

Ayers Alliance Securities Pty Limited

Account Terms

Ayers Alliance Securities Pty Limited

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Level 2, 10 Bridge Street

SYDNEY NSW 2000

Version 1.0

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Ayers Alliance Account Terms

1. INTRODUCTION

- 1.1 These terms govern your Account with Ayers Alliance. The particular terms which apply to you will depend on the Financial Products or financial services provided to you by Ayers Alliance. All of the Financial Products or financial services are subject to the general terms in this document and to the Schedules which apply to particular financial services you may receive or particular Financial Products you may transact from time to time.
- 1.2 In relation to your Account, a reference to “Terms” is a reference to the terms in this document (including the Schedules) which are applicable to you, as amended from time to time.
- 1.3 In order to establish your Account, you will need to complete and return to Ayers Alliance your completed Application Form (which will be provided to you on-line, by email or in paper format). Ayers Alliance may, in its absolute discretion, accept or decline to provide any one or more Financial Products or financial services that you have selected in your Application Form.
- 1.4 These Terms will apply to you in respect of your Account from the earlier of (a) the time Ayers Alliance accepts your application in the Application Form in respect of a particular Financial Product or financial service; (b) the time Ayers Alliance otherwise agrees to provide the Financial Product or financial service to you; or (c) the time you first place an Order in respect of a Financial Product with Ayers Alliance or otherwise instruct Ayers Alliance to provide the financial service to you.
- 1.5 You acknowledge and agree that you have read and understood all documentation provided to you by us including these Terms and any product disclosure statement (**PDS**) in relation to any Financial Products which you request Ayers Alliance to make available to you in relation to your Account. You authorise Ayers Alliance to open an Account for you.
- 1.6 You acknowledge that you have received, read and understood our Financial Services Guide (**FSG**). Our FSG may change from time to time. A copy of the current FSG can be obtained on our website or on request.
- 1.7 You acknowledge that all dealings in Financial Products and the performance by us of our obligations under these Terms are subject to the Applicable Laws.

- 1.8 You acknowledge that we will not provide legal, tax, financial or accounting advice to you as part of the services that we provide to you in accordance with these Terms. By these Terms we do not act in a fiduciary capacity and Ayers Alliance does not owe any fiduciary obligations to you in respect of its services provided to you in connection with these Terms except as expressly stated in these Terms.
- 1.9 These Terms do not constitute personal financial advice, nor a recommendation or opinion that a particular Financial Product or service is appropriate for you.
- 1.10 A liability of Ayers Alliance accrues solely to that entity. Ayers Alliance is not the agent, fiduciary, joint venturer or guarantor of any other person.
- 1.11 Ayers Alliance has discretions under these Terms which can affect your Transactions. You do not have any power to direct how we exercise our discretions. When exercising our discretions we will comply with our legal obligations as the holder of an Australian Financial Services Licence. We will have regard to our policies and to managing all risks (including financial, credit and legal risks) for ourselves and all of our clients, our obligations to our counterparties, market conditions and our reputation. We will try to act reasonably in exercising our discretions but we are not obliged to act in your best interests or to avoid or minimise a loss in your Account.

2. INTERPRETATION

- 2.1 Unless the context otherwise requires, any expressions or phrases not otherwise defined within these Terms have the meaning given to them in the Rules relevant to the Financial Product or financial service.
- 2.2 In these Terms, unless otherwise indicated, the following words and expressions have the meaning set out below:

ABN means Australian Business Number.

Account means an account held in your name or for your benefit with Ayers Alliance including all Transactions recorded in them, for the purposes of these Terms.

Account Value means the current value of your Account which is calculated by Ayers Alliance by combining:

- (a) the equivalent balance of your Account in the Trust Account;
- (b) the Realised/Unrealised Losses and Realised/Unrealised Profits;
- (c) indicative costs to Close (e.g., Transaction Fees, Finance Charges); and
- (d) the values of Transactions not yet booked (if any).

ACN means Australian Company Number.

Applicable Laws means, in relation to a matter, all laws, legislation, regulation and subsidiary regulation, instruments and directions of a regulatory authority or a court, rules and procedures of a Financial Market or a CS Facility which apply to the relevant matter including for example, and without limitation, the Corporations Act and regulations made pursuant to the Corporations Act, ASIC Legislative Instruments and other instruments, ASIC Market Integrity Rules, the ASX Rules, the ASX Clear Operating Rules, the ASX Settlement Operating Rules, and the ASX Clear (Futures) Operating Rules.

Application Form means the application form by which a person applies to become a Client of Ayers Alliance and to open an Account. It can be in electronic form.

ARBN means Australian Registered Body Number.

ASIC means Australian Securities and Investments Commission.

ASIC Legislative Instrument means an instrument issued by ASIC from time to time which is designated a "Legislative Instrument".

ASIC Market Integrity Rules means each of the ASIC/ASX Market Integrity Rules and the ASIC/ASX 24 Market Integrity Rules as amended from time to time.

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

ASX 24 means Australian Securities Exchange Limited (ABN 83 000 943 377).

ASX 24 Operating Rules the operating rules, procedures, directions, decisions, requirements, customs, usages and practices of ASX 24, as amended from time to time.

ASX Clear means ASX Clear Pty Limited (ABN 48 001 314 503).

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

ASX Clear (Futures) means ASX Clear (Futures) Pty Limited (ABN 91 050 615 864).

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

ASX Rules means the operating rules, procedures, directions, decisions requirements, customs, usages and practices of ASX and includes the ASX Operating Rules and ASX 24 Operating Rules, as amended from time to time.

ASX Settlement means ASX Settlement Pty Limited (ABN 49 008 504 532) or another clearing facility approved to clear securities and other Financial Product Transactions effected on the Exchanges operated by ASX.

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

AUD, Australian Dollars and **\$A** means the lawful currency of the Commonwealth of Australia.

Authorised Person means the person (if any) described as your authorised agent in the Application Form or another person notified by you to us under clause 5.

Ayers Alliance means Ayers Alliance Securities Pty Limited ACN 81 149 475 105; AFSL 403070.

Base Rate means the amount nominated by Ayers Alliance for this term from time to time, as notified to you (including through the Online Service) or posted on its website.

Business Day means a weekday which is not a gazetted public holiday in Sydney.

Calculation Time means the time that Ayers Alliance performs the calculation for a Finance Charge Adjustment or a Finance Credit Adjustment, the time generally being 4:00 p.m. New York time.

Claim 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 Terms or not.

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

Client means the person who is (or persons who are) recorded as having an Account.

Close Out, Closed Out and Closing Out in relation to a Transaction means discharging or satisfying the obligations of the Client and Ayers Alliance under the transaction and this includes matching up the Transaction with a Transaction of the same kind under which the Client has assumed an offsetting opposite position.

Closing Date 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.

Confirmation means any confirmation of a Transaction issued by us to you and includes an electronically transmitted confirmation or a substantially continuously available account statement which contains the information which would be in a confirmation.

Contract Size means the standard volume per 1 Lot expressed either in ounces or number of contracts.

Corporations Act means the Corporations Act 2001 (Commonwealth) and regulations made under it, as amended from time to time.

CS Facility means a clearing and settlement facility, within the meaning of the Corporations Act (which includes, for example, any clearing or settlement facility through which Transactions are cleared or settled), whether located in Australia or elsewhere.

Default has the meaning in clause 24.1 and, if applicable, as supplemented by a term in a Schedule.

Derivatives means derivatives as defined in section 761D of the Corporations Act.

Exchange means each of the ASX 24 operated by the ASX, the Australian Securities Exchange operated by ASX, the Australian Clearing House operated by ASX Clearing Corporation Limited and any other exchange or market in which Ayers Alliance participates directly or indirectly, from time to time (e.g., but not limited to, by way of its Hedge Counterparties

transacting on these exchanges or in those markets).

Exchange System means, in relation to a Financial Market or CS Facility, the trading, clearing or settlement facility or system (or both) operated by or on behalf of the relevant Financial Market or CS Facility.

Finance Charge means a charge payable in accordance with clause 13. This may be referred to as an "interest charge" or "interest debit" on the Online Service, the relevant PDS or elsewhere.

Finance Charge Adjustment and Finance Credit Adjustment mean the amount charged or credited (as applicable) to your Account by Ayers Alliance for Transactions. This may be referred to as an "interest charge adjustment", "interest debit adjustment", "interest credit adjustment" or any other applicable term on the Online Service, the relevant PDS or elsewhere.

Financial Market means a financial market within the meaning of the Corporations Act (which includes, for example, any market on which prices of Financial Products are quoted), whether located in Australia or elsewhere.

Financial Product has the meaning given in part 7.1 division 3 of the Corporations Act (including, for the avoidance of doubt, any ASIC Legislative Instruments).

Foreign Exchange means currency including Australian Dollars and foreign currency.

Futures has the same meaning as given in rules governing the operation of any Exchange relevant to an OTC Transaction.

FSG is defined in clause 1.6.

GST means tax that is imposed as a goods and services tax under any of:

- (a) A New Tax System (Goods and Services Tax) Act 1999; or
- (b) any regulation made pursuant to the A New Tax System (Goods and Services Tax) Act 1999.

Hedge Counterparty means a person with whom Ayers Alliance enters into a hedge contract to hedge Ayers Alliance's exposure to OTC Contracts or other Financial Products.

Initial Margin means the amount which you are required to pay to Ayers Alliance (depending on your Financial Product or financial service), as the initial Margin Cover for any Transaction which you propose to enter into.

JPY means the lawful currency of Japan.

Long Party means the party to a Transaction (including an OTC Contract) who is treated as having notionally bought the Underlying Security (or, in the case of an index OTC Contract, a right in respect of payment arising from a change in the level of an index).

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

Lot means the unit that represents the volume of a Transaction taking into consideration the Contract Size. It can be represented as a portion of a Lot subject to the minimum lot size, for example, 0.1 of a lot being referred to as a mini Lot or (0.01 of a Lot) being referred to as a micro Lot. For example 1 Lot in EUR/USD equals 100,000 USD being the Term Currency unit and 0.1 Lot is therefore 10,000 units of Term Currency.

Margin means the amount of cash or other assets paid to Ayers Alliance and credited to your Account as Margin.

Margin Closeout Level means the minimum Margin Cover allowable before there might be automatic Close Out of all or some of your Open Positions.

Margin Cover means the amount of Margin available for margin trading on your Account. It is calculated by Ayers Alliance by subtracting from the Account Value: (i) the required Margin; and (ii) a percentage of the value of Open Positions.

Online Service is defined in clause 8.1. This may be referred to as an "Electronic Trading Platform" or as the actual name of the electronic trading platform in a PDS or on Ayers Alliance's website.

Open Position means, at any time, a Transaction which has not been Closed Out, or settled prior to the time agreed for settlement.

Order means any instruction placed by you with us to purchase or to sell or otherwise deal in Financial Products.

OTC Contract means a Financial Product, being a Derivative which derives its value from one or more Reference Assets. Ayers Alliance may notify you, from time to time, if the relevant Financial Product is to be classified by a particular name. Notification can be by way of PDS, email, posting to Ayers Alliance's website, the Online Service, Account statement or in any other way.

OTC Transaction means a Transaction which is an OTC Contract (in contrast with an exchange traded contract).

PDS is defined in clause 1.5.

Pip Value means the smallest increment by which a unit of currency, index level or a commodity contract changes and is quoted depending on the number of decimal places in which the currency or index is quoted. For example, in the case of a Foreign Exchange Transaction, a USD/JPY Foreign Exchange Transaction is quoted with only two decimal places.

Price means, in relation to a Transaction, the price or rate quoted by Ayers Alliance as finally determined when an Order is implemented.

Realised/Unrealised Loss means:

- (a) **(realised loss)** - the amount by which the value of an Open Position on Close Out is less than the value of the Open Position when the Open Position was last valued or if the Open Position has never been valued previously, it is the value when the position was opened; and
- (b) **(unrealised loss)** - the amount by which the value of an Open Position (not on Close Out) is less than the value of the Open Position when it was last re-valued or if the Open Position has never been valued previously, it is the value when the position was opened.

Realised/Unrealised Profit means:

- (a) **(realised gain)** - the amount by which the value of an Open Position on Close Out is more than the value of the Open Position when the Open Position was last valued or if the Open Position has never been valued previously, the value when the position was opened; and
- (b) **(unrealised gain)** - the amount by which the value of an Open Position (not on Close Out) is more than the value of the Open Position when it was last re-valued or if the Open Position has never been valued previously, the value when the position was opened.

Rules, in relation to a Financial Market or a CS Facility, means the operating rules, procedures, customs and usages of the of the Financial Market or CS Facility (as applicable).

Security Information means any of your email address, logon code, password or trading password.

segregation or **segregated** means, in relation to an account or an asset, that:

- (a) the party holding the assets in the account:
 - (i) holds the asset separately from its own property;
 - (ii) holds the account separately from its own accounts and the accounts of any other person except you (**Others**);
 - (iii) does not record or deposit any assets of its own in the account;
- (b) records in relation to such an asset or account must:
 - (i) be kept separate from records in relation to any other account of the holding party or any Others;
 - (ii) record separately the particulars associated with that asset and account;
 - (iii) record separately in respect of each client particulars of the amount or property deposited in or withdrawn from the account;
 - (iv) ensure that assets in the account are separately classified;
 - (v) correctly record and explain dealings in relation to the assets in the account.

The account must be described as the Trust Account, the client moneys trust account, the clients' segregated trust account or a custody account or similar words, as the case may be.

Settlement Time means the time by which a Transaction must be settled, as set out in the Confirmation for the Transaction or on the Online Service.

Short Party means the party to a Transaction (including an OTC Contract) who is treated as having a financial outcome similar to having effectively sold the Underlying Security.

Tax 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.

Terms is defined in clause 1.2 and see also clause 2.

Trading Conditions means the operating conditions for trading on the Online Service from time to time.

Transaction means any contract between you and Ayers Alliance as principal:

- (a) to pay, or to agree to pay, an amount calculated in respect of an Underlying Security in one currency against the settlement in the same or another currency (or other agreed Underlying Security); and
- (b) in respect of which (other than in respect of Closing Out an Open Position as permitted under these Terms) you have, or you are taken to have, agreed (whether orally, electronically or in writing) to:
 - (i) the specification of the Underlying Securities involved;
 - (ii) the amount of Underlying Securities involved and, if applicable, the amount of the specified currency involved;
 - (iii) the Price;
 - (iv) Transaction Fee and Finance Charges; and
 - (v) any other features agreed by Ayers Alliance.

Transaction Fee means the fee or commission from time to time specified by Ayers Alliance to be the amount payable by you to Ayers Alliance in respect of each Transaction.

Trust Account means an account (however named or styled) maintained by Ayers Alliance for the purposes of the Corporations Act to hold client moneys.

Underlying Security means any security, Financial Product, Foreign Exchange, commodity, index or other item (or any combination of one or more of those) the subject of a Transaction, including a value determined by reference to an index or an index multiplied by an amount of currency, in any jurisdiction, whether or not through an Exchange or other market facility. References in these Terms to an Underlying Security which is a share or other similar equity financial product also apply when the Underlying Security is different, for example, a futures contract, an exchange traded option, a currency (or pairs of currencies) (with any necessary adaptation to the particular kind of Underlying Security).

Underlying Security Price means the market price of the security, Financial Product, Foreign

Exchange, commodity (or other relevant thing) which is the subject of a Transaction, including a value determined by reference to an index or an index multiplied by an amount of currency, in any jurisdiction, whether or not through an exchange or other market facility, in any case as calculated by Ayers Alliance, having regard to the purposes of the calculation and the intent to make a reasonable determination in good faith but without having to consider the specific personal interests of any person.

USD means United States dollar or the lawful currency of the United States of America.

we, us or our means Ayers Alliance Australia Pty Ltd (ACN 149 475 105) and its successors and assignees.

Withdrawable Funds means the amount of cash which would be paid to you from the Account if requested. There are Withdrawable Funds only if your Account balance is a positive amount. The amount of the Withdrawable Funds is the lesser of the cash balance of your Account and the Margin Cover. If your Margin Cover is not positive, there will be no Withdrawable Funds.

you means the Client, being the person or persons in whose name we open an Account (including any Authorised Person), following our acceptance of an application by that person or those persons.

2.3 The following rules also apply in interpreting this document, except if the context makes it clear that a rule is not intended to apply.

- (a) Headings used in these Terms are used for convenience only, and do not affect interpretation.
- (b) A reference to legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.
- (c) A singular word includes the plural and *vice versa*.
- (d) A word which suggests one gender includes the other gender.
- (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (f) A reference to time is to local time in Sydney, New South Wales, unless otherwise specified.
- (g) Anything permitted to be done by Ayers Alliance in accordance with these Terms

may be done in its absolute discretion, and any opinion or view required to be formed by Ayers Alliance may be formed in its absolute discretion.

- (h) For the avoidance of doubt, time will continue to run on days which are not Business Days.
- (i) The English version of these Terms prevails over any other translated version of these Terms.

2.4 If a specific provision in a Schedule is inconsistent with another provision in these Terms, the specific provision prevails over the other provision to the extent of the inconsistency.

3. ACCOUNT

3.1 Ayers Alliance will establish one or more Accounts in respect of the Financial Products or financial services it provides to you. Transactions entered into by you pursuant to these terms will be recorded in the relevant Account established by Ayers Alliance for that Financial Product or financial service. Unless you have specifically requested Ayers Alliance to open separate Accounts, you will be taken to have only one Account, with Transactions in respect of each Financial Product or financial service provided to you being recorded in that Account.

3.2 The calculations, reporting and administration may be performed by Ayers Alliance separately for each Account, so that (without limitation):

- (a) Margin calculations may be managed and enforcement action may be taken for each Account separately; and
- (b) Ayers Alliance may at any time aggregate one or more Accounts (for reporting or managing Margins or otherwise for the purposes of these Terms), even if you cannot immediately access reports for aggregated Accounts.

- 3.3** Ayers Alliance may set off any amount owing by you (including any negative balance in one or more Accounts) against any amount Ayers Alliance owes you in any other Account, without notice. Ayers Alliance may choose, in its absolute discretion, which Financial Products, Transactions, cash, or account balance or other property to apply to offset the debt. For the avoidance of doubt, this right of set off (and other rights of set off under these Terms) apply in respect of rights and obligations across more than one Account. You agree that Ayers Alliance may apply the set off as among one or more Accounts, before Default and on and following Default.
- 3.4** The Account Value may reflect any such aggregation or set off any debt or other amount owing from time to time.
- 3.5** All Accounts will be denominated in Australian Dollars unless we agree with you that one or more Accounts may be denominated in a foreign currency. You may only instruct Ayers Alliance to effect a Transaction denominated in another currency if you have established a relevant Account denominated in that currency.
- 3.6** You must maintain Margin in the currency of the relevant Account, even if Ayers Alliance converts that Margin into Australian dollars for the purposes of managing reports about your Accounts. The conversion for reporting will be at the rate determined by Ayers Alliance and that rate will not represent any actual conversion or agreed rate for actual conversion.
- 3.7** You must maintain Margin for Foreign Exchange Transactions in Australian Dollars (or any other foreign currency permitted by Ayers Alliance). If you do not have Margin in Australian Dollars in your Account (or any other foreign currency permitted by Ayers Alliance) or your Account has a negative account balance in Australian Dollars (or any other foreign currency permitted by Ayers Alliance) but you have sufficient funds in another currency (at the current market rate), Ayers Alliance may allow those other funds to be used to offset the required Margin. Ayers Alliance may withdraw that permission at any time, without reason or prior notice to you.
- 3.8** You must, whenever required by Ayers Alliance and at your expense, take or defend all legal proceedings which Ayers Alliance determines in its discretion is appropriate for the protection of the Account (or any part of it) or money paid as Margin to it for itself, whether those proceedings are or might be reasonably be expected to be in the interests of Ayers Alliance, or your interests, or partly both.
- 3.9** A Client may be comprised of two or more persons. If the Client is comprised of more than one person then the Account will be deemed to be held by the persons as joint tenants despite any actual or constructive notice to Ayers Alliance of any partnership or other agreement between the persons. The joint holding will be only be deemed not to be held as joint tenants if there is a court determination that it is not held as joint tenants.
- 4. CALCULATIONS AND VALUATIONS**
- 4.1** Ayers Alliance may from time to time calculate and report the Account Value for an Account.
- 4.2** Ayers Alliance may from time to time calculate and report the Withdrawable Funds for an Account.
- 4.3** Ayers Alliance may from time to time calculate and report the Realised/Unrealised Loss and Realised/Unrealised Profit for an Account.
- 4.4** Terms and expressions used in these Terms for reporting and calculating amounts may differ from time to time from terms or expressions used in Online Services usage or market practice. You should have regard to the statements, Confirmations, guides and dealing practices used from time to time.
- 4.5** If the composition or calculation of an Underlying Security is adjusted by its issuer, regulator or sponsor, Ayers Alliance will make such adjustment to the Transaction at the time determined by Ayers Alliance which reasonably preserves the intended economic effect of the Transaction, but without being obliged to consider your particular circumstances or any adjustments. Ayers Alliance need not give notice of the adjustment. If the Underlying Security becomes subject to a take-over bid, a take-over offer, scheme of arrangement or other mechanism for change in control, then Ayers Alliance may elect to Close Out the Transaction on a new Closing Date determined by Ayers Alliance.
- 4.6** For OTC Contract Transactions, ordinarily the Long Party will be credited with an amount equal to the gross unfranked amount of any dividend payable to the holder of the Underlying Security (as determined by Ayers Alliance) and the Short Party will be debited with an amount equal to the gross unfranked amount of any dividend payable to the holder of the Underlying Security (as determined by Ayers Alliance).

5. APPOINTMENT AND AUTHORISED PERSONS

- 5.1 Ayers Alliance may accept your authorisation of another person (**Authorised Person**) to give instructions and place Orders on your behalf. You must notify Ayers Alliance in your Application Form or otherwise in writing in a way permitted by Ayers Alliance of any such authorisation, setting out the full name, telephone number, fax number, email address and signature of that person and any other information required by Ayers Alliance to identify the Authorised Person.
- 5.2 Any change or revocation of such authority is only effective upon receipt by Ayers Alliance of a signed written notice of change or revocation from you. If another person is later appointed an Authorised Person, the notice must include the full name, telephone number, fax number, email address and specimen signature of that person and be verified by an Authorised Person and any other information required by Ayers Alliance to identify the Authorised Person and, if you are a body corporate, by a director.
- 5.3 You may appoint an attorney (under a power of attorney in the relevant jurisdiction) 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. You must notify Ayers Alliance in writing of any such appointment setting out the attorney's details. You must provide Ayers Alliance with a written power of attorney; Ayers Alliance may accept or reject this power of attorney.
- 5.4 Ayers Alliance may allow a Client which is a corporation or other legal entity to authorise a person (who is by that authorisation an Authorised Person) or an attorney to do anything which the Client is entitled to do under these Terms, including on conditions determined by Ayers Alliance.
- 5.5 Ayers Alliance may allow any other Client to authorise its Authorised Person or attorney to do anything which the Client is entitled to do under these Terms, including on conditions determined by Ayers Alliance.
- 5.6 For the purposes of these Terms, Orders placed by, and other instructions or directions given by, an Authorised Person (or which appear to us on the face of the Orders or other instructions or directions to be placed or given by an Authorised Person) are taken to be your Orders, instructions or directions.
- 5.7 You are and remain solely liable and responsible for all acts and omissions of your

Authorised Person notwithstanding the act or omission of the Authorised Person as:

- (a) outside their actual or ostensible authority; or
 - (b) in error, fraudulent, negligent, in breach of their fiduciary duties or criminal.
- 5.8 You agree not to make, and you release us from any liability to you under your right to make, any Claim against us for any Loss incurred or suffered by you which arise directly or indirectly due to us relying on instructions from or other communications from or acts or omissions by your Authorised Person (including your attorney).
- ## 6. ORDERS
- 6.1 You may from time to time place Orders with us to enter into Transactions. Subject to these Terms, we will execute your Orders with you as principal in accordance with your instructions.
- 6.2 We will not 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).
- 6.3 We may refuse to accept an Order (including but not limited to any Order that relates to black-box trading, scalping or any similar trading practices) and we may place a limit on any Order or place other conditions on the receipt of instructions or Orders, in our absolute discretion and for any reason. We may at any time use, add and change filters within a trading system which prevent delivery of Orders or execution of Orders. We will notify you of any refusal or limitation as soon as reasonably practicable, unless we are prevented by law or a direction from a regulatory authority from notifying you.
- 6.4 We may cancel or amend an Order:
- (a) if required by Applicable Laws to do so;
 - (b) in the event of an error;
 - (c) if we consider the cancellation appropriate, having regard to the desirability to maintain a fair and orderly market, our obligations as the holder of an Australian financial services licence or as a participant or user of the relevant Financial Market and our other legal and regulatory obligations; or
 - (d) if the Financial Product the subject of the Transaction has been subject to a trading

halt on a Financial Market and you have not reconfirmed instructions.

You acknowledge that Exchanges have a range of powers, including the power to cancel or amend a Transaction. This power can be exercised without your permission or our agreement and so may give rise to us cancelling or amending an Order due to an Exchange exercising its powers even though your Transaction issued by us is an over the counter Transaction with no interest in any Financial Product the subject of the Transaction and even though we might not have fully or even partly hedged our Transaction with you.

- 6.5** We will make reasonable efforts to effect any instructions to cancel or amend Orders as quickly as possible. If, however, an Order is filled prior to a cancellation or amendment instruction being effected, you are obliged to accept the Transaction on the original terms prior to your amendment or cancellation instruction, unless the Transaction is itself cancelled or amended.
- 6.6** We may execute Orders for you even in circumstances if we or our associates:
- (a) hold a principal position or deal in the relevant Financial Products;
 - (b) provide similar services to other persons in relation to the relevant Financial Products;
 - (c) have material price sensitive information relating to the relevant Financial Products if the individuals processing your Order are prevented from knowing or taking into account such information (including, but not limited to, by reason of procedures known as “Chinese walls”); or
 - (d) have a potential conflict of interest or duties including, for example, a conflict of interest of which you are not aware and which we are unable to disclose to you.
- 6.7** Notwithstanding any rule of law or equity to the contrary, Ayers Alliance is not disqualified from contracting with any person and no contract, transaction or arrangement in which Ayers Alliance is in any way interested is avoided or rendered voidable by virtue of your agreement with us. Ayers Alliance is not liable to account to you for any profit realised by any such contract, transaction or arrangement in connection with these Terms or a Transaction. Ayers Alliance is not required to make any disclosure to you concerning any such contract, transaction or arrangement.

6.8 We and our related bodies corporate may enter into Transactions with you as principal, whether in respect of Financial Products able to be traded on a Financial Market or in respect of over the counter Transactions such as Derivatives or Foreign Exchange related Transactions. When permitted by law and the Rules, we or an associate may take the opposite position in a Transaction with you. Your Orders may match opposite Orders of another person who is our Client, and this may entitle us to receive commission or other benefits from both Transactions. Similarly, because we deal as principal, then your Orders may match opposite Orders entered by us as principal and you authorise us and consent to us charging you the Transaction Fees and Finance Charges in respect of the Transaction provided by these Terms.

6.9 You are aware of and acknowledge the right of Ayers Alliance and its related bodies corporate, directors and employees, either on their own account or on behalf of other clients or persons, to deal in any Transaction or take the opposite position to you in Transactions, if permitted (or, if not expressly permitted, then if not prohibited) to do so by the Corporations Act, Applicable Laws and the Rules.

6.10 You acknowledge that we do not operate any discretionary accounts and we will, unless otherwise expressly provided by these Terms, only act on your instructions (including those given by your Authorised Person).

6.11 Unless otherwise specified in these Terms, all Orders will remain open until either cancelled by you or purged by the Online Service. We do not accept responsibility for reinstating lapsed Orders or for contacting you to seek new instructions.

6.12 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. We will not be responsible for any live or contingent Orders with the incorrect security code or identifier.

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

- (a) market manipulation, false trading, market rigging, fictitious transactions, black box trading, scalping, wash trading or matching of Orders;
- (b) insider trading;

- (c) short selling;
- (d) creating a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
- (e) misleading or deceptive conduct.

6.14 Your instructions to Ayers Alliance to enter into a Transaction, your Order to Ayers Alliance to enter into the Transaction and the Transaction remains valid and enforceable against you, without affecting your other liability to Ayers Alliance even if you (or your Authorised Person) are not authorised by your own rules (such as a corporate or trust constitution or an investment management agreement).

6.15 You agree not to make any Claim against Ayers Alliance for any Loss incurred or suffered by you which arises in connection with the exercise of any power by ASIC or by the ASX pursuant to the ASX Rules or by any other Exchange which directly or indirectly affects your Transaction, including by way of Ayers Alliance directly or indirectly, fully or partly hedging your Transaction (whether or not Ayers Alliance has given you a Confirmation in respect of any affected Transaction) except to the extent that the Loss incurred or suffered is caused by the negligence, fraud or breach of these Terms by Ayers Alliance.

7. ALLOCATION POLICY

7.1 Ayers Alliance will deal fairly and in due sequence with all client Orders having regard to Australian regulatory requirements, market practices and Ayers Alliance's compliance policies and procedures.

7.2 To the extent that it is reasonably practicable to do so, Ayers Alliance will allocate all Transactions (including Transactions effected pursuant to Orders placed on Ayers Alliance's own account) in the sequence in which Ayers Alliance receives those Orders, subject to filters and compliance review and to any delay or technical faults connected with or arising through the use of the Online Service, an Exchange System or any other delay that is outside the control of Ayers Alliance.

8. ONLINE SERVICES

8.1 This clause contains provisions which, in addition to the other Terms, govern the use of any online or other electronic trading or any information service we provide or make available to you (including, without limitation, all

software and communication links) under which you may:

- (a) place your Orders or transmit other instructions to Ayers Alliance or other persons;
- (b) enquire as to the availability or pricing or value of one or more Financial Products;
- (c) receive market data and other information in relation to one or more Financial Products; or
- (d) receive Confirmations, Account balances or other information in connection with your Account or Transactions.

In these Terms, we refer to such a service as an **Online Service**.

8.2 An Online Service may be a proprietary service provided by Ayers Alliance, or a service provided to you by a third party pursuant to an arrangement with Ayers Alliance (for example, by an Exchange or by a Hedge Counterparty). To the extent that the Online Service is provided to you by Ayers Alliance, we grant you a non-exclusive and non-transferable licence to use the Online Service subject to these Terms.

8.3 Ayers Alliance may refuse to accept or place any Order in its absolute discretion without having to provide a reason.

8.4 Ayers Alliance will not be responsible for confirming the receipt of instructions or verifying the authenticity of your instructions.

8.5 Ayers Alliance has no obligation to resubmit Orders purged from any Online Service.

8.6 You agree that:

- (a) you must not use the Online Service (or permit or procure any other person including any Authorised Person to use the Online Service) until the Security Information has been provided by us;
- (b) the Security Information is confidential;
- (c) you are responsible for maintaining the confidentiality and use of that Security Information at all times and must procure that any Authorised Person maintains the confidentiality of the Security Information;
- (d) you will not permit, consent or allow any person (other than any Authorised Person in its capacity as your agent) to use the Security Information or to access

or use the Online Service using that Security Information;

- (e) you will not provide, disclose or make available the Security Information to any person (other than an Authorised Person in its capacity as your agent); and
- (f) you must notify us immediately upon becoming aware of any unauthorised use of the Security Information or the Online Service.

8.7 You acknowledge and agree that:

- (a) you are only permitted to access and use the Online Service, using the Security Information;
- (b) we are entitled to rely on all instructions given by, on behalf of, or apparently on your behalf, using the Security Information; despite any other provision of these Terms, we are not liable for any Loss caused by us acting on instructions or other communications using the Security Information;
- (c) there may be delays in the processing, execution, amendment or cancellation of an Order entered through the Online Service and:
 - (i) an Order may be filled before an instruction for its amendment or cancellation is processed;
 - (ii) you remain liable to settle the original Order, until any relevant amendment or cancellation is effected; and
 - (iii) without limiting clause 23, Ayers Alliance will not be liable for any Loss incurred by you arising from any delay in the dissemination of market information or the processing of any Order or instruction to amend or cancel an Order;
- (d) the execution of an Order placed through the Online Service may be delayed by filters or other electronic features of the electronic system;
- (e) we are not responsible for the processing, execution or cancellation of any Orders submitted through the Online Service, regardless of who enters such Orders and regardless of whether or not there is an error in the Order entry or for any delays;

(f) any Online Service is provided on an "as is" basis and, except as required by law, we make no representations or warranties express or implied with respect to the Online Service;

(g) the speed of information provided through the Online Service is subject to a number of factors including, but not limited to, the speed of the user's internet connection, the user's settings, the number of concurrent users accessing the Online Service and the volume of information being received and sent by the Online Service;

(h) there are significant risks in trading through the Online Service because it is serviced by means of computer and telecommunications systems, even if generally accepted industry standards and practices are followed;

(i) the features, components or terms of use of an Online Service may be changed by us or the provider of the Online Service without requiring an amendment to these Terms;

(j) you are responsible for providing and maintaining the communications equipment and telephone or alternative services required for accessing and using the Online Service and for any communication service fees and charges incurred by you in accessing and using the Online Service;

(k) you are responsible for ensuring you have in place alternative arrangements for the execution of Orders or other services available through the Online Service, if the Online Service or any aspect of it ceases to be available or subject to failure (including, for example, arrangements for the use of telephone or facsimile);

(l) you must notify us immediately if you become aware of any inaccurate information being transmitted through the Online Service including, for example, inaccurate content as to Orders, Transactions or Account balances; and

(m) you must only use the Online Service for your own internal business and investment purposes.

8.8 You also agree to be bound by any terms and conditions of access and use which we or any third party provider of an Online Service may specify and notify to you, from time to time.

- 8.9 You are responsible for reading, understanding and complying with the details of the operational aspects of the Online Service. It is important that you read and understand any user manuals and operational procedures or rules relating to the relevant Online Service and which are made available either by Ayers Alliance or the provider of the Online Service. Further information on how to use and understand the Online Service can be obtained on our website.
- 8.10 Either you or your Authorised Person may place Orders with us using the Online Service. You authorise each person who is an Authorised Person from time to time to enter Orders using the Online Service in accordance with this document as your agent. You must provide us on request with a list of your Authorised Persons (containing their names and contact details) and any changes to the list.
- 8.11 You and each Authorised Person must satisfy any requirements (including without limitation requirements as to knowledge, training, testing, procedures and controls) notified by us to you from time to time and you are solely responsible for ensuring that an Authorised Person satisfies these requirements.
- 8.12 You are responsible for the consequences of any unauthorised disclosure or use of the Security Information, and for any actions or omissions by an Authorised Person.
- 8.13 We (or any third party providing the Online Service) may suspend, terminate or impose conditions on the use by you or any Authorised Person of the Online Service at any time without notice to you.
- 8.14 If you are uncertain as to whether your Order has been received, you must make all reasonable attempts to verify whether the Order has been received, approved and effected prior to taking further action. You agree to issue specific cancellation or amendment instructions with respect to an existing Order and not to attempt to effect changes by placing a second or duplicate Order. You will be solely responsible and liable for any duplicate instruction that you place.
- 8.15 You agree not to contest the validity or enforceability of any electronic communications between yourself (including your Authorised Person) and Ayers Alliance.
- 8.16 If a failure, interruption or malfunction of electronic communication between the parties prevents an Order from being placed, cancelled or amended then, without limiting clause 23, neither party is liable to the other party for any

Loss caused then by that failure, interruption or malfunction.

- 8.17 You acknowledge that all market data and information in relation to trading, volumes and pricing for a Financial Market provided through any Online Service may be proprietary information of the relevant Exchange or Financial Market or another person and any display, dissemination or other use of that information may be subject to restrictions imposed by the Financial Market or other person. You are responsible for complying with any such restrictions.

9. CONFIRMATIONS

- 9.1 We will, if required by Applicable Laws, give you a confirmation (**Confirmation**) in respect of each Transaction which Ayers Alliance enters into with you. You consent to receiving Confirmations by electronic means including, for example, through any Online Service. If our service provides Confirmations by accessing a substantially continuously available service, you consent to your Confirmations being available by those means instead of being sent to you.
- 9.2 You can agree with us, if permitted by Applicable Laws, not to give you a Confirmation or to provide Confirmations to an address or person nominated by you.
- 9.3 Each Confirmation given by us is subject to the Applicable Laws and the correction of errors and omissions. Ayers Alliance may, at any time, reissue a Confirmation in order to correct any errors or omissions.
- 9.4 You are responsible for promptly checking each Confirmation. You must immediately notify us if you become aware that there is an error in the Confirmation. We are entitled to assume that the Confirmation is correct unless you notify us of any error within 48 hours following us (or someone on our behalf) giving you the Confirmation or the Confirmation (or its equivalent) becoming available to you.

10. CLIENT ACKNOWLEDGMENTS

- 10.1 You, the Client, acknowledge and confirm to Ayers Alliance for Ayers Alliance's benefit in relying on the following:
- (a) you (or, if a corporate entity, your directors) have read and understood all documentation provided to you by us including these Terms and any product disclosure statement (**PDS**) in relation to any Financial Products

- which you request Ayers Alliance to make available to you in relation to your Account;
- (b) you have received, read and understood our Financial Services Guide (**FSG**);
- (c) all dealings in Financial Products and the performance by us of our obligations under these Terms are subject to Applicable Laws;
- (d) Ayers Alliance relies on your representation that at all times you will be able to make payments and fulfil all commitments on your part arising under these Terms and under the conditions applicable to dealings between you and Ayers Alliance;
- (e) that trading in Transactions incurs a risk of loss as well as a potential for profit;
- (f) we will not provide legal, tax, financial or accounting advice to you as part of the services that we provide to you;
- (g) by these Terms (including any Transaction made under it) we do not act in a fiduciary capacity in relation to you and Ayers Alliance does not owe any fiduciary obligations to you in respect of its services provided to you in connection with these Terms;
- (h) the Client will provide to Ayers Alliance on request such information regarding its financial and business affairs and identity, as Ayers Alliance may reasonably require;
- (i) that all Orders to be placed and all trading to be conducted under these Terms must be lawful;
- (j) in executing and complying with these Terms, the Client will not infringe any provisions of any other document or agreement to which the Client is a party;
- (k) the Client will take all reasonable steps to obtain and to communicate to Ayers Alliance all information, and will deliver or cause to be delivered to Ayers Alliance 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 and the Client authorises Ayers Alliance to pass on or deliver all such information and documents to any such person;
- (l) the Client will indemnify and keep indemnified Ayers Alliance and each of its related bodies corporate and their respective directors, officers employees and agents from and against all sums of money, actions, proceedings, suits, Claims, complaints, demands, damages, costs, expenses and any other amounts whatever claimed against any of them;
- (m) Ayers Alliance is not required to act in accordance with your instructions if in Ayers Alliance's opinion to do so would or could constitute a breach by it or its agent or Hedge Counterparty of the Corporations Act or any other Applicable Laws;
- (n) dealings in the Transactions may create an obligation to make a payment to Ayers Alliance in accordance with these Terms;
- (o) Ayers Alliance acts as principal in respect of the Financial Products issued by Ayers Alliance;
- (p) subject to applicable legal or regulatory requirements, you consent to Ayers Alliance either knowingly or unknowingly taking the opposite side to the Client in relation to any of the Financial Products, without notice to the Client;
- (q) subject to applicable legal or regulatory requirements, the Client agrees and acknowledges that Ayers Alliance's directors, employees and associates (and their directors, employees) may and can deal on their own account in Transactions which may be the same as or differ from your Transactions;
- (r) Ayers Alliance may, in its sole discretion and without explanation, refuse to deal with or on behalf of the Client in relation to any Transaction (including Closing Out existing Open Positions held in the Account on behalf of the Client) or to limit the number of Open Positions of the Client or both;
- (s) if errors have occurred in the pricing of Transactions quoted by Ayers Alliance to the Client, Ayers Alliance may choose not to be

- bound by such Transactions (without further liability to the Client) if Ayers Alliance is able to substantiate to the Client that there was a material error at the time of the Transaction;
- (t) 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 Ayers Alliance does not control data flows, internet or power connection, routing via internet, configuration of your equipment or reliability of its connection, Ayers Alliance will not be responsible for communication failures, distortions or delays when trading (including processing payments)) via the internet;
- (u) reports to the Client on the execution of Confirmations by Ayers Alliance, and the content of such Confirmations being statements, unless otherwise objected to within 48 hours after communication to the Client, will be deemed to be conclusive proof of the accuracy of such contents and their execution in accordance with these Terms except only in the case of manifest error;
- (v) a notice issued by an authorised officer or agent of Ayers Alliance stating the amount of money due and payable by the Client will be taken as conclusive evidence of notice except only in the case of manifest error;
- (w) Financial Products traded on the Online Service will not be settled by the physical or deliverable settlement of the Underlying Security on their Value Date. Depending on the Financial Product, they are generally rolled or “swapped” indefinitely until Closed Out;
- (x) an Open Position must remain open for the minimum period of time as determined by Ayers Alliance and cannot be Closed Out by you during this period; and
- (y) the English version of these Terms prevails over any other translated version of these Terms.

- 10.2** All representations, warranties and acknowledgments given by you under these Terms are taken to have been made at the time you complete the Application Form and are taken to have been repeated by you:
- (a) each time you place an Order with us;
- (b) each time you enter into a Transaction with us; and
- (c) each time we do anything or refrain from doing something under these Terms or as contemplated by these Terms in connection with your Account or any Transaction.

11. AYERS ALLIANCE UNDERTAKINGS

- 11.1** Ayers Alliance will act honestly and exercise due care and diligence at all times in its performance of these Terms.
- 11.2** Ayers Alliance will use reasonable endeavours to execute your Orders, subject to these Terms.
- 11.3** Apart from any duties, undertakings, warranties or representations which are imposed or implied by law and which cannot be excluded, Ayers Alliance makes no undertaking, warranty or representation in relation to any service or information provided or made available to you in connection with these Terms. To the full extent permitted by law, Ayers Alliance excludes liability for all costs, expenses, damages and Losses (including consequential loss) arising in connection with such services or information, or these Terms (including, without limitation, liability for negligence).

12. FEATURES AND RISKS OF TRANSACTIONS

- 12.1** You acknowledge and understand that there are significant features and risks involved in Transactions, including:
- (a) the gearing or leverage involved in investing in Financial Products means that a small Initial Margin payment can potentially lead to large losses for you, including more than all of the Margin ever paid to Ayers Alliance;
- (b) the geared nature of Transactions also means that acquiring and holding them can carry greater risks than directly investing in the Underlying Security which might not be geared, or, if is geared,

- effectively involves gearing of an underlying geared contract;
- (c) a relatively small market movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you;
- (d) over the counter Transactions are derivatives not made on any Exchange so might be considered to involve a greater risk than an exchange-traded derivative since there is no exchange market on which to Close Out an Open Position – you are only able to open and close your positions with us;
- (e) markets outside of Australia might involve different risks to Australian markets, so the potential for profit or loss from Transactions relating to a non-Australian market or denominated in non-Australian currency will be affected by fluctuations in foreign exchange rates;
- (f) it is possible to incur a loss if, after your acquisition of an investment, exchange rates change to your detriment, even if the price of the Underlying Security to which the Transaction relates remains unchanged;
- (g) you may sustain a total loss of the Margin that you deposit with or pay to us to establish or maintain a position and if the market moves against you, you may be required to pay substantial additional Margin at short notice but if you fail to do so within the required time, your investment position may be liquidated at a loss to you and you will be liable for any remaining deficit in your Account;
- (h) you will be required to maintain the Margin Cover, which might mean you must pay more Margin, even though we do not give Margin calls and even if you are not contactable;
- (i) under some trading conditions it may be difficult or impossible to liquidate a position, such as (but not limited to) at times of rapid price movement if the price rises or falls in one trading session to such an extent that trading in the underlying market is suspended or restricted;
- (j) if you trade in denominated currencies other than the Account currency you may lose money or value of the investment due to exchange rate fluctuations and that these losses may be in addition to any losses on the value of the Underlying Security relevant to the Transactions;
- (k) gapping, whereby a market price falls or rises without the opportunity to trade, can result in significant losses even when a stop loss has been put on because it may not be possible to transact at the nominated price if the market has gapped;
- (l) in some circumstances the Underlying Security may be halted, suspended from trading or have their quotation for trading withdrawn from an Exchange, or an index may be suspended and these factors might affect the value of your Transaction relating to those Underlying Securities due to Ayers Alliance exercising its discretion to determine the fair value of them;
- (m) a market disruption may mean that you are unable to trade when desired or in the amounts and prices you desire, and you may suffer a loss as a result, including disruption due to government or regulatory decisions or announcements, the failure of a computer based trading or pricing system, fire or other exchange emergency or a regulatory body could declare an undesirable situation has developed in a particular currency, security or contract and suspend trading or adjust terms of prices or trading;
- (n) you may incur losses (including incurring fees and charges) that are caused by matters outside our control for example, a regulatory authority exercising its powers during a market emergency or other significant event may result in losses for the Client or a regulatory authority can suspend trading (for example in an Underlying Security) or alter the price at which a position is settled, which could also result in a loss to the Client; and
- (o) we have powers, and discretion to exercise those powers, without notice to you or giving you reasons,

for cancelling Transactions or adjusting their prices or timing and, though we would exercise our powers in accordance with these Terms and our statutory duties, you may incur losses (including incurring fees and charges) and lose investment opportunities as a result of our exercise of our powers.

12.2 No advice or recommendation is provided by Ayers Alliance in relation to your Transactions unless expressly stated otherwise.

13. FEES AND CHARGES

13.1 Any profit or loss net of any fees and charges (that is, the realised gain or loss) arising on Closing Out a Transaction will be credited or debited (as the case may be) against the Account Value, in the Account currency.

13.2 You owe us, and must pay to us or as we direct (in accordance with these Terms):

- (a) any Transaction charges including all Transaction commission, charges, fees, Margins, premia, settlement and clearing fees and charges, interest, default charges and Taxes (including GST but excluding Ayers Alliance's income tax or penalty tax and levies) and any other amounts due under these Terms on demand by Ayers Alliance in cleared funds or otherwise as required by these Terms;
- (b) a Transaction Fee for each Financial Product or Transaction (as the case may be) being the fee from time to time specified by Ayers Alliance to be the amount payable by you to Ayers Alliance in respect of each such Transaction;
- (c) any royalty or other fee which must be paid for the use of prices or information provided to you via access through the Online Service or otherwise by any Exchange;
- (d) (if applicable) a monthly access charge for the use of the Online Service provided by Ayers Alliance, as specified by Ayers Alliance from time to time;
- (e) the Finance Charge calculated as disclosed in the PDS, FSG, a supplementary disclosure document or in any other permitted way of notifying you, such as on Ayers Alliance's website or the Online Service, in the amount of the Finance Charge Adjustments from time to time;

- (f) Finance Charge Adjustments applicable to any Transaction or Account;
- (g) any fees, Taxes, stamp duty or other charges as may from time to time be levied on or in connection with any Transactions entered into with you; and
- (h) in respect of any unpaid amounts required to be paid under these Terms including, (without limitation) any amounts due as a result of your failure to pay interest on all such amounts denominated in Australian dollars at the Base Rate then generally applicable for debit amounts on Accounts plus a rate of interest per annum as reasonably determined by Ayers Alliance (but so that the total rate does not exceed generally prevailing rates for personal unsecured loans in comparable amounts), such interest to accrue daily from and including the due date to and including the date of its payment in full.

Guidance note: this is the rate of interest you pay if you default on making any payment to Ayers Alliance. It is not the rate for any Finance Charge Adjustment.

13.3 We owe you and must pay you (in accordance with these Terms) Finance Credit Adjustments applicable to any Transaction or Account from time to time, calculated as disclosed in the PDS, FSG, a supplementary disclosure document or in any other permitted way of notifying you, such as on Ayers Alliance's website or the Online Service.

13.4 Any amount or rate or formula which is to be specified by Ayers Alliance may be specified by a PDS, FSG, a supplementary disclosure document or in any other permitted way of notifying you, such as on Ayers Alliance's website or the Online Service. The amount of any fees and charges or other amounts payable by you to Ayers Alliance in respect of any Transaction will be set out in the Confirmation of that Transaction or the Online Service to the extent known at the time.

13.5 You agree that Ayers Alliance may:

- (a) debit your Account (on a monthly or any other basis) or deduct from the Trust Account and pay itself, without further reference to you:
 - (i) all administration fees, including but not limited to fees associated with returned cheques, payment processing, credit card fees, Short

Message Service (SMS), debt collection and telephone transcript copies from your Account with Ayers Alliance during the full term of these Terms while you use such services; and

- (ii) all fees, charges and royalties which you owe to Ayers Alliance;
- (b) withdraw from the Trust Account and pay ourselves the amount of any Transaction Fee, any administration fees, (including but not limited to credit card fees) you owe and the amount of Margin which you must pay to maintain the required Margin Cover;
- (c) withdraw from the Trust Account and pay ourselves any moneys to which we are entitled in accordance with these Terms (such as, but not limited to, Realised/Unrealised Losses); and
- (d) deduct from the Account any amount reimbursable in accordance with these Terms.

You agree that any delay in, or partial exercise of any of the above rights is not a waiver or abandonment of those powers.

13.6 Ayers Alliance may receive commissions and other benefits from other parties in relation to Transactions Ayers Alliance enters into with you or in connection with other services provided to you. Ayers Alliance is entitled to retain such commissions and benefits.

13.7 If you have been referred to us or on behalf of a broker or other third party, that broker or third party may receive benefits in the form of a commission, rebate or other payment or benefit from us.

13.8 Unless otherwise agreed, the terms of any amounts payable by you under these Terms are stated exclusive of GST. If GST is payable on a taxable supply made by Ayers Alliance under, by reference to, or in connection with these Terms, you must also pay the amount of GST payable in respect of that taxable supply. Ayers Alliance will when required by law and as far as practicable state in Confirmations (or Account statements, if applicable) the amounts as GST-inclusive. Ayers Alliance will manage any credit granted to it for any GST refund, input credit or similar tax credit in accordance with its policy from time to time.

Owing to the complexity, delays and changes in laws and administration of such tax refunds and credits from time to time, Ayers Alliance is not obliged to provide credits or other benefits to each client if those benefits cannot reasonably be allocated to respective clients. Ayers Alliance endeavours to apply a policy for such adjustments by which it has no net benefit over time, having regard to the timing, nature and amounts of refunds and credits, the basis on which they are provided to Ayers Alliance and the direct and indirect costs to Ayers Alliance in providing the Online Service and relevant transactions through it. Terms which have a defined meaning in the A New Tax System (Goods and Services Tax) Act 1999 have that meaning in this document.

13.9 The amounts of or basis of calculating the fees, commissions, charges and credits referred to in this clause 13 will be as notified from time to time in writing by Ayers Alliance, either by way of a PDS, posting on the Online Service (including by way of Transaction prices), notification to your contact address, posting to Ayers Alliance's website or as otherwise agreed with you or permitted by these Terms.

13.10 If:

- (a) you are required to make a deduction or withholding in respect of Tax from any payment to be made; or
- (b) Ayers Alliance is required to pay any Tax (other than income tax) in respect of any payment made in relation to these Terms at your request,

then you:

- (c) indemnify Ayers Alliance against the Tax; and
- (d) agree to pay to Ayers Alliance an additional amount to ensure Ayers Alliance receives a net amount (after payment of any Tax in respect of each additional amount) that is equal to the full amount Ayers Alliance would have received had a deduction or withholding or payment of Tax not been made.

13.11 You must reimburse Ayers Alliance for all fees (both direct and indirect) and expenses charged in connection with any Transaction (other than Tax on the income of Ayers Alliance) and for all costs and expenses incurred by Ayers Alliance in implementing these Terms and in enforcing its rights under these Terms (including its legal costs of external or internal legal advisers on a full indemnity basis).

13.12 Open Positions will be charged a Finance Charge Adjustment or will be entitled to receive a Finance Credit Adjustment, depending on the Transaction chosen by you. These accrue (and so are calculated) on a daily basis as determined by Ayers Alliance (unless otherwise notified by you). The accrued charges or credits will be applied to an Account at any time chosen by Ayers Alliance. This will usually be at the Calculation Time and at the end of Transaction, but it may also be (without limitation):

- (a) either immediately at the time of entering into the Transaction;
- (b) at day's end, or month's end;
- (c) at a rollover of the Transaction; or
- (d) at any other time after entering into the Transaction.

The Online Service will display whichever of a Finance Charge Adjustment or Finance Credit Adjustment applies.

13.13 You remain liable to pay the Finance Charge Adjustment even though:

- (a) the charge may be called other things from time to time, even across different Accounts, different Financial Products or on the Online Service at the same time;
- (b) the charge is not stated on a statement for an Account or Confirmation for a Transaction;
- (c) the charges differ according to how the Transaction was made;
- (d) the charges differ according to the amount of the Account, regardless of the amount or value of the Account;
- (e) the rate is expressed or inferred to be an annual rate but is applied and calculated by the second or any other time interval proportional to the annual rate;
- (f) the Finance Charge Adjustment is first applied by way of posting the amount to the Account so that you become liable only for any net debit amount of the Account (or we owe you the net credit amount of the Account);
- (g) we may owe from time to time Finance Credit Adjustments (which are posted to the Account);
- (h) different rates apply at the same time to other clients' accounts;

- (i) the charge is applied at rollover but is not levied or enforced until termination of the Transaction;
- (j) the Transaction is denominated in a currency other than Account currency; and
- (k) the rates will be as determined by Ayers Alliance in its absolute discretion and you might not have prior notice of the current rate.

13.14 You acknowledge that you are responsible for your own legal costs associated with or arising from (at any time) entering into these Terms and for all Taxes and expenses incurred by you in connection with these Terms, including any Transaction made under it.

13.15 All payments by you under these Terms are:

- (a) 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; and
- (b) payable in any currency that Ayers Alliance may reasonably require or determine.

13.16 Ayers Alliance notify you of any change in its fees and charges or other amounts payable by these Terms in accordance with Applicable Laws except rates (including, but not limited to, rates of the Finance Charge Adjustments and Finance Credit Adjustments) will change at any time, as available via the Online Service.

14. CLIENT MONEYS AND TRUST ACCOUNT

14.1 Ayers Alliance must deal with any money and property which you pay or give to, or which is otherwise received by Ayers Alliance in connection with financial services provided by Ayers Alliance, in accordance with the Applicable Laws. For example, Ayers Alliance may be required to pay such moneys into the Trust Account which complies with the requirements of the Corporations Act. You acknowledge and authorise that:

- (a) your moneys and the moneys of other clients of Ayers Alliance may be combined and held by Ayers Alliance in a Trust Account, separate from the moneys of Ayers Alliance;

- (b) all moneys credited to the Trust Account maintained by Ayers Alliance may, by law, be used by Ayers Alliance to meet the default of any client of Ayers Alliance to the extent permitted by the Corporations Act (subject to Applicable Laws), even though Ayers Alliance does not propose to do this under its business procedures; and
- (c) moneys credited to any Trust Account maintained by Ayers Alliance under the Corporations Act may, by law, be used by Ayers Alliance for purposes unrelated to your Account to the extent permitted by the Corporations Act, even though Ayers Alliance does not do this under its ordinary procedures, and accordingly such use of a Trust Account does not fully protect your money and property from risk of loss.
- 14.2** If Ayers Alliance pays your funds to another person at your request, Ayers Alliance is not liable to you for the performance by the other person who receives the benefit of the payment of your funds. In particular, without limitation, Ayers Alliance is not obliged to enquire into:
- (a) the use of those funds by the third party;
- (b) any persons to whom the third party pays all or any of these funds;
- (c) the solvency of any of those persons;
- (d) the compliance by any of those person with the Corporations Act, Applicable Laws and Rules;
- (e) whether any of those persons hold any part of these funds on any nominee, segregated account, trust or any other basis for your protection or security.
- 14.3** You agree that Ayers Alliance is entitled to all interest earned on moneys credited to any Trust Account unless you and Ayers Alliance have otherwise agreed in writing.
- 14.4** The moneys to which you are entitled under these Terms and which are under the control of Ayers Alliance will be paid directly to you and not to any third party, unless you have otherwise instructed us to do so and we agree. You must provide relevant account details for payment instructions in respect of payments to be made by Ayers Alliance to you. Although Ayers Alliance will take reasonable steps to comply with your payment instructions, Ayers Alliance accepts no responsibility for any failure to comply with those instructions and, if such failure occurs, the relevant moneys will continue to be held by Ayers Alliance in accordance with the Corporations Act and Applicable Laws.
- 14.5** You authorise and direct Ayers Alliance to withdraw any or all moneys to which you are otherwise entitled in any Trust Account maintained by Ayers Alliance to meet any liability, obligation or other Loss which you owe to Ayers Alliance including to pay for your Financial Products, an amount in respect of any Realised/Unrealised Loss on your Account, Margin or Margin Cover).
- 14.6** When you pay moneys to Ayers Alliance in connection to a Transaction, you are also directing those moneys to be paid into a Trust Account and those moneys will remain in there until withdrawn by Ayers Alliance to pay you amounts you are entitled to receive or to pay for amounts to which Ayers Alliance is entitled including to pay for your Financial Products (including, without limitation an amount in respect of any Realised/Unrealised Loss on your Account). If there has been a Realised/Unrealised Loss on your Account after Ayers Alliance re-values your Account, Ayers Alliance is authorised, by your direction under these Terms to withdraw the equivalent amount of that Realised/Unrealised Loss from the Trust Account to pay Ayers Alliance an amount to which Ayers Alliance is entitled.
- 14.7** If Ayers Alliance determines that your Account has been inactive for a reasonably long period, you authorise Ayers Alliance to withdraw any Withdrawal Funds from the Trust Account to be paid into your nominated bank account.
- 14.8** You acknowledge that Ayers Alliance is entitled to be paid from those moneys to which you are otherwise entitled in any Trust Account maintained by Ayers Alliance an amount sufficient to meet any liability, obligation or other Loss which you owe to Ayers Alliance.
- 14.9** You acknowledge that from the time any funds withdrawn from the Trust Account in connection with your Transactions:
- (a) you lose the protections given to a Trust Account of that kind;
- (b) you are an unsecured creditor of Ayers Alliance for its obligations on your Transactions; this includes exposure as an unsecured creditor for payment to you of the net Account balance (if any) after closing all your Open Positions;
- (c) the funds are no longer held beneficially for you.

- 14.10** If you pay moneys into any Trust Account maintained by Ayers Alliance in anticipation of you creating and meeting any liability, obligation or other Loss which you will owe to Ayers Alliance including to pay for your Financial Products (including payment for Margin), by these Terms you authorise and direct Ayers Alliance to withdraw those moneys to pay Ayers Alliance for any liability which later arises. Your payment into the Trust Account will be deemed to be subject to this direction unless you tell Ayers Alliance (in writing) otherwise. You agree that these Terms are a sufficient written direction by you for the purposes of authorising and directing Ayers Alliance to make the withdrawal on these Terms, subject to any other written direction you give Ayers Alliance from time to time. Despite your direction, you agree that Ayers Alliance need not immediately, or at any time, fully, withdraw all or any of your moneys from the Trust Account but Ayers Alliance will do so consistent with its PDS and its policies from time to time.
- 14.11** You acknowledge and agree that if there has been a Realised/Unrealised Profit on your Account after Ayers Alliance re-values your Account, Ayers Alliance will pay into or hold sufficient funds in the Trust Account and credit your balance in the Trust Account as Margin to reflect the adjustment for the Realised/Unrealised Profit so that those funds will be retained there for your benefit until dealt with in accordance with these Terms.
- 14.12** You acknowledge and agree that Ayers Alliance may revalue your Account at any time and from time to time but is not obliged to revalue your Account on any particular frequency or at any particular time, so Ayers Alliance is not obliged to commit to determine whether there has been any Realised/Unrealised Profit or Realised/Unrealised Loss on your Account at any particular time or from time to time.
- 14.13** All currency exchange risks regarding any payment instruction or any Order or Transaction entered into by you with Ayers Alliance is 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 Ayers Alliance in the manner and at the time and at the exchange rates that Ayers Alliance, in its absolute discretion, decides.
- 14.14** You agree that these Terms are a sufficient written direction for the purposes of authorising and directing Ayers Alliance to make the withdrawals from the Trust Account on these Terms, subject to any other written direction you give Ayers Alliance from time to time which Ayers Alliance accepts.

15. MARGIN COVER

- 15.1** You agree and acknowledge with each of the following:
- (a) Margin Cover refers to the amount paid or payable to Ayers Alliance as it requires (to protect against your liabilities on Transactions) and which is credited to your Account. The minimum amount of the Margin Cover is determined by Ayers Alliance in its absolute discretion.
 - (b) A Margin payment is the amount you pay Ayers Alliance for crediting your Account as Margin Cover.
 - (c) The time for your payment to maintain Margin Cover is of the essence.
 - (d) You must maintain at least the amount of Margin Cover required by Ayers Alliance whether or not Ayers Alliance gives any notice to you to make those payments or you have actual notice of the required amount. The required amount of Margin Cover can change continuously and can change automatically, including over the week-end or other non-trading days. Your obligation to maintain at least the required amount of Margin Cover is continuous.
 - (e) You must ensure that for so long that you have an Open Position, the Margin Cover must always remain positive. If not, your Open Position may be Closed Out by Ayers Alliance without prior notice to you.
 - (f) Your obligation to maintain Margin Cover arises at the time the Transaction is executed.
 - (g) It is solely your responsibility to monitor and to satisfy all Margin Cover requirements.
 - (h) A Margin payment is credited by Ayers Alliance at the time cleared funds have been received into the Trust Account and Ayers Alliance has applied the payment to your Account or such other time as allowed by Ayers Alliance, so a Margin Cover requirement for an OTC Contract or other OTC Transaction issued by Ayers Alliance is not satisfied unless and until your payment is received in cleared funds into the Trust Account and applied to your Account by Ayers Alliance.
 - (i) Without limiting any other right of Ayers Alliance, in respect of any Financial Product issued to you by Ayers Alliance acting as principal to you, you authorise and direct, by these Terms, that all of the

funds which you deposit into the Trust Account be immediately withdrawn and paid to Ayers Alliance for its own account, towards satisfying your obligations to pay Transaction Fees, Finance Charges, to maintain Margin Cover, to pay for Realised/Unrealised Losses, and to pay all other amounts owing under these Terms, even if:

- (i) your payment (after deduction for Transaction Fees, Finance Charges and other amounts owing) is in an amount less than or more than the amount required to maintain the total amount of required Margin Cover;
 - (ii) the required amount of Margin Cover reduces after your payment to a Trust Account;
 - (iii) there is any delay between the time you make the payment to the Trust Account and when Ayers Alliance makes the withdrawal;
 - (iv) you purport to withdraw your authority and direction but you still have at that time an obligation to Ayers Alliance to maintain an amount of Margin Cover which has not been satisfied; or
 - (v) you do not tell us your intended use of the Margin Cover which will be directed to your Account after your payment or you change your mind after you tell us and you deal in Financial Products for a lesser value than you told us or you do not deal.
- (j) Your liability in respect of Margin requirements is not limited to the amount, if any, initially paid to Ayers Alliance for your Account. You are responsible to pay any deficit owing to Ayers Alliance after Close Out of a Transaction and if you default in payment of such deficit, Ayers Alliance may pay the deficit out of the Account or realise any Financial Products held by Ayers Alliance and apply the amounts or proceeds against that deficit and you are responsible for the full and prompt discharge of the deficit (which exceeds the value of the Account) by making payment in full to Ayers Alliance immediately when that deficit arises.

15.2 Ayers Alliance may (without notice to you) Close Out, but will not be obliged to Close Out or to attempt to Close Out, some or all Open Positions, at that time or any later time as Ayers Alliance determines (whether in its discretion or by automatic trading platform management) if:

- (a) your Account Value falls below the Margin Closeout Level; or
- (b) you fail to maintain the required Margin Cover; or
- (c) at any time, and from time to time, Ayers Alliance determines that the value of all of your Open Positions (and not taking into account any cash balance in your Account) represents a substantial net unrealised loss to you such that, in Ayers Alliance's belief, the continued trading, or failure to Close Out, one or more of your Open Positions will or is likely to materially prejudice your Account Value.

16. ROLLING OVER OF OPEN POSITIONS

16.1 In respect of each Open Position, subject to:

- (a) prior Close Out of that Open Position;
- (b) any express terms of the Transaction; or
- (c) the express agreement of Ayers Alliance to settle that Open Position,

Ayers Alliance is by these Terms instructed:

- (d) to vary the Open Position (in which case it will be deemed to be a new Transaction) so that its settlement date is deferred to a Business Day to be agreed between Ayers Alliance and you (and if there is no agreement by the Calculation Time on the Business Day immediately prior to the then applicable settlement date as agreed previously, it will be the following Business Day); and
- (e) to Close Out the Open Position and enter into a new Transaction for the same Underlying Security and being the same bought or sold position except that the settlement date is to be one Business Day later and adjusted for any interest differential.

17. INFORMATION AND ADVICE

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

17.2 When Ayers Alliance provides services to you (including agreeing to provide Financial Products or financial services, open an Account, issuing to you, or dealing with you, as principal) Ayers Alliance is not by these Terms or those acts providing, required to provide, or liable for, advice or recommendations in relation to the Financial Products, financial services, Orders or Transactions, except to the extent required by Applicable Laws.

17.3 You represent and warrant to Ayers Alliance on a continuing basis that under these Terms, to the extent permitted by law:

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

17.4 You acknowledge that you are responsible for all Orders you place, or choose not to place, with Ayers Alliance and it is your responsibility to obtain personal Financial Product advice (including legal, tax and financial advice) before making any investment or trading decision in respect of Financial Products.

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

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

18. PRIVACY AND INFORMATION

18.1 You authorise us to collect your personal information from you when we provide services to you under these Terms. You authorise us to use any information we collect from you or from others, or such other relevant documents:

- (a) to assess your request for us to provide our services to you;
- (b) to provide our services to you in accordance with these Terms;
- (c) for the purposes of complying with its obligations regarding your beneficial interests;
- (d) to allow Ayers Alliance to communicate with third parties in connection with the matters contemplated by these Terms, such as in connection with the Account; and
- (e) to ensure that legal and regulatory requirements under Applicable Laws are met.

18.2 You must notify us in writing when any of the information provided by you changes.

18.3 You authorise us to disclose personal information to:

- (a) our related bodies corporate, whether in Australia or elsewhere;
- (b) any clearing or settlement participant responsible for the clearing or settlement of your Transactions (if your OTC Transactions are ever cleared by a third party);
- (c) our service providers (including marketing companies, data consultants and IT contractors);

- (d) our agents, contractors, and external advisers;
 - (e) government and other regulatory bodies and authorities whether in Australia or elsewhere;
 - (f) payment system operators;
 - (g) other financial institutions and credit providers who provide services to you;
 - (h) on a confidential basis, a prospective purchaser of, joint venture partner of, or investor in, Ayers Alliance or a related body corporate or all or part of the business of Ayers Alliance or a related body corporate; and
 - (i) any other relevant person to the extent required by Applicable Laws.
- 18.4** You authorise Ayers Alliance to use and disclose the Tax file number which you provide to Ayers Alliance for all Accounts conducted by you with Ayers Alliance for the purposes of Transactions in accordance with any legal requirements.
- 18.5** You have a right to access any personal information that we hold about you. Sometimes there may be a reason why access will not be possible. If that is the case, you will be told why. To find out what kinds of personal information we may hold about you, or to request access to any personal information, please contact us.
- 18.6** You agree that your personal information can be used or disclosed by us as contemplated in these Terms. You agree to take all reasonable steps to deliver information or documentation to Ayers Alliance, or cause information or documentation to be delivered to Ayers Alliance concerning Transactions which are requested by a person having a right to request such information or documentation (including, without limitation, ASIC.). You understand that if you do not provide any information requested by us or do not agree to us using your information as set out in this clause 18, we may not be able to provide our services to you.
- 18.7** You agree that we may make such enquiries as we think fit of any person, including your employer, bank or a credit agency, relating to your creditworthiness and disclose the result of those enquiries and as a result of your disclosures to us (including your tax file number) to any credit rating agency or to any clearing or settlement participant responsible for the clearing or settlement of your Transactions for the purposes of our or that participant's risk assessment.
- 18.8** Ayers Alliance will comply with its obligations under the Privacy Act 1988 (Commonwealth) as amended from time to time, to the extent that they are relevant to these Terms.
- 18.9** You must, upon the request of Ayers Alliance, take all reasonable steps to deliver to Ayers Alliance all information and documentation relevant to trading in Financial Products.
- 19. DISPUTES**
- 19.1** You agree to examine the terms of each Confirmation immediately upon receipt and you agree that the contents of a Confirmation, in the absence of manifest error, will be conclusive evidence of the executed deal, unless within 48 hours of issue of a written Confirmation you notify Ayers Alliance of any disputed detail in the Confirmation received by you.
- 19.2** Complaints (which do not include disputed details) must be referred to us in accordance with our policies and procedures from time to time for dispute resolution. Unresolved complaints will be referred to the Financial Ombudsman Service or an external dispute resolution scheme of which we are a participant.
- 20. TAPE RECORDINGS**
- 20.1** You authorise Ayers Alliance to record any or all incoming and outgoing phone calls with you without making a disclosure to you of this nature each and every time you speak with a representative of Ayers Alliance. These calls may be recorded with or without an audible tone. You agree that Ayers Alliance may use such recordings for the purposes of monitoring and training its staff, monitoring compliance with you and Ayers Alliance's respective regulatory and contractual obligations and resolving disputes. If there is a dispute between Ayers Alliance and you, you have the right to listen to any recording of those conversations (if still available). Nothing in these Terms obliges Ayers Alliance to keep a recording or to notify you that we have eliminated a recording.
- 20.2** Recordings may be used to assess the performance of or to train Ayers Alliance's representatives, monitoring compliance with Ayers Alliance's respective regulatory and contractual obligations and resolving disputes.
- 20.3** Ayers Alliance is not obliged unless Applicable Laws require for it to keep any transcripts or copies of any telephone recording or conversation nor to tell you when it disposes of the record.

20.4 Subject to clause 20.3, Ayers Alliance may upon request, provide copies of any telephone recording or transcript relating to your dealings to you in if there is a dispute or anticipated dispute with respect to such dealings. You agree to pay any reasonable cost associated with providing any such transcript or copy.

21. YOUR CAPACITY, REPRESENTATIONS AND WARRANTIES

21.1 We provide services under these Terms on the basis that you undertake as primary obligor all obligations arising on the execution of Transactions which we enter into with you regardless of your legal capacity.

21.2 You represent and warrant to us that you are:

- (a) acting as principal;
- (b) acting as an intermediary on another's behalf and you are specifically authorised to enter into Transactions on behalf of the other person and (if required) currently have all appropriate Australian financial services licence authorisations to do so; or
- (c) acting in accordance with the terms of a trust deed (if you are a trustee of a trust).

21.3 If you are constituted by more than one person (including, for example, if you are acting in a partnership or joint venture), then each person constituting you are jointly and severally liable for the obligations under these Terms, and we may act on the instructions of any one of those persons.

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

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

21.5 If you are acting as a trustee of a trust, a responsible manager of a managed investment scheme, a trustee of a superannuation fund or

an agent under an investment management agreement, the additional representations, warranties and undertakings set out in Schedule 1 apply.

21.6 You represent and warrant that:

- (a) you have read and understood all documentation provided by Ayers Alliance to you in relation to the services provided by Ayers Alliance including, without limitation, any product disclosure statement;
- (b) you are a person with whom Ayers Alliance is lawfully entitled to deal pursuant to any Applicable Laws and that all dealings by you with Ayers Alliance or requested to be done by Ayers Alliance are and will be lawful under all Applicable Laws;
- (c) all information supplied on the Application Form or otherwise to Ayers Alliance is true, complete and accurate in all respects and you will notify Ayers Alliance immediately of any change in any information supplied (including but not limited to any change in your name, address, telephone number, facsimile number or e-mail address);
- (d) you will rely upon your own knowledge and judgment and will seek such advice (financial or otherwise) as may be prudent before placing an Order with Ayers Alliance and you assume full responsibility for any Order placed with Ayers Alliance;
- (e) you fully understand the relevant provisions of:
 - (i) the prohibition of false or misleading markets and other market manipulation as described in Applicable Laws and section 1041A of the Corporations Act;
 - (ii) the prohibition of insider trading as described in section 1043A of the Corporations Act;
 - (iii) the prohibition of false trading and market rigging as described in sections 1041B and 1041C of the Corporations Act;
 - (iv) the prohibition of misleading and deceptive conduct described in section 1041H of the Corporation Act; and

- (v) Applicable Laws and the Corporations Act which stipulate the conditions upon which short selling is permitted on the ASX and the disclosure obligations imposed on short sellers;
 - (f) at all times you will be able to make payments and fulfil all commitments on your part arising under these Terms and under the conditions applicable to dealings between yourself and Ayers Alliance.
- 21.7** Apart from any warranties and representations which are implied by law and cannot be excluded, Ayers Alliance makes no warranties in relation to any service or information provided or made available to you in connection with these Terms. To the full extent permitted by law, Ayers Alliance excludes liability for all costs, expenses, damages and Losses (including consequential loss) arising in connection with such services or information, or these Terms (including, without limitation, liability for negligence).

21.8 All representations, warranties and acknowledgments given under this clause 21, Schedule 1 or elsewhere in these Terms are taken to have been made at the time you complete the Application Form and are taken to have been repeated by you:

- (a) each time you place an Order with us;
- (b) each time you enter into a Transaction with us; and
- (c) each time we do anything or refrain from doing something under these Terms or as contemplated by these Terms in connection with your Account or any Transaction.

22. ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING

22.1 You acknowledge that:

- (a) Ayers Alliance is subject to various anti-money laundering and counter-terrorism financing laws (**AML/CTF Laws**) which may prohibit us from offering services or entering into or conducting Transactions; and
- (b) the AML/CTF Laws include prohibitions against any person dealing with the proceeds of or assets used in criminal activity (wherever committed) and from

dealing with any funds or assets of, or the provision of finance to, any person or entity involved (or suspected of involvement) in terrorism or any terrorist act.

22.2 You agree that:

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

22.3 You agree to provide all information and documents to Ayers Alliance which we reasonably require to comply with any law in Australia or any other country, including any AML/CTF Laws. You agree that Ayers Alliance may disclose information which you provide to us, or about Transactions you have with us or which you seek to conduct with us, if we are required to do so by any law or Rule in Australia or in any other country.

22.4 You represent and warrant to Ayers Alliance that the payment of moneys by us in accordance with this document, or any instructions given by you, will not breach any law in Australia or any other country.

23. LIMITATION OF LIABILITY, INDEMNITIES & PAYMENTS

23.1 Subject to those provisions of the Competition and Consumer Act 2010 (Commonwealth), the Australian Securities and Investments Commission Act 2001 (Commonwealth), the Corporations Act, any other legislation and any other rights, duties or other obligations imposed or implied by law which cannot be excluded by agreement between the parties, to the extent each of the following is not prohibited by those laws:

- (a) we make no warranties either expressly or impliedly as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness or quality), with respect to any services we provide under these Terms including, without limitation, the Online Service;
 - (b) Ayers Alliance excludes all liability in contract, tort or otherwise relating to or resulting from use of any services we provide under these Terms and for any Loss incurred by you directly or indirectly, including without limitation as a result of or arising out of:
 - (i) any inaccuracy, error or delay in or omission from any information provided to you under these Terms including the Online Service;
 - (ii) any delays or failures or inaccuracies, or loss of access to, the provision of a service to you including, without limitation, any delay, failure or inaccuracy in, or the loss of access to, the Online Service or in respect of the transmission of Orders or any other information;
 - (iii) any misinterpretation of your Orders or instructions which are unclear, ambiguous, or not specific;
 - (iv) any government restriction, Exchange or market rulings, suspension of trading, computer or telephone failure, unlawful access to our Online Service, theft, sabotage, war, earthquakes, strike, force majeure and, without limitation, any other conditions beyond our control;
 - (c) Ayers Alliance is not 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 including, without limitation the Online Service;
 - (d) Ayers Alliance makes no representations or warranties either express or implied that:
 - (i) any Exchange System (or any part of it) or any service or any services performed in respect of
- it will meet your requirements or the requirements of any user; or
 - (ii) the operation of, or services performed in respect of, any Exchange System will be uninterrupted or error-free;
- (e) Ayers Alliance is not liable for any breach of a provision of any relevant legislation, negligence, injury, death, lost profits, loss of files data or use, economic loss, loss or reputation or losses or damages incidental or consequential to the operation of any Exchange System, except to the extent that it is caused by the negligence or dishonesty of Ayers Alliance or their employees, agents or representatives; and
 - (f) Ayers Alliance's liability to you is in any event limited to:
 - (i) in the case of goods, the replacement or repair of the goods; or
 - (ii) in the case of services, the re-supply of the services.
- 23.2** To the fullest extent permitted by law, you release, discharge and indemnify and agree to keep Ayers Alliance and its respective officers, employees, agents and representatives indemnified from and against all Claims arising out of:
- (a) any default, whether by your act or omission under these Terms or any Order or Transaction;
 - (b) any breach by you of any Applicable Laws;
 - (c) any representation or warranty made or given by you under these Terms proving to be untrue or incorrect;
 - (d) any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by you or by any of your clients, employees, agents or Authorised Persons, consultants or servants;
 - (e) any failure of any of your computer or electronic systems or networks to perform, be available or successfully transmit data to Ayers Alliance, or any error or inadequacy in the data or information input into such systems or networks by you;

- (f) any delays in processing any Order including, for example (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;
- (g) anything lawfully done by Ayers Alliance in accordance with, pursuant or incidental to these Terms;
- (h) any instruction, request or direction given by you;
- (i) by reason of Ayers Alliance complying with any direction, request or requirement of Applicable Laws, any Financial Market or CS Facility, any government body or any regulatory body having jurisdiction over Ayers Alliance or any Hedge Counterparty;
- (j) arising from and in connection with or in any way related to Ayers Alliance 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 Person; or
- (k) any failure or delay by a Hedge Counterparty to meet its obligations to Ayers Alliance in respect of or in relation to (including by corresponding with) your Transactions and any payments made in respect of them,

except only to the extent attributable to the breach of these Terms by Ayers Alliance or the gross negligence or fraud by Ayers Alliance.

23.3 If GST is payable on a taxable supply made by Ayers Alliance under, by reference to, or in connection with these Terms, 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.

23.4 You acknowledge that you are responsible for your own legal costs associated with entering into these Terms and for all Taxes and expenses incurred by you in connection with these Terms, including any Transaction made under it.

23.5 All payments by you under these Terms are:

- (a) 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 the Terms; and

- (b) payable in any currency that Ayers Alliance may require or determine.

23.6 If:

- (a) you are required to make a deduction or withholding in respect of Tax from any payment to be made; or
- (b) Ayers Alliance is required to pay any Tax (other than income tax) in respect of any payment made in relation to these Terms at your request,

then you:

- (c) indemnify Ayers Alliance against the Tax; and
- (d) agree to pay to Ayers Alliance an additional amount to ensure Ayers Alliance receives a net amount (after payment of any Tax in respect of each additional amount) that is equal to the full amount Ayers Alliance would have received had a deduction or withholding or payment of Tax not been made.

24. DEFAULT

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

- (a) you breach these Terms, whether by act or omission (including, without limitation, giving us an Order in breach of clause 6.13);
- (b) a Transaction is entered into, or an Open Position is Closed Out, by you in any circumstances in which Ayers Alliance reasonably believes that conduct is, or could be considered to be, in breach of the Corporations Act, the Rules or any other Applicable Laws (not restricted to those circumstances described in clause 6.13 in respect of Orders), whether or not you are aware that the Transaction could breach those laws or rules;
- (c) you fail to pay, or to provide security for, amounts payable by you to Ayers Alliance;

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| <p>(d) you fail to pay the amounts due in respect of any Transaction entered into pursuant to these Terms;</p> | <p>manager in respect of your assets;</p> |
| <p>(e) you fail to perform any obligation arising pursuant to the settlement of a contract which arises pursuant to a Transaction;</p> | <p>(ii) a director has not given (a reasonable time after requested by Ayers Alliance) a valid deed of guarantee and indemnity in respect of your obligations under these Terms in favour of Ayers Alliance and in a form acceptable to Ayers Alliance; or</p> |
| <p>(f) you fail to fulfil any settlement obligations in respect of a Transaction entered into pursuant to these Terms;</p> | <p>(iii) you have not notified Ayers Alliance of a change of any director within seven (7) days of the change taking effect;</p> |
| <p>(g) you fail to comply with any limit or restriction imposed on you by Ayers Alliance in connection with your Account (for example, a restriction on the kind, volume or value of Transactions or outstanding liabilities);</p> | <p>(o) if you are acting on behalf of another person pursuant to authority provided by another person, the authority is varied in a way which (in Ayers Alliance's opinion) negatively impacts on your authority or legal or financial capacity to perform your obligations under these Terms;</p> |
| <p>(h) a guarantee lodged by you, or lodged by a third party at your request (such as by a director of a Client) is withdrawn without the consent of Ayers Alliance or becomes ineffective and other replacement security acceptable to the beneficiary of the guarantee is not provided;</p> | <p>(p) if you are a trustee, the relevant trust of which you are trustee is terminated, vests or a distribution of capital of the trust or fund is made, or your rights of indemnification from trust assets or reimbursement is terminated, restricted or challenged, which would result in there being, in Ayers Alliance's opinion, insufficient assets of the trust or fund to meet your liabilities under these Terms or any Transaction;</p> |
| <p>(i) any security provided by you (to anyone) which is binding on your assets becomes enforceable and the holder of that security takes any step to enforce the security;</p> | <p>(q) if you are a natural person, you die or become of unsound mind or if you or your estate is liable to be dealt with in any way under any law relating to mental health;</p> |
| <p>(j) any representation or warranty which you give under or pursuant to these Terms is or becomes incorrect or misleading in any material way;</p> | <p>(r) you challenge or deny the applicability of the express governing law of these Terms, the non-exclusive jurisdiction of courts as provided in these Terms;</p> |
| <p>(k) Ayers Alliance determines that you are unable, or you might not be able to meet your obligations to Ayers Alliance in respect of one or more Transactions, including, without limitation, strict compliance with any time limits for performance by you;</p> | <p>(s) you impose a moratorium on payments to creditors or cease, or threaten to cease, carrying on business;</p> |
| <p>(l) you become insolvent or bankrupt;</p> | <p>(t) in the absence of making alternative arrangements, you are not immediately contactable by Ayers Alliance in order for Ayers Alliance to obtain instructions in relation to any of your Transactions; and</p> |
| <p>(m) you enter into a composition or scheme of arrangement for the benefit of creditors;</p> | |
| <p>(n) if you are a body corporate:</p> <p style="margin-left: 20px;">(i) you go into liquidation, voluntarily or otherwise (except for the purpose of reconstruction), or you or another person appoint a liquidator, receiver, administrator or official</p> | |

- (u) the occurrence of any other event referred to in a Schedule applicable to your Account as constituting a Default or which Ayers Alliance and you have agreed constitutes a Default.

24.2 If a Default occurs, Ayers Alliance may, in addition to any other rights which Ayers Alliance has or may have against you (including rights arising in other parts of the Terms), without giving prior notice to you, take any action, or refrain from taking action, which it considers reasonable in the circumstances in connection with Transactions entered into pursuant to these Terms and, without limitation, Ayers Alliance may do any one or more of the following:

- (a) cancel any outstanding Orders;
- (b) enter into one or more Transactions to effect the Close Out of one or more unsettled Transactions or any Open Positions;
- (c) settle any Transaction which has not at the time of Default settled;
- (d) in the case of Open Positions which involve Underlying Securities which are option contracts or an equivalent, deal with the Transaction by exercising one or more of those option contracts or abandon any one or more option contracts not yet exercised;
- (e) cancel a Transaction (whether or not it is an Open Position) and make consequential adjustments to your Account including reversing any previous Realised/Unrealised Profit or Realised/Unrealised Loss;
- (f) cover in whole or in part Open Positions by entering into further Transactions;
- (g) apply any money that you have deposited into a Trust Account and to which you are entitled, by way of set-off or withdrawal and payment to us any amount you owe us;
- (h) immediately, or at a later time, terminate these Terms, one or more Schedules, one or more Accounts, one or more Transactions or any combination of these;
- (i) realise or enforce any security or guarantee provided in respect of your obligations to Ayers Alliance;
- (j) convert any or all amounts owing by you to Ayers Alliance or by Ayers

Alliance to you in a foreign currency into Australian currency;

- (k) calculate any or all amounts owing by you to Ayers Alliance and declare such amount immediately due and payable; or
- (l) exercise any other rights conferred by Applicable Laws or these Terms or perform any other obligations arising under Applicable Laws or these Terms in respect of your Transactions.

In respect of any action which Ayers Alliance takes, or refrains from taking under this clause 24.2, you must account to Ayers Alliance as if Ayers Alliance 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.

24.3 Nothing in these Terms limits your rights to claim a default by Ayers Alliance or for you to take any proper action you determine is appropriate to claim or to recover for any Loss arising from your claim. For example, we acknowledge that you may terminate these Terms if Ayers Alliance materially breaches these Terms. You agree that it is reasonable for you not to have specific rights following default and specific events of default by Ayers Alliance in order to avoid all Transactions of all of Ayers Alliance's clients prematurely terminating, which could cause irrevocable loss to some or all clients and those losses could be irrevocably increased by such an automatic termination.

25. NOTICES

25.1 Notices given by us may be sent to any address (including email address) specified in your application for an Account or later notified by you, or by posting the notice on our website or through any Online Service we provide to you. Unless otherwise specified in these Terms any notice given by us is taken to have been received or becomes effective on the Business Day following the transmission or posting of the notice, demand or Confirmation.

25.2 Notices given by you must be in writing and sent by post, or email to our postal address or email address specified by us in the PDS or on our website or as otherwise notified by us. A notice given by you is taken to have been given at the time it is actually received by us during business hours or, if after business hours, on the next Business Day during business hours.

25.3 If an Account is opened in the joint names of more than one person, each person agrees that

we may discharge any obligation we have to give a notice or a document to those persons under these Terms or Applicable Laws by giving notice to any one of those persons.

25.4 Ayers Alliance may give notice to you of any change in its Transaction Fees or any rates, fees charges or other amounts payable by these Terms in any manner permitted by these Terms, including by posting to Ayers Alliance's website or to Online Services or platform administration service. Ayers Alliance must give the minimum period of notice required by the Corporations Act.

25.5 If no minimum period is required or is not stated elsewhere in these Terms, notice of a change in Transaction Fees, charges or roles may be effective immediately Ayers Alliance first generally publishes the information of any variation on its website or through Online Service or platform administration service.

26. APPOINTMENT OF AYERS ALLIANCE AS ATTORNEY

26.1 In consideration of Ayers Alliance entering into the agreement on these Terms, you irrevocably appoint Ayers Alliance and each director, secretary and principal executive officer and each employee (which employee's title of office includes the word "Manager" or "Head") of Ayers Alliance and any other authorised representative of Ayers Alliance (including an authorised representative of a related body corporate of Ayers Alliance) severally as your attorney at any time and from time to time following a 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, and in particular, without limitation, in connection with, or incidental to, the exercise of any of the rights and powers of Ayers Alliance under these Terms. Those powers may be exercised in the interests of Ayers Alliance notwithstanding any conflict with the interests of Ayers Alliance. This appointment survives termination of these Terms.

27. TERMINATION

27.1 Without limiting clause 24.2, you and Ayers Alliance may each terminate these Terms at any time by giving the other notice.

27.2 The termination of these Terms does not affect outstanding obligations under these Terms which remain undischarged at the time of termination, limitations of liability or recourse, indemnities provided for in these Terms or any

other clause of these Terms which states or implies that they survive termination.

27.3 Each indemnity provided within these Terms survives the termination of these Terms.

27.4 You or Ayers Alliance may terminate a Schedule within these Terms at any time and for any reason by giving notice to the other, without terminating another Schedule of these Terms. Termination of a Schedule under this clause 27 does not affect outstanding obligations under these Terms which are undischarged at the time of termination, either under the terminated Schedule or otherwise. Each indemnity in these Terms survives the termination of any Schedule.

27.5 Upon termination of these Terms (or a relevant Schedule under clause 27.4), and without limiting clause 24.2, this clause survives and Ayers Alliance may do one or more of the following:

- (a) cancel any outstanding Orders;
- (b) enter into one or more Transactions to effect the Close Out of one or more unsettled Transactions or Open Positions (and determine the value at which the Transaction or Transactions will be Closed Out);
- (c) settle any Transaction which has not at the time of termination settled;
- (d) exercise any other rights Ayers Alliance has under these Terms; or
- (e) do, or refrain from doing, anything else which Ayers Alliance considers reasonable in the context of these Terms (or any part of them) having been terminated.

28. GENERAL

28.1 Ayers Alliance may from time to time delegate any or all of its obligations, powers and discretions to anyone or more or all of its employees or any other authorised representative of Ayers Alliance (or a related body corporate of Ayers Alliance). Ayers Alliance remains responsible for the acts or omissions of its employees and any authorised representative of Ayers Alliance (including an authorised representative of a related body corporate of Ayers Alliance). A delegation by Ayers Alliance under this clause need not be in writing.

28.2 Complaints or disputes must be referred to us in accordance with our procedures from time to time for handling disputes. Unresolved

complaints or disputes may be referred by you to the Financial Ombudsman Service or any other independent dispute resolution scheme of which we are a participant.

- 28.3** It is acknowledged that Ayers Alliance is not a market intermediary of ASX or of any other Exchange.
- 28.4** These Terms and any relevant Application Form completed by you contain the entire understanding between you and Ayers Alliance concerning the provision of the Financial Products or financial services and any other services referred to in or provided under these Terms, as later amended only in accordance with these Terms.
- 28.5** These Terms are governed by and construed in accordance with the laws in force in New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales, Australia.
- 28.6** We may vary these Terms by giving you notice of any variation by any combination of: document in writing, by updating our website to show the revised version of these Terms, by posting a message in the Online Service or by electronic mail. The notice of variation is effective even if you are unaware of the notice. The minimum period of notice will be the lesser of:
- (a) any minimum period of notice required by the Rules;
 - (b) if no such minimum period is required by the Rules, then not less than two (2) Business Days' notice (unless paragraph (c) applies); and
 - (c) subject to paragraph (a), if we believe a variation is necessary to maintain or restore the security of any Accounts or of our systems or to comply with any legal or regulatory requirement, we may make the variation without prior notice and will notify you of the change as soon as practicable after the change.
- 28.7** Each part of these Terms is severable from the balance of these Terms and if any part of these Terms is illegal, void, invalid or unenforceable, then that will not affect the legality, effectiveness, validity or enforceability of the balance of these Terms.
- 28.8** No failure by us to exercise, and no delay by us in exercising, any right, power or remedy in connection with these Terms will operate as a waiver of that right, power or remedy. No single

or partial exercise of any right, power or remedy will preclude any other or further exercise of such right, power or remedy or the exercise of any other right, power or remedy.

- 28.9** These Terms are not to be interpreted against our interests merely because we proposed these Terms or some provision in it or because we rely on a provision of these Terms to protect our interests.
- 28.10** You may not assign or otherwise transfer any of your rights under these Terms to another person without our prior written consent. Ayers Alliance may assign, novate or otherwise transfer any of its rights under these Terms to another person without your prior written consent including, without limitation, in connection with a sale or transfer of all or part of our business to another person.
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Schedule 1

ADDITIONAL REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

1. Trustee of a trust

If you are the trustee of a trust (**Trust**), you represent and warrant to Ayers Alliance that:

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| <p>(a) the Trust has been duly constituted and is validly existing in compliance with all applicable laws and the trust deed constituting the trust (Trust Deed) has been duly executed and duly stamped, in each case in accordance with the laws of each State and Territory of Australia;</p> <p>(b) the Trust Deed and its constituent documents enable you to enter into these Terms and any other of your agreements with Ayers Alliance despite any conflict of interest and duty which may arise on your part; and, if you are a company, any of your directors, when entering into the Transactions contemplated with Ayers Alliance;</p> <p>(c) all necessary resolutions have been duly passed and all consents have been obtained and all other procedural matters have been attended to as required by the Trust Deed, any other document or any law for the entry into, observance and performance by it of its obligations under these Terms;</p> <p>(d) each of your obligations under, and the Transactions contemplated by, these Terms constitute binding obligations and are completely and lawfully enforceable against you and the Trust's property in accordance with their terms;</p> <p>(e) Ayers Alliance's rights under these Terms and any other of your agreements with Ayers Alliance have priority over the interests of the beneficiaries of the Trust;</p> <p>(f) you are the only trustee of the Trust;</p> <p>(g) no property of the Trust has been re-settled, set aside or transferred to any other trust or settlement;</p> <p>(h) the Trust has not been terminated, nor has the date or any event for the vesting of the Trust's property occurred;</p> | <p>(i) no determination has been made to distribute the Trust's property on a date which is earlier than the latest date under the Trust Deed by which the Trust's property must be distributed;</p> <p>(j) no action has been taken, or has been proposed, to remove you as trustee of the Trust, or to appoint additional or alternate trustees;</p> <p>(k) there is no conflict of interest on your part in entering into these Terms and performing your obligations under them or the Transactions contemplated by them;</p> <p>(l) (as appropriate) each of the manager and the investment manager of the Trust is authorised to act on your behalf and to instruct Ayers Alliance in relation to any dealing and in relation to all other matters arising under these Terms;</p> <p>(m) you will be bound by any instructions given to Ayers Alliance by or any actions of the manager or the investment manager (as the case may be) as if the actions of the investment manager were your actions for the purpose of these Terms;</p> <p>(n) you authorise each of the manager and the investment manager to accept any notices or documents on its behalf and if Ayers Alliance has an obligation to serve any document or notice on you pursuant to these Terms, or any law, service upon either the manager or the investment manager (as the case may be) will be effective service on you;</p> <p>(o) you have an unrestricted right to be fully indemnified or exonerated out of the Trust's property in respect of any losses or liabilities incurred by you (except only in respect fraud or breach of the Trust Deed of or your trustee duties) and the Trust documents do not restrict the right of Ayers Alliance to have recourse to the assets of the Trust to satisfy and liability to Ayers Alliance properly incurred by you arising out of the Transactions</p> |
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contemplated with Ayers Alliance and the Trust's property is sufficient to satisfy that right of indemnity or exoneration;

- (p) you have complied with your obligations in connection with the Trust;
- (q) you are authorised to open bank accounts; and
- (r) you are authorised to enter into contracts in relation to trust property, in your personal capacity.

2. Responsible entity of a fund

If you are the responsible entity of a fund (**Fund**):

- (a) You undertake that you must not retire as responsible entity of the Fund unless you give notice to Ayers Alliance of your intention to retire and upon satisfaction of the following conditions:

- (i) the successor responsible entity must be acceptable to Ayers Alliance; and
- (ii) the successor responsible entity must execute whatever documents Ayers Alliance reasonably requires to ensure that these Terms are binding on it.

- (b) You will (or will procure that the following will be done) in relation to the Fund, ensure that other than with Ayers Alliance's prior consent:

- (i) the constitution of the fund (**Fund Constitution**) is not amended in any way which could have a material adverse effect on your ability to comply with your obligations under these Terms or could otherwise be prejudicial to Ayers Alliance;
- (ii) the Fund Constitution is not revoked;
- (iii) if you determine that the Fund Constitution, the compliance plan for the Fund, or any custodian or other agency agreement entered into by you in connection with the Fund is required by law to be changed or replaced, you promptly give to Ayers

Alliance full details of the requirement and copies of the documentation you propose to enter into to comply with that requirement;

- (iv) there is no re-settlement, setting aside or transfer of any asset of the Fund other than a transfer which complies with the Fund Constitution and these Terms;

- (v) your obligations under the Fund Constitution and at law are fully complied with;

- (vi) except in accordance with this clause 2 no other person is appointed responsible entity of the Fund;

- (vii) subject to section 601FM of the Corporations Act and except if and to the extent that you have retired as responsible entity of the Fund in accordance with this clause 2 nothing is done which would cause or enable your removal as responsible entity of the Fund, nor retire as responsible entity;

- (viii) appoint a custodian or other agent to carry out any of your functions as responsible entity of the Fund;

- (ix) terminate the appointment of any custodian or other agent appointed in accordance with paragraph 2(b)(viii) of this clause 2;

- (x) the vesting date under the Fund Constitution is not changed or fixed;

- (xi) subject to the Corporations Act nothing occurs which could limit, exclude or otherwise derogate from in any material way your right under the Fund Constitution and the general law to be indemnified out of the assets of the Fund; and

- (xii) subject to the terms of the Fund Constitution and the general law, your lien over the property of the Fund will have

- priority over the rights of the members of the Fund.
- (c) You represent and warrant in relation to the Fund as follows:
- (i) the Fund has been duly constituted and is validly existing in compliance with all applicable laws and the Fund Constitution has been duly executed and duly stamped, in each case in accordance with the laws of each State and Territory of Australia;
 - (ii) the Fund Constitution and its constituent documents give you power:
 - (A) to carry on all of the business activities now conducted by you in any capacity;
 - (B) to enter into and comply with your obligations under, and to carry on the Transactions contemplated by, these Terms;
 - (iii) all necessary resolutions have been duly passed and all consents have been obtained and all other procedural matters have been attended to as required by the Fund Constitution, any other document or any law for the entry into, observance and performance by you of your obligations under these Terms;
 - (iv) each of your obligations under, and the Transactions contemplated by, these Terms constitute binding obligations and are completely and lawfully enforceable against you and the Fund's property in accordance with their terms;
 - (v) you are the only responsible entity of the Fund;
 - (vi) no property of the Fund has been re-settled, set aside or transferred to any other trust or settlement;

- (vii) the Fund has not been terminated, nor has the date or any event for the vesting of the Fund's property occurred;
- (viii) no determination has been made to distribute the Fund's property on a date which is earlier than the latest date under the Fund Constitution by which the Fund's property must be distributed;
- (ix) there is no conflict of interest on your part in entering into these Terms and performing your obligations under them or the Transactions contemplated by them;
- (x) except as required by the Corporations Act and except to the extent expressly stated in the Fund Constitution, your rights under the Fund Constitution and the general law to be indemnified out of, and have a lien over, the assets of the Fund have not been limited in any way; and without limitation you have no liability which may be set-off against that right of indemnity; and
- (xi) you have complied with your obligations in connection with the Fund.

3. Trustee of a Superannuation Fund

If you are a trustee of the superannuation fund (**Fund**), you represent and warrant to Ayers Alliance that:

- (a) the Transactions contemplated by these Terms insofar as they concern the Fund:
 - (i) comply with all requirements of the Superannuation Industry (Supervision) Act 1993 (**SIS Act**);
 - (ii) have been or are to be implemented in accordance with an investment strategy undertaken in accordance with the SIS Act;
 - (iii) comply with all the requirements of the constitution of the Fund

- (iv) have been or are undertaken on an arm's length basis, for value and on commercial terms.
- (b) the Fund has been duly constituted and is validly existing and the Fund Constitution has been duly executed and duly stamped, in each case in accordance with the laws of each State and Territory of Australia;
- (c) the Fund Constitution and its constituent documents give you power:
 - (i) to carry on all of the business activities now conducted by you in any capacity;
 - (ii) to enter into and comply with your obligations under, and to carry on the Transactions contemplated by, these Terms;
- (d) all necessary resolutions have been duly passed and all consents have been obtained and all other procedural matters have been attended to as required by the Fund Constitution, any other document or any law for the entry into, observance and performance by you of your obligations under these Terms;
- (e) each of your obligations under, and the Transactions contemplated by, these Terms constitute the Fund's binding obligations and are completely and lawfully enforceable against you and the property in accordance with their terms;
- (f) you are the only trustee of the Fund;
- (g) no property of the Fund has been re-settled, set aside or transferred to any other trust or settlement;
- (h) the Fund has not been terminated, nor has the date or any event for the vesting of the property occurred;
- (i) no determination has been made to distribute the Fund's property on a date which is earlier than the latest date under the Fund Constitution by which the Fund's property must be distributed;

- (j) there is no conflict of interest on your part in entering into these Terms and performing your obligations under it or the Transactions contemplated by it;
- (k) you have an unrestricted right to be fully indemnified or exonerated out of the Fund's property in respect of any losses or liabilities incurred by you and the Fund's property is sufficient to satisfy that right of indemnity or exoneration; and
- (l) you have complied with your obligations in connection with the Fund.

4. **Agent under Investment Management Agreement**

If you are an agent of a client (**Investor**) who has entered into an agreement relating to the holding and investment of assets (**Investment Management Agreement**):

- (a) you will ensure that, without Ayers Alliance's prior consent:
 - (i) the Investment Management Agreement is not determined or amended in any way which could have a material adverse effect on your ability to comply with your obligations under these Terms or could otherwise be prejudicial to Ayers Alliance; and
 - (ii) your obligations under the Investment Management Agreement and at law are fully complied with;
- (b) you represent and warrant to Ayers Alliance that:
 - (i) you have received written acknowledgment from each Investor to the effect set out in the remainder of this paragraph 2(a) and paragraph 2(b) of this Schedule and you are not aware of anything that causes you to suspect that anything in those paragraphs is incorrect;
 - (ii) the Investment Management Agreement is valid and binding on you and the Investor, respectively;
 - (iii) you have the power, as agent for the Investor under the

- Investment Management Agreement, to enter into and observe all the provisions and to carry on the Transactions contemplated by, these Terms as agent for the Investor;
- (iv) the Investor will be bound by instructions provided by you to Ayers Alliance as if the Investor were named in these Terms as you and will be bound by any Transaction entered into by Ayers Alliance on your instructions;
- (c) if an Investor is a trustee, the Investor has warranted to you and you reasonably believe that the Investor is empowered by the relevant trust deed and law:
- (i) to enter into and comply with its obligations under, and to carry on the Transactions contemplated by, the Investment Management Agreement and each Transaction entered into by you on its behalf in connection with these Terms; and each of its obligations under, and the Transactions contemplated by, the Investment Management Agreement constitute binding obligations and are completely and lawfully enforceable against it and the relevant trust's property in accordance with their terms;
- (ii) to enter into and perform the Investment Management Agreement and each Transaction entered into by you on its behalf in connection with these Terms and to carry on the Transactions contemplated by these Terms;
- (iii) to carry on the trust's business as now conducted or contemplated and to own the trust's assets, in its capacity as trustee of the relevant trust; and there are no restrictions or conditions on this; and
- (iv) all other procedures have been completed as required by the relevant trust deed for
- it to enter into and perform the Investment Management Agreement and Transactions entered into by you on its behalf in connection with these Terms (this includes all necessary resolutions and all consents and approvals); and
- (d) you enter into these Terms as agent of each of the Investors and in your personal capacity.

Schedule 2

GUARANTEE AND INDEMNITY

1. Incorporation of terms into the deed of guarantee and indemnity

1.1 The terms of this Guarantee and Indemnity are terms which are incorporated into the Deed of Guarantee and Indemnity made by the person who executes it as “guarantor” in the Application Form which expressly refers to and incorporates by reference these terms.

1.2 The Guarantor guarantees to Ayers Alliance the performance by the Client named in the Application Form of the Client’s obligations under the Terms and agrees to indemnify and to keep indemnified Ayers Alliance and its employees, agents and representatives against any and all liability or Loss (including any consequential loss or damage suffered by Ayers Alliance) arising from, and any reasonable costs (including any reasonable legal costs and expenses on a solicitor and own client basis), damages, charges and expenses incurred by Ayers Alliance arising out of any default, whether by act or omission, of the Client:

- (a) to pay Ayers Alliance any moneys which are due and payable by the Client pursuant to the Terms; or
- (b) to fulfil the Client’s obligations to Ayers Alliance under the Terms.

1.3 This guarantee and indemnity are continuing several obligations of each person who signs or adopts these terms as Guarantor notwithstanding termination of all or any part of the Terms of dealing and will not be affected in any way by:

- (a) any indulgence, delay or period of grace allowed by Ayers Alliance to the Client or a Guarantor;
- (b) any modification or variation of the Terms of dealing between the Client and Ayers Alliance, including any addition to Financial Products or financial services or change to the Terms applying to Financial Products or financial services or generally;
- (c) any modification or variation of the fees and charges, however described, payable by the Client under the Terms;
- (d) whether any other person has signed or adopted these terms as a “Guarantor” or given any other credit support to

Ayers Alliance regarding the Client’s obligations to Ayers Alliance;

- (e) any other thing that would otherwise affect the obligations of a Guarantor; or
- (f) any change in the constitution of Ayers Alliance, the Client or the Guarantor.

1.4 To the extent permitted by law, this guarantee and indemnity are in addition to and will not merge with, or be affected by, any other security held by Ayers Alliance in respect of the obligations of the Client or the Guarantor, now or in the future, notwithstanding any rule of law or equity, or any statutory provision to the contrary.

1.5 The Guarantor acknowledges and agrees in favour of Ayers Alliance that:

- (a) Ayers Alliance may in its sole discretion choose to enforce this document against any one or more persons who have signed this document or adopted its terms as “Guarantor” or other provider of credit support to Ayers Alliance regarding the Client’s obligations to Ayers Alliance;
- (b) this guarantee and indemnity applies to the Terms from the time of commencement of the Terms even if before the date of this document;
- (c) it will do everything to discharge its obligations under this guarantee and indemnity;
- (d) whoever executes this document or adopts its terms on behalf of the Guarantor has the power and authority to do so;
- (e) it has read the Terms; and
- (f) it will pay on demand of Ayers Alliance a sum equal to all moneys due and payable by the Client to Ayers Alliance under the Terms and the amount of Ayers Alliance’s loss suffered or liability incurred in relation to that without set-off or counter claim, whether or not the Guarantor is aware of the amount owed, the Transactions or the Financial Products or financial services used by the Client.

Schedule 3

FOREIGN EXCHANGE TRANSACTIONS

1. Introduction

1.1 The following terms will apply to you, and you agree to be bound by them, each time you place an Order with Ayers Alliance to deal in a Foreign Exchange Transaction (as defined in clause 2 of this Schedule 3).

1.2 Any term not defined in this Schedule has the same meaning given to it in clause 2 of the Terms.

2. Interpretation

In this Schedule, the following terms have the following meanings:

Authorised Person means a person authorised pursuant to clause 5 to bind you under these Terms.

Base Currency is the first currency quoted in a currency pair, for example in the quote AUD/USD, the AUD is the Base Currency. This may have another similar name on the Online Service, Ayers Alliance's website or in a PDS.

Deal has the meaning given in the Corporations Act.

Foreign Exchange Transaction means a Transaction in respect of Foreign Exchange.

Market Rate means the rate of exchange which Ayers Alliance determines in its discretion is its prevailing rate of exchange. Ayers Alliance is not obliged to obtain quotes or to derive it directly or indirectly from quoted prices by a bank dealing in the interbank foreign exchange market nor is Ayers Alliance obliged to substantiate its determination.

Position means a Foreign Exchange Transaction entered into by you pursuant to these Terms under which the parties agree to exchange an agreed amount of one currency for an agreed amount of another currency for cash settlement (not physical delivery) on the Value Date (and, for the avoidance of doubt, either agreed amount may be nil).

Term Currency is the second currency quoted in a currency pair, for example in the quote AUD/USD, the USD is the Term Currency. This may have another similar name on the

Online Service, Ayers Alliance's website or in a PDS.

Value Date means the date agreed at the time the relevant deal is entered in to, to be the date of settlement of that deal (specified in the Confirmation).

3. Acknowledgements

In these Terms you acknowledge and agree to the following in favour of Ayers Alliance (and Ayers Alliance is bound by the following):

(a) A Foreign Exchange Transaction has enforceable terms for payment by you to us or us to you even though each Foreign Exchange Transaction is required by these Terms to be cash settled (or netted) with no physical exchange of the Underlying Security.

(b) each Foreign Exchange Transaction is required by these Terms and is expected by you and us to be disposed of by being Closed Out and the Realised/Unrealised Profit or Realised/Unrealised Loss arising from that, posted to your Account in full settlement of your respective obligations in relation to those Foreign Exchange Transactions;

(c) the following prevail in the order listed below such that if the higher ranking obligations are for any reason held by a court to be unenforceable, invalid or otherwise incapable of being applied, then the next ranking obligations apply:

(i) first, the settlement of Foreign Exchange Transactions by way of Closing Out those Foreign Exchange Transactions and applying the resulting Realised/Unrealised Profit or Realised/Unrealised Loss (as the case may be) to your Account, in full settlement of our respective obligations in relation to those Foreign Exchange Transactions;

(ii) secondly, the settlement obligations of each Foreign Exchange Transaction are set off so that only the single net amount of the difference arising from that

- set-off is the only amount owing as between us and the amount is applied to your Account (as a credit or debit amount, as the case requires) in full settlement;
- (iii) thirdly, the respective settlement amounts owing by you and us on each Foreign Exchange Transaction are applied to your Account (as a credit or debit amount, as the case requires) in full settlement);
 - (iv) fourthly, each payment obligation on each Foreign Exchange Transaction is applied to your Account (as a credit or debit amount, as the case requires) in full settlement); and
 - (v) fifthly, each payment obligation on each Foreign Exchange Transaction accrues and is enforceable on and from termination of the Foreign Exchange Transaction.
- (d) There is no definitive term attached to a Foreign Exchange Transaction, such a contract will continue until the Closing Date.
 - (e) Anything Ayers Alliance is permitted to do in accordance with this Schedule may be done in its absolute discretion, and any opinion or view required to be formed by Ayers Alliance may be formed in its absolute discretion.
 - (f) A Position may be Closed Out without a physical exchange of the Base Currency for the Term Currency and references in the definition of Position to an exchange of currency and settlement and in the definitions of Base Currency and Term Currency to amounts to be received by you or provided by you under a Position will be construed as if that Position were to be unwound by delivery.
 - (g) Notwithstanding it has an agreed Value Date, each Position continues indefinitely until it is unwound by delivery or by being Closed Out and references in the definitions of Position and Value Date to settlement will be construed as if that Position were to be unwound by delivery.

4. Entering into Positions

- (a) On any Business Day you may request Ayers Alliance by the Online Service or otherwise to quote:
 - (i) the rate at which you may enter a Position and the Initial Margin required by nominating the amount; or
 - (ii) the amount and currency of either the Base Currency or the Term Currency, the currency against which it is to be exchanged.
- (b) Immediately upon receiving the quote, you may by the Online Service or otherwise instruct Ayers Alliance to arrange the entry into by you of a Position equivalent to that for which the quote was sought. Receipt by Ayers Alliance of your instruction will constitute an offer by you to Ayers Alliance to enter into such a Position.
- (c) Ayers Alliance is under no obligation to accept your offer to enter into a Position, and without limitation, is not obliged to accept your offer to enter into a Position:
 - (i) if you have exceeded or would exceed a limit applying to you as notified by Ayers Alliance; or
 - (ii) until Ayers Alliance has received the Initial Margin required in respect of that Position into the Trust Account (or your Account has sufficient Margin Cover), in cleared funds.
- (d) The Initial Margin required in respect of a Position will be payable prior to Ayers Alliance accepting your offer to enter into a Position.
- (e) If Ayers Alliance accepts your offer to enter into a Position, Ayers Alliance may issue to you a written confirmation (or it may publish a written Confirmation available to you in your Online Service) of that Position promptly after it has been entered into, in the form of a deal confirmation, but failure by Ayers Alliance to issue or to publish a confirmation will not prejudice or affect that Position. Ayers Alliance will not have any liability as a result of a failure to issue or to publish a deal confirmation. If Ayers Alliance decides not to accept your offer to enter into a Position, Ayers Alliance will advise you of that decision as soon

as is practicable, subject to Trading Conditions.

- (f) You undertake to examine the terms of each Confirmation immediately upon receipt (or publication) and unless within 48 hours of issue of a confirmation you notify Ayers Alliance of any disputed detail in the confirmation, you agree that the contents of the confirmation, in the absence of manifest error, will be conclusive evidence of the executed deal. Upon receipt within that 48 hours of written notice as to a disputed detail, Ayers Alliance will investigate the matters disputed and you must co-operate with Ayers Alliance in good faith to resolve the dispute. You must, notwithstanding any such dispute, continue to satisfy your obligation to maintain Margin Cover in respect of that Position as if the details contained in the confirmation were correct and not the subject of dispute.

- (g) Ayers Alliance may, in its absolute discretion, limit the value of Positions you may have outstanding under these Terms:

- (i) beyond which if you decide to enter into any further Positions, you must seek and obtain credit approval from Ayers Alliance; and
- (ii) beyond which you may not enter into any further Positions.

- (h) Ayers Alliance may vary this limit at any time by notice to you.

5. Close Out of Positions

- (a) Without affecting clause 6 of the Terms (regarding Orders), Ayers Alliance may from time to time permit you to give Ayers Alliance notice of your request to have all or any of your Positions Closed Out. Ayers Alliance, from time to time, may set limits and conditions on accepting your notice (whether or not it complies with the requirements for an Order). Following receipt of such a notice Ayers Alliance may at a time it chooses in its absolute discretion, enter into a matching opposite Position to Close Out those Transactions. Without limiting Ayers Alliance's discretion you acknowledge that this may occur as soon as practicable after the later of:

- (i) receipt from you of such notice; and

- (ii) any time and date specified in such notice at which you request the Close Out to occur.

- (b) The difference (if any) between the amount of the Base Currency under the matching Position and the amount of the Term Currency under the original Position if positive, will be a "Realised Profit" and, if negative, will be a "Realised Loss".
- (c) The Closing Out of a Position in accordance with this Schedule will constitute a complete discharge of all obligations of Ayers Alliance and has the effect of immediately cancelling the Position so that the only obligations that continue in respect of the Position are those provided for under this Schedule.
- (d) You acknowledge that if you give Ayers Alliance standing instructions to enter into a Position when a particular price level is reached, then the price at which the Position is entered into might not be that exact price.

6. Settlement of Closed Out Positions

- (a) When a Position is Closed Out in accordance with this Schedule which:
- (i) results in a Realised Profit, Ayers Alliance will credit your Account in an equivalent amount to the Realised Profit; or
- (ii) results in a Realised Loss, Ayers Alliance will deduct the amount of the Realised Loss from the funds you have paid into the Trust Account (or if that is insufficient, debit the amount from your Account).
- (b) If there is then sufficient Margin any amount owing by you under this Schedule may be settled in whole or in part by debiting your Account with Ayers Alliance.
- (c) If you have requested payment of any money owed to you under this Schedule, Ayers Alliance will (at its discretion) deduct that money from your Account and pay it to you electronically or in such other manner as may be agreed between Ayers Alliance and you.
- (d) Ayers Alliance may set off any money owed to you under this Schedule against any money owed by you in respect of a Foreign Exchange

Transaction. If such a set-off is made, references in this Schedule to Realised Profit and Realised Loss will be read as including the net amount of Realised Profit or Realised Loss (as the case may be) remaining after the set-off.

7. Revaluations

Ayers Alliance may at any time, by reference to the Market Rate, revalue all Positions. Such revaluation will be effected in the following manner:

- (a) In order to carry out a revaluation under this Schedule, Ayers Alliance will ascertain in relation to each Position, the amount of the Term Currency which could be purchased with the amount of the Base Currency at the Market Rate.
- (b) If the amount calculated in accordance with sub-clause 7(a):
 - (i) is greater than the amount of the Term Currency under the Position, then the difference will represent an Unrealised Profit; and
 - (ii) is less than the amount of the Term Currency under the Position, then the difference represents an Unrealised Loss; and
- (c) the sum of each Unrealised Profit will be the "Unrealised Profits" and the sum of each Unrealised Loss will be the "Unrealised Losses".

Schedule 4

CONTRACTS FOR DIFFERENCE

1. Introduction

1.1 The following terms will apply to you, and you agree to be bound by them, each time you place an Order with Ayers Alliance to deal in a Contract for Difference (as defined in clause 2 of this Schedule 4).

1.2 Any term not defined in this Schedule has the same meaning given to it in clause 2 of the Terms.

2. Interpretation

In this clause, the following terms have the following meanings:

Adjustment Event means, any event in respect of which Ayers Alliance considers in its absolute discretion an adjustment to the terms of a Contract for Difference is appropriate including, for example:

- (a) if the Reference 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 legal 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,
- (b) 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 Ayers Alliance;
- (c) an event that has a dilutive or concentrative effect on the market value of the shares;

(d) if the Reference 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

(e) if the Reference Asset is a Derivative which is able to be traded on a Financial Market – any event in respect of which the operator of the Financial Market makes an adjustment to the terms of the Derivative.

Close of Business means the normal time of close of trading of the relevant Exchange.

Close Out, in relation to an OTC Transaction, means discharging or satisfying your obligations to Ayers Alliance under the OTC Transaction and this includes:

- (a) by delivering the amount or value of the Underlying Security (including a dollar multiple of an index) required in accordance with the terms of the OTC Transaction; or
- (b) as a result of the matching up of the OTC Transaction with an OTC Transaction of the same kind under which you have assumed an offsetting opposite position;
- (c) making adjustments for fees and charges.

Closing Date means the date on which the OTC Transaction is agreed to be Closed Out, or earlier, if actually or deemed to be Closed Out in accordance with the Terms or the Underlying Security expires according to its terms or the Rules governing its contract specifications.

Closing Price means the price of the Contract for Difference at the Closing Date.

Closing Value means the value determined by Ayers Alliance by multiplying the number of Contracts for Difference by the price (or, if an index, the level) of the Contract for Difference at the Closing Date.

Contract for Difference means a Financial Product, being a Derivative which derives its value from one or more Reference Assets, which may also be called a “CFD” or “Ayers Alliance CFD” on the Online Service or in a PDS.

Contract Value means the face value of the Contract for Difference, and is calculated by Ayers Alliance by multiplying the applicable price (or, if an index, the level) of the Contract for Difference by the number of Contracts for Difference.

Hedge Contract means a contract between Ayers Alliance and a Hedge Counterparty on the same, or substantially similar, terms as the Contract for Difference (including if one or more Contracts for Difference from you and other clients which in aggregate correspond with the Hedge Contract).

OTC Transaction means a Transaction in respect of one or more Contracts for Difference.

Reference Asset means an Underlying Security, as determined by Ayers Alliance and, in the case of an OTC Transaction, the Underlying Security specified in the Confirmation. The Reference Asset can refer to an index, in which cases, references in these Terms must be applied and interpreted with such changes as necessary to reflect an index instead of a Financial Product.

3. Acknowledgements

In these Terms you acknowledge and agree to the following in favour of Ayers Alliance (and Ayers Alliance is bound by the following):

- (a) OTC Transactions have enforceable terms for payment by you to us or us to you even though each OTC Transaction is required by these Terms to be cash settled (or netted) with no physical exchange of the Underlying Security;
- (b) each OTC Transaction is required by these Terms and is expected by you and us to be disposed of by being Closed Out and the Realised/Unrealised Profit or Realised/Unrealised Loss arising from that, posted to your Account in full settlement of your respective obligations in relation to those OTC Transactions;
- (c) the following prevail in the order listed below such that if the higher ranking obligations are for any reason held by a court to be unenforceable, invalid or otherwise incapable of being applied, then the next ranking obligations apply:
 - (i) first, the settlement of OTC Transactions by way of Closing Out those OTC Transactions and applying the resulting Realised/Unrealised Profit or Realised/Unrealised Loss (as the case may be) to your Account, in

full settlement of our respective obligations in relation to those OTC Transactions;

- (ii) secondly, the settlement obligations of each OTC Transaction are set off so that only the single net amount of the difference arising from that set-off is the only amount owing as between us and the amount is applied to your Account (as a credit or debit amount, as the case requires) in full settlement;
 - (iii) thirdly, the respective settlement amounts owing by you and us on each OTC Transaction are applied to your Account (as a credit or debit amount, as the case requires) in full settlement);
 - (iv) fourthly, each payment obligation on each OTC Transaction is applied to your Account (as a credit or debit amount, as the case requires) in full settlement); and
 - (v) fifthly, each payment obligation on each OTC Transaction accrues and is enforceable on and from termination of the OTC Transaction; and
- (d) there might be no definitive time to the life of a Contract for Difference, so such a contract will continue until the Closing Date (including when the Closing Date occurs by reason of the Underlying Security expiring).

4. Opening and closing OTC Transactions

4.1 All OTC Transactions are entered into between you and Ayers Alliance as principal. The acquisition of a Contract for Difference involves entering into, or opening, a Contract for Difference. The disposal of a Contract for Difference requires Closing Out an open OTC Contract.

4.2 Ayers Alliance will from time to time state the prices or values at which it may enter into an OTC Transaction with you, either to open or to Close Out an OTC Transaction. If you wish to enter into an OTC Transaction you may submit an Order to Ayers Alliance (including by Online Service). Ayers Alliance is not bound to enter into any OTC Transaction with you and reserves the right to state another price or value at which it may deal with you.

- (a) You may request on any given Business Day Ayers Alliance to quote a price at which Ayers Alliance may be prepared

- to enter into an OTC Transaction. You agree to and acknowledge that a price quotation pursuant to this request does not constitute an offer to enter into a new or close an existing OTC Transaction.
- (b) Upon receiving the quote from Ayers Alliance, you may offer to enter into an OTC Transaction with Ayers Alliance at the price quoted by Ayers Alliance.
- (c) Ayers Alliance is not obliged to accept your offer to enter into an OTC Transaction and, without limitation, is not obliged to accept your offer to enter into an OTC Transaction:
- (i) if you have exceeded or would exceed a pre-determined limit imposed on you under clause 4.2(g) below; or
- (ii) until Ayers Alliance has received from you the Initial Margin required in the form of cleared funds or your Account has sufficient Margin Cover to enter into the respective OTC Transaction.
- (d) The Initial Margin required to enter into an OTC Transaction (or the amount of required Margin Cover), if not already received from you, will be payable to Ayers Alliance upon acceptance by Ayers Alliance of your offer to enter into the OTC Transaction.
- (e) If Ayers Alliance accepts your offer to enter into an OTC Transaction, Ayers Alliance will issue to you an electronic Confirmation of the OTC Transaction entered into shortly after it has been entered into. Failure by Ayers Alliance to issue a Confirmation will not prejudice or affect the relevant OTC. Ayers Alliance will not bear any liability whatever resulting from the failure to issue a Confirmation. Ayers Alliance will promptly advise you if Ayers Alliance decides not to accept your offer to enter into an OTC Transaction.
- (f) You agree to examine the terms of each Confirmation immediately upon receipt and you agree that the contents of the Confirmation, in the absence of manifest error, will be conclusive evidence of the executed deal, unless within 48 hours of issue of a written Confirmation you notify Ayers Alliance of any disputed detail in the Confirmation received by you. Upon receipt of written notice within 48 hours of a disputed Transaction, Ayers Alliance will investigate the dispute and in co-operation with you must endeavour to resolve the dispute in good faith. Notwithstanding any such dispute, you must continue to satisfy your obligations to maintain Margin Cover in respect of the Contract for Difference as if the Confirmation was correct and the details contained in the Confirmation were not the subject of dispute.
- (g) In its absolute discretion, Ayers Alliance reserves the right to limit the value of Contracts for Difference you may have outstanding under these Terms. If you wish to enter into any further Contracts for Difference, you must seek and obtain approval from Ayers Alliance, beyond which you may not enter into any further OTC Transactions whatever.
- (h) Ayers Alliance may vary the limit imposed at any time in its absolute discretion.
- 4.3 If Ayers Alliance enters into an OTC Transaction with you for the acquisition of one or more Contracts for Difference:
- (a) Ayers Alliance will issue to you a Confirmation in respect of the OTC Transaction setting out, among other things, the number of Contracts for Difference acquired and the amount or amounts which you are required to pay, or are entitled to receive, in connection with the acquisition of the Contract for Difference; and
- (b) you or Ayers Alliance (as applicable), must pay the relevant amount referred to in paragraph (a) by the time specified in the Confirmation.
- 4.4 If Ayers Alliance enters into an OTC Transaction with you for the disposal of one or more Contracts for Difference (by way of Closing Out that contract):
- (a) Ayers Alliance will issue to you a Confirmation in respect of the OTC Transaction setting out, among other

things, the number of Contracts for Difference 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 Contract for Difference; and

- (b) you or Ayers Alliance (as applicable) must pay the relevant amount referred to in paragraph (a) by the time specified in the Confirmation or Trading Conditions, subject to this Schedule.

4.5 All communications, notices, offers, statements and Orders for Contracts for Difference must be made by an Online Service unless Ayers Alliance expressly agrees that they may be made by telephone or otherwise.

5. Settlement of Difference

- (a) Ayers Alliance may determine the Contract Value of the OTC Transaction as at any time and from time to time (including, without limitation, as at the Close of Business on each Business Day or the Calculation Time or each second during all or any part of each Business Day).
- (b) If the Contract Value determined by Ayers Alliance in accordance with clause 5(a) **above is** higher than the Contract Value previously determined by Ayers Alliance, then the Short Party must pay to the Long Party the difference.
- (c) If the Contract Value determined by Ayers Alliance in accordance with clause 5(a) **above is** lower than the Contract Value previously determined by Ayers Alliance, then the Long Party must pay to the Short Party the difference.
- (d) In order to determine the Contract Value on which the OTC Transaction is entered into, the Contract Value will be determined by Ayers Alliance taking into account the Underlying Security Price at which Ayers Alliance and you agreed to enter into the OTC Transaction.
- (e) If Ayers Alliance determines that the Contract Value of a Contract for Difference cannot be determined in accordance with clause 5(a) above for any reason, the Contract Value at Close of Business will be the value determined by Ayers Alliance in its sole discretion.

- (f) Without limiting clause 5(a) if at any time trading on an Exchange is suspended or halted in any Underlying Security, Ayers Alliance will, when determining the Contract Value, at its discretion consider (but is not limited to) the last traded price before the trading suspension or halt.

6. Dividend Payment and Receipt

- (a) If the issuer of the Reference Asset makes a dividend in respect of the Reference Asset, Ayers Alliance has discretion whether to make an adjustment for an amount of the weighted proportion of the dividend, being an amount to be credited to your Account in respect of your long positions and debited from short positions. If Ayers Alliance makes the adjustment, ordinarily the Long Party will be credited with an amount equal to the gross unfranked amount of any dividend payable to the holder of the Underlying Security (as determined by Ayers Alliance) and the Short Party will ordinarily be debited with an amount equal to the gross unfranked amount of any dividend payable to the holder of the Underlying Security (as determined by Ayers Alliance).

7. Closing out a Contract for Difference

- (a) At any time you may give Ayers Alliance notice of your intention to close any Contract for Difference (whether in whole or part) by specifying the Underlying Security and the quantity of Contracts for Difference that you wish to close. This must be done by you placing an Order for OTC Transactions which, if accepted, would Close Out the Contracts for Difference that you wish to close.
- (b) Upon receipt of notice of intent to close a Contract for Difference (by way of receiving your Order for Contracts for Difference), Ayers Alliance will use reasonable endeavours to provide a quote for the Closing Price (by way of indicating prices for Contracts for Difference which would, if agreed to, Close Out your open Contracts for Difference) and notify you of that quote (by the Online Service or otherwise). It is your obligation to notify Ayers Alliance as soon as possible as to whether you are willing to accept the Closing Price quote. If you accept the Closing Price quoted by Ayers Alliance, the Contract for Difference, or relevant portion of the Contract for Difference, will be closed by issuing you with a Contract for Difference which is equal but opposite to the open Contract for Difference, or relevant portion of the Contract for Difference, to be closed.
- (c) If the Underlying Security for the Contract for Difference is on terms that provide for its redemption, exchange or termination and you do not give notice to Ayers Alliance of your intention to Close out the Contract for Difference or to roll it over on terms and by the time acceptable to Ayers Alliance (whether or not you have any prior notice of that), you will be deemed to have given notice to Ayers Alliance to Close Out that Contract for Difference at the Closing Price reasonably determined by Ayers Alliance. In this case, Ayers Alliance will Close Out the Contract for Difference as at the time it determines.
- (d) At the Close Out, subject to clauses 3 and 8 of this Schedule 4, if there is a difference between the Closing Value and the Contract Value of the Contract for Difference (or portion of it closed under clause 7(b)) it must be accounted for in the following way:
 - (i) if the Closing Value is greater than the Contract Value, the Short Party must pay to the Long Party the difference; and
 - (ii) if the Closing Value is less than the Contract Value, the Long Party must pay to the Short Party the difference.
- (e) If the issuer whose security represents the Underlying Security on which all or part of an OTC Transaction is based becomes externally administered in accordance with the meaning in the Corporations Act (or equivalent legislation), the OTC Transaction will be taken to have been Closed at that time. The Closing Price of the OTC Transaction will be determined by Ayers Alliance who may consider a number of factors it deems appropriate including, for example, the last traded price of the Underlying Security.
- (f) If the Underlying Security on which the OTC Transaction is based ceases to be listed for quotation on an Exchange, or is suspended from quotation for 5 consecutive Business Days, Ayers Alliance may, in its absolute discretion, without limiting clause 7(g) elect to terminate the relevant Contract for Difference Transaction. If Ayers Alliance elects to do so then:
 - (i) the Closing Date will be deemed to be the date which Ayers Alliance determines (**Early Closing Date**); and
 - (ii) you will be treated as having given notice under clause 7(a) on the Early Closing Date.
- (g) If Ayers Alliance determines that the Closing Value of an OTC Transaction cannot be calculated on or with effect on the Closing Date for any reason, the Closing Value will be the value determined by Ayers Alliance in its sole discretion.
- (h) Without limiting clause 7(g), if at any time trading in the Underlying Security on an Exchange is suspended or halted at any time, Ayers Alliance will, in its absolute discretion in determining the Closing Value of an OTC Transaction, have regard to (but is not limited by) the last traded price before the suspension or halt.
 - (i) All calculations made by Ayers Alliance in accordance with these

Terms in the absence of any manifest error will be binding on you.

8. Settlement of Positions

- (a) Payments to be made to you with respect of any OTC Transaction must be made in accordance with this clause 8.
- (b) If an OTC Transaction is Closed Out in accordance with clause 7 above, or settlement for difference being made in accordance with clause 5 above:
 - (i) Ayers Alliance will credit to your (relevant) Account any amount payable by Ayers Alliance to you; or
 - (ii) subject to clause 8(c) below you must pay to Ayers Alliance any amount payable by you to Ayers Alliance in cleared funds in any such currency that Ayers Alliance may require immediately upon the payment request being made.
- (c) If there is any surplus Margin in your Account, any amount owing by you in accordance with clause 8(b) above will be settled in whole or in part by debiting your Account with Ayers Alliance.
- (d) If you request payment of any money owed to you under this clause 8, Ayers Alliance will deduct the amount of the requested payment from your Account and pay you, electronically 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) Ayers Alliance may offset any money owed to you under these Terms or any other agreement against any moneys owed by you under these Terms or any other agreement.

9. Adjustment Events

- (a) If the Underlying Security on which a OTC Transaction is quoted is subject to an Adjustment Event or possible Adjustment Event, Ayers Alliance will determine the adjustment, if any, that will be made to the Contract Value of that Underlying Security, the related quantity (or both) that would have placed the parties in substantially the same economic position they would have been in had the event not occurred. Ayers Alliance will notify

you as soon as practicable of the adjustment. In the absence of any manifest error any adjustment determined will be deemed to be conclusive and binding on you.

- (b) Ayers Alliance may give you an opportunity to elect to participate in an adjustment to the OTC Transaction which corresponds with the Adjustment Event, but Ayers Alliance 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 Ayers Alliance obliged to accept in part or at all any election you make to participate. Any adjustment will take effect at the time determined by Ayers Alliance.
- (c) If the Underlying Security is subject to a take-over offer or similar event, Ayers Alliance may at any time prior to the closing date of the offer provide you notice of Ayers Alliance's intention to Close Out the OTC Transaction, in accordance with clause 7, with the Closing Price being the price notified to you by Ayers Alliance.
- (d) If at any time an Adjustment Event occurs and it is not reasonably practicable as determined by Ayers Alliance in its absolute discretion to make an adjustment in accordance with clause 9(a) above, then without limiting 9(a) above, Ayers Alliance may at any time after the Adjustment Event give you notice of Ayers Alliance's intention to Close Out the OTC Transaction. If this occurs you will be taken to have been provided with closing notice in accordance with clause 7 above, with the Closing Price being the price notified to you by Ayers Alliance.
- (e) References to "offer", "take-over" and "closing date" in this clause 9(a) above will have the same meaning given to them in the Corporations Act 2001.

10. Margin Requirements

- (a) This clause 10 supplements clause 15 of the Terms and only prevails over it to the extent of any inconsistency.
- (b) Prior to entering into an OTC Transaction with Ayers Alliance you acknowledge that Ayers Alliance requires you to pay cleared funds into the Trust Account as an Initial Margin and to maintain the minimum Margin Cover determined by Ayers Alliance in

- its absolute discretion from time to time. The Margin Cover requirements may be determined automatically by an Online Service. The required Margin Cover may change at any time, including outside of trading hours and without prior notice to you. The amount of Initial Margin required by Ayers Alliance and the time at which it is required will be at the absolute discretion of Ayers Alliance. Ayers Alliance is not obliged to permit any offset of any Initial Margin required by Ayers Alliance.
- (c) A Margin payment is credited by Ayers Alliance at the time cleared funds have been received into the Trust Account and applied by Ayers Alliance to your Account or such other time as allowed by Ayers Alliance so a Margin Cover requirement is not satisfied until your payment is received in cleared funds into the Trust Account and applied to your Account by Ayers Alliance.
- (d) You have an absolute obligation to maintain the amount of Margin Cover required by Ayers Alliance from time to time. Your failure to maintain the required Margin Cover is automatically a Default.
- (e) The Initial Margin requirement applicable in respect of any OTC Transaction may be increased by Ayers Alliance in its absolute discretion in respect of the time for payment and the amount of it. In the event of such an increase Ayers Alliance may require that you pay Ayers Alliance additional cleared funds equal to such an increase.
- (f) Without affecting your obligation to maintain the required amount of Margin Cover, at any time in the discretion of Ayers Alliance you may be required by Ayers Alliance to pay additional Margin by paying Ayers Alliance cleared funds into the Trust Account.
- (g) Without affecting your obligation to maintain the required amount of Margin Cover, if Ayers Alliance requires additional funds from you to maintain the required Margin Cover you must maintain the Margin Cover by the time required by Ayers Alliance, which could be immediately.
- (h) Your payment into a Trust Account will not satisfy your obligation to make payment to Ayers Alliance in cleared funds, even if Ayers Alliance temporarily waives reliance on this term. The payment obligation is not satisfied unless and cleared funds are received for the benefit of Ayers Alliance.
- (i) In all respects, time is of the essence for all of your payment obligations to Ayers Alliance.
- (j) If Ayers Alliance increases the required Margin Cover, you acknowledge and agree that Ayers Alliance may refuse any request by you to enter into any further Contract for Difference positions until Ayers Alliance has confirmed the receipt of the payment for more Margin in the form of cleared funds.
- (k) Any net positive amount of Margin credited to your Account will not constitute a debt due by Ayers Alliance to you. Subject to you meeting all Margin Cover requirements, you are entitled to be paid by Ayers Alliance an amount equal to the Withdrawable Funds and, on being paid, there will be a corresponding reduction in the balance of your Account.
- (l) You acknowledge that your liability with respect to maintaining Margin Cover is not limited to the amount you initially or later pay Ayers Alliance. You authorise Ayers Alliance to withdraw or otherwise apply funds or Financial Products held for your benefit by Ayers Alliance in any Account, or funds in any Trust Account, to satisfy partially or fully any liability you have to maintain Margin Cover.
- (m) Ayers Alliance will have sole, absolute and unfettered discretion, as to the exercise of any power or right under this clause 10, including, without limitation, the calling of Margin.
- (n) Any power or right exercised by Ayers Alliance under this clause 10 will be binding upon you.
- (o) Any reference to time under this clause 10 includes weekends and public holidays.

11. Actions Following a Default

- (a) Upon or after any Default occurs, Ayers Alliance, without prejudice to any other rights it may have under these Terms, has the right and power in its sole absolute and unfettered discretion and without necessity to give prior or any notice to you to do any one or more of the following:
 - (i) in accordance with clause 14 terminate these Terms;
 - (ii) Close Out all or any open OTC Transaction you may have as if you had given a closing notice to Ayers Alliance and had accepted the Closing Price determined by Ayers Alliance in accordance with clause 7;
 - (iii) in accordance with clause 11(d) treat all or any open OTC Transaction as having been terminated by you;
 - (iv) terminate any agreement or account whatever you have or may have with Ayers Alliance;
 - (v) in the event of there being insufficient funds in your Account to satisfy amounts owing to Ayers Alliance (including to maintain the Margin Cover), Ayers Alliance may cancel any outstanding Orders in order to close your Account;
 - (vi) satisfy obligations that you have to Ayers Alliance out of any property belonging to you including, money or security in Ayers Alliance's custody or control including, without limitation, the Trust Account or by selling securities lodged by you with Ayers Alliance or setting off obligations such that security transferred as collateral is not required to be returned but instead the value of them (as determined by Ayers Alliance) is applied in calculation of the set-off of obligations and to enforce any asset or security held by Ayers Alliance in such manner as it sees fit at your risk and expense;
 - (vii) transfer from your other accounts or the Trust Account,

if any, such funds as may be required for that purpose to satisfy any obligation you may have to Ayers Alliance; and

- (viii) exercise any power or right that Ayers Alliance may have in accordance with these Terms or in law or equity or take any other form of action as the holder of an Australian financial services licence (AFSL) may be required to take.
- (b) Ayers Alliance does not forgo any of the rights outlined in this clause 11 incurred as a result of a delay in the exercise of such rights. If Ayers Alliance does not exercise any of its rights, it reserves the right to do so at any time in the future.
- (c) If Ayers Alliance exercises its rights under clause 11(a)(ii), you authorise Ayers Alliance to Close Out the OTC Transactions, at your risk and expense as if you had given notice on the date that Ayers Alliance exercises its right, in accordance with clause 7.
- (d) If Ayers Alliance treats an OTC Transaction as having been terminated by you and Ayers Alliance exercises its rights in accordance with clause 11(a)(iii), Ayers Alliance will calculate the amount owing by you or by Ayers Alliance as if you had been given a closing notice and you had accepted the Closing Price determined by Ayers Alliance in accordance with clause 7. Ayers Alliance may debit from your Account an amount equal to the amount which would have been payable by you to Ayers Alliance had the OTC Transaction been closed at the Closing Price. It is agreed that this amount represents a reasonable pre-estimate of the damages incurred by Ayers Alliance.
- (e) Any action taken by Ayers Alliance in accordance with this clause 11 does not limit any other provision of these Terms and is without prejudice to any other rights which Ayers Alliance may have to any other remedy or damages.

12. Illegality

If any event occurs which has the effect of making or declaring it unlawful or impracticable for Ayers Alliance to offer or to maintain Contracts for Difference to you in accordance with the terms outlined in these Terms, Ayers

Alliance may immediately terminate these Terms by providing you written notice of that. A termination of these Terms will also result in the closure of all Contracts for Difference in accordance with clause 11(c) as if it were a Default. Any such termination will not relieve you of any obligations you may have to Ayers Alliance in accordance with these Terms prior to its termination.

For this clause, events include 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.

13. Hedge Counterparty arrangements

13.1 You acknowledge that if you acquire a Contract for Difference, you have no right to, or interest in, the Reference Asset or any Hedge Contract.

14. Termination of a Contract for Difference

14.1 You acknowledge that Ayers Alliance may terminate a Contract for Difference (apart from any other right to terminate) if:

- (a) the Reference 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 five (5) Business Days;
- (b) an Adjustment Event occurs and Ayers Alliance determines that it is not

reasonably practicable to make an adjustment to the terms of a Contract for Difference under this Schedule;

- (c) the relevant Hedge Contract, or Ayers Alliance's rights under the relevant Hedge Contract or in respect of the relevant Reference Asset, are Closed Out, suspended or terminated by the Hedge Counterparty (which may occur automatically under the terms of any agreement between Ayers Alliance and the Hedge Counterparty); or
- (d) Ayers Alliance considers, acting reasonably, that the Hedge Counterparty or issuer of the Reference Asset may not be able to meet its obligations to Ayers Alliance under the terms of the Hedge Contract or Reference Asset or other contracts between Ayers Alliance and the issuer of the Reference Asset or the Hedge Counterparty.

14.2 If Ayers Alliance terminates a Contract for Difference under clause 14.1 or otherwise, Ayers Alliance will determine a termination value, payable by Ayers Alliance to you or by you to Ayers Alliance, which Ayers Alliance considers appropriate, acting reasonably, and having regard to the circumstances of termination, the value (if any) of the Reference Asset and the position as between Ayers Alliance and the Hedge Counterparty in respect of the Hedge Contract. The termination will take effect at the time determined by Ayers Alliance.