



# GPS<sup>®</sup>

# Client Application and Agreement

The Client Application and Agreement is governed by a client agreement (**Client Agreement**), which includes the Terms and Conditions, accessible at <https://www.gpsfx.com/legal/compliance-and-legal/gps-capital-markets-australia-pty-ltd/>, and applies to all Transactions and Orders entered into between the Client (**the Client, you, your**) and GPS Capital Markets Australia Pty Ltd ACN 625 144 765 AFSL 520218 (**GPS, we, us, our**).

## TERMS AND CONDITIONS

November 2023

### 1. DEFINITIONS

In this agreement unless the context otherwise requires:

**1 Month BBSW Rate** means the rate per cent per annum expressed as a yield determined by GPS being the mid rate for bank bills on the relevant day for a period equal to or approximately equal to one month as appearing on the Bloomberg screen on page “**BBSW1M**” at approximately 10:30 am Sydney time rounded upwards to two decimal places. If GPS decides that the basis on which the rate is determined at any time differs from that employed at the date of this agreement, or if no relevant reference rate appears on the Bloomberg screen, 1 Month BBSW Rate means the rate determined by GPS acting reasonably from time to time.

**Administration Functions** mean:

- (a) manage the online administrative function on the Client's behalf;
- (b) manage the Authorised Signatories on the Client's behalf through the administrator function of the GPS website; and
- (c) add or remove any Authorised Signatories in accordance with this Client Agreement.

**AML / CTF Act** means the *Anti-Money Laundering / Counter Terrorism Financing Act 2006* (Cth);

**Anti-Money Laundering / Counter-Terrorism Financing Program** has the meaning in the *AML / CTF Act*;

**Authorised Signatory** means an individual who has been appointed and authorised by the Client and notified to GPS and who is authorised to initiate and approve instructions to GPS on behalf of the Client in accordance with this Client Agreement;

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

**Client Money Rules** has the meaning in the Corporations Act;

**Close Out** means to reverse a Transaction by entering into an equal and opposite Transaction to the original Transaction at prevailing market rates chosen by GPS in good faith;

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

**Default Event** means:

- (a) failure by the Client to pay any money on the due date and in the manner specified in this Client Agreement or any Transaction Confirmation;

- (b) failure by the Client to provide any material information reasonably requested by GPS;
- (c) failure by the Client to perform any of its obligations under this Client Agreement, which if capable of remedy, is not remedied with 14 days of written notice from GPS;
- (d) any representation made or deemed to be made or repeated by the Client under or in connection with this Client Agreement is misleading, deceptive or incorrect; or
- (e) the happening of an Insolvency Event in relation to the Client.

**Default Rate** means the 1 Month BBSW Rate plus a margin of 2.00% per annum;

**Derivative** means a derivative restricted to derivatives utilised for the management of financial risk (hedging) which only have the purposes of:

- (a) management or mitigation of the financial consequences of particular circumstances happening; or
- (b) avoiding or limiting the financial consequences of fluctuations, in or in the value of, receipts or costs (including prices and interest rates);

and includes but is not limited to Swap Contracts and Option Contracts.

**Designated Online Administrator** means an individual who has been notified to GPS as a ‘Designated Online Administrator’, and who has the authorities set out in clause 2.6 of this Client Agreement;

**Exercise** means exercise an Option;

**Expiry Date** means the date on which an Option must be Exercised, failing which it will expire.

**Forward Contract** means a foreign exchange contract under which the parties agree to exchange money at an agreed exchange rate and at an agreed time which is no earlier than two Business Days from the time of the Transaction (including a Transaction resulting from an Order) is entered into;

**Insolvency Event** means the happening of any of the following events:

- (a) an application is made to a court for an order or an order is made appointing a liquidator or a provisional liquidator or proceedings are commenced or a resolution passed or proposed in a notice of meeting for any of those things;
- (b) proceedings are initiated with a view to obtaining an order for the winding up or similar process, an order is made or any effective

resolution is passed for winding up, deregistration or dissolution;

- (c) except for a solvent reconstruction a party resolves to enter into a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any class of its creditors;
- (d) a receiver or controller is appointed to or over or takes possession of all or a substantial part of the assets or undertakings of a party;
- (e) a corporation is or is deemed or presumed by law or a court to be insolvent;
- (f) a corporation takes any steps to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed; or
- (g) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

**Margin** means the difference between the exchange rate we quote to you and the wholesale exchange rate we obtain from the market;

**Margin Lending Facility** has the meaning in the Corporations Act;

**Option** or **Option Contract** means an agreement between the parties under which you have the right but not the obligation to enter into a specified Transaction on the Expiry Date.

**Order** means an instruction provided by the Client to GPS instructing GPS to enter into a Spot Contract or Forward Contract for the Client only when the market reaches an exchange rate nominated by the Client;

**Personal Financial Product Advice** has the meaning in the Corporations Act;

**Settlement Date** means the date on which payments due in respect of a Transaction must be made (in cleared funds) by the parties;

**Sophisticated Investor** has the meaning in the Corporations Act;

**Spot Contract** means a foreign exchange contract under which the parties agree to exchange money at an agreed rate on or before two Business Days of the Transaction (including a Transaction resulting from an Order) being entered into;

**Transaction** means transaction made between the parties which provides for the purchase by one party of one currency in exchange for the simultaneous sale of another currency by the other party (including a Transaction resulting

from an Order) and includes Spot Contracts, Forward Contracts, and Derivatives;

**Transaction Confirmation** means a notice given by GPS to the Customer in respect of each Transaction, setting out:

- (a) the names of the counterparties;
- (b) the currency pairs;
- (c) amount to be paid by each party in each currency;
- (d) the date of the transaction;
- (e) the due date of payment; and
- (f) the method of payment (e.g., standard settlement instructions or details of the account to which each payment is to be made).

**Verifying Officer** has the meaning in *Anti-Money Laundering / Counter Terrorism Financing Rules*.

**Wholesale Client** has the meaning in the Corporations Act.

## 2. CONTRACTUAL RELATIONSHIP

### 2.1 Previous agreements

This Client Agreement replaces all previous agreements between the parties.

### 2.2 Capacity of GPS

GPS holds an Australian Financial Services Licence authorising us to provide the following products and services:

- (a) Spot Contracts;
- (b) Forward Contracts;
- (c) Derivatives.

### 2.3 No Margin or Speculative Trading

The Client must not attempt to provide instructions to GPS to enter into speculative Transactions or Margin Lending Facilities with GPS.

### 2.4 No Personal Advice

The Client agrees that:

- (a) GPS will not provide you with Personal Financial Product Advice which takes into account your specific financial circumstances or needs when we enter into a Transaction with you or accept an Order from you; and
- (b) you must obtain your own financial advice and make your own assessment as to whether the products and services provided by GPS are appropriate for your particular requirements.

### 2.5 Verifying Officer

- (a) The Client appoints the individual named in this Client Agreement as its Verifying Officer.
- (b) For the avoidance of doubt, a Designated Online Administrator may only be appointed or

removed upon written notice to GPS, signed by a director of the Client.

- (c) The Client agrees that
- (i) you are responsible for the conduct of the Verifying Officer;
  - (ii) you must ensure that the Verifying Officer complies with any procedures imposed on the Verifying Officer by GPS;
  - (iii) you assume all risks in connection with any failure by the Verifying Officer to follow the processes and procedures set out by GPS; and
  - (iv) GPS may rely on any identification and verification of an Authorised Signatory undertaken by the Verifying Officer unless and until you provide us with written revocation of the Verifying Officer's appointment.
  - (v) The Client acknowledges and understands that GPS will not accept the appointment of the Verifying Officer until the identity of the Verifying Officer has been verified in accordance with the requirements of the GPS Anti-Money Laundering / Counter-Terrorism Financing Program.

## **2.6 Authorised Signatories and Designated Online Administrators**

- (a) The Client appoints:
- (i) the Authorised Signatories named in this Client Agreement as authorised signatories with authority to initiate and / or approve instructions to GPS in respect of a Transaction or an Order, as varied from time to time by written notice to GPS; and
  - (ii) the Designated Online Administrators named in this Client Agreement as individuals with authority to manage, appoint and remove Authorised Signatories.
- (b) The Client acknowledges and accepts the following in relation to all Authorised Signatories:
- (i) The Client must notify GPS of the level of authority granted to each Authorised Signatory, being:
    - a. initiate Transactions and Orders only;
    - b. approve Transactions and Orders only; or
    - c. initiate and approve Transactions and Orders.
  - (ii) Where the Client has advised GPS that a particular Authorised Signatory is only able to act on behalf of the Client with a second Authorised Signatory, instruction must be approved by a second Authorised Signatory.

- (iii) The Client may vary the list of Authorised Signatories at any time. A Designated Online Administrator must notify GPS immediately, in writing, of any variation to the list of Authorised Signatories.
- (c) The Client acknowledges and accepts the following in relation to each Designated Online Administrator:
- (i) The role of a Designated Online Administrator is to undertake the Administrative Functions on behalf of the Client in accordance with this Client Agreement;
  - (ii) Any change made by a Designated Online Administrator using the Administrative Function must be approved by a second Designated Online Administrator before such change will be recognised by GPS;
  - (iii) The Client must have a minimum of two Designated Online Administrators appointed and notified to GPS at all times;
  - (iv) GPS may disable the Administrative Function at any time that less than two Designated Online Administrators are appointed and notified to GPS;
  - (v) A Designated Online Administrator may only be appointed or removed upon written notice to GPS, signed by a director of the Client in such form acceptable to GPS.

- (d) The Client agrees that
- (i) you are responsible for the conduct of all Authorised Signatories and Designated Online Administrators;
  - (ii) you must ensure that each Authorised Signatory and Designated Online Administrator complies with any obligation imposed on you under this Client Agreement and every provision of this Client Agreement applies to each Authorised Signatory and Designated Online Administrator as if each Authorised Signatory were you;
  - (iii) you assume all risks in connection with any communication purported to be made by an Authorised Signatory or Designated Online Administrator and you will be liable for any breach of this Client Agreement by any Authorised Signatory or Designated Online Administrator;
  - (iv) GPS may rely on instructions received from Authorised Signatories and Designated Online Administrators provided the instruction is provided in accordance with this Client Agreement; and

- (v) GPS will not be liable for any loss of profit, or for any indirect or consequential loss arising under or in connection with the unauthorised Transaction or Order, where GPS executes such instruction in good faith.

## 2.7 Recording of telephone calls

The Client:

- (a) consents to the recording of all telephone conversations between the parties, and
- (b) agrees that GPS is:
  - (i) not obliged to record, store or make available to the Client recordings of any conversations between the parties; and
  - (ii) may use any telephone recordings as evidence in any dispute or anticipated dispute between the parties.

## 2.8 Variations

- (a) GPS may vary any term of this Client Agreement, at any time by providing at least 30 days' notice in writing to the Client, provided that any such variation does not affect the parties' rights and obligations in respect of an instruction relating to a Transaction or an Order provided by the Client prior to the date of the variation.
- (b) Any such amendment will take effect on the date specified in the variation notice.

## 2.9 Client Money

- (a) The Client acknowledges and agrees that Client's funds held by GPS for the Client, including (but not limited to) in advance of or in respect of a Transaction, received as an incoming payment or pending beneficiary instruction, is held by GPS in segregated or trust bank accounts in accordance with the Client Money Rules.
- (b) The Client acknowledges and agrees that GPS pools Client's funds with similar funds held on behalf of other clients of GPS, in accordance with the Client Money Rules.
- (c) No interest is paid by GPS on any funds held on behalf of the Client, except as may be agreed and separately documented. Any interest accruing to funds held in accordance with the Client Money Rules shall be transferred to GPS.
- (d) GPS may hold the Client's funds for a maximum of ninety days. The client is solely responsible for all risks associated with the funds held by GPS, including volatility of foreign currency market.
- (e) In the event that the Client's funds are held by GPS beyond the maximum ninety days period, GPS will convert funds into Australian Dollars, using the current market rate as

determined by GPS acting reasonably, and return such funds to the Client.

## 2.10 GPS on-line portal

- (a) GPS may issue each of Authorised Signatory with a username and password in order to provide that individual with access to the secure portal on the GPS website or mobile device application.
- (b) The Client must ensure that each Authorised Signatory keeps any such username and password secure and does not share that username and password with any other person.

## 3. CLIENT OBLIGATIONS

### 3.1 Notification and information

The Client must:

- (a) provide to GPS any forms, documents or other information specified in any request by us (including, but not limited to requests made in any Transaction Confirmation);
- (b) obtain the consent of the individuals, whose personal information is provided in this Client Agreement and any related documents, for GPS to use and disclose personal information to any organisation assisting us to verify the identities for the purposes of obligations under the AML/CTF Act, including the disclosure of personal information to:
  - (i) any on-line identification verification provider;
  - (ii) a Credit Reporting Body (**CRB**) to obtain an assessment of whether that information matches information held by the CRB. The CRB may give us a report on that assessment and to do so may use information about you and other individuals in their files; and
  - (iii) an approved Gateway Service Provider (**GSP**) to enable us to verify your identity using the Australian Government's Document Verification Service (**DVS**). The GSP may give us a report on that assessment and to do so, may use information about you and other individuals held in official records.
- (c) notify GPS if anything happens which would result in you being unable to repeat the representations and warranties in this Client Agreement at any time during the term of this Client Agreement. Any notification provided by you under this clause does not limit our rights under this Client Agreement; and
- (d) notify GPS of any Default Event.

### 3.2 Client Representations and Warranties

- (a) The Client acknowledges that GPS has entered into this Client Agreement, any Transaction and has accepted any Order



relying on the following representations and warranties by you.

(b) The Client represents and warrants to GPS that as at the date of this Client Agreement and on each day during the term of this Client Agreement, that:

- (i) The Client is a Wholesale Client or a Sophisticated Investor;
- (ii) no Default Event has occurred;
- (iii) you have full legal capacity to enter into and perform your obligations under this Client Agreement;
- (iv) this Client Agreement constitutes legally valid, binding and enforceable obligations on you;
- (v) if you are a company, you are duly incorporated under the laws of its place of incorporation and have the power and authority to enter into this Client Agreement and have undertaken and complied with the necessary procedures to ensure this Client Agreement is enforceable and binding on you;
- (vi) if you are a company, no Insolvency Event has occurred in respect of you;
- (vii) if you are an individual, you are not bankrupt;
- (viii) all information provided to GPS by you are true and correct to the best of your knowledge and you have fully disclosed to GPS all facts that are material in the context of this Client Agreement;
- (ix) you have obtained the consent of the individuals whose personal information is provided in this Client Agreement and any related documents, where the information is not otherwise accessible from a public source;
- (x) by entering into this Client Agreement you will not contravene any other agreements, judgements, orders, licences or consents by which you are bound;
- (xi) no litigation, arbitration or administration proceedings or claims are presently in progress, pending or threatened against you that would have a material adverse effect on your ability observe or perform its obligations under this Client Agreement; and
- (xii) you enter into this Client Agreement as principal and not as trustee of a trust, unless full details of the trust have previously been provided to GPS in writing.

## 4. TRANSACTIONS

### 4.1 Entering into a Transaction

- (a) Transactions between the parties may be initiated by the Client:
  - (i) by telephone;
  - (ii) by email;
  - (iii) via the internet through the GPS website;
  - (iv) through the GPS mobile device application; or
  - (v) in any other manner agreed in writing between the parties.
- (b) Transactions will become legally binding:
  - (i) if entered into by telephone, at the time the Client verbally advises GPS that you agree to the terms of the Transaction;
  - (ii) if entered into by email, at the time the Client sends an email advising GPS that you agree to the terms of the Transaction as set out in an email from us to you;
  - (iii) if entered into via the internet, at the time the Client 'accepts' the terms of the Transaction via the website portal; or
  - (iv) if entered into via the GPS mobile device application, at the time the Client 'accepts' the terms of the Transaction via the GPS mobile device application.
- (c) The Client acknowledges that:
  - (i) instructions provided by email may not be booked by GPS immediately and that the exchange rate or price may move before the instruction is booked;
  - (ii) exchange rates can fluctuate rapidly, so the exchange rate or price provided by GPS for a particular Transaction must be accepted by the Client promptly;
  - (iii) exchange rates and prices not accepted promptly (as reasonably determined by GPS) will lapse; and
  - (iv) GPS's reasonable decision, as to whether or not a Client has accepted a quoted exchange rate or price (at which time the Transaction will become legally binding on the Client) will be final.
- (d) Once a Transaction has become legally binding, the Client agrees that you may not revoke, cancel or vary the Transaction except where:
  - (i) an Authorised Signatory provides a written request to revoke, cancel or vary the instruction to GPS not less than 2 clear Business Days prior to the due date of payment; and
  - (ii) GPS, in its sole discretion (acting reasonably) elects to agree to the request (subject to any terms, including but not limited to additional fees or charges;

considered by GPS to be reasonably necessary); and

(iii) the Client or an Authorised Signatory accepts GPS's terms of revocation, variation or cancellation (as appropriate) in writing, no later than one clear Business Day prior to the due date of payment.

(e) Any variation, cancellation or revocation of a Transaction that is accepted by the Client or an Authorised Signatory in accordance with this clause becomes legally binding on the Client once accepted by the Client or an Authorised Signatory. GPS will provide the Client with a Transaction Confirmation setting out the revised terms of the Transaction (which will replace any original Transaction previously provided by GPS).

(f) Certain limitations may apply to the manner in which instructions may be provided in respect of some Transactions. For example, GPS may require that Options may only be entered into over the telephone. Any such limitations will be advised to the Client by GPS from time to time.

## 4.2 Entering into an Order

(a) Orders between the parties may be initiated by the Client:

- (i) by telephone;
- (ii) by email;
- (iii) via the internet through the GPS website;
- (iv) through the GPS mobile device application; or
- (v) in any other manner agreed in writing between the parties.

(b) Orders will become legally binding:

- (i) if entered into by telephone, at the time the Client verbally advises GPS that you agree to the terms of the Order;
- (ii) if entered into by email, at the time the Client sends an email requesting that GPS place an Order;
- (iii) if entered into via the internet, at the time the Client 'places' the Order via the website portal; or
- (iv) if entered into via the GPS mobile device application, at the time the Client 'places' the Order via the GPS mobile device application.

(c) The Client acknowledges that:

- (i) instructions provided by email may not be booked by GPS immediately and that the exchange rate or price may move before the instruction is booked;
- (ii) exchange rates can fluctuate rapidly, so unless an Order is placed by the

telephone, GPS may not receive your Order in time for a Transaction to be booked at the Target Rate;

(iii) once the Target Rate is reached, any Transaction booked by GPS on your behalf will be governed by the terms of this Client Agreement applicable to Transactions; and

(iv) GPS's reasonable decision, as to whether or not GPS received an Order in time for a Transaction to be booked at the Target Rate will be final.

(d) Before the Target Rate is reached, an Order may be cancelled by an Authorised Signatory providing a written request to revoke, cancel or vary the instruction to GPS.

(e) Any variation, cancellation or revocation accepted by the Client or an Authorised Signatory in accordance with this clause becomes legally binding on the Client once accepted by the Client or an Authorised Signatory.

## 5. SPECIAL CONDITIONS APPLYING TO CERTAIN TYPES ON INSTRUCTIONS

### 5.1 Forward Contracts

(a) Advance Payments

The Client acknowledges that:

- (i) GPS may request that you pay us part or all of the total amount that you will be required to pay us on the Settlement Date of the Forward Contract (**Advance Payment**) at the time you book the Forward Contract or at any time prior to the due date of payment;
- (ii) GPS bears the risk that you might default on your payment obligations under a Forward Contract and the Advance Payment assists GPS to mitigate this settlement risk; and
- (iii) GPS may determine the amount of any Advance Payments in its discretion, acting reasonably.

(b) Failure to pay Advance Payment

If the Client does not pay an Advance Payment requested by GPS on the date nominated by GPS, GPS may Close Out the Transaction or cancel any Order in accordance with this Client Agreement.

(c) Changes to the date on which the Forward Contract is to be settled

- (i) The Client may ask GPS to bring forward the date on which a Forward Contract is to be settled ("pre-deliver") or to extend the date on which the Forward Contract is to be settled ("roll over") in relation to the whole or only part of your Forward Contract.

(ii) The Client acknowledges that:

(A) GPS may agree to a request to pre-deliver or roll-over a Forward Contract at our discretion (acting reasonably), and subject to any changes in the exchange rate having regard to the new Settlement Date; and

(B) you must sign any document required by GPS before any pre-delivery or roll-over of a Forward Contract will be binding on GPS.

## 5.2 Orders

(a) Target Rate

(i) GPS will attempt to fill your Order when the Target Rate you have nominated in your Order has been exceeded by an amount that includes our Margin.

(ii) The Target Rate will be deemed to have been reached only when the Target Rate nominated in your Order has been filled. We notify you by telephone, email, our online portal as soon as possible after your Order has been filled.

(iii) We will use our best endeavours to fill your Order in accordance with clause 5.2(a)(i), however, from time to time, the exchange rate may move rapidly and the Target Rate that you have nominated in your Order may be reached and then change before we are able to fill your Order with our provider. For the avoidance of doubt, we will not fill your Order in those circumstances.

(b) Payment

(i) As soon as you receive our notification that your Order has been filled, the Client must take action to ensure that the funds reach our account by the Settlement Date.

(ii) If GPS does not receive funds by the Settlement Date of the Transaction, GPS may Close Out the Foreign Exchange Contract or Forward Contract (as appropriate) in accordance with this Client Agreement.

(c) Cancelling an Order

(i) The Client may cancel an Order at any time before the Target Rate is reached by an Authorised Signatory giving GPS notice by telephone, email or our on-line portal.

(ii) Except in circumstances described in clause 5.2(a)(iii), the Client may not cancel an Order once the Target Rate has been reached and / or the Order has been filled. When the Order is filled you are legally bound by the Transaction.

## 5.3 Swap Contracts

(a) Advance Payments

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The Client acknowledges that:

(i) GPS may request that you pay us part or all of the total amount that you will be required to pay us on the Settlement Date of the Swap Contract (**Advance Payment**) at the time you book the Swap Contract or at any time prior to the due date of payment;

(ii) GPS bears the risk that you might default on your payment obligations under a Swap Contract and the Advance Payment assists GPS to mitigate this settlement risk; and

(iii) GPS may determine the amount of any Advance Payments in its discretion, acting reasonably.

(b) Failure to pay Advance Payment

If the Client does not pay an Advance Payment requested by GPS on the date nominated by GPS, GPS may Close Out the Swap Contract in accordance with this Client Agreement.

## 5.4 Option Contracts

(a) Advance Payments

The Client acknowledges that:

(i) GPS may request that you pay us part or all of the total amount that you will be required to pay us on the Settlement Date of the Options Contract (**Advance Payment**) at the time you book the Forward Contract or at any time prior to the due date of payment;

(ii) GPS bears the risk that you might default on your payment obligations under an Option Contract and the Advance Payment assists GPS to mitigate this settlement risk; and

(iii) GPS may determine the amount of any Advance Payments in its discretion, acting reasonably.

(b) Failure to pay Advance Payment

If the Client does not pay an Advance Payment requested by GPS on the date nominated by GPS, GPS may Close Out the Transaction or cancel any Order in accordance with this Client Agreement.

(c) Payment of Premium

The Premium agreed to in the Option Contract must be paid within two Business Days of the Option being entered into in accordance with this Client Agreement.

(d) Non Payment of Premium

(i) If the Client fails to pay the Premium in accordance with clause 5.4(a), GPS may terminate the Option Contract upon 24 hours written notice to you.

(ii) If GPS terminates the Option Contract in accordance with this clause, the Premium remains payable by you to GPS as a debt.

(e) Premium is Non-Refundable

The Client acknowledges and agrees that the Premium:

- (i) is a non refundable fee for the protection provided to you under the Option Contract;
- (ii) does not relate to the underlying foreign exchange transaction that will be entered into if the Option is exercised;
- (iii) will not be refunded if you do not exercise the Option; and
- (iv) will not be applied to reduce the amount payable by you on the Settlement Date of the resulting foreign exchange contract if the Option is exercised.

(f) Exercise of Option

The Client acknowledges and agrees that:

- (i) Option Contracts will not be automatically exercised if the Option is 'in-the-money'; and
- (ii) if you wish to exercise the Option, you must notify GPS of your decision to do so either:
  - a. orally by telephone; or
  - b. in writing by email;

not later than midday (12.00 noon) Sydney time (**Expiry Time**) on the Expiry Date.

- (iii) if GPS does not receive a notification of your decision to exercise the Option by the Expiry Time on the Expiry Date, the Option Contract will expire; and

(iv) if you exercise of the Option you:

- a. will automatically have entered into the Spot Contract as set out in the Confirmation;
- b. will be bound by the terms and conditions of the Spot Contract; and
- c. must immediately deliver the amount you owe us under the Spot Contract within 48 hours of exercising the Option.

## 6. TRANSACTION CONFIRMATIONS

### 6.1 Transaction Confirmations

- (a) The Client agrees that each Transaction Confirmation incorporates the terms of this Client Agreement and constitutes a single agreement between the parties with respect to a Transaction.
- (b) In the event of any inconsistency between the terms of a Transaction Confirmation and the provisions of this Client Agreement, the terms of the Transaction Confirmation will prevail.

### 6.2 Sending and receipt of Transaction Confirmations

- (a) GPS will use its best endeavours to provide the Client with a Transaction Confirmation in respect of:

- (i) each Transaction; and
- (ii) each Transaction which has been revoked, varied or cancelled as agreed between the parties;

within the timeframes specified by the Australian Financial Markets Association from time to time.

- (b) If the Client does not receive a Transaction Confirmation, the Transaction is still legally binding as evidenced by the transcript of the telephone conversation, email, meeting notes or copy of the electronic instructions by which the Transaction was booked.

- (c) If the Client disputes any aspect of a Transaction as set out in a Transaction Confirmation, the Client must advise GPS of the dispute within one Business Day.

### 6.3 Status of Transaction Confirmations

The Client agrees and acknowledges that each Transaction Confirmation is an error correction mechanism only; and, if the Client does not contact GPS within one Business Day, and / or in the absence of manifest error, the Transaction details will be deemed to be correct.

## 7. PAYMENTS

- (a) On the due date of payment for each Transaction, the parties must make all payments due in respect of that Transaction in cleared funds to the accounts agreed between the parties in a Transaction Confirmation; or in the absence of agreement, in the manner nominated by GPS acting reasonably.
- (b) Subject to GPS's right of set-off following a Default Event, if a payment is due between the parties under two or more Transactions in the same currency on any one day, all amounts in that particular currency may be netted off and settled by the party owing the highest amount paying the net amount due in that currency under the Transactions to the other party.

## 8. DEFAULT EVENTS

### 8.1 Consequences of a Default Event

Following a Default Event, GPS may:

- (a) Close Out one or more Transactions in accordance with clause 8.2 of this Client Agreement; and / or
- (b) terminate this Client Agreement in accordance with clause 8.3 of this Client Agreement.

### 8.2 Closing Out a Transaction

- (a) The Client acknowledges and understands that:



- (i) if, when we Close Out a Transaction, the value of the currency that you have asked us to exchange has strengthened, you will incur a loss on the Transaction and you will be liable to pay GPS the amount of that loss, together with any expenses, premiums, commissions or other fees incurred by GPS;
- (ii) the amount of any loss (plus any expenses, premiums, commissions or other fees) (**Loss**) realised on the Closing Out of a Transaction:
  - a. is a debt payable by you to GPS;
  - b. GPS may immediately deduct the total amount of the Loss from any funds we hold on your behalf, whether those funds are held in the form of an Advance Payment or otherwise; and
  - c. if the amount of the Loss exceeds the amount of any Advance Payment or other funds held by GPS, you must pay the amount owing to GPS as a result of Closing Out the Transaction within 7 days of GPS providing you with notice of the total amount due;
- (iii) GPS will not pay you any profit arising from Closing Out a Transaction in accordance with clause 8.2 of this Client Agreement in any circumstances.

### 8.3 Terminating this Client Agreement

- (a) GPS may immediately terminate this Client Agreement following a Default Event by providing written notice to the Client.
- (b) Following termination of this Client Agreement:
  - (i) all payments otherwise payable in accordance with this Client Agreement and any unfilled Transaction Confirmation or Order will immediately cease; and
  - (ii) GPS will calculate the mark-to-market value of all open Transactions between the parties using the current market rate as determined by GPS acting reasonably (all amounts payable by the Client to GPS will be expressed as a negative number and all amounts payable by GPS to the Client will be expressed as a positive number); and
  - (iii) GPS will net off all negative amounts against all positive amounts;
  - (iv) the Client must pay any net negative amount to GPS. Alternatively, subject to its rights of set-off as set out in this clause, GPS must pay any net positive amount to the Client;
  - (v) any payment due to GPS under this clause must be made within two Business Days.

### 8.4 Interest

- (a) Without prejudicing the Client's obligation to pay GPS on demand for any amount you owe to us, if you fail to make any payment on the due date or if GPS pays money or incurs a cost or expense in relation to this Client Agreement, you must pay interest to GPS on that amount computed from the due date or the date GPS pays the money or incurs the cost or expense whichever first occurs.
- (b) Interest will accrue on the daily balance of the amount due at the Default Rate as determined by GPS, acting reasonably and will be added to and form part of the amount due on the last Business Day of each calendar month.

### 8.5 Set-Off

In addition to any other right of set-off of GPS under this Client Agreement, a Transaction Confirmation or at law, after a Default Event occurs GPS may without notice combine, consolidate, or merge any or all amounts owed by GPS to the Client, and may set-off that amount against any amount the Client owes GPS under this Client Agreement, any Transaction or any other agreement between the parties, even though those amounts may not be in the same currency. Acting reasonably, GPS may effect any currency conversion necessary or desirable for that purpose.

## 9. VOLUNTARY TERMINATION

- (a) Either the Client or GPS may terminate this Client Agreement at any time by providing 30 days written notice to the other party.
- (b) At the end of the 30 day notice period, the Client may not enter into any further Transactions or place any further Orders under this Client Agreement, however, the terms of this Client Agreement will remain in force and will continue to govern any Transaction or Order that remains outstanding until those Transactions or Orders are filled, closed-out or cancelled.

## 10. INDEMNITIES

### 10.1 General indemnity

The Client indemnifies GPS and its officers, agents and employees from and against all actions, claims, demands, losses, damages, liabilities, cost and expenses of any nature (including without limitation civil and criminal penalties to the extent permitted by law) suffered or incurred by GPS, its officers, agents or employees at any time actually or contingently arising directly or indirectly from:

- (a) any Default Event;
- (b) the exercise or non-exercise, or purported exercise of any of GPS's rights, powers or privileges under this Client Agreement or as a result of a Default Event; or

- (c) any action or assumed obligation of GPS to pay any money or do anything in connection with this Client Agreement.

## 10.2 Continuing Indemnity

- (a) Each indemnity provided by the Client under this Client Agreement survives termination of this Client Agreement and is a continuing obligation on the Client despite any settlement of account or the occurrence of any other thing.
- (b) A certificate signed by an officer of GPS detailing the amount of any damage, loss, liability, cost, charge, expense, outgoing or payment covered by the indemnity in this Client Agreement is sufficient evidence unless the Client can prove otherwise.

## 11. LIMITATION OF LIABILITY

### 11.1 No Liability for Delays

- (a) The Client acknowledges that delays in the transmission and receipt of payments may occur.
- (b) In particular, you acknowledge that GPS operates an online dealing platform that could be subject to technical, or other, problems, the nature and duration of which may be beyond our control. Our service may also involve the use of intermediaries who are outside our control. Accordingly, while GPS will do everything in our power to ensure the timely transmission of funds, we cannot guarantee that transfers of funds will always be made on time and cannot accept any liability to you for any loss suffered by you as a result of any delays in the transmission of funds.

### 11.2 Liability Limited

- (a) GPS does not in any circumstances assume liability to the Client that exceeds the amount of money you have actually paid to us in relation to a particular Transaction. GPS will not be liable to the Client for any form of consequential damages or loss that you may suffer as a result of:
  - (i) delays in the transfer of your funds, or
  - (ii) our refusal at any time to transfer your funds.
- (b) Without in any way limiting the effect of this clause or any other clause of this agreement, "consequential damages" shall be taken to include damages arising from:
  - (i) loss of business,
  - (ii) loss of opportunity to realise a gain as a result of foreign exchange fluctuations,
  - (iii) loss of any other opportunity, or
  - (iv) loss of interest on funds.

- (c) For the avoidance of doubt and without limiting any other provision of this Client Agreement:

- (i) if your funds are sent to the wrong account or otherwise fail to reach the correct account as the result of a mistake made by us, we will credit the correct account the full amount of the funds you expect to receive (subject always to your obligations under this Client Agreement), but that will be the full extent of our liability to you; and
- (ii) if we Close Out or refuse to process one or more of your Transactions for any reason, we will refund to you any funds that we hold on your behalf by way of Advance Payment or otherwise, but that will be the full extent of our liability to you.

## 12. DISPUTES

- (a) The Client and GPS must endeavour to settle any dispute arising out of or relating to this Client Agreement, including with regard to its existence, validity or termination, by mediation administered by the Australian Disputes Centre (**ADC**) before having recourse to arbitration or litigation.
- (b) The mediation will be conducted in accordance with the ADC Guidelines for commercial mediation operating at the time the matter is referred to ADC (**the Guidelines**).
- (c) The terms of the Guidelines are deemed to be incorporated into this Client Agreement.
- (d) This clause survives termination of this Client Agreement.

## 13. ANTI-MONEY LAUNDERING / COUNTER-TERRORISM FINANCING (AML / CTF)

The Client acknowledges and understands that:

- (a) GPS is obligated to comply with the AML / CTF Act.
- (b) before we can accept you as a 'client', we must verify your identity;
- (c) you must provide us with any information that we require in order to comply with our obligations under the AML / CTF Act; and
- (d) GPS may block, delay, freeze or refuse any Transaction or Order if we have reasonable grounds to suspect that the transaction may:
  - (i) breach a sanction or law of Australia or another country; or
  - (ii) directly or indirectly involve the proceeds of crime.

## 14. PRIVACY

- (a) GPS is committed to keeping your personal information safe.

- (b) GPS collects, uses and discloses personal information received from you in accordance with applicable laws. We may transfer information to affiliates, including in the United States.
- (c) The GPS Privacy Policy is available via our website [www.gpsfx.com](http://www.gpsfx.com) and sets out the ways that we will collect, use and disclose the personal information that you have provided to us.
- (d) The Client indemnifies GPS and its officers, agents and employees from and against any and all actions, claims, demands, losses, damages, liabilities, cost and expenses of any nature resulting from GPS's non-compliance with applicable privacy laws which are a direct consequence of the actions or omissions of the Client.

## 15. ELECTRONIC COMMUNICATION

- (a) You consent to us sending you notices and other documents by email.
- (b) You understand that:
  - (i) we will either make all documents (including notices, statutory disclosures and a copy of this Client Agreement):
    - a. available for a reasonable time on your online account on our secure portal; or
    - b. send you these documents by email or other electronic communication;
  - (ii) we will not send paper copies of any documents unless required by law;
  - (iii) you must regularly check your nominated email address for notices; and
  - (iv) you may withdraw your consent to the giving of notices or other documents electronically at any time, provided that we can agree on a suitable way for us to communicate with you; and
- (c) You also understand and acknowledge that when you put your signature or initials on a document electronically, you will be bound by that document as if you signed it by hand.

## 16. GENERAL

### 16.1 Costs

Each party must pay its own costs in relation to:

- (a) the negotiation, preparation, execution, performance, amendment or registration of, or any consent given or made; and
- (b) the performance of any action by that party in compliance with any liability arising,

under this Client Agreement, or any Transaction effected or Order placed in accordance with this

Client Agreement, unless this Client Agreement provides otherwise.

### 16.2 Assignment

- (a) The Client must not assign, mortgage, charge, transfer, or deal in any other way with any of your rights or liability under this Client Agreement or any Transaction or Order without the prior consent of GPS.
- (b) GPS may assign its rights and obligations under this Client Agreement or in respect of a Transaction or Order to any person.

### 16.3 Severability

Any provision of this Client Agreement which is invalid in any jurisdiction is invalid in that jurisdiction to that extent, without invalidating or affecting the remaining provisions of this document or the validity of that provision in any other jurisdiction.

### 16.4 Counterparts

This Client Agreement may be executed in any number of counterparts, all of which taken together are deemed to constitute one and the same document.

### 16.5 Entire Agreement

This Client Agreement and any Confirmation contain all of the terms, representations and warranties between the Client and GPS and constitute the entire understanding between the parties.

### 16.6 No Waiver

No failure or delay by GPS to exercise any right, power or privilege under this Client Agreement operates as a waiver. No waiver of GPS's rights, powers or privileges under this Client Agreement is effective unless made in writing. GPS may exercise all of its rights at any time and more than once.

### 16.7 Governing law and jurisdiction

This Client Agreement is governed by and construed under the law in the State of New South Wales.