

# AXIFOREX

## RETAIL CLIENT AGREEMENT

**AxiForex Pty. Ltd.**

Level 10, 90 Arthur St, North Sydney, NSW 2060 AUSTRALIA

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# CLIENT AGREEMENT

## INTRODUCTION

AxiCorp Financial Services Pty Ltd "AxiCorp", ACN 127 606 348 holder of Australian Financial Services Licence number 31823 has authorised Corporate Authorised Representatives (Companies) and Authorised Representatives (Individuals) to provide financial services. As the licensee, AxiCorp is responsible for the service you receive from our representatives and us.

AxiForex Pty Ltd is authorised, as well as its nominated representatives by AxiCorp provide the following financial services to retail and wholesale

- deal in foreign exchange contracts and derivatives;
- make a market in foreign exchange contracts and derivatives; and
- provide financial product advice in relation to foreign exchange contracts and derivatives.

We provide the following products and services:

- Foreign exchange spot contracts ("Spot Contracts");
- Foreign exchange forward contracts ("Forward Contracts"); and
- Currency exchange and payment transfer information and support.

If there is any inconsistency between the Confirmation and this Agreement, the Confirmation will prevail. AxiForex is a registered business name of AxiCorp.

## 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. DEFINITIONS

In this document, the following expressions have these meanings:

**Application** means AxiForex's account opening form in force from time to time;

**Associate** means

- (a) a person who is an officer, employee, agent, representative or associate of a party;
- (b) a Group Company of a party;
- (c) a person who is an officer, employee, agent, representative or associate of a Group Company of a party;

**Australian Client Money Rules** means the provisions in Part 7.8 of the Corporations Act and the Corporations Regulations made under those provisions that specify the manner in which financial services licensees are to deal with client moneys and property;

**Business Day** means a day the banks are open for general banking business in Sydney, other than a Saturday, Sunday or public holiday;

**Market Order** means an order that you make through AxiForex to complete a Transaction immediately at the best available current price.

## 3. SERVICES

### 5.1 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 either:

- (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 ("Spot Contract"); 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 ("Forward Contract").

### 5.2 AxiForex 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 personal advice and must rely only on your own judgement, or the judgement of your third party adviser.

### 5.3 Delivery

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

### 5.4 Market Orders

You may also enter into an agreement with AxiForex under which your Spot Contract becomes binding only when a certain exchange rate nominated by you ("Nominated Rate") is, able to be offered by us. When that offer rate is reached, we will fill your contract. You may amend or cancel the instructions given by you by telephone at any time before the Market Order is filled. However, once your Market Order is filled by us, you are bound to settle the Transaction in accordance with the terms of the relevant Spot Contract at the Nominated Rate.

The key terms of Market Orders may be summarised as follows:

A Market Order is binding from the time that your instructions are received by us. You may cancel a Market Order at any time before your Market Order is filled by giving us notice by telephone. However, you may not cancel a Market Order after the Market Order has been filled, whether or not we have notified you that your Market Order has been filled. When your Market Order is filled, you are legally bound by the associated Spot Contract.

Your Nominated Rate will be reached only when the exchange rate nominated in your Market Order has been filled by us. In some cases, the exchange rate may spike to the extent that your Nominated Rate has been reached, but has changed before we are able to fill your Market Order, we will not fill your Market Order in those circumstances.

As soon as you receive our notification that your Market Order has been filled, you must take action to ensure that the funds are paid into our account by the Settlement Date. If we do not receive the funds in time, we may close out the Transaction.

Market Orders are not available for amounts less than AUD 20,000 or equivalent.

The maximum period of validity for a Market Order is 21 days.

We will notify you when your Market Order has been filled.

## 4. INSTRUCTIONS

### 4.1 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, email or on-line trading platform on-line 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.

### 4.2 Form of Instructions

You may give us verbal or written (including email or on-line trading platform) instructions relating to a Transaction. We are authorised to rely and act upon such instructions provided that:

- telephone, email and trading platform instructions are submitted to us using the client identification number and password that has been provided by you.

### 4.3 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.

### 4.4 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.

### 4.5 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 transmit electronically to you written confirmation which will form the details of the Transaction (the 'Confirmation').

#### 4.6 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 AxiForex. Where any errors or omissions are caused by the fault of AxiForex, those errors or omissions will be rectified in the contract that has been formed between AxiForex and you in relation to the Transaction.

#### 4.7 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.

#### 4.8 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.

### 5. PAYMENT

#### 5.1 Funds

You must ensure cleared and transferable funds are received by us before the date on which funds are to be exchanged by us ("Settlement Date") in the amount of any Transaction, and any AxiForex applicable service fees, before we will pay, transmit or exchange any funds for you..

#### 5.2 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 additional payments ("Advance Payments") as may be specified in the Confirmation or otherwise of which we may subsequently notify you in accordance with Clause 23.

#### 5.3 Payment by AxiForex

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

#### 5.4 Payment without deduction

You must make all payments under this Agreement in full without any deduction,

setoff, counterclaim or withholding of any kind.

#### 5.5 AxiForex Deductions

We may deduct from any payment to be made to you any amount 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 12 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 conduct Transactions.

### 6. ADVANCE PAYMENTS

#### 6.1 You must pay to us in relation to Forward Contracts:

- (a) such sums by way of a Advance Payments as we may require under this Agreement, including but not limited to such Advance Payments 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, the fees outlined in Clause 9; and
- (c) such sums of money as we may from time to time require as security for your obligation to us.

### 7. CREDIT

#### 7.1 Credit Limit

We have no obligation to provide credit to you. However, where we have agreed to extend credit to you, a Credit Limit will be established and will apply to some or all of your Transactions, at our absolute discretion.

#### 7.2 Withdrawals

Any Credit Limit provided, may be withdrawn at any time, with 24 hours notice by us. We may, in our sole discretion and without advising you, act on your instruction which causes the Credit Limit to be exceeded. Where we act on your instruction, which results in a Credit Limit being exceeded, you remain fully liable for such amounts owed as a result of the Transaction.

## 8. 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 per cent 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 our own benefit any interest which arises in respect of any sum paid to, or held by us.

## 9. FEES

### 9.1 Set out in Confirmation

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

### 9.2 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 PDS. Details of such fees and costs will be disclosed to you when entering into a Transaction.

### 9.3 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.

## 10. DISPUTES

### 10.1 Disputed Transactions

If a dispute arises between us and you relating to the existence of terms and conditions of any Transaction (a "Disputed Transaction"), we may close out or take any other action we consider appropriate in relation to the Disputed 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 we do not, the validity of our action will not be affected.

### 10.2 Limited Liability

Without prejudice to the exercise of our rights elsewhere under this Agreement, a party found at fault in relation to a Disputed 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.

## 11. 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.

## 12. TERMINATION OF TRANSACTION

### 12.1 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 you, 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;
- (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 comply with any obligations to us under this Agreement 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 our business, or if AxiForex 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; or
- (g) we consider it necessary to do so for our own protection.

### 12.2 You are Aware of Events

If you become aware of the occurrence of any event referred to in Clause 12.1 above, you must notify us immediately.

### 12.3 Actions by AxiForex

If any event referred to in Clause 12.1 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 8 on any sums that we may expend or borrow in connection with Transactions and action we may take to cover or reduce our exposure under the Transactions, incurred by us as a result of us entering into the Transactions with you.

#### 12.4 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.

#### 12.5 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.

#### 12.6 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 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.

### 13. 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 have full power and authority to enter into, and have taken all necessary steps to enable you lawfully to enter into, the Agreement and the Transactions and perform your 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 authorises dealings in the foreign exchange products, and such dealings are within the authorised 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. you will enter into Transactions under the applicable investment management agreement or fund constitution as investment manager or responsible entity and not otherwise;
  - ii. you will only enter into Transactions when the funds or other assets under your 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, you are 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 entering into Transactions is suitable for your needs and purposes;
- (i) financially able: you are willing and able, financially and otherwise, to assume the risks outlined in the PDS;
- (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) information: you must provide to us on request such information regarding your financial and business affairs and/or

identity, as we may reasonably require. In the event you are listed on the Australian Securities Exchange or other licensed Securities market recognised by the Australian Securities and Investments Commission as an approved foreign market, this obligation is satisfied by disclosure by you under the listing rules of that market, and;

- (l) appointments: in executing this Agreement, you appoint AxiForex as your agent for the purpose of entering into Transactions in accordance with the terms of this Agreement.

- (b) AxiForex exercising our rights under this Agreement to close out all or any part of any Transaction before its applicable Settlement Date.

## **14. LIMITATION OF LIABILITY AND INDEMNITY**

### **14.1 Maximum Liability of AxiForex**

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

### **14.2 Limitation of Liability**

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

### **14.3 Indemnity**

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

- (a) you breaching any terms of this Agreement;  
AxiForex acting, or failing to act, on a written, verbal, telephone, or electronic order which appeared to AxiForex to be from you or an Authorised Person; or

#### Survival of Indemnity

The indemnity in this Clause 14 survives termination of this Agreement and any Transaction under this Agreement;

### 15. DIRECT DEBIT AUTHORISATION

The following provisions apply if a direct debit arrangement ("Direct Debit Authorisation") is entered into between you and us to debit your account for moneys due.

- (a) The Direct Debit Authorisation applies in respect of all moneys due and payable to us under the Confirmation and this Agreement;
- (b) You:-
  - i. must ensure that sufficient funds are available in the nominated account to meet all drawings on their due dates;
  - ii. must advise us immediately if the account nominated is transferred or closed;
  - iii. must ensure a suitable alternate payment method is arranged with us, if you terminate this Direct Debit Authorisation; and
  - iv. are liable for all fees incurred by us in relation to failed drawings.
- (c) AxiForex:
  - i. will draw the amount due on the next Business Day where the due date falls on a non-Business Day;
  - ii. reserves the right to cancel the Direct Debit Authorisation if three or more drawings are returned unpaid by your nominated financial institution and to arrange an alternate payment method with you.
- (d) You:
  - i. may terminate or amend the Direct Debit Authorisation at any time by giving 14 days prior to written notice to us;
  - ii. may stop payment of a drawing under the Direct Debit Authorisation, by giving us 3 days prior written notice;
  - iii. can dispute a drawing directly with us or lodge a direct debit claim through your nominated financial institution, where you consider a drawing has been debited incorrectly.

### 16. PRIVACY

#### 16.1 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.

#### 16.2 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.

#### 16.3 Disclosing Information

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

- (a) in accordance with this clause 16;
- (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.

#### 16.4 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.

#### 16.5 Introducing Brokers

In the situation where you have been introduced by an introducing broker, you consent to us exchanging information with that introducing broker for the purposes of this clause 15. You may withdraw your consent by advising us accordingly.

**16.6 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.

**16.7 Pass Personal Data**

You authorise us to pass your personal information to selected related entities of us or third parties only for the purpose of executing your instructions to us. If you no longer wish to receive this information, you should advise us.

**16.8 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.

**16.9 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.

**16.10 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 by us.

**17. 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.

**18. 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
- (b) Agreement to any person without the prior written consent of us;
- (c) You may not charge any or all of your rights under this Agreement, including any rights to deposits held by us;

(d) Without prejudice to Clause 18(a) of this Agreement, we may assign our rights or delegate any of our obligations under this Agreement to any person on giving not less than 7 Business Days' notice to you.

(e) If you are in default of any of your obligations under this Agreement, we will be entitled (without prejudice to any other rights we may have) at any time thereafter to assign to any person with immediate effect all or any of our rights in respect of moneys owing to us under this Agreement, as well as any security or other remedies available to us 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.

(f) 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 18(d) of this Agreement, such information relating to you and your relationship with us, as we see fit.

**19. RIGHTS AND REMEDIES**

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

**20. RIGHTS OF THIRD PARTIES**

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

**21. DELAY, OMISSION AND WAIVER**

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

- (a) No delay or omission on the part of AxiForex 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.

## 22. GOVERNING LAW AND JURISDICTION

### 22.1 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.

### 22.2 Jurisdiction

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

## 23. NOTICES

### 23.1 Notices must be in writing

Subject to this Clause 23 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) AxiForex Pty Ltd

**Address:** Level 10, 90 Arthur Street  
North Sydney NSW  
2060

**Ph No:** +61 2 8037 7370

**Email Address:**  
[AxiForexSupport@AxiForex.com](mailto:AxiForexSupport@AxiForex.com)

(b) You:

The address, and electronic mail address provided by you for this purpose.

### 23.2 Provision of notice

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

### 23.3 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, face to face, when actually given;
- (d) if sent by electronic mail, one hour after sending.

### 23.4 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 our 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 23.3 of this Agreement.

### 23.5 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.

### 23.6 Notification of Changes/ 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, and electronic mail address.

You undertake that throughout the term of this Agreement you will promptly notify us of:

- (a) any change to the details supplied by you in your Application Form; and
- (b) any change to your officeholders, share structure or control and any material or anticipated change in your financial circumstances.

## 24. APPLICATION FORM

You, by signing or submitting electronically the relevant application form when you are applying to become a customer of ours:

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

## 25. 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 warrant 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 (1).

## 26. CLIENT MONEY

### **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 trust accounts and will be dealt with by us in accordance with the Australian Client Money Rules. 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.

### 26.1 Interest on client moneys

Unless otherwise agreed in writing with you, we are solely entitled to any interest or earnings derived from your moneys being deposited in a segregated trust account or used 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 deposit account, as and when we determine.

### 26.2 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.

### 26.3 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, 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 as permitted by the Australian Client Money Rules. The Australian Client Money Rules relevantly permit us to withdraw money from the segregated trust account in the following circumstances:
  - i. to defray brokerage and other proper charges (e.g. commissions);
  - ii. from 4 April 2018, to meet an obligation incurred by us in connection with derivative transactions which will be cleared through a domestic licensed clearing and settlement facility or a foreign clearing and settlement facility (note this will not usually be the case with financial products offered under this document); and
  - iii. where interest is earned on the account, and we have disclosed to you that we intend to keep any interest payments (which we have done in section 8 above).

### 26.4 Record-keeping, reconciliation and reporting under the Australian Client Money Rules

From 4 April 2018, new derivative retail client money reporting rules will apply to us. Under the client money reporting rules, we will be required to comply with various record-keeping, reconciliation and reporting obligations in relation to any "reportable client money" we hold. "Reportable client money" is money held by a retail client in connection with OTC derivatives or overseas exchange-traded derivatives (such as foreign futures contracts).

Under the new client money reporting rules, we must:

- (a) keep accurate records of the amount of reportable client money we receive from you, and retain them for seven years;

- (b) perform a daily and monthly reconciliation of the amount of reportable client money we have recorded against the amount actually held in the client money account, some of which will include your client money;
- (c) notify ASIC within five business days if we fail to perform a reconciliation in accordance with the client money reporting rules or if we identify a discrepancy when performing a reconciliation;
- (d) prepare and give to ASIC an annual directors' declaration and an external auditor's report on our compliance with the client money reporting rules within three months of the end of the financial year; and
- (e) establish, implement and maintain policies and procedures designed to ensure our compliance with the client money reporting rules.

Please note that we will assess wholesale client or retail client status from time to time. If you satisfy the criteria to be classified as a "wholesale client" we may classify you as such. We are under no obligation to inform you if we classify you as a wholesale client.

## **27. AMENDMENT AND TERMINATION**

### **27.1 The current version of this Agreement governs foreign exchange Transactions.**

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

### **27.2 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.

### **27.3 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 23. 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.

You may amend this Agreement only with our written consent.

### **27.4 Application date**

Subject to clause 27.2, the amendments made under this clause 27 will apply, including to all unexecuted orders, from the effective date as stated by us of the changes specified in the notice.

### **27.5 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.

### **27.6 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.

### **27.7 Reservation of rights**

If you or we provide notice to close your account or terminate this Agreement under this clause 27, 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.