

# ***CLIENT AGREEMENT***

## **INTRODUCTION**

Superforex Financial Pty Ltd (ACN 125 839 572) (“Superforex”, “we” or “us”), will provide foreign exchange services to you, on the terms and conditions of:

- (a) these terms and conditions (“Client Agreement”);
- (b) the current Product Disclosure Statement (PDS);
- (c) the current Financial Services Guide (FSG);
- (d) any additional terms and conditions issued by Superforex in connection with the foreign exchange services; and
- (e) the written confirmation of the Transaction entered into by you (“the Confirmation”).

If there is any inconsistency between the Confirmation and this Agreement, the Confirmation will prevail.

## **OPERATIVE PROVISIONS**

### **1. INTERPRETATION**

- 1.1 If there is any conflict between the terms and conditions of this Agreement and any applicable law, the applicable law will prevail.
- 1.2 In this Agreement, any reference to a person includes bodies, corporate, unincorporated associations, partnerships and individuals.
- 1.3 In this Agreement, all references to times of the day are to the time in Sydney, New South Wales, Australia, unless otherwise specified.
- 1.4 Headings, notes and examples in this Agreement are for reference only and do not affect the construction of the Agreement.
- 1.5 In this Agreement any reference to any enactment includes references to any statutory modifications, enactments or re-enactment of such enactments or to any regulation or order made under such enactment (or under such a modification or reenactment).

### **2. SERVICES**

#### **2.1 Transactions**

Subject to you fulfilling your obligations under this Agreement, we may, but are under no obligation to, enter into transactions with you for the sale, purchase and delivery of currency Transactions (“Transactions”). Transactions may be:

- (a) spot Transactions under which currency is bought or sold for delivery against receipt of payment within 2 business days of the date of the Transaction; and
- (b) forward Transactions under which currency is bought or sold for delivery at a fixed future time at a premium or discount to the spot rate.

#### **2.2 Superforex as principal**

We will generally transact as principal with you and deal with you on an execution only basis. In entering a Transaction, you must not treat any information or comments by us as advice and must rely only on its own judgment, or the judgment of its third party adviser.

#### **2.3 Delivery**

You must take physical delivery of and pay for the currency in question prior to the date specified in the Confirmation (“the Settlement Date”), and, if deposit or installment payments are called for by us in the Confirmation or otherwise, to make such payments at such time or times as we may require.

## **INSTRUCTIONS**

### **3.1 Identification**

You may be provided with a client identification number and password for identification verification purposes. Such number and password are to be protected from unauthorised access or use by you, as telephone, facsimile, email or online instructions will be considered properly authorised and valid by us and are binding on you, upon inclusion of such number and password, whether authorised or not.

### 3.2 Form of Instructions

You may give us verbal or written (including facsimile, email or online account facility) instructions relating to a Transaction for the purchase or sale and delivery of currency. We are authorised to rely and act upon such instructions provided that:

- facsimile instructions are signed by you or your Authorised Signatory, and the signature appears reasonably similar to the specimen provided by you;
- telephone, email and online account instructions are submitted to us using the client identification number and password that has been provided by you.

### 3.3 Authorised Signatory

You may authorise any other person (“Authorised Signatory”) to give instructions on your behalf and we may act upon Instructions which are or appear to be from you or an Authorised Signatory. You must notify us in writing immediately if there is any change to the Authorised Signatory list.

### 3.4 Further Information

We may, but are not obliged to, require further confirmation or information from you of any instruction if we consider that such confirmation of information is desirable or that an instruction is ambiguous, or if the instruction is to close your account. We are not liable to you for any delay or non-completion of the Transaction resulting from such request for further information.

### 3.5 Formation of Contract and Written Confirmation

The receipt of an instruction from you and the acceptance of the Transaction by us will result in the formation of a contract between us and you in relation to the Transaction. On the execution of the instructions and the Transaction, we will give, fax, or transmit electronically to you written confirmation which will form the details of the Transaction (the ‘Confirmation’).

### 3.6 Check Confirmation

Within one hour of transmission of the Confirmation, you must check the Confirmation carefully and immediately bring any errors or omissions to the attention of Superforex. Where any errors or omissions are caused by the fault of Superforex, those errors or omissions will be rectified in the contract that has been formed between Superforex and you in relation to the Transaction.

### 3.7 Refusal of Instructions

We may at our absolute discretion refuse any instructions given by you without giving any reason or being liable for any loss you suffer as a result of such refusal.

### 3.8 Recording of Transactions

You agree to the electronic recording of telephone conversations between the parties with or without an automatic tone warning device, and the use of such recordings as evidence in any dispute or anticipated dispute between the parties or relating to dealing between the parties.

## 4. *PAYMENT*

### 4.1 Funds

You must pay us in full in cleared and transferable funds the amount of any Transaction, and any Superforex applicable service fees before we will pay, transmit or exchange any funds for you.

### 4.2 Mode of Payment

You must pay by electronic transmission or by such other means as agreed with us in any particular case into a bank account nominated by us, the full amount owing in the case of any Transaction which is a Spot Contract, or in the case of a Transaction which is a Forward Contract such deposit (“Deposit”) as may be specified in the Confirmation or such additional margin payments (“Margins”) of which we may subsequently notify you in accordance with Clause 5.

### 4.3 Cleared Funds

You must ensure cleared funds are received by us for the full amount and applicable transfer charges on or before the Settlement Date in relation to Forward Contracts and Spot Contract Transactions.

#### 4.4 Payment by Superforex.

We may, but are not required to, make any payment under any Transaction without first having received confirmation satisfactory to it that cleared funds for all sums due and payable by you to us have in fact been received.

#### 4.5 Payment without deduction

You must make all payments under this Agreement in full without any deduction, setoff, counterclaim, or withholding of any kind.

#### 4.6 Superforex Deductions

We may deduct from any payment to be made to you any amount that you may owe to us or any fees, costs, withholding taxes, or charges incurred by us in respect of any Transaction with you, however they arise. Where outstanding Transactions are terminated pursuant to Clause 10 of this Agreement, we will calculate in Australian dollars the marked to market value of each Transaction as at the termination date using prevailing market rates chosen by us in good faith. You irrevocably authorise us to apply any moneys held at any time by us for you under any account or arrangement between you and us to our own account to pay any amount that you owe or may at any time owe to us under any other account or arrangement between you and us. We may use any amounts which you deposit with us to cover any outstanding positions before those moneys are allocated to any requests to purchase foreign exchange contracts.

### 5. *DEPOSIT AND INSTALMENT*

You must pay to us in relation to forward Transactions:

- (a) such sums by way of a Deposit or Instalment as we may require under this Agreement, including but not limited to such Deposit or Instalments calculated by reference to this Agreement, the PDS and the Confirmation;
- (b) such sums of money as may from time to time be due to us under a Transaction including, without limitation, charges specified in the Confirmation and the PDS from time to time; and
- (c) such sums of money as we may from time to time require as security for your obligation to us.

### 6. *INTEREST*

If you fail to make any payment required under this Agreement when it falls due, interest will be charged on the outstanding sum at a rate of five percent per annum over the rate determined by the Reserve Bank of Australia (or of such monetary authority as may replace it) as the cash rate that may be charged on interbank loans. Such interest will accrue and be calculated daily from the date the payment was due until the date you pay in full and will be compounded monthly. We may receive and retain or apply for its own benefit any interest which arises in respect of any sum paid to, or held by it.

### 7. *FEES*

#### 7.1 Set out in Confirmation

Our fees will be set out in the Confirmation. You acknowledge also that because Superforex deals as principal, the exchange rate it offers you may not be the same as the rate we obtain ourselves.

#### 7.2 Transaction Fees

We reserve the right to charge a Transaction fee, a dishonoured cheque fee, a telegraphic transfer fee and an express delivery fee, in the amounts detailed in the current Product Disclosure Statement and/or the Confirmation. Details of such fees and costs will be disclosed to you when entering into a Transaction.

#### 7.3 Additional Fees

You may also incur additional fees and charges from banks transmitting/receiving beneficiary funds, and such fees may be deducted from the final amount transmitted. We do not receive advance notice of, nor are liable for, such fees.

### 8. *DISPUTES*

#### 8.1 Disputed Transactions

If a dispute arises between us and you relating to the existence of terms and conditions of any Transaction (a "Dispute Transaction"), we may close out or take any other action it considers appropriate in relation to the Dispute Transaction without previously notifying and/or without having received instructions from you. We will try to notify you (verbally or in writing) what action is to be taken, as soon afterwards as we practically can, but if it does not, the validity of its action will not be affected.

#### 8.2 Limited Liability

Without prejudice to the exercise of our rights elsewhere under this Agreement, a party found at fault in relation to a Dispute Transaction will not be liable for more than the direct loss incurred by the other party (plus interest on that loss) in connection with that Transaction.

#### 9. RISK DISCLOSURES

You confirm you have read, understood and accepted the risk disclosures contained in the PDS provided prior to executing the Application in relation to the foreign exchange products described in the PDS.

#### 10. TERMINATION OF TRANSACTION

##### 10.1 Closure and Refusal to Perform

We may refuse to perform or may close out all or any part of any Transaction, without incurring any liability to you for losses that you may sustain as a result, and without giving notice to you or receiving any instructions from it, upon or at any time after the happening of any of the following events.

- (a). You fail to make any payment when due under this Agreement and/or the Confirmation;
- (b). you die or become of unsound mind;
- (c). you suspend payment of your debts, make any composition with your creditors, have a receiver appointed over some or all of your assets, take or have any proceedings taken against you in bankruptcy or take or allow any steps to be taken for your winding up (except for solvent amalgamation or reconstruction approved in writing by us) or anything similar to any of these events happen to you anywhere in the world;
- (d). you fail in any respect to fully and promptly to comply with any obligations to us under this Agreement, the PDS, the FSG, or otherwise;
- (e). any of the representations or information supplied by you are or become inaccurate or misleading in any material respect;
- (f). if it becomes or may become unlawful for us to maintain or give effect to all or any of the obligations under this Agreement or otherwise to carry on its business, or if Superforex or you is requested not to perform or to close out a Transaction (or any part thereof) by any government or regulatory authority, whether or not that request is legally binding; and
- (g). we consider it necessary to do so for its own protection.

##### 10.2 You are Aware of Events

If you become aware of the occurrence of any event referred to in clause 10.1 above, you must notify us immediately.

##### 10.3 Actions by Superforex

If any event referred to in Clause 10.1 takes place we may also at our discretion be entitled to:

- (a). forfeit the whole or any part of any sums previously paid to us (to a maximum amount equal to all sums due or to become due to us from you); or
- (b). charge you with all of the costs, expenses and losses and interest at the rate referred to in clause 6 on any sums that we may expend or borrow in connection with Transactions and action it may take to cover or reduce its exposure under the Transactions, incurred by us as a result of us entering into the Transactions with you

##### 10.4 Moneys Payable or Due

If for any reason a Transaction is closed out or does not proceed to completion, we will send to you any sum due to you or a notice setting out the sum due from you.

##### 10.5 Dishonoured Cheques

If your cheque, or any other method of payment, is dishonoured, returned, not met on first presentation or stopped for whatever reason, we may levy an administrative charge which will become payable by you in addition to any other sums due under this Agreement.

#### 10.6 Delays in Payment

We are not responsible in any way for any delay in payment by us under this Agreement caused by you or any other third party, including but not limited to bank delay, postal delay, failure or delay of any fax or electronic transmission or delay caused by accident, emergency or act of god. For the avoidance of doubt you accept that you are solely responsible for ensuring that all payments required from you under any Transaction between you and us are made promptly and within the time limits specified by the particular Transaction.

#### 11. *CLIENT REPRESENTATION & WARRANTIES*

You represent and warrant to us, both at the date of this Agreement and at the time each Transaction is entered into or carried out that:

- (a) Organised: you are 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, the Agreement and the Transactions and perform its obligations under them;
- (b) authority: the person executing this Agreement has full power and authority to execute the Agreement on behalf of you and bind the entity (whether individual, company, partnership or otherwise);
- (c) binding obligation: this agreement constitutes a legal, valid and binding obligation of you;
- (d) jointly and individually liable: where you are more than one person you will each be jointly and individually liable;
- (e) trustee: where you are a trustee, the trust deed specifically empowers and authorizes dealings in the foreign exchange products, and such dealings are within the authorized ambit of the trust's investments strategy;
- (f) joint account: where you are a joint account, all such decisions made, and instructions under this Agreement, are made on a fully informed and agreed basis by all the parties to the Joint Account;
- (g) investment manager: where you are an investment manager or a responsible entity, the investment management agreement or fund constitution specifically empowers and authorises dealings with the foreign exchange products, by you and on behalf of the beneficiaries; and:
  - i. it will enter into Transactions under the applicable investment management agreement or fund constitution as investment manager or responsible entity and not otherwise;
  - ii. 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 dealings;
  - iii. in the event of termination of your appointment as investment manager or responsible entity, it is authorised to arrange for closing out of all contracts entered into prior to the date of such termination as soon as possible.
- (h) understanding: you have read this Agreement and the risk disclosures in the current PDS, have considered your objectives and financial situation, have been advised by us to obtain appropriate independent advice prior to entering into this Agreement, and have formed the opinion that dealing in the foreign exchange products is suitable for your needs and purposes;
- (i) financially able: you are willing and able, financially and otherwise, to assume the risk of trading in high risk investments;
- (j) material accurate: all information supplied to us by you is, or at the time it is supplied will be, accurate in all material respects and you will not omit or withhold any information which would make such information inaccurate in any material respect;
- (k) guarantee: you must, where so required, provide to us a valid and binding guarantee and indemnity in our favour as a precondition of entering into this Agreement;
- (l) information: you must provide to us on request such information regarding its financial and business affairs and/or identity, as we may reasonably require, and;
- (m) appointments: in executing this Agreement, you appoint Superforex as your agent for the purpose of dealing in foreign exchange products in accordance with the terms of this Agreement.

## 12. *LIMITATION OF LIABILITY AND INDEMNITY*

### 12.1 Maximum Liability of Superforex

The maximum liability of Superforex, whether arising in contract, tort or otherwise in no circumstances exceeds an amount equal to the Superforex currency traded by Superforex under the Transaction. Furthermore, Superforex in no way is liable to you for consequential or indirect loss you may incur as a result of the failure to perform its duties or Transactions;

### 12.2 Limitation of Liability

Superforex is not liable to you for any performance delay or failure due to a cause beyond its reasonable control including, without limitation, failure of its online account facility, any communication systems or delays caused by a third party. It is acknowledged by you that Superforex uses funds transfer services of third party licensed banks and agrees that Superforex is not liable for any failure or error in such services.

### 12.3 Indemnity

You continuously, unconditionally and irrevocably, indemnify Superforex, its agents and their directors and officers, from and against all liabilities, damages, losses and costs (including legal costs), duties, taxes, charges, commissions or other expenses incurred by Superforex in the proper performance of its services or the enforcement of its rights under this Agreement and, in particular, but without limiting the general indemnity, against all amounts which Superforex may certify to be necessary to compensate it for all liabilities, damages, losses and costs including loss of profit and losses and expenses from any action Superforex takes to seek to cover or reduce its exposure under any Transaction as a result of:

- (a) you breaching any terms of this Agreement;
- (b) Superforex acting, or failing to act, on a written, verbal, telephone, fax or electronic order which appeared to Superforex to be from you or an Authorised Person; or
- (c) Superforex exercising its rights under this Agreement to close out all or any part of any Transaction before its applicable Settlement Date.

### 12.4 Survival of Indemnity

The indemnity in this clause 12 survives termination of this Agreement and any Transaction under this Agreement;

## 13. *PRIVACY*

### 13.1 Personal Information

In the course of opening your account and providing services to you under this Agreement, it will be necessary for us to obtain and hold personal information that we obtain from you in accordance with data protection and anti-money laundering legislation. You agree that we can rely on, hold and process personal information for the purpose of performing those services and our obligations under this Agreement and for the purpose of improving those services through such things as product improvement and development.

### 13.2 Provision of our services

If you do not provide the information requested by us or agree to our information handling practices detailed in this Agreement, we may not be able to provide our services to you.

### 13.3 Disclosing Information

You agree to us disclosing any information we collect from you:

- (a) in accordance with this clause 13;
- (b) where we are required by law or regulatory authorities;
- (c) to regulatory authorities and to such third parties as we originally consider necessary in order to prevent crime;
- (d) where reasonably necessary, to any third party which provides a service to us in connection with this Agreement, but restricted to the purposes of providing that service.

### 13.4 Credit and identity checks

You consent to us, or our agents acting on our behalf, carrying our credit and identity checks, including money laundering, compliance regulatory reporting and fraud prevention checks, as we may reasonably consider necessary or desirable, including references on your bank or any credit reference agency. You agree that any third party that we use for this purpose may share any information concerning you with us and other organisations.

#### 13.5 New products or services

You authorise us to contact you by email, telephone or post to give you information about our new products or services and you consent to us using your data for this purpose for the period that you have an account with us and after you have closed the account. However, if you do not wish to receive such information, you should advise us.

#### 13.6 Pass Personal Data

You authorise us to pass your personal information to selected related entities of us or third parties for the purpose of contacting you by email, telephone or post to give you information about products offered by that Party for the period you have an account with us and after you have closed it. If you no longer wish to receive this information, you should advise us.

#### 13.7 Other Countries

You acknowledge that it may be necessary for your information to be transferred to someone who provides a service to us in other countries, and you consent to such transfer.

#### 13.8 Access to information

You may contact us at the address listed in the PDS if you wish to request access to any personal information that we hold about you for the time.

#### 13.9 Recording

We may record all conversations with you and monitor and maintain a record of all emails sent by or to us. All such records are our property and can be used

#### 14. *ILLEGALITY ETC.*

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement under the law of that jurisdiction nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction will be in any way affected.

#### 15. *ASSIGNMENT AND DELEGATION*

The following provisions apply in relation to assignment and delegation:

- (a) You may not assign any of your rights or delegate any of your obligations under this Agreement to any person without the prior written consent of us.
- (b) You may not charge any or all of their rights under this Agreement, including any rights to deposits held by us.
- (c) Without prejudice to clause 15(a) of this Agreement, we may assign its rights or delegate any of its obligations under this Agreement to any person on giving not less than 7 business days' notice to you.
- (d) If you are in default of any of your obligations under this Agreement, we will be entitled (without prejudice to any other rights it may have) at any time thereafter to assign to any person with immediate effect all or any of its rights in respect of moneys owing to it under this Agreement, as well as any security or other remedies available to it in respect of such moneys. If any such assignment is made, then you will, if so required by us and the assignee, acknowledge in writing that the assignee has assumed the rights and obligations of us under this Agreement in relation to the relevant moneys owing by you.
- (e) Despite anything to the contrary contained in this Agreement, we may disclose to any actual or potential delegate or assignee as referred to in clause 15(c) of this Agreement, such information relating to you and its relationship with us, as we sees fit.

#### 16. *RIGHTS AND REMEDIES*

The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

#### 17. *RIGHTS OF THIRD PARTIES*

Nothing in this Agreement is intended to confer on any person other than we or you any right to enforce any term of this Agreement.

#### 18. *DELAY, OMISSION AND WAIVER*

The following provisions apply to any delay, omission and waiver:

- (a) No delay or omission on the part of Superforex in exercising any right, power or remedy provided by law or under this Agreement, or partial or defective exercise thereof, will:
  - i. impair or prevent further or other exercise of such right, power or remedy; or
  - ii. operate as a waiver of such right, power or remedy.
- (b) No waiver of any breach of any term of this Agreement will (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of the particular breach.

#### 19. *GOVERNING LAW AND JURISDICTION*

##### 19.1 Law

This Agreement and each Confirmation between us and you will be governed by and construed in accordance with the law of New South Wales.

##### 19.2 Jurisdiction

The parties submit to the non-exclusive jurisdiction of the law of New South Wales, Australia.

#### 20. *NOTICES*

20.1 Notices must be in writing subject to this clause 20 and the PDS, any notice or other communication given or made under or in connection with the matters contemplated by this Agreement will, except where oral communication is expressly provided for, be in writing and will be sent to the address below:

- (a) Super Forex Financial Pty Ltd  
Address: Suite 2304 International Tower One  
100 Barangaroo Avenue  
Barangaroo NSW 2000  
Ph No: +61 2 99930796  
Fax No: +61 2 99930797  
Email Address: info@superforex.com.au
- (b) You: The address, facsimile number and electronic mail address provided by you for this purpose.

##### 20.2 Provision of notice

A notice in writing can be provided by letter, fax, email or to the extent permitted by applicable laws, Superforex's website.

##### 20.3 When notices are received

Any notice will be deemed to have been received:

- (a) if delivered personally or by hand, at the time of the delivery;
- (b) if posted, within 3 Business Days of posting;
- (c) if oral, whether by telephone or face to face, when actually given;
- (d) if by leaving a message on a telephone answering machine or voice mail, one hour after the message was left
- (e) if sent by facsimile, one hour after completion of its transmission; and
- (f) if sent by electronic mail, one hour after sending.



#### 20.4 Change of notice details

You may alter the address (including electronic mail address) to which Confirmations, statements and other communications are issued, by written notice to us and we may notify you of a change to any of its details as stated above, provided in either case that such alteration will only be effective on the later of the date specified in the notice and the time of deemed service under clause 20.3 of this Agreement.

20.5 Deemed notice where notice sent correct details provided you agree and acknowledge that any Confirmations, statements, supplementary PDS, and any other written notices will be deemed to have been properly given or made available if sent to the address (including electronic mail address) last notified to us by you.

20.6 Your responsibility to update contact details You agree and acknowledge that you are solely responsible for ensuring that we have your current address, telephone number, facsimile number and electronic mail address.

#### 21. APPLICATION FORM

You by signing or submitting electronically the relevant application form when it is applying to become a customer of ours:

- (a) acknowledge to us that it has received or downloaded, and read and understood this Agreement and the current PDS;
- (b) agree that we will provide its products and services to them on the terms and conditions of this Agreement.

#### 22. ANTI-MONEY LAUNDERING LEGISLATION

You acknowledge that we may require further information from you from time to time to comply with the Anti-Money Laundering and Counter- Terrorism Financing Act (AML/CTF Act). By entering into this Agreement, opening an account and transacting with us, you undertake to provide us with all additional information and assistance that may reasonably be required to comply with the AML/CTF Act.

You also warrants that:

- (a) you are not aware and have no reason to suspect that:
  - i. the moneys used to fund your Transactions have been or will be derived from or related to any money laundering, terrorism financing or other illegal activities whether prohibited under Australian law, international law or convention or by agreement; or
  - ii. the proceeds of your investment will be used to finance any illegal activities; and
- (b) neither you nor any of your directors, in the case of a company, are a politically exposed person or organisation as the term is used in the Anti-Money Laundering and Counter- Terrorism Rules Instrument 2007 .

#### 23. CLIENT MONEY

##### 23.1 Australian Client Money Rules and Authorisations

All money paid to us by you or a person acting on your behalf, or which is received by us on behalf of you, will be held by us in one or more segregated bank accounts. These moneys do not constitute a loan to us and are held on trust by us. You agree and acknowledge that individual accounts of our clients are not separated from each other within the segregated trust accounts operated by us. Furthermore, you understand the possible risks of this as explained in the PDS, that you have received or downloaded.

##### 23.2 Investment of moneys held

We may invest any of your money held in any segregated trust account as permitted by the Australian Client Money Rules under the Corporations Act 2001 (Cth) and you irrevocably and unconditionally authorise us to undertake any such investment

##### 23.3 Treatment of investment capital and interest

Unless otherwise agreed in writing with you:

- (a) we are solely entitled to any interest or earnings derived from your moneys being deposited in a segregated trust account or invested by us in accordance with the Australian Client Money Rules

- with such interest or earnings being payable to us from the relevant segregated trust account or investment account, as and when we determine;
- (b). upon realisation of an investment of your moneys, the initial capital invested must either be invested in another investment permitted by the Australian Client Money Rules or deposited by us into a segregated trust account operated in accordance with the Australian Client Money Rules;
  - (c). in the event that the amount received upon realisation of an investment of your moneys is less than the initial capital invested, we must pay an amount equal to the difference into a segregated trust account for your benefit, except where any such difference is the result of amounts paid out of the investment to us and/or any Associate of ours in accordance with the terms and conditions of this Agreement;
  - (d). we will not charge a fee for investing your moneys in accordance with the Australian Client Money Rules.

#### 23.4 Property held on trust

If property, other than money, is given to us by you or a person acting on your behalf, or for your benefit, it must be held by us on trust in accordance with the Australian Client Money Rules.

#### 23.5 You authorise us to deal with your Account

You irrevocably and unconditionally authorise us and/or any associate of ours to:

- (a). withdraw, deduct or apply any amounts payable by you to us and/or any associate of ours under this Agreement from your moneys held in any segregated trust account or invested by us, including, without limitation making a payment for, or in connection with, the margining, adjusting or settling of dealings in foreign exchange contracts entered into by you or the payment of interest or charges to us;
- (b). pay, withdraw, deduct or apply any amounts from your moneys held in any segregated trust account or invested by us as permitted by the Australian Client Money Rules.

### 24. AMENDMENT AND TERMINATION

#### 24.1 Current version of Agreement governs foreign exchange Transactions

You agree that the version of this Agreement published on our website at the time of entering into a foreign exchange Transaction governs that Transaction.

#### 24.2 Amending Agreement

We may amend or replace this Agreement by giving written notice of the changes. We will only make changes for good reason, including:

- (a). making the provisions clearer or more favourable to you;
- (b). reflecting legitimate increases or reductions in the cost of providing services to you;
- (c). rectifying any mistakes that may be discovered;
- (d). reflecting any changes in the applicable laws, codes of practice or decisions by a court, ombudsman, regulator or similar body;
- (e). reflecting changes in market conditions;
- (f). reflecting changes in the way we do business.

#### 24.3 You may object

If you object to any changes, you must notify us within 14 days of the date the notice is deemed to be received under clause 20. If you do not do so, you will be deemed to have accepted the changes if you give us notice that you object, then the changes will not bind you; but we may require you to close your account as soon as reasonably practicable and/or restrict you from entering into further Transactions.

#### 24.4 Application date

Subject to clause 24.2, the amendments made under this clause 24 will apply from the effective date as stated by us of the changes specified in the notice.

#### 24.5 Our right to terminate

We may terminate this Agreement and close your account at any time by giving you 30 days written notice; this right is in addition to any other rights to terminate this Agreement or close your account that we may have under this Agreement, but is subject to us discharging all prior obligations to you.

#### 24.6 Your right to terminate

You may also terminate this Agreement or close your account at any time by giving us written notice. Your account will be closed as soon as reasonably practicable after we have received notice, all open positions are closed, or orders cancelled, and all of your obligations are discharged.

#### 24.7 Reservation of rights

If you or we provide notice to close your account or terminate this Agreement under this clause 24, we reserve the right to refuse to allow you to enter into any further Transactions or orders which may lead to you holding further positions.

### 25. *ONLINE ACCOUNT FACILITY*

#### 25.1 Acknowledgments

You acknowledge that you have read, understood and agreed to the terms and conditions associated with using our online account facility as set out in this Client Agreement.

#### 25.2 Amendments

We may amend any of the terms of these Client Agreement clauses and by continuing to deal with Superforex or to access or use the online account facility, you agree to any amendment.

#### 25.3 Access

Superforex agrees to grant you online access to your account (“online account”) for the electronic transmission of orders to your account with Superforex, using identifications referred to in clause 3.1 of this client agreement.

#### 25.4 Use of account

- (a). Superforex consents to your online account access and use in reliance upon you having adopted procedures to prevent unauthorized access to and use of the online account, in any event, you agree to any financial liability for instructions executed through the online account.
- (b). The online account facility is provided on an “as-is” basis and Superforex makes no express or implied representations or warranties to you regarding its operation or usability.
- (c). Superforex makes no representations or warranties regarding any services provided by any third party.
- (d). Superforex may offer real-time tradeable prices to you. Due to delayed transmission between yourself and Superforex the price offered may have changed before an order from you is received by Superforex. If automatic order execution is offered to you, Superforex shall be entitled to change the price on which your order is executed to the market value at the time which the order from you was received.
- (e). Superforex does not warrant that access to or use of the online account facility will be uninterrupted or error-free, or that the service will meet any particular criteria with respect to its performance or quality. Superforex expressly disclaims all implied warranties, including without limitation warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security or accuracy.

#### 25.5 Confirmation

The online account provided by Superforex may be used to transmit, receive and confirm the execution of orders, subject to market conditions and applicable operating rules and regulations. Regardless of any online confirmation received upon placement of an instruction via your online account, such transaction is not confirmed by Superforex until Superforex provides confirmation.

#### 25.6 Policy

Superforex reserves the right, in its sole discretion, to institute or change any policies at any time relating to the use of the online account.

#### 25.7 Liabilities

- (a) Under no circumstances, including negligence, will Superforex, 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 account facility. Where liability cannot be excluded, Superforex's liability shall be limited to an amount equal to the amount of any fees paid to Superforex by your use of the online account facility.
- (b) You agree not to hold Superforex and any of its service providers (for whom it acts as agent in this regard) liable for any form of damage arising as a result of the unavailability of the online account facility.
- (c) You agree to bear all risk from the use of the online account facility, and you agree to assume full responsibility for any losses resulting from the use of or materials obtained via the online account facility.
- (d) Superforex its directors, officers, employees, agents, contractors, affiliates, third party vendors, information providers, and other suppliers providing information or data services do not warrant that the online account facility will be uninterrupted or error free nor do we or they make any warranty as to the timeliness, sequence, accuracy, completeness, reliability or content of any information, service or transaction provided through the use of the online account facility or the results obtained from its use.
- (e) Superforex and its service providers will not accept any form of liability including any loss or damage to you or to any other person for:
  - i. any inaccuracies, errors or delays or omissions of any data, information or message or transmission or delivery of any such data, information or message;
  - ii. non-performance;
  - iii. 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 Superforex's control; Force majeure events include 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.

#### 25.8 Data use and storage

The use and storage of any information provided or made available to you through the use of the online account facility is for your use and your sole risk and responsibility.

#### 25.9 Equipment

You are responsible for providing and maintaining the communications equipment and telephone or alternative services required for accessing and using the online account facility, and for all communications service fees and charges incurred by you in accessing the online account facility.

#### 25.10 Termination

- (a) Superforex may at any time at its sole discretion terminate or restrict your access to the online account facility at any time. Should Superforex terminate these Client agreement clauses or access to the online account facility you will be liable for all fees charges and obligations incurred under these clauses prior to termination.
- (b) Your 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 account facility.

#### 25.11 Maintenance

You acknowledge that from time to time, and for any reason, the online account facility may not be operational or otherwise available for your use due to servicing, hardware malfunction, software defect, service or transmission interruption or other cause.

#### 25.12 Alternative arrangements

You acknowledge that you have 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 your orders through the online account facility. In the event the online account facility not being operational, you agree to contact Superforex to make alternative order entry arrangements. Such arrangements may be in the form of telephone, or as otherwise agreed.

#### 25.13 Prohibited uses

You may not under any circumstance use the online account facility to do any of the following:

- i. publish, post, distribute or disseminate defamatory, infringing, obscene or other unlawful or offensive material or information;
- ii. intercept or attempt to intercept any email correspondence;
- iii. use the online account facility in any manner that may adversely affect its availability or its resources to other users;
- iv. send correspondence electronically or otherwise to other users for any purpose other than personal communication; or act, or fail to act in a manner which may result in the violation of any laws or regulations.