

# Terms and Conditions

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## TERMS AND CONDITIONS

The following Terms and Conditions shall replace any prior or existing agreement between the parties, or previously issued Terms and Conditions, and shall apply to any existing arrangements currently operating between the parties. By executing an Account Application and/or undertaking any transaction with Bacera Co Pty Ltd ACN 130 877 137 ("Bacera", "BCR", "we" or "us"), you hereby agree to be bound by the following Terms and Conditions (as amended from time to time).

### 1. Purpose

BCR is regulated by the Australian Securities and Investment Commission ("ASIC") and is a holder of an Australian Financial Services Licence issued by ASIC (AFSL 328794) in respect of Financial Product transactions on financial markets.

These Terms & Conditions will govern all Financial Product transactions entered into between us and the Client ('you', 'your', 'yours' and 'yourself' as appropriate).

### 2. Definitions and Interpretations

In these Terms and Conditions unless a different intention is expressed, the following terms (as subsequently modified by amended legislation or regulation) shall mean:

"Account" means the account of the Client dealing in the financial products issued by BCR, which is established in accordance with the terms and conditions of this Terms & Conditions.

"Authorised Person" means a person authorised to bind the Client under these Terms & Conditions.

"Business Day" means a day on which trading banks in Sydney, Australia are open for business.

"CFD" is a Contract for Difference which is an over-the-counter derivative product comprising an agreement under which one party is entitled to be paid an amount of money (profit) or has to pay an amount of money (loss), resulting from movements in the price or value of an Underlying Asset (without actually owning that Underlying Asset).

"Cleared Funds" means the amount of funds that have been deposited or credited to your Account, for the purposes maintaining open Positions, or for any other purpose.

"Closing Date" means in relation to a CFD, Margin FX Contract, or Binary Option (if applicable), the date on which the Client accepts the Closing Price of the Instrument, or on which a Closing Date is deemed to have occurred in accordance with these Terms & Conditions.

"Closing Notice" means in relation to a CFD, Margin FX Contract, or Binary Option (if applicable), the notice given by one party to the other to close any CFD, Margin FX Contract, or Binary Option in accordance with these Terms & Conditions.

"Closing Price" means in relation to a CFD, Margin FX Contract, or Binary Option (if applicable), the price as determined by BCR at the time BCR receives the Closing Notice.

"Closing Value" relates to a CFD, Margin FX Contract, or Binary Option (if applicable), where the Closing Price is

multiplied by the Contract Quantity.

“Contract” means any contract whether verbal or written, for a financial product transaction, entered into by the Client.

“Common Reporting Standard (‘CRS’):” CRS is a global reporting standard for the automatic exchange of information (AEOI). Its goal is to allow tax authorities to obtain a clearer understanding of financial assets held abroad by their residents, for tax purposes. As a financial institution, BCR is required to collect and report information on non-residents to the Australian Taxation Office.

“Corporations Act” means the Corporations Act 2001 (Commonwealth).

“Disputed Transaction” means a dispute arising between BCR and the Client relating to any transaction.

“Equity” means the cash balance of a client trading account including (after) any running losses and/or profits on open Positions. The account equity is an indication of the performance of a trading account as it considers your account balance and how each individual Position is performing.

“Financial Product” means over-the-counter CFDs, Margin Foreign Exchange Contracts, and Binary Options.

“The Foreign Account Tax Compliance Act (‘FATCA’):” FATCA promotes cross border tax compliance by implementing an international standard for the automatic exchange of information related to US taxpayers. FATCA regulations require tax authorities obtain detailed account information for US taxpayers on an annual basis. FATCA is intended to increase transparency for the Internal Revenue Service (IRS) with respect to US persons that may be investing and earning income through non-US institutions. While the primary goal is to gain information about US persons, FATCA imposes tax withholding where the applicable documentation and reporting requirements are not met.

“Future or Forward” means the price that a CFD is quoted at based on a Future date. The quoted price of a Future or Forward contract considers financing costs and (if applicable) dividends.

“Hedging” is a strategy engaged by BCR to manage exposure to client Position(s) which involves the entering of its own Positions with a Liquidity Provider(s).

“Initial Margin” means an amount required to be deposited by the Client with BCR to open a Position.

“Instrument” means a currency pair, index, commodity, metal, energy, or any product or ‘tradable market’ provided by BCR.

“Limited Power of Attorney” gives an Investment Manager the ability to act on behalf of the Client. Some critical account functions are still only available to the Client, such as cash withdrawals, or other major account actions.

“Liquidity” means the amount (by volume) of buy or sell orders at bid and ask prices.

“Liquidity Provider(s)” means an external counterparty (company, bank or financial institution) that provides a buy and sell price in a financial instrument, security, or asset, and can accept trades and orders for the purposes of risk management. This may also be referred to as a Hedging counterparty.

“Manifest Error” means a manifest or obvious misquote by BCR, or any Liquidity Provider or exchange information source or official on whom we reasonably rely, having regard to the current market conditions at the time an order is

placed. When determining whether or not a condition amounts to a Manifest Error, BCR will take into account all information in its control including information concerning all relevant market conditions and any error in, or lack of clarity of, any information source or announcement. When making a determination as to whether or not a situation amounts to a Manifest Error, BCR will act fairly towards you. However, the fact that you may have entered into, or refrained from entering into, a contract or transaction in reliance on an order placed with us shall not be taken into account by us in determining whether there has been a Manifest Error.

“Market Maker” means that BCR acts as counterparty with respect to Client trading activity. BCR set the prices (bid and ask quotes) that are provided to the Client and may assume the risk arising from the Client’s trading activity

“Market Order” means an order to enter into a Position or to close out a Position, at the next price available and as determined by the Instrument price, market liquidity, and other factors that may impact on execution times.

“Margin” means Initial Margin or Variation Margin or both.

“Margin FX” means Margin Foreign Exchange Contract.

“Net Free Equity” means the amount of money you would have left in your account should all of your open Positions be closed out at the current market price, taking into account any Swap Credits/Charges, fees or transaction charges.

“Operating Rules” shall mean the rules, regulations, customs, and practices from time to time of any exchange, clearing house, or other organisation or market involved in the execution or settlement of any financial product transaction or contract.

“Price Latency Arbitrage” means the practice of exploiting disparities in the price of any Instrument(s), by taking advantage of the time it takes to access and respond to market information.

“Politically Exposed Person” means an individual who is or has been entrusted with a prominent public function.

“Position” means a CFD, Margin FX Contract, or Binary Option (if applicable) entered into by you under the terms and conditions and PDS.

“Power of Attorney” gives another person the ability to act on behalf of the Client. This means that the third party can take over responsibility for the trading account, including the ability to place orders.

“Relevant Exchange” means the financial market or exchange on which the reference price of the Underlying Asset is quoted.

“Retail Client” means a client within the meaning of 761G and 761GA of the Corporations Act. All BCR clients are presumed to be Retail Clients unless informed otherwise.

“Spot FX” means the price that a currency pair is quoted at, for an immediate ‘on the spot’ transaction.

“Swap Charge or Swap Credit” means financing related credits or charges relating to the holding a CFD or Margin FX Position overnight, your account is debited or credited using the applicable overnight interest or ‘Swap’ rate.

“Sub-Accounts” means additional Accounts that you have requested to open under the same name with BCR.

“Terms & Conditions” means the Account Application, these Terms & Conditions and any other documents annexed

or incorporated by reference.

“Trading Day” means Monday to Saturday including public holidays. The close of the Trading Day occurs at 23:59 on the Trading Platform.

“Trading Platform” means BCR’s online Meta Trader platform (MT4 or MT5), or an online trading facility provided by BCR.

“Trust” means where the Client is a trust, the trust identified in the Application Form.

“Trust Deed” means where the Client is a trust, the trust deed governing the Trust as varied, substituted, supplemented, or resettled from time to time.

“Total Margin Requirement” means the sum of your Margin requirements for all of your open Positions.

“Underlying Asset” means the security, exchange rate, index, commodity, or other financial asset type that trades in a financial market or Relevant Exchange to which CFD or Margin FX Contract relates.

“Underlying Market” means the market in which the Underlying Asset is traded.

“Variation Margin” means the amount required by the Client in order to maintain their open Positions. (Refer to Deposits & Margins).

“Wholesale Client” means a client that satisfies one of the requirements to be categorised as a Wholesale Client under section 708(8) or (11), section 761G(5), (6), (6A) or (7) or section 761GA of the Corporations Act and has been informed by BCR that they have been categorised and will be treated as a Wholesale Client.

Note that headings are for convenience only and shall not affect the construction and interpretation of these Terms & Conditions. Furthermore, the singular includes the plural and vice versa.

Reference to a person or individual includes corporate bodies, unincorporated associations, partnerships and individuals. If there is any conflict between the terms of these Terms & Conditions and the relevant operating rules, the operating rules shall prevail.

Please also note that any reference in these Terms & Conditions to any law, statute, regulation or enactment shall include references to any statutory modification or re-enactment thereof or to any regulation or order made under such law, statute or enactment (or under such modification or re-enactment).

### **3. Client Representations and Warranties**

#### **3.1. The client represents and warrants to BCR that:**

- a. These Terms & Conditions constitute a legal, valid, and binding obligation of the Client;
- b. All orders to be placed and all trading to be conducted under these Terms & Conditions are lawful;
- c. In executing and giving effect to these Terms & Conditions, the Client does not and will not infringe any provision of any other document or agreement to which the Client is a party, nor any law or judgment/order binding upon it;
- d. Where the Client is more than one person, that all decisions made, and instructions issued, pursuant to these Terms & Conditions, are made on a fully informed and agreed basis by all the parties to the account;

- e. The Client is not an employee or close relative of an employee of any exchange participant;
- f. All information supplied to BCR by the Client is, or at the time it is supplied will be, accurate in all material respects and the Client will not omit or withhold any information which would make such information inaccurate in any material respect;
- g. The Client shall, if a corporate entity, provide to BCR a valid and binding guarantee and indemnity in favour of BCR as a precondition of entering into these Terms & Conditions by completing a BCR Client Agreement;
- h. The Client will provide to BCR on request such information regarding its financial and business affairs and/or identity, as BCR may reasonably require; and
- i. In executing these Terms & Conditions, BCR will act as Principal and Market Maker for the purpose of dealing in Financial Products in accordance with the terms of these Terms & Conditions.

#### **4. Capacity to Enter into These Terms & Conditions**

- 4.1. Client and BCR are bound by the applicable financial product laws, Corporations Act, applicable operating rules, customs, usages, and practices (as modified from time to time) of the applicable exchange and clearing houses where any dealing takes place;
- 4.2. The Client will take all reasonable steps to obtain and communicate to BCR all information, and shall deliver or cause to be delivered to BCR 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. The Client authorises BCR to pass on/deliver all such information and documents to any such person;
- 4.3. The Client is not insolvent, and if the Client is a corporate client, no resolution has been passed and no petition has been presented or order made for the Client's winding up or liquidation or the appointment of a receiver or a receiver and manager or an administrator of other insolvency official to the Client or any of its assets;
- 4.4. BCR relies on representations and warranties made by the Client. These representations and warranties and those contained elsewhere in these Terms & Conditions, survive the entering into of these Terms & Conditions and are repeated in respect of each financial product transaction.
- 4.5. The Client represents and warrants to BCR that:
  - a. The Client is duly organised and validly existing (or, if an individual, is of legal age and is under no legal disability or incapacity) and has full power and authority to enter into, and has taken all necessary steps to enable it lawfully to enter into, these Terms & Conditions and the transactions contemplated by it, and perform its obligation;
  - b. The person executing these Terms & Conditions has full power and authority to execute them on behalf of the Client, and bind the entity (whether individual, company, partnership, or otherwise); and
  - c. The Client has been properly categorised as a Retail or Wholesale Client pursuant to the Corporations Act 2001 (Commonwealth), and accurately advised BCR of its status of such.
- 4.6. Where the Client is a trustee (including the trustee of a superannuation fund):
  - a. The Trust has been duly constituted, is valid, and complies with all applicable laws;
  - b. The Trust Deed has been executed and stamped, in accordance with the laws of the relevant State or Territory of Australia;
  - c. The Client is the only Trustee of the Trust;
  - d. The property of the Trust has not been resettled, set aside, or transferred to any other trust or settlement and the Trust Deed has not been terminated and the date or any event for the vesting of the

Trust's property has not occurred;

- e. The Trust Deed specifically empowers and authorises dealings in financial products, and such dealings are within the authorised ambit of the Trust's investment strategy;
- f. All obligations under, and transactions contemplated by, these Terms & Conditions constitute binding obligations and are lawfully enforceable against the Trust and its property in accordance with their terms;
- g. It has an unrestricted right to be fully indemnified or exonerated out of the Trust's property in respect of any losses or liabilities incurred by it in its dealings with BCR, and the Trust's property is sufficient to satisfy that right of indemnity or exoneration;
- h. It has complied with its obligations in connection with the Trust;
- i. There is no conflict of interest on the Client's part in entering into these Terms & Conditions and performing its obligations under it or the transactions contemplated by it; and
- j. If the Client is a Superannuation Fund, it complies with all requirements outlined in the Superannuation Industry (Supervision) Act (1993).

4.7. Where the Client is an investment manager or a Responsible Entity, the investment management agreement or constitution specifically empowers and authorises dealings in the financial products, by the Client and on behalf of their underlying clients, and:

- a. Such dealings are within the authorised ambit of the/each underlying client's investment strategy;
- b. Has the appropriate regulatory authorisation to trade on behalf of their clients and has provided BCR with a completed Limited Power of Attorney;
- c. It will enter into transactions pursuant to the applicable investment management agreement as investment manager or Responsible Entity and not otherwise;
- d. It will only deal in financial product transactions when the funds or other assets under its control are sufficient to meet the obligations which arise in connection with such dealing;
- e. In the event of termination of the Client's appointment as investment manager or Responsible Entity of the Client, it is authorised to arrange for closing out of all contracts entered into on behalf of the Client prior to the date of such termination as soon as possible; and
- f. Repeats each of these representations and warranties in relation to both itself and its underlying clients.

## 5. Account Establishment

5.1. BCR agrees to establish an account in the name of the Client who is the person named as the holder of the account.

5.2. Where the Client is more than one person, the account shall be established in their names as joint account holders. The parties to such joint account shall each be jointly (together) and severally (individually) liable. Where the client is more than one person a BCR Joint Account Agreement must be completed by all parties and returned to [info@au.thebcr.com](mailto:info@au.thebcr.com).

5.3. The Client solely has an interest in the Client's BCR account opened subject to these Terms & Conditions.

## 6. Legal Entity Identifier

6.1. If you are a non-individual, such as a corporation or a trust, you are required to have a legal entity identifier (LEI) to engage in OTC derivative trading (which includes Products).

6.2. You must provide BCR with your LEI in your Application Form. If you do not have an LEI, you must obtain one before you begin trading.



## 7. Market Disruption

- 7.1. Where there is a suspension or halt in the Underlying Market for an Underlying Instrument and we believe that we can no longer perform our obligations under the Contract on the same economic basis as that Underlying Instrument on the terms of the Contract when the Contract was originally entered into, then we will give notice to you of that fact and will, at your request, provide you with reasonable evidence of such circumstances, although our determination will be conclusive.
- 7.2. At any time following our giving of notice to you under this clause, we may halt trading and the use of Client Money in the Contract.

## 8. Fair Usage Principles

- 8.1. BCR is committed to providing the best possible service to all our clients, and to preserving the integrity and quality of our Trading Platform.
- 8.2. If, in our reasonable opinion, we consider it necessary, we may manage your use of, or access to our services as we see fit in the circumstances.
- 8.3. BCR may apply limits to clients' usage of the services we provide, for various reasons. This includes but is not limited to, if a clients' use of BCR services is not considered by us as appropriate or fair, if it affects (or may affect) other clients' use of the service, or if it is significantly different from the usage that we would expect from a client.
- 8.4. If we think any of these to be true, this could result in BCR imposing limits on your access to the BCR Trading Platform.
- 8.5. If the circumstances occur under which BCR could impose a limit on your access to the BCR platform, we may at our sole discretion, suspend or terminate your ability to access the Trading Platform.
- 8.6. BCR will not do so without giving you prior notice (except in extreme circumstances) and will only do so if it is reasonable in all circumstances or as a last resort.
- 8.7. In order to encourage a responsible attitude towards the use of BCR system resources, and to ensure that clients are using the Trading Platform in a manner that is consistent with BCR's fair usage principles, BCR will monitor the order-to-trade ratios of clients.
- 8.8. Each order, cancellation, or modification message entered by a client is counted as an 'order' for the purposes of calculating this ratio.
- 8.9. Ratios will be monitored by the BCR's Dealing Department. Actions that will be taken as a result of excessive system usage are not taken automatically.
- 8.10. In the event of transaction ratios being exceeded, BCR will investigate the causes on an individual, case by case basis and contact the clients directly before taking any action except in exceptional circumstances (such as extreme adverse market conditions).

## 9. Segregated Accounts

9.1. The Client agrees and acknowledges that:

- a. All money deposited by the Client with BCR shall be deposited to the Client's account and form a credit balance and will be paid into a client segregated bank account established and maintained by BCR and treated in accordance with applicable legal and regulatory requirements;
- b. Such segregation of the Client's money does not protect the Client's money from the risk of loss;
- c. Whilst the Client's money is segregated from BCR's money, it may be commingled with the money of other BCR clients. Such monies shall accordingly be treated as the legal and beneficial property of BCR, subject to an obligation by BCR to transfer equivalent back to Client in accordance with their transaction rights under these Terms & Conditions;
- d. BCR shall be entitled to retain any interest earned on such segregated money it holds;
- e. BCR do not use Retail Client money:
  - as capital, including working capital; or
  - or the purpose of meeting obligations incurred by BCR other than on behalf of the Client (business purposes such as office rent, utilities and employee payroll); or
  - for Hedging, counteracting or off-setting the risk BCR incur associated with transactions it enters into with the Client.

## 10. Multiple Accounts

- 10.1. The Client is able to open multiple accounts denominated in the same currency as or in currencies other than that of the main trading account. The operation of multiple accounts may mean that the Client incurs additional costs.
- 10.2. If the Client operates several accounts (or Sub Accounts) and opposite Positions are opened on different accounts (or Sub Accounts), such Positions will not cancel each other out. The Client is specifically made aware that unless closed manually, all such Positions may be rolled over on a continuous basis and thereby continue to pay or receive the applicable interest (swaps) charges on each Position.
- 10.3. Keeping opposite Positions open on different accounts (including opposite Positions within the same trading account) will result in both Positions being continuously rolled over. Each Position is therefore subject to applicable financing costs (Referred to as a Swap Charge or Swap Credit in the Trading Platform) until manually closed.
- 10.4. If the Client has opened more than one account, Margin deposited on one account will not automatically serve as Margin coverage on the other account(s). A Client may therefore receive margin calls and stop-outs on one account despite having additional margin available on other accounts.
- 10.5. However, if the Client has deposited money on one account, BCR is entitled to transfer money from one account to another (inter-account transfer), even if such transfer will necessitate the closing of margin trades on the account from which the transfer takes place.

## 11. Risk Disclosures

- 11.1. The Client represents and warrants to BCR that:
  - a. They have received, read, understood and accepted the risk disclosures provided herein in relation to the financial products to be traded and those contained in the PDS document(s);
  - b. They have received, read and understood our Financial Services Guide and PDS document(s);

- c. The Client acknowledges, recognises and understands that trading and investment in these financial products is speculative, carries a high level of risk, including the risk of losing substantially more than initial expenditure. Also, the Client acknowledges that they do not own or have any rights to the Underlying Asset. The effect of leverage is that both gains and losses are magnified. Trading and investment in these products are appropriate only for persons who can assume risk of loss in excess of their margin deposit;
- d. The Client has read these Terms & Conditions and understands that, BCR has only provided general advice, and the Client has considered its objectives and financial situation and has obtained appropriate independent advice prior to entering into these Terms & Conditions, and has formed the opinion that dealing in the financial products is suitable for the Client's needs and purposes;
- e. The Client has taken such independent legal and financial advice as the Client considers necessary prior to executing these Terms & Conditions;
- f. The Client is willing and able, financially and otherwise, to assume the risk of trading in high risk investments; and
- g. The client also acknowledges that neither BCR nor any associated entity guarantees the performance of any given financial product or account nor that any financial product or account will achieve a particular rate of return.

## 12. Client Acknowledgements

### 12.1. The Client represents and warrants to BCR that:

- a. BCR may utilise the execution services of third parties in order to provide the services detailed in these Terms & Conditions. These third parties are appropriately licensed/authorised where applicable;
- b. Dealings in the financial products create an obligation to make a cash adjustment in accordance with the terms of the relevant transaction;
- c. Where a financial product has no maturity date or defined term, open contracts shall continue until such date as they are closed;
- d. All dealings executed by the Client pursuant to these Terms & Conditions shall be at the absolute discretion of BCR. In particular, BCR shall be entitled to take any action it considers necessary in its absolute discretion to ensure compliance with the operating rules and all other applicable laws and regulatory decisions;
- e. BCR act as Principal in respect of the financial products traded. BCR act as a Market Maker and quote the Client bid and ask prices. These prices may not necessarily reflect those of BCR's Liquidity Providers.
- f. The client accepts that BCR may hold Positions that are contrary to the Position of Clients resulting in potential conflicts of interest;
- g. Subject to applicable legal/regulatory requirements, the Client agrees and acknowledges that BCR's directors, employees and associates may and can deal on their own account;
- h. BCR reserves the right, at its sole discretion and without explanation, to refuse to provide services in relation to any over-the-counter financial products (other than closing out existing open Positions held by the Client) or to limit the number of open Positions held by the Client or both. BCR will inform the Client of any refusal before or as soon as practicable after such refusal;
- i. Where errors have occurred in price quotes provided by, or the pricing of transactions quoted by BCR to the Client, BCR reserves the right to not be bound by such a quote or transaction where BCR is able to substantiate to the Client that there was a Manifest Error at the time of the quote or transaction. Where this occurs in relation to the initial purchase of a financial product, BCR will not issue (or if already issued will cancel) the contract and refund the Client's money accordingly. Where this occurs in relation to a price quote for an existing Position, BCR will reissue the price quote accordingly;
- j. In dealing in the financial products for the Client or for any other purpose under these Terms & Conditions, when BCR needs to buy/sell foreign currency from time to time, the applicable exchange

- rate shall be any widely recognised and published foreign exchange rate selected by BCR in its sole discretion available on the date the Client's money is exchanged and a conversion calculation fee may be payable;
- k. There are risks associated with utilising an Internet based deal execution trading system which include, but are not limited to, the failure of hardware, software, and Internet connection. Since BCR does not control signal power, its reception or routing via Internet, configuration of your equipment or reliability of its connection, BCR will not be responsible for communication failures, distortions or delays when trading via the Internet;
  - l. A notice issued by an authorised officer or agent of BCR stating the amount of money due and payable by the Client shall be taken as final evidence thereof in the event of a Manifest Error;
  - m. All determinations and calculations made by BCR under these Terms & Conditions will be binding on the Client in the event of a Manifest Error;
  - n. BCR is entitled, in its reasonable opinion, to determine that an emergency of an exceptional market condition exists. Such conditions include, but are not limited to, the suspension or closure of any market or the abandonment or failure of any event to which BCR relates its quote or the occurrence of an excessive movement in the level of any margin trade and/or Underlying Market or BCR's reasonable anticipation of the occurrence of such a movement. In such cases BCR may increase its margin requirements, close any or all of the Client's open margin trades, and/or suspend or modify the application of all or any of the terms, including but not limited to, altering the last time for trading a particular margin trade, to the extent that the condition makes it impossible or impracticable for BCR to comply with the term in question; and
  - o. Anything BCR is permitted to do in accordance with these Terms & Conditions may be done in its absolute discretion, and any opinion or view required to be formed by BCR may be formed in its absolute discretion.

### **13. BCR Representatives & Services**

- 13.1. BCR undertakes to act efficiently, honestly and fairly at all times. BCR will give priority to Client's interests and undertakes that it will not misuse Client's information. BCR will use reasonable endeavors to execute or arrange the execution of Client instructions.
- 13.2. BCR will arrange execution-only transactions in financial products defined herein.
- 13.3. BCR will not provide personal advice to the Client regarding the merits of a transaction. Any advice provided to the Client is general advice only, and does not consider the objectives, financial situation, or needs of the Client.
- 13.4. Any transaction or market information or research provided by BCR to the Client is provided as general information only, and does not constitute and cannot be relied upon as a recommendation to trade. BCR makes no representation, warranty or guarantee, and accepts no liability for, the accuracy or completeness of any such information, and the Client relies on such at its sole risk.

### **14. Online Trading Facilities**

- 14.1. The Client acknowledges that it has read, understood, and agreed to the Terms & Conditions associated with dealing via our online trading facility as set out in these Terms & Conditions.
- 14.2. BCR agrees to grant the Client access to one or more electronic terminals, including terminal access through the Client's Internet browser, for the electronic transmission of orders to the Client's account with BCR.

- 14.3. BCR shall permit the Client electronically to monitor the activity and Positions in its account by providing an online trading facility. The online trading facility may be a proprietary service offered by BCR or a third-party system.
- 14.4. The Client agrees to use the online trading facility software solely for its internal business or investment purposes.
- 14.5. The Client agrees that it shall not distribute the Trading Platform to any third party.
- 14.6. The online trading facility provided by BCR may be used to transmit, receive, and confirm the execution of orders, subject to market conditions and applicable operating rules and regulations.
- 14.7. Regardless of any online confirmation received upon placement of an instruction via the online trading facility, such transaction is not confirmed by BCR until BCR provides confirmation.
- 14.8. The confirmation made available on the online trading facility constitutes BCR's confirmation of a contract.
- 14.9. BCR consents to the Client's access and use in reliance upon the Client having adopted procedures to prevent unauthorised access to and use of the online trading facility, in any event, the Client agrees to any financial liability for trades executed through the online trading facility.
- 14.10. The Client may send and receive email messages and otherwise use the online trading facility as permitted in accordance with these Terms & Conditions, our policies and any applicable laws.
- 14.11. BCR reserves the right, in its sole discretion, to institute or change any policies at any time relating to the use of the online trading facility.
- 14.12. The online trading facility is provided on an "as-is" basis and BCR makes no express or implied representations or warranties to the Client regarding its operation or usability.
- 14.13. BCR makes no representations or warranties regarding any services provided by any third party.
- 14.14. The online trading facility may be available in several versions, which may be differentiated in various aspects including, but not limited to the level of security applied, products and services available, etc. BCR shall not be liable to the Client for any loss, expense, cost, or liability suffered or incurred by the Client due to the Client using a version different from the standard version with all available updates installed.
- 14.15. BCR may offer real-time tradeable prices to the Client. Due to delayed transmission between the Client and BCR the price offered may have changed before an order from the Client is received by BCR. If automatic order execution is offered to the Client, BCR shall be entitled to change the price on which the Client's order is executed to the market value at the time which the order from the Client was received.
- 14.16. BCR does not warrant that access to or use of the online trading facility will be uninterrupted or error free, or that the service will meet any particular criteria with respect to its performance or quality. BCR expressly disclaims all implied warranties, including without limitation warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security, or accuracy.
- 14.17. Under no circumstances, including negligence, will BCR, its employees and/or service providers be liable for any direct, indirect, incidental, special or consequential damages including, without limitation, business

interruption or loss of profits that may result from the use of or inability to use the online trading facility.

- 14.18. The Client agrees not to hold BCR and any of its service providers for any form of damage arising as a result of the unavailability of the online trading facility.
- 14.19. The Client agrees that the use of the online trading facility is at the Client's risk and the Client assumes full responsibility for any losses resulting from the use of or materials obtained via the online trading facility.
- 14.20. The Client agrees that the use of the online trading facility is at the Client's risk and the Client assumes full responsibility for any losses resulting from the use of software and/or any other materials obtained via the online trading facility. The Client also assumes full responsibility for any losses resulting from the use of software and/or any other materials obtained via a third-party provider; including but not limited to; Expert Advisors (EA's), signal/trade alert providers and, trade copiers.
- 14.21. BCR and its service providers will not accept any form of liability, including any loss or damage to the Client or to any other person, for:
- Any inaccuracies, errors or delays or omissions of any data, information or message or transmission or delivery of any such data, information or message;
  - Non-performance;
  - Interruptions in data, information, or message transmission, due to any negligent act or omission, including any "force majeure" event or any other cause, whether or not within BCR's control – this includes amongst other things, floods, extraordinary weather conditions, earthquakes, acts of God, fire, war, riot, labour disputes, accidents, actions of any government, communications or power failure, equipment or software malfunction.
- 14.22. The use and storage of any information provided or made available to the Client through the use of the online trading facility is for the use of the Client and is the Client's sole risk and responsibility.
- 14.23. The Client is responsible for providing and maintaining the communications equipment and telephone or alternative services required for accessing and using the online trading facility, and for all communications service fees and charges incurred by the Client in accessing the online trading facility.
- 14.24. BCR may at any time at its sole discretion terminate or restrict any Client's access to the online trading facility. Should BCR terminate these Terms & Conditions or access to the Trading Platform the Client will be liable for all fees charges and obligations incurred under these Terms & Conditions prior to termination.
- 14.25. The Client acknowledges that from time to time, and for any reason, the online trading facility may not be operational or otherwise available for the Client's use due to servicing, hardware malfunction, software defect, service or transmission interruption or any other cause.
- 14.26. The Client's failure to observe any of the undertakings or representations may result in civil or criminal liability, as well as termination of the use of the online trading facility.
- 14.27. The Client acknowledges that the Client has alternative arrangements in place at all times, for the transmission and execution of orders, if for any reason, circumstances prevent the transmission and execution of all, or any portion of, the Client's orders through the online trading facility. In the event of the online trading facility not being operational, the Client agrees to contact BCR to make alternative order entry arrangements. Such arrangements may be in the form of telephone, or as otherwise agreed.



- 14.28. The Client may not under any circumstance use the online trading facility to do any of the following:
- a. Publish, post, distribute or disseminate defamatory, infringing, obscene, or other unlawful or offensive material or;
  - b. Intercept or attempt to intercept any email correspondence;
  - c. Use the online trading facility in any manner that may adversely affect its availability or its resources to other users;
  - d. Send correspondence electronically or otherwise to other users for any purpose other than personal communication; or
  - e. Act, or fail to act, in a manner which may result in the violation of any laws or regulations.

## 15. Authorisations and Instructions

### GENERAL

- 15.1. The Client may communicate their instructions to BCR via the online trading facility or by telephone. We will not accept orders or instructions through any other means, such as email, unless we have previously agreed with the Client to do so.
- 15.2. In consideration of BCR agreeing to accept telephone (or other written) instructions from the Client, the Client acknowledges that BCR is not obliged to accept/implement such instructions, and will not be liable to the Client or any other party should such instructions be unauthorised, forged or fraudulently given.
- 15.3. It is possible for a third party to place orders on your behalf as an Authorised Person provided that a written Power of Attorney has been received and accepted by us. BCR is entitled to act upon instructions which are or appear to be from the Client or Authorised Person. It is the Client's sole responsibility to notify BCR in writing if they wish to revoke the Power of Attorney.
- 15.4. Persons may also be appointed as Authorised Persons where they are an employee or director of a corporate entity via an authorised persons list. BCR is under no obligation to accept any instruction that is not made by an Authorised Person or to enquire as to the identity of any person providing the instruction if it reasonably believes the person is an Authorised Person.
- 15.5. Should BCR receive any instruction that it reasonably assumes was from an Authorised Person, BCR will not be liable for any properly performed action or omission by BCR in reliance on that instruction.
- 15.6. BCR shall not be liable for any act or omission by BCR in reliance on any instruction given or action taken by any person acting or purporting to act on behalf of the Client who is not listed as an Authorised Person.
- 15.7. The Client shall be responsible for all orders, and for the accuracy of information, sent via the internet using the Client's name, password or any other personal identification means implemented to identify the Client. The Client is therefore obliged to keep all passwords secret and ensure that third parties do not obtain access to the Client's trading facilities.
- 15.8. BCR may, in its sole discretion and without explanation, refuse to act upon any orders placed.
- 15.9. If the Client is more than one person (joint accounts), BCR may act upon instructions received from any one person who is, or appears to BCR to be, such a person.

## ONLINE TRADING ACTIVITY

- 15.10. BCR will not be deemed to have any order or communication electronically transmitted by the Client until BCR has actual knowledge of any such order or communication. The mere transmission of an instruction by the Client shall not constitute a binding contract between BCR and the Client. The terms of any order or communication electronically transmitted to the Client may be subject to change or correction. Regardless of the fact that the online trading facility might confirm that a contract is executed immediately when the Client transmits instructions via the online trading facility, the confirmation forwarded by BCR or made available on the online trading facility constitutes BCR's confirmation of a contract. Any instruction sent electronically shall only be deemed to have been received and shall only then constitute a valid instruction and/or binding contract between BCR and the Client when such instruction has been recorded as executed by BCR and confirmed by BCR to the Client including through a deal confirmation and/or account statement.
- 15.11. The Client acknowledges and warrants that it has received a password granting it access to the online trading facility; is the sole owner of the password provided; and accepts full responsibility for any transaction that may occur on an account opened, held, or accessed through the use of the password provided to the Client by BCR, even if such use may be unauthorised or wrongful. The Client agrees to accept full responsibility for the use of the online trading facility, for any orders transmitted through the online trading facility and for all communications and the accuracy of all information sent via the online trading facility using the Client's name, password, or any other personal identification means implemented to identify the Client.
- 15.12. The Client warrants and agrees that any person who is in possession of any password is authorised by the Client, and the Client acknowledges that they will be responsible for any actions on their account associated with the use of its password. The Client agrees to notify BCR immediately should the Client become aware of any unauthorised use, loss or theft of the Client's, username, password or account numbers; or inaccurate information with respect to the content of statements including, cash balances, open Positions, or transaction history.

## 16. Entering into a Financial Product Transaction

- 16.1. The Client may request on any day that trading is available, via the online Trading Platform or telephone, BCR to quote a price at which BCR may be prepared to enter into a financial product transaction. The Client acknowledges that a price quotation pursuant to this request does not constitute an offer to enter into a new or close an existing financial product.
- 16.2. Upon receiving the quote from BCR, the Client may offer to enter into a financial product transaction with BCR at the price quoted by BCR.
- 16.3. BCR is in no way obliged to accept the Client's offer to enter into a financial product transaction and, without limitation, is not obliged to accept the Client's offer to enter into a financial product transaction, if the Client has exceeded or would exceed a predetermined limit imposed on the Client under these Terms & Conditions; or until BCR has received from the Client the Initial Margin where required, in the form of Cleared Funds. The online Trading Platform will advise the client by rejecting the order should BCR decide not to accept a Client's offer to enter into a financial product transaction.
- 16.4. The Initial Margin where required to enter into a financial product transaction, if not already received from the Client, will be payable to BCR upon acceptance by BCR of the Client's offer to enter into the financial



product transaction.

- 16.5. Should BCR accept the Client's offer to enter into a financial product transaction, BCR will issue to the Client an electronic confirmation shortly after the financial product transaction has been entered into. This confirmation will be in the form of a deal confirmation via the BCR platform. Failure by BCR to issue a deal confirmation will not prejudice or affect the relevant financial product transaction. BCR will not bear any liability whatsoever resulting from the failure to issue a deal confirmation.
- 16.6. The Client agrees to examine the terms of each deal confirmation immediately upon receipt and the Client agrees that the contents of the deal confirmation, in the absence of Manifest Error, will be conclusive evidence of the executed deal, unless the Client notifies BCR of any disputed detail in the deal confirmation received by the Client. Upon receipt of the disputed detail, BCR will investigate the dispute and with the co-operation of the Client, will endeavour to resolve the dispute in good faith. Notwithstanding any such dispute, the Client will continue to satisfy any obligation to pay Margin calls made by BCR in respect of the transaction as if the deal confirmation was correct and its details were not the subject of dispute.
- 16.7. In its absolute discretion, BCR reserves the right to limit the value of financial product transactions the Client may have outstanding under these Terms & Conditions. Should the Client wish to enter into any further financial product transactions, the Client must seek and obtain approval from BCR, which it may grant or refuse in its absolute discretion.
- 16.8. If the Client provides BCR with standing instructions to enter into a financial product transaction when a particular price level is reached, the Client acknowledges that the price at which the financial product transaction is entered into may not be the same as the price requested by the Client as BCR may elect not to enter into the financial product transaction until it has satisfied itself that it can hedge its exposure in the Underlying Market.

## 17. Execution of Orders

- 17.1. BCR undertakes and the Client acknowledges that in respect of dealings in the financial products, and in compliance with the applicable Corporations Act, BCR shall execute all dealings in the sequence in which they are received and recorded, unless it would be fair and equitable to allocate such contracts on a different basis.
- 17.2. BCR shall provide the Client with daily statements in accordance with applicable laws and regulation.
- 17.3. It is the responsibility of the Client on receipt to carefully check all transaction confirmations and statement documentation (whether received/accessed electronically or otherwise) and to bring any errors or omissions to the attention of BCR. In the absence of such written objection, the daily statements shall be deemed correct in all respects.
- 17.4. Orders may be placed as Market Orders to buy or sell an instrument as soon as possible at the price obtainable in the market, or limit and stop orders to trade when the price reaches a predefined level, as applicable to the various instruments offered. Limit orders to buy and stop orders to sell must be placed below the current market price, and limit orders to sell and stop orders to buy must be placed above the current market price. If the bid price for sell orders or ask price for buy orders is reached, the order will be filled as soon as possible at the price obtainable in the market. Limit and stop orders are thus not guaranteed executable at the specified level or amount, unless explicitly stated otherwise by BCR.
- 17.5. BCR may, in its absolute sole discretion, execute a stop loss order in relation to any contract where there

are reasonable grounds to believe that subsequent price movements may be averse to the Client. BCR shall not be liable to the Client for any failure to exercise this discretion. A stop loss order is triggered when the Client has a Sell (Short) Position and the contract is traded at or above the stop loss price; or when the Client has a Buy (Long) Position and the Instrument is traded at or below the stop loss price. Once a stop loss order is triggered or executed it becomes a Market Order and BCR shall use its best endeavours to execute the Market Order.

17.6. The acceptance of a stop loss order is not a guarantee or representation by BCR that the stop loss order can be executed at the stop loss price.

17.7. BCR may at its discretion aggregate the Client's orders with its own orders or orders of associates and/or other clients. In addition, BCR may split the Client's orders. Orders will generally be aggregated or split where BCR reasonably believes it to be in the overall best interests of Clients, but the Client acknowledges that on some occasions the consequence of the aggregation or splitting may result in a less favourable price than the Client's order having been executed separately.

17.8. All Limit orders (pending) will be automatically cancelled after market close on Friday or early market closures on holidays. If necessary, clients can place a new pending order after the market reopens. Note: All pending orders include Limit orders and Stop orders and exclude Stop Loss and Take Profit of existing positions.

17.9. Upon the market re-opening on Monday or after a Holiday, the price may have gapped. Take Profit Orders/Stop Loss Orders are not guaranteed to be executed at the prices set by the clients. They will be honored at the executable price after the market opens.

## **18. Margin**

### **18.1. Margin Requirements**

18.1.1. Before you acquire a Product from us, you will be required to provide us the Initial Margin for that Contract. The full value of the Initial Margin must be placed on your Account before a Contract is opened.

18.1.2. Owing to the volatility of the market, the amount of required Margin may change after a Contract has been opened, requiring a further payment for Margin known as the Variation Margin.

18.1.3. BCR's general Margin Requirement for different types of Products appear in the Product Schedule available on the Website, as amended from time to time, and may be supplied to you upon request. However, BCR reserves the right to determine specific Margin Requirement for individual Contracts and Clients.

### **18.2. Exceptions**

Subject to the Applicable Laws, the requirements imposed under clause 18.1 will vary in the following circumstances:

18.2.1. we have expressly advised you in writing that you have an Account type that allows for longer payment periods in respect of Margin, in which case you must pay Margin in accordance with the payment periods advised to you;

18.2.2. we have expressly agreed to reduce or waive a part of the Margin that we would otherwise require you to pay us in respect of a trade. The period of waiver or reduction may be temporary and must be agreed in writing by us. Any such agreement will not restrict our right to seek further Margin in respect of the trade or open Positions at any time thereafter; and

18.2.3. we agree otherwise in writing, in which case you will be required to comply with such terms and conditions as stated in such written agreement.

### 18.3.Changing Margin Percentage, Margin Call Level and Stop Out Level

18.3.1. We may vary the Margin Percentage, Margin Call Level and Stop Out Level at any time at our discretion, subject to the Aggregate Margin Close-Out Protection.

18.3.2. We will notify you of a change in the Margin Percentage, Margin Call Level and Stop Out Level on your Account on the Trading Platform, or by any other means including telephone, email, or by posting notice of increase on our Website. Any changes will take immediate effect, unless otherwise specified by us, on notice to you, and may apply to both existing and new Contracts.

### 18.4.Our Rights Where Your Net Equity is at or Below Stop Out Level

18.4.1. In addition to the requirements set out in clauses 18.1 to 13.8 and subject to the Aggregate Margin Close-Out Protection, if at any time a Stop Out Level is reached, whilst it is not a Default, we may (but are not obliged to) close some or all of your open Contracts at our absolute discretion.

18.4.2. If at any time, the Aggregate Margin Close-Out Protection is triggered (i.e., your Net Equity is less than the Aggregate Close-Out Protection Amount), we will and are required by the Applicable Laws to, as soon as market conditions allow, terminate one or more of your open Contracts until your Net Equity is restored to or above the Aggregate Close-Out Protection Amount or all your open Contracts have been terminated.

18.4.3. We will not be responsible for any Loss you may suffer or incur in connection with any such closing of your open Positions or any lack of closing thereof.

### 18.5.You Must Pay Margin

18.5.1. You must pay to us such amounts by way of Margin as required under this Terms and Conditions, including but not limited to Margin as referred to in clauses 18.1 to 18.4.

18.5.2. Your failure to pay any Margin or comply with your obligations in connection with Margin Requirements under this Terms and Conditions will be regarded as a Default.

18.5.3. Margin payment must be made in the form of cleared funds (on your Account with us) unless, by separate written agreement, we accept other assets from you as collateral for payments of Margin.

18.5.4. In addition, if you do not wish us to be able to exercise our rights under clause 18.4, you will ensure that at any time Net Equity is above the applicable Stop Out Level (and the Aggregate Close-Out Protection Amount).

## 18.6. You Must Monitor Margin

- 18.6.1. Notwithstanding any other terms of any document, we are not under any obligation to keep you informed of your Account balance, Margin Requirement or to make Margin Calls.
- 18.6.2. Through the Trading Platform you will have access to your Account and sufficient information to enable you to calculate the amount of any Margin Requirement due from you in the Base Currency under this Terms and Conditions and the total amount of Margin due from you in the Base Currency using our Exchange Rate. It is your responsibility to ensure that you obtain all relevant information in respect of your Account (including when placing any orders over the telephone, to request such information before placing any orders to open or close a Position), including all information in respect of your current open Positions. We will not be responsible for any losses you may suffer or incur as a result of you not obtaining or requesting any such information.
- 18.6.3. It is your responsibility to monitor at all times (including by checking on the Trading Platform) the amount of Margin deposited with us from time to time against the amount of the Total Margin Requirement under clause 18 of this Terms and Conditions and any additional Margin that may be necessary or desirable.

## 18.7. Margin Calls

- 18.7.1. Notwithstanding any other terms of any document, we are not under any obligation to keep you informed of your equity, Margin Cover and Margin Requirement by making a Margin Call.
- 18.7.2. You accept and agree that we may not be able to provide you on-line access through the Trading Platform to information on the Account. You accept and agree that we may not provide a Margin Call before exercising our rights (including to close your Positions) under this Terms and Conditions.
- 18.7.3. It is your responsibility to notify us of your contact details and of any changes in your contact details immediately, so that you can be contacted by us. You acknowledge that we are not liable for any Loss (including indirect or consequential loss), costs, expense or damages incurred or suffered by you as a consequence of your failure to do so.

## 18.8. Time Allowance for Forwarding Margin

- 18.8.1. We are not obliged to allow you time to forward further funds to meet such Margin Requirements under clause 18 before exercising our rights (including to close out your Positions) under this Agreement. However, where we, in our absolute discretion, do allow you time to meet your Margin Requirements, that permission will only be effective once it is confirmed in writing by us, and only to the extent specified in the written confirmation given by us through a Confirmation.

## 19. Negative Balance Protection

- 19.1. BCR provides the Account and enters into all Contracts with you on the basis that your maximum potential loss would be limited to the value of your Account. This is referred to as, and described in the PDS as, "Negative Balance Protection". This means that you will not be liable to pay us for any shortfall in excess of the balance on your Account.
- 19.2. If you have multiple Accounts with us, we have a right of set off across all your Accounts. This means that

the Negative Balance Protection is only available to you if the combined balance on all of your Accounts falls below zero.

19.3. You acknowledge and agree that this limit on your liability does not otherwise affect your liability under this Terms and Conditions or our right to exercise discretions and take necessary action as set out in these terms.

## 20. CFDs & Margin FX

### 20.1. Pricing

The Client agrees and acknowledges that:

- a. BCR set the price of the Instrument that you use to open and close a Position;
- b. Prices provided on the Trading Platform are subject to Liquidity;
- c. BCR may contribute its own (internal) Liquidity when setting a price in order to improve the spread between the bid and
- d. ask price, and/or the Liquidity available at each price; and
- e. An order may be rejected, partially executed, and/or executed based on a Volume Weighted Average Price.

In certain circumstances, the price we set may be different from the current market price of the Underlying Asset, and/or another issuer of Margin FX, CFD, or Binary Option contracts.

#### In particular:

- Where Out of Hours Trading is available and we set the prices at which we are prepared to deal with you; and/or
- If we cannot determine a price because trading in the Underlying Market/Asset is limited, suspended, and/or a price cannot be determined by our Liquidity provider(s), then the price will be the price:
  - immediately preceding such limitation; and/or
  - determined by us in our absolute discretion, acting reasonably, but having regard to the prevailing market conditions affecting trading as a whole.
- To close out all or part of your open Position, limit the total value the Position, you can open, refuse an order, or terminate the agreement between us if certain circumstances arise including where we:
  - Decide at our absolute discretion provided we give you prior written notice of such decision; or
  - Reasonably consider it necessary for the protection of our rights under the Terms and Conditions. You do not have the power to direct us in the exercise of our discretions.

#### 20.1.1. Pricing Errors

It is possible for errors, omissions or misquotes (Material Errors) to occur in the pricing that we quote for CFDs. A Material Error may include an incorrect price, date, time or any error or lack of clarity of any information regarding a CFD. If your CFD is based on a Material Error, we reserve the right to do any of these things (or a combination of them), without your consent:

- a. amend the terms and conditions of the CFD to reflect what we consider to have been a fair price at the time the CFD was entered into, had there been no Material Error;
- b. apply an equity adjustment to your Account, if;

- i. the value of the adjustment reflects what we consider to have been the fair price at the time the CFD was entered into, had there been no Material Error; and
  - ii. we provide you with a record of the adjustment as soon as reasonably practical afterwards;
- c. Close-Out your CFD;
- d. require you to repay us any money we've paid you regarding the CFD;
- e. void the CFD from the outset; or
- f. not take any action to amend or void the CFD.

We'll exercise our rights reasonably, in good faith and as soon as we're reasonably able to after we become aware of the Material Error. Where possible, we'll let you know before we take any action under this clause, but if that's not possible, we'll let you know as soon as possible afterwards.

In the absence of fraud or gross negligence on our part, we're not liable to you for any loss, cost, claim, demand or expense that you incur or suffer (including loss of profits or indirect or consequential losses), arising from or connected with a Material Error, including where the Material Error arises from an information service that we rely on.

#### 20.1.2. Price, Execution Process, and Trading Platform Manipulation

If we, acting reasonably, believe that you've manipulated our prices, our execution processes or the Trading Platform, we may in our sole and absolute discretion do the any of these things (or a combination of them) without your consent:

- a. enforce the CFD against you if you owe money to us under the CFD;
- b. treat the CFD as void from the outset if we owe money to you under the CFD, unless you provide us with conclusive evidence that you haven't committed any breach of warranty, misrepresentation or breach of undertaking under the Agreements, within 30 days of us giving you notice under this clause;
- c. withhold any funds that we suspect have been made from these activities;
- d. make any corrections or adjustments to your Account;
- e. close your Account; and/or
- f. take any other action that we consider appropriate.

#### 20.2. Financing Costs

The Client agrees and acknowledges that:

- a. Where a Margin FX or CFD contract is held at the close of the Trading Day, a charge or credit is made to each Position. These charges or credits are referred to as 'Swaps' in the Trading Platform but may sometimes be referred to as interest, financing, or rollover charges or credits.
- b. Swaps are charged or credited in accordance with the type of the instrument traded, and if you are buying or selling that instrument.
- c. Swaps are charged or credited to each individual trading Position even if you have opposing Positions in the same instrument on the same trading account.
- d. If you hold a Position at the close of the Trading Day on a Wednesday (Spot FX, Cash Commodity, Cash Energy CFDs) or Friday (Cash Index CFDs), the financing (Swap) charge is multiplied by three (3) times. This accounts for the settlement of your open Position for the proceeding weekend. Swap Charges and Credits also occur on public holidays, including when the Underlying Asset ceases to be quoted, or

suspended from quotation, or subject to a trading halt.

- e. Swap Charges and Credits are set by BCR by using reference rates from external sources such as a Liquidity Provider and/or from the applicable money market rate. These rates may already have additional fees and charges from upstream financial intuitions and/or the Liquidity Provider.
- f. BCR is entitled to receive a transaction fee that is factored into the Swap Charge and Credit. This fee is set by BCR and subject to change.
- g. BCR charge the market spread to perform a rollover from one contract to the next. (Applicable to Future or Forward contracts).
- h. In the case of Index CFD Contracts, the Swap Charge or Credit of a CFD may also be materially affected by dividends distributed by constituent's stocks of the index you are trading.
- i. Further information relating to financing on specific product types (i.e. CFD Futures, Cash, Margin FX) are available in the PDS.

### 20.3. Closing a CFD or Margin FX Contract

The Client agrees and acknowledges that:

1. At any time, the Client may give BCR an instruction (by telephone or on the Trading Platform) notice of its intention to close a Position (whether in whole or part) by specifying the Position and the proportion of the Position that the Client wishes to close;
2. Upon receipt of a Closing Notice, BCR shall use reasonable endeavours to provide a quote for the Closing Price and notify the Client of that quote. It is the Client's obligation to notify BCR as soon as possible as to whether the Client is willing to accept the Closing Price. Should the Client accept the Closing Price the Position, or relevant portion of the Position, will be closed on the Closing Date;
3. If we cannot determine a price because trading in the Underlying Market is limited, suspended, and/or a price cannot be determined by our Liquidity provider(s), then the Closing Price may, at its discretion, be determined by BCR who may have regard to any factors it considers appropriate including, for example, the last traded price of the Underlying Market.
4. Without limiting BCR's discretion, if any Position cease to be quoted on a Relevant Exchange, or are suspended from quotation, or subject to a trading halt for 5 or more consecutive Business Days, BCR may, in its absolute discretion, elect to terminate the relevant Position by providing written notice to the Client;
5. It may not be possible to close out a Position if there is a suspension of trading or a trading halt in respect of the Underlying Market. In such a circumstance, BCR may decide, in its absolute discretion, not to close a Position;
6. Unless otherwise agreed in writing, BCR may close a Position(s) if your Equity only covers 50% of the Total Margin Requirement for your open Positions. The trading platform will liquidate individual positions until the remaining Client Total Equity is sufficient to support existing open position(s). In deciding what positions will be individually liquidated the largest losing position will be closed first during liquidation.
7. Without limiting the above, if at any time trading on a Relevant Exchange is suspended or halted in any Underlying Market, BCR will, in determining the Closing Value of a Position, at its discretion have regard to the last traded price before the time of suspension or halt; and
8. All determinations and calculations made by BCR pursuant to these Terms & Conditions will be binding on the Client in the absence of Manifest Error.



## 20.4. Settlement of Positions

The Client agrees and acknowledges that:

- a. Payments to be made to the Client with respect to any CFD or Margin FX Contract will be made in accordance with this clause;
- b. When a Position is closed and settlement occurs a CFD or Margin FX Contract is closed out in accordance with these Terms & Conditions:
  - BCR will credit to the Client's account any amount payable by BCR to the Client; or
  - BCR will debit to the Client's account any amount payable to BCR by the Client;
- c. BCR reserves the right to offset any money owed to the Client under these Terms & Conditions or any other agreement against any money owed by the Client under these Terms & Conditions or any other agreement.

## 20.5. Adjustments

If we reasonably believe that you have manipulated our prices, our execution processes or the Trading Platform, or any general exploitation of pricing, and/or technology, (including the use of Price Latency Arbitrage), we may in our sole and absolute discretion, without notice to you:

- a. Enforce the Position against you if it is a Positions which results in you owing money to us;
- b. Treat all your Positions as void from the outset if they are trades which result in us owing money to you, unless you produce conclusive evidence within 30 days of us giving you notice under this clause that you have not committed any breach of warranty, misrepresentation, or breach of undertaking under the Agreements;
- c. Withhold any funds suspected to have been derived from any such activities;
- d. Make any resultant corrections or adjustments to your Account;
- e. Close your Account; and/or
- f. Take any other action that we consider appropriate.

## 21. Commission Fees & Expenses

### 21.1. The Client agrees to pay:

- a. All legal costs incurred by the Client associated with entering into these Terms & Conditions and all taxes and expenses incurred by the Client in connection with these Terms & Conditions;
- b. Applicable Commission upon the execution of any requested financial product transaction at such rate that is set by BCR, as well as an amount equal to any other fee charged or levied on BCR, or other expense incurred by BCR, arising from any action taken pursuant to these Terms & Conditions;
- c. If applicable, all duties and taxes (including GST) payable on or pursuant to these Terms & Conditions;
- d. All amounts payable as a result of making or taking delivery or making cash adjustment in accordance with the or over-the-counter financial product transaction;
- e. All amounts incurred by BCR as a result of the Client's default under the terms of these Terms & Conditions, including without limitation, all reasonable legal costs on a solicitor/client basis;
- f. Interest, in respect of any unpaid amount due under these Terms & Conditions, at a rate of three per cent per annum above LIBOR (at a minimum of 10% per annum). Such interest shall accrue and be calculated daily from the date payment was due until the date the Client pays in full and shall be compounded monthly; and
- g. Interest is calculated on the basis of Net Free Equity on each account, unless specifically agreed



otherwise.

- 21.2. The Client authorises BCR to appropriate, transfer, credit, apply, or pay monies that may be received by BCR from the Client in payment of any amounts which may be outstanding by the Client to BCR.
- 21.3. Where amounts are payable by one party to the other, netting principles shall apply to enable the party owing the larger amount to pay the excess only to the other party. Amounts may be converted into the same currency in accordance with these Terms & Conditions.
- 21.4. BCR may in its absolute discretion reduce or waive the minimum deposit amount, the minimum account balance or interest rates on debit balances, fees (including royalties or fees for third party services) or transaction charges, for individual clients or for groups of clients, for any length of time, with or without conditions, without notice.
- 21.5. The Client acknowledges that should they effect a financial product transaction with BCR, the Client must pay all transaction charges, fees, Margins, settlements, interest and any other amounts due under these Terms & Conditions on demand by BCR in Cleared Funds or otherwise as required in accordance with the terms of these Terms & Conditions.
- 21.6. Payments by the Client to BCR in accordance with these Terms & Conditions must be made without any offset, counter claim or condition and without any deduction or withholding for any tax or any other reason unless the deduction or withholding is required by applicable law. Should the Client be required to make any form of deduction in respect of tax from any payment to be made, or if BCR is required to pay any tax in respect of any payment made in relation to these Terms & Conditions at the Client's request, the Client agrees to keep BCR indemnified against that tax and agrees to pay to BCR any additional amounts required to ensure BCR receives the full net amount that is equal to the amount BCR would have received had a deduction, withholding, or payment of tax not been made.
- 21.7. The Client agrees that BCR may at any time share transaction fees and charges with any other persons without being required to disclose the sharing of such fees and charges to the Client, unless such disclosure is required by law.

## 22. Default

- 22.1. The Client acknowledges and agrees that where one of the following events occurs, BCR may take any such action provided in Clause 19.3 below:
- The Client fails to meet a call for a deposit or Margin or make any other payment when due under these Terms & Conditions;
  - The Client is not contactable by BCR (and has not made alternative arrangements) within the time specified by BCR in order for BCR to obtain instructions (where required);
  - The Client dies or becomes of unsound mind, or the partnership is dissolved or ceases to exist for any reason;
  - The Client suspends payment of its debts, makes any composition with its creditors, has a receiver appointed over some or all of its assets, takes or has any proceedings taken against it in bankruptcy or takes or allows any steps to be taken for its winding up (except for a solvent amalgamation or reconstruction approved in advance in writing by BCR) or anything similar to any of these events happens to the Client anywhere in the world;
  - The Client fails in any respect fully and promptly to comply with any obligations to BCR under these Terms & Conditions or otherwise or if any of the representations or information supplied by the Client

are or become inaccurate or misleading in any material respect;

- f. Any guarantee, indemnity, or security for the Client's obligations is withdrawn or becomes defective, insufficient, or unenforceable in whole or in part;
- g. These Terms & Conditions have been terminated;
- h. It becomes, or may become, unlawful for BCR to maintain or give effect to all or any of the obligations under these Terms & Conditions or otherwise to carry on its business or if BCR or the Client is requested not to perform or to close out a transaction (or any part thereof) by any governmental or regulatory authority whether or not that request is legally binding; or
- i. BCR considers it necessary to do so for its own protection.

22.2.If the Client becomes aware of the occurrence of any event referred to in clause 19.1 above, it shall notify BCR immediately.

22.3.If any event referred to in Clause 19.1 above takes place, BCR shall at its absolute discretion be entitled, but not obliged, to, and at the expense of the Client:

- a. Terminate the Terms & Conditions immediately;
- b. Close out any or all of the Client's contracts;
- c. Cover Positions by entering into further contracts;
- d. Cancel any outstanding orders in order to close the Client's account;
- e. Convert any amount owed by the Client to BCR into US Dollar currency at any time on or after payment is due (until payment is received in full);
- f. Satisfy any obligation the Client may have to BCR out of any belonging to the Client in BCR's custody or control.
- g. Charge the Client with all of the costs, expenses and losses incurred by BCR as a result of entering into, or closing out transactions pursuant to these Terms & Conditions; and
- h. To take any such action a reasonably prudent person would take in the circumstances.

### **23. Indemnity**

23.1.The Client will indemnify and keep indemnified BCR and its employees, contractors, or agents from and against any cost, expense, claim, action, suit, loss, damage, or other amounts whatsoever arising out of any default, whether by act or omission, of the Client under these Terms & Conditions or anything lawfully done by BCR in accordance with these Terms & Conditions or by reason of BCR complying with any direction, request or requirement of an exchange or its clearing house or other regulatory authority.

23.2.BCR shall not be responsible or liable in any way for any delay or error in the transmission or execution of any dealing by it under these Terms & Conditions caused by the Client or any other third party, including but not limited to trading floor or exchange system operational failure or action, bank delay, postal delay, failure or delay of any fax or electronic transmission or delay caused by accident, emergency, or act of God.

23.3.No warranty is provided by BCR in relation to information or advice sourced from third parties, and all information provided by BCR to the Client is for the private use of the Client and is not to be communicated to any third party without the prior written consent of BCR.

23.4.BCR makes no representation or warranty as to the results of dealing in the financial products, and shall not be liable for any damage or loss suffered or incurred by the Client arising out of or in connection with any general advice, forecast, or opinion given to the Client in relation to price movements or Positions or to the likely profitability of any transaction.

23.5. These indemnities shall survive any termination of the Client relationship.

## 24. Limitation of Liability

- 24.1. The Client declares it has read, understood, and accepted all of the terms and conditions outlined in these Terms & Conditions. The Client agrees that when entering into a financial product transaction with BCR the Client is relying on its own judgment and, to the extent permitted by law, in the absence of negligence, fraud, or dishonesty by BCR or any of its employees, agents, and representatives in relation to BCR's activities as the holder of an AFSL, BCR shall bear no responsibility or liability of any kind whatsoever with respect to any general advice given or views expressed to the Client, whether or not the general advice or views expressed was as a result of a request by the Client, nor will BCR be liable in any respect of any losses incurred by the Client resulting from dealing in any product or products offered by BCR including CFDs, Margin FX, and binary options.
- 24.2. BCR will bear no liability whatsoever in respect of any private dealings, contracts, transactions, or relationships between the Client and any of BCR's employees or agents.
- 24.3. BCR shall bear no liability whatsoever in respect of any impact on the Client caused directly or indirectly by the issuance of any instructions by the Client to BCR.
- 24.4. In the absence of negligence, fraud, dishonesty, or misconduct by BCR or any of its employees, agents, and representatives and to the full extent of the law, BCR bears no responsibility or liability for any Client's losses or damages whatsoever incurred as a result of any delay in transmitting or a failure to transmit funds caused by reasons outside the control of BCR or as a result of BCR's failure to execute orders in a timely manner or administer these Terms & Conditions in the manner contemplated by these Terms & Conditions for reasons beyond its control and, without limiting the indemnity in Clause 20, the Client indemnifies and agrees to keep BCR and its employees, agents, and representatives (for whom BCR acts as agent) indemnified and against all sums of money, actions, proceedings, suits, claims, demands, damages, costs, expenses, and other amounts whatsoever arising in respect of any such loss or damage. Reasons outside BCR's control may include but are not limited to, exchange control or other government restrictions, exchange or market rulings, suspension of trading, power failure, telecommunication failure, strikes, or war.
- 24.5. BCR will not be liable for any losses or damages arising from or in connection with any CFD, Margin FX Contract, or Binary Option, as the result of any moratorium, suspension or delisting of any Underlying Asset, or any other occurrence in relation to a Relevant Exchange.
- 24.6. All such available exemptions and limitations of liability shall apply in respect of BCR's employees, officers, agents, and representatives.

## 25. Disputes

- 25.1. If a dispute arises between BCR and the Client relating to any transaction, the Client's dispute will be dealt with in accordance to BCR internal dispute procedure also detailed in the PDS.
- 25.2. If a dispute arises between BCR and the Client relating to any transaction, BCR may close out or take any other action it considers appropriate in relation to the Disputed Transaction, without previously notifying and/or without having received instruction from the Client. BCR will try to notify the Client (verbally or in writing) what action it has taken, as soon afterwards as it practically can, but if it does not, the validity of its action shall not be affected.

25.3. In an event when the Client's dispute against BCR has been referred to the Australian Financial Complaints Authority (AFCA), the Client hereby authorise BCR to disclose such personal information about the Client (as defined by the Privacy Act 1988 (Cth)) including, but not limited to, records of interactions between the Client and BCR as we at our absolute discretion deem appropriate or necessary to enable us to prosecute our case in the arbitral process of AFCA.

## 26. Irregular/Illegal Trading Definitions and Practices

26.1. Irregular/Illegal trading definitions and practices include but are not limited to:

- Using one or more trading accounts to opening hedged transactions and setting the Limit price to hedge positions around economic data releases.
- Using one or more trading accounts for bilateral Stop Loss pending orders (Buy Stop Loss and Sell Stop Loss) around economic data releases.
- Using two or more trading accounts to open or close positions against each other, and hedging transactions in the form of hedging or locked positions.
- Trading accounts using the delay or leakage of trading platform data to make profits. Such trading accounts often open and closed positions in a short period of time and exhibits abnormal trading volume changes in a short period of time.
- Using malicious software or plug-ins to affect the functionality of the trading platform.

26.2. The above does not represent the full definition of Irregular/Illegal trading. We will amend and adjust the relevant rules from time to time.

26.3. If BCR's Compliance Department suspects any irregular or illegal activity on any trading account, the transactions in question will be immediately determined as invalid or cancelled. In addition, the trading account's funds may be frozen, and there will be an investigation that may take up to 30 business days.

26.4. BCR reserves the right to close some or all transactions, limit the number of open positions, close some or all open positions, and accept, modify, cancel or reject orders. In the most cases, BCR reserves the right to close positions without the client's consent. As a result, the client may not be able to predict or control when CFD orders will be liquidated.

26.5. If it is confirmed that irregular/illegal trading has occurred, BCR has the right to terminate the trading account immediately and return the balance of the account back to the Client, excluding any profits arising from irregular/illegal transactions.

26.6. BCR retains the right of the final interpretation of what constitutes irregular and/or illegal trading.

## 27. Termination

27.1. These Terms & Conditions can be terminated at any time by either party giving 7 Business Days written notice to the other party.

27.2. Unless otherwise agreed in writing between the parties upon termination of these Terms & Conditions BCR will close out all of the Client's exchange traded or over-the-counter financial product transactions, at BCR's discretion.

27.3. Should any event occur which has the effect of making or declaring it unlawful or impracticable for BCR to offer financial product transactions to the Client in accordance with the terms outlined in these Terms & Conditions, BCR may immediately terminate these Terms & Conditions by providing the Client with written notice.

27.4. In the event of these Terms & Conditions being terminated, a Closing Notice must be provided by the Client

in respect of all open Positions. Such notice must be provided within 5 Business Days of the termination date. Should the Client fail to unwind any open Position within the notice period, BCR reserves the right to close out Positions as if a Default Event had occurred in accordance with these Terms & Conditions.

27.5. Termination of the Terms & Conditions shall not release either party from any existing obligations or from any liabilities for any antecedent breach of any of the terms of these Terms & Conditions and will not relieve the Client of any obligations the Client may owe to BCR in accordance with these Terms & Conditions prior to its termination.

27.6. Rights under these Terms & Conditions can only be waived in writing, such waiver not to affect the waiving party's rights or entitlements in respect of subsequent breaches of the Terms & Conditions. Failure to compel performance shall not be construed as a waiver.

27.7. If these Terms & Conditions are terminated, the Client acknowledges and agrees that all open Positions must be closed within 5 Business Days of the date of termination.

## **28. Ceasing to Offer Trade**

28.1. We may at any time by written notice to you cease to offer to trade in any Products, specifying in the notice a date on which we will cease to offer to trade in the particular Product.

28.2. You agree to close out all open Positions for the date specified in the notice, and we will close out any remaining open Positions on the date specified in the notice with effect from the close of trading on that day.

28.3. If we exercise our right to close out your remaining Positions under the preceding clause, we will close out those open Positions at the Closing Price for the Contract except where your open Positions are outside the Normal Trading Size, in which case we will close those Positions at a price determined by us in accordance with market practice, but at our absolute discretion.

## **29. Self-Exclusion Policy**

Self-exclusion refers to a scenario where the Client self-elects to prohibit him/herself from the trading of products and services offered by BCR. In Australia, the adoption of a Self-Exclusion Policy is only required by law for gaming license holders. BCR has voluntarily adopted the policy.

BCR may also choose to invoke Self-Exclusion as it sees fit and at its absolute discretion. BCR may close any client account under circumstances which directly or indirectly indicate harm being caused to the client's wellbeing. Determinant to a client's wellbeing includes, but is not limited to, physical and psychological health and financial well-being. Exclusion may be for a period of time (time specific) or permanent. If you wish to self-exclude, please contact your account manager.

## **30. General**

30.1. BCR may amend the terms of these Terms & Conditions at any time by giving written notice to you. We will notify of you of any changes via email. You will be deemed to have accepted and agreed to the amendment/s unless you notify us of any objection. If you do object to the amendment/s, the amendment/s will not be binding on you, but your account will be suspended and BCR will close your account in accordance with clause 23. BCR will only make changes for good reason, including but not

limited to:

- a. making our Terms & Conditions clearer and easier to understand;
- b. making our Terms & Conditions more favourable to the Client;
- c. providing for the introduction of new systems, services, changes in technology and products;
- d. rectifying any errors that may be discovered;
- e. complying with a change of applicable regulation or law.

30.2. In the event that any of the provisions contained in these Terms & Conditions are found to be invalid or unenforceable, such provisions shall be deemed deleted, and the validity and enforceability of the remaining provisions shall continue unimpaired.

30.3. If a party fails to exercise or delays in exercising any right under these Terms & Conditions, by doing so it does not waive such right. The rights provided in these Terms & Conditions do not exclude other rights provided by law.

30.4. The Client may not assign or otherwise transfer its rights or obligations under these Terms & Conditions or any transaction, without the express written consent of BCR.

30.5. The parties agree to the electronic recording by either party of telephone or internet conversations between the parties with or without an automatic tone warning device, and the use of such recordings as evidence by either party in any dispute or anticipated dispute between the parties or relating to dealings between the parties. Clients shall be permitted access to such tapes (where still held) after the date of the relevant telephone conversation, and shall be liable to BCR for all reasonable costs in retrieving and providing such tape.

30.6. The Client acknowledges and agrees that BCR is permitted to carry out an electronic database search and search credit reference agencies in order to verify the Client's identity. BCR keep records of the contents and results of such searches in accordance with all current and applicable laws.

30.7. BCR reserves the right to collect such information as is necessary from the Client to meet its obligations under applicable Anti Money Laundering laws and regulations. BCR may pass on information collected from the Client and relating to transactions as required by applicable anti money laundering laws and regulations and is under no obligation to inform the Client it has done so. BCR may undertake all such anti money laundering checks in relation to the Client (including sanction and Politically Exposed Persons lists) as deemed necessary or appropriate by BCR, and reserves the right to take any action with regard thereto with no liability whatsoever therefore.

30.8. BCR reserves the right to provide all such information regarding the Client in relation to its obligations to, or requests (whether legally binding or not) by a relevant regulatory body.

### **31. Privacy**

31.1. In order to provide the Client with these services, BCR needs to collect personal information about the Client and obtain the Client's agreement in relation to the handling of such personal information. If the Client does not provide the requested information or agree to the information handling practices detailed in these Terms & Conditions, BCR may be unable to provide the services outlined in these Terms & Conditions to the Client.

- 31.2. The Client shall ensure that all information provided to BCR is accurate and up-to-date at all times. Any changes must be advised to BCR as soon as practicable.
- 31.3. BCR have systems and processes in place to address privacy requirements, refer to the BCR's Privacy Policy and our website for more information about BCR's information handling practices.
- 31.4. Personal information that you provide will be used for identity verification purposes in accordance with our legislative and regulatory obligations.
- 31.5. The Client authorises BCR to collect, use, store, or otherwise process any personal information which enables BCR to provide and/or improve its services. This may, on occasion, require the disclosure of personal information to our related entities, agents, and service providers, and to organisations located in countries which do not have comparable laws to protect the Client's information. See our Privacy Policy and website for further information.

### **32. Information Collection, FATCA, CRS, and Reporting**

BCR may collect, store and process information obtained from the Client in connection with these Terms & Conditions for the purpose of complying with FATCA, CRS or other applicable regulations, including disclosures between us and Government Authorities.

### **33. Governing Law**

These Terms & Conditions are governed by and construed in accordance with the laws of the State of New South Wales, Australia and the parties submit to the exclusive jurisdiction of the courts and tribunals in that State.