepperstone.com](mailto:support@pepperstone.com).
- 3.7 Negative balance protection is only available to you if you're classified as a Retail Client. Negative balance protection is not available to Professional Clients. Please refer to clauses 3.12 to 3.16 of these Terms for more information on client classification.



- 3.8 The protections set out in clause 3.5 do not apply:
- (a) to any commissions and charges incurred by you on your Account;
  - (b) if you are classified as a Professional Client or Eligible Counterparty; or
  - (c) if the negative equity balance on your Account has been incurred as a result of a breach by you of these Terms or any applicable market rules.

## Use of funds deposited with us

- 3.9 We deposit any funds paid by you into our segregated client funds account held with a CRD credit institution.
- 3.10 We may hold funds you pay to us with financial institutions located outside of the United Kingdom. The legal and regulatory regime applying to any such financial institution will be different from that of the United Kingdom and in the event of the insolvency or any other equivalent failure of a foreign financial institution, your money may be treated differently from the treatment which would apply if the money was held in the United Kingdom. We will not be liable for the solvency, acts or omissions of any financial institution or other third party holding client money.
- 3.11 You agree and acknowledge that:
- (a) any funds held in our segregated client funds account will be pooled with, and not kept separate from, funds belonging to other clients. In the unlikely event of our insolvency, your claim will be against the client funds pool in general rather than for a specific sum in a specific account. We will exercise all due skill, care and diligence in the selection, appointment and periodic review of the institution where our client funds are deposited. Please note that segregated account(s) will be established, maintained and operated according to the Client Money Rules of the Financial Conduct Authority (“FCA”) and the Financial Service Compensation Scheme to an eligible investor up to a maximum of £50,000. Further details of the Scheme are available on request or at the Scheme’s official website at [www.fscs.org.uk](http://www.fscs.org.uk). We provide instructions to the CRD credit institution regarding the transfer and movement(s) of our client funds;
  - (b) we will only withdraw your money from our segregated client funds account to:
    - (i) make a payment in accordance with your written directions (including but not limited to Mark to Market Payments);
    - (ii) transfer Margin to a Liquidity Provider;
    - (iii) withdraw fees charged as part of a deposit or withdrawal transaction;
    - (iv) pay money to us that we are entitled to as a result of you trading with us;
    - (v) make a payment that is otherwise authorised by law or in compliance with the operating rules of a licensed market; and



- (vi) if you have an Open Position, we reserve the right, at any time in our sole discretion, to set-off any unrealised losses incurred in respect of an Open Position against any funds that we hold on your behalf to your credit;
- (c) any amounts withdrawn from the segregated client funds account under clause 3.9(b):
  - (i) belong to us; and
  - (ii) will no longer be your funds or be held for you.
- (d) we are under no obligation to pay you interest on any funds held in the segregated client funds account;
- (e) unless otherwise agreed in writing with you:
  - (i) we are solely entitled to any interest or earnings derived from your money being deposited in our segregated client funds account and the trust account of our Hedging Partner. Such interest or earnings are payable to us from the relevant client funds account as and when we determine; and
  - (ii) we may use your money from the trust account for the purpose of meeting obligations incurred by us in connection with margining, guaranteeing, securing, transferring, adjusting or settling dealings in derivatives by us (including dealings with our Hedging Partner), including dealings on behalf of other clients. In the case of amounts withdrawn under this clause 3.10(e)(ii), the amounts are held in one or more accounts in the Hedging Partner's name.

## Client classification

- 3.12 Unless we agree otherwise, you will be treated as a Retail Client in accordance with the Markets in Financial Instruments Directive (EU Directive (2014/65/EU) ("**MiFID II**")), as amended from time to time. We will notify you of your classification in our 'welcome' communication, following activation of your Account. Please note that some of the FCA rules on client money may not apply to you if you are a professional client and agree to opt out of the client money provisions.
- 3.13 If you wish to be re-classified (either upgraded to a Professional Client or an Eligible Counterparty or downgraded to a Retail Client) then you must provide us with a written request for re-classification.
- 3.14 We will consider any re-classification requests on a case-by-case basis having regard to the FCA's requirements (as set out in COBS 3.5 of the FCA Handbook) and your change in circumstances, and make a determination at our discretion. You are responsible for notifying us of your change of circumstance.
- 3.15 Your client classification will determine the level of protection afforded to you under MiFID. Retail Clients are afforded the highest regulatory protections available. If you wish to be re-classified as a Professional Client or Eligible Counterparty, we will notify you in writing of your loss of certain regulatory protections prior to agreeing a re-classification request.



- 3.16 We may conduct additional reviews of your client classification at any time, at our discretion. We will notify you in writing of any circumstances that affect your client classification.

## Withdrawals of free balance

- 3.17 If your Account shows that you have Free Balance, you may ask us to make payment to you in respect of your specified amount. Please note that we may at our discretion elect to withhold any payment requested (in whole or in part) if:
- (a) the amount is required to be maintained with us at all times under clause 1.2; or
  - (b) we are lawfully entitled to withhold the amount.
- 3.18 We will notify you as soon as reasonably practicable if we decide to withhold any part of your Free Balance under clause 3.11.
- 3.19 Withdrawal requests may take up to 3 business days to be processed. We reserve the right to request additional information and/ or documentation to satisfy ourselves that the request is legitimate. In addition, we reserve the right to reject such a request if we consider it to be illegitimate. You accept that in these circumstances there may be a delay in processing your request.
- 3.20 You acknowledge and agree that withdrawn funds will be deposited in your Account:
- (a) on the value date received by the institution, net of any transfer fees or other charges that we have incurred, as imposed by the institution (or intermediary involved in the process) that holds the funds;
  - (b) using the same transfer method and the same remitter through which we originally received the funds. In these circumstances, we will return the part of the funds requested net of any transfer fees or other charges that we incur.
- 3.21 From time to time we may, without your permission, merge the funds held in different trading accounts. Under no circumstances does this imply that you have the right to a credit facility.
- 3.22 We reserve the right to:
- (a) decline a withdrawal that you have requested using a specific transfer method; and
  - (b) suggest an alternative transfer method to the one nominated by you.
- 3.23 We will only withdraw/deposit funds on your behalf if we are satisfied that you or your authorised representative is the sender of the funds. If we are not satisfied with the identity of the sender or the other documentation provided by you in relation to the withdrawal/deposit, we reserve the right to return the funds to the remitter net of any transfer fees or other charges that we incur, using the same transfer method through which we originally received the funds.



- 3.24 You acknowledge that the holding institution may reverse any part of the funds, for any reason. In these circumstances, we will be required to immediately reverse the respective amount from your Account net of any transfer fees or other charges incurred by us, using the same transfer method through which we originally received the funds. You acknowledge that:
- (a) this may result to a negative balance in your Account; and
  - (b) under such circumstances, we may merge the funds held in different Accounts as set out in clause 3.15 above.
- 3.25 We will take all reasonable steps to ensure that you are informed regarding the progress of any requests referred to in this section, specifically in relation to the expected processing time and the need for any documentation that may delay the processing if not in place.

### Accounts treated separately

- 3.26 Where you have opened more than one Account with us, we will treat your Accounts as entirely separate except as otherwise expressly provided in these Terms. Any amount standing to your credit on one Account does not, except where we exercise our rights under clause 3.15, clause 14 and clause 22.3, discharge any of your liabilities in respect of another Account.
- 3.27 Where you request in writing, we may, in our absolute discretion, agree to treat your Accounts as one Account. In this case, all references to your Account in these Terms are taken to be your aggregated Accounts. Such a request, if agreed by us, takes effect on the date we notify you, which is to be no later than 7 days from the date of our receipt of your request.

## 4. Orders

- 4.1 We will conclude your transactions in good faith at all times and in accordance with our Order Execution Policy, which adheres to the FCA rules. So that we can assess whether a service or transaction is appropriate for you, you are required to provide information regarding your knowledge and experience in the investment field relevant to the specific type of product or service offered. So that we can carry out this assessment, you must ensure that all information you provide is accurate. Unless you advise us in writing that the information you have previously provided is out of date or inaccurate we will be entitled to rely upon it.

### Quotation of underlying instrument prices

- 4.2 You may obtain a quote from us for an Underlying Instrument Price.
- 4.3 You acknowledge that:
- (a) any quote provided by us in accordance with this clause is indicative only; and
  - (b) no Contract is entered into until your Order is accepted by us in accordance with these Terms.





## Placing of orders

- 4.4 By placing an Order with us, you may:
- (a) offer to enter into a new Contract with us; or
  - (b) request us to Close-Out an open Contract.
- 4.5 You may provide us with oral or written Orders (which includes Orders provided via the Pepperstone Platform as described below). We may acknowledge instructions orally or in writing, as appropriate.
- 4.6 An Order may be:
- (a) a day Order, which means that the Order you place will be cancelled at 22.00 GMT; or
  - (b) a “good until cancelled” Order, which means that the Order you place will remain capable of being accepted by us, until you cancel the order or we accept it.
- 4.7 Before placing an Order you are responsible for ensuring that:
- (a) the Actual Margin is equal to or more than the Required Margin, as set out in clause 6 of these Terms; and
  - (b) you can comply with the requirements of clause 3.4.
- 4.8 When placing an Order, you must set out details of:
- (a) whether you intend to be the Long Party or the Short Party under the Contract;
  - (b) the Contract Quantity; and
  - (c) the Underlying Instrument, and other information applicable to the Order as we may require from time to time.

## Acceptance of orders

- 4.9 We may in our sole discretion accept an Order in whole or in part. An Order is accepted by us when we record the transaction concerning the Contract in our records.
- 4.10 An Order is binding on you when we accept the Order. You acknowledge that we may accept an Order without any notice of acceptance, aside from giving you the Confirmation.
- 4.11 We will inform you if we decide not to accept an Order.
- 4.12 Orders may be placed as:
- (a) market Orders to buy or sell an Underlying Instrument as soon as possible at the price obtainable in the market; or



- (b) limit and stop Orders to trade when the price reaches a predefined level, as applicable to the various Underlying Instruments offered (or a combination of these types of Orders).
  - (i) Limit Orders to buy and stop Orders to sell must be placed below the current market price; and
  - (ii) limit Orders to sell and stop Orders to buy must be placed above the current market price.
- 4.13 If the bid price for sell Orders or ask price for buy Orders is reached, the Order is filled as soon as possible at the price obtainable in the market. Limit and stop Orders are therefore not guaranteed executable at the specific level or amount.
- 4.14 Where we do not receive a request to cancel an Order from you until after our acceptance of that Order, the Contract or Close-Out resulting from the acceptance of the Order is valid and binding on you and us under these Terms.
- 4.15 You acknowledge that any action by you to modify or cancel an Order is ineffective unless:
  - (a) we have received a cancellation notice from you in a form acceptable to us; or
  - (b) we have cancelled the order in our books and records.

## Errors in pricing

- 4.16 It is possible that errors, omissions or misquotes (each a "**Material Error**") may occur in the pricing of Margin FX Contracts or CFDs quoted by us, which by fault of either of us or any third party, is materially incorrect when taking into account the market conditions and quotes in Underlying Instruments prevailing at the time. A Material Error may include an incorrect price, date, time or Margin FX Contract or CFD or any error or lack of clarity of any information. If a trade is based on a Material Error, we reserve the right without your consent to:
  - (a) amend the terms and conditions of the Margin FX Contract or CFD to reflect what we consider to have been the fair price at the time the Margin Contract or CFD was entered into had there been no Material Error;
  - (b) close the trade and any open Positions resulting from it;
  - (c) void the Margin Contract or CFD from the outset; or
  - (d) refrain from taking action to amend or void the Margin FX Contract or CFD.
- 4.17 We will exercise the right in clause 4.16 reasonably, in good faith and as soon as reasonably practicable after we become aware of a Material Error. To the extent practicable, we will give you prior notice of any action we take under this clause, but if it is not practicable we will give you notice as soon as practicable afterwards. In the absence of fraud or gross negligence on our part, we are not liable to you for any loss, cost, claim, demand or expense that you incur or suffer (including loss of profits or indirect or consequential losses), arising from or connected with the Material Error, including where the Material Error arises from an information service on which we rely.



- 4.18 In the event that a Material Error has occurred and we exercise our rights under paragraph 4.16 we may, without notice, adjust your Account or require that any funds paid to you in relation to the Margin FX Contract or CFD that is the subject of the Material Error be repaid to us as a debt due and payable to us on demand.

## Price, execution process and trading platform manipulation

- 4.19 If we reasonably believe that you have manipulated our prices, our execution processes or our trading platform, we may in our sole and absolute discretion and subject to paragraph 4.17, without notice to you:
- (a) enforce the trade(s) against you if it is a trade(s) which results in you owing money to us;
  - (b) treat all your trades as void from the outset if they are trades which result in us owing money to you, unless you produce conclusive evidence within 30 days of us giving you notice under this clause that you have not committed any breach of warranty, breach of undertaking or misrepresentation in relation to these Terms;
  - (c) withhold any funds suspected to have been derived from any such activities;
  - (d) make any resultant corrections or adjustments to your Account;
  - (e) close your Account; and/or
  - (f) take such other action as we consider appropriate.

## 5. No Transfer

- 5.1 A Contract does not transfer the legal or beneficial interest in any Underlying Instrument to you and neither party has any right or obligation to acquire or deliver the Underlying Instruments.

## 6. Required Margin

### Obligation to have required margin

- 6.1 Our margin requirements apply throughout the term of each Contract. It is your responsibility to ensure that the Required Margin is available on your Account at all times. We may or may not notify you that the Actual Margin is less than the Required Margin. If, at any time during the term of a Contract, the Actual Margin is not sufficient to cover the Required Margin, you must Close-Out open Contracts or transfer adequate funds to us. You must action and document any such transfer immediately when we request you to do so. Regardless of whether you action such a transfer, we may cancel any Orders or Close-Out one or more Contracts or part of a Contract at our sole discretion, without assuming any responsibility towards you for such action.



- 6.2 If, at any time during the term of a Contract, the Actual Margin is less than the Required Margin, the shortfall is immediately due and payable to us. A failure to pay the shortfall amount to us will constitute an Event of Default.
- 6.3 We provide you with access to information about your Account to enable you to calculate the Required Margin via the Pepperstone Platform. When placing Orders over the telephone, it is your responsibility to ensure that you request all relevant information in respect of your Account before your Orders are placed, including all information in respect of your current open Contracts. We are not responsible for any losses you may suffer or incur as a result of your failure to request any such information.
- 6.4 We operate Margin calls and Margin Stop Out Systems designed to prevent clients from entering negative balances on their Accounts. The system is automated and will monitor every client Account while the markets are open. Margin is monitored as a percentage and calculated as follows:

Equity / Margin = Margin Percentage

Each Pepperstone Platform offers different Margin Call and Stop Out System.

#### **MetaTrader 4 and MetaTrader 5**

For Retail Clients and Professional Clients, should the Margin Percentage fall below 90% in respect of MetaTrader 4/MetaTrader 5, it will automatically trigger a margin call. A Margin Call will be displayed to you in two ways:

- (a) The platform will indicate the Margin Call by sending an internal email to your MetaTrader 4/ MetaTrader 5 and providing an audible announcement of the mails arrival; and
- (b) The area of MetaTrader 4/MetaTrader 5 that displays your balance and equity will flash red.

For Retail Clients should the Margin Percentage fall below 50% MetaTrader 4/MetaTrader 5 will automatically trigger a margin Stop Out. This will begin to Close-Out open Contracts until the Margin Percentage rises above 50% again. For Professional clients should the Margin Percentage fall below 20% MetaTrader 4/MetaTrader 5 will automatically trigger a margin Stop Out. This will begin to Close-Out open Contracts until the Margin Percentage rises above 20% again.

#### **cTrader**

cTrader does not currently have a Margin Call system built into the software. It is your responsibility to monitor your Margin through cTrader.

The cTrader stop out system will activate at a Margin Percentage of 50% or below for both Retail and Professional clients.

- 6.5 Where we are not able to provide you with access to the Pepperstone Platform to view your Account



information due to circumstances within our control, we will use reasonable endeavours to contact you to request additional funds so that Actual Margin equals Required Margin. You accept that in extreme circumstances where your Contracts are moving or have moved particularly quickly against you, we may not be able to contact you before exercising our rights to Close-Out your Contracts under these Terms. No demands, contact, calls or notices made or given by us to you in any one or more instances invalidates the waiver given by you under this clause.

## 7. Mark to Market Payments

### Contract valuations

7.1 We calculate the Contract Value as at each Valuation Time.

### Mark to market payments

7.2 If at a Valuation Time:

- (a) the Contract Value is greater than the Previous Contract Value:
  - (i) the Short Party must pay the Long Party the excess of the Contract Value over the Previous Contract Value; or
  - (ii) the Seller must pay the Buyer the excess of the Contract Value over the Previous Contract Value; or
- (b) the Contract Value is less than the Previous Contract Value:
  - (i) the Long Party must pay the Short Party the excess of the Previous Contract Value over the Contract Value; or
  - (ii) the Buyer must pay the Seller the excess of the Previous Contract Value over the Contract Value.

7.3 If on the Close-Out Date:

- (a) the Close-Out Value is greater than the Previous Contract Value, the Long Party must pay the Short Party the excess of the Previous Contract Value over the Close-Out Value; or
- (b) the Close-Out Value is less than the Previous Contract Value, the Short Party must pay the Long Party the excess of the Previous Contract Value over the Close-Out Value.

7.4 All Mark to Market Payments:

- (a) we owe to you are credited to your Account; and
- (b) you owe to us are debited from your Account, on the same Business Day as the relevant Valuation Time or Close-out Date.

7.5 Any Mark to Market Payment made under this clause 7 by:



- (a) us, is treated:
  - (i) firstly as a refund of any Loss prepaid by you under clause 7.5(b)(ii); and
  - (ii) secondly, to the extent of any excess of the Mark to Market Payment over the amount referred to in clause 7.5(a)(i), as a prepayment of any Profit; and
- (b) you, is treated:
  - (i) firstly as a refund of any Profit prepaid by us under clause 7.5(a)(ii); and
  - (ii) secondly, to the extent of any excess of the Mark to Market Payment over the amount referred to in clause 7.5(b)(i), as a prepayment of the Loss.

## 8. Commissions, Charges and Other Costs

- 8.1 You must pay to us the applicable commissions and charges as set out in the commissions and charges schedule which is available on our website at [www.pepperstone.com](http://www.pepperstone.com).
- 8.2 We may vary our commissions and charges with 30 days' prior notice to you, if:
  - (a) market conditions, including competitive behaviour, mean it is prudent for us to change our conditions;
  - (b) for commercial reasons we wish to change our general cost and pricing structure; or
  - (c) significant particulars of your individual circumstances have changed.
- 8.3 Occasionally we may be required to vary our commissions and charges without providing you with 30 days' notice, due to external circumstances beyond our control. When this happens we will provide you with notice as soon as possible. Such circumstances include:
  - (a) changes in relationships with our counterparties which affect our cost structures;
  - (b) changes in commissions (including as a result of significant currency fluctuations, due to us charging commission in foreign currency) and charges from exchanges, clearing houses, information providers or other third party providers that are passed on to you by us.
- 8.4 Amounts due under this clause 8 are debited from your Account at Close of Business on the day the commission, charge or other Cost is incurred by you.

## 9. Interest on Open Positions



## No interest paid on amounts we hold for you

- 9.1 Unless otherwise agreed in writing, we are not obliged to:
- (a) pay interest to you on any Free Balance in any Account or any other sum held by us; or
  - (b) account to you for any interest we receive on such sums or in connection with any Contract.

## Default interest

- 9.2 If you fail to pay an amount payable to us under these Terms, we may charge you interest on the unpaid amount at the default interest rate. The default interest rate will be the prevailing one month Libor rate plus 3%. The amount of default interest will be debited from your Account daily until the amount owed to us is paid.

## Changes to interest rates

- 9.3 We may vary interest rates without notice when changes are to your advantage, or are due to external circumstances beyond our control. Such circumstances include:
- (a) changes in domestic or overseas monetary or credit policies that affect the general interest level in a way that impacts us;
  - (b) other developments in the general interest level, including in the money and bond markets, in a way that impacts us; or
  - (c) changes in relationships with our counterparties which affect our cost structures.
- 9.4 We may vary interest rates with 30 days' notice if:
- (a) market conditions, including competitive behaviour, mean it is prudent for us to change our conditions;
  - (b) for commercial reasons we wish to change our general cost and pricing structure; or
  - (c) significant particulars of your individual conditions have changed.

## 10. Currency Conversions

- 10.1 All amounts paid by us or you under these Terms may be payable in Australian dollars, US Dollars,



New Zealand Dollars, British Pound Sterling or Euros. Where you deal in a Contract denominated in a currency other than Australian dollars, US Dollars, New Zealand Dollars, British Pound Sterling or Euros:

- (a) funds transferred from our trust account will be converted at the current spot rate for the conversion of the relevant funds into your nominated currency (being either Australian dollars, US Dollars, New Zealand Dollars, British Pound Sterling or Euros), minus a conversion calculation fee of up to 1 per cent, which we will charge you; and
  - (b) realised profits and losses will be converted to your nominated currency (being either Australian dollars, US Dollars, New Zealand Dollars, British Pound Sterling or Euros) immediately on closing of the position at the current spot rate, minus a conversion calculation fee of up to 1 per cent, which we will charge you.
- 10.2 Amounts due under this clause 10 are debited from your Account at Close of Business on the day that a currency conversion occurs.
- 10.3 We may waive or defer the conversion calculation fee at our discretion.

## 11. Swap Charge for Contracts held until the Specified Date

- (a) Where a Contract is held at Close of Business on the day before its Specified Date, it will be rolled over to a new Specified Date. On re-opening, the Contract is subject to a Swap Charge determined by us in accordance with the following: if you are the Long Party and the Bought Swap Rate is higher than the Sell Swap Rate, we must pay you interest on the Contract Value of the open position at the rate that is the Bought Swap Rate minus the Sell Swap Rate;
  - (b) if you are the Long Party and the Bought Swap Rate is less than the Sell Swap Rate, you must pay us interest on the Contract Value of the open position at the rate that is the Bought Swap Rate minus the Sell Swap Rate;
  - (c) if you are the Short Party and the Sell Swap Rate is higher than the Bought Swap Rate, we must pay you interest on the Contract Value of the open position at the rate that is the Bought Swap Rate minus the Sell Swap Rate; or
  - (d) if you are the Short Party and the Sell Swap Rate is lower than the Bought Swap Rate, you must pay us interest on the Contract Value of the open position at the rate that is the Bought Swap Rate minus the Sell Swap Rate.
- 11.1 The Swap Charge is paid by adjusting the Underlying Instrument Price by an amount equal to the amount of the Swap Charge calculated in accordance with this clause.

## 12. Close-Out Of Contracts

### Close-out of a contract

- 12.1 You may instruct us to enter into a position which is opposite to one or more of your open positions.
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## Close-out of contracts

12.2 An open Contract is Closed-Out:

- (a) on acceptance by us of your Order requesting Close-Out of your Contract (including where the Order is deemed to be a Close-Out under clause 12.1); or
- (b) by us under clause 22.

## Settlement following close-out

12.3 If a Contract is Closed-Out under clause 12.2, we must pay any Profit and you must pay any Loss to the extent that such payment has not been prepaid under clause 7.

# 13. Confirmations

## Reporting to you

13.1 If we accept an Order, we will send you a Confirmation.

13.2 Failure by us to send you a Confirmation does not affect the validity of the Order or the Contract.

13.3 If there is a conflict between:

- (a) these Terms; and
- (b) our records of the transaction contemplated in a Contract or an Order, our records of the transaction will prevail.

## Pepperstone platform

13.4 The Pepperstone Platform is a standing online facility that allows you to execute certain transactions as well as view, download and print the Confirmations and other reports that we provide.

13.5 you may access and use the Pepperstone Platform to:

- (a) receive the Confirmations and other reports we provide;
- (b) execute and confirm all Contracts; and
- (c) monitor your obligations under these Terms.

13.6 The Confirmations and other reports are made available to you as at the time that we post the relevant document on the Pepperstone Platform.

13.7 We may email Confirmations and other reports to you, in addition to making them available on the Pepperstone Platform.

13.8 The following terms apply to Contracts executed through the Pepperstone Platform:

- (a) we are not liable to you for any loss, expense, cost or liability suffered or incurred by you due to



failure of the system, transmission failure or delays or similar technical errors whether or not the error might be due to factors under our control;

- (b) we are not liable to you for any removal of Profits or Losses you might suffer due to errors in quotes which are the result of our typing errors or feed errors committed or our erroneous perception of information entered into the system by you;
- (c) we are entitled to make the necessary corrections in your Account according to the market value of the Underlying Instrument in question at the time when the error occurred;
- (d) we may offer real-time tradable prices to you. The price offered by us may have changed before we receive an Order from you, due to delayed transmission between you and us. If automatic Order execution is offered to you, we are entitled to change the price on which the Order is executed to the market value at the time at which we received the Order from you;
- (e) the Pepperstone Platform may be available in several versions which may vary in relation to certain aspects, including but not limited to the level of security applied and products and services available. We are not liable to you for any loss, expense, cost or liability suffered or incurred by you due to you using a version that differs from our standard version with all available updates installed;
- (f) you are responsible for all Orders and for the accuracy of all information sent via the Pepperstone Platform using your name, password or any other personal identification means implemented to identify you;
- (g) you are obliged to keep passwords secret and ensure that third parties do not obtain access to your trading facilities;
- (h) you are liable to us for Contracts executed by means of your password even if such use is unauthorised or wrongful;
- (i) the Confirmation that we send or make available to you on the Pepperstone Platform constitutes our confirmation of a Contract, regardless of whether the Pepperstone Platform confirms that the Contract is executed immediately upon transmission of your instructions.
- (j) we are not liable for any loss or damage suffered by you as a result of transmission errors, technical faults, malfunctions, illegal intervention of the network, overloads or deficiencies on the part of an internet service provider. You acknowledge that the Pepperstone Platform may be limited or unavailable due to such system errors and that we reserve the right to suspend access to the Pepperstone Platform; and
- (k) you will not copy, interfere with, tamper with, alter, amend or modify the Pepperstone Platform unless expressly permitted by us in writing, nor may you reverse compile or disassemble the



Pepperstone Platform.

## Errors

- 13.9 You must verify the contents of each document received from us. Such documents are, unless incorrect, conclusive unless you notify us in writing to the contrary within 3 Business Days of receiving the document.

## 14. Our Rights

14.1 We may, with or without notice, and in addition to any other rights we may have under these Terms:

- (a) Close-Out or cancel all or part, as we reasonably consider appropriate, your Contracts;
- (b) reduce your Position Limit;
- (c) refuse Orders;
- (d) terminate these Terms;
- (e) adjust the price, size or value of the contract; or
- (f) adjust the margin requirement (leverage).

14.2 We may exercise our rights under this clause 14 in the event that:

- (a) an Event of Default has occurred;
- (b) we reasonably consider that there are abnormal trading conditions;
- (c) we reasonably consider it necessary for the protection of our rights under these Terms;
- (d) we are unable to make prices in the relevant Contract due to the unavailability of the relevant market information for reasons beyond our control;
- (e) we decide to in our absolute discretion and, in this case only, give written notice of such decision to you;
- (f) we consider that you may be in possession of 'inside information' as defined by the FCA;
- (g) we consider that you may be in breach of any applicable law;
- (h) either party is so requested by the FCA or any other regulatory agency or authority;
- (i) your Actual Margin is less than the Required Margin; or
- (j) the aggregate of the Contract Value for your Orders and the Contract Value for all other orders for an Underlying Instrument is below the minimum or above the maximum values that we reasonably consider appropriate in the market.

14.3 Clause 12 applies where we exercise our right to Close-Out all or part of any Contract, except that we



determine, in our sole discretion, the Close-Out Value for the affected Contract.

- 14.4 You accept that we may Close-Out any of your Contracts and any relevant proportions of those Contracts that we decide in our absolute discretion.

## 15. Corporate Actions, Suspension and Market Disruption

### Corporate Actions

- 15.1 If your Contract is the subject of a Corporate Action, we will decide what adjustment, if any, will be made to your Contract or your Order to:
- (a) preserve the economic equivalent of the rights and obligations of you and us in relation to the Contract immediately before the Corporate Action took place; and/or
  - (b) replicate the same effect of the Corporate Action on your Contract that it would have on someone with an interest in the relevant Underlying Instrument. This may include Closing-Out a Contract or opening a new Contract.
- 15.2 We will act reasonably to decide on any adjustments that we make to your Contract or Order under this clause 15. These adjustments can include changes to the size, value or number of your Contracts and to the level of your Order. Any action that we take under this clause 15 will be effective from a date that we set and may be retrospective. Once we make an adjustment to your Contract or Order, it is binding on you.
- 15.3 If you are the Long Party on the Contract that is affected by a Corporate Action, we will consider any preferences you have about the action or adjustment we should make to your Contract or Order, provided that you let us know within a reasonable period of time after the Corporate Action. If you are the Short Party, we will take whatever action that we consider necessary, in line with clause 15.3. We will inform you about any adjustment as soon as reasonably practicable.

### Takeovers

- 15.4 If your Contract's Underlying Instrument is shares in a company that is the subject of a takeover offer, then:
- (a) we will use our reasonable endeavours to inform you of the takeover offer;
  - (b) we will apply the terms of the takeover offer to your Contract, as if you were a holder of the Underlying Instrument;
  - (c) we may offer you the opportunity to agree to the takeover offer (as it applies to your Contract),



or we may choose to agree to it on your behalf where we, acting reasonably, believe it is in your best interests. In either case, your Contract will be suspended and you will not be able to trade it until the closing date of the takeover offer, when the Contract will be Closed-Out in line with the terms of the takeover offer;

- (d) you acknowledge and agree that we are entitled to cancel or adjust your Contract or Order to reflect the takeover offer, and that you will be bound by any cancellation or adjustment that we make;
- (e) if you do not agree to the takeover offer and we do not agree to it on your behalf, but the takeover goes ahead anyway (for example, if drag-along rights apply), you agree that we are entitled to cancel or adjust your Contract or Order to reflect the takeover offer, and that you will be bound by any cancellation or adjustment that we make; and
- (f) we may let you know of our intention to Close-Out your Contract at any time before the closing date of the takeover offer. The Close-Out date of the Contract will be the date that we send this notice to you. We will decide the price that your Contract is Closed-Out at, based on our reasonable assessment of the market value of the Underlying Instrument at the relevant time

## Voting rights

- 15.5 You acknowledge that we will not transfer voting rights in an Underlying Instrument to you, or otherwise allow you to influence how we or any agent that we appoint exercise any voting rights that we hold.

## Interest

- 15.6 We will assess the value of your open Contracts and calculate the amount of interest that would apply to the amount of money necessary to take out a position in the Underlying Instrument with the same value, each day. We will normally apply a different interest rate depending on whether you are the Long Party or the Short Party:
- (a) if you are the Short Party, we will either credit or debit your Account with interest (depending on the interest rate); and
  - (b) if you are the Long Party, we will debit interest from your Account.
- 15.7 For some expiring Contracts, our quote for that Contract (which is based on the underlying market), will include an interest component. Please check the Pepperstone Platform to see which of our Contracts contain interest components. We will not adjust expiring Contracts for interest as set out in clause 15.6.

## Dividends

- 15.8 We will either credit or debit your Account with a dividend adjustment if the Underlying Instrument for
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your Contract is a stock, share or index which pays a dividend, and your Contract is open prior to the ex-dividend day for that Underlying Instrument.

- 15.9 If you are the Long Party, unless we agree otherwise with you, we will credit your Account with a cash adjustment which will generally reflect either:
- (a) the net dividend that a taxpayer in the jurisdiction where the Underlying Instrument is based would receive if they held the same position in the Underlying Instrument; or
  - (b) usual practice for dividend payments in the jurisdiction where the Underlying Instrument is based.
- 15.10 If you are the Short Party, we will debit your Account with a cash adjustment which will generally reflect the pre-tax dividend amount, unless we agree otherwise with you.
- 15.11 For some expiring Contracts, our quote for that Contract (which is based on the Underlying Market) will include a forecasted dividend component. Please check the Pepperstone Platform to see which of our Contracts contain interest components. We will not adjust expiring Contracts for dividends as set out in clauses 15.8 to 15.10.
- 15.12 If a dividend is declared or paid for an Underlying Instrument of an expiring Contract:
- (a) and the dividend is:
    - (i) a special dividend;
    - (ii) unusually large or small; or
    - (iii) payable on an ex-dividend date that is unusually early or late; or
  - (b) if a previously regular dividend is omitted, we may make an appropriate adjustment (which may be retrospective) to the price that your Contract is opened at, or the size of your Contract, having regard to dividend payments in previous years for the same Underlying Instrument.

## Suspensions and Market Disruptions

- 15.13 If, at any time:
- (a) trading in an Underlying Instrument on any exchange is limited or suspended; or
  - (b) trading is limited or suspended on any exchange so as to restrict trading within any relevant Index, such that we are prevented from determining the Underlying Instrument Price of an Underlying Instrument, then the Underlying Instrument Price of such Underlying Instrument shall be considered to be the Underlying Instrument Price immediately preceding such limitation or suspension.
- 15.14 If the limitation or suspension continues for 5 Business Days, we may Close-Out the Contract. In such circumstances, we will determine the Close-Out Date and the Close-Out Value in good faith. We reserve the right at all times during the term of any such limitation or suspension to adjust the Underlying Instrument Price of any affected Underlying Instrument in our reasonable discretion, but having regard to the then prevailing market conditions affecting trading as a whole or trading in such
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Underlying Instrument.

## 16. Client's Warranties and Representations

- 16.1 You and each Guarantor (as applicable) warrant and represent that:
- (a) if you completed the Application in the name of a body corporate:
    - (i) you are duly authorised and validly existing under the laws of your jurisdiction of incorporation; and
    - (ii) you are properly empowered and have obtained necessary corporate or other authority pursuant to your constitutional and organisational documents;
  - (b) if you completed the Application in the name of a trustee:
    - (i) you are the only trustee of the trust;
    - (ii) no action has been taken or proposed to remove you as trustee of the trust;
    - (iii) you have power under the trust deed to enter into and comply with your obligations under these Terms and any Contract or Order;
    - (iv) you have in full force and effect the authorisations necessary to enter into these Terms or any Contract and make an Order, perform obligations under them and allow them to be enforced (including under the trust deed and its constitution, if any);
    - (v) you have a right to be fully indemnified out of the assets of the trust in respect of obligations incurred by you under these Terms and any Contract or Order;
    - (vi) the trust fund is sufficient to satisfy that right of indemnity and all other obligations in respect of which you have a right to be indemnified out of the trust fund;
    - (vii) you have not, and never have been, in default under the trust deed;
    - (viii) no action has been taken or proposed to terminate the trust;
    - (ix) you and your directors and other officers have complied with their obligations in connection with the trust; and
    - (x) you have carefully considered the purpose of these Terms and any Contract or Order and consider that entry into these Terms and any Contract or Order is for the benefit of the beneficiaries and the terms of the trustee documents are fair and reasonable;
  - (c) all necessary consents required in order for you conduct your business and relevant to the performance, validity or enforceability of these Terms and any Contract or Order have been obtained and are in full force and effect;



- (d) you are not under any legal disability with respect to, and are not subject to any law or regulation which prevents, your performance according to these Terms or any Contract or transaction contemplated by these Terms;
- (e) you are in compliance with all laws to which you are subject including, without limitation, all tax laws and regulations, exchange control requirements and registration requirements;
- (f) the information you give us (including the information contained in your Application Form) is complete, accurate and not misleading in any material respect;
- (g) unless stated in the Application Form, you are not acting as trustee of a trust;
- (h) no funds deposited in the Account are subject to an Encumbrance;
- (i) no Event of Default continues un-remedied;
- (j) there are no actions or claims pending the adverse determination of which might have a Material Adverse Effect on your ability or the Guarantor's ability to perform its obligations under these Terms, any Contract or Order, or on the rights granted to us; and
- (k) you are not entitled to claim for yourself or any of your assets or revenues any right of general immunity or exemption on the grounds of sovereignty or otherwise from suit, execution, attachment or other legal process in respect of your obligations under these Terms, a Contract or Order.

16.2 The above warranties and representations are deemed to be repeated each time you place an Order.

16.3 You and the Guarantor acknowledge that we have entered into these Terms in reliance on the representations and warranties in this clause 16.1.

## 17. Undertakings and Acknowledgments

17.1 You and the Guarantor undertake to:

- (a) notify us if any warranty or representation made by you or the Guarantor is or becomes incorrect or misleading;
- (b) do everything necessary to ensure that no Event of Default occurs; and
- (c) supply to us such financial or other information relating to you or the Guarantor as we may reasonably request from time to time.





## 18. Indemnity and Exclusion of Liability

### Indemnity

- 18.1 You indemnify us against any liability or losses arising from, and any Costs incurred in connection with:
- (a) us acting in connection with these Terms or any Contract or Order in good faith on fax, telephone, email or written instructions purporting to originate from your offices or to be given by an Authorised Person;
  - (b) an Event of Default;
  - (c) a breach by you of these Terms or any Contract or Order; or
  - (d) us acting in accordance with any direction, request or requirement of any regulatory authority or government body.
- 18.2 You agree to pay amounts due under this indemnity on demand from us.
- 18.3 This indemnity survives any termination of these Terms.

### Exclusion of liability

- 18.4 We are not liable for any losses or Costs caused by:
- (a) the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy under these Terms;
  - (b) not accepting your Orders or delay in accepting your Orders;
  - (c) not designating or delay in designating amounts as either Actual Margin or Free Balance on your Account.

## 19. Dealings between You and Us

- 19.1 We are entitled to act on the oral or written Orders:
- (a) of any Authorised Person;
  - (b) of any person who appears to us to be an Authorised Person, notwithstanding that the person is not, in fact, so authorised; and
  - (c) transmitted using your username, account number, user ID and/or password.
- 19.2 You agree to promptly provide any instructions to us that we may reasonably require from time to time. If you do not provide the instructions promptly, we may, in our absolute discretion, take such



steps at your cost, as we consider necessary or desirable for our own protection or your protection. This provision is similarly applicable in situations when we are unable to contact you.

- 19.3 We may (but we are not obliged to) require confirmation in such form as we may reasonably request if an instruction is to remit money due to you or if it appears to us that such confirmation is necessary or desirable.
- 19.4 If you are more than one person (for example, joint account holders):
- (a) the liabilities of each person are joint and several;
  - (b) we may act upon instructions received from any one person who is, or appears to us to be, such a person, whether or not such person is an Authorised Person;
  - (c) any notice or other communication provided by us to one such person is deemed to have been provided to all persons; and
  - (d) our rights under clause 22 apply if an Event of Default occurs in respect of any one of such persons.

## 20. Taxes

- 20.1 You must pay and account for any transfer or similar duties or taxes, and any loan security or other stamp duties chargeable in connection with any transaction to which you may be liable. You agree to indemnify us against any liability arising as a result of your failure to do so.

### Withholding

- 20.2 If you make any payment which is subject to any withholding or deduction, you must pay us the applicable additional amount to ensure that the amount actually received by us equals the full amount we would have received had no withholding or deduction been made.
- 20.3 If we make any payment which is subject to any withholding or deduction, we will pay you the net amount after making such withholding or deduction and will not pay you an additional amount.

## 21. Guarantee and Indemnity

### Requirement for a guarantor

- 21.1 Your obligations under these Terms must be guaranteed:
- (a) where you (including a trustee) are a company, by each director of the company; and



- (b) in any other circumstance where we determine, in our absolute discretion, that such a guarantee is required.

## Consideration

- 21.2 The Guarantor acknowledges that we are acting in reliance on the Guarantor incurring obligations and giving rights under this guarantee and indemnity.

## Guarantee

- 21.3 The Guarantor unconditionally and irrevocably guarantees to us your compliance with your obligations in connection with these Terms, including each obligation to pay money.
- 21.4 If you do not comply with your obligations on time and in accordance with these Terms, then the Guarantor agrees to comply with those obligations on demand from us. A demand may be made on the Guarantor regardless of whether we have made demand on you.

## Indemnity

- 21.5 The Guarantor indemnifies us against any liability or losses arising from, and any Costs it incurs, if:
  - (a) you do not, or are unable to, comply with an obligation you have (including an obligation to pay money) in connection with these Terms;
  - (b) an obligation you would otherwise have under these Terms (including an obligation to pay money) is found to be unenforceable;
  - (c) an obligation the Guarantor would otherwise have under clause 21.3 is found to be unenforceable; or
  - (d) a representation or warranty by you under these Terms is found to have been incorrect or misleading when made or taken to be made.
- 21.6 The Guarantor agrees to pay amounts due under clause 21.3 on demand from us.
- 21.7 We need not incur expense or make payment before enforcing this right of indemnity.

## Extent of guarantee and indemnity

- 21.8 The guarantee in clause 21.3 is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of your obligations in connection with these Terms. The Guarantor waives any right it has of first requiring us to commence proceedings or enforce any other right against you or any other person before claiming from the Guarantor under this guarantee and indemnity.

## Acknowledgment

- 21.9 The Guarantor acknowledges that, before entering into this guarantee and indemnity, it:
    - (a) was given a copy of these Terms (and all documents giving rise to your obligation in
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connection with these Terms) and had full opportunity to consider the provisions; and

- (b) is responsible for making itself aware of your financial position and that of any other person who guarantees any of your obligations in connection with these Terms.

## Payments

21.10 The Guarantor agrees to make payments under this guarantee and indemnity:

- (a) in full without set-off or counterclaim, and without any withholding or deduction unless prohibited by law; and
- (b) in the currency in which the payment is due, and otherwise in British Pounds Sterling, in immediately available funds.

21.11 If the Guarantor makes a payment that is subject to any withholding or deduction, the Guarantor agrees to pay us such additional amount to ensure that the amount actually received by us equals the full amount we would have received had no withholding or deduction been made.

## Our rights are protected

21.12 The rights given to us under this guarantee and indemnity, and the Guarantor's liabilities under it, are not affected by any act or omission of us or any other person. For example, our rights and liabilities are not affected by:

- (a) any act or omission:
  - (i) varying or replacing these Terms;
  - (ii) releasing you or giving you a concession (such as more time to pay);
  - (iii) releasing any person who gives a guarantee or indemnity in connection with any of your obligations;
  - (iv) by which a person becomes a Guarantor after the date of this guarantee and indemnity;
  - (v) by which the obligations of any person who guarantees any of your obligations (including obligations under this guarantee and indemnity) may become unenforceable;
  - (vi) by which any person who was intended to guarantee any of the obligations does not do so, or does not do so effectively;
  - (vii) by which a person who is co-surety or co-indemnifier is discharged under these Terms or by operation of law;



- (viii) a person dealing in any way with these Terms or this guarantee and indemnity;
- (ix) the death, mental or physical disability, or liquidation, administration or insolvency of any person including you or the Guarantor;
- (x) changes in the membership, name or business of any person; or
- (xi) acquiescence or delay by us or any other person.

## Guarantor's rights are suspended

21.13 As long as any obligation is required, or may be required, to be complied with in connection with this guarantee and indemnity, the Guarantor may not, without our consent:

- (a) reduce its liability under this guarantee and indemnity by claiming that you or it or any other person has a right of set-off or counterclaim against us;
- (b) exercise any legal right or claim to be entitled to the benefit of another guarantee, indemnity, mortgage, charge or other encumbrance given in connection with these Terms or any other amount payable under this guarantee and indemnity;
- (c) claim an amount from you, or another guarantor (including a person who has signed the Application Form as a "Guarantor"), under a right of indemnity; or
- (d) claim an amount in your liquidation, administration or insolvency or of another guarantor of any of your obligations (including a person who has signed the Application Form as a "Guarantor").

## 22. Termination

22.1 If all of your Contracts have been Closed-Out, you may terminate these Terms, including your rights associated with the use of the Pepperstone Platform, immediately by giving written notice to us.

22.2 We may:

- (a) Close-Out any Contracts; and
- (b) terminate these Terms, including your rights associated with the use of the Pepperstone Platform, either:
  - (i) at any time on giving you 7 days' notice; or
  - (ii) immediately, following an Event of Default or to otherwise protect our interests, without notice to you.

22.3 On termination by either party, we may consolidate all Accounts held by you, and deduct all amounts due to you from any Account, before transferring any credit balances on any Account to you.



22.4 In addition to the rights set out at clause 22.3, the following provisions in these Terms will continue to remain in full force and effect following termination of these Terms by your or us:

- (a) any indemnity granted by you;
- (b) the guarantee and indemnity granted under clause 21;
- (c) all of your and the Guarantor's confidentiality obligations;
- (d) your obligations in relation to the Pepperstone Platform in clause 13;
- (e) the representations and warranties given by you and the Guarantor;
- (f) any exclusion of our liability, under these Terms; and
- (g) any other rights or obligations you have which arose before these Terms were terminated.

## 23. General

### How we may exercise our rights

- 23.1 We may exercise a right or remedy or give or refuse our consent in any way that we consider appropriate (including by imposing clauses).
- 23.2 If we do not exercise a right or remedy fully or at a given time, we may still exercise it later.
- 23.3 Our rights and remedies under these Terms are in addition to other rights and remedies given by law independently of these Terms. We may enforce our rights and remedies in any order we choose.

### Set-off

- 23.4 We may set off any amount owing by us to you (whether or not due for payment) against any amount due for payment by you to us under these Terms, any Contract or an Order.
- 23.5 We may do anything necessary to action any set-off under this clause (including varying the date for payment of any amount owing by us to you). This clause applies despite any other agreement between you and us.

### Reinstatement of rights

- 23.6 Under law relating to liquidation, administration, insolvency or the protection of creditors, a person may claim that a transaction (including a payment) in connection with these Terms is void or voidable. If a claim is made and upheld, conceded or compromised, then:
  - (a) we are immediately entitled as against you and the Guarantor to the rights under these Terms to



which we were entitled immediately before the transaction; and

- (b) on request from us, you and the Guarantor agree to do anything (including signing any document) to restore to us any rights (including the Guarantee) held by us immediately before the transaction.

## No merger

- 23.7 Our rights under these Terms are additional to and do not merge with or affect and are not affected by any mortgage, charge or other encumbrance held by us or any of your other obligations of or obligations of the Guarantor to us, despite any rule of law or equity or any statutory provision to the contrary.

## Further steps

- 23.8 You agree to do anything we reasonably ask (such as obtaining consents, signing and producing documents and getting documents completed and signed):
  - (a) to bind you and any other person intended to be bound under these Terms; and
  - (b) to show that you are complying with these Terms.
- 23.9 We have in place internal procedures for handling complaints fairly and promptly. If you have a complaint please contact us promptly. You may submit a complaint to us by telephone or in writing. We will confirm receipt of your complaint including how you may refer your complaint to the Financial Ombudsman Service, provided you are an eligible complainant as defined by FCA rules. Please contact us at [support@pepperstone.com](mailto:support@pepperstone.com) if you require further details regarding our complaints procedure.

## Amendment

- 23.10 We may vary these Terms at any time, with notice to you. In doing so we must comply with any applicable law.
- 23.11 We may, by providing 30 days' notice to you, charge you additional fees and/or commissions or increase the current fees and/or commissions) under these Terms.

## Waivers

- 23.12 A provision of these Terms, or right created under it, may not be waived or varied except in writing.



## Assignment

- 23.13 You may not assign or otherwise deal with your rights under these Terms or a Contract or allow any interest in them to arise or be varied, in each case, without our consent.
- 23.14 We may assign or otherwise deal with our rights under these Terms or a Contract (including by assignment or participation) without the consent of any person. You agree that we may disclose any information or documents we consider necessary to help us exercise this right.

## Inconsistent law

- 23.15 To the extent permitted by law, these Terms prevail to the extent they are inconsistent with any law.
- 23.16 A provision of these Terms that is void, illegal or unenforceable is ineffective only to the extent of the voidness, illegality or unenforceability, but the remaining provisions are not affected.
- 23.17 Rights given to us under these Terms and your liabilities under them are not affected by anything which might otherwise affect them at law.
- 23.18 Any present or future legislation which operates to vary your obligations in connection with these Terms which results in our rights, powers or remedies being adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

## Notices and other communications

- 23.19 Unless expressly stated otherwise in these Terms, all notices, certificates, consents, approvals, waivers and other communications in connection with these Terms:
- (a) must be sent by email or such other means as we specify from time to time; and
  - (b) will be taken to be received upon sending, unless the sender receives an automated message that the email has not been delivered.
- 23.20 We may, to the extent of your authorisation, give a communication under these Terms to your Authorised Person.
- 23.21 Communications take effect from the time they are received unless a later time is specified in them.

## Applicable law

- 23.22 These Terms are governed by the law in force in England and Wales and you submit to the non-exclusive jurisdiction of the courts of that place.
- 23.23 Without preventing any other method of service, any document in a court action may be served on a





party by being delivered to or left at that party's address for service of notices as notified to the other party from time to time.

## Confidentiality

- 23.24 Each party agrees not to disclose information provided by any other party that is not publicly available (including the existence or contents of these Terms) except:
- (a) with the consent of the party who provided the information (such consent not to be unreasonably withheld);
  - (b) if allowed or required by law, these Terms, our Privacy Statement or required by any stock exchange;
  - (c) in connection with any legal proceedings relating to these Terms; or
  - (d) to any person in connection with an exercise of rights or a dealing with rights or obligations under these Terms (including in connection with preparatory steps such as negotiating with any potential assignee or potential sub-participant or other person who is considering contracting with us in connection with these Terms).

## Consent to Telephone Recording

- 23.25 You agree that we may record all telephone conversations, internet conversations (chat), and meetings between you and us and use such recordings, or transcripts from such recordings, as evidence towards any party (including, but not limited to, any regulatory authority and/or court of law) to whom we, in our entire discretion, see it to be desirable or necessary to disclose such information in any dispute or anticipated dispute between us and you. We may provide copies of such recordings of telephone calls to a regulatory authority of a competent authority, without your consent.

## Netting

- 23.26 If on any date the same amounts are payable under these Terms by each party to the other in the same currency, each party's obligations to make payment of any such amount will be automatically satisfied and discharged on that date. If the amounts are not in the same currency, the amounts are converted by us in accordance with clause 10.
- 23.27 If the aggregate amount that is payable by one party exceeds the aggregate amount that is payable



by the other party, then the party by whom the larger aggregate amount is payable must pay the excess to the other party and the obligations to make payment of each party will be satisfied and discharged.

- 23.28 If the Agreement is terminated under clause 22, you and we agree that the claims we have against each other are finally discharged by means of Close-Out netting. We will determine the Close-Out Values for each affected Contract in our sole discretion. The final amount to be paid by the relevant party will be the difference between the payment obligations of the parties.

## Currency of payments

- 23.29 All payments under these Terms must be made in British Pounds Sterling or any other currency that we may agree to from time to time.

## Any default to make payments to us is deemed to be an application for credit

- 23.30 Every failure by you to pay an amount payable to us under the Agreement is deemed to be an application for credit from us.

## 24. Privacy

- 24.1 You should read these Terms and our Privacy Statement carefully before completing an Application Form. The Application Form requires you to disclose Personal Data to us. Our UK Privacy Policy, located at [www.pepperstone.com](http://www.pepperstone.com), explains how we collect and handle this information. For the purposes of UK and EEA data protection laws and regulations we are the data controller. We recognize the need to treat your Personal Data in an appropriate and lawful manner in accordance with UK and EEA data protection laws and regulations. "Processing" your Personal Data means doing anything with your Personal Data including accessing, disclosing, destroying or using your Personal Data in any way. By way of summary:

- (a) we collect Personal Data from you in order to process your Application and if your Application is accepted, to administer your investment and to provide you with services related to your investment, which includes carrying out our obligations under these Terms. If you do not provide us with your Personal Data we may not be able to process your Application;
- (b) in order to do these things, we may disclose your personal data on a confidential basis to our agents, contractors or third party service providers to whom we outsource services (the "**Service Providers**"), to our related bodies corporate, our professional advisers, or to a proposed purchaser of the whole or any substantial part of our business;
- (c) we may also disclose your Personal Data to;
  - (i) relevant regulators (such as the FCA or anti-money laundering regulators) as required or authorised by law;



- (ii) your financial advisor, if you have nominated them to us; and
  - (iii) a third party introducing broker or agent that you have nominated or consented to refer your business to us.
  - (d) we may use your Personal Data to tell you about other products and services offered by us or other members of the Pepperstone group of companies and for client profiling (such as targeted advertising and creating lookalike audiences) . In order to do that we may disclose your Personal Data to our related bodies corporate, or to their Service Providers; and
  - (e) we may also use your Personal Data to create anonymized statistical data.
- 24.2 We may transfer, store or process some or all of your Personal Data using our related bodies corporate or service providers located outside of the European Economic Area, including our parent company in Australia and businesses that we sub-contract with to help us provide our products and services and for associated business purposes. Data protection laws in some countries may not be as strict as they are in the UK. If we send your Personal Data outside of Europe, we will always ensure that adequate measures are taken to protect it;
- 24.3 Your application for an Account and acceptance of these Terms constitutes your consent to the use and disclosure of your Personal Data in accordance with clauses 24.1 and 24.2 above. You have a right to access information that we are holding about you and where permissible we reserve the right to charge a reasonable fee. To do so you must write to us and request this and information and provide verification of your identity to the Data Protection Officer at Pepperstone. You authorise us, or our agents acting on our behalf to carry out such credit and identity checks as we deem necessary, which may result in your personal information being sent to agents outside the European Economic Area.
- 24.4 Please contact our support team on [support@pepperstone.com](mailto:support@pepperstone.com) if you wish to opt-out from us using or disclosing your Personal Data for direct marketing purposes (under 24.1(d) above). It is important that you contact us because, by applying for an Account, you will otherwise be taken to have consented to our use and disclosure of your Personal Data for this purpose.
- 24.5 We must use and disclose your Personal Data in the ways disclosed in clauses 24.1(a) to (c) and 24.2 in order to provide you with a Contract and any related products and services that you have asked for. If you do not provide your consent, it may impact our ability to do business with you.
- 24.6 In the event that we are subject to a sale of our business (in whole or part) or undergo a corporate re-organisation, you agree that any Personal Data that we hold relating to you may be disclosed for the purpose of analysing the said sale or reorganization or transferred to a third party and used for the same purpose as you have agreed under these Terms.
- 24.7 All staff at Pepperstone are fully trained to handle Personal Data confidentially.
- 24.8 All Personal Data in our possession is held in secure computer-based storage facilities or secure paper-based files. No unauthorised persons are able to access these storage facilities.
- 24.9 Our website may install cookies on your computer to provide a better service or enhance the client
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experience. You have the option to turn such cookies off via your personal settings, although this will affect your ability to view parts of our website. Please read our cookies policy which you can find [here](#).

## 25. Interpretation

### 25.1 Definitions

The following words in these Terms have particular meanings:

**Account** means your account with us.

**Actual Margin** means the amount standing to the credit of your Account and designated as Actual Margin.

**Application** means your application to us for an Account on the terms and conditions set out in these Terms and the Application Form.

**Application Form** means the application form available on our website.

**Authorised Person** means the persons that you authorise to give instructions to us, as notified by you to us from time to time.

**Bought Swap Rate** means the swap rate for a currency or CFD which is determined by us.

**Business Day** means a day on which banks are open for general banking business in London (not being a Saturday, Sunday or public holiday in that place).

**Close-Out Date** means the date on which all or part of a Contract is Closed-Out.

**Close of Business** means 22.00 GMT.

**Close-Out or Closed-Out** means the termination of all or part of a Contract in accordance with clause 12.

**Close-out Value for a Contract** means the amount calculated as follows:

*Close-out Underlying Instrument Price x Contract Quantity*  
(in each case, as it applies to the Contract).

**Confirmation** means a message from us to you confirming your transaction in respect of a Contract.

**Contract** means an over the counter 'contract for difference' between you and us where the Underlying Instrument is a Currency which we nominate as available to underlie an Order or Contract and where the settlement date is within two working days after the Contract is opened.

**Contract Quantity** means the amount of Currency to be traded to which the Contract or Order relates.

**Contract Value** means, in respect of any Contract or Order for any Contract, the amount calculated by us in accordance with the following formula:

*Underlying Instrument Price x Contract Quantity*

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**Costs** include costs, charges and expenses, including those incurred in connection with advisers.

Each of these situations is a **Corporate Action**:

- (a) if the Underlying Instrument is shares, a declaration by the issuer of the shares, of any of the following:
  - (i) a subdivision, consolidation, redenomination or reclassification of shares, a share buy-back or cancellation, or a free distribution of shares to existing shareholders as a bonus, capitalisation or similar issue;
  - (ii) a distribution to existing underlying shareholders of additional shares, other share capital or securities granting the right to payment of dividends and/or proceeds of the issuer's liquidation in equal proportion with payments to holders of the underlying shares, securities, rights or warrants granting the right to a distribution of shares or to purchase, subscribe or receive shares, in any case for payment (in cash or otherwise) at less than the prevailing market price per share as decided by us;
  - (iii) the voiding of an Underlying Instrument that trades, or has traded, on a "when issued" basis, in which case any Contract that relates to that Underlying Asset will also be void;
  - (iv) any other event regarding shares that have the same effect as any of the above events or that otherwise dilute or concentrate the market value of the shares, whether temporary or otherwise; or
- (b) if the Underlying Instrument is a digital asset (including any virtual currency), any event that we, acting reasonably, consider to have the same effect as any of the events set out in (a)(i) to (iv) above including, but not limited to, hard or soft forks, any distribution to the holder of the digital asset (including of a second digital asset) or any event the otherwise dilutes or concentrates the market value of the digital asset; or
- (c) if the Underlying Instrument is not based on shares: any other event that has the same effect as any of the above events or that otherwise dilutes or concentrates the market value of that Underlying Instrument, whether temporary or otherwise.

**Currency** means a currency which we nominate as being available to underlie a Contract.

**Dividend Amount** means in respect of a Listed Entity, an amount equal to the gross amount of any ordinary cash dividend paid in respect of a relevant Underlying Instrument as determined by us.

**Encumbrance** means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.

Each of the following is an **Event of Default**:

- (d) you fail to pay on time any amount payable by you in the manner required under these Terms, including, for the avoidance of doubt, any situation where the Actual Margin on your Account at any time is less than the Required Margin;



- (e) you fail to comply with any obligation under these Terms (other than those covered by paragraph (a)) and, if the non-compliance can be remedied, you fail to remedy the non-compliance within 7 days;
- (f) an event occurs which has or is likely to have (or a series of events occur which together have or are likely to have) a Material Adverse Effect;
- (g) any change in law or interpretation which makes it unlawful for us to give effect to any provision of these Terms;
- (h) we or you are requested to end a Contract (or any part of a Contract) by any regulatory agency or authority;
- (i) you die or become of unsound mind;
- (j) a representation or warranty made, or taken to be made, by or for you in connection with these Terms is found to have been incorrect or misleading when made or taken to be made;
- (k) you exceed the Position Limit on your Account;
- (l) you or a Guarantor becomes insolvent;
- (m) where you are trustee of a trust:
  - (i) you cease to be the trustee of the trust or any step is taken to appoint another trustee of the trust, in either case without your consent; or
  - (ii) an application or order is sought or made in any court for:
    - (A) your removal as trustee of the trust;
    - (B) property of the trust to be brought into court or administered by the court or under its control; or
    - (C) a notice is given or meeting summoned for the removal of you as trustee of the trust or for the appointment of another person as trustee jointly with you;
- (n) these Terms or a transaction in connection with these Terms is or becomes (or is claimed to be) wholly or partly void, voidable or unenforceable ("claimed" in this paragraph means claimed by you or anyone on behalf of any of it);
- (o) distress, execution or other process is levied against any of your property and is not removed, discharged or paid within 7 days;
- (p) any security created by any mortgage or charge becomes enforceable against you and the mortgagee or chargee takes steps to enforce the security or charge; or
- (q) we reasonably consider it necessary for our own protection or the protection of our associates.

**Free Balance** means, at any time, the excess (if any) of the balance of your Account at that time over the

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Required Margin.

**Guarantor** means any person(s) identified as such in the Application.

**Hedging Partner** means any counterparty to which we have deemed suitable to form an agreement to pass all trades as back to back transactions to manage risk.

You will be deemed **Insolvent** if:

- (a) you commit an act of bankruptcy;
- (b) a liquidator or trustee in bankruptcy or similar person is appointed to you;
- (c) you are (or states that you are) an insolvent under administration or insolvent;
- (d) you are in liquidation, in provisional liquidation, under administration or wound up or have had a Controller appointed to your property;
- (e) you are subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved;
- (f) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with you, which is preparatory to or could result in any of (a), (b) or (c) above;
- (g) you are taken to have failed to comply with a statutory demand; or
- (h) you are otherwise unable to pay its debts when they fall due; or
- (i) something having a substantially similar effect to (a) to (h) happens in connection with you under the law of any jurisdiction.

**Interest Period** means the number of calendar days between one Business Day and the next Business Day.

**LIBOR** means the London Interbank Offered Rate.

**Listed Entity** means in relation to a Security, the entity that is considered by the applicable market to be the issuer of that Security.

**Long Party** means in respect of any Contract the party identified in the Confirmation as having notionally bought the Underlying Instrument.

**Loss** means, the difference between the Opening Value of the Contract and the Close-Out Value of the Contract if you are:

- (a) the Long Party and the Close-Out Value of the Contract is lower than the Opening Value of the Contract; or
- (b) the Short Party and the Close-Out Value of the Contract is higher than the Opening Value of the



Contract.

**Margin Percentage** means the percentage rate applicable to your Contract as specified by us in our sole discretion and published on our website.

**Mark to Market Payments** means the payments calculated under clause 7.

**Material Adverse Effect** means a material adverse effect on:

- (a) your ability to comply with your obligations under these Terms;
- (b) your rights under these Terms; or
- (c) your business or financial position.

**Opening Value** means:

*Opening Underlying Instrument Price x Contract Quantity*

**Opening Underlying Instrument Price** means the Underlying Instrument Price on opening the Contract as agreed between us and you.

**Order** means an offer made by you under these Terms.

**Pepperstone Platform** means any online Pepperstone Platform made available by us under these Terms.

**Personal Data** means recorded information we hold about you which can identify you, this may include (but not limited to) name, addresses, emails etc.

**Position Limit** means a limit placed by us on the sum of the Contract Values for all Contracts between us and you.

**Previous Contract Value** means, the amount calculated as follows:

- (a) where the Contract Value is being determined for the first time for a Contract, the Opening Value;  
or
- (b) in all other cases, the Contract Value at the most recent Valuation Time.

**Profit** means the difference between the Opening Value of the Contract and the Close-Out Value of the Contract if you are:

- (a) the Long Party and the Close-Out Value of the Contract is higher than the Opening Value of the Contract; or
- (b) the Short Party and the Close-Out Value of the Contract is lower than the Opening Value of the Contract.

**Required Margin** means an amount that is required to be standing to the credit of your Account and which is calculated as follows:





- (a) when an Order is placed to open a Contract, an amount that is:  
*Opening Value x Margin Percentage*
- (b) throughout the term of an open Contract:  
*Contract Value x Margin Percentage*  
in respect of each such open Contract between you and us.

You agree that we may change the Required Margin at any time to take account of market conditions. It is your responsibility to monitor such changes from time to time.

**Sell Swap Rate** means the swap rate for a currency or CFD which is determined by us.

**Short Party** means the party identified in the Confirmation as having notionally sold the Underlying Instrument.

**Specified Date** means the future value date with reference to which that Contract was entered into.

**Swap Charge** means the charge calculated in accordance with clause 11.

**Terms** means the terms and clauses governing the relationship between you and us, including these Terms, the Application Form and the Confirmations.

**Underlying Instrument** means the instrument which we list as being available to underlie an Order or Contract being a unit of Currency.

**Underlying Instrument Price** means the rate at which a single unit of the first Currency, the subject of the Contract, may be bought with or, as the case may be, sold in, units of the second Currency the subject of the Contract.

**Valuation Time** means:

- (a) the Close of Business on each Business Day; and
- (b) any other time that we decide in our absolute discretion.

**We, us, our** means Pepperstone Limited, a limited company registered in England & Wales which is authorised and regulated by the Financial Conduct Authority (N0.684312). Registered office: 70 Gracechurch Street, London, EC3V 0HR. Company Number 08965105.

## 25.2 References to certain general terms

Unless the contrary intention appears, a reference in these Terms to:

- (a) the singular includes the plural and vice versa;
- (b) a document (including these Terms) includes any variation or replacement of it;
- (c) law means common law, principles of equity, and laws made by parliament and regulations and other instruments under them, and consolidations, amendments, re-enactments or



replacements of any of them;

- (d) the word “person” includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any Government Agency;
- (e) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (f) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (g) a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (h) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (i) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (j) the words “include”, “including”, “for example” or “such as” when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (k) anything (including any amount) is a reference to the whole and each part of it.

25.3 If an event under these Terms must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

25.4 Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of these Terms.



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