

# **ACCOUNT TERMS**

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## **1. Introduction**

- 1.1 The Account Terms herein constitute a legally binding agreement between AGM Markets Pty Ltd (ACN 158 706 766) with Australian Financial Services Licence No. 422662 and you.
- 1.2 Binary Options are issued and managed by the CAR under these Account Terms.
- 1.3 All Products offered by the CAR are subject to these Account Terms (as may be amended from time to time), which include the Schedule attached hereto.
- 1.4 By signing or submitting (electronically or otherwise) the Application Form when you apply to become a Client or by using or accessing the Website, you agree to the terms and conditions herein, and make the representations and warranties set out in the applicable Product Disclosure Statement (PDS), the Financial Services Guide (FSG) and these Terms of Service, all as may be amended from time to time, including but not limited to by any supplement or replacement to such documents.
- 1.5 You should check that you have the latest version of the Account Terms including the latest Schedule.
- 1.6 These Account Terms will apply to you in respect of any Financial Product that you have selected in the Application Form.
- 1.7 These Account Terms also cover the Account you must have to:
  - 1.7.1 manage your Transactions;
  - 1.7.2 access to or use of the Website including without limitation (and any services available on that Website);
  - 1.7.3 the Platform; and
  - 1.7.4 any other features, content or services that the CAR may provide in relation to Binary Options.
- 1.8 Please Note: (i) the headings in the Account Terms are for convenience only and shall not affect the construction and interpretation of these Terms of Service; (ii) reference to a person or individual includes corporate bodies, unincorporated associations, partnerships and individuals; (iii) the singular includes the plural and vice versa; and (iv) any reference in these Account Terms to any law, statute, regulation or enactment shall include references to any statutory modification or re-enactment thereof or to any regulation or order made under such law, statute or enactment (or under such modification or re-enactment).
- 1.9 Terms and expressions used in these Account Terms for reporting and calculating amounts may differ from time to time from terms or expressions used in the Platform usage or desk usage or market practice. You should have regard to the statements, Confirmations, guides and dealing practices used from time to time.
- 1.10 The services provided on Website is intended only for Clients who are able to withstand the loss of any money they invest and who understand the risks and have experience in taking risks in financial markets. The possibility exists that you could endure loss and hence you should not invest money that you cannot afford to lose. You should be aware of all the risks related to Binary Options trading, and solicit advice from an independent financial adviser.
- 1.11 We and the Car will not tolerate any abusive behavior exhibited by you to our or the CAR's employees or representatives.

1.12 In these Account Terms, unless otherwise defined herein capitalised words and expressions shall have the meaning set out below:

<b>Act</b>	Means the Corporations Act 2001 (Cth) and regulations made under it, as amended from time to time (including, for the avoidance of doubt, as amended by the Corporations Regulations and ASIC Class orders).
<b>Account</b>	Means your account with the CAR which is governed by these Terms of Service.
<b>Adjustment Event</b>	<p>Means, any event which the CAR considers an adjustment to the terms of a Binary Option is appropriate including, for example:</p> <ul style="list-style-type: none"> <li>(i) the Underlying Asset is a share, debenture, unit or other security (or depositary receipt of any kind in respect of any of them) - a bonus issue for combination of rights issued, rights issue, stock split, share or other capital consolidation, security reclassification or sub-division return of capital, buy back, special dividend (however legally constituted), in specie distribution, takeover, scheme of arrangement or similar event or other corporate action event in respect of the security, whether or not the event triggers an adjustment to any exchange traded derivative of it;</li> <li>(ii) a distribution to existing holders of additional shares or other securities or other Financial Products granting them the right to receive dividends or other proceeds equally and proportionately with payments made to holders of the underlying securities; or 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 money cash or money's worth) at less than the prevailing market price per share as determined by the CAR;</li> <li>(iii) an event that has a dilutive or concentrative effect on the market value of the shares or other Underlying Asset;</li> <li>(iv) if the Underlying Asset is an index, a substantial adjustment to the composition of the index outside its own terms allowing for adjustments or weightings; a failure to publish the index or a suspension or cancellation of the index; and</li> <li>(v) if the Underlying Asset is a Derivative which is able to be traded on a Market – any event in respect of which the operator of the Market makes an adjustment to the terms of the Derivative.</li> </ul>

	(vi) if the Underlying Asset is a Derivative which is able to be traded on a Market – any event in respect of which the operator of the Market makes an adjustment to the terms of the Derivative.
<b>AFSL</b>	Means Australian Financial Services License.
<b>AML/CTF Laws</b>	Means the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and all regulations, rules and instruments made under that act.
<b>Application Form</b>	Means the application form by which a person applies to become a Client and open an Account.
<b>Applicable Laws</b>	Means all laws, legislation, regulation and subsidiary regulation, instruments and orders of a regulatory authority or a court, rules and procedures of any relevant jurisdiction which apply to us, the CAR, the CAR's Clients, these Account Terms and the transactions contemplated by these Terms of Service, including, without limitation, the Act and rules and regulations made pursuant to the Act, ASIC class orders and other instruments, and any laws, rules, regulations or directives of the jurisdiction of your residence .
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>Authorised Third Party</b>	Means the person (if any) described as your authorised agent in the Application Form or another person notified by you to the CAR in accordance with these Account Terms to give instructions and place orders on your behalf or otherwise to do anything which you are entitled to do in connection with or under these Terms of Service.
<b>Available Funds</b>	Means the amount calculated by the CAR as the amount of cash, which would be paid to you from the Account if requested. The amount is subject to final adjustment by the CAR at any time including immediately after payment of cash to you for any reason whatever, including changes in value or level of Underlying Assets, interest rates, currency rates, and unposted (or unreported) but accrued Chargesand/or any other amounts owed to the CAR.
<b>Balance</b>	Your Account balance will be determined by the CAR on the basis of: <ul style="list-style-type: none"> <li>(i) Transactions, including rolled Transactions;</li> <li>(ii) the fees and charges listed in clause 7.1 ;</li> <li>(iii) payments received and credited;</li> <li>(iv) Price of Binary Options entered into;</li> <li>(v) Unrealised Gain/Loss;</li> </ul>

	<p>Finance Charges (including forward and rollover fees components); and</p> <p>(v) any other fees and costs.</p>
<b>Bibary Option</b>	Means a financial product that pays a pre-determined fixed amount depending on whether or not a financial event in relation to an Underlying Asset occurs by a certain time. It is a derivative whose value or price is derived from an Underlying Market.
<b>Binary Option Transaction</b>	Means a Transaction in respect of one or more Binary Options.
<b>Business Day</b>	Means a weekday which is not a public holiday in Sydney.
<b>CAR</b>	Means our authorised representative Ozifin Tech Pty Ltd (ACN 618 038 396) License number: 001256645 with an address at Suite 502, 1 Queens Rd, Melbourne, VIC 3004, Australia.
<b>Client Rules</b>	Means the provisions in Part 7.8 of the Act and the Corporations Regulations made under those provisions that specify the manner in which financial services licensees are to deal with Client Moneys and property.
<b>Claim</b>	Means any or all, actual or potential claim, action, complaint, suit, cause of action, arbitration, debt due, costs, claim, entitlement, allegation, demand in respect of damages and any other benefit verdict and judgment whether both at law or in equity or arising under the provisions of any statute, award or determination whether known at the date of these Account Terms or not.
<b>Client</b>	Means the person who has an Account.
<b>Closing Out, Closed Out or Close Out</b>	<p>Means discharging or satisfying the obligations of the parties to the Transaction including:</p> <p>(i) by paying amounts calculated in respect of an Underlying Asset in accordance with the terms of the Transaction;</p> <p>(ii) as a result of the matching up of the Transaction with a Transaction of the same kind under which you have assumed an offsetting opposite position; and</p> <p>(iii) making adjustments for fees and charges.</p>
<b>Closing Date</b>	Means the date on which the Transaction is agreed to be Closed Out, or earlier, if deemed to be Closed Out in accordance with these Terms of Service.

<b>Closing Price</b>	Means the price of the Binary Option at the Closing Date.
<b>Confirmation</b>	Means any confirmation of a Transaction issued by the CAR on its behalf to you and includes an electronically transmitted Confirmation.
<b>Dormant Account Fee</b>	Has the meaning given to it in clause 7.2.11.
<b>Event of Default</b>	Has the meaning given to it in clause 16.1 and, if applicable, as supplemented by a term in the Schedule.
<b>Exchange</b>	Means any exchange or market in which the CAR participates from time to time or on which the Underlying Asset is traded or, if an index, who sponsors the index, as the context permits or requires.
<b>Finance Charge</b>	Means a charge payable in accordance with clause 7 as well as the Schedule.
<b>Financial Product</b>	Has the meaning given to it in part 7.1 division 3 of the Act.
<b>GST</b>	Means any tax that is imposed as a goods and services tax under any of the following: (i) a New Tax System (Goods and Services Tax) Act 1999; or (ii) any regulation made pursuant to the A New Tax System (Goods and Services Tax) Act 1999.
<b>Information</b>	Means any of your email address, logon code, password or trading password.
<b>Liquidated Value</b>	Has the meaning given in clause 10.2.
<b>Long Party</b>	Means the party to a Transaction who is treated as having notionally bought the Underlying Asset (or, in the case of an index Binary Option, a right in respect of payment arising from a change in the level of an index).
<b>Loss</b>	Means a damage, loss, cost, expense or liability incurred by a person, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
<b>Market</b>	Means a financial market within the meaning of the Act (which includes, for example, any market on which prices of Financial Products are quoted), whether located in Australia or overseas.
<b>Open Transaction</b>	Means, at any time, a Transaction which has not been Closed Out or settled prior to the time agreed for settlement.
<b>Platform</b>	Means the online trading platform offered by the CAR to enable the Client to trade in Transactions.

<b>Position</b>	Means the long or short position that you have taken in your Binary Option with the CAR.
<b>Price</b>	Means, in relation to a Transaction, the price or rate quoted by the CAR (as adjusted for any fees and charges) and agreed to by you and the CAR.
<b>Rules</b>	Means in relation to a Market, the rules, procedures, customs and usages of the Market (as applicable).
<b>Related Corporate Bodies</b>	Has the same meaning as in section 9 of the Act.
<b>Settlement</b>	Means the time by which a Transaction must be settled, as set out in the Confirmation for the Transaction.
<b>Short Party</b>	Means the party to a Transaction who is treated as having notionally sold the Underlying Asset.
<b>Tax</b>	Means any present or future tax, levy, impost, deduction, charge, duty, compulsory loan or withholding (together with any related interest, penalty, fine or expense in connection with any of them) levied or imposed by any government agency, other than any imposed on overall net income.
<b>Terms of Service</b>	Means the terms which govern your Account with the CAR located at the Website as amended from time to time.
<b>Transaction</b>	Means any contract entered into between you and the CAR as principal with respect to a Binary Option; <ul style="list-style-type: none"> <li>(i) to pay an amount calculated in respect of an Underlying Asset; and</li> <li>(ii) in respect of which you have, or are taken to have, agreed (whether orally, electronically or in writing) to: <ul style="list-style-type: none"> <li>(a) the Underlying Assets involved;</li> <li>(b) the amount;</li> <li>(c) the Price; and</li> </ul> </li> </ul> the settlement date or time.
<b>Underlying Asset</b>	Means the security, index, commodity, Foreign Exchange, futures contract, bullion or other instrument or asset or factor the reference to which the value of a Binary Option is determined.
<b>Underlying Market</b>	Means the exchange or market on which the Underlying Asset is traded.
<b>Unrealised Gain/Loss</b>	Has the meaning given in clause 10.4.
<b>we, us, our, or the Company</b>	Means, AGM Markets Pty Ltd; ACN 158 706 766.



<b>Website</b>	Means the website located at <a href="http://www.TraderQ.com.au">www.TraderQ.com.au</a> .
<b>you or your</b>	Means the person or persons or entity in whose name the CAR opens an Account following an application by that person or those persons or such company (as applicable).

## **2. Amendments and Access to the Website and Platform**

- 2.1 You agree that the latest version of these Account Terms published on the Website governs the Transactions.
- 2.2 The CAR and/or we may amend or replace these Account Terms at any time.
- 2.3 Amendment or replacement of the Account Terms will occur by posting a new or modified version of these Account Terms on the Website.
- 2.4 You are responsible for checking whether these Account Terms have been amended or replaced.
- 2.5 Any amendment or replacement will come into force as of the day it is published on the Website.
- 2.6 By accessing or using the Website or entering into or performing any Transaction, you agree that each access or use, and each Transaction, will be subject to the then applicable Terms of Service. If you do not agree to be bound by an amendment to these Terms of Service, do not access or use the Website or services or products, and notify the CAR immediately in writing.
- 2.7 The CAR, at its sole discretion and with or without notice, may terminate your access to all or part of the Website, remove or content contained therein, cease to provide or offer any of the products and services provided by it, and close any open Transaction.
- 2.8 The CAR reserves the right to withdraw or suspend access to the Platform in its absolute discretion at any time without prior notice to you.

## **3. Compliance with Laws**

You understand and accept that we and/or the CAR are unable to provide you with any legal advice or assurances in respect of your use of the services detailed herein and we and/or the CAR make no representations whatsoever as to the legality of the services detailed herein in your jurisdiction. Please verify the relevant laws in your jurisdiction before submitting an Application Form to the CAR.

## **4. Registration and Use of Your Account**

- 4.1 In order to open an Account, you must complete an Application Form which must be accepted by the CAR. Such acceptance is at the CAR's absolute discretion.
- 4.2 The CAR may, in its absolute discretion, accept or decline to establish any Account or to provide any one or more Financial Products that you have selected in your Application Form.
- 4.3 The Account Terms will apply to you in respect of any Financial Product that you have selected in the Application Form beginning from the moment that the CAR opens your Account.
- 4.4 If the Application Form is not completed to the CAR's satisfaction, the CAR may decide, at its sole discretion: (i) to reject your Application Form; (ii) to not allow you to trade; or (iii) if the CAR permits you to trade, any positive Balance, may only be withdrawn, if it is directly refunded to the account from where the initial deposit with the CAR was made and in such event all fees and charges will be paid by you.

- 4.5 The CAR reserves the right to verify your registration details, such as name, address, age, and payment methods used, at any time, by requesting certain documents. These documents shall typically include an identity card, proof of address such as a utility bill, and proof of your payment method. If deemed necessary, the CAR may request that the said document copies are notarized, meaning that the documents are stamped and attested by a Public Notary. The CAR shall be under no obligation to accept such documents as valid, and under no obligation to provide feedback on the exact nature of its findings with regards to these documents.
- 4.6 The CAR may in its discretion allow you to have two or more Accounts from time to time. A reference in these Account Terms to “Account” is a reference to all of the Accounts you have from time to time, unless the context requires a different meaning. The CAR shall not be responsible in any way for preventing the registration of multiple accounts.
- 4.7 You shall access the Platform and use the CAR's services only via your own Account and you may never access the Platform or use the services by means of another person's account.
- 4.8 You must state in your Application Form or notify the CAR in writing of any authorization of an Authorised Third Party, setting out the full name, telephone number, fax number, email address and specimen signature of that person. The CAR may require you to provide additional details, documents and information with regards to the Authorised Person.
- Furthermore, you must provide the CAR with a Power of Attorney signed by you authorising the person or entity to make use of the services detailed in these Account Terms on your behalf. Any such approval shall be at the CAR's sole discretion.
- The CAR shall be no under obligation to accept any documentation or information provided by you with respect to such authorisation, nor shall it be required to investigate the authenticity and validity of the Power of Attorney and the documents and information provided by you with respect to any such authorisation.
- 4.9 Any change or revocation of such authority provided to an Authorised Third Party is only effective upon receipt by the CAR of a signed written notice of change or revocation from you. If another person or entity is later appointed an Authorised Third Party, the provisions in Section 4.8 shall apply.
- 4.10 You are and remain solely liable and responsible for all acts and omissions of your Authorised Third Party, which includes but is not limited to the act or omission of the Authorised Third Party which was or is: (i) outside their actual or ostensible authority; (ii) an error; (iii) fraudulent; (iv) negligent; (v) in breach of their fiduciary duties; (vii) unlawful or (viii) illegal.
- 4.11 The CAR is under no obligation to accept any instruction that is not made by you or by an Authorised Third Party, or to inquire as to the identity of any person providing the instruction. For the avoidance of doubt, the CAR shall be entitled to accept instructions from such Authorised Third Party until its receipt of a written notice from you stating that the authority of the Authorised Third Party is revoked.
- 4.12 You agree not to make, and release us and/or the CAR from any and all liability to you under your right to make any Claim against us and/or the CAR for any Loss incurred or suffered by you, which arises directly or indirectly as a result of us and/or the CAR relying on instructions from the Authorised Third Party, or any other communications from the Authorised Third Party or any acts or omissions by the Authorised Third Party.
- 4.13 You must keep all Information secret and secure and ensure that unauthorised parties do not obtain access to your Account for Transactions. You are solely responsible for any damage

caused by reason of any act or omission resulting in improper, unlawful or illegal use of your Account, including but not limited to any malware or security breach which may allow such access to your Account.

- 4.14 You agree to provide the CAR accurate and complete information, including about yourself during the registration process. If any of your personal information, passwords or access codes to your Account are “hacked” or otherwise obtained by any person other than you, this is your responsibility.
- 4.15 You also agree not to impersonate another person or entity, and not to hide your identity from the CAR for any reason whatsoever.
- 4.16 You shall inform the CAR immediately if you suspect that your Account is being misused by a third party and/or that any third party has access to your Information so that the CAR may investigate such matter, and you will cooperate with the CAR, as it may request, in the course of such investigation.
- 4.17 The Account with the CAR is solely for your benefit. You shall not allow any third party (including a relative) to use your Account and/or Information and you shall be fully responsible for any activities undertaken on your Account.
- 4.18 You can instruct the CAR in the following ways:
  - 4.18.1 through the Platform;
  - 4.18.2 by email;
  - 4.18.3 face to face; or
  - 4.18.4 by telephone.
- 4.19 It is your responsibility to ensure that the CAR has received instructions sent by you. The CAR may, in its own discretion, not accept instructions in any of the ways described above if the CAR cannot verify the identity of the Client or the Authorised Third Party.
- 4.20 Transmission of an instruction by you will not constitute a binding contract with the CAR because any order or instruction made by you is subject to the CAR accepting and confirming your order.
- 4.21 You must execute, or otherwise authorise the CAR to execute, all such agreements and other documents as required by the CAR to enable the provision of the services and Financial Products contemplated in these Terms of Service.
- 4.22 If there are any changes to the information provided to the CAR by you (including for the registration process – for example, name) you must provide details of the changes immediately. If a form of identity has expired, a new one must be provided by you immediately. For a person with more than one account under the same identity, the CAR may request (and the person must provide) further information, documents and/or an updated form of identification to the CAR’s satisfaction.
- 4.23 In the event you deposit into your Account through Credit Cards or Debit Cards using the iSignthis service, any such deposit may be processed as two partial amounts which will be visible on your card account statement. In such event, your order may not be processed until such time you confirm the amount of each of the partial payment amounts on the Website. You may retrieve the numeric value of each of these two transactions by accessing your card account statement by online, mobile or telephone banking with the relevant card issuer as the two partial payment amounts are created by the iSignthis Ltd (or its subsidiaries) as a verification service

independent of the CAR. For the terms and conditions relating to your use of the iSignthis service, please see <https://www.isignthis.com/legal-and-privacy-notice/> (the "iSignthis Terms"). You should review the terms and conditions carefully and you must ensure that the iSignthis Terms are acceptable to you prior to using the iSignthis services.

You acknowledge and agree that neither we nor the CAR are liable for any loss or damage which may be incurred by you as a result of your use of the iSignthis services.

- 4.24 Please feel free to use the customer support Live Third Party button located on the bottom right of the page on the Website or to contact us by e-mail at [support@traderQ.com.au](mailto:support@traderQ.com.au) whenever you have a question.

## **5. Intellectual Property**

- 5.1 You may only install and use the Platform and all content derived from the Platform, including, but not limited to, the copyright and all other intellectual property rights in the Platform, in connection with your personal use and in accordance with these Terms of Service. The Platform's code, structure and organization are protected by intellectual property rights. You must not:
- 5.1.1 copy, redistribute, publish, reverse engineer, decompile, disassemble, modify, translate or make any attempt to access the source code to create derivative works of the source code, or otherwise;
  - 5.1.2 sell, assign, sublicense, transfer, distribute or lease the Platform and/or the Website;
  - 5.1.3 make the Platform and/or the Website available to any third party through a computer network or otherwise;
  - 5.1.4 export the Platform to any country (whether by physical or electronic means); or
  - 5.1.5 use the Platform and/or the Website in a manner prohibited by any laws or regulations which apply.
- 5.2 The brand names relating to the CAR and/or us on the Website and Platform and any other trademarks, service marks and/or trade names used by us and/or the CAR (the "Trade Marks") are owned by us and/or the CAR and/or their respective licensors. In addition to the rights in the Trade Marks, we and/or the CAR and/or their respective licensors own the rights in all other content of the Sites and the Platform, including but not limited to the Software, images, pictures, graphics, photographs, animations, videos, music, audio and text available via the Platform or on the internet (the "Site Content"). You acknowledge and agree that by using the Platform and/or the Website you shall not obtain any rights in the Trade Marks or the Site Content and you may use the Trade Marks and Site Content in accordance with these Account Terms only. You agree not to upload, post distribute or any Site Content.
- 5.3 You agree not to remove copyright notices or other indications of protected intellectual property rights of any material you print or download from the Website. You will not obtain intellectual property rights, or any right or license to use such material or the Website, other than those set forth in these Terms of Service.

## **6. Capacity to Enter into the Terms of Service**

You represent and warrant to the CAR and us, and agree that as at the date of these Account Terms and at all times during which you hold an Account:

- 6.1 **Corporate Authorisation**- if you are a company: (i) the company is duly organised and validly existing; (ii) the person who is providing the Application Form and opening the Account has full power and authority to enter into and perform on behalf of the company the transactions and obligations contemplated under the Terms of Service; and (iii) all necessary steps to enable such company to lawfully to enter into and perform these Account Terms and the transactions and obligations contemplated hereunder;
- 6.2 **Joint Account** - Where the Client is more than one person, the Account shall be established in their names as joint tenants. In any case, the parties to such joint Account shall each be jointly (together) and severally (individually) liable under these Account Terms as well as for all activity undertaken on the Account and all instructions issued, pursuant to these Terms of Service, are made on a fully informed and agreed basis by all the parties to the joint Account.
- 6.3 **Authority**- You and any Authorised Third Party (if applicable) have full power and authority to enter into and perform these Account Terms and the transactions and obligations contemplated hereunder, and bind you (whether you are a natural person, company, partnership or otherwise);
- 6.4 **Partnerships**- If the Client is one or more persons acting as a partnership in relation to these Terms of Service, the Client and each partner has power and authority to deal in Transactions and to be bound by these Account Terms and the transactions and obligations contemplated hereunder, and has full power and authority to enter into and perform these Account Terms and the transactions and obligations contemplated hereunder on behalf of all of the partners.
- 6.5 **Trustee**- If the Client is the trustee of a trust:
- 6.5.1 The trust has been duly constituted, is valid and complies with all Applicable Laws;
- 6.5.2 The trust deed has been executed in accordance with all Applicable laws;
- 6.5.3 You have in full force and effect the authorisations necessary to enter into and perform these Account Terms and the transactions and obligations contemplated hereunder and make orders, perform obligations under them and allow them to be enforced (including under the trust deed and its constitution (if any));
- 6.5.4 You are the only trustee of the trust;
- 6.5.5 You and your directors and other officers have complied with their obligations in connection with the trust;
- 6.5.6 No action has been taken or proposed to remove you as trustee of the trust;
- 6.5.7 The property of the trust has not been resettled, set aside or transferred to any other trust or settlement and the trust deed has not been terminated and the date or any event for the vesting of the trust's property has not occurred
- 6.5.8 You have power under the trust deed to enter into and comply with your obligations under these Account Terms and the transactions and obligations contemplated hereunder;
- 6.5.9 You have a right to be fully indemnified out of the assets of the trust in respect of: (i) your breach of any obligation under the Terms of Service; and/or (ii) your non-payment of any amount owed to the CAR.
- 6.5.10 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;
- 6.5.11 You have not, and never have been, in event of default (howsoever called) under the trust deed;

- 6.5.12 No action has been taken or proposed to terminate the trust;
  - 6.5.13 All obligations under, and transactions contemplated by, these Account Terms constitute binding obligations and are lawfully enforceable against the trust and its property in accordance with their terms;
  - 6.5.14 The trust deed specifically empowers and authorises dealings in Financial Products, and such dealings are within the authorised ambit of the trust's investment; and
  - 6.5.15 You have carefully considered the purpose of these Account Terms and the transactions and obligations contemplated under them and any order and consider that entry into these Account Terms and the transactions and obligations contemplated under them and any order is for the benefit of the beneficiaries and the terms of the trustee documents are fair and reasonable; all necessary consents required in order for it to conduct its business and relevant to the performance, validity or enforceability of these Account Terms and the transactions and obligations contemplated under them and any order have been obtained and are in full force and effect.
- 6.6 **Investment Manager/ Responsible Entity**- Where the Client is an investment manager or a responsible entity, the investment management agreement or constitution specifically empowers and authorises dealings in the Financial Products, by the Client and on behalf of their underlying investors and:
- 6.6.1 You are willing and able, financially and otherwise, to assume the risk of trading in high risk investments, and all Transactions covered by these Terms of Service;
  - 6.6.2 You will provide the CAR on request such information regarding its financial and business affairs and identity, as may reasonably be required;
  - 6.6.3 You will only deal in Financial Product transactions when the funds or other assets under your control are sufficient to meet the obligations which arise in connection with such dealing
  - 6.6.4 Such dealings are within the authorised ambit of the/each underlying client/s' investment strategy and governing documents;
  - 6.6.5 You have the appropriate authorisation to trade on behalf of your underlying client/s;
  - 6.6.6 You will enter into Transactions pursuant to the applicable investment management agreement as investment manager or responsible entity and not otherwise;
  - 6.6.7 You will only deal in Financial Product when the funds or other assets under your control are sufficient to meet the obligations which arise in connection with such dealing;
  - 6.6.8 You will enter into transactions pursuant to the applicable investment management agreement as investment manager or responsible entity and not otherwise;
  - 6.6.9 If your appointment as investment manager or responsible entity is terminated, you are authorised to arrange for closing out of all Transactions entered into on behalf of your clients prior to the date of such termination;
  - 6.6.10 You have experience and sufficient knowledge in financial matters, are able to evaluate the benefits and risks of entering into any Transaction and are solely responsible for any decision to enter into any Transaction;

- 6.6.11 Information supplied to the CAR directly or indirectly by you will be accurate in all respects and you will not omit or withhold any information which would make such information inaccurate in any respect;
- 6.6.12 You will take all reasonable steps to obtain and communicate to the CAR all information, and will deliver or cause to be delivered to the CAR all documents with respect to dealings in the Financial Products which are requested by any third party (e.g. governmental authorities, police, banks and other investigatory organizations) having the right to request such documents and information. You authorise us and/or the CAR to pass on or deliver all such information and documents to any such person.
- 6.6.13 You have read these Account Terms and any Product Disclosure Statement issued by us in relation to the Financial Products and Transactions relevant to the Account (including the disclosures of significant risks), have considered your objectives and financial situation and have been advised by us and/or the CAR to obtain appropriate independent advice prior to entering into these Account Terms and the transactions and obligations contemplated under them, and have formed the opinion that dealing in the Financial Products is suitable for your needs and purposes;
- 6.6.14 You comply with all Applicable Laws and will comply with all Applicable Laws when entering into and performing these Account Terms and any Transactions. Without limitation to the foregoing, you are not resident in or located in any jurisdiction (such as the United States of America) under the laws of which jurisdiction the entry into or performance of these Account Terms or any Transactions is illegal;
- 6.6.15 No Event of Default continues unremedied;
- 6.6.16 You will not conduct any Transactions, including trades, which contravene any Applicable Laws (including in relation to insider trading, market manipulation or market abuse);
- 6.6.17 In entering into and complying with these Account Terms and the transactions and obligations contemplated by them, you will not infringe any provisions of any other document or agreement to which you are a party; and
- 6.6.18 You will take all reasonable steps to obtain and communicate to us and/or the CAR all information, and will deliver or cause to be delivered to us and/or the CAR all documents with respect to dealings in the Financial Products which are requested by any person having the right to request such documents and information. You authorise us and/or the CAR to pass on or deliver all such information and documents to any such person, body entity and/or organisation.

## **7. Fees and Charges**

- 7.1 You must pay to the CAR or as the CAR directs:
  - 7.1.1 Dormant Account Fees;
  - 7.1.2 Withdrawal Fees;
  - 7.1.3 Finance Charges;
  - 7.1.4 Event of Default charges;
  - 7.1.5 Any transaction charges, commissions, fees, Prices, premiums, settlement and clearing fees which may be imposed by any Exchange;

- 7.1.6 Any fees, Taxes (including GST), stamp duty or other charges as may from time to time be levied on or in connection with any Transactions entered into with you or on your behalf; and
- 7.1.7 Interest in respect of any unpaid amounts payable by you under these Terms of Service. Interest shall accrue on all unpaid sums from you to us at 4% per annum, to accrue daily from the date on which any payment is due until the date of its payment in full.
- 7.2 You acknowledge and agree that:
  - 7.2.1 We and/or the CAR may receive commissions and other benefits from other parties in relation to Transactions the CAR enters into with you or on your behalf or in connection with other services provided to you. We and/or the CAR entitled to retain such commissions and benefits;
  - 7.2.2 If you have been referred to the CAR by or on behalf of a broker or other third party, that broker or third party may receive benefits in the form of a commission or rebate from us;
  - 7.2.3 We and/or the CAR may engage with unrelated third parties for different types of collaborations, including for marketing and reference of potential clients to receive services from us and/or the CAR; such business arrangements may include commissions or other fees to be paid to such third parties, which may be determined by the number of persons referred by them and/or the trading volumes of such persons.
  - 7.2.4 Unless otherwise agreed, the terms of any amounts payable by you under the Product Disclosure Statement and these Account Terms are stated exclusive of Goods and Sales Tax. You must pay the Goods and Sales Tax on the amount charged for the supply of the service, unless that is not permitted by law.
  - 7.2.5 You are responsible for your own legal costs associated with entering into these Account Terms and any transactions or obligations contemplated by them and for all Taxes and expenses incurred in relation to such.
  - 7.2.6 The amounts of the fees, commissions and charges, will be as notified from time to time in writing by the CAR, by way of posting to the Website or as otherwise agreed with you or permitted by these Terms of Service.
  - 7.2.7 The CAR may:
    - 7.2.7.1 Debit your Account (on a monthly or any other basis) and pay itself, without further reference to you:
      - 7.2.7.1.1 Administration fees, including but not limited to fees associated with returned cheques, payment processing, Short Message Service (SMS), debt collection and telephone transcript copies from your Account; and
      - 7.2.7.1.2 All fees, charges, unpaid amounts to the CAR and any royalties which you owe.
    - 7.2.7.2 Withdraw from the Account any amount payable to the CAR and/or us or reimbursable in accordance with these Terms of Service.
  - 7.2.8 In the event: (i) you are required to make a deduction or withholding in respect of Tax from any payment to be made; (ii) we and/or the CAR are required to pay any Tax (other than income tax) in respect of any payment made in relation to these Account Terms at your request, then you hereby agree to indemnify us and the CAR (as applicable) against the Tax; and you agree to pay any additional amount to ensure we and the CAR (as



applicable) receive a net amount (after payment of any Tax in respect of each additional amount) that is equal to the full amount that would have received had a deduction or withholding or payment of Tax not been made.

- 7.2.9 In the event that no minimum period is required or is not stated elsewhere in these Terms of Service, notice of a change in Fees, charges or rates (including new ones) may be effective following 48 hours from when the CAR publishes the information of any variation or new item in the Product Disclosure Statement, on the Website or administrative service.
- 7.2.10 You are solely responsible for recording, paying and accounting to any relevant governmental, taxation or other authority for any tax or other levy that may be payable on any amounts paid to you by the CAR. Without derogating from the foregoing If Goods and Services Tax is payable on a taxable supply made by us and/or the CAR under, by reference to, or in connection with these Terms of Service, you must also pay the amount of GST payable in respect of that taxable supply. This clause does not apply to the extent that consideration for a supply is expressly stated to you to be GST inclusive. Terms which have a defined meaning in the A New Tax System (Goods and Services Tax) Act 1999 have that meaning in these Terms of Service.
- 7.2.11 In the event that no Transaction has been undertaken through your account for 30 consecutive days, the CAR may charge a dormant account fee of 99 AUD; and following such period, in the event that no Transaction has been undertaken through your account for 30 consecutive days, the CAR may charge a fee of 99 AUD for each such 30 days period (the "**Dormant Account Fee**"). Once a Transaction is undertaken through your account, the aforementioned cycle shall start from the beginning (i.e. a fee of 99 AUD). Such fees shall not exceed the total balance in such Account. The Dormant Account Fee shall be deducted automatically from your Account.

## **8. Client Acknowledgements and Undertakings with regards to the Price**

- 8.1 You acknowledge, agree and confirm to us and the CAR for our and the CAR's benefit in relying the following:
- 8.1.1 You are 18 years of age or older, you are of sound mind and you are capable of taking responsibility for your own actions;
- 8.1.2 All details provided by you to the CAR either during the registration process or at any time afterwards (including as part of any payment deposit transaction and/or with regards to your occupation details) are true, current, correct and complete and, as appropriate, match the name(s) on the credit/debit card(s) or other payment accounts to be used to deposit or receive funds in your account. Should you use a credit/debit card or any other form of payment which is not in your personal name, you must have received complete and sufficient consent from the person in whose name the credit/debit card is registered, before you are able to use such credit/debit card. The CAR will presume that you have received such complete and sufficient consent from the rightful owner of the credit/debit card to make use of such payment instrument for the purposes herein, prior to your engagement with us. You will promptly notify the CAR of any changes to details previously provided by you to us which includes but is not limited to your source of funds, financial standing, occupation and other similar details;
- 8.1.3 Reports to you on the execution of Confirmations, and the content of such Confirmations, open position statements and monthly statements, unless otherwise objected to within 48

hours after communication to you, will be deemed to be conclusive proof of the accuracy of such contents and their execution in accordance with these Account Terms except only in the case of manifest error;

- 8.1.4 A notice issued by an authorised officer, employee or agent of the CAR stating the amount of money due and payable by you will be taken as conclusive evidence of except in the case of manifest error;
- 8.1.5 You (or, if a corporate entity, the directors who apply to be bound by these Terms of Service) have read and understood all documentation provided to you by us and/or the CAR including these Account Terms and any Product Disclosure Statement and Financial Services Guide in relation to any Financial Products which you request the CAR to make available to you in relation to your Account;
- 8.1.6 That all orders to be placed and all trading to be conducted under these Account Terms must be lawful;
- 8.1.7 You are fully aware that there is a risk of losing money when using the Financial Products by means of the Platform. You agree that your use of the Financial Products is at your option, discretion and risk;
- 8.1.8 There are risks associated with using an internet-based deal execution trading system which include, but are not limited to, the failure of hardware, software, and internet connection and since neither we nor the CAR control data flows, internet or power connection, routing via internet, configuration of your equipment or reliability of its connection, neither we nor the CAR will be responsible for communication failures, distortions or delays when trading (including processing payments) via the internet;
- 8.1.9 The CAR may act as principal in its dealings with you;
- 8.1.10 You comply and shall continue to comply with Applicable Laws with regards to your Account;
- 8.1.11 You are solely responsible for recording, paying and accounting to any relevant governmental, taxation or other authority for any tax or other levy that may be payable on any profits paid to you;
- 8.1.12 You are responsible for obtaining access for your device to telecommunications networks and the Internet and for acquiring any other consents and permissions required for your device to connect;
- 8.1.13 Neither we nor the CAR are required to act in accordance with your instructions if in either party's opinion to do so would or could constitute a breach by it or its agent or counterparty of the Applicable Law;
- 8.1.14 Neither we nor the CAR provide any legal, tax, financial or accounting advice to you (including any personal advice) as part of the services provided to you in accordance with these Terms of Service;
- 8.1.15 By these Account Terms (including any Transaction made under it) neither we nor the CAR act in a fiduciary capacity in relation to you and we and/or the CAR do not owe any fiduciary obligations to you in respect of the services provided to you in connection with these Terms of Service;

- 8.1.16 The CAR may transfer from your other Account(s) held with the CAR (if any), such funds as may be required to meet obligations as a result of Transactions between you and the CAR or to satisfy any amount owing by you under these Terms of Service;
  - 8.1.17 We or the CAR may take the opposite side to you in relation to any order with respect to the Financial Products;
  - 8.1.18 Our and/or the CAR's directors, employees and associates may and can deal on their own account in relation to any of the Financial Products;
  - 8.1.19 The CAR may, in its sole discretion and without explanation, refuse to deal with or on behalf of you in relation to any Transaction (including Closing Out existing open positions in your Account) or to limit the number of open positions of or held in your Account;
  - 8.1.20 The CAR may, in its sole and absolute discretion, and without notice and explanation, may hedge, transfer or otherwise deal the risk of part or all of the Client's exposures with a counterparty;
  - 8.1.21 Nothing in this Agreement requires the CAR to hedge its exposures at all;
  - 8.1.22 You agree that we and/or the CAR may disclose any information: (i) which you provide to us and/or the CAR; (ii) about Transactions you have with the CAR or which you seek to conduct with CAR, if we are required to do so by Applicable Law.
  - 8.1.23 If errors have occurred in the pricing of Transactions quoted by the CAR to you, the CAR may choose not to be bound by such Transactions (without further liability to you) if the CAR determines that there was a material error at the time of the Transaction.
- 8.2 Furthermore you affirm that:
- 8.2.1 The CAR will have unfettered discretion to exercise power or right under the Account Terms and in such case it shall be binding on you;
  - 8.2.2 Your liability to pay the CAR the Price ensues at the point of the Transaction comes into existence;
  - 8.2.3 All of your payments to the CAR with regard to Binary Options (after withdrawal from the Client Money Trust Account) are received and held by the CAR for the CAR's benefit;
  - 8.2.4 You must pay to the CAR in cleared funds to cover the Price of any Binary Options prior to or on any Transaction being effected and you will not have satisfied your obligation until cleared funds have been credited to the correct account required for payment for the Price;
  - 8.2.5 Subject to you meeting all your obligations in respect of your Accounts and Transactions and these Account Terms and the Withdrawal Policy, the CAR may permit you to withdraw from your Account any Available Funds;
  - 8.2.6 The CAR shall determine the Price;
  - 8.2.7 The CAR may permit any offset in the Price;
  - 8.2.8 The CAR may increase the Price and change its time of payment, and in such event, if the CAR requires you, you must pay to the CAR additional cleared funds equal to such an increase and/ or comply with any change. If there is an increase or other change, the

CAR may require that you (and you must) pay the CAR additional cleared funds equal to such an increase or comply with the other change;

- 8.2.9 If the Price has not been paid, the CAR may refuse any request by you to enter into the relevant Transaction and any further Transactions until the CAR has confirmed the receipt of payment in the required amount in the form of cleared funds;
- 8.2.10 The CAR shall determine in its sole discretion the time when funds paid by you are considered to be "cleared funds";
- 8.2.11 You must reimburse us and the CAR for all direct and indirect fees and expenses charged in connection with any Transaction (other than Tax on our income) and for all costs and expenses incurred by us and/or the CAR in implementing these Account Terms and in enforcing its rights under these Account Terms (including its legal costs of external or internal legal advisers on a full indemnity basis);
- 8.2.12 All payments by you under these Account Terms are: (i) to be made without any set-off by you, counter claim or condition made by you and without you making any deduction or withholding for any Tax or any other reason unless the deduction or withholding is required by applicable law or the set-off arises by express application of these Terms of Service; and (ii) payable in any currency that the CAR may require or determine;
- 8.2.13 That you will use the Platform software solely for your internal business or investment purposes;
- 8.2.14 You are responsible to pay in cleared funds any deficit owing to the CAR after closure of positions in accordance with these Terms of Service. In payment of such deficit, the CAR may realise any other position held by you with it and apply the proceeds against that deficiency;
- 8.2.15 Any amounts payable to you by in respect of Binary Options will not fall due for payment by the CAR until all of your obligations to the CAR and/or us (under or in respect of the Account or any other account with or transaction between the CAR and you whether under these Account Terms or otherwise) are satisfied in full. Until this time any amount will not constitute a debt due by the CAR to you nor will you have any right to receive payment of any amount in respect of these funds;
- 8.2.16 That any information which you provide may be provided to any regulatory authority or any other person or organisation including if we and/or the CAR reasonably consider that the disclosure is required by Applicable Law, regulatory requirement or necessary to protect us and/or the CAR's interests. You authorise us and/or the CAR to provide any such information concerning your Accounts, these Terms of Service, or any Transaction entered into or proposed to be entered into by you; and
- 8.2.17 Upon our and/or the CAR's request, you will take all reasonable steps to deliver all information and documentation which the CAR and/or we require in order to comply with its compliance policies and its duties and obligations, and you authorise us and/or the CAR to produce such information or documentation to any regulatory agency, with or without prior notice to you.

## **9. Orders and Confirmations**

### **Orders**

- 9.1 The CAR may take the opposite position in a Transaction with you.

- 9.2 You may from time to time place orders with the CAR to request to enter into Transactions.
- 9.3 Neither we nor the CAR shall be responsible for delays or errors in the transmission or execution of your instructions (except to the extent that responsibility cannot be excluded by law).
- 9.4 Your orders may match opposite orders of another person (including by or on behalf of the CAR), and under such circumstances we and/or the CAR may match or offset such Transactions, without it affecting our rights to receive fees or commissions from you.
- 9.5 Your and/or your Authorised Third Party's (if applicable) instructions to the CAR to request to enter into a Transaction, your order to the CAR to request to enter into the Transaction and the Transaction remains valid and enforceable against you, without affecting your other liability to the CAR, even if you (or your Authorised Third Party) are not authorised by your own rules.
- 9.6 The CAR may, in its absolute discretion, decide to accept or reject your order. You agree and acknowledge that no Transaction is entered into until your order is accepted by the CAR.
- 9.7 The CAR is not prohibited from contracting with any person and no contract, transaction or arrangement in which the CAR is in any way interested is avoided or rendered voidable by virtue of your agreement with the CAR or a Transaction. We and/or the CAR are not liable to account to you for any profit realised by any such contract, transaction or arrangement in connection with these Account Terms or a Transaction. Except as required by the Applicable Law we and/or the CAR are not required to make any disclosure to you concerning any such contract, transaction or arrangement.
- 9.8 The CAR may cancel or amend an order, including without limitation:
  - 9.8.1 If required by a relevant Market or Applicable Laws to do so;
  - 9.8.2 In the event of an error;
  - 9.8.3 If the Financial Product the subject of the Transaction has been subject to a trading halt on a Market or any other regulatory action preventing execution of your order;
  - 9.8.4 If the CAR considers the cancellation or variation is appropriate;
  - 9.8.5 Having regard to the desirability to maintain a fair and orderly market, general market condition, any of our obligations as the holder of an AFSL and/or any other legal and regulatory obligations of ours or the CAR's; or
  - 9.8.6 In the event of an Event of Default.
- 9.9 We and/or the CAR will not be responsible for delays or errors in the transmission or execution of your instructions.
- 9.10 Pursuant to Applicable Laws, the CAR may execute orders for and/or enter into Transactions with you even in circumstances where we, the CAR or their respective associates:
  - 9.10.1 hold a principal position or deal in the relevant Financial Products;
  - 9.10.2 provide similar services to other persons in relation to the relevant Financial Products;
  - 9.10.3 have material price sensitive information relating to the relevant Financial Products; or
  - 9.10.4 have a potential conflict of interest or duties, including, for example, a conflict of interest of which you are not aware and which the CAR is unable to disclose to you.
- 9.11 The CAR at its sole discretion may place a limit on any order or place other conditions on the receipt of instructions or orders. The CAR will notify you of any refusal or limitation as soon as

reasonably practicable, unless we and/or the CAR are prevented by law or a direction from a regulatory authority from notifying you.

- 9.12 The CAR may at any time use, add and change filters within a trading system which prevent delivery of orders or execution of orders.
- 9.13 If you give instructions to cancel or to amend your order, but an order is executed, or a Transaction is entered into, prior to the cancellation or amendment instruction being effected as determined by the CAR, you are bound by the Transaction on the original terms prior to your amendment or cancellation instruction.
- 9.14 The CAR may accept or decline a cancellation request at its absolute discretion. Where the CAR considers the use of cancellation as abuse, the CAR may:
  - 9.14.1 cancel a position;
  - 9.14.2 refuse to cancel the position;
  - 9.14.3 disable the cancel feature;
  - 9.14.4 refuse to distribute profits; and/or
  - 9.14.5 suspend the Account.
- 9.15 Without limitation, cancellation will be considered as a system abuse if the Client cancels positions exceeding 20% of the number of executed Transactions in any thirty day period.
- 9.16 If a security code or identifier changes, you are responsible for replacing all live and contingent order codes with the new relevant security code or identifier. Neither we nor the CAR will be responsible for any live or contingent orders with the incorrect security code or identifier.
- 9.17 You must not instruct the CAR or submit an order to request to enter into a Transaction, or enter into any Transaction with the CAR, which would breach or cause us and/or the CAR or any other person to breach the Act, the Rules or any other Applicable Laws including, without limitation in relation to:
  - 9.17.1 market manipulation, false trading, market rigging, fictitious transactions, black box trading, scalping, wash trading or matching of orders;
  - 9.17.2 insider trading;
  - 9.17.3 short selling;
  - 9.17.4 creating a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
  - 9.17.5 misleading or deceptive conduct.
- 9.18 The CAR does not operate any discretionary accounts;
- 9.19 You agree not to make any Claim against us and/or the CAR for any Loss incurred or suffered by you which arises in connection with an exercise of any power by a Market and/or Exchange (whether or not the CAR has given you a Confirmation in respect of any affected Transaction and whether or not that exercise of power was in relation to a particular contract made by the CAR to hedge its Transaction with you).

### **Confirmations**

- 9.20 If your order is accepted, the CAR will send you a Confirmation. If the CAR fails to send you a Confirmation, it does not affect the validity of the order or the Transaction.

- 9.21 You consent to Confirmations being sent to you electronically (including by being available on the Platform).
- 9.22 The CAR may, at any time, reissue a Confirmation in order to correct any errors or omissions.
- 9.23 It is your obligation to review any Confirmation immediately to ensure its accuracy and report any discrepancies or errors that you may have to the CAR within 48 hours. Confirmations can be viewed electronically through the Platform.
- 9.24 If there is a conflict between: (i) the Terms of Service; and (ii) the CAR's records of the Transaction concerning an order, (ii) shall prevail.

## **10. What is Your Account Balance**

- 10.1 The value of your account will be calculated on the CAR's assessment of the Balance.
- 10.2 The CAR may from time to time calculate and report the Liquidated Value. The Liquidated Value is an indicative and non-binding value of an Account calculated by the CAR for the Account. It takes into account (among other things, without limitation):
  - 10.2.1 charges detailed in these Account Terms (whether or not accrued and payable); and
  - 10.2.2 the expected but non-binding estimate of costs of closing Transactions by termination or Close Out.
- 10.3 The CAR may from time to time calculate and report the Available Funds for an Account.
- 10.4 The CAR may from time to time calculate and report the Unrealised Gain/Loss for an Account. Unrealised Gain/Loss is the indicative amount of net profit or loss of an Account calculated by the CAR (including by the Platform) by reference to prevailing market prices and:
  - 10.4.1 may be adjusted by the CAR at any time; and
  - 10.4.2 is not definitive and so does not assure you that the Transactions will have that value if actually terminated or sold at that particular time.
- 10.5 If the Underlying Asset is adjusted by its issuer, regulator or sponsor, the CAR will make such adjustment to the Transaction at the time determined by the CAR. The CAR is not obliged to provide notice of such adjustment.
- 10.6 If the Underlying Asset becomes subject to a take-over bid, a take-over offer, scheme of arrangement or other mechanism for change in control, then the CAR may elect to Close Out the Transaction on a new Closing Date determined by the CAR.
- 10.7 Terms and expressions used in these Account Terms for reporting and calculating amounts may differ from time to time from terms or expressions used in the Platform usage or desk usage or market practice. You should have regard to the statements, Confirmations, guides and dealing practices used from time to time.

## **11. Client Moneys**

- 11.1 Moneys paid by you for Transactions are initially deposited into the Client Money Trust Account. The CAR may invest any of your money held in the Client Money Trust Account in the kinds of investment and you irrevocably and unconditionally authorise the CAR to undertake any such investment.
- 11.2 Moneys in the Client Moneys Trust Account are held for Clients and are segregated from the CAR's own funds.

This means those funds are not available to pay general creditors in the event of receivership or liquidation of the CAR. You agree and acknowledge that the moneys of Clients are not separated from each other within the Client Moneys Trust Account.

11.3 You agree that:

11.3.1 Your money and the moneys of other Clients may be combined and deposited in the Client Money Trust Account;

11.3.2 All money credited to the Client Money Trust Account may be used by the CAR to meet the Event of Default of any Client;

11.3.3 The CAR is entitled to all interest earned on moneys credited to the Client Money Trust Account or invested by the CAR;

11.3.4 Upon realisation of an investment of your moneys, the initial capital invested shall either be invested in another investment or deposited by the CAR into the Client Moneys Trust Account;

11.3.5 Moneys credited to the Client Money Trust Account may be used by the CAR for purposes unrelated to your Account and as a result such use of Client Money Trust Account does not fully protect your money and property from risk of loss.

11.4 You authorise the CAR to:

11.4.1 withdraw, deduct, pay, apply and use any or all moneys in the Client Money Trust Account (or invested by the CAR) to meet any liability, obligation or Loss which you owe to the CAR including, without limitation, making a payment for, or in connection with, the Price for Transactions entered into by you with the CAR or the payment of interest, fees or charges to the CAR, it being acknowledged and agreed by you that such amounts belong to the CAR and may be used by the CAR from time to time for any purpose whatsoever; and/or

11.4.2 Withdraw, deduct, pay, apply and use any and all moneys in the Client Money Trust Account (or invested by the CAR) to meet obligations incurred by the CAR in connection with margining, guaranteeing, securing, transferring, adjusting or settling dealings in derivatives by the CAR (including dealings on behalf of people other than you), including without limitation for the payment of amounts to the CAR's counterparties.

11.5 The proceeds of a Transaction or other moneys to which you are entitled under these Account Terms will be paid directly to you and not to any third party. You must provide relevant account details for payment instructions in respect of payments to be made by the CAR to you. Although the CAR will take reasonable steps to comply with your payment instructions, we and/or the CAR accept no responsibility for any failure to comply with those instructions and, if such failure occurs, the relevant moneys will continue to be held by the CAR in accordance with the Act and Applicable Laws.

11.6 You acknowledge that from the time any funds withdrawn from the Client Money Trust Account in connection with your Transactions you lose the protections given to by an account of that kind;

11.7 All currency exchange risks regarding any payment instruction or any order or Transaction entered into or arranged for you by the CAR are your responsibility. Any conversion from one currency to another required to be made for performing or executing any payment instruction, order or Transaction may be effected by the CAR in the manner and at the time and at the exchange rates that the CAR decide.



## **12. Notices**

- 12.1 Any notices or communications which include but are not limited to demands for payment to the CAR in relation to a Transaction can be made by telephone, email, mail, facsimile to the contact details as provided by you to us and/or the CAR from time to time.
- 12.2 All communications to you will be deemed to have been received:
  - 12.2.1 three (3) Business Days from and including the date of postage if delivered by mail;
  - 12.2.2 immediately when transmitted if delivered by facsimile; and
  - 12.2.3 immediately when transmitted if sent by email or SMS;unless earlier receipt is confirmed by reasonable evidence of that.
- 12.3 You must notify the CAR in writing of any change in your name, address, telephone number, fax number or email address.
- 12.4 If an Account is opened in the joint names of more than one person, each person agrees that the CAR and/or we may discharge any obligation to give a notice or a document those persons under these Account Terms or Applicable Laws by giving notice to any one of those persons.

## **13. The Website**

- 13.1 Use of the Website is at your own risk.
- 13.2 Neither we, the CAR, nor any of their respective directors, officers, employees or agents:
  - 13.2.1 Assume any responsibility for any error, omission, deletion, interruption, delay, defect, in operation or transmission, communications line failure, theft or destruction or unauthorised access or alteration of the Website and all products and services provided through the Website;
  - 13.2.2 Will be liable for any loss or damage arising from: (i) your use of the Website or the products and services provided through the Website; (ii) for any content posted on or through the Website, or (iii) the conduct of the users of the Website.
  - 13.2.3 Will be liable for any damages whatsoever to you, including, without limitation, indirect, incidental, consequential or punitive damages, arising out of or related to the use of Website or the products and services provided by the CAR whether the damages were foreseeable or not and whether or not we and/or the CAR have been advised of the possibility of such damages;
  - 13.2.4 Are responsible or liable for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, hardware or software, or any technical failure because of technical problems or traffic congestion on the internet, the Website or any service or product provided through the Website
- 13.3 The limitation of liability provided in clause 13.2 shall apply to the fullest extent permitted by law and in no event shall our and/or the CAR's cumulative liability to you exceed the amount of money you have paid to the CAR for the Transaction giving rise to such liability in relation to your Account.
- 13.4 The information that is provided on the Website ("Website Information") is supplied by the CAR, its agents, suppliers and/or partners ("Third Party Providers") and includes, but is not limited to, financial market data, quotes, news, analyst opinions, research reports, graphs and data.

- 13.5 Neither we, the CAR nor Third Party Providers warrant the accuracy, timeliness, completeness or correct sequencing of the financial information, or results of your use of the Website Information.
- 13.6 The Website Information may promptly become unreliable for various reasons, including, for instance, changes in market conditions or economic circumstances. Neither we, the CAR nor the Third Party Providers are required to update the information or opinions included in the Website Information, and the CAR may interrupt the flow of Website Information at any time without notice.

#### **14. Links**

- 14.1 The Website may include hyperlinks to other websites that are not owned or controlled by us and/or the CAR, as well as third party advertisements.
- 14.2 Neither we nor the CAR have control over, nor assume responsibility for, the content, privacy policies, or practices of any third party websites which are linked to on the Website, nor for any third party products or services advertised on the Website.
- 14.3 You acknowledge and agree that neither we nor the CAR are responsible for the availability of any such external websites, resources, products or services, and neither we nor the CAR endorse any advertising, products or other materials on or available from such websites or third parties.
- 14.4 You acknowledge and agree that neither we nor the CAR are liable for any loss or damage which may be incurred by you as a result of the availability of those external sites, resources or advertisements, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such websites or resources.
- 14.5 The CAR and we recommend that you be aware when you leave the Website, and read the terms and conditions and privacy policy of each other website that you visit.

#### **15. The Platform**

- 15.1 The following terms apply to Transactions executed through the Platform. Neither we nor the CAR:
- 15.1.1 Are liable to you for any loss, expense, cost or liability suffered or incurred by you due to failure of the Platform, transmission failure or delays or similar technical errors whether or not the error might be due to factors under our and/or the CAR's control; or
- 15.1.2 Are liable to you for any removal of profits or losses you might suffer due to errors in quotes which are the result of your typing errors or feed errors committed or your erroneous perception of information entered into the system by you.
- 15.2 The CAR is entitled to make the necessary corrections in your Account according to market value of the Underlying Asset in question at the time when the error occurred.
- 15.3 You are responsible:
- 15.3.1 For the consequences of any unauthorised disclosure or use of Information by an Authorised Third Party and/or for any act or omission by an Authorised Third Party;
- 15.3.2 For all orders, and for the accuracy of all information, sent via the Platform using your name, password or any other personal identification means implemented to identify you;

- 15.3.3 To notify the CAR immediately if you become aware of any inaccurate information being transmitted through the Platform including, for example, inaccurate content as to orders, Transactions or Account balances;
- 15.3.4 For Transactions executed by means of your password even if such use might be unauthorised or wrongful;
- 15.3.5 To inform the CAR if you become aware of a material defect, malfunction or virus in the Platform and cease all use of the Platform until you have received permission from us to resume use.
- 15.4 Regardless of the fact that the Platform might confirm that a Transaction is executed immediately when you transmit instructions via the Platform, the Confirmation forwarded by the CAR or made available to you on the Platform constitutes Confirmation of a Transaction;
- 15.5 The Platform includes information which is supplied by persons not controlled by us and/or the CAR (“Third Party Information Suppliers”) and neither we nor the CAR have verified any information provided by a Third Party Information Supplier and that the CAR is acting solely in the capacity as a carrier by conveying the information to you. Except to the extent required by law, neither we, the CAR nor any Third Party Information Suppliers make any representation or warranty as to the accuracy, timeliness, suitability or completeness of any information accessed via the Platform.
- 15.6 You agree that information provided through Platform is provided for your own use and that you may not sell, disclose or make available such information to any other person without our, the CAR's or the Third Party Information Supplier's (as applicable) prior written consent.
- 15.7 The CAR may grant you access to one or more Platforms, including terminal access through your internet browser, for the electronic transmission of orders to your Account.
- 15.8 The CAR may permit you electronically to monitor the activity and positions in your Account by providing another Platform. The Online Trading Platform is a third party system offered by another vendor.
- 15.9 The CAR may supply you with software for use with the Platform, and grant you a non-exclusive and non-transferable licence to use the Platform subject to the terms of these Terms of Service.
- 15.10 You may send and receive electronic messages and emails, engage in chats, download and upload files and otherwise use the Platform as permitted in accordance with these Terms of Service, the CAR's policies, our policies any Applicable Laws and, if a third party provides the service, the terms of use and access agreement.

## **16. Event of Default**

- 16.1 An Event of Default occurs, if:
  - 16.1.1 You Breach these Terms of Service, whether by act or omission;
  - 16.1.2 Any representation or warranty which you make under or pursuant to these Account Terms is or becomes incorrect or misleading in any way;
  - 16.1.3 You become insolvent or bankrupt, or a receiver, manager or administrator is appointed to you or any of your assets;
  - 16.1.4 The CAR has reason to believe that your activities on the Website, Platform, or in relation to any Transaction, may be illegal, unlawful or in violation of these Terms of Service;

- 16.1.5 You call a meeting to discuss a contemplated scheme of arrangement or compromise, or you enter or propose to enter into any scheme of arrangement or compromise with your creditors; or you enter into a composition or scheme of arrangement for the benefit of creditors;
- 16.1.6 If the CAR believes that you have ceased to pay debts duly owed to the CAR and/or us in accordance with these Account Terms or have threatened to cease carrying on business (if applicable);
- 16.1.7 The CAR believes that you may not be able to meet your obligations to us and/or the CAR or any other third party in respect of one or more Transactions, including, without limitation, strict compliance with any time limits for performance;
- 16.1.8 You fail to pay the Price of the Binary Options or other sums due under these Account Terms payable to us and/or the CAR or any other third party by the required time or fail to pay by the required time the amounts due in respect of any Transaction entered into pursuant to these Terms of Service;
- 16.1.9 You fail to perform any obligation arising pursuant to the settlement of a contract which arises pursuant to a Transaction;
- 16.1.10 You fail to fulfil any settlement obligations in respect of a Transaction;
- 16.1.11 You fail to comply with any limit or restriction imposed on you by us and/or the CAR in connection with your Account (for example, a restriction on the kind, volume or value of Transactions or outstanding liabilities);
- 16.1.12 A guarantee lodged by you, or lodged by a third party at your request, in favour of the CAR is withdrawn without our and/or the CAR's consent or becomes ineffective and other replacement security acceptable to the CAR (as applicable) is not provided;
- 16.1.13 You are acting on behalf of another person pursuant to authority provided by another person, and the authority is varied in a way which (in the CAR's opinion) negatively impacts on your authority or legal or financial capacity to perform your obligations under these Terms of Service;
- 16.1.14 You are a trustee, and the relevant fund or trust of which you are trustee is terminated, vests or a distribution of capital of the trust or fund is made which would result in there being, in the CAR's opinion, insufficient assets of the trust or fund to meet your liabilities under these Account Terms or any Transaction;
- 16.1.15 You are a natural person, if you die or become of unsound mind or if you or your estate is liable to be dealt with in any way under any law relating to mental health;
- 16.1.16 You impose a moratorium on payments to creditors or cease, or threaten to cease, carrying on business;
- 16.1.17 You are not contactable by the CAR within 12 hours in order for us to obtain instructions in relation to any of your Transactions and alternative arrangements have not been agreed upon;
- 16.1.18 If you are a body corporate, if:
  - 16.1.18.1 a resolution is passed or a petition is presented or an order is made for your winding up or liquidation;

- 16.1.18.2 you go into liquidation, voluntarily or otherwise (except for the purpose of reconstruction), or you or another person appoint a liquidator, receiver, administrator or official manager in respect of your assets;
  - 16.1.18.3 a director of the Client has not given a valid deed of guarantee and indemnity in respect of your obligations under these Account Terms in favour of us and in a form acceptable to the CAR; or
  - 16.1.18.4 you have not notified the CAR of a change of any director within seven (7) days of the change taking effect;
  - 16.1.18.5 the CAR considers that it and/or us may be harmed by any fiscal or pecuniary damage due to your activities;
  - 16.1.18.6 the CAR considers that one or more operations on the Website and/or the Platform were made in violation of these Terms of Service; or
  - 16.1.18.7 the occurrence of any other event (i) referred to in the Schedule as constituting an Event of Default; or (ii) which the CAR and you have agreed constitutes an Event of Default.
- 16.2 If an Event of Default occurs, the CAR, in addition to any and without prejudice to any other rights it may have under these Terms of Service, has the right and power, in its absolute discretion and without necessity to give prior or any notice to you, to take any action, or refrain from taking action, which the CAR considers reasonable in the circumstances in connection with Transactions entered into pursuant to these Account Terms and, without limitation, the CAR may:
- 16.2.1 cancel any outstanding orders;
  - 16.2.2 enter into one or more Transactions to effect the Close Out of one or more unsettled Transactions or open positions you may have as if you had agreed to Close Out at the Closing Price determined by the CAR;
  - 16.2.3 cover in whole or in part open positions by entering into further Transactions;
  - 16.2.4 take any other action a reasonably prudent principal might take in the circumstances to protect the CAR's obligations incurred when dealing with you;
  - 16.2.5 calculate any or all amounts owing by you to the CAR and declare such amount immediately due and payable;
  - 16.2.6 treat all or any Open Transactions as having been terminated by you;
  - 16.2.7 settle any Transaction which has not, at the time of the Event of Default, been settled;
  - 16.2.8 charge you with all of the costs, expenses and losses incurred by the CAR as a result of entering into or Closing Out Transactions pursuant to these Terms of Service;
  - 16.2.9 convert any amount owed by you to the CAR into Australian dollars or other currency as determined by the CAR at any time on or after payment is due (until payment is received in full);
- 16.2.10 satisfy obligations that you may have to the CAR out of any property belonging to you including funds in the CAR's custody or control including, without limitation, by selling securities lodged by you with the CAR or setting off obligations such that security transferred as collateral is not required to be returned and to enforce any asset or security held by the CAR in such manner as it sees fit at your expense;

- 16.2.11 transfer from your other Accounts, if any, such funds as may be required for that purpose to satisfy any obligation you may have to the CAR;
  - 16.2.12 set off any sum owed to the CAR from any money that you have paid, or which is held by the CAR in the Client Money Trust Account, and to which you are entitled;
  - 16.2.13 immediately, or at a later time, terminate these Terms of Service, the Schedule, one or more Accounts, one or more Transactions or any combination of these;
  - 16.2.14 realise or enforce any guarantee or any security interest provided by you or in respect of your obligations;
  - 16.2.15 refuse or cancel any services or products offered to you by the CAR;
  - 16.2.16 refuse to distribute profits; and/or
  - 16.2.17 exercise any power or right that we and/or the CAR may have in accordance with these Account Terms or by law or equity, or take any other form of action as the holder of an AFSL may be required to take.
- 16.3 In respect of any action which the CAR takes, or refrains from taking, you must account to the CAR as if the CAR took, or refrained from taking, the action on your instructions and, without limitation, you are liable for any deficiency and are entitled to any surplus which may result.
- 16.4 If the CAR treats a Transaction as having been terminated by you and the CAR exercises its rights in accordance with clause 16.2.6, the CAR reserves the right to calculate the amount owed by you to the CAR or by the CAR to you as if you had agreed to Close Out at the Closing Price determined by the CAR.
- 16.5 The CAR may debit from your Account an amount equal to the amount which would have been payable by you had the Transaction been closed at Closing Price. It is agreed that this amount represents a reasonable pre-estimate of the damages incurred by the CAR.
- 16.6 In exercising any right of sale of any property under these Terms of Service, the CAR may sell (or arrange for the sale of) the property:
- 16.6.1 either by public auction, private treaty or tender;
  - 16.6.2 for cash or on credit;
  - 16.6.3 in one lot or in parcels;
  - 16.6.4 with or without special conditions or stipulations as to title or time or mode of payment or purchase money or otherwise;
  - 16.6.5 with power to allow the whole or any part of the purchase money to be deferred (whether with or without any security);
  - 16.6.6 whether or not in conjunction with the sale of any property to any person; and
  - 16.6.7 upon such other terms and conditions as the CAR may consider appropriate. Neither we nor the CAR are liable for any loss occasioned by such sale of the property.
- 16.7 Upon any sale purporting to be made in the exercise of the powers conferred by these Account Terms or otherwise, no purchaser will be bound to ask whether any Event of Default has been made or otherwise as to the propriety or regularity of any sale.
- Despite any irregularity or impropriety in any such sale, the sale will be deemed to be authorised by such powers, as regards the protection of the purchaser or other party to any such dealing or disposal, and will be valid accordingly.

- 16.8 The CAR will not forgo any of the rights outlined in this clause 16 incurred as a result of a delay in the exercise of such rights; if neither the CAR nor we exercise any such rights, the relevant party reserves the right to do so at any time in the future.
- 16.9 Any action taken by the CAR and/or us will not limit any other provision of these Account Terms and be without prejudice to any of rights we and/or the CAR may have to any remedy or damages.
- 16.10 Subject to Applicable Law, the CAR may appropriate credits and all payments received from you or on your behalf or held on your behalf in reduction of any moneys owing by you to the CAR whether on the Account or on any other account including, but not limited to, Accounts with us for dealing in any Financial Products.
- 16.11 You acknowledge that the CAR has a lien over all Financial Products in the CAR's possession or control for any charge, expense (including any applicable costs, stamp duty and administration fees) and any amount owing to the CAR.
- 16.12 The CAR may make any payments out of the Client Money trust account to which it is entitled.

### **17. Appointment of Attorney**

You irrevocably appoint the us and the CAR and each director, secretary and principal executive officer and each employee (which employee's title of office includes the word "Manager" or "Head") of the CAR and/or us severally as your attorney at any time and from time to time following an Event of Default, to execute and deliver all documents and to do all things which your attorney may consider necessary or desirable to give effect to the provisions of these Terms of Service, and in particular, without limitation, in connection with, or incidental to, the exercise of any of the rights and powers of the CAR and/or us under these Terms of Service. Those powers may be exercised in our and/or the CAR's interests notwithstanding any conflict with the interests which such parties may have. This appointment survives termination of these Terms of Service.

### **18. Termination**

- 18.1 You agree that without affecting any existing obligations or liabilities, and subject to any other term of these Terms of Service, you may terminate these Terms of Service, including rights to the Platform, by giving written notice to the CAR, if all of your Transactions have been Closed Out.
- 18.2 We may terminate the Terms of Service: (i) immediately on the CAR giving you notice; or (ii) immediately, following an Event of Default; or (iii) to otherwise protect our and/or the CAR's interests, without notice to you.
- 18.3 Upon termination of the Terms of Service, the CAR may do one or more of the following actions:
- 18.3.1 Close Out any Transaction;
  - 18.3.2 cancel any outstanding orders;
  - 18.3.3 enter into one or more Transactions to effect the Close Out of one or more unsettled Transactions or open Positions (and determine the value at which the Transaction or Transactions will be Closed Out);
  - 18.3.4 exercise any other rights that the CAR has under these Terms of Service;
  - 18.3.5 terminate any other Accounts which you may hold with the CAR;

- 18.3.6 CAR 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; and/or
- 18.4 Termination of these Account Terms will not release you from your obligations or liabilities relating to any breach of the terms as outlined in these Terms of Service.
- 18.5 In addition, upon the termination of the Terms of Service, we may exercise any rights that we may have under these Account Terms
- 18.6 Each indemnity provided within these Terms of Services survives the termination of these Terms of Service.

## **19. Limitation of Liability**

To the fullest extent permitted by law:

- 19.1 Neither we nor the CAR make any warranties, either expressly or impliedly, as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness or quality) with respect to any services we and/or the CAR provide under these Terms of Service, including, without limitation, the Platform;
- 19.2 We and/or the CAR (as applicable) are excluded from all liability in contract, tort or otherwise relating to or resulting from use of any services or products we and/or the CAR provide under these Account Terms including any use or access to the Website or to the Platform, and for any Loss incurred by you directly or indirectly, including without limitation Losses arising out of or in connection with:
- 19.2.1 any inaccuracy, error or delay in or omission from any information provided to you under the terms of or for purposes in connection with these Terms of Service, including the Platform;
- 19.2.2 any moratorium, suspension, halt, delisting or removal from quotation or sponsored publication of any Underlying Asset or any other similar or analogous occurrence in relation to the Underlying Asset;
- 19.2.3 any unauthorised use of your Information;
- 19.2.4 any delay, interruption, failure or inaccuracies in the transmission of your instructions;
- 19.2.5 any failure of any electronic means used to transmit instructions or to disseminate orders, data or information or of any telecommunications link;
- 19.2.6 any fault, error or defect in design or engineering of the Platform or computer systems or any delay, fault, failure or loss of access to the Platform;
- 19.2.7 any delay in transmitting or a failure to transmit funds caused by reasons outside the control of the CAR or as a result of the CAR's failure to execute orders in a timely manner or administer these Account Terms in the manner contemplated by these Account Terms for reasons beyond the CAR's control (reasons beyond the CAR's control include but are not limited to, government restrictions, suspension of trading, power failure, telecommunication failure, strikes or war);
- 19.2.8 any government or legal authority's restriction or act, Exchange or market rulings, suspension of trading, computer or telephone failure, malware, ransomware, unlawful access to the Platform, theft, sabotage, war, earthquakes, strike, force majeure and, without limitation, any other conditions beyond the CAR's control;



- 19.2.9 any private dealings, contracts, transactions or relationships between you and any of our and/or the CAR's employees or agents;
  - 19.2.10 any auditing or checking of your level of knowledge or experience (or lack thereof);
  - 19.2.11 any delays or failures or inaccuracies, or loss of access to, the provision of a service to you including, without limitation, any delay, failure or inaccuracy in, or the loss of access to, the Platform or in respect of the transmission of orders or any other information; and/or
  - 19.2.12 any misinterpretation of your orders or instructions which are unclear, ambiguous, or not specific.
- 19.3 Neither we nor the CAR are liable in contract, tort (including negligence) or otherwise for any loss of prospective profits or expenses or special, indirect or consequential damages resulting from the supply of a service or Financial Product including, without limitation, the Platform.
- 19.4 Every exemption and limitation of liability available to us/and or the CAR will also be available to the applicable directors, employees, agents and representatives, for whom the benefit of these Account Terms on trust; and
- 19.5 Our and/or the CAR's liability to you is in any event limited to the amount of money you have paid to the CAR for the Transaction giving rise to such liability in relation to your Account.

## **20. Your Indemnification Obligations**

To the fullest extent permitted by law, you release, discharge and indemnify and agree to keep us and/or the CAR and their Respective Bodies Corporate as well as all their respective officers, employees, agents and representatives indemnified from and against all Claims, liabilities, damages, losses and expenses (including without limitation any lawyers' fees and costs) arising out of or in connection with:

- 20.1 acting on your instructions in relation to their dealings in Transactions or otherwise in relation to your Account;
- 20.2 the occurrence of any Event of Default, whether by your act or omission under these Account Terms or any order or Transaction;
- 20.3 the CAR and/or us exercising any of its rights and powers upon occurrence of any Event of Default;
- 20.4 the payment of any amounts to you, in accordance with these Terms of Service;
- 20.5 any lawful action by us and/or the CAR in accordance with such party's rights under these Account Terms or otherwise, including any actions by us and/or the CAR to ensure compliance with any direction, request or requirement of any regulatory authority or government body;
- 20.6 any breach by you of any Applicable Laws or Rules or of the terms of these Account Terms (or any transaction or obligation contemplated by them);
- 20.7 any representation or warranty made or given by you under these Account Terms being untrue or incorrect;
- 20.8 any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by you or by any of your employees, agents or Authorised Third Parties, consultants or servants;

- 20.9 any failure of any of your computer or electronic systems or networks to perform, be available or successfully transmit data to us and/or the CAR, or any error or inadequacy in the data or information input into such systems or networks by you;
- 20.10 any delays in processing any order including, for example (but not limited to), as a result of systems or market delays, or due to verification or filtering procedures or unauthorised processes, email delays or due to telephone call waiting time or adherence to internal policies and procedures;
- 20.11 anything lawfully done by us and/or the CAR in accordance with, pursuant or incidental to these Terms of Service;
- 20.12 any instruction, request or direction given by you;
- 20.13 your access to or use of the Website or services or products provided by us and/or the CAR;
- 20.14 all sums of money, actions, proceedings, suits, Claims, complaints, demands, damages, costs, expenses and any other amounts whatever claimed against any of them in connection with these Account Terms and any transactions or obligations contemplated by them other than moneys payable by the CAR to you under the Transactions contemplated by these Terms of Service;
- 20.15 arising from and in connection with or in any way related to us and/or the CAR in good faith accepting and acting on instructions received by facsimile transmission, email or by other means of any kind which are signed by or purported to be signed by you or any Authorised Third Party.

## **21. Bonuses**

- 21.1 Bonuses and other trading benefits (the “Bonuses”) may be offered by the CAR at its discretion.
- 21.2 The Bonuses, where granted, may be restricted in time and be subject to terms and conditions which shall be published on the Website, promotional material or in the Terms of Service. Such terms and conditions shall be subject to change at the CAR's discretion.
- 21.3 For further information regarding Bonuses please see the Bonus Policy.

## **22. Money Laundering**

- 22.1 We and the CAR are subject to various AML/CTF Laws which may prohibit the offering of services or entering into or conducting Transactions.
- 22.2 You undertake to provide us and/or the CAR (as applicable) with all additional information and assistance that we and/or the CAR may reasonably require to comply with the AML/CTF Laws.
- 22.3 You hereby confirm that you are not aware and do not suspect that: (i) the moneys which you use or hold to effect your Transaction are derived from or related to money laundering, terrorism financing or any other illegal or unlawful activities, whether prohibited under Applicable Law, international law or convention or by agreement; (ii) neither you nor your directors, in the case of a company, are a politically exposed person as the term is used in the Anti-Money Laundering and Counter-Terrorism Rules Instrument 2007(1); and/or (iii) the proceeds of your investment will be used to finance any illegal and/or unlawful activities.
- 22.4 We and/or the CAR are not required to take any action or perform any obligation under or in connection with these Account Terms if the applicable party is not satisfied as to your identity or if the CAR and/or we suspect that by doing so we and/or the CAR may breach any laws including without limitation AML/CTF Laws. This includes but is not limited to the CAR delaying, blocking or refusing to make any payment or to provide any service if we and/or the

CAR believe on that to do so may breach of any law, and neither we nor the CAR will incur any liability to you if we do so; and

- 22.5 You agree that we and/or the CAR may disclose information which you provide to us and/or the CAR, or about Transactions you have with the CAR or which you seek to conduct with the CAR, if we and/or the CAR are required to do so by the Applicable Laws in Australia or in any other country.
- 22.6 Neither we nor the CAR will incur any liability to you for any loss you suffer by reason of any action taken or not taken by us and/or the CAR as contemplated in clause 22.4.

### **23. Disputes**

- 23.1 You agree to review the terms of each deal Confirmation immediately upon receipt or availability on the Platform and you agree that the contents of a Confirmation will be conclusive evidence of the executed deal, unless you notify the CAR of any disputed detail in the Confirmation received by you, within 48 hours of the relevant Confirmation being issued.
- 23.2 Complaints received in writing will be acknowledged with a written receipt of your complaint and we and/or the CAR will try to resolve your complaint within 45 days of receipt of your written complaint.
- 23.3 Any dispute or difference whatsoever in connection with these Account Terms or any transaction or obligation contemplated by them must be dealt with by you as follows in the event the dispute or difference is unable to be resolved by us and/or the CAR to your satisfaction in accordance with our internal complaints handling system:
  - 23.3.1 You may refer the dispute or difference to the Financial Ombudsman Service (FOS) for determination in accordance with their rules; or
  - 23.3.2 If the dispute does not fall within FOS' rules, the dispute may be submitted by us to arbitration in accordance with and subject to the Institute of Arbitrators and Mediators of Australia Expedited Commercial Arbitration Rules, and to the extent permitted under those rules the Arbitrator will be a person recommended by the Victoria Chapter of the Institute of Arbitrators and Mediators of Australia; or
  - 23.3.3 If the dispute or difference does not fall within the rules of FOS, you may request that we refer the dispute to arbitration in accordance with clause
    - 23.3.3.1 we may decide whether to agree to any such request;
    - 23.3.3.2 without agreement by us in accordance with this clause, you will not be able to refer the dispute or difference to arbitration, but will have to submit to our benefit the dispute or difference to the exclusive jurisdiction of the Courts of Victoria.
  - 23.3.4 Both we and you agree to accept any determination of the arbitrator under clause 23.3.1 or 23.3.3 above as final and binding and submit our benefit, to the exclusive jurisdiction of the Courts in Victoria for the enforcement of any such determination. For the avoidance of doubt, this clause 23 will not prevent us and/or the CAR from commencing proceedings in any other relevant jurisdiction for the enforcement of any such determination.
  - 23.3.5 Furthermore in addition to submitting any dispute or difference whatsoever with you in connection with these Account Terms or any transaction or obligation contemplated by them to arbitration in accordance with clause 23.3.2.

23.4 This clause 23 is for our benefit only and does not prevent us from commencing proceedings against you in any jurisdiction, in addition to submitting any dispute or difference whatsoever with you in connection with these Account Terms or any transaction or obligation contemplated by them to arbitration in accordance with clause 23.3.

#### **24. Chat Feature**

24.1 As part of your use of the services detailed herein, the CAR may provide you with a chat facility through which you will be able to communicate with other users. The CAR may review the chat and to keep a record of all statements made on such facility. Your use of the chat facility is subject to the following rules:

24.1.1 You shall not make any statements that are sexually explicit or grossly offensive, including expressions of bigotry, racism, hatred or profanity.

24.1.2 You shall not make statements that damage a third party's reputation or which are abusive, harassing or insulting to other users.

24.1.3 You shall not make statements that advertise, promote or otherwise relate to any other online entities.

24.1.4 You shall not make statements about us, the CAR and/or the Website or any other Internet site connected to us and/or the CAR that are untrue and/or malicious.

24.2 In the event of your breaching any of the above provisions relating to the chat facility, the CAR shall have the right to remove your chat privilege or close your account and terminate the User Agreement.

24.3 PLEASE NOTE: When using the chat facility any personally identifiable information that you submit, can be read, collected, or used by other users of the same chat facility and could be used by third parties to send you unsolicited messages. We and/or the CAR are not and shall not be responsible for the personally identifiable information that you choose to submit via the chat facility.

#### **25. Recordings and Our Employees**

25.1 You acknowledge and agree that we and/or the CAR may monitor and/or record any or all phone calls with you and that the CAR and/or we may use such recordings for any reason the relevant party sees fit including but not limited to: (i) as evidence in any dispute; (ii) in order to assess the performance of or to train our and/or the CAR's representatives; (iii) monitoring compliance with our and/or the CAR's respective regulatory and contractual obligations and (iv) resolving disputes.

25.2 We and/or the CAR are not obligated in any way whatsoever to retain, save and/or preserve any transcripts or copies of any telephone recording nor inform you when we and/or the CAR dispose of the record.

25.3 We and/or the CAR will not tolerate any abusive behavior exhibited by you to the employees or agents of ours and/or the CARs. In the event that either we and/or the CAR, using their sole discretion, deem that your behavior, via telephone, live chat, email or otherwise, has been abusive or derogatory towards any of the employee, the CAR shall have the right to block or terminate your Account.

#### **26. Privacy**

- 26.1 You acknowledge that you have read and received a copy of the Privacy Policy. Such policy may be changed at any time without notice. The Privacy Policy can be found on the Website.
- 26.2 **Please Note:** Even though we may have some rights to your personal information as the contracting entity to the Account Terms and as holder as the Australian Financial Services Licence, all information that you provided under these Account Terms will be managed and owned by the CAR and not by us.
- 26.3 We and/or the CAR may also disclose your personal information to your financial adviser and/or any other authorised person.
- 26.4 You agree to take all reasonable steps to deliver information or documentation to us and/or the CAR, or cause information or documentation to be delivered to us and/or the CAR concerning Transactions which are requested by a person having a right to request such information or documentation.
- 26.5 You acknowledge it may be necessary for your information to be transferred to someone who provides a service to us and/or the CAR in other countries, and to affiliated and related companies located in other jurisdictions and you consent to such transfer.
- 26.6 You agree that if you do not provide any information requested by us and/or the CAR or do not agree to us and/or the CAR (as applicable) using your information as set out in this clause we and/or the CAR may not be able to provide services to you.
- 26.7 In most cases you can gain access to the personal information that we and/or the CAR hold about you. We and/or the CAR may charge you a fee for providing access, based on the cost of providing the information.
- 26.8 Please contact the CAR if any of the details you have provided change.
- 26.9 You acknowledge and agree that we and/or the CAR is permitted to carry out an electronic database search and search credit reference agencies in order to verify your identity and credit standing, before during and after an Account is opened (since the insolvency or bankruptcy of you after cessation of the Account or termination of these Account Terms may continue to be relevant to us and/or the CAR). If such searches are carried out, we and/or the CAR may keep records of the contents and results of such searches in accordance with all current and applicable laws.
- 26.10 We and/or the CAR may provide all such information regarding you in relation to its obligations with respect to, or requests (whether legally binding or not) by, any regulatory body.

## **27. Miscellaneous Terms**

- 27.1 You acknowledge and agree that these Account Terms are governed by the laws in force in Victoria and you agree, to submit to the non-exclusive jurisdiction of the Courts of Victoria in relation to any claim or dispute arising out of the performance of these Terms of Service.
- 27.2 Subject to applicable laws and regulation, we and/or the CAR may outsource any or all of the services it provides under the Account Terms to third parties.
- 27.3 If any of the provisions contained in these Account Terms are found to be invalid or unenforceable, such provisions will be deemed deleted, and the validity and enforceability of the remaining provisions will continue unimpaired and will remain in full force and effect.
- 27.4 If any part of the Account Terms shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed to be severable from the rest of the Terms of Services and

shall not affect the validity and enforceability of any of the remaining provisions of the Terms of Service. In such cases, the part deemed invalid or unenforceable shall be construed in a manner consistent with applicable law to reflect, as closely as possible, the original intent of the parties.

- 27.5 These Account Terms contain the entire terms and understanding between you and us and you and the CAR concerning the provision of the services (including the Account and all Transactions) referred to in these Terms of Service, as may be amended from time to time. For the avoidance of doubt the CAR will possess all the rights and benefits detailed in the Terms of Service.
- 27.6 If we and/or the CAR fail to exercise or enforce or delay in exercising or enforcing any right under these Terms of Service, by doing so such party does not waive such right. The rights provided in these Account Terms do not exclude other rights provided by law.
- 27.7 We and/or the CAR may assign or otherwise transfer or deal with their respective rights or obligations under these Account Terms or any Transaction without obtaining your consent.
- 27.8 You may not assign or otherwise transfer or deal with your rights or obligations under these Account Terms or any Transaction, without the express written consent of the CAR.
- 27.9 You shall not make statements about us and/or the CAR that are untrue and/or malicious and/or damaging to us and/or the CAR (as applicable).
- 27.10 Nothing in the Account Terms shall be construed so as to grant you any security interest whatsoever over the assets of ours and/or the CAR, including for the avoidance of doubt on any amounts standing to the credit of your Account.
- 27.11 If any event occurs which has the effect of making or declaring it unlawful or impracticable for the CAR to offer or to maintain Transactions to you in accordance with the terms outlined in these Terms of Service, we and/or the CAR may immediately terminate these Account Terms by providing you written notice of such. Termination of these Account Terms will also result in the closure of all Transactions as if an Event of Default had occurred in relation to them. Any such termination will not relieve you of any obligations you may have to us and/or the CAR in accordance with these Account Terms prior to the termination. For the purposes of this clause, events include but are not limited to any change in law, regulation, treaty, order, official directive or ruling or in their interpretation or application by any governmental authority or agent, and the introduction, implementation, operation or taking effect of, any law, regulation, treaty, order or official directive or ruling.
- 27.12 Nothing in the Account Terms shall be construed as creating any agency, partnership, or any other form of joint enterprise between you and us.

## Schedule

### **1. Introduction**

The following terms will apply to you, and you agree to be bound by them, each time you place an order with the CAR to deal in a Binary Option.

### **2. You Acknowledge the Following**

In these Account Terms you acknowledge the following in our and the CAR's favour:

- a Binary Option is a type of contract for difference (CFD) which is a derivative
- The Binary Option is also known as an “All or Nothing” CFD, because unlike regular CFD trading where there can be numerous amounts of outcomes, with Binary Options there are only two outcomes: your trade is either correct, and your payment is a predetermined fixed amount, or your trade is incorrect, and your loss is equivalent to your trade size.

### **3. Opening and Closing Binary Option Transactions**

- (a) All Binary Options are entered into between you and us as principal. The acquisition of a Binary Option involves entering into, or opening, a Binary Option. The disposal of a Binary Option involves Closing Out an open Binary Option.
- (b) The CAR will from time to time state the prices or values at which it may enter into a Transaction with you. If you wish to enter into a Binary Option Transaction you may submit an order to the CAR. We and/or the CAR are not bound to enter into any Transaction with you, and the CAR reserves the right to state another price or value at which it may deal with you.
  - (i) On any given Business Day, you may request that the CAR through the Platform or as otherwise as determined by the CAR, quotes a price at which the CAR may be prepared to enter into a Transaction. You agree to and acknowledge that a price quotation pursuant to this request does not constitute an offer to enter into a new Transaction or close an existing Transaction.
  - (ii) Upon receiving the quote from the CAR you may, through the Platform or otherwise as determined by the CAR, offer to enter into a Transaction with the CAR at the price quoted by the CAR.
  - (iii) The CAR is not obliged to accept your offer to enter into a Transaction, and may refuse to do so for any reason, including without limitation:
    - (a) if you have exceeded or would exceed a pre-determined limit imposed on you under item 3(b)(vii) below; or
    - (b) until the CAR has received from you the Price required in the form of cleared funds.

- (iv) The Price required to enter into a Transaction, if not already received from you, will be payable by you to the CAR immediately upon acceptance by the CAR of your offer to enter into the Transaction.
- (v) If the CAR accepts your offer to enter into a Transaction, the CAR will issue to you an electronic Confirmation of the Binary Option entered into shortly after it has been entered into. Failure by the CAR to issue a Confirmation will not prejudice or affect the relevant Binary Option.
- (vi) You agree to examine the terms of each Confirmation immediately upon receipt and you agree that the contents of the Confirmation, which, will be conclusive evidence of the executed deal, unless within 48 hours of receipt of a written Confirmation you notify the CAR of any disputed detail in the Confirmation received by you.
- (vii) In the CAR's absolute discretion, it reserves the right to limit the value of Binary Options you may have outstanding under these Terms of Service. If you wish to enter into any further Transactions, you must seek and obtain prior written approval from the CAR, beyond which you may not enter into any further Transactions whatsoever.

The CAR may vary the limit imposed at any time in its absolute discretion.

- (c) If the CAR enters into a Transaction with you:
  - (i) The CAR will provide you a Confirmation in respect of the Transaction setting out, among other things, the number of Binary Options acquired and the amount or amounts which you are required to pay, or are entitled to receive, in connection with the acquisition of the Binary Option; and
  - (ii) You or the CAR (as applicable), must pay the relevant amount referred to in item 3(c)(i) by the time specified in the Confirmation.
- (d) If the CAR enters into a Transaction with you for the disposal of one or more Binary Options (by way of Closing Out that contract):
  - (i) The CAR will give you a Confirmation in respect of the Binary Option Transaction setting out, among other things, the number of Binary Options disposed of and the amount or amounts which you are required to pay, or are entitled to receive, in connection with the disposal of the Binary Option; and
  - (ii) You or the The CAR (as applicable) must pay the relevant amount referred to in item 3(d)(i) by the time specified in the Confirmation.

#### **4. Settlement of Positions**



- (a) Payments to be made to you with respect to any Transaction must be made in accordance with this item 4.
- (b) If a Binary Option is Closed Out or a settlement for difference is made:
  - (i) The CAR will credit to your (relevant) Account any amount payable by the CAR to you;  
or
  - (ii) You must pay to the CAR any amount payable by you to the CAR in cleared funds in any such currency that the CAR may require immediately upon the payment request being made.
- (c) If and to the extent there are any Available Funds in your Account, any amount owing by you to the CAR in accordance with item 4(b) above may be settled in whole or in part by the CAR debiting your Account or you paying the amount to the CAR.
- (d) If you request payment of any money owed to you under this item 4, subject to the Withdrawal Policy the CAR will deduct the amount of the requested payment from your Account and pay you, electronically, by cheque or in any other manner as agreed. Money owed to you that has not been the subject of any payment request by you will remain in your Account.
- (e) The CAR may offset from any money owed to you under these Account Terms or any other agreement against any moneys owed by you under these Terms of Service or any other agreement with the CAR.
- (f) If the issuer whose security represents the Underlying Asset becomes externally administered, in accordance with the meaning in the Act (or equivalent legislation), the Binary Option will be taken to have been Closed Out at that time. The closing price of the Binary Option will be determined by us in good faith, considering a number of factors we deems appropriate including, for example, the last traded price of the Underlying Asset.

## **5. Adjustment Events**

- (a) If the Underlying Asset on which a Binary Option is quoted is subject to an Adjustment Event or possible Adjustment Event, the CAR may determine the adjustment, if any, that will be made to the Binary Option (including the price and/or the quantity) that would have placed the CAR and you in substantially the same economic position they would have been in had the Adjustment Event not occurred, and any adjustment determined will be deemed to be conclusive and binding on you.
- (b) The CAR may give you an opportunity to elect to participate in an adjustment to the Binary Option which corresponds with the Adjustment Event, but the CAR is not obliged to give you that opportunity, or give reasonable notice of it or make its terms correspond exactly with the Adjustment Event, nor is it obliged to accept in part or at all any election you make to participate. Any adjustment will take effect at the time determined by the CAR.

- (c) If the Underlying Asset is subject to a take-over offer or similar event, the CAR may at any time prior to the Closing Date of the offer provide you notice of the CAR's intention to Close Out the Binary Option, with the Closing Price being the price notified to you by the CAR. References in this clause Clause 5 (c) to “offer”, “take-over” and “closing date” herein shall have the same meaning given to them in the Act.
- (d) If at any time an Adjustment Event occurs the CAR determines in its absolute discretion to make an adjustment in accordance with item 5(a) above, the CAR may at any time after the Adjustment Event give you notice of its intention to Close Out the Binary Option. If this occurs the Binary Option will be Closed Out in accordance with the CAR's notice, with the Closing Price being the price notified to you by the CAR.

#### **6. Additional Events of Default/ Termination of a Binary Option Contract**

- (a) The following are additional Events of Default in relation to Binary Options. You acknowledge that the CAR may, among other things, terminate a Binary Option (apart from any other right to terminate), if:
  - (i) the Underlying Asset ceases to be able to be traded on a relevant market or is subject to a trading suspension or trading halt for a period of more than two (2) Business Days;
  - (ii) an Adjustment Event occurs and the CAR determines that it is not reasonably practicable to make an adjustment to the terms of a Binary Option under this Schedule; or
  - (iii) the CAR considers, acting reasonably, that the issuer of the Underlying Asset may not be able to meet its obligations to the CAR under the terms of the Underlying Asset or other contracts between the CAR and the issuer of the Underlying Asset.
- (b) If the CAR terminates a Binary Option under item 6(a) or otherwise, the CAR will determine a termination value, payable by the CAR to you or by you to the CAR, which the CAR considers appropriate, acting reasonably, and having regard to the circumstances of termination and the value (if any) of the Underlying Asset. The termination will take effect at the time determined by the CAR and neither we nor the CAR are otherwise liable to you.
- (c) You agree that the limitation of liability under this item is a reasonable term having regard to the nature of the services and Financial Products offered and provided by us and/or the CAR to you, the benefits to you and the risks and benefits from Transactions in the context of these Terms of Service.