

## Sky Alliance Markets Financial Product Service Terms & Condition

### LongHou Capital Markets Pty Ltd trading as Sky Alliance Markets

ABN 40 114 266 698

Australian Financial Services Licence No. 292464

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Version 2.0

### 1. Definitions and Interpretation

1.1 In the following Terms, the words shall represent meaning as following meaning unless specific mentioning:

**Account** : represent the account held under client 's name or the account created for client's benefit with Sky Alliance Markets , the account included all Trading Account ` IB account and Demo account.

**Account Currency**: represented the denominated currency of client 's Trading Account.

**Equity**: represented client's trading account's current value.

**Application Form** represent the application form for client to open an Account. electronic form is also included.

**Base Currency** represented the first currency represented in a currency pair offered by Sky Alliance Markets

**Business Day** means a day which excluded Saturday or Sunday or public holiday. And also excluded the day that banks and foreign exchange markets closed in Sydney.

**Calculation Time** represent the time period that Sky Alliance Markets used to make the calculation for Charge Adjustment or Credit Adjustment on finance.

**Client** represented the person who recorded in Sky Alliance Markets' database as having an Account.

**Close Out, Closed Out and Closing Out in Contract** represented discharging or satisfying the obligations of the Client and Sky Alliance Markets under the Contract.

**Contract** represented any kind of contract between client and Sky Alliance Markets.

**Contract Fee** represented the fee or commission charged by Sky Alliance Markets in respect of each Contract.

**Contract Size** represented the standard volume per Lot expressed.

**Credit Limit** represented the limit Sky Alliance Markets provide to clients on the total amount of credit.

**Adjustment on Finance Charge and Finance Credit Adjustment** represented the amount charged or credited (as applicable) to client's Account by Sky Alliance Markets for Contracts.

**Loss** represented the damage expense or liability incurred.

**Lot** represented the unit volume of a Contract consider as the Contract Size.

**Margin Level** represented the ratio calculated as Equity divided by Margin.

**Margin Cover** represented the available Margin amount for trading on client's account which is calculated by Sky Alliance Markets

**Online Platform** is referred to the electronic trading platform on Sky Alliance Markets' website.

**Open Position** represented the contract that have not been Closed Out.

**Order** means any order placed by you to enter into a Contract.

**Pip Value** represented the smallest increment of a unit of currency.

**Realized Loss** represent the value amount of an Open Position on Close Out is less than the value of the Open Position.

**Unrealized Loss** represented the amount by which the value of an Open Position is less than the value of the Open Position.

**Realized Profit** represented the amount by which the value of an Open Position on Close Out is more than the value of the Open Position

**Unrealized Profit** represented the amount by which the value of an Open Position is more than the value of the Open Position.

**Registered Office** represent the Sky Alliance Markets' registered Office.

**Security Information** included client 's email address, logon code, password or trading password.

**Senior Officer** included an employee, director or consultant nominated by Sky Alliance Markets as the Complaints Officer.

**Price** represented the price or rate quoted by Sky Alliance Markets

**Terms** refer to the Financial Product Service Terms.

**Trading Account** means the trading accounts established under the client's name which followed these Terms for trading purposes.

**Trading Conditions** is referred to the operating conditions for trading on the Online Platform.

**USD** means United States dollar or the currency in law of the United States of America.

## 2. Agreement

- 2.1 This agreement is set between you and Sky Alliance Markets
- 2.2 These Terms includes the Sky Alliance Markets 'Application Form and PDS. Those documents may have been exchanged or executed between the parties. However, these Terms shall prevail.
- 2.3 If any inconsistency between the English language version and other translated version in any other language, the English language version shall prevail.
- 2.4 These Terms will apply to client earlier than:
  - (a) the time Sky Alliance Markets accepts client's Application Form;
  - (b) the time Sky Alliance Markets agrees to provide Product or financial service to client;
  - (c) the time client first place an Order in Sky Alliance Markets Product with Sky Alliance Markets or Sky Alliance Markets provided financial service to client.
- 2.5 client acknowledge and agree that have received, read and understood all documentation provided. Client authorize Sky Alliance Markets to open an Account for him.
- 2.6 client acknowledge that he has received, read and understood the Financial Services Guide (FSG). The FSG may change by time. Client can ask a copy for current FSG on our website or directly from Sky Alliance Markets.
- 2.7 client acknowledge that all dealings in Sky Alliance Markets Products and the performance by us of our obligations under these Terms are subject to the Applicable Laws.
- 2.8 client acknowledge that no legal, tax, financial or accounting advice will be offer by Sky Alliance Markets.
- 2.9 client acknowledge that Sky Alliance Markets do not act in a fiduciary capacity and Sky Alliance Markets does not owe any fiduciary obligations to clients.

## 3. Our Services

- 3.1 Sky Alliance Markets offer General Advice without charge before making a decision to use Sky Alliance Markets' services.
- 3.2 If client do not fully understand the risks associated with Sky Alliance Markets' services, then they should not use the services.

## 4. Client 's representations and warranties

- 4.1 Client warrant that client are of full age and capacity
- 4.2 The client warrants that all contracts entered into will constitute legally binding and enforceable obligations.
- 4.3 4.3 If the client enters into these terms as a trustee, the client will need to make the following representations and undertakings:
  - (a) that the relevant trust instruments are valid and comply with all applicable laws applicable to the client;
  - (b) you have been duly appointed trustee of the Trust;
  - (c) You shall be entitled to compensation from the trust assets in respect of these Terms and the contracts drawn up thereunder;
  - (d) You will perform your fiduciary duties;
  - (e) You will not do anything which may result in the loss of your right to indemnify the Trust assets;
  - (f) If you change or join as trustee, you will ensure that the new trustee accepts these terms and any other relevant agreements;
  - (g) The Trustee shall not relocate, reserve or distribute any assets of the Trust without the written consent of Sky Alliance Markets, unless the Trustee requests to do so in writing;

- (h) You shall not modify or change the trust instrument without Sky Alliance Markets' written consent;
  - (i) if you are not the sole trustee of the Trust, each trustee is required to agree in writing to be bound by these terms and any contract in connection therewith.
- 4.4 The customer represents and warrants to Sky Alliance Markets that:
- (a) you have read and understood this term;
  - (b) Customer may from time to time pay and perform all commitments arising under this provision and under conditions applicable to transactions between Customer and Sky Alliance Markets;
  - (c) Customer's execution and delivery of this Clause and the performance of all obligations under this clause shall not violate any applicable law applicable to Customer;
  - (d) All information provided by the Customer to Sky Alliance Markets shall be true in all material respects at the date of this Article or (later) when such information is provided. If there is any change in such information, you shall timely inform Sky Alliance Markets.
  - (e) The Customer shall continuously disclose to Sky Alliance Markets any matter that may affect the operation of this Clause or the customer's payment of margin calls or the maintenance of solvency;
  - (f) Customers are required to provide customers' financial, business and identity information as required by Sky Alliance Markets;
  - (g) Customers' online platform or IT services in Sky Alliance Markets are not subject to any applicable laws;
  - (h) The funds used by the Customer are funds to which you are entitled and not funds from illegal sources;
  - (i) The information on the network platform will not be used for illegal or unauthorized purposes.
  - (j) Without Sky Alliance Markets' prior written consent, you shall not copy any material appearing on the Sky Alliance Markets website for resale or any other purpose.
- 4.5 client acknowledges that:
- (a) based on client's representations and warranties, Sky Alliance Markets does not act as a fiduciary to you and owes you no fiduciary obligation in respect of the services provided by Sky in connection with these terms;
  - (b) If Sky Alliance Markets believes that acting in accordance with your instructions would or would constitute a violation of the Companies Act or any other applicable law by It or its agents or hedging counterparties, it is not required to act in accordance with your instructions;
  - (c) Sky Alliance Markets provides general advice and only provides execution services, and the final investment decision is always made by the customer;
  - (d) if Sky Alliance Markets provides advice to you, the advice is general and does not take into account your personal goals, circumstances or needs.
  - (e) A notice issued by an officer or agent authorized by Sky Alliance Markets stating the amount of your due and payable shall be deemed as conclusive evidence of the notice, except in the case of obvious error;
- 4.6 If the Customer is composed of two or more legal persons, the rights or obligations referred to in this article or the contract (as the case may be) are jointly or severally vested in all legal persons.

## **5. Usage of Personal Information**

- 5.1 Sky Alliance Markets will only collect and treat as confidential personal information necessary to perform the services set forth in these Terms.
- 5.2 Sky Alliance Markets will handle customers' personal information according to its privacy policy. Customers can obtain this privacy policy by contacting Sky Alliance Markets or through its website.

- 5.3 Sky Alliance Markets will take reasonable precautions to keep confidential the information received from you and the materials and/or data provided, created, entered or developed by you in connection with your use of Sky Alliance Markets services. However, since such information, materials and/or data may be made available over the Internet, you hereby acknowledge and agree that Sky Alliance Markets cannot guarantee that such information, materials and/or data will remain confidential.
- 5.4 You accept risks associated with the receipt of confidential Information by third parties
- 5.5 The customer acknowledge and agree that Sky Alliance, Markets may disclose your name and other personal and financial information, and any related details, give authorization, its employees, representatives, officers, agents, and branch offices, and government entities or regulatory authority, an Internet service provider or any other third party agents or provide relevant service providers to provide, management or maintenance services, or to comply with applicable law.
- 5.6 The information provided on the online platform of Sky Alliance Markets shall only be used for the purpose of trading with Sky Alliance Markets and shall not be used for any other purpose. Sky Alliance Markets will not transfer the intellectual property rights to you.
- 5.7 Where appropriate, Sky Alliance Markets may disclose all communications and information in its possession concerning you to law enforcement agencies and regulators for their review. In addition, you agree to comply with all applicable money laundering and counter-terrorism financing laws.

## **6. Legal Entity Identifier**

- 6.1 In order to comply with the ASIC Derivatives Contract rules (report), Sky Alliance Markets must obtain a legal entity identifier (LEI) from all legal entities with which it trades.
- 6.2 You agree that Sky Alliance Markets will obtain LEI on your behalf and add the cost of obtaining LEI into your account together with the reasonable management cost of Sky Alliance Markets obtaining LEI, so as to transfer the cost of acquiring LEI to you.

## **7. Appointment of Authorized Persons**

- 7.1 Sky Alliance Markets may accept your authorized person to issue instructions, sign contracts and place orders on your behalf. You must notify Sky Alliance Markets and in writing allow Sky Alliance Markets to specify a full name, phone number, fax number, email address, and any other information required to help Sky Alliance Markets identify the authorizer.
- 7.2 you shall immediately notify Sky Alliance Markets if :(a) any new appointee becomes the licensor; Or (b) any existing licensee is no longer entitled to be a licensee. Once Sky Alliance Markets receives the notice, the change of licensor will take effect immediately. However, such notice shall not affect contracts already signed.
- 7.3 If a new person is appointed as an authorized person, the notice to Sky Alliance Markets must include the person's full name, telephone number, fax number, E-mail address and specimen signature. Sky Alliance Markets can verify the identity of the new licensee, including requesting additional information.
- 7.4 Client may appoint a lawyer (under a power of attorney from the relevant jurisdiction) to give instructions and give orders on your behalf or otherwise to enforce any matters that you may have authority to enforce with respect to or under these terms. You must notify Sky Alliance Markets in writing of any such appointment with the lawyer's details. You must go to Sky Alliance Markets. Sky Alliance Markets may accept or reject this authorization at its sole discretion.

- 7.5 If you are a company or other legal entity, Sky Alliance Markets may allow you to authorize a person (through such authorization, that person becomes a licensor) or counsel to perform any of the things you are entitled to perform under this provision, including the conditions as determined by Sky Alliance Markets.
- 7.6 Any appointment of an authorized person shall remain in full force and effect as a written appointment required by this Clause unless and until notice of cancellation and/or replacement of the appointment has reached the registered office of Sky Alliance Markets.
- 7.7 All instructions given and received by the Authorized Person will be deemed to be instructions authorized by you and will be binding on you.
- 7.8 Until you send a notice to Sky Alliance Markets, Sky Alliance Markets can continue to assume that all existing authorized personnel are entitled to sign legally binding contracts with Sky Alliance Markets.
- 7.9 You hereby indemnify and hold Sky Alliance Markets harmless from and against any loss caused by the signing of the contracts set forth in this Article by authorized personnel or attorneys.
- 7.10 The Customer shall take reasonable steps to ensure that each authorized person fully complies with these terms and conditions.
- 7.11 Sky Alliance Markets reserves the right to refuse the appointment or further appointment of the authorized personnel without any reason at any time.

## **8. Formation of a Contract**

- 8.1 an authorized person or lawyer shall notify Sky Alliance Markets via phone or Internet:
  - (a) your account;
  - (b) Type of contract (such as foreign currency, commodity, index or cryptocurrency);
  - (c) whether the contract is a sale;
  - (d) Number of contracts;
  - (e) Contract orders, including order type, order price and order due date.
- 8.2 Collectively, though not exhaustively, the information referred to in clause 8.1 or any portion thereof, constitutes the "Instructions".
- 8.2 A contract is formed between you and Sky Alliance Markets if the customer, the authorized person or a lawyer, is on the online platform by telephone or by clicking the relevant button (such as a "buy" or "sell" button). Upon the establishment of the contract, the parties shall be bound by the terms of the relevant trade contract and the contents of the terms of this Contract.
- 8.3 if Sky Alliance Markets refuses to exercise its right to create the contract, Sky Alliance Markets shall have no obligation to :
  - (a) give reasons for refusal;
  - (b) inform you that Sky Alliance Markets has not signed a contract with you.
- 8.4 You shall indemnify Sky Alliance Markets for any mistakes made by you, authorized personnel or lawyers when providing instructions to Sky Alliance Markets.

## **9. Providing instructions**

- 9.1 if you, the licensor or the lawyer use Sky Alliance Markets' online trading system (online platform), you confirm and accept the following terms:
  - (a) you may be able to enter into the contract in accordance with the quotation and/or price on the online platform.

- (b) All contracts must be completed using the confidentiality information assigned to you by Sky Alliance Markets, and the valid input of such confidentiality information will constitute your authorization to complete the specified contract, regardless of whether the confidentiality information is entered by an authorized person or a lawyer.
- (c) You must ensure that the confidential information is secure and confidential. You must also ensure that each authorized person or lawyer provides security information to them and keeps it confidential. If you have any reason to believe that the security information assigned to you, authorized persons or lawyers is not secure and confidential, you will immediately notify Sky Alliance Markets.
- (d) You must ensure that no unauthorized person has access to the confidential Information. As part of this obligation, you must ensure that each authorized person and attorney exits the Internet browser after using the online platform.
- (e) Sky Alliance Markets may take measures that it considers reasonable to suspend, revoke or deny access to the online Platform at any time without prior notice for any reason, including but not limited to security and quality of Service.
- (f) You are responsible for obtaining, maintaining and ensuring the compatibility of your electronic software, equipment and equipment. Sky Alliance Markets shall not be liable for any loss or damage to your data, software, computers, electronic equipment, telecommunications or other equipment resulting from the use of the online platform, unless such loss or damage is directly and solely caused by our negligence or wilful breach of contract.
- (g) It is your responsibility to ensure that your electronic devices and devices are not affected by viruses and other malicious software, and Sky Alliance Markets shall not be liable for any loss caused by failure to do so. Sky Alliance Markets shall make reasonable efforts to protect the online platform from viruses and corrupted files but cannot guarantee that the online platform will not be infected by viruses or any other contaminated or destructive properties. Sky Alliance Markets does not guarantee that access to the online platform will be uninterrupted, continuous or error free.
- (h) The Customer shall not
  - (i) abuse the online platform by intentionally introducing viruses, Trojans, worms, logic bombs or other malicious or technically harmful materials;
  - (ii) any unauthorized access to the Online platform or to any server, computer or database connected to the online platform;
  - (iii) Attacking online platforms through denial-of-service attacks or distributed denial-of-service attacks.

You may also commit a criminal offence if you breach this requirement. Sky Alliance Markets may report any such violation to the relevant law enforcement authorities and will cooperate with the law enforcement authorities to disclose your identity to them. If this happens, your right to use the online platform will cease immediately without prior notice. Sky Alliance Markets will not be liable for any loss or damage caused by distributed denial of service attacks, viruses or other technologically harmful materials that may infect your electronic devices and devices.

- (i) You will be liable for all contracts entered into while using the online platform.

9.2 Sky Alliance Markets will not normally receive face-to-face instructions in the registration office of Sky Alliance Markets. At its discretion, Sky Alliance Markets may allow authorized persons or lawyers to visit the office of Sky Alliance Markets in person and ask Sky Alliance Markets to accept instructions, sign contracts and conduct

financial transactions. You acknowledge and agree that you shall be bound by Sky Alliance Markets' instructions from an authorized person or lawyer.

- 9.3 The authorized person or lawyer may require Sky Alliance Markets to accept instructions and sign the contract by telephone. Sky Alliance Markets can check the caller's rights by asking the caller to provide his/her name and confirming that the name has been notified to Sky Alliance Markets by you as the authorized person. Sky Alliance Markets may, as appropriate, ask callers to provide additional information to confirm the identity of callers. After confirming the identity of the caller, Sky Alliance Markets can assume that the caller has all the permissions you suggested before.
- 9.4 You acknowledge and agree and will ensure that each authorized person and lawyer acknowledges and agrees that Sky Alliance Markets may record any telephone conversation between anyone and Sky Alliance Markets at any time. The recording remains the property of Sky Alliance Markets. In case of disputes with customers over the terms and conditions of the trading contract, Sky Alliance Markets can confirm the terms and conditions of any contract by telephone recording and use it for training, monitoring and compliance purposes.

## **10. Method and timing of payment**

- 10.1 Under no circumstances shall the customer deposit cash into the Account of Sky Alliance Markets. Sky Alliance Markets has the absolute right to decide whether customers can pay by cheque or not.
- 10.2 Any payment required by the customer must be made in one of the following ways:
- (a) online banking transfer;
  - (b) Same-day bank transfer;
  - (c) Pay by cheque with the consent of Sky Alliance Markets);
  - (d) International wire transfers;
  - (e) through a credit card or an electronic gateway provider approved by Sky Alliance Markets.
- 10.3 Before any contract is executed by Sky Alliance Markets, you must deposit sufficient liquidation funds in the Sky Alliance Markets Trust account. Sky Alliance Markets will specify the initial margin amount required for each contract.
- 10.4 Sky Alliance Markets may have no time to inform you of any change in the initial margin or further margin amount of any contract. Any increase in the initial margin amount will immediately become due and be paid without notice to you.
- 10.5 Sky Alliance Markets may charge you additional fees for using its services by sending you a notice. If you do not agree to a fee, you may terminate these terms.
- 10.6 Sky Alliance Markets shall not be liable for any fees incurred by third-party Banks or other counterparties.

## **11. Credit Bonus**

- 11.1 Client understand that Sky Alliance Markets may grant certain Clients a Credit Bnous. The detail of credit bonus included in the promotion policy of Sky Alliance Markets.

## **12. Authorisation Limits**

- 12.1 Any licensing restrictions provided by the customer to Sky Alliance Markets may be removed at any time by notifying Sky Alliance Markets.
- 12.2 Sky Alliance Markets may, at its sole discretion, impose licensing restrictions on the Customer and/or one or more authorized personnel or lawyers at any time and give notice before imposing such restrictions.



### **13. Interest Charges on Open Positions**

13.1 For any open position held by customers, Sky Alliance Markets may deduct an amount from the account as a fee from the valuation date until the closing of the position.

### **14. Margin Cover**

14.1 customer agrees and acknowledges the following:

- (a) margin refers to the amount that has been paid or payable to Sky Alliance Markets (to protect against customer's liability in the contract) and is credited to customer's account. The minimum amount of margin guarantee shall be determined by Sky Alliance Markets.
- (b) Margin payment refers to the payment you make to Sky Alliance Markets as the margin.
- (c) The time at which the customer pays the margin is of Paramount importance.
- (d) You must maintain at least the margin required by Sky Alliance Markets, regardless of whether Sky Alliance Markets has issued a notice to the customer to pay the margin or whether you have issued an actual notice of the required amount. The amount required for margin coverage may change continuously or automatically, including on weekends or other non-trading days. The customer is obligated to maintain the minimum amount of margin protection required.
- (e) The client must ensure that margin coverage remains positive at all times if you hold an open position for a long period of time. If this requirement is not met, Sky Alliance Markets may unwind your open position without prior notice to you.
- (f) At the time of signing this Agreement, you will be obligated to maintain margin coverage.
- (g) The customer is fully responsible for monitoring his own account and meeting all margin cover requirements in the account.
- (h) The margin payment is received and entered into the trust account in Sky Alliance Markets, and Sky Alliance Markets has added the margin to your account. The customer's payment must be remitted to the Sky Alliance Markets trust account in the form of funds and applied to the customer's account, before it can be regarded as the margin requirement of the contract.
- (i) Your liability in respect of margin requirements is not limited to the amount initially paid to Sky Alliance Markets for your account. At the end of the contract, you are liable to pay any resulting liabilities.

### **15. Forced Liquidation**

15.1 Customers must maintain an adequate margin level. Sky Alliance Markets has its full rights to close out all Open Positions:

- (a) when the stop loss order set by the customer is reached; or
- (b) the customer's Margin Level is below the Margin Closeout Level; or
- (c) the customer's required Margin Cover is failed to be maintained; or
- (d) if at any time, the negative mark to market value of any or all Open Positions that you have open with Sky Alliance Markets is not sufficient to be covered by the pre-agreed Credit Limit assigned to you by Sky Alliance Markets.
- (e) at any time, and from time to time, Sky Alliance Markets defines that all of your Open Positions' value (and not taking into account any cash balance in your Account) represents your substantial net unrealised loss such that, in Sky Alliance Markets' view, your Equity will or is likely to be materially affected from the continued trading, or failure to Close Out, one or more of your Open Positions.

15.2 Sky Alliance Markets is entitled, at its sole discretion, to define the market value of the mark from time to time.

15.3 In addition to other remedies available to Sky Alliance Markets, the right to terminate (by either buying or selling) any or all of your Open Positions is belonging to Sky Alliance Markets if your payment is failed when an amount is due under these Terms.

## **16. Division events**

16.1 Sky Alliance Markets may, adjust your Open Positions, Stop Loss Orders, Limit Orders and Trailing Stop Loss Orders in a commercially fair and reasonable manner if a Division Event happens regarding to any Underlying Instrument and/or its issuer or technology environment (for example, Distributed Ledger Technology).

16.2 The adjustments that could be made by Sky Alliance Markets will be reasonably determined and will be binding on you. Such adjustments may involve, but are not limited to one or more of the following:

- (a) modifying the amount of any Initial Margin regarding to Open Positions and new Contracts;
- (b) adjusting the opening price of an Open Position, to reflect the effect of the related action or event;
- (c) opening one or more new positions;
- (d) closing one or more Open Positions;
- (e) cancelling any Stop Loss Orders, Limit Orders and Trailing Stop Loss Orders;
- (f) suspending or modifying the application of any part of these Terms;
- (g) crediting or debiting total of the Account as appropriate; and
- (h) taking any and all such other action, as Sky Alliance Markets considers reasonably necessary.

## **17. Set off against monies owed**

17.1 In addition to other remedies available to Sky Alliance Markets, if customer fail to pay any amount when due under these Terms and/or if a Default Event occurs, Sky Alliance Markets may set-off such amount against any amount payable by Sky Alliance Markets to you.

17.2 Sky Alliance Markets is entitled to set-off against any amounts due to it by the customer, any amounts received by Sky Alliance Markets from or on behalf of the customer including but not limited to moneys received as Initial Margin or Margin calls. Sky Alliance Markets may determine the application of any amounts which are to be set-off at its own discretion.

17.3 Customer must not set-off against any amounts you owe to Sky Alliance Markets, and any amounts Sky Alliance Markets owes to you.

## **18. Delay**

18.1 Sky Alliance Markets will use all reasonable attend to process your Contract order on a timely basis. However, Sky Alliance Markets shall not be liable for delays, damages, failures or errors in the completion of the Contract order in the absence of wilful misconduct.

## **19. Rates**

19.1 The Sky Alliance Markets rate indicators are available through the Online Portal (the "Indication"). The Indication is not binding, and when the Contract is executed, you agree to accept the rates offered by Sky Alliance Markets.

## **20. Material Error**

20.1 Sky Alliance Markets will take appropriate actions to avoid Material Errors from occurring.

20.2 Should a Material Error occur Sky Alliance Markets:

- (a) reserves the right to make the required adjustments to correct the Material Error; and
- (b) is not liable for any damages, claims, losses, liabilities or costs arising from the Material Error.

20.3 Any conflict arising from a Material Error will be resolved on the basis of the fair market value (plus Sky Alliance Markets' typical spread), as determined by Sky Alliance Markets acting fairly, of the applicable Contract(s) at the time of the occurrence of the Material Error.

## **21. Deduction of Intermediary/Receiving Bank Fees**

21.1 A number of intermediaries may be involved in a payment Contract and may subtract a fee in some circumstances. These fees are not always able to be determined in advance, such as a fee may be charged by the receiving bank, and you will be liable for these expenses.

21.2 Sky Alliance Markets will not be responsible for losses arising from fees under clause 21.1 being levied. Sky Alliance Markets will use its best efforts to ensure that all fees associated with a Contract are disclosed in the Trade Contract Terms. However, due to the complexity of the international foreign exchange markets this may not always be possible. If it is important that an exact amount of a particular currency arrives, you agree to advise Sky Alliance Markets accordingly and Sky Alliance Markets may be able to pre-cover any undefined charges.

## **22. Circumstances beyond Sky Alliance Markets' Control**

22.1 If, due to circumstances beyond its control or a Force Majeure Event, Sky Alliance Markets is unable to meet its obligations under these Terms or a Contract, Sky Alliance Markets will inform you as soon as reasonably possible and will use necessary actions to secure the return of any money paid by you in respect of which Sky Alliance Markets has been unable to discharge its obligations under these Terms.

22.2 Sky Alliance Markets may also take any other steps it deems reasonably necessary in the case of a Force Majeure Event occurrence, including but not limited to altering the Initial Margin, closing any or all Open Positions, amending or varying this Agreement and/or any Contract insofar as it is impractical or impossible for Sky Alliance Markets to comply with its obligations to you.

22.3 Sky Alliance Markets may give a notice ("a Disturbance Notice") to you at any time if it forms the view that market conditions in the relevant market for the Underlying Instrument are seriously disturbed. This includes circumstances where, the Underlying Instrument is not available (for example, deposits in the currency concerned are not available) in the ordinary course of business to Sky Alliance Markets in the relevant market or because of national or international financial, political or economic circumstances, or because of exchange controls.

22.4 Sky Alliance Markets' obligations will be suspended when a Disturbance Notice is released under clause 22.3, while it and client negotiate alternative arrangements. These alternative agreements shall apply if all parties reach agreement before the Value Date. If they do not reach an agreement during that time, each of them will be released from its obligations under the relevant Contract.

### 23. Fees and charges

23.1 Any net profit or loss of any fees and charges (that is, the recognised gain or loss) resulting from Closing Out a Contract shall, in the Account currency, be credited or debited (as the case may be) against the Equity.

23.2 client owe Sky Alliance Markets, and must pay to Sky Alliance Markets or as Sky Alliance Markets direct (in accordance with these Terms):

- (a) any Contract charges including all Contract commission, charges, fees, Margins, settlement and clearing fees and charges, interest, default charges and Taxes (including GST but excluding Sky Alliance Markets' income tax or penalty tax and levies) and any other amounts due under these Terms on demand by Sky Alliance Markets in cleared funds or otherwise as required by these Terms;
- (b) a Contract Fee for each Sky Alliance Markets Product or Contract (as the case may be) being the fee from time to time specified by Sky Alliance Markets to be the amount payable by you to Sky Alliance Markets in respect of each such Contract;
- (c) any royalty or other fee which must be paid for the use of prices or information provided to you via access through the Online Platform or otherwise by any Exchange;
- (d) (if applicable) a monthly access charge for the use of the Online Platform provided by Sky Alliance Markets, as specified by Sky Alliance Markets from time to time;
- (e) the Finance Charge calculated as disclosed in the PDS, FSG, a supplementary disclosure document or in any other permitted way of notifying you, such as on Sky Alliance Markets' website or the Online Platform, in the amount of the Finance Charge Adjustments from time to time;
- (f) Finance Charge Adjustments applicable to any Contract or Account;
- (g) any fees, Taxes, stamp duty or other charges as may from time to time be levied on or in connection with any Contracts entered into with you; and
- (h) in respect of any unpaid amounts required to be paid under these Terms including, (without limitation) any amounts due as a result of your failure to pay interest on all such amounts denominated in Australian dollars at the Base Rate then generally applicable for debit amounts on Accounts plus a rate of interest per annum as reasonably determined by Sky Alliance Markets (but so that the total rate does not exceed generally prevailing rates for personal unsecured loans in comparable amounts), such interest to accrue daily from and including the due date to and including the date of its payment in full.

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

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

23.4 Any amount or rate or formula which is to be specified by Sky Alliance Markets may be specified by a PDS, FSG, a supplementary disclosure document or in any other permitted way of notifying you, such as on Sky Alliance Markets' website or the Online Portal. The amount of any fees and charges or other amounts payable by you to Sky Alliance Markets in respect of any Contract will be set out on the Online Platform to the extent known at the time.

23.5 **GST-inclusive.** The amounts of or basis of calculating the fees, commissions, charges and credits referred to in this clause 23 will be as notified from time to time in writing by Sky Alliance Markets, either by way of a PDS,

posting on the Online Platform (including by way of Contract prices), notification to your contact address, posting to Sky Alliance Markets' website or as otherwise agreed with you or permitted by these Terms.

23.6 If:

- (a) you are required to make a deduction or withholding in respect of Tax from any payment to be made; or
- (b) Sky Alliance Markets is required to pay any Tax (other than income tax) in respect of any payment made in relation to these Terms at your request, then you:
- (c) indemnify Sky Alliance Markets against the Tax; and
- (d) agree to pay to Sky Alliance Markets an additional amount to ensure Sky Alliance Markets receives a net amount (after payment of any Tax in respect of each additional amount) that is equal to the full amount Sky Alliance Markets would have received had a deduction or withholding or payment of Tax not been made.

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

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

- (a) either immediately at the time of entering into the Contract;
- (b) at day's end, or month's end;
- (c) at a rollover of the Contract; or
- (d) at any other time after entering into the Contract.
- (e) The Online Platform will display whichever of a Finance Charge Adjustment or Finance Credit Adjustment applies.

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

- (a) the charge may be called other things 24.2 from time to time, even across different Accounts, different Sky Alliance Markets Products or on the Online Platform at the same time;
- (b) the charge is not stated on a statement for an Account;
- (c) the charges differ according to how the Contract was made;
- (d) the charges differ according to the amount of the Account, regardless of the amount or value of the Account;
- (e) the rate is expressed or inferred to be an annual rate but is applied and calculated by the second or any other time interval proportional to the annual rate;
- (f) the Finance Charge Adjustment is first applied by way of posting the amount to the Account so that you become liable only for any net debit amount of the Account (or we owe you the net credit amount of the Account);
- (g) we may owe from time to time Finance Credit Adjustments (which are posted to the Account);
- (h) different rates apply at the same time to other clients' accounts;
- (i) the charge is applied at rollover but is not levied or enforced until termination of the Contract; 24.4
- (j) the Contract is denominated in a currency other than Account Currency; and
- (k) the rates will be as determined by Sky Alliance Markets in its absolute discretion and you might not have prior notice of the current rate.

23.10 You agree that you are liable for your own legal costs associated with or occurring from (at any time) entering into these Terms and for any Taxes and expenses incurred by you in connection with these Terms, including any Contract entered into under these Terms.

## 24. Client monies and trust account

24.1 You accept that Sky Alliance Markets may aggregate money paid into the Account ("the Monies") with funds received from other Clients into a single designated account, which will be maintained as required by law.

24.2 You agree to and direct Sky Alliance Markets to:

- (a) keep any interest accrued from time to time on the Monies, and to invest that money as permitted by the Applicable Law;
- (b) withdraw Monies that constitute remuneration payable to Sky Alliance Markets; and
- (c) withdraw Monies that it is otherwise entitled to pursuant to the Applicable Law.

24.3 If you are a Wholesale Client, you authorise and direct Sky Alliance Markets to withdraw, apply or otherwise utilise the Monies:

- (a) in order to meet obligations (the **Obligations**) incurred by Sky Alliance Markets in connection with Contracts. Obligations may include an obligation to make payments to a Related Entity and/or a liquidity provider in connection with liabilities Sky Alliance Markets incurs when the Client and other clients place Contracts with Sky Alliance Markets. Liabilities in this sub- clause include but are not limited to minimum floating margin requirements imposed by a Related Entity or liquidity provider, or other hedging requirements;
- (b) in order to enforce other rights that Sky Alliance Markets has under these Terms or in the PDS; and
- (c) for any other reason allowed by law.

24.4 You accept that the monies do not belong to you and do not constitute a loan or constructive trust in your favour when Sky Alliance Markets uses the monies for a lawful reason as set out in this clause 24.

24.5 If you have an open Contract, and Sky Alliance Markets is entitled to make a deduction for any reason as set out in these Terms or the PDS, that deduction may occur immediately, and the Monies will become Sky Alliance Markets monies. Conversely, if you have an open Contract and Sky Alliance Markets is required to apply a credit to the client' monies for any reason as set out in these Terms or the PDS, that credit will typically be applied to your Monies as after completing Sky Alliance Markets' end of day reconciliations.

## 25. Payments into your Account

25.1 You must ensure that:

- (d) payments into the Account are from you as the holder of the Account and not from any third party;
- (e) without limiting the above, payments from an account are payments from your account and not from any account of any third party.

25.2 You agree and acknowledge that Sky Alliance Markets may refuse to accept or return any payment of money from any third party or from any account of any third party, and that Sky Alliance Markets does not accept any liability or responsibility for any loss, cost or expense incurred or suffered by you in connection with such non-acceptance or return, including because the Client is subsequently in default of their obligations to Sky Alliance Markets.

25.3 The moneys to which you are entitled under these Terms and which are under the control of Sky Alliance Markets will be paid directly to you and not to any third party, unless you have otherwise instructed us to do so and we agree. You must provide relevant account details for payment instructions in respect of payments to be made by Sky Alliance Markets to you. Although Sky Alliance Markets will take reasonable steps to comply with your payment instructions, Sky Alliance Markets accepts no responsibility for any failure to comply with those

instructions and, if such failure occurs, the relevant moneys will continue to be held by Sky Alliance Markets in accordance with the Corporations Act and Applicable Laws.

25.4 If Sky Alliance Markets pays your funds to another person at your request, Sky Alliance Markets is not liable to you for the performance by the other person who receives the benefit of the payment of your funds. In particular, without limitation, Sky Alliance Markets is not obliged to enquire into:

- (a) the use of those funds by the third party;
- (b) any persons to whom the third party pays all or any of these funds;
- (c) the solvency of any of those persons;
- (d) the compliance by any of those persons with the Corporations Act, Applicable Laws and Rules;
- (e) whether any of those persons hold any part of these funds on any nominee, segregated account, trust or any other basis for your protection or security.

25.5 If Sky Alliance Markets determines that your Account has been inactive for a reasonably long period, you authorise Sky Alliance Markets to withdraw any Withdrawal Funds from the Client Moneys Trust Account to be paid into your nominated bank account.

25.6 You acknowledge that from the time any funds withdrawn from the Client Moneys Trust Account in connection with your Contracts:

- (a) lose the protections given to a Client Moneys Trust Account of that kind;
- (b) you are an unsecured creditor of Sky Alliance Markets for its obligations on your Contracts; this includes exposure as an unsecured creditor for payment to you of the net Account balance (if any) after closing all your Open Positions;
- (c) the funds are no longer held beneficially for you.

## **26. Rolling over Open Positions**

26.1 In respect of each Open Position, subject to:

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

Sky Alliance Markets is by these Terms instructed:

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

## **27. Dispute Resolution**

27.1 Except to the extent that this clause is inconsistent with the requirements of any legislative or regulatory regime, the dispute resolution process set out in this clause shall apply. The parties must use all their

reasonable endeavours to resolve any dispute arising in connection with these Terms or any 28.3 Contracts thereunder.

- 27.2 If the parties fail to resolve a dispute within 5 Days of one party giving Notice to the other of the dispute, either party may, by giving Notice to the other, refer 28.4 the dispute to the parties' Senior Officers (where you are an individual no such referral is applicable) who, each party must ensure, must co-operate in good faith to resolve the dispute as amicably as possible within 10 Days of the dispute being referred to them.
- 27.3 If the Senior Officers (or individual and the Sky Alliance Markets Senior Officer) fail to resolve the dispute 29. within 45 Days of the dispute being referred to them, the parties must, at the written request of either party and within 10 Days of receipt of the request, refer the dispute to mediation in accordance with, and subject to, the Institute of Arbitrators and Mediators Australia Rules for the Mediation of Commercial Disputes. The costs of the mediator shall be met equally by the parties. If the dispute or difference is not settled within 30 Days of the submission to mediation (unless such period is extended by Agreement of the parties), it shall be submitted to arbitration in accordance with, and subject to, the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitrations.
- 27.4 This clause, however, does not limit your rights (if applicable) to take any dispute to an external dispute resolution scheme of which Sky Alliance Markets is a member.

## 28. Tape recordings

- 28.1 You authorise Sky Alliance Markets to record any or all incoming and outgoing phone calls with you without making a disclosure to you of this nature each and every time you speak with a representative of Sky Alliance Markets. These calls may be recorded with or without an audible tone. You agree that Sky Alliance Markets may use such recordings for the purposes of monitoring and training its staff, monitoring compliance with you and Sky Alliance Markets' respective regulatory and contractual obligations and resolving disputes. If there is a dispute between Sky Alliance Markets and you, you have the right to listen to any recording of those conversations (if still available). Nothing in these Terms obliges Sky Alliance Markets to keep a recording or to notify you that we have eliminated a recording.
- 28.2 Recordings may be used to assess the performance of or to train Sky Alliance Markets' representatives, monitoring compliance with Sky Alliance Markets' respective regulatory and contractual obligations and resolving disputes.
- 28.3 Sky Alliance Markets is not obliged (unless Applicable Laws requires) to keep any transcripts or copies of any telephone recording or conversation nor to tell you when it disposes of the record.
- 28.4 Subject to clause 28.3, Sky Alliance Markets may upon request, provide copies of any telephone recording or transcript relating to your dealings to you in if there is a dispute or anticipated dispute with respect to such dealings. You agree to pay any reasonable cost associated with providing any such transcript or copy.

## 29. Anti-Money Laundering and Counter- Terrorism Financing

- 29.1 You acknowledge that:
- (a) Sky Alliance Markets is subject to various anti- money laundering and counter-terrorism financing laws (**AML/CTF Laws**) which may prohibit us from offering services or entering into or conducting Contracts; and



- (b) the AML/CTF Laws include prohibitions against any person dealing with the proceeds of or assets used in criminal activity (wherever committed) and from dealing with any funds or assets of, or the provision of finance to, any person or entity involved (or suspected of involvement) in terrorism or any terrorist act.

29.2 You agree that:

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

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

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

### **30. Limitation of liability, indemnities & Payments**

30.1 You shall indemnify and hold Sky Alliance Markets harmless from any and all liabilities, claims, costs, expenses and damages of any nature, including, but not limited to, reasonable legal fees and any fees and expenses incurred in connection with litigation, arising out of or relating to your, an Authorised Person's or attorney's negligence, mistake or wilful misconduct, the violation of any law by you, or the breach by you of any provision of these Terms or if a Default Event occurs.

30.2 You also agree to promptly pay Sky Alliance Markets for all damages, costs and expenses, including reasonable legal fees and expenses, incurred by Sky Alliance Markets in the enforcement of any of the provisions of this Agreement. Your obligations under this Clause shall survive the termination of this Agreement.

30.3 In calculating or mitigating its loss due to a Default Event or Material Error, Sky Alliance Markets is entitled to:

- (a) crystallise, unwind, reverse, repair or close any Open Positions by closing any open Contracts; and/or
- (b) nominate the date on which the open Contracts are valued; and/or
- (c) nominate the methodology used to calculate the open Contracts' value; and/or
- (d) take any other action that Sky Alliance Markets determines to be reasonably necessary to protect its legitimate interests.

30.4 You acknowledge you will be liable for any losses which may be realised as the result of entering into a Contract, regardless of the trading resources available in relation to the Account at the time the Contract is executed.

30.5 Sky Alliance Markets will use all reasonable endeavours to execute Contracts or make payments to you or to any third party specified by you, in accordance with the timing specified in your Instructions. However, Sky Alliance Markets shall not be liable under any circumstances for any direct, indirect or consequential loss (including any loss of profits) incurred as a result of a delay in funds reaching your nominated account.

30.6 Nothing in the Terms is intended to limit or exclude any liability Sky Alliance Markets may owe you under any statutory rights you may have.

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

- (a) we make no warranties either expressly or impliedly as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness or quality), with respect to any services we provide under these Terms including, without limitation, the Online Platform;
- (b) Sky Alliance Markets disclaims all responsibility in respect of any contract, breach or otherwise relating to or arising out of the use of any of the services rendered under these Terms and for any damages directly or indirectly sustained by you, including without limitation arising out of or arising out of:

- (i) any inaccuracy, error or delay in or omission from any information provided to you under these Terms including the Online Platform;

- (ii) any delays or failures or inaccuracies, or loss of access to, the provision of a service to you including, without limitation, any delay, failure or inaccuracy in, or the loss of access to, the Online Platform or in respect of the transmission of Orders or any other information;

- (iii) any misinterpretation of your Orders or instructions which are unclear, ambiguous, or not specific;

- (iv) any government restriction, Exchange or market rulings, suspension of trading, computer or telephone failure, unlawful access to our Online Platform, theft, sabotage, war, earthquakes, strike, force majeure and, without limitation, any other conditions beyond our control;

- (c) Sky Alliance Markets shall not be liable under contract, tort (including negligence) or otherwise for any loss of potential income or expenditures or for any special, indirect or consequential harm arising from the provision of the service, including, without limitation, the provision of the Online Platform;

30.8 To the fullest extent permitted by law, you release, discharge and indemnify and agree to keep Sky Alliance Markets and its respective officers, employees, agents and representatives indemnified from and against all claims arising out of:

- (a) any default, whether by your act or omission under these Terms or any Order or Contract;
- (b) any breach by you of any Applicable Laws;
- (c) any representation or warranty made or given by you under these Terms proving to be untrue or incorrect;
- (d) any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by you or by any of your clients, employees, agents or Authorised Persons, consultants or servants;
- (e) any failure of any of your computer or electronic systems or networks to perform, be available or successfully transmit data to Sky Alliance Markets, or any error or inadequacy in the data or information input into such systems or networks by you;
- (f) any delays in processing any Order including, for example (but not limited to), as a result of systems or market delays, or due to verification or filtering procedures or unauthorised processes, email delays or due to telephone call waiting time or adherence to internal policies and procedures;
- (g) anything lawfully done by Sky Alliance Markets in accordance with, pursuant or incidental to these Terms;
- (h) any instruction, request or direction given by you;

- (i) arising from and in connection with or in any way related to Sky Alliance Markets in good faith accepting and acting on instructions received by facsimile transmission, email or by other means of any kind which are signed by or purported to be signed by you or any Authorised Person; or
- (j) any failure or delay by a Hedge Counterparty to meet its obligations to Sky Alliance Markets in respect of or in relation to (including by corresponding with) your Contracts and any payments made in respect of them,
- (k) except only to the extent attributable to the breach of these Terms by Sky Alliance Markets or the gross negligence or fraud by Sky Alliance Markets.

30.9 You agree that you are liable for your own legal costs in connexion with the entry into these Terms of Use and for any taxes and expenditures incurred by you in connexion with these Terms of Use, including any contracts made thereunder.

30.10 All payments by you under these Terms are:

- (a) to be made without any set-off by you, counter claim or condition made by you and without you making any deduction or withholding for any Tax or any other reason unless the deduction or withholding is required by applicable law or the set-off arises by express application of the Terms; and
- (b) payable in any currency that Sky Alliance Markets may require or determine.  
If:
  - (c) you are required to make a deduction or withholding in respect of Tax from any payment to be made; or
  - (d) Sky Alliance Markets is required to pay any Tax (other than income tax) in respect of any payment made in relation to these Terms at your request,  
Then you:
    - (e) indemnify Sky Alliance Markets against the Tax; and
    - (f) agree to pay to Sky Alliance Markets an additional amount to ensure Sky Alliance Markets receives a net amount (after payment of any Tax in respect of each additional amount) that is equal to the full amount Sky Alliance Markets would have received had a deduction or withholding or payment of Tax not been made.

### **31. Default**

31.1 If a Default Event occurs, all or any of the following actions may be taken by Sky Alliance Markets, or any other step it considers reasonably necessary:

- (a) require payment immediately of any amount owed to Sky Alliance Markets, including any Margin Call;
- (b) terminate these Terms;
- (c) close any of your Open Positions;
- (d) limit the size of your Open Positions either in monetary terms or a number of Contracts;
- (e) refuse orders to establish new Contracts;
- (f) convert any ledge balances to the Account Currency of the Account
- (g) exercise Sky Alliance Markets' right of set off
- (h) impose new Margin Cover requirements to your trading or to your Account;
- (i) lower the Credit Limit, or withdraw the provision of any credit, in relation to the Account;
- (j) suspend the Account
- (k) open one or more new Contracts on the Account
- (l) call on any guarantee in respect of your obligations;

- (m) require you to immediately close our any Open Position or settle any Contract in such a manner as Sky Alliance Markets reasonably determines necessary;
- (n) combine, close or consolidate any Accounts and offset any and/or amounts owed to, or by, Sky Alliance Markets in such a manner as Sky Alliance Markets may in its absolute discretion determine; or
- (o) retain any amount owed by Sky Alliance Markets to you against any contingent liability of yours or so long as the contingency subsists.

### **32. Sky Alliance Markets' rights to close, void or enforce Contracts**

32.1 Without restricting any other right retained by Sky Alliance Markets under these Terms, Sky Alliance Markets may close or cancel any Contract or take any other steps considered reasonably appropriate by Sky Alliance Markets where:

- (a) Sky Alliance Markets is in dispute with the Client in respect of an Open Position or a Default Event. In this case we can close all or part of the Open Position in order to minimise the amount in dispute;
- (b) Sky Alliance Markets identifies or reasonably suspects that the Client has manipulated its prices, execution process or other practices; or
- (c) there is a material breach of these Terms in relation to the Contract.

32.2 Sky Alliance Markets may also, in its absolute discretion, choose to enforce any Contract of a type referred to in clause 32.1.

### 33. Termination

33.1 These Terms may be terminated immediately by you or Sky Alliance Markets by Notice in writing to the other.

33.2 The termination of these Terms shall not impact any Contract previously entered into and shall not relieve either party of any outstanding obligations arising under these Terms, nor shall it relieve you of any obligations arising out of any Contract entered into prior to such termination.

33.3 Any compensation given in these Terms shall survive the termination of these Terms.

33.4 Upon termination of these Terms, this clause survives and Sky Alliance Markets may do one or more of the following:

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

33.5 In the event that Sky Alliance Markets is made aware of or has reason to believe any of the following:

- (a) that you have provided false or misleading information to Sky Alliance Markets; or
- (b) that you have participated or are participating or have assisted or are assisting in money laundering or terrorist financing; or
- (c) that you are being officially investigated by law enforcement and/or regulatory agencies; or
- (d) a Default Event or Insolvency Event has occurred, or
- (e) the contract it has with its Hedge Counterparty (Hedge Contract), or Sky Alliance Markets' rights under the relevant Hedge Contract or in respect of the relevant Underlying Instrument, are Closed Out, suspended or terminated by the Hedge Counterparty (which may occur automatically under the terms of any agreement between Sky Alliance Markets and the Hedge Counterparty); or
- (f) Sky Alliance Markets considers, acting reasonably, that the Hedge Counterparty or issuer of the Underlying Instrument may not be able to meet its obligations to Sky Alliance Markets under the terms of the Hedge Contract or Underlying Instrument or other contracts between Sky Alliance Markets and the issuer of the Underlying Instrument or the Hedge Counterparty.

Sky Alliance Markets, at its sole discretion, may terminate these Terms immediately by Notice to you, and Sky Alliance Markets at its sole discretion shall be relieved of any obligations set out in these Terms or arising out of the Contracts contemplated by these Terms, including any obligations arising out of any Contracts already entered into with Sky Alliance Markets.

### 34. Amending these Terms

34.1 Sky Alliance Markets may amend these Terms and any Contracts at any time. Sky Alliance Markets will provide you with Notification of any such amendment. You agree to be bound by the terms of such an amendment on the earlier of:

- (a) ten Days after Sky Alliance Markets has posted Notice of the amendment on the Sky Alliance Markets Website; or
- (b) upon providing Notice to you by email;
- (c) on the date of you entering any Contract after the amendment. Any other amendments must be agreed to in writing between Sky Alliance Markets and you.

34.2 If you do not consent to the amendment you can terminate these Terms and the amendment will not apply retrospectively. Termination in this case does not affect any obligations owed by you, or rights of Sky Alliance Markets with regard to any open Contracts held by you.

### 35. Notices

35.1 Any notice required or permitted to be given under this Agreement or for the purposes of this Agreement ("Notice") shall be in writing and shall:

(a) If sent to you by registered prepaid mail or delivered by hand to the address of the Customer mentioned in this Agreement, or to any other address you have mentioned in writing, or by emailing your nominated email address to Sky Alliance Markets, or by posting a notice to the website of Sky Alliance Markets;

(i) if posted on the Sky Alliance Markets Website, Notice is deemed to have been given 3 Days after the Notice was posted on the Sky Alliance Markets Website; or

(ii) if the Notice was sent to your address, the Notice is deemed to have been given on the Day after the Notice was sent, unless delivered by hand in which case the Notice is deemed to have been given on delivery.

(b) If to Sky Alliance Markets, be sent by prepaid registered mail or delivered by hand to the address of Sky Alliance Markets set out in these Terms or the PDS, or such other address as Sky Alliance Markets designates in writing, and such Notice is deemed to have been given on the Day after the Notice was sent, unless delivered by hand in which case the Notice is deemed to have been given on delivery.

35.2 Any Notice given or made under this Agreement may also be sent by email if:

(a) the Notice is sent to the email address last notified by the intended recipient to the sender; and  
(b) the sender keeps an electronic or printed copy of the Notice sent.

35.3 A Notice sent by email will be deemed to have been given on the first to occur of:

(a) receipt of an email acknowledgment from the recipient's information system by the sender demonstrating that the note has been sent to the above email address;  
(b) the time that the Notice enters an information system which is under the control of the recipient; or  
(c) the time that the Notice is first opened or read by an employee or officer of the recipient.

### 36. Appointment of Sky Alliance Markets as attorney

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

### **37. General**

- 37.1 From time to time, Sky Alliance Markets may assign to any or employees or any other designated representative of Sky Alliance Markets (or a similar corporate entity of Sky Alliance Markets) any or all of its responsibilities, powers and discretions. Sky Alliance Markets shall remain liable for the actions or omissions of its employees and any authorised representative of Sky Alliance Markets (including any authorised representative of Sky Alliance Markets' relevant corporate body). A delegation under this provision by Sky Alliance Markets need not be in writing.
- 37.2 These Terms and any related Application Form completed by you contain the entire understanding between you and Sky Alliance Markets concerning the provision of the Sky Alliance Markets Products or financial services and any other services referred to in or provided under these Terms, as later amended only in accordance with these Terms.
- 37.3 These Terms are regulated by and interpreted in accordance with the laws in effect in New South Wales, Australia and the parties submit to the non- exclusive jurisdiction of the courts of New South Wales, Australia.
- 37.4 Each part of these Terms shall be severable from the balance of these Terms and shall not affect the legality, efficacy, validity or enforceability of the balance of these Terms if any part of these Terms is illegal, void, invalid or unenforceable.
- 37.5 These Terms shall not be interpreted against our interests merely because, in order to protect our interests, we have proposed these Terms or any clause therein or because we rely on a provision of these Terms.
- 37.6 Client's rights under these Terms should not be allocated or transferred to another person without the permission of Sky Alliance Markets. Without Client's prior written consent, Sky Alliance Markets which grant, amend or otherwise transfer to another person any of its rights under these Terms, including, without limitation, in connection with a sale or transfer to another person of all or part of our company. Client may terminate this Agreement if you do not consent to Sky Alliance Markets assigning its rights. However, in this situation, termination shall not impact any obligations owed by you or Sky Alliance Markets' rights in respect of any open Contracts held by the client.
-