

CFDs

# Contract For Difference Client Agreement

**MF** Global<sup>SM</sup>





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Dear Client

Thank you for your interest in MF Global Australia Limited (MFGA). Please read, complete and sign the attached Client Agreement and return it to your original contact at MFGA, along with your cheque (Minimum Deposit Amount), or details of funds transferred to our account (see banking details below).

Over-the-Counter Contracts for Difference are speculative products that are highly leveraged and carry significantly greater risk than non-geared investments such as share trading. You should not invest in CFDs unless you are experienced in equity derivatives and understand and are comfortable with the risks of investing in CFDs.

You should read MFGA's Product Disclosure Statement in respect of CFDs and obtain your own financial, legal, taxation and other professional advice as to whether CFDs are an appropriate investment for you. By signing this Client Agreement you are acknowledging that you have read and understood the relevant Product Disclosure Statement relating to each type of CFD that you will enter into under this agreement.

PLEASE  TICK AS COMPLETED.

### To open an account in an Individual Name

- Complete marketing details on page 5.
- Complete all the details in Section 1 on page 6.
- If you would like someone other than yourself to trade the account, in accordance with Clause 13 of the Agreement please also complete section 2 on page 6.
- Complete the banking details in section 3 on page 6. Attach a copy of your bank account statement, dated not more than three months old (details to be shown on the statement are bank account number, account name and residential address. The bank account name must be in the same name as the CFD account).
- Complete the boxed details on page 7.
- Sign Section 1 on page 33.
- Complete the Statement of Assets and Liabilities on page 37.
- If you would like access to an electronic trading system please complete page 42. (Please note a Minimum Deposit Amount is required to open an electronic trading account and a monthly fee is charged for the service).
- Attach a certified\* copy of your current, valid driver's licence or passport, to the account details form on page 6.

\* See page 4 for Acceptable Methods of Certification.

### To open an account in a Joint Name

- Complete marketing details on page 5.
- Complete all the details in Section 1 on Page 6, please include all the names in which the account is to be held.
- Complete Section 2 on page 6, indicating all persons who will be trading on the account in accordance with Clause 13 of the Agreement.
- Complete the banking details in Section 3 on page 6. Attach a copy of your bank account statement, dated not more than three months old (details to be shown on the statement are bank account number, account name and residential address . The bank account name must be in the same name as the CFD account).
- Complete the boxed details on page 7.
- All parties to the agreement must sign Section 2 on page 33.
- Complete the Statement of Assets and Liabilities for each person who is a party to the agreement on pages 37 and 38.
- If you would like access to an electronic trading system please complete page 42. (Please note a Minimum Deposit Amount is required to open an electronic trading account and a monthly fee is charged for the service).
- Attach a certified\* copy of each person's current, valid driver's licence or passport, to the account details form on page 6 (details for each and all parties must be included).

\* See page 4 for Acceptable Methods of Certification.

### To open an account in a Company Name

- Complete marketing details on page 5.
- Complete all the details in Section 1 on Page 6.
- Complete Section 2 on page 6, indicating all the people who will be trading on the account in accordance with Clause 13 of the Agreement.
- Complete the banking details in Section 3 on page 6. You must provide the company's banking details. Attach a copy of the company's bank account statement, dated not more than three months old (details to be shown on the statement are bank account number, account name and business address . The bank account name must be in the same name as the CFD account).
- As a guarantor is required for all company accounts, complete the details of the Guarantor in Section 4 on page 6. The guarantor must be a director of the company.
- Complete the boxed details on page 7.
- If the Company is a sole director company sign Section 3 on page 33, if the Company has more than one director, at least two directors or a director and the secretary must complete Section 4 on page 33.
- The guarantee and indemnity on page 36 must be completed by a director acting in their personal capacity.
- Complete the Statement of Assets and Liabilities on page 37 for the company. Complete the Statement of Assets and Liability for the personal assets and liabilities of the director guaranteeing the account on page 38.
- If you would like access to an electronic trading system the directors who completed section 4 on page 33 must complete page 42. (Please note a Minimum Deposit Amount is required to open an electronic trading account and a monthly fee is charged for the service).
- Attach a certified\* copy of the current, valid driver's license or passport for each Company Director.

\* See page 4 for Acceptable Methods of Certification.

### To open an account in the name of a Trust

- Complete marketing details on page 5.
- Complete all the details in Section 1 on page 6
- The name of the account should follow the example: Joe Smith ATF the Smith Family Trust or Company X ATF the Smith Family Trust.
- Complete Section 2 on page 6, indicating all the people who will be trading on the account in accordance with Clause 13 of the Agreement.
- Complete the banking details in Section 3 on Page 6. Attach a copy of the Trust's bank account statement, dated not more than three months old (details to be shown on the statement are bank account number, account name and business address . The bank account name must be in the same name as the CFD account).
- The trustee must act as guarantor for the trust and must complete Section 4 on page 6. If the trustee is a company one of the directors of the trustee company must guarantee the account. The guarantor details should be the personal details of the director guaranteeing the account.
- Complete Section 5 on page 6 and attach a certified\* copy of the trust deed.
- Complete the boxed details on page 7.
- Sign Section 1 on page 33 if the trustee is an individual, sign section 2 if two or more people are the trustees, sign Section 3 or Section 4 if a company is the trustee.
- The Trustee must complete the Guarantee and Indemnity on page 36 (the Trustee must act as guarantor for the trust). If the trustee is a company, one of the directors should complete the guarantee and indemnity in their personal name.
- Complete the Statement of Assets and Liabilities on page 37 for the trust. Complete the Statement of Assets and Liabilities for the guarantor in their personal capacity on page 38.
- If you would like access to an electronic trading system please have all parties complete page 42. (Please note a Minimum Deposit Amount is required to open an electronic trading account and a monthly fee is charged for the service).
- Attach a certified\* copy of the current, valid driver's licences or passports, for each Individual Trustee of the Trust or each Director of the Trustee company.

\* See page 4 for Acceptable Methods of Certification.

# Acceptable Methods of Certification

**CERTIFIED COPY** means a document that has been certified as a true copy of an original document by one of the following persons:

1. a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described);
2. a judge of a court;
3. a magistrate;
4. a chief executive officer of a Commonwealth court;
5. a registrar or deputy registrar of a court;
6. a Justice of the Peace;
7. a notary public (for the purposes of the Statutory Declaration Regulations 1993);
8. a police officer;
9. an agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public;
10. a permanent employee of the Australian Postal Corporation with 2 or more years of continuous service who is employed in an office supplying postal services to the public;
11. an Australian consular officer or an Australian diplomatic officer (within the meaning of the Consular Fees Act 1955);
12. an officer with 2 or more continuous years of service with one or more financial institutions (for the purposes of the Statutory Declaration Regulations 1993);
13. a finance company officer with 2 or more continuous years of service with one or more finance companies (for the purposes of the Statutory Declaration Regulations 1993);
14. an officer with, or authorised representative of, a holder of an Australian financial services licence, having 2 or more continuous years of service with one or more licensees; or
15. a member of the Institute of Chartered Accountants in Australia, CPA Australia or the National Institute of Accountants with 2 or more years of continuous membership.

Note: The above is a summary of approved certifiers. A full list of approved certifiers is available upon request.

**How did you hear about MF Global Australia Limited?**

- Website \_\_\_\_\_
- Publication \_\_\_\_\_
- Trader Group \_\_\_\_\_
- Trade Show \_\_\_\_\_
- Seminar \_\_\_\_\_
- Referral \_\_\_\_\_
- Other \_\_\_\_\_

**Australian Dollar Deposits to MF Global Australia Limited**

Westpac Banking Corporation  
341 George Street, Sydney, Australia  
in favour of: MF Global Australia Limited  
Client Bank Account  
BSB No: 032000 A/C No: 244642  
Ref: "account number / account name"  
Send Swift Message MT100 WPAC AU2F

If you would like to make a deposit in a currency other than in Australian Dollars please contact MFGA directly on (02) 8273 8933 or by email at [cfd@mfglobal.com.au](mailto:cfd@mfglobal.com.au)

# Account Details - Master Schedule

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Date of this Agreement: 

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## 1. CLIENT DETAILS

Account Name: Contact Name: 

(if different to above)

ABN: (Company only) Address: Postal Address: 

(if different to above)

Home Telephone: Work Telephone: Mobile: Facsimile: E-Mail: 

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## 2. AUTHORISED PERSON DETAILS (see Clause 13)

Name: Name: Name: 

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## 3. BANKING DETAILS

Please provide bank account details to enable the direct deposit of funds into your account.

Account Name: Bank: BSB Number: Branch Address: Account Number: 

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## 4. GUARANTOR DETAILS (For Company or Trust Accounts only)

Name: Address: Telephone: 

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## 5. TRUST DETAILS (Trust Accounts Only)

Trust Name: Date of Trust Deed:

# Contract for Difference Client Agreement

THIS AGREEMENT is made on the  (DAY) day of  (MONTH) 20  (YEAR)

BETWEEN MF Global Australia Limited ABN 50 001 662 007 AFSL 230563  
of Level 21, Grosvenor Place, 225 George Street, Sydney, New South Wales (MFGA)

AND  (PRINT CLIENT NAME)

The person or persons identified in item 1 of the Master Schedule (and where more than one is identified, those persons jointly and severally) (Client)

## WHEREAS

The Client wishes to deal in the CFDs offered by MFGA

## IT IS HEREBY AGREED AND ACKNOWLEDGED AS FOLLOWS:

### 1. INTERPRETATION

#### 1.1 Definitions

The following definitions apply in this Agreement

**Additional Margin** means any margin in addition to Initial Margin and Variation Margin which MFGA requires the Client to advance to MFGA.

**Adjustment Event** means, for a CFD, any of the events set out in paragraph 3 of the relevant schedule for that type of CFD.

**AUD** means the lawful currency of the Commonwealth of Australia.

**Authorised Person** means a person authorised pursuant to clause 13 to bind the Client under this Agreement.

**Business Close**, for a particular type of CFD, has the meaning set out in paragraph 1 of the relevant schedule for that type of CFD.

**Business Day**, for a particular type of CFD, has the meaning set out in paragraph 1 of the relevant schedule for that type of CFD.

**Calculation Agent** means MFGA or another person appointed by MFGA to perform the role of calculation agent under this Agreement.

**CFD** means an over-the-counter (“OTC”) contract for difference, being an Equity CFD, an FX CFD, an Index and Commodity CFD or any other type of CFD offered by MFGA under this Agreement.

**CFD Account** means the account established under clause 2(a) in the name of the Client by MFGA for the purpose of trading CFDs.

**Client Segregated Account** means a bank account established and maintained by MFGA with its bank into which money of MFGA’s clients is paid in accordance with Chapter 7.8 of the Corporations Act and the purpose of which is to segregate MFGA’s funds from those of its clients.

**Closing Date** means:

- (a) the date on which the Client accepts the Closing Price/Closing Rate (as applicable) quoted by MFGA for that CFD; or
- (a) the date on which a Closing Date is deemed to have occurred in accordance with this Agreement; or
- (b) the date on which MFGA elects to close the CFD in accordance with this Agreement.

**Closing Notice** has the meaning given to that term under clause 7(a).

**Closing Price/Closing Rate** (as applicable) for a particular type of CFD, has the meaning set out in paragraph 1 of the relevant schedule for that type of CFD.

**Closing Value** means the amount which is equal to the Contract Quantity for that CFD multiplied by the Closing Price/Closing Rate for that CFD.

**Confirmation** means, in relation to any CFD, one or more documents or other confirming evidence exchanged between MFGA and the Client, confirming all of the terms of the CFD.

**Contract** means a contract constituting a CFD, as set out in a Confirmation issued by MFGA.

**Contract Quantity**, for a particular type of CFD, has the meaning set out in paragraph 1 of the relevant schedule for that type of CFD, unless that number is adjusted by MFGA in accordance with this Agreement.

**Contract Value** means the amount which is equal to the Contract Quantity for that CFD multiplied by the Reference Asset Price/Reference Asset Rate for that CFD (as applicable).

**Corporations Act** means the Corporations Act 2001 (Cth).

**Deal** has the meaning given to that term in the Corporations Act.

**Default Event** means, for a CFD, any of the events set out in clause 14.

**Equity CFD** means a CFD over an equity financial product, such as a share in a company or a unit in a unit trust.

**EST** means Eastern Standard Time in North America.

**Exchange Rate** means, in relation to any currency, any widely recognised and published foreign exchange rate selected by MFGA, to which MFGA may apply a spread (in addition to any existing buy/sell spread) in its sole discretion.

**Exposure Limit** means the exposure limit notified by MFGA to the Client from time to time, which may relate to one or more Contract Securities, Currency Pairs or to the Client's overall exposure to MFGA.

**Foreign Currency** means any foreign currency agreed to by MFGA (other than AUD).

**Foreign Currency Ledger** has the meaning given to that term in clause 2(c).

**Foreign Ownership Event** means any event whereby MFGA or any counterparty to any hedging arrangements entered into by MFGA is or reasonably believes it may be restricted by relevant foreign ownership laws from entering into or maintaining a hedging arrangement in relation to a CFD.

**Free Equity** means the GLV of the Client's CFD Account less the Initial Margin, any Additional Margin and any brokerage/commission, fees and interest amounts payable by the Client to MFGA in connection with a CFD not already taken into account in the GLV, calculated by MFGA in AUD on an aggregate basis across all the Client's open CFD positions.

**FX CFD** means a CFD over foreign exchange or precious metal.

**GLV** means the balance of the Client's CFD Account if the Client were to close out all CFDs at the current market price (less any transaction charges or adjustments), calculated by MFGA in AUD on an aggregate basis across all the Client's open CFD positions.

**Hedge Position** means any CFD or other instrument or financial product which MFGA enters into with, or acquires from, a third party to hedge its exposure under a CFD between the Client and MFGA.

**Index and Commodity CFD** means a CFD over a futures contract where that futures contract relates to a market index or commodity.

**Initial Margin** means any amount required to be advanced by the Client to MFGA under clauses 5(a) or 5(b).

**Long Party**, for a particular type of CFD, has the meaning set out in paragraph 1 of the relevant schedule for that type of CFD.

**Margin** means Initial Margin, Variation Margin and Additional Margin.

**MFGA Base Rate** means, in respect of any Foreign Currency, an interest rate determined by MFGA in its sole discretion, having regard to the current money market rate in the jurisdiction of that Foreign Currency and the rate notified to MFGA by its counterparty on any Hedge Position.

**Minimum Deposit Amount** means the minimum amount, notified to the Client by MFGA, required to activate the Client's CFD Account.

**Open Contract Value** means, in respect of a CFD, the Contract Value of the CFD at the time the CFD is opened.

**RBA Rate** means the overnight cash rate published by the Reserve Bank of Australia.

**Reference Asset**, for a particular type of CFD, has the meaning set out in paragraph 2 of the relevant schedule for that type of CFD.

**Reference Asset Price/Reference Asset Rate** (as applicable), for a particular type of CFD, has the meaning set out in paragraph 2 of the relevant schedule for that type of CFD.

**Relevant Exchange** means, in relation to a CFD, a financial market on which the Reference Asset is able to be traded. If the Reference Asset is able to be traded on more than one financial market, MFGA will advise the Client of the Relevant Exchange for the purposes of the CFD, at the time the CFD is entered into (including without limitation by specifying the Relevant Exchange on MFGA's website).

**Short Party**, for a particular type of CFD, has the meaning set out in paragraph 1 of the relevant schedule for that type of CFD.

**Sydney Business Day** means a day (other than a Saturday or Sunday or public holiday) on which banks and foreign exchange markets are or will be open for business in Sydney.

**Transaction** means a CFD made between the Client and MFGA and any other transaction which both parties agree shall be a Transaction.

**Variation Margin** means any amount advanced by the Client to MFGA under clause 6 or any amount advanced by MFGA to the Client under clause 6.

## 1.2 Rules of interpretation

(a) The Client acknowledges that each CFD is cash settled and accordingly is closed out without a physical exchange of the Reference Asset (as the case may be).

(b) The Client acknowledges that the term of each CFD continues until the Closing Date.

(c) If the Client comprises more than one person this Agreement binds each of them jointly and severally.

(d) Headings are for convenience only and shall not affect the construction of this Agreement.

(e) The singular includes the plural and vice versa.

(f) Anything permitted to be done by MFGA in accordance with this Agreement may be done in its absolute discretion, and any opinion or view required to be formed by MFGA may be formed in its absolute discretion.

(g) For the avoidance of doubt, time under clause 5 will continue to run on days which are not Business Days.

## 1.3 Schedules

The Schedules to this Agreement include terms which apply in relation to particular types of CFDs. In particular:

(a) the terms in Schedule 1 apply in respect of Equity CFDs;

(b) the terms in Schedule 2 apply in respect of FX CFDs; and

(c) the terms in Schedule 3 apply in respect of Index and Commodity CFDs.

## 2. CFD ACCOUNT

(a) MFGA must establish a CFD Account in the Client's name. MFGA will maintain the CFD Account to record the Client's dealings in connection with CFDs under this Agreement including, for example, to record all payments received from the Client, all Transactions, all debits and credits of Margin and interest and all fees and charges.

(b) Where two or more natural persons and no other are named as the client the CFD Account shall be established in their names as joint holders unless they specifically advise otherwise.

- (c) The Client may deposit AUD or Foreign Currency for the credit of the CFD Account. Each Foreign Currency balance recorded in the Client's CFD Account is operated as a separate ledger, called a Foreign Currency Ledger. Any deposit in a Foreign Currency which the Client makes to, or which is recorded in, the CFD Account will be recorded in the Foreign Currency Ledger.
- (d) The Client must deposit the Minimum Deposit Amount into the CFD Account to activate the CFD Account.

### **3. CLIENT MONIES AND THE CLIENT SEGREGATED ACCOUNT**

- (a) To the extent that MFGA is required to do so under Chapter 7.8 Division 2 of the Corporations Act, MFGA must pay all monies paid to MFGA by the Client or by a person acting on behalf of the Client into a Client Segregated Account.
- (b) The Client will be entitled to interest on monies held for the Client in the Client Segregated Account at a rate agreed between MFGA and the Client from time to time (and, in the absence of such agreement, the rate determined by MFGA and last notified to the Client).
- (c) The Client acknowledges that within the Client Segregated Account the balance of its CFD Account is pooled with the balance of other CFD accounts established by MFGA for its clients and other client money and that consequently, the Client's CFD Account balance may not be protected if there is a default in the overall Client Segregated Account balance. The Client also acknowledges that under section 981D of the Corporations Act, money held in the Client Segregated Account may be used by MFGA to meet obligations incurred by MFGA in connection with margining, guaranteeing, securing, transferring, adjusting or settling dealings in derivatives by MFGA (including dealings on behalf of persons other than the Client).
- (d) The Client authorises MFGA to deduct from the Client Segregated Account client money to which the Client is entitled, for the purposes of discharging obligations which MFGA incurs to a counterparty with whom MFGA enters into derivatives to hedge its exposure to the Client in connection with CFDs or to hedge its exposure to other clients who have entered into contracts for difference with MFGA under agreements similar to this Agreement.

### **4. OPENING A CONTRACT**

- (a) On any Business Day, the Client may request MFGA by telephone, fax, email or electronically to quote the Reference Asset Price/Reference Asset Rate (as applicable) at which MFGA may be prepared to enter into a CFD. The Client acknowledges that a quotation by MFGA of a price or rate pursuant to this clause does not constitute an offer to enter into or close a CFD.
- (b) Immediately upon receiving a quote as referred to in clause 4(a), the Client may by telephone, fax, email or electronically, offer to enter into a CFD with MFGA at the quoted price or the quoted rate.
- (c) The Client must confirm with MFGA that offers sent via email or fax have in fact been received by MFGA.
- (d) After the Client has offered to enter into a CFD with MFGA until MFGA actually enters into the CFD (as determined by MFGA), the Client may notify MFGA that it wishes to cancel or vary that offer. MFGA may, in its absolute discretion refuse to accept such cancellation or variation, if (among other things) MFGA will be adversely affected by the cancellation or variation (as determined by MFGA in its sole discretion). MFGA has no responsibility or liability to the Client if it is unable to vary or cancel the Client's offer under this clause 4(d).
- (e) MFGA is under no obligation to accept the Client's offer to enter into a CFD, and without limitation, is not obliged to accept the Client's offer to enter into a CFD:
  - (i) if the Client has exceeded or would exceed a relevant Exposure Limit applying to the Client under clause 4(l); or
  - (ii) until MFGA has received the Initial Margin required in respect of that CFD, in cleared funds.
- (f) The Initial Margin required in respect of a CFD (if not already received from the Client by MFGA) shall be payable immediately upon MFGA accepting the Client's offer to enter into the CFD.
- (g) If MFGA accepts the Client's offer to enter into a CFD, MFGA will issue to the Client a written confirmation of that CFD promptly after it has been entered into, in the form of a Confirmation, but failure by MFGA to issue a Confirmation will not prejudice or affect that CFD. MFGA will not have any liability as a result of a failure to issue a Confirmation.

- (h) If MFGA decides not to accept the Client's offer to enter into a CFD, MFGA will advise the Client of that decision promptly.
- (i) The Client undertakes to examine the terms of any Confirmation immediately upon receipt. If the Client does not notify MFGA of any disputed detail in the Confirmation within 48 hours of the issue of the Confirmation, the Client agrees that the contents of the Confirmation, in the absence of manifest error, will be conclusive evidence of the executed Contract.
- (j) IF MFGA receives notice as to a disputed Confirmation within 48 hours of issue of a Confirmation, MFGA will investigate the matters disputed and the Client will cooperate with MFGA in good faith to resolve the dispute. Notwithstanding any such dispute, the Client agrees to continue to satisfy the Client's obligation to pay Margin calls made by MFGA in respect of the relevant CFD as if the details contained in the Confirmation were correct and not the subject of dispute.
- (k) MFGA reserves the right to cancel any CFD which involves or derives from a manifest error (including without limitation, an error in the Reference Asset Price/Reference Asset Rate), or to amend the terms of such a CFD to reflect terms which MFGA considers in its sole discretion acting in good faith to be the correct terms. If MFGA cancels a CFD under this clause it will be considered void from the outset.
- (l) MFGA may, in its absolute discretion, notify the Client of an Exposure Limit under this Agreement:
  - (i) beyond which if the Client wishes to enter into any further CFDs, the Client must seek and obtain risk approval from MFGA, which may not be forthcoming; and
  - (ii) beyond which the Client may not enter into any further CFDs whatsoever.
- (m) MFGA may introduce or vary any Exposure Limit at any time by notice to the Client.
- (n) The Client acknowledges that if the Client gives MFGA standing instructions to, for example, enter into a CFD when a particular price or rate is reached in the market for the Reference Asset, the price or rate at which the CFD is entered into might not be that exact price or rate because, amongst other things, MFGA may elect not to enter into the CFD until it has satisfied itself that it can hedge its exposure or MFGA may otherwise choose not to enter the CFD.

## 5. MARGIN REQUIREMENTS

- (a) The Client acknowledges that before it is permitted to enter into a CFD, MFGA may require the Client to pay to MFGA cleared funds as Initial Margin. The amount paid as Initial Margin is paid as collateral to secure the Client's obligations under this Agreement. The amount is repayable by MFGA in accordance with clause 5(j). The Initial Margin which is payable as collateral in respect of a CFD will fluctuate daily depending on the Contract Value of the CFD and will be debited from the Client's CFD Account. Both the amount of such Initial Margin and the time of its call shall be within the absolute discretion of MFGA and MFGA is under no obligation to allow any offset of any Initial Margin requirement against any amount owing by MFGA to the Client, or against any amounts standing to the Client's credit in any other Foreign Currency Ledger.
- (b) MFGA may at any time in its absolute discretion (as to time and amount), increase the Initial Margin requirements applicable in respect of any CFD and require the Client to pay to MFGA cash equal to such increase.
- (c) The Client is also required to pay Variation Margin in accordance with clause 6.
- (d) MFGA may require the payment of Additional Margin during the term of any CFD or at any other time determined by MFGA, including, without limitation, if the GLV in the Client's CFD Account falls below AUD1,000 or the Foreign Currency equivalent of AUD1,000 (as determined by MFGA in its sole discretion). Additional Margin can be paid in AUD or a Foreign Currency.
- (e) If MFGA makes a Margin call the Client must pay the amount of Margin called in accordance with clause 23(a). In all respects, time shall be of the essence for all payment obligations of the Client. If MFGA is unable to contact the Client in relation to a Margin call, this may be a Default Event which will allow MFGA to close out the Client's CFD positions (see clauses 7(e)(i) and 14(l)).
- (f) MFGA may apply the opening balance of the Client's CFD Account or any other Free Equity in the CFD Account to the payment of Margin in respect of a CFD. For this purpose MFGA may notionally convert the currency of the opening balance of the CFD Account or other Free Equity in the CFD Account to any other currency using the Exchange Rate

- applicable to such conversion. MFGA will determine in its absolute discretion whether the Free Equity in the Client's CFD Account is sufficient to satisfy any requirement to pay Margin.
- (g) MFGA may exercise any power or right under this clause 5, including, without limitation, the calling of Margin, in its absolute discretion.
- (h) Any exercise by MFGA of any power or right under this clause 5, including, without limitation, the calling of Margin, shall be binding on the Client.
- (i) Upon MFGA making a Margin call, the Client acknowledges that MFGA may refuse any request by the Client to enter into any further CFD until MFGA has confirmed receipt of the Margin call in cleared funds.
- (j) All Margins paid by the Client to MFGA (whether Initial Margin, Variation Margin or Additional Margin) is paid as collateral to secure the performance of the Client's obligations under this Agreement. Margin paid by the Client will not fall due for repayment by MFGA until the Client's obligations under this Agreement and under or in respect of any other agreement or account between MFGA and the Client are satisfied in full. Until this time, the Client will not have any right to demand payment of these funds.
- (k) MFGA may, in its sole discretion, allow the Client to withdraw any Free Equity from the Client's CFD Account. To the extent that the amount withdrawn represents Variation Margin paid by MFGA to the Client, the amount paid to the Client out of the Client's CFD Account is to be held by the Client as collateral to secure MFGA's obligations under this Agreement. The collateral provided by the Client will fall due for repayment at the time the CFD is closed out. MFGA may, in its sole discretion, set off the Client's obligation to repay the collateral against an obligation of MFGA to pay an amount to the Client in accordance with clause 8 or 9.
- (l) For the avoidance of doubt, the Client's liability in respect of Margin calls is not limited to the amount, if any, paid to MFGA.
- (b) If the Contract Value determined under clause 6(a) is higher than the Contract Value determined by the Calculation Agent in respect of the previous Business Close, then the Short Party must pay to the Long Party a Variation Margin, being an amount equal to the difference, as collateral to secure the performance of the Short Party's obligations under this Agreement.
- (c) If the Contract Value determined under clause 6(a) is lower than the Contract Value determined by the Calculation Agent in respect of the previous Business Close, then the Long Party must pay to the Short Party a Variation Margin, being an amount equal to the difference, as collateral to secure the performance of the Long Party's obligations under this Agreement.
- (d) For the purposes of determining under clauses 6(b) or 6(c) the Contract Value at Business Close on the Business Day on which the CFD is entered into, the Contract Value "in respect of the previous Business Close" is determined using the Reference Asset Price/Reference Asset Rate at which MFGA and the Client agreed to enter into the CFD.
- (e) MFGA will credit to the Client's CFD Account (or, if applicable, the relevant Foreign Currency Ledger in the Client's CFD Account) any Variation Margin payable by MFGA. MFGA will debit any Variation Margin payable by the Client from the Client's CFD Account (or, if applicable, the relevant Foreign Currency Ledger in the CFD Account). If the Free Equity in the Client's CFD Account is insufficient to cover any amount payable by the Client, the Client must pay to MFGA the specified amount in AUD or the relevant Foreign Currency (as represented in the applicable Foreign Currency Ledger) in cleared funds in accordance with clause 23(a).

## **6. DAILY PAYMENT OF DIFFERENCES / VARIATION MARGIN**

- (a) Following Business Close on each Business Day during the term of a CFD, the Calculation Agent will determine the Contract Value of the CFD as at Business Close.

## **7. CLOSING A CONTRACT**

- (a) The Client may give MFGA notice (Closing Notice) by telephone, fax, email or electronically or otherwise of the Client's wish to close any CFD (whether in whole or part) specifying the Reference Asset (as applicable) and the proportion of the CFD that the Client wishes to close.
- (b) Following receipt of a Closing Notice, MFGA will use reasonable endeavours to give a quote for the Closing Price/Closing Rate (as applicable) and notify the Client of that quote (by telephone or otherwise). The Client must notify MFGA as soon as possible (by telephone, fax, email or electronically or otherwise) whether or not the Client is willing to accept the Closing Price/Closing Rate (as applicable). If the

- Client accepts the Closing Price/Closing Rate (as applicable) and instructs MFGA to close out the CFD, the CFD (or if applicable, the relevant portion of the CFD) will be closed on the Closing Date.
- (c) The Client must confirm with MFGA that instructions sent by fax or email have in fact been received by MFGA.
- (d) The Client acknowledges that:
- (i) it may not be able to close out a CFD if there is a suspension of trading or a trading halt in respect of the Reference Asset, or if MFGA is subsequently unable to close out the CFD at the agreed Closing Price/Closing Rate (as applicable). In such a circumstance, MFGA may decide in its absolute discretion not to close a CFD; and
- (ii) if the Client gives MFGA standing instructions to close out a CFD when a particular price or rate is reached in the market for the Reference Asset, MFGA will use reasonable efforts to close out the CFD at the requested price or rate but may not be able to close out some or all of the relevant CFDs at the exact Closing Price/Closing Rate requested by the Client.
- (e) If any of the following occurs, MFGA has the right to close any CFD:
- (i) a Default Event;
- (ii) an Adjustment Event (subject to clause 10(b));
- (iii) the aggregate amount of Variation Margin payable by the Client in relation to a CFD exceeds 50% of the Initial Margin in respect of that CFD;
- (iv) MFGA's counterparty in a Hedge Position unwinds or closes out the Hedge Position or for any other reason MFGA is unable to establish a Hedge Position or no longer able to maintain the Hedge Position;
- (v) in the circumstances set out in clause 10(b), 16 and 17(d);
- (vi) if a Foreign Ownership Event occurs; or
- (vii) if the GLV of the Client's CFD Account falls below AUD1,000 or the Foreign Currency equivalent (as determined by MFGA).
- (f) If MFGA closes out a CFD under clause 7(e), then:
- (i) MFGA will give a notice to the Client;
- (ii) MFGA will, in its absolute discretion, determine the Closing Date and Closing Price/Closing Rate (as applicable) of any CFD (which may be zero); and
- (iii) MFGA will be entitled to debit from the Client's CFD Account (or any other account of the Client with MFGA) liquidated damages of an amount equal to any amount payable to MFGA as a result of MFGA's calculation of the Closing Price/Closing Rate (as applicable), and the Client acknowledges that such liquidated damages are a genuine pre-estimate of MFGA's loss.
- 8. CONSEQUENCES OF A CFD BEING CLOSED OUT**
- (a) At the time a CFD is closed out, the Calculation Agent will calculate the profit or loss on the CFD being the difference between the Closing Value of the CFD and the Open Contract Value of the CFD.
- (b) If the Client makes a profit on the CFD, MFGA will pay the amount of the profit to the Client. MFGA may, in its sole discretion, set off against this payment obligation all or part of:
- (i) the obligation of the Client to repay Variation Margins paid by MFGA;
- (ii) an obligation of the Client to pay an amount to MFGA that has not been debited from the Client's CFD Account prior to closing out the CFD; and/or
- (iii) an obligation of the Client to return to MFGA an amount of collateral deposited with the Client.
- The net payment obligation (after setting off any or all of the above obligations) is to be made in accordance with clause 9.
- (c) If the Client makes a loss on the CFD, the Client will pay the amount of the loss to MFGA. MFGA may, in its sole discretion, set off against this payment obligation all or part of:

- (i) the obligation of MFGA to return the Initial Margin and any Variation Margins and Additional Margins paid by the Client to MFGA; and/or
- (ii) the obligation of MFGA to pay to the Client the amount (if any) standing to the credit of the Client's CFD Account after closing the CFD to the extent that the amount does not represent Variation Margins paid by MFGA.

The net payment obligation (after setting off any or all of the above obligations) is to be made in accordance with clause 9.

- (d) If the Open Contract Value of the CFD is equal to the Closing Value, no additional payment obligation will attach to the Client or to MFGA.
- (e) Where the Calculation Agent determines that the Closing Value of a CFD cannot be calculated on the Closing Date for any reason, the Closing Value will be the value determined by the Calculation Agent in its sole discretion.
- (f) The Client acknowledges that in certain circumstances MFGA may not release funds on the closing out of a CFD if the CFD is subject to an Adjustment Event at the time of close out. In such circumstances Client funds may not be released until the Calculation Agent has determined the treatment of the relevant Adjustment Event.

## 9. SETTLEMENT OF POSITIONS

- (a) All payments to be made by a party in respect of any CFD must be made in accordance with this clause 9.
- (b) When a payment for difference is made in accordance with clause 6, or a CFD is closed out in accordance with clause 8:
  - (i) MFGA will credit to the Client's CFD Account any amount payable by MFGA to the Client; and
  - (ii) MFGA will debit from the Client's CFD Account any amount payable by the Client. If there is insufficient Free Equity in the Client's CFD Account to cover such payment, the Client must pay such amount to MFGA in such currency as MFGA may require and in accordance with clause 23(a).

- (c) If the Client has requested payment of any money owed to the Client under this clause 9, MFGA will deduct that money from the Client's CFD Account and pay it to the Client by cheque or in such other manner as may be agreed between MFGA and the Client. If the Client has not requested payment of any money so owed to the Client it will be retained in the Client's CFD Account.
- (d) MFGA may set off any money owed to the Client under this Agreement or any other agreement against any money owed by the Client under this Agreement or any other agreement.

## 10. ADJUSTMENTS

- (a) If an Adjustment Event occurs in respect of a CFD, the Calculation Agent shall determine the appropriate adjustment, if any, to be made to the Contract Value and/or the Contract Quantity of that CFD, in order to place the parties in substantially the same economic position that they would have been in had the Adjustment Event not occurred. The adjustment will take effect as at the time determined by the Calculation Agent. MFGA must give notice of any adjustment or amendment under this clause to the Client as soon as reasonably practicable after the determination.
- (b) If at any time an Adjustment Event occurs and the Calculation Agent determines (in its absolute discretion) that it is not reasonably practicable to make an adjustment under clause 10(a), MFGA may at any time after it becomes aware of the Adjustment Event give the Client notice of MFGA's intention to close the CFD.
- (c) The Client acknowledges that no Adjustment Event will give the Client any right in relation to any Reference Asset under this Agreement, and that MFGA or any counterparty with whom MFGA has entered into a hedging arrangement has absolute discretion to deal with any Reference Asset in any way following any Adjustment Event.
- (d) The Client acknowledges that MFGA may have regard to any adjustments to its Hedge Position when determining the appropriate adjustment, if any, to be made following the occurrence of the Adjustment Event.

**11. INTEREST CHARGES**

- (a) MFGA and the Client will be entitled to interest, or will be required to pay interest, as set out in this clause 11, Schedule 1 (for Equity CFDs), Schedule 2 (for FX CFDs) or Schedule 3 (for Index and Commodity CFDs).
- (b) Interest is calculated daily and paid monthly and is payable separately in respect of AUD and each Foreign Currency Ledger in the Client's CFD Account.
- (c) The Client will pay interest to MFGA on any AUD debit balance or Foreign Currency Ledger debit balance in the CFD Account which constitutes Free Equity. The Client acknowledges it must pay MFGA interest in respect of each currency in the CFD Account for which the Client has a debit balance which constitutes Free Equity, even if the Client has an aggregate credit balance of Free Equity in the CFD Account.
- (d) MFGA will pay interest to the Client on any AUD credit balance or Foreign Currency Ledger credit balance in the Client's CFD Account which constitutes Free Equity.
- (e) Interest payments will be calculated separately in respect of AUD and each Foreign Currency Ledger. For these purposes Free Equity will be calculated separately in respect of each currency and an amount of interest may be payable by the Client to MFGA or by MFGA to the Client in respect of each currency.
- (f) Interest payments and funding payments shall be settled by MFGA debiting or crediting the Client's CFD Account. If there is insufficient Free Equity in the Client's CFD Account or in AUD or the relevant Foreign Currency Ledger, the Client acknowledges that any amount due under this clause is a debt due and owing by the Client to MFGA.
- (g) In debiting or crediting interest payments or funding payments to the Client's CFD Account, MFGA may charge or pay the Client interest or funding at a rate different to the interest rate or funding rate which MFGA is charged or paid on equivalent borrowings of foreign currency by a bank and may retain the difference.
- (h) The interest rates and funding rates applicable under this clause 11, Schedule 1, Schedule 2 and Schedule 3 will be as agreed between the Client and MFGA from time to time and, in the absence of such agreement, shall be at rates determined by MFGA in its absolute discretion. The Client acknowledges and agrees that the interest rates and funding rates are subject to change.

**12. REPRESENTATIONS**

- (a) The Client represents and warrants to MFGA that:
  - (i) the Client is not insolvent, and if the Client is a corporate client, no resolution has been passed and no petition has been presented or order made for the Client's winding up or liquidation or the appointment of a receiver or a receiver and manager or an administrator of other insolvency official to the Client or any of its assets;
  - (ii) where the Client is a corporation, the Client has been and is duly formed under the laws of the place of its formation;
  - (iii) where the Client is an individual client, the Client is of full age and sound mind and legally competent and no bankruptcy notice has been issued against the Client;
  - (iv) no one except the Client has an interest in the Client's account with MFGA opened for the purposes of this Agreement;
  - (v) the Client has received from MFGA and read and understood the relevant Product Disclosure Statement relating to each type of CFD which the Client will enter into under this Agreement (if MFGA is required to provide a Product Disclosure Statement under the Corporations Act) prior to executing this Agreement;
  - (vi) the Client has taken such independent legal, financial, tax and other advice as the Client considers necessary prior to executing this Agreement;
  - (vii) the Client has the power and authority to enter into and perform the Client's obligations under this Agreement and to enter into CFDs;
  - (viii) all authorisations necessary to be obtained by the Client prior to the execution of this Agreement have been obtained;
  - (ix) in executing and in giving effect to this Agreement the Client does not, and in entering into CFDs the Client will not, infringe:
    - (A) any provision of any deed or other document or agreement to which the Client is a party; or

- (B) any law or treaty or any judgment, ruling, order or decree of any governmental agency binding on it;
- (x) the Client will not enter into a CFD as or by way of a wager;
- (xi) this Agreement is a valid and binding obligation enforceable against it in accordance with its terms except to the extent enforceability may be limited by the availability of any equitable remedies or any applicable bankruptcy, insolvency, reorganisation or moratorium or similar laws affecting parties' rights generally;
- (xii) all information provided by it to MFGA in relation to this Agreement was true and accurate in all material respects as at the date when the information was provided and remains so at the date of this Agreement and there are no facts or circumstances known to it after proper inquiry which have not been disclosed to MFGA and which, if disclosed, might reasonably be expected adversely to affect the decision of a reasonably prudent financial services licensee whether to enter this Agreement.
- (b) Where the Client is:
  - (i) the trustee of a trust, the Client makes the additional representations and warranties in favour of MFGA and agrees to be bound by the additional terms contained in Attachment A; and
  - (ii) trustee of a Superannuation Fund, the Client makes the additional representations and warranties in favour of MFGA and agrees to be bound by the additional terms contained in Attachment B.

This clause 12(b) will apply to the intent that where the Client has more than one of the capacities referred to in subparagraphs (i) and (ii) above, the Client makes the additional representations and warranties in favour of MFGA and agrees to be bound by the additional terms contained in each of the relevant attachments referred to in those subparagraphs.

- (c) The Client acknowledges that MFGA enters into this Agreement in reliance on these representations and warranties and these representations and warranties survive the entering into of this Agreement and of each CFD.

### 13. AUTHORISED PERSON

- (a) MFGA is authorised to act upon the written or verbal instructions of the Client and of each person authorised to instruct MFGA on the Client's CFD Account. The persons authorised to instruct MFGA on the Client's CFD Account are any of those listed in the master schedule at the beginning of this Agreement unless otherwise directed in writing to MFGA.
- (b) For the purpose of this clause 13, persons may only be authorised in the following circumstances:
  - (i) the Client is a company, corporation, body corporate or partnership and the Authorised Person is an employee or director of the Client;
  - (ii) the Client is a natural person and the Authorised Person is a family member and is appointed to act on behalf of the Client; or
  - (iii) the Authorised Person holds, or its activities are covered by, an Australian financial services licence, unless the person is exempt from the requirement under the Corporations Act.
- (c) The Client may at any time vary its Authorised Persons by notification to MFGA in writing.
- (d) MFGA is not obliged to take any action if an instruction is not made by an Authorised Person nor to enquire as to the identity of any person if it reasonably believes such person is an Authorised Person.
- (e) If MFGA receives an instruction in circumstances where it is reasonable for MFGA to assume it was from an Authorised Person, MFGA is not liable for any properly performed action or omission by MFGA in reliance on that instruction.
- (f) MFGA is not liable in respect of any act or omission by MFGA in reliance on any instruction given or action taken by any person acting or purporting to act on behalf of the Client who is not an Authorised Person.

- (g) This clause 13 shall not apply to the extent the liability arises from the negligence, fraud or dishonesty of MFGA or any of its employees and agents in relation to MFGA's activities as an Australian financial services licensee.

#### 14. DEFAULT EVENTS

It is a Default Event, whether or not it is within the Client's control, if:

- (a) any monies owing by the Client to MFGA under this Agreement (including, without limitation, a Margin call made pursuant to clauses 5 or 6) or any other agreement or on any account whatsoever are not duly and punctually paid to MFGA or satisfied as and when they become due;
- (b) the Client fails to duly and punctually perform and observe any other obligation under this Agreement or any other agreement or on any account whatsoever with MFGA;
- (c) any representation made by the Client or on the Client's behalf is incorrect or misleading;
- (d) the Client stops payment of the Client's debts or ceases or threatens to cease carrying on business;
- (e) the Client enters or proposes to enter into any scheme of arrangement or compromise with the Client's creditors or calls a meeting to discuss a contemplated scheme of arrangement or compromise;
- (f) the Client becomes insolvent or a receiver or receiver and manager or administrator is appointed to the Client or any of the Client's assets;
- (g) where the Client is a corporate client, a resolution is passed or a petition is presented or an order is made for the Client's winding up or liquidation;
- (h) where the Client is an individual client, the Client dies or becomes of unsound mind or a bankruptcy notice is issued aany security created by any mortgage or charge binding upon the Client or the Client's assets becomes enforceable and the mortgagee or the chargee takes steps to enforce the security;
- (i) any security created by any mortgages or charges binding upon the Client or the Client's assets becomes enforceable and the mortgagee or chargee takes steps to enforce the security;

- (j) any guarantee of or security for the Client's obligations is, without the consent of MFGA, withdrawn or becomes defective or insufficient;
- (k) the Client's indebtedness becomes immediately due and payable, or capable of being declared due and payable, prior to its stated maturity, by reason of the Client's or any other person's default;
- (l) in the absence of the Client making alternative arrangements, the Client is not contactable by telephone, by MFGA for twenty four (24) hours, in order for MFGA to obtain instructions with respect to a CFD;
- (m) the Client is in breach of any Exposure Limit; or
- (n) in relation to a particular type of CFD, any additional event set out in paragraph 3 of the relevant Schedule occurs.

#### 15. ACTION FOLLOWING A DEFAULT EVENT

- (a) Upon or at any time after a Default Event occurs, MFGA, without prejudice to any other rights it may have, has the right and power (but not the obligation) in its sole absolute and unfettered discretion and without the being required to give prior or any notice to the Client to do (and to the extent necessary at law, the Client authorises MFGA to do) any one or more of the following:
- (i) terminate this Agreement in accordance with clause 17;
- (ii) close out all or any of the Client's CFDs;
- (iii) terminate any other agreement or any account whatsoever between the Client and MFGA;
- (iv) cancel any outstanding orders and/or close the Client's CFD Account or accounts pursuant to which there are monies owing to MFGA or in respect of which account or accounts there are insufficient funds deposited with MFGA and available to it, to satisfy monies owing to MFGA;
- (v) satisfy any obligation the Client may have to MFGA out of any property, money or security belonging to the Client in MFGA's custody or control including, without limitation, by selling any securities lodged by the Client with MFGA and for that purpose to enforce at the Client's expense any asset or security held by MFGA in such manner as it sees fit;

- (vi) satisfy any obligation the Client may have to MFGA by transferring from the Client's other accounts, if any, whether carried or managed by MFGA, such funds as may be required for that purpose;
  - (vii) exercise any other power or right which MFGA may have under this Agreement or in law or equity or take such other action as a reasonably prudent financial services licensee would take in the circumstances;
- (b) MFGA will not lose any of its rights under this clause 15 by reason of any delay in the exercise of the right and if MFGA does exercise any such right it may do so at any time and in any manner.
- (c) Any action by MFGA under this clause 15 shall be without prejudice to any of MFGA's rights to damages or any other remedy, and shall not limit any other provision of this Agreement including without limitation clause 18.

## 16. ILLEGALITY

If any event occurs (including the introduction, implementation, operation or taking effect of, any law, regulation, treaty, order, official directive or ruling, or any change in any such law, regulation, treaty, order, official directive or ruling or in their interpretation or application by any governmental authority or agent) which makes or declares it unlawful or impracticable for MFGA to make CFDs available to the Client under this Agreement then MFGA may terminate this Agreement with immediate effect by notice to the Client, and close out all CFDs in accordance with clause 7(f) as if such illegality or impracticality were a Default Event for the purpose of that clause but any such termination will not relieve the Client of any obligations under this Agreement prior to such termination.

## 17. AMENDMENT AND TERMINATION OF AGREEMENT

- (a) MFGA may from time to time amend, alter, modify, substitute or supplement the terms of this Agreement by notice to the Client of such change.
- (b) The terms on which the Client may enter into CFDs are the terms of this Agreement in force at the time immediately prior to the Client instructing MFGA to arrange the entry by the Client of a CFD.
- (c) This Agreement continues unless and until a notice

of termination is received by either party. The party wishing to terminate this Agreement must give not less than 2 Sydney Business Days' notice of termination and the termination takes effect on the expiry of the notice period. Termination shall not release either party from any existing obligations or from any liabilities for any antecedent breach of any terms of this Agreement.

- (d) If this Agreement is terminated, the Client must give a Closing Notice in respect of all existing CFDs within 5 Sydney Business Days of the date of termination. If the Client fails to unwind any CFD within that 5 Sydney Business Days period or such other time agreed between the Client and MFGA, MFGA may close out that CFD in accordance with clause 7(f) as if that failure were a Default Event.

## 18. RIGHTS OF MFGA

MFGA may at any time without prior notice to the Client, in order to discharge the Client's obligations (actual or contingent) under this Agreement:

- (a) apply all or part of any monies having currency held by MFGA in the Client's CFD Account and any currency held by MFGA for the purpose of the Client's dealings in such order and manner as MFGA thinks fit, whether the liabilities are actual or contingent, primary or collateral, joint or several;
- (b) combine or consolidate all or any of the Client's accounts with MFGA; and
- (c) convert, at a commercial rate, any currency held by MFGA in the Client's account into a currency or currencies in which payments are due from the Client to MFGA and without MFGA being responsible to the Client for any loss resulting from such conversion.

## 19. INDEMNITY

The Client agrees to indemnify MFGA and its employees, agents and representatives from and against all sums of money, actions, proceedings, suits, claims, demands, damages, costs, expenses and any other amounts whatsoever payable by or on behalf of or to the account of MFGA in respect of:

- (a) the execution of the Client's instructions in relation to CFDs;
- (b) the occurrence of a Default Event;

- (c) MFGA exercising any of its rights and powers upon the occurrence of a Default Event;
- (d) any amount payable by the Client under the terms of this Agreement; and
- (e) anything lawfully done by MFGA in accordance with this Agreement or by reason of MFGA complying with any direction, request or requirement of any government body or regulatory authority.

## 20. LIMITATION OF LIABILITY

- (a) The Client has read, understands and accepts all of the terms of this Agreement. The Client agrees that in entering into each CFD the Client will rely only upon the Client's judgement and that of the client's advisers (which for the avoidance of doubt does not include MFGA) and, to the extent permitted by law, in the absence of negligence, fraud or dishonesty by MFGA or any of its employees, agents and representatives, MFGA shall have no responsibility or liability of any kind in respect of any advice or recommendation given or views expressed to the Client on such matters, whether or not the advice or recommendation is given or views are expressed at their volition or upon the Client's request, nor will they be liable in respect of any loss incurred by the Client in connection with any CFD.
- (b) MFGA will be under no liability arising in respect of any private dealing, contract, transaction or relationship between the Client and any of MFGA's employees or agents.
- (c) To the extent permitted by law, in the absence of negligence, fraud or dishonesty by MFGA or any of its employees, agents and representatives, MFGA has no responsibility or liability of any kind for any loss or damage whatsoever incurred by the Client as a result of any delay in transmitting or failure to transmit funds caused by reasons beyond MFGA's control or as a result of MFGA's failure to timely execute orders placed with it or to transact business or otherwise administer this Agreement in the manner contemplated by this Agreement for reasons beyond its control (including without limitation, exchange control or other government restrictions, exchange or market rulings, suspension of trading, power failure, telecommunication failure, strikes or war) and, without limiting the indemnity in clause 19, the Client indemnifies and agrees to keep indemnified MFGA and its employees, agents and representatives from and against all sums of money, actions, proceedings,

suits, claims, demands, damages, costs, expenses and other amounts whatsoever arising in respect of any such loss or damage.

- (d) MFGA will be under no liability for any loss or damage arising from or in connection with any CFD as the result of any moratorium, change in exchange rates (except, in the case of an FX CFD, a change which is expressly provided for in Schedule 2), currency restrictions or changes therein, suspension or delisting of any Reference Asset or any other occurrence in relation to a Relevant Exchange.

- (e) Every exemption from liability, and every defence or immunity available to MFGA shall also be available to and extend to protect every one of MFGA's employees, agents and representatives.

## 21. COSTS, TAXES AND EXPENSES

- (a) The Client acknowledges that the Client is responsible for the Client's own legal costs associated with entering into this Agreement and for all taxes and expenses incurred by the Client in connection with this Agreement.
- (b) The Client agrees to reimburse MFGA for all taxes (both direct and indirect and including GST) and expenses charged in connection with any CFD (other than tax on the income of MFGA), and for all costs and expenses incurred by MFGA in implementing the terms of this Agreement and in enforcing its rights under this Agreement.

## 22. TRANSACTION CHARGES AND FEES

- (a) The Client acknowledges and confirms that:
  - (i) Where MFGA's financial services guide or product disclosure statement for a CFD discloses that MFGA may charge a commission, MFGA is permitted to deduct, without further reference to the Client, commission in respect of each CFD. In such circumstances the Client will pay commission to MFGA (charged in the base currency of the CFD) when the CFD is opened and when the CFD is closed. MFGA will set the application commission/brokerage rate from time to time in its sole discretion and such rate may incorporate any market charges incurred by MFGA in relation to a Hedge Position;
  - (ii) MFGA is permitted to deduct, without further

reference to the Client, electronic trading platform charges from the Client's CFD Account as held with MFGA during the term of this Agreement, whilst the Client has access to such a service; and

- (iii) in respect of Equity CFDs where the Client is the Short Party, fees relating to stock borrowing charges incurred by MFGA in hedging its exposure to the CFD.
- (b) The Client acknowledges that if the Client instructs MFGA to effect a CFD with MFGA, the Client must pay to MFGA the transaction charges and fees agreed between MFGA and the Client from time to time and pay all transaction charges, fees, Margins, settlements, interest and any other amounts due under this Agreement on demand by MFGA in cleared funds or otherwise as required by the terms of this Agreement.

### 23. PAYMENTS

All payments by the Client under this Agreement are to be made:

- (a) within 24 hours or such lesser time as MFGA may determine in its sole discretion; and
- (b) without any setoff by the Client, counter claim or condition and without any deduction or withholding for any tax or any other reason unless the deduction or withholding is required by applicable law. If the Client is required to make a deduction or withholding in respect of tax from any payment to be made or if MFGA is required to pay any tax in respect of any payment made in relation to this Agreement at the Client's request then the Client indemnifies MFGA against that tax and agrees to pay to MFGA an additional amount to ensure MFGA receives a net amount (after payment of any tax in respect of each additional amount) that is equal to the full amount MFGA would have received had a deduction or withholding or payment of tax not been made.

### 24. CALCULATION OF AMOUNTS / CURRENCY OF PAYMENTS

- (a) All determinations and calculations made by the Calculation Agent pursuant to this Agreement will be binding on the Client in the absence of manifest error. When the Calculation Agent is required to act or exercise judgement, it will do so in good faith and in a commercially reasonable manner.

- (b) All amounts due to MFGA or payable by MFGA to the Client under this Agreement are payable in such currency as MFGA may require or determine.
- (c) If an amount is payable by MFGA to the Client in a Foreign Currency, the Client may request that MFGA converts such amount into AUD. The Client may also request that MFGA converts a balance in their CFD Account from AUD to a Foreign Currency or from a Foreign Currency into AUD or another Foreign Currency. MFGA will decide in its sole discretion whether to approve and effect such conversion.
- (d) A conversion effected under clause 24(c) will involve the entry into foreign exchange contracts within the meaning of the Corporations Act and will be at the Exchange Rate quoted by MFGA. In respect of each conversion, MFGA may charge the Client a spread on the Exchange Rate, which will be debited from the Client's CFD Account.
- (e) For the purpose of determining any amount in AUD (including, without limitation, GLV or Free Equity) or any other currency in connection with a CFD, MFGA may convert any amount into another currency using any Exchange Rate selected by MFGA in its sole discretion.

### 25. DEFAULT INTEREST

The Client agrees to pay interest and MFGA is entitled to charge against the Client's CFD Account interest (before as well as after judgment) on any amount due to be paid to MFGA by the Client, from the date the amount becomes due until the date the amount together with interest under this clause is paid in full. Interest will be calculated daily and compounded monthly at a maximum rate of the RBA Rate plus 8% per annum (in respect of AUD amounts) and a maximum of the applicable MFGA Base Rate plus 8% per annum (in respect of other amounts). The actual default interest margin is set by MFGA in its discretion.

### 26. STATEMENTS

MFGA will send trading statements and month-end summary statements to the Client via e-mail. The Client must review such statements immediately upon receipt to ensure its accuracy and notify MFGA of any discrepancies within 48 hours of receipt.

### 27. SHARING OF CHARGES

The Client agrees that MFGA may share all transaction charges and fees with other persons without being required to disclose that fact to the Client (unless that disclosure is required by law).

## 28. POWER OF ATTORNEY

In consideration of MFGA entering into this Agreement, the Client irrevocably appoints MFGA and each director, secretary and principal executive officer and each employee whose title of office includes the word “manager” of MFGA severally as the Client’s attorney at any time and from time to time following the occurrence of a Default Event to execute and deliver all documents and to do all things which the Client’s attorney may consider necessary or desirable to give effect to the provisions of this Agreement, and in particular, without limitation, in connection with, or incidental to, the exercise of any of the rights and powers of MFGA contained in clause 15.

## 29. NOTICES

- (a) All communications, including demands for payment of Margins or other payments called for by MFGA in relation to CFDs, may be made by telephone, mail, facsimile, email or otherwise sent to the Client at the address, telephone, post office box, facsimile number or email address advised to MFGA.
- (b) A communication will be taken to be received by the Client:
  - (i) if delivery in person or by telegraph, when delivered to the Client;
  - (ii) if made by mail, 3 Sydney Business Days from and including the date of postage;
  - (iii) if by facsimile, when transmitted to the Client; and
  - (iv) if sent by email, when transmitted to the Client.

## 30. ASSIGNMENT

- (a) This Agreement inures to the benefit of MFGA’s successors (by merger, consolidation or otherwise) and assignees.
- (b) MFGA may assign the benefit of this Agreement or any CFD or the balance of the Client’s CFD Account to any party.
- (c) The Client acknowledges that the Client may not assign or transfer all or any part of the Client’s rights and benefits under this Agreement or any CFD without MFGA’s prior written consent.

## 31. DISCLOSURE OF INFORMATION

The Client authorises MFGA to provide such information as it sees fit concerning the Client’s CFD Account, this Agreement or any CFDs entered into or proposed to be entered into by the Client to any proposed assignee or transferee of MFGA’s rights under this Agreement, to any person where MFGA considers it reasonably necessary to facilitate the offer of CFDs as contemplated by this Agreement, or to any regulatory authority in any part of the world or any other person where MFGA reasonably considers that the disclosure is required by law or regulatory requirement or where it is necessary to protect MFGA’s interests.

## 32. RECORDING OF CONVERSATIONS

- (a) The Client agrees to the electronic recording of the Client’s telephonic conversations with MFGA with or without the use of an automatic tone warning device and to the use of recordings and transcripts of those conversations for any purpose which MFGA considers desirable including as evidence by either party in any dispute between MFGA and the Client;
- (b) MFGA is not obliged to keep copies of any recording or transcript;
- (c) MFGA agrees to make available to the Client, on request, a copy of any existing recording pertaining to that Client’s dealings in the event of a dispute or anticipated dispute with respect to that Client’s dealings. The Client agrees to pay the reasonable costs of MFGA in providing a copy of any relevant recording.

## 33. PROVISION OF INFORMATION AND/OR ADVICE TO THE CLIENT

- (a) The following provisions apply to the extent that MFGA provides financial product advice to the Client:
  - (i) Any financial product advice which MFGA gives to the Client does not take account of the Client’s objectives, financial situation or needs. Therefore, the Client should before acting on that advice consider its appropriateness having regard to the Client’s objectives, financial situation or needs and consider obtaining independent advice. If the advice relates to the acquisition or possible acquisition of a particular financial product, the Client should obtain any relevant disclosure document (such as a Product

Disclosure Statement) prepared in respect of that product and consider that document before making any decision about whether to acquire the product;

- (ii) While MFGA believes that any information or advice provided to the Client is reliable, to the extent permissible at law, no warranty is given as to its accuracy and any person who relies on it does so at its own risk. In so far as any such information or advice contains material from other sources, to the extent permissible at law MFGA makes no warranty in respect of and MFGA accepts no responsibility for the accuracy of that material. All information and advice provided to the Client is for the private use of the Client and is not to be communicated to any third party without the prior written consent of MFGA.

- (e) Unless otherwise notified to MFGA, the Client represents and warrants that the Client will enter into all CFDs as principal and not otherwise.
- (f) The Client acknowledges that MFGA acts as principal in the administration of this Agreement and in entering into and performing obligations under or pursuant to this Agreement.

### **34. LAW OF THE AGREEMENT**

This Agreement is governed by the laws of New South Wales and the parties agree to submit to the nonexclusive jurisdiction of the Courts of New South Wales.

### **35. MISCELLANEOUS**

- (a) Subject to clause 16, the illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction does not affect its legality, validity or enforceability under the law of any other jurisdiction or the legality, validity or enforceability of any other provision.
- (b) If any term or part thereof of this Agreement shall be invalid or not enforceable in accordance with its terms, all other terms or parts thereof which are self sustaining and capable of separate enforcement without regard to the invalid or unenforceable term or part thereof shall be and continue to be valid and enforceable in accordance with its terms.
- (c) No failure, delay, relaxation or indulgence on the part of MFGA in exercising any power or right conferred upon it under this Agreement or otherwise shall operate as a waiver of such power or right, nor shall any single or partial exercise of such power or right preclude any future exercise thereof.
- (d) Time is of the essence under the terms of this Agreement.

# Schedule 1

## ADDITIONAL TERMS FOR EQUITY CFDS (DOMESTIC AND INTERNATIONAL)

This Schedule applies to Equity CFDS.

### 1. INTERPRETATION

**Business Close** means, for an Equity CFD, the time at which the financial market of the Relevant Exchange normally closes on a Business Day.

**Business Day** means, for an Equity CFD, a day (other than a Saturday or Sunday or public holiday) on which the Relevant Exchange is open for business.

**Closing Price** means the Contract Security Price as determined by the Calculation Agent at the time MFGA receives, issues, or is deemed to issue, the Closing Notice.

**Contract Quantity** means, for an Equity CFD, one Contract Security.

**Contract Security** means the underlying reference instrument or security that forms the subject of the Equity CFD.

**Contract Security Price** means the current price of the Contract Security quoted on the Relevant Exchange or as otherwise determined by the Calculation Agent.

**Long Party** means, for an Equity CFD, the party having notionally bought the Contract Security.

**Short Party** means, for an Equity CFD, the party having notionally sold the Contract Security.

### 2. REFERENCE ASSET

(a) The Reference Asset for an Equity CFD is a Contract Security.

(b) The Reference Asset Price is the Contract Security Price.

### 3. ADJUSTMENT EVENTS

The following events are Adjustment Events in respect of an Equity CFD:

(a) a subdivision, consolidation or reclassification of Contract Securities, or a free distribution of Contract Securities to existing holders by way of bonus, capitalisation or similar issue;

(b) a distribution to existing holders of the underlying Contract Securities of additional Contract Securities, other capital or securities granting the right to payment of dividends and/or proceeds of liquidation of the issuer equally proportionately with such payments;

(c) holders of the underlying Contract Securities, or securities, rights or warrants granting the right to a distribution of Contract Securities or to purchase, subscribe for, or receive Contract Securities; and

(d) any event in respect of the shares analogous to any of the foregoing events or otherwise having a dilutive or concentrative effect on the market value of the Contract Securities.

### 4. DEFAULT EVENTS

The following events are Default Events in respect of an Equity CFD:

(a) If the issuer of a Contract Security of a CFD becomes externally administered, MFGA may, in its discretion, determine at any time that this constitutes a Default Event. In such circumstances, MFGA will determine the Closing Price having regard to any factors it considers appropriate, and MFGA may determine that the Closing Price is zero.

(b) If at any time a takeover offer is made in respect of a Contract Security (or a similar event occurs), then at any time prior to the closing date of such offer, MFGA may give the Client notice that MFGA regards the event to be a Default Event and that MFGA intends to close the CFD. If MFGA give such a notice, the Closing Price will be determined by MFGA.

(c) If any Contract Security ceases to be quoted on a Relevant Exchange, or is suspended from quotation, or subject to a trading halt for 3 or more consecutive Business Days (or such lesser period agreed between the Client and MFGA), MFGA may, in its absolute discretion, determine at any time that this constitutes a Default Event.

## 5. INTEREST ON OPEN CONTRACTS

- (a) In respect of each Equity CFD where the Client is the Long Party and the Equity CFD remains open past Business Close, the Client will pay a funding amount to MFGA. The funding amount is calculated, accrued and paid daily. The funding amount is calculated by reference to the Contract Value of such Equity CFD.
- (b) In respect of each Equity CFD where the Client is the Short Party, MFGA may pay a funding amount to the Client. The funding amount is calculated, accrued and paid daily. The funding amount is calculated by reference to the Contract Value of such CFD.
- (c) The Client acknowledges that, in respect of certain currencies, the funding rate which applies to such currency may be a negative rate and that accordingly, the Client may be required to pay a funding amount to MFGA even if the Client is the Short Party in respect of an Equity CFD.

## 6. DEBITS AND CREDITS

For an Equity CFD, the Contract Value of the Equity CFD, all debits and credits in respect of the Equity CFD and the Closing Value of the Equity CFD will be denominated in either AUD or the relevant Foreign Currency. If the Client does not have a Foreign Currency Ledger balance in its CFD Account in the relevant Foreign Currency, then when the Client enters into a CFD, MFGA will establish a Foreign Currency Ledger in the client's CFD Account in that currency.

## 7. VARIATION MARGIN

For an Equity CFD, the Contract Value determined under clause 6(a) will ordinarily be the Contract Security Price of the Contract Security quoted by the Relevant Exchange at Business Close. Where the Calculation Agent determines that the Contract Value of a CFD at Business Close cannot be determined on that basis for any reason, the Contract Value at Business Close will be the value determined by the Calculation Agent in its sole discretion. Without limiting the foregoing, if at any time trading on an Exchange is suspended or halted in any Contract Security, the Calculation Agent will, in determining the Contract Value, at its discretion have regard to the last traded price before the time of suspension or halt.

## 8. OPENING AND CLOSING A CONTRACT

- (a) Any:
  - (i) request for a Contract Security Price under clause 4(a);
  - (ii) offer to enter into a CFD under clause 4(b);
  - (iii) Closing Notice under clause 7(a); or
  - (iv) acceptance of a Closing Price under clause 7(b),
 must be made or given during the Trading Hours of the Relevant Exchange for the Contract Security.
- (b) For an Equity CFD, if the rules of the Relevant Exchange provide that the Contract Security can only be purchased in a specified amount or in multiples of a specified amount, the Client must ensure that the number of Equity CFDs set out in any offer by the Client under clause 4(b) is in the specified amount or a multiple of the specified amount, as applicable.

## 9. DIVIDENDS

- (a) If the Client is a Long Party in respect of a CFD over an AUD denominated Contract Security, the CFD Account will be credited with an amount equal to the cash amount of any dividend or distribution payable to the holder of the Contract Security (after any applicable withholding tax, other local taxes or other charges) and without regard to franking credits (as determined by the Calculation Agent) multiplied by the Contract Quantity on the Business Day immediately preceding the ex- dividend date.
- (b) If the Client is a Short Party in respect of a CFD over an AUD denominated Contract Security, MFGA will make reasonable endeavours to borrow stock from an offshore entity such that only an amount equal to the cash amount of any dividend or distribution payable to the holder of the Contract Security (plus an amount representing any applicable withholding tax, other local taxes or other charges) and without regard to franking credits (as determined by the Calculation Agent) multiplied by the Contract Quantity on the Business Day immediately preceding the ex-dividend date will be debited from the Client's CFD Account. However, if MFGA is unable to enter into a stock borrowing arrangement with an offshore entity, then to the extent any relevant dividend or distribution includes a franked component, the amount debited

from the Client's CFD Account will include the value of any related franking credit, in addition to the amount of the cash dividend or distribution.

- (c) If the Client is a Long Party trading in a CFD over a Foreign Currency denominated Contract Security, the CFD Account will be credited with the amount of any cash dividend or distribution payable to the holder of the Contract Security (after any applicable withholding tax, other local taxes or other charges) multiplied by the Contract Quantity on the Business Day immediately preceding the ex-dividend date. MFGA will attend to this as soon as reasonably practicable, but this could take up to 10 Sydney Business Days to effect.
  
- (d) If the Client is a Short Party trading in a CFD over a Foreign Currency denominated Contract Security, the CFD Account will be debited with the amount of any cash dividend or distribution payable to the holder of the Contract Security (plus an amount representing any applicable withholding tax, other local taxes or other charges) (as determined by the Calculation Agent) multiplied by the Contract Quantity on the Business Day immediately preceding the ex-dividend date. MFGA will attend to this as soon as reasonably practicable, but this could take up to 10 Sydney Business Days to effect.

# Schedule 2

## ADDITIONAL TERMS FOR FX CFDS

This Schedule applies to FX CFDs.

### 1. INTERPRETATION

**Business Close** means, for an FX CFD, 5pm EST on a Business Day.

**Business Day** means, for an FX CFD, any day on which foreign exchange markets are generally open for trading.

**Closing Rate** means, for an FX CFD, the Contract Rate as determined by the Calculation Agent at the time MFGA receives, issues, or is deemed to issue, the Closing Notice.

**Contract Quantity** means, for an FX CFD, one unit of the Reference Currency.

**Contract Rate** means the current exchange rate for the Currency Pair underlying that FX CFD, as determined by the Calculation Agent.

**Currency Conversion Event** means, in respect of an FX CFD:

- (a) the government or the central bank of the jurisdiction of the Reference Currency or the Settlement Currency:
  - (i) declaring;
  - (ii) indicating an intention to declare; or
  - (iii) taking any step preliminary which in the opinion of MFGA, acting reasonably, is or could be construed as intended to have the ultimate effect,

that the currency of the jurisdiction at the time the FX CFD was entered into will or may cease to be the currency or legal tender of that jurisdiction; or

- (b) the currency of the jurisdiction at the time the FX CFD was entered into ceasing to be the widely recognised currency or legal tender of that jurisdiction in the opinion of MFGA, acting reasonably.

**Currency Devaluation Event** means, in respect of an FX CFD, the government or the central bank of the jurisdiction of the Reference Currency or the Settlement Currency:

- (a) announcing a devaluation or revaluation of the Reference Currency or the Settlement Currency (as applicable); or

- (b) taking any action which in the opinion of MFGA, acting reasonably, has or could have that effect.

**Currency Pair** means, in respect of an FX CFD, the two currencies or commodities making up the FX CFD, being the Reference Currency and the Settlement Currency.

**Long Party** means, for an FX CFD, the party having notionally taken a long position in respect of the Reference Currency.

**Reference Currency** means, for an FX CFD, the first mentioned currency or commodity in respect of that FX CFD. If the Client buys an FX CFD, the Client is taking a long position in respect of the Reference Currency, and if the Client sells an FX CFD, the Client is taking a short position in respect of the Reference Currency.

**Reference Currency Interest Rate** means the interest rate in the jurisdiction of the Reference Currency, as determined by MFGA. In respect of commodities, MFGA will determine the relevant jurisdiction in its absolute discretion.

**Settlement Currency** means, for an FX CFD, the second mentioned currency or commodity in respect of that FX CFD. If the Client buys an FX CFD, the Client is taking a short position in respect of the Settlement Currency, and if the Client sells an FX CFD, the Client is taking a long position in respect of the Settlement Currency.

**Settlement Currency Interest Rate** means the interest rate in the jurisdiction of the Settlement Currency, as determined by MFGA. In respect of commodities, MFGA will determine the relevant jurisdiction in its absolute discretion.

**Short Party** means, for an FX CFD, the party having notionally taken a short position in respect of the Reference Currency.

### 2. REFERENCE ASSET

- (a) The Reference Asset for an FX CFD is a Currency Pair.
- (b) The Reference Asset Rate is the Contract Rate.

### 3. ADJUSTMENT EVENTS

The following events are Adjustment Events in respect of an FX CFD:

- (a) A Currency Conversion Event; and
- (b) A Currency Devaluation Event.

#### 4. DEFAULT EVENTS

The following events are Default Events in respect of an FX CFD:

- (a) The government or authority which issues the Reference Currency or Settlement Currency defaults or delays in payment, or declares a moratorium, standstill, waiver or deferral in payment, of any principal, interest or other amount due in relation to any security or indebtedness of that government or authority, or the government or authority amends the terms of payment of any principal, interest or other amounts due without the consent of the holders of any such obligation;
- (b) Any war, hostilities, terrorist attack, industrial action, civil unrest, natural disaster, power or telecommunications failure, government restrictions or exchange controls occur which in the view of MFGA has or may have a material impact on the Reference Currency or Settlement Currency;
- (c) any event analogous to any of the foregoing events.

#### 5. INTEREST

- (a) In respect of each FX CFD, a funding rate will generally be payable by either the Client or MFGA if the CFD remains open past Business Close, depending upon the relevant Reference Currency Interest Rate and Settlement Currency Interest Rate and any spread or margin applied by MFGA.
- (b) In respect of an FX CFD where the Reference Currency Interest Rate is greater than the Settlement Currency Interest Rate, then the Short Party will generally pay a funding rate to the Long Party, which will generally be the difference between the Reference Currency Interest Rate and the Settlement Currency Interest Rate multiplied by the Contract Value, subject to any spread or margin applied by MFGA.
- (c) In respect of an FX CFD where the Settlement Currency Interest Rate is greater than the Reference Currency Interest Rate, then the Long Party will generally pay a funding rate to the Short Party, which will generally be the difference between the Settlement Currency Interest Rate and the Reference Currency Interest Rate multiplied by the Contract Value, subject to any spread or margin applied by MFGA.
- (d) The funding amount is calculated, accrued and paid daily.

- (e) The Client acknowledges that the Reference Currency Interest Rate and/or the Settlement Currency Interest Rate may be a negative rate and that any spread or margin applied by MFGA may reduce any funding rate paid to the Client (potentially to zero) or mean that a funding rate which may otherwise have been payable by MFGA to the Client becomes a funding rate payable by the Client to MFGA.

#### 6. DEBITS AND CREDITS

For an FX CFD, the Contract Value of the FX CFD, all debits and credits in respect of the FX CFD and the Closing Value of the FX CFD will be denominated in the Settlement Currency. If the Client does not have a Foreign Currency Ledger balance in its CFD Account in the relevant Foreign Currency or the Settlement Currency (as applicable), then when the Client enters into a CFD, MFGA will establish a Foreign Currency Ledger in the client's CFD Account in that currency.

#### 7. VARIATION MARGIN

For an FX CFD, the Contract Value determined under clause 6(a) will be based on the Contract Rate at Business Close determined by the Calculation Agent in its discretion, having regard to the relevant Exchange Rate.

# Schedule 3

## ADDITIONAL TERMS FOR INDEX AND COMMODITY CFDS

This Schedule applies to Index and Commodity CFDs.

### 1. INTERPRETATION

**Business Close** means for an Index and Commodity CFD, the time at which the financial market of the Relevant Exchange normally closes on a Business Day.

**Business Day** means, for an Index and Commodity CFD, a day on which the Relevant Exchange for that Index and Commodity CFD is open for business.

**Closing Price** means, for an Index and Commodity CFD, the Contract Price of the Index and Commodity CFD at the time the Index and Commodity CFD is closed out, as determined by MFGA.

**Contract Price** means, for an Index and Commodity CFD, the price of the Index and Commodity CFD at any time (which reflects the price of the underlying Futures Contract after application of the MFGA Spread).

**Contract Quantity** means one Index and Commodity CFD, unless amended in accordance with this Agreement.

**Futures Contract** means, for an Index and Commodity CFD, the underlying instrument for that Index and Commodity CFD, being a futures contract over a market index or commodity.

**Last Dealing Time** means the last time at which a Client may execute an opening or closing transaction in respect of an Index and Commodity CFD.

**Long Party** means, for an Index and Commodity CFD, the party having notionally taken a long position in respect of the Futures Contract.

**Lot Size** means, for Index and Commodity CFDs, the minimum incremental number of Index and Commodity CFDs that may be traded, as set out on the MFGA website.

**MFGA Expiry Date** means, for an Index and Commodity CFD, the expiry date for the Index and Commodity CFD as set out on the MFGA website from time to time.

**MFGA Spread** means, for an Index and Commodity CFD, the spread charged by MFGA when quoting prices to enter into or close out the Index and Commodity CFD (which is in addition to any buy/sell spread which may apply to the Futures Contract on the Relevant Exchange) as set out on the MFGA website from time to time.

**Relevant Currency** means, for an Index and Commodity CFD, the currency in which the Open Contract Value of the Index and Commodity CFD, all debits and credits in respect of the Index and Commodity CFD and the Contract Value and Closing Value of the Index and Commodity CFD are calculated, as set out on the MFGA website.

**Short Party** means, for an Index and Commodity CFD, the party having notionally taken a short position in respect of the Futures Contract.

### 2. REFERENCE ASSET

- (a) The Reference Asset for an Index and Commodity CFD is a Futures Contract.
- (b) The Reference Asset Price for an Index and Commodity CFD is the Contract Price.

### 3. ADJUSTMENT EVENTS

The following event is an Adjustment Event in respect of an Index and Commodity CFD:

- (a) any amendment made by the Relevant Exchange (or a clearing and settlement facility for a Relevant Exchange) to any of the terms, specifications or transactions of the Futures Contract underlying the Index and Commodity CFD.

### 4. DEFAULT EVENTS

The following events are Default Events in respect of an Index and Commodity CFD:

- (a) if the underlying Futures Contract ceases to be quoted on the Relevant Exchange, or is suspended from quotation for two consecutive Business Days (or such lesser period agreed between the Client and MFGA), MFGA may, in its absolute discretion, determine at any time that this constitutes a Default Event; and

- (b) any war, hostilities, terrorist attack, industrial action, civil unrest, natural disaster, power or telecommunications failure, government restrictions or exchange controls occur which in the view of MFGA has or may have a material impact on the underlying Futures Contract or Relevant Exchange.

## **5. INTEREST ON OPEN CONTRACTS**

No funding amounts are paid or payable in respect of Index and Commodity CFDs.

## **6. DEBITS AND CREDITS**

For an Index and Commodity CFD, the Open Contract Value of the Index and Commodity CFD, all debits and credits in respect of the Index and Commodity CFD and the Contract Value and Closing Value of the Index and Commodity CFD will be denominated in the Relevant Currency. If the Client does not have a Foreign Currency Ledger in its CFD Account in the Relevant Currency, then when the Client enters into an Index and Commodity CFD, MFGA will establish a Foreign Currency Ledger in the client's CFD Account in the Relevant Currency.

## **7. OPENING AND CLOSING A CONTRACT**

- (a) Any request to open or close out an Index and Commodity CFD by a Client may only be made during the trading hours specified in the contract specifications on the MFGA website.
- (b) A Client may only request to open an Index and Commodity CFD, or give a Closing Notice in respect of an Index and Commodity CFD, before the Last Dealing Time for that Index and Commodity CFD.
- (c) All Index and Commodity CFDs not otherwise closed out before the MFGA Expiry Date will be closed out on the MFGA Expiry Date.
- (d) The Client must comply with any Lot Sizes imposed by MFGA.

# Attachment A

## WHERE CLIENT IS TRUSTEE OF A TRUST

### 1. DEFINITIONS

1.1 In this attachment:

“Trust” means the trust identified in the Master Schedule.

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

### 2. ADDITIONAL REPRESENTATIONS AND WARRANTIES

2.1 Trust Representations and Warranties

The Client represents and warrants to MFGA that:

2.1.1 the Trust has been duly constituted and is validly existing in compliance with all applicable laws and the Trust Deed has been duly executed and duly stamped, in each case in accordance with the laws of each State and Territory of Australia;

2.1.2 the Trust Deed and its constituent documents give it power:

(a) to carry on all of the business activities now conducted by it in any capacity;

(b) to enter into and comply with its obligations under, and to carry on the transactions contemplated by, this Agreement;

2.1.3 all necessary resolutions have been duly passed and all consents have been obtained and all other procedural matters have been attended to as required by the Trust Deed, any other document or any law for the entry into, observance and performance by it of its obligations under this Agreement;

2.1.4 each of its obligations under, and the transactions contemplated by, this Agreement constitute binding obligations and are completely and lawfully enforceable against it and the Trust’s property in accordance with their terms;

2.1.5 it is the only trustee of the Trust and no action has been taken or proposed to remove it as trustee of the Trust;

2.1.6 no property of the Trust has been resettled, set aside or transferred to any other trust or settlement;

2.1.7 the Trust has not been terminated, nor has the date or any event for the vesting of the Trust’s property occurred;

(a) it taken any action that will cause the Trust to be terminated; or

(b) the date or any event for the vesting of the Trust’s property occurred;

2.1.8 no determination has been made to distribute the Trust’s property on a date which is earlier than the latest date under the Trust Deed by which the Trust’s property must be distributed;

2.1.9 there is no conflict of interest on the Client’s part in entering into this Agreement and performing its obligations under it or the transactions contemplated by it;

2.1.10 it has an unrestricted right to be fully indemnified or exonerated out of the Trust’s property in respect of any losses or liabilities incurred by it and the Trust’s property is sufficient to satisfy that right of indemnity or exoneration;

2.1.11 it has complied with its obligations in connection with the Trust; and

2.1.12 no proceedings of any description have been or are likely to commenced or, to its knowledge, threatened which could affect the assets or financial position of the Trust or its trusteeship of the Trust.

# Attachment B

## WHERE CLIENT IS TRUSTEE OF A SUPERANNUATION FUND

### 1. DEFINITIONS

1.1 In this attachment:

**“Superannuation Fund”** means the Superannuation Fund identified in the Master Schedule.

**“Fund Constitution”** means the constitution governing the Superannuation Fund, as varied, substituted, supplemented or resettled from time to time.

### 2. ADDITIONAL REPRESENTATIONS AND WARRANTIES

2.1 Superannuation fund Representations and warranties

The Client represents and warrants that:

2.1.1 the transactions contemplated by this Agreement insofar as they concern the Superannuation Fund:

- (a) comply with all requirements of the Superannuation Industry (Supervision) Act 1993 (the “Act”);
- (b) have been or are to be implemented in accordance with an investment strategy undertaken in accordance with Act, as contemplated by section 52(2)(f) of the Act;
- (c) comply with all the requirements of the Fund Constitution and rules of the Superannuation Fund, in force at the date of this Agreement; and
- (d) have been or are undertaken on an arm’s length basis, for value and on commercial terms.

2.1.2 the Superannuation Fund has been duly constituted and is validly existing in compliance with all applicable laws and the Fund Constitution has been duly executed and duly stamped, in each case in accordance with the laws of each State and Territory of Australia;

2.1.3 the Fund Constitution and its constituent documents give it power:

- (a) to carry on all of the business activities now conducted by it in any capacity;
- (b) to enter into and comply with its obligations under, and to carry on the transactions contemplated by, this Agreement;

2.1.4 all necessary resolutions have been duly passed and all consents have been obtained and all other procedural matters have been attended to as required by the Fund Constitution, any other document or any law for the entry into, observance and performance by it of its obligations under this Agreement;

2.1.5 each of its obligations under, and the transactions contemplated by, this Agreement constitute binding obligations and are completely and lawfully enforceable against it and the Trust’s property in accordance with their terms;

2.1.6 it is the only trustee of the Superannuation Fund and no action has been taken or proposed to remove it as trustee of the Superannuation Fund;

2.1.7 no property of the Superannuation Fund has been resettled, set aside or transferred to any other trust or settlement;

2.1.8 the Superannuation Fund has not been terminated, nor has:

- (a) it taken any action that will cause the Superannuation Fund to be terminated; and
- (b) the date or any event for the vesting of the Superannuation Fund’s property occurred;

2.1.9 no determination has been made to distribute the Superannuation Fund’s property on a date which is earlier than the latest date under the Fund Constitution by which the Superannuation Fund’s property must be distributed;

- 2.1.10 there is no conflict of interest on the Client's part in entering into this Agreement and performing its obligations under it or the transactions contemplated by it;
- 2.1.11 it has an unrestricted right to be fully indemnified or exonerated out of the Superannuation Fund's property in respect of any losses or liabilities incurred by it and the Superannuation Fund's property is sufficient to satisfy that right of indemnity or exoneration;
- 2.1.12 it has complied with its obligations in connection with the Superannuation Fund; and
- 2.1.13 no proceedings of any description have been or are likely to commenced or, to its knowledge, threatened which could affect the assets or financial position of the Superannuation Fund or its trusteeship of the Superannuation Fund.

# Contract for Difference Client Agreement

I/We have read, understood and accepted the Contract for Difference Client Agreement and the relevant Product Disclosure Statement relating to each type of CFD that I/We will enter into under this agreement and agree to be bound by the terms of this CFD Client Agreement.

## 1. INDIVIDUAL ACCOUNT (AND TRUST ACCOUNTS WHERE AN INDIVIDUAL IS THE TRUSTEE)

Signature  Name (please print)

(For Trust Accounts the trustee must sign)

## 2. JOINT/PARTNERSHIP ACCOUNT (AND TRUST ACCOUNTS WHERE TWO OR MORE INDIVIDUALS ARE TRUSTEES)

Signature  Signature

Name (please print)  Name (please print)

(Please note for joint accounts, partnership accounts, all parties must sign).

## 3. SOLE DIRECTOR COMPANY ACCOUNT

I execute this Agreement in the capacity of sole Director and sole Secretary of this Company.

Sole Director  Name (please print)

## 4. CORPORATE ACCOUNT (AND TRUST ACCOUNTS WHERE THE TRUSTEE IS A CORPORATION)

Signed for and on behalf of:

Name of Company

Director  Director/Secretary

Name (please print)  Name (please print)

The terms contained above are confirmed and accepted by MF Global Australia Limited (MF Global)

Authorised signatory for MF Global

Name (please print)

# Guarantee And Indemnity

In consideration of **MF GLOBAL AUSTRALIA LIMITED**, a company duly incorporated in the State of New South Wales and having its registered office in that State at 225 George Street, Sydney (MFGA), agreeing to act in such capacity as the person or persons identified in item 1 of the Master Schedule (and where more than one is identified, those persons jointly and severally) ("**the Client**") may from time to time direct, the person or persons identified in item 4 of the Master Schedule (and where more than one is identified, those persons jointly and severally) ("**the Guarantor**") agrees as follows:

- 1 The Guarantor represents and warrants to MFGA that valuable consideration has been received for entering into this Guarantee and Indemnity.
- 2 The Guarantor unconditionally and irrevocably guarantees to MFGA payment of all amounts of money (including damages) that are payable, owing but not payable, or otherwise remain unpaid by the Client to MFGA on any account or at any time, whether:
  - 2.1 present or future, actual or contingent;
  - 2.2 incurred alone, jointly, severally or jointly and severally;
  - 2.3 originally contemplated by the Guarantor and MFGA or not; and
  - 2.4 includes money relating to the due and punctual performance and observance of all conditions and provisions of any agreement between the Client and MFGA to be respectively paid, performed and observed by the Client, and if the Client does not pay such money on time and in accordance with any such agreement then the Guarantor agrees to pay it to MFGA on demand from MFGA (whether or not demand has been made by MFGA on the Client).
- 3 Each Guarantee jointly and severally indemnifies and agrees to keep indemnified MFGA:
  - 3.1 against any failure on the part of the Client to pay MFGA any and all moneys which are due and payable at the date of this document or which become at any later time due and payable to MFGA;
  - 3.2 against all losses, suits, claims, proceedings, costs, damages and expenses of whatsoever kind suffered or incurred by MFGA by reason of any action on the part of the Client in relation to any agreement between the Client and MFGA; and
  - 3.3 against any loss MFGA suffers because a liability of the Client to pay any amount under an agreement between the Client and MFGA is unenforceable in whole or in part or is not or has never been recoverable from the Guarantor or the Client because of any circumstance whatsoever including any agreement or term of an agreement between the Client and MFGA being void, voidable or unenforceable and whether or not MFGA knew or should have known anything about that circumstance.
- 4 This Guarantee and Indemnity shall be a principal obligation, immediately enforceable against the Guarantor by MFGA and the Guarantor as principal debtor must pay to MFGA on demand a sum equal to the amount of any loss described in clauses 3.2 and 3.3 above and shall protect MFGA against all and any obligations (contingent or actual) of the Client to MFGA. In the event of any moratorium or suspension of the Client's obligations the Guarantor shall forthwith on demand pay to MFGA the whole of the moneys due and payable to MFGA, or which become due and payable to MFGA, by the Client.
- 5 The Guarantor's obligations under this Guarantee and Indemnity are absolute, unconditional and irrevocable and that this Guarantee and Indemnity shall not be affected in any way by any circumstance, act or omission, which would otherwise affect it at law or in equity, including:
  - 5.1 moratorium or by any delay period of grace or other indulgence given or allowed by MFGA to the Client or the Guarantor; or
  - 5.2 by any modification or variation in the terms upon which moneys due and payable to MFGA by the Client are so due and payable;
  - 5.3 any transaction or arrangement that may take place between MFGA and the Client, the Guarantor or any other person;

- 5.4 the occurrence of an Insolvency Event in relation to the Client, the Guarantor or any other person;
- 5.5 MFGA not giving the Guarantor notice of any default by the Client or any other person;
- 5.6 any change in the legal capacity, rights and obligations of, or other circumstances related to the Client, the Guarantor, or any other person;
- 5.7 any assignment by MFGA, with or without the knowledge of the Client or the Guarantor;
- 5.8 any judgment or right which MFGA may have or exercise against the Client, the Guarantor or any other person;
- 5.9 the opening or operation of a new account by the Client with MFGA or any other person; or
- 5.10 by any other thing which would but for this provision have the affect or releasing the Guarantor from liability under this document.
- 6 In the event of avoidance for any reason whether by statute or otherwise of any payment by the Client or by the Guarantor to MFGA pursuant to this Guarantee and Indemnity, irrespective of whether such avoidance operates from the time of such payment or from any later date, the liability (contingent or actual) of the Guarantor and the rights and remedies of MFGA against the Client and/or the Guarantor shall be the same as if no such payment has been made.
- 7 This Guarantee and Indemnity is in addition to and not in substitution for any other security which MFGA may hold and this Indemnity may be enforced against the Guarantor without first having recourse to any such security or taking any steps or proceedings against the Client.
- 8 The Guarantor represents and warrants that the Guarantor is aware of the terms and conditions governing the contractual arrangements between MFGA and the Client.
- 9 The Guarantor represents and warrants that the person who executes this Guarantee and Indemnity on behalf of the Guarantor has the power and authority of the Guarantor to do so.
- 10 MFGA is not liable for any loss suffered by the Guarantor as a direct or indirect result of:
- 10.1 MFGA's exercise or attempted exercise of, or failure to exercise, any of its rights contained in this document; or
- 10.2 MFGA failing to monitor compliance with, failing or being slow to enforce, or failing to notify the Guarantor of a breach of, any warranty, undertaking or other obligation of the Client or any other person under any document.
- 11 The Guarantor must pay interest, on demand, on each amount that is not paid when due, from (and including) the day on which it falls due to (but excluding) the day on which it is paid in full at the rate calculated in accordance with clause 12 below, and this clause does not affect the Guarantor's obligation to pay each amount under this Guarantee and Indemnity when it is due.
- 12 The Guarantor acknowledges that interest on an unpaid amount referred to in clause 11 above accrues each day at a maximum rate equal to the sum of the RBA Rate plus 8% per annum for that day, and is capitalised (if not paid) every 30 days.
- 13 This Guarantee and Indemnity shall be governed by the law in force in New South Wales and that the Client, the Guarantor and MFGA submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Guarantee and Indemnity.
- 14 The Guarantor must:
- 14.1 do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any documents), that MFGA may require to give full effect to this Guarantee and Indemnity;
- 14.2 obtain all necessary governmental approvals and authorisations and take any such other actions as may be necessary to enable it to discharge its obligations under this Guarantee and Indemnity.
- 15 This Guarantee and Indemnity can only be amended, supplemented, replaced or novated by agreement (in writing) of MFGA.
- 16 This document may be executed in counterparts.

## DEFINITIONS

The following definition applies in this Guarantee and Indemnity:

**Insolvency Event** means, for a person, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act 2001 (Cth) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act 2001 (Cth)), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the laws of any applicable jurisdiction.

	(DAY)		(MONTH)		(YEAR)
DATED this	<input type="text"/>	day of	<input type="text"/>	20	<input type="text"/>
Signature Guarantor	<input type="text"/>				
Name of Guarantor (Please print)	<input type="text"/>				
Signature Witness	<input type="text"/>				
Name of Witness (Please print)	<input type="text"/>				
Address of Witness	<input type="text"/>				

# Statement Of Assets And Liabilities

## STRICTLY PRIVATE AND CONFIDENTIAL

### 1. Client Details

Title Surname or Company Name

Given Names

Driver's Licence No. (Attach copy of driver's licence or passport.)

Date of Birth

Annual Income

 \$

Occupation

Employer or Business

Business Address



Tax File Number (Australian Residents only) ... please provide details for all parties to the account

Provision of your Tax File Number (TFN) is optional, however, you should be aware that if a TFN is not lodged, MF Global is required to deduct withholding tax at the highest marginal rate.

### 2. Assets Held In Personal Or Company Name

Property	Date Purchased	Price Paid	Value
<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
Location	in the name of		\$ <input type="text"/>
<input type="text"/>	<input type="text"/>		\$ <input type="text"/>
Other Real Estate	<input type="text"/>		\$ <input type="text"/>
Cash at Bank	<input type="text"/>		\$ <input type="text"/>
Listed Shares	<input type="text"/>		\$ <input type="text"/>
Other Assets	<input type="text"/>		\$ <input type="text"/>
<b>TOTAL (A)</b>			\$ <input type="text"/>

### 3. Liabilities

Property Mortgage	<input type="text"/>	\$ <input type="text"/>
Line of Credit	<input type="text"/>	\$ <input type="text"/>
Other Debts Outstanding	<input type="text"/>	\$ <input type="text"/>

I warrant that the above statement of financial affairs is a true and accurate statement of my minimum financial situation and I acknowledge that MF Global may rely on the above statement in assessing my potential ability to meet any of the obligations that may arise under the Client Agreement between myself and MF Global. I also acknowledge that the above statement will be used by MF Global solely for this purpose and will not be used by MF Global to assess my personal objectives, financial situation and needs for the purposes of any advice given by MF Global. In other words, I acknowledge that the provision by me of this information does not mean that any advice given to me by MF Global will constitute personal advice within the meaning of the Corporations Act (refer clause 33 of the Client Agreement).

**TOTAL (L)** \$

**NET VALUE (A - L)** \$

Signature

Date