

EBURY AUSTRALIA TERMS AND CONDITIONS

The website www.ebury.com.au is operated and controlled by Ebury Partners Australia Pty Ltd ACN 632 570 702 AFSL 520548 (**Ebury, we, our** or **us**).

The use of the Site, including your E-Money Account, and the provision of our Services to you (**Customer, you** or **your**) is governed by and subject to these terms and conditions (**Terms**) and the general [Site Terms](#), which form part of these Terms. These Terms prevail to the extent of any inconsistency. These Terms are intended to be legally binding. Please read them carefully.

By registering for an E-Money Account and/or using our Services, you agree that you have read, understood and agree to be bound by these Terms. You also agree to our [Privacy Policy](#). If you disagree with these Terms or the Privacy Policy, you must not use the Site or the Services to place any Orders or otherwise ask us to provide a Trade or provide Services to you.

These Terms do not vary or affect the operation or meaning of any agreement that you have in place with a third party in any way. For example, these Terms do not impact any contract that you have in place with your bank or any other third-party service provider.

DEFINITIONS

The following terms have the following meanings when used in these Terms, unless the context requires otherwise:

- **Affiliate means**, in relation to a party, every entity that, directly or indirectly, through one or more intermediaries, is at the relevant time controlled by, controls or is under common control with such party.
- **AFSL** means Australian Financial Services Licence.
- **Applicable Laws** means any applicable law, statute, regulation, rules or legally binding requirement or order (as interpreted by us, having taken into account any regulatory policy, guidance or industry code) as in force from time to time in any jurisdiction, whether domestic or foreign and as amended, modified or supplemented from time to time.
- **AUD** means the Australian dollar.
- **Beneficiary** means you or any third party payee nominated by you in a Payment Instruction.
- **Beneficiary Account** means the bank account nominated by you to which funds are to be transferred.
- **Business Day** means a day on which banks are open for general banking business in Sydney, Australia.
- **Client Money** means money that is received by us from you or someone acting on your behalf in connection with a financial product held by you or the provision of a financial service.
- **Close Out** means the termination, cancellation or a reversal of a Trade or pending Trade.
- **Delivery Date**, means, in respect of a Trade, the Business Day on which we will transfer funds to the Beneficiary Account, or any date otherwise agreed in writing
- **E-Money Account** means your online account with Ebury which enables you to use the Site and access the Services.
- **Fees** means any fee payable by you to Ebury in relation to a Service as set out in the [Financial Services Guide](#), as varied from time to time.
- **Force Majeure Event** means an event which is beyond the reasonable control of a party including, without limitation, acts of war and terrorism, insurrection, civil disorder, acts of God, postal or other strikes or similar industrial action, acts or regulations of any governmental or supranational bodies or authorities or markets, the failure of any market to perform its obligations, the breakdown, failure or malfunction of any telecommunications or computer service, epidemics, pandemics, quarantines, diseases or government intervention as a result of such.
- **Forward Contract** means a foreign exchange contract under which we agree, on a specific date or specified range of dates in the future (and which may, if agreed, be contingent on a specific event or circumstances occurring) to exchange money with you at an agreed exchange rate and at an agreed time
- **Funding Source** means the bank account provided by you to fund a Payment Instruction, Trade or Margin or any other transaction by you or to pay Fees.

- **Interest Rate** means the annual interest rate(s) published on the Site.
- **KYC Procedures** means the “know your client” identification and verification procedures that we undertake.
- **Limit Order** means an Order to exchange money at a specified exchange rate and within a specified time period
- **Loss** means all taxes, duties, levies, fees (including without limitation fees, registration fees, legal fees, accountancy fees and/or any other professional fees) charges, claims, proceedings, judgments, expenses, costs (including, without limitation, costs of investigation and expenses of litigation) fines, penalties, settlement payments, losses, damages and liabilities.
- **Margin** means such amount in any currency that we determine at any time and from time to time (in our sole discretion) that you are required to provide to us for the purposes of securing or otherwise collateralising your obligations and liabilities to us under this Agreement or otherwise.
- **Margin Call** means a request by us to you for Margin.
- **Nominated Account** means the Ebury bank account(s) which we notify to you from time to time.
- **Online System** means the electronic platform and interface (hosted by us) through which you can access most (but not all) of the Services.
- **Order** means a request by you for Ebury to enter a Trade or a transfer/payment.
- **Payment** means any payment by you to us under this Agreement (including, without limitation, any payment in relation to an Order, Trade or Margin Call).
- **Payment Amount** means the full amount which you are required to pay us to fulfil your Trade.
- **Payment Instruction** means an instruction by you to us to make a Transfer, make a Payment or pay Margin
- **Payment Instruction Confirmation** means the email we shall send to you for the purpose of confirming the Payment Amount and the Beneficiary Account.
- **Privacy Policy** means the Ebury privacy policy available on our website, as varied from time to time.
- **Purchase Currency** means the currency which you shall buy from us.
- **Retail Client** means a customer or a potential customer of Ebury who is not a Wholesale Client or a Sophisticated Investor.
- **Sell Currency** means the currency which you shall sell to us.
- **Services** means the services listed in clause 1 provided by us from time to time.
- **Site** means the website www.ebury.com.au.
- **Site Terms** means the [Terms of use](#) which govern the use of the Site, as published on the Site and varied from time to time.
- **Sophisticated Investor** means a person who would be a Wholesale Client only through the application of section 761GA of the Corporations Act 2001 (Cth). This requires the person to sign a special Sophisticated Investor letter.
- **Spot Contract** means a foreign exchange contract under which we agree to exchange money at an agreed exchange rate within two Business Days of the contract being entered into.
- **Termination Date** means the date on which the agreement that you have entered with us under these Terms is terminated.
- **Trade** means a Spot Contract, Forward Contract or any other transaction we enter into with you under or in connection to these Terms.
- **Transaction ID** means the unique transaction ID given by us to each Trade.
- **Transaction Receipt** means an email confirmation sent by us to you detailing the terms of a Trade.
- **Transfer** means a transfer of funds to a Beneficiary.
- **Wholesale Client** has the same meaning as in section 761G of the Corporations Act 2001 (Cth) but does not include a Sophisticated Investor.

OUR SERVICES

1. Ebury provides the Services which enable you to:

- a. create an E-Money Account and load funds onto your E-Money Account;
- b. make payments to third parties using funds loaded onto your E-Money Account; or
- c. enter into Trades, including a Spot Contract, Forward Contract or any other transaction,

(Services).

2. The Site cannot be used for gambling, adult entertainment, pornography, drugs and drug paraphernalia, arms and ammunition, sexual encounter and related services provided by sexual encounter firms, unlicensed money transmission and financial service, escort services, government grants, home based charities, pay day loans, tobacco sales or any other product or any other purpose that may increase the risk of our Services or Site being used to launder money or finance terrorism.

CUSTOMER ELIGIBILITY

3. To be eligible for an E-Money Account and to use Site, you must:

- a. be at least 18 years old;
- b. register for an E-Money Account in accordance with the instructions, including indicating your agreement to be bound by these Terms and the Privacy Policy;
- c. not be in breach of any of these Terms;
- d. not be a holder of an existing operational E-Money Account;
- e. not be a holder of an E-Money Account that is blocked, suspended, or was previously cancelled by us;
- f. not be a resident of any country to which we do not provide the Services; and
- g. have full capacity to enter into, agree to and comply with these Terms.

4. Ebury reserves the right in its absolute discretion to refuse to issue an E-Money Account to a Customer and to refuse to provide Services to a Customer at any time, and retains the right to ask for further information or to impose further requirements that Ebury deems, in its sole discretion, to be reasonably necessary to protect Ebury's interests.

YOUR E-MONEY ACCOUNT

5. To use one or more of the Services, you must register to create an E-Money Account. Your E-Money Account is an electronic money account and can be used to:

- a. store funds in one or more currencies nominated by you;
- b. make Transfers (alone or in combination with a Trade);
- c. make Payments in connection with one or more obligations hereunder (including in respect of Trades); and
- d. pay Margin.

6. You can register for an E-Money Account using our Online System by clicking "Open Account" and following the instructions and signing the online application form. You must not apply for more than one E-Money Account.

7. You will not be issued an E-Money Account or be able to access the Services until we have completed our KYC Procedures and you have provided all the information we request. You agree to comply with all requests and will provide Ebury with any information and other documents requested by us in accordance with the KYC Procedures so that we can verify your identity. You permit us to keep a record of such information and share it with third parties for the purpose of verifying your identity.

8. We will review your application to register for an E-Money Account as soon as possible after you have completed the application form. It remains in our sole discretion whether we issue an E-Money Account to you. We will notify you if your application is approved.

9. We will credit any funds received from you, or on behalf of you from third parties, to your E-Money Account.

10. You can check the balance held in your E-Money Account by logging into the Online System. Key information relating

to payments made using the E-Money Account, including Fees and any other charges applied to your E-Money Account and transaction history, will be available by logging into the Online System.

11. You must inform us immediately in writing of any changes including but not limited to; incorporation details, beneficial ownership, address, delivery information, Client financial institution or designated account.

12. The E-Money Account represents software owned by Ebury, and you are provided with a limited non-exclusive license to use the software for the purposes of using the Site in accordance with these Terms.

13. You agree that we may place other limits on your E-Money Account, including placing limits on the amount of payments that you can instruct us to make.

HOW TO USE THE YOUR E-MONEY ACCOUNT

14. You can place a Payment Instruction and/or an Order from your E-Money Account:

a. online, by logging on to the Online System (using your password and log-in details) and following the instructions to submit your Payment Instruction and/or an Order;

b. via telephone, by calling us on the contact number provided on the Online System and specifying your Payment Instruction and/or an Order, together with such other information as we may reasonably request; or

c. via email, by emailing us and specifying your Payment Instruction and/or an Order.

15. When placing a Payment Instruction and/or an Order you will be required to provide us with the requisite details (including any unique identifier and other information which we may request). You are solely responsible for the provision and confirmation of correct payment details. We will not be liable for any payment made in accordance with details provided by you in an Order.

16. A Payment Instruction and/or an Order will be deemed to have been authorised by you if the relevant instruction has been given in accordance with these Terms.

17. We will not allow you to make any Transfer or Payment out of your E-Money Account where this would put your E-Money Account into a negative balance. You should therefore ensure that you have sufficient funds, including for the purposes of satisfying any Margin Call which may be made from time-to-time, in your E-Money Account before placing a Payment Instruction or Order.

18. Each transaction made using the E-Money Account will be given a unique Transaction ID which will be set out in the transaction history.

19. The Beneficiary's Account shall be credited by no later than the end of the Business Day following the Business Day on which the relevant Payment Instruction was received by us. If a Payment Instruction is received by us after 4 pm (AEST) on any Business Day, it shall be deemed to have been received by us on the next following Business Day.

20. Where you make a Payment using your E-Money Account, the amount of the payment will be deducted by us from your E-Money Account balance. You must ensure that you have sufficient funds in your E-Money Account to cover the amount of Payment Instruction or Order you want to make using your E-Money Account. If you do not have sufficient funds in your E-Money Account, we reserve the right to postpone the execution of such Payment Instruction or Order, and we may impose a charge to cover the costs of us doing so.

21. You acknowledge that any amount remitted by us in accordance with a Payment Instruction is done on your behalf. Once a Payment Instruction has been processed, you are responsible for recovering any amount that you wish to recover from a Beneficiary that has been remitted by us. Any Fees paid by you in relation to a recovered payment are not refundable under any circumstances.

22. We reserve the right to refuse or postpone any Payment Instruction or Order for any reason and at any stage of the transaction process, in our absolute discretion. If payment has been initiated from you or a third party before we refuse to complete the relevant instruction, we will refund the amount, less any applicable Fees. You agree that we will not be liable in respect of any refusal or postponement. If we refuse or postpone a Payment Instruction and/or Order, we will contact you to advise you of the refusal or postponement but are not required to provide you with any reason. We are not liable to you for any such refusal.

PLACING A TRADE

23. Once we have received your Order using one of the methods set out above in clause 14, we will confirm (as relevant):

- a. the purpose for the transaction;
- b. the amount of money you wish to exchange;
- c. the two currencies involved;
- d. which currency you would like to buy or sell;
- e. the Value Date you would like the payment made; and
- f. any other information that we require as notified to you.

24. Upon receipt of an Order, we will provide you with a Transaction Receipt and a Payment Instruction Confirmation, which we may provide in a single communication.

25. You must carefully review the Transaction Receipt and the Payment Instruction Confirmation and tell us before making a Payment if you think any of the details are incorrect. If you are placing an order by telephone or by email, you must tell us within one hour of receipt of your Transaction Receipt and Payment Instruction Confirmation. We'll provide you with a revised Transaction Receipt and/or Payment Instruction Confirmation as soon as possible.

26. Except in the case of Limit Orders, we will execute the Trade upon receipt of Payment.

27. To the extent permitted by the law, you may not cancel a Trade which you have placed with us. However, if we haven't yet processed the Trade:

- a. you can correct any incorrect Beneficiary Account details (though we may charge a Fee for this); and
- b. we may at our discretion permit you to cancel the Trade.

28. If we permit you to cancel an Order:

- a. if we've already received the Payment Amount, we'll return it to the account from where it came. However, if the Sale and Purchase Currencies are different, we'll convert the Purchase Currency back to the Sale Currency using an agreed exchange rate at the time of cancellation, which means the amount we return to you may be more or less than the original Payment Amount;
- b. we won't refund any Fees you've paid us; and
- c. we may require you to pay an additional fee that we agree with you at the time of permitting cancellation.

SUSPENSION OR CANCELLATION OF A TRADE

29. We may reject, suspend, disregard or cancel a Trade, or refuse to issue a Transaction Receipt in our sole discretion for any of the following reasons:

- a. if, in our sole discretion, the Order is unclear;
- b. if, in our sole discretion, we suspect that the Order was not authorised by you;
- c. an Insolvency Event arises;
- d. you breach any material representation or warranty or are otherwise in breach of these Terms;
- e. we may otherwise breach Applicable Law or face action from a regulator or other authority;
- f. the Trade may be linked to activity that breaches Applicable Law;
- g. you have failed to make Payment when due or are otherwise in breach of these Terms;
- h. you fail to provide us with sufficient information to allow us to fulfil the Trade; or
- i. the Trade is outside our compliance risk appetite.

30. If we cancel a Trade after receiving the Payment, we'll return the relevant amount and any related Fees we've received (less our reasonable costs) to the account from which it was sent.

PAYMENT FOR TRADES AND CONSEQUENCE OF NON-PAYMENT

31. You must pay the full Payment Amount to us from your E-Money Account on or before the Delivery Date. If we have not received the Payment Amount by the Delivery Date, we may:

- a. refuse to fulfil the Trade; or
- b. Close Out the Trade in accordance with these Terms. Failure to make Payment in accordance with this clause 31 will be a material breach of these Terms.

32. Without prejudice to any other rights and remedies available to us under Applicable Laws, we may charge interest on any sum due to us under these Terms after they become due and payable at the Interest Rate. This interest will accrue and will be calculated daily and be compounded monthly from the due date until we receive payment of the overdue amount in full. The annual interest rate(s) are published on the Ebury Site.

FORWARD CONTRACTS

33. If you enter into a Forward Contract, we may require you to make an initial Margin payment within twenty-four (24) hours of you receiving the Transaction Receipt.

34. From time to time during the term of the Forward Contract, we may require you to pay to us additional Margin to maintain the relative value of the Purchase Currency. We will make a Margin Call if we require you to pay an additional Margin.

35. If you are a Wholesale client you agree that we can deal with money paid by you as Margin in accordance with clauses 36 to 39 instead of in accordance with the Client Money Rules and that the provisions in clauses 52 to 56 do not apply.

36. If we make a Margin Call, you must pay the required additional Margin to our Nominated Account within twenty-four (24) hours of our demand from your E-Money Account and/or by some other means. Margin call amounts will vary depending on, but not limited to, notional value, currency pair and market volatility.

37. If you do not satisfy the Margin Call, we may cancel the Forward Contract with immediate effect or Close Out.

38. Any Margin paid by you or on your behalf will be paid to us for the purpose of securing or covering all your present or future, actual or contingent, or prospective, obligations to us under these Terms or otherwise. Any Margin paid by you in respect of a Forward Contract is our property. We do not hold such Margin on your behalf, whether on trust or otherwise, and we can deal with it as our own.

39. We will owe you a debt equal to the amount of Margin received by us, subject to any set-off rights under, or other terms of, these Terms, or under general law. We shall pay to you all or part of any amount of Margin owed to us by you under this clause to the extent that we consider, in our discretion, that the amount of Margin you have transferred to us exceeds the amount required by us to secure or cover all your present or future, actual or contingent, or prospective obligations to us under these Terms or otherwise.

40. You may ask us to bring forward or to extend the Delivery Date in relation to the whole or only part of your Forward Contract. We may agree to such a request at our sole discretion. If we agree, you acknowledge that we may adjust the Payment Amount to reflect new Delivery Date

LIMIT ORDERS

41. We will execute a Limit Order when we achieve the rate nominated by you within the agreed time period.

42. If the last day of the agreed time period falls on a non-Business Day, your Limit Order will expire on the following Business Day.

43. You may cancel a Limit Order at any time (by telephone or by email), up until the agreed exchange rate is achieved by us.

44. Upon successful execution of a Limit Order, we will provide you with a Transaction Receipt setting out the details of the Trade.

45. You acknowledge that although we will try to achieve the agreed exchange rate within the agreed period, we cannot guarantee that the agreed exchange rate will be met

CLOSE OUT

46. We may Close Out a particular Trade or all current Trades that you have with us, without notice to you, for any event set out above at clause 29 or if you terminate your relationship with us or cancel your E-Money Account in accordance with these Terms.

47. You may ask us to Close Out a particular Trade or all current Trades by giving us notice in writing. If we permit you to Close Out:

a. we will buy back the currency that we have bought for you when you entered into the Trades at prevailing market rates. If the value of the Purchase Currency has strengthened, this means that a Loss will be incurred on the Trade and you will be liable to us for the amount of that Loss (as well as any costs incurred by us);

b. we will not pay you any profit arising from the Close Out;

c. you acknowledge that the amount of any Loss realised on the Closing Out of a Trade is a debt payable by you and agree that we may immediately deduct the total amount of any Loss (together with any costs) from your E-Money Account;

d. if the amount we are seeking to recover exceeds the amount of any Margin or funds available in your E-Money Account, you must pay the balance upon being notified by us of the total amount due;

e. we may charge you interest on any sum that remains payable to us after we Close Out at the Interest Rate. Interest will accrue and will be calculated daily and be compounded monthly from the date payment was due until the date full payment is made by you; and

f. we will send you a written statement explaining the amount of any sums that may be payable to us and the amount of any sums being withheld by us.

FEES AND FOREIGN EXCHANGE RATE

48. You agree that you will pay any applicable Fees and charges in connection with our Services, which may include a Fee for the use of an E-Money Account and/or on a per Trade, Order or Payment Instruction basis, as set out in the [Financial Services Guide](#).

49. We will let you know the amount of any fees we charge when you place or we process a Trade, an Order or a Payment Instruction (as applicable).

50. Without prejudice to any other rights and remedies available to us under Applicable Laws, we may charge interest on any overdue sum owed to us under these Terms for the period from (and including) the original due date to (but excluding) the actual date of payment, at the Interest Rate.

51. There may be other costs, taxes, fees or charges that apply in relation to the use of your E-Money Account, a Payment Instruction, Order and/or Trade which are not charged by us. We are not responsible for any fees or charges imposed by a third party in connection with your use of the Services. You are responsible for paying such costs, taxes, fees or charges where these apply.

HOW WE HANDLE YOUR MONEY

52. The funds in your E-Money Account will be held in a trust account until you enter into a Trade or withdraw your funds. We segregate Client Money from Ebury's money and hold Client Money in a pooled trust account in accordance with Australian law.

53. By the Services, you relinquish the right to any interest on funds deposited in your E-Money Account. The money allocated to your E-Money Account is not held separately to other Customers' money but is pooled together. Client Money allocated to your E-Money Account is held on trust for you until it is withdrawn or you otherwise provide us with a legal right to that Client Money in accordance with these Terms.

54. If you are a Retail Client or a Sophisticated Investor, we cannot use your Client Money for our own capital purposes, or to hedge with our liquidity providers. We use our own funds. We may use Wholesale Client funds for these purposes. We typically hold the equity balance displayed in your E-Money Account in our client money account.

55. You can ask us for records about money we have received from you, on your behalf, or for your benefit, if that money is Client Money. We will provide you with the records within 5 Business Days or such longer period as we may agree to in writing with you.

56. There is a counterparty risk that you may lose some or all of your Client Money if there is a deficiency in the designated segregated account.

SECURITY, UNAUTHORISED AND INCORRECTLY EXECUTED TRANSACTIONS

57. You are responsible for protecting and maintaining the security of your E-Money Account, including your E-Money Account login and password and your data against any theft, fraud or illegal activity. If another person gains access to your E-Money Account by passing all identification and security validation and verification checks, we may be entitled to treat any transaction conducted by that person as valid and authorised by you and may not be responsible for any loss or damage you may incur as a result.

58. If you have any indication or suspicion that your E-Money Account, password, or other security details are lost, stolen, misappropriated, used without authorisation or otherwise compromised, you must change your password and contact us immediately. Any delay in notifying us may result in you being liable for any Loss.

59. In the case of a Payment Instruction that has been agreed to be improperly executed due to our mistake, we shall at your request refund the amount to your E-Money Account. In the event that you identify an error in a Payment Instruction, you have up to 5 Business Days from the date you become aware of the error to notify us of it, after which time we will have no obligation to investigate or act upon your notification or provide a refund.

60. In the case of an unauthorised payment from your E-Money Account, at your written request we shall refund the unauthorised payment amount to your E-Money Account. We will not however be required to refund such a payment if you directly or indirectly contributed to the unauthorised payment being made from your E-Money Account, including due to your failure to keep your E-Money Account log-in, password or other security details safe. We will not refund any unauthorised payment that we have not been notified within the timeframes dictated by these Terms.

61. If our investigations show that a transaction reported by you as unauthorised or incorrectly executed was in fact authorised by you, or you have acted fraudulently or with negligence, for example by failing to keep your security information secure, we may reverse any refund made and you may be liable for any and all loss we suffer from your use of the E-Money Account.

SERVICE RESTRICTIONS

62. We may impose limits on the Payment Instructions and/or Orders that you can place, and the use of your E-Money Account.

63. We may refuse to process a Payment Instruction and/or Order, or any other transaction, in our sole discretion, including but not limited to if:

- a. there are insufficient funds in your E-Money Account to effect a Payment Instruction and/or Order;
- b. we have reasonable grounds to believe that you are acting in breach of these Terms;
- c. we believe that your Payment Instruction and/or Order, or a Beneficiary, is suspicious or potentially illegal (for example, if we believe that your transaction is being made fraudulently); or
- d. because of errors, failures (whether mechanical, internet-related or otherwise) or refusals by a Beneficiary.

SUSPENSION AND TERMINATION OF YOUR E-MONEY ACCOUNT

64. Your E-Money Account will remain valid until cancelled by either you or us.

65. We may cancel your E-Money Account and terminate these Terms upon notice to you given via email or over the phone:

- a. immediately if you breach an important part of these Terms, or repeatedly breach these Terms and fail to resolve the matter in a timely manner;
- b. that you are using our Services fraudulently, inappropriately or for illegal purposes;
- c. immediately if you act in a manner that is threatening or abusive to our staff, or any of our representatives;
- d. by giving 5 days' notice by email or post for any reason;
- e. if you fail to make a Payment when due;
- f. we have any material concern over the adequacy of the information you have provided to us;
- g. in our view (acting reasonably), we must do so to fulfil our legal or regulatory obligations;

- h. if we must do so to fulfil our obligations pursuant to any Applicable Law;
- i. that our relationship with you presents a business risk to us or any of our Affiliates; or
- j. without notice if your E-Money Account stays inactive for 12 consecutive months.

66. You may cancel your E-Money Account at any time by giving us a 5 days' notice in writing via email or post. If you cancel your E-Money Account you will no longer be able to use any of the functionality of the E-Money Account.

67. We may suspend or otherwise restrict the functionality of your E-Money Account on any reasonable grounds relating to the security of the E-Money Account or any of its security features or if we reasonably suspect that an unauthorised or fraudulent use of your E-Money Account has occurred or that any of its security features have been compromised or where a Force Majeure Event occurs and is continuing. We may increase or otherwise enhance our security checks in relation to your E-Money Account and/or any Order made by you at any time and in our sole discretion. We may also suspend your E-Money Account, restrict its functionality and/or reduce your trading limit to nil if any Payments are outstanding.

68. When your E-Money Account is suspended or cancelled, we will immediately block your E-Money Account so it cannot be used. You will remain liable for all obligations relating to your E-Money Account even after your E-Money Account has been cancelled. We may reactivate your E-Money Account or replace it with a new one without undue delay after the reasons we suspended, restricted or cancelled its use cease to exist.

69. Closing your E-Money Account does not mean that we delete the personal information that we hold about you and we will continue to store such data, including the history of your transactions for a minimum period of 7 years as required by law.

SET OFF RIGHTS

70. You acknowledge and agree that, subject to any Applicable Law, we have the right in our sole discretion at any time and without notice to you to set-off any sum standing to the credit of any E-Money Account against any Payments, claims, costs, charges, penalties, expenses or other liabilities which you owe to us, save where it has been agreed between us that your E-Money Account will not be subject to the provisions of this clause 69.

71. At any time and from time to time, we may, without prior notice, set off any amount owing by you to us (or to any of our Affiliates) against any other amount owing by us to you, including amounts transferred to us as Margin. If any Margin has been used to set-off any amounts owed by you, you must immediately restore the Margin upon request.

72. Close Out any Trade or pending Trade, and you shall be responsible for any Losses suffered by us as a result of such termination. You acknowledge and consent to us netting Orders for the purpose of satisfying any Margin Call and/or satisfying any shortfall incurred by us on the:

- a. liquidation, termination or cancellation of any or all Orders
- b. Close Out of any Trades or pending Trades.

73. All amounts due to us by you under these Terms shall be paid by you to us in full without any set-off, counterclaim, deduction or withholding.

CONSEQUENCES OF TERMINATION

74. On or as soon as reasonably possible following a Termination Date all Trades will be Closed Out, pending Orders will be cancelled and we will determine, in our sole discretion:

- a. the amount recorded as being held in your E-Money Accounts on the Termination Date;
- b. the total Losses incurred by us in respect of and following a Close Out including, for the avoidance of doubt, the Close Out of any Trade that is subject to the agreement between you and Ebury;
- c. the market value of all Margin being held by us as at the Termination Date; and
- d. the total balance of any amounts, other Losses, Payments, fees and/or commissions payable by you as a result of the provision of Services by us pursuant to these Terms which remain unpaid.

75. Based on the amounts calculated in accordance with clause 73, we will determine the balance due from each party to the other (Due Balance). Following such determination, Ebury's Due Balance will be set-off against your Due Balance, and the net balance of such set-off will be calculated, with the resulting balance being the Termination Amount. If the Due Balance due to us by you is greater than the Due Balance due to you, the Termination Amount will be payable by you to us.

If the Due Balance due to you by us is greater than the Due Balance due to us, the Termination Amount is payable by us to you.

76. You agree and acknowledge that following a Termination Date:

- a. we will not be required to accept any further instructions or Orders from you;
- b. we will not be required to take any profit made by us in respect of and following a Close Out into account for the purpose of calculating the Termination Amount, or pay or otherwise account to you for such profit; and
- c. if all or any part of the Termination Amount owed by you to us is not paid when due, such unpaid amount will accrue interest for the period from and including the original due date to (but excluding) the actual date of payment, at the Interest Rate.

77. If the Termination Amount is payable by:

- d. you to us, such amount shall be immediately due and payable to our Nominated Account; or
- e. us to you, such amount shall be immediately due and payable to your nominated bank account (but in all cases, subject to our rights to set-off such Termination Amount in accordance with the terms of these Terms).

78. Upon or following the occurrence of a Termination Date and subject to Applicable Law, we will have the right without prior notice to you or any other person to set-off any Termination Amount owed by you to us against any obligation owed by us (or any of our Affiliates) to you (or any of your Affiliates), whether or not arising under these Terms, matured or contingent and irrespective of the currency, place of payment or booking office of the obligation.

79. To the extent that an amount is set-off, such amount will be discharged promptly and in all respects. For the purpose of cross-currency set-off, we may convert either obligation at the applicable market exchange rate selected by us in our sole discretion on the relevant date. If an amount of an obligation is unascertained, we may estimate that amount and set off in respect of the estimate, subject to the relevant party accounting to the other when the amount of the obligation is ascertained. This clause 79 is without prejudice and in addition to any right of set-off, offset, combination of accounts, lien, right of retention or withholding or similar right or requirements to which a party is at any time otherwise entitled or subject.

80. Following the payment of the Termination Amount in full and any applicable set-off in accordance with these Terms, we may cancel your E-Money Account.

81. The termination of these Terms shall not affect any provisions of these Terms that are expressly or by necessary implication intended to survive such termination.

YOUR FUNDING SOURCE

82. We do not have access to your Funding Source and do not provide any services related to establishment, maintenance, and/or support of your Funding Source, including those related to your transaction(s).

83. You are responsible for ensuring that the entity issuing your Funding Source will fulfil payments required to complete any Transfer or Trade authorised by you.

84. We are not liable for any failure by any entity issuing your Funding Source. You acknowledge that the entity issuing the Funding Source may not permit the use of the Site to process payments.

THIRD PARTIES

85. We are not liable for any third-party service provider, including but not limited to the issuer of your Funding Source, and do not warrant their performance.

86. We are not responsible for fees or any other charges applied by any third party arising from your use of the Site, E-Money Account or Services, regardless of why the fee was applied.

87. We may use third-party merchant facilities to process transactions. We have no control over third-party providers we engage and are not responsible for any delay in processing a Payment Instruction or Order that is caused by a third-party provider, including but not limited to our merchant facility or the issuer of your Funding Source.

NO ADVICE

88. Whilst we may provide you with information about foreign exchange markets and related matters, we do not provide advice. Any decision you make to enter into a Trade or request a Transfer is made on your own judgment. It is your responsibility to familiarize yourself with foreign exchange products and services.

CUSTOMER REPRESENTATIONS

89. You represent and warrant that:

- a. you will use the Site in accordance with these Terms;
- b. you are capable of entering into a legally binding agreement;
- c. you are liable as a principal in respect of your obligations under these Terms, including but not limited to your obligations in respect of any Trades entered into with us;
- d. you understand that our principal role in relation to the Services is to process Payment Instructions and/or Orders and that Ebury is not a bank and is not acting as trustee on your behalf in relation to the E-Money Account;
- e. if you are a partnership, each partner shall be jointly and severally liable under these Terms;
- f. you are not using an anonymous network to access the Site;
- g. you have the necessary experience and knowledge to understand the risks involved in relation to any Trade entered into under or in connection with these Terms and in relation to foreign exchange;
- h. any Forward Contract entered into by you is only for non-speculative reasons;
- i. you will disclose any matters to us that may affect the operation of these Terms, or your ability to comply with them;
- j. all information you have provided to us is correct, current and complete at the date provided, and you will promptly notify us of any changes to such information;
- k. you have complied and will continue to comply with all applicable laws, statutes, ordinances, and regulations (including without limitation anti-money laundering and counter-terrorism financing laws and any relevant data protection or privacy laws);
- l. your use of the Site, your E-Money Account and/or submission of Payment Instruction and/or Order does not infringe the rights of any third party or breach any applicable law;
- m. you will not use the Site or your E-Money Account for any illegal or improper purpose, including (but not limited to) money laundering, tax evasion or the financing of terrorist activities;
- n. you will use all reasonable efforts to prevent your E-Money Account being used for illegal trade, illegal financial transactions, or legalisation of illegal proceeds; and
- o. you have regular access to the internet and consent to us providing you any information, including notice, via the Site. We may also contact you at the email address that you provide to us. It is your responsibility to ensure your contact details are current at all times, and to check for communications and information from us.

NO GUARANTEE

90. We take reasonable steps to ensure we can deliver the Site, Online System, Services and your E-Money Account effectively, reliably and securely. However, we do not warrant, guarantee or represent that:

- a. your E-Money Account, the Site, the Online System or the Services, or any information or other material accessible through our Site, will be uninterrupted, timely, reliable, secure, error-free or is free of any virus, worm, trojan horse or other harmful component;
- b. any Payment Instruction or Order will be executed, accepted or recorded;
- c. there will be operational stability, availability or continuation of your E-Money Account, the Site, Online System or the Services;
- d. your E-Money Account, the Site, the Online System or our computer systems are safe from hacking; or

e. your use of your E-Money Account, the Site, the Online System and the provision of the Services will not infringe the rights of any third party.

91. In addition, your E-Money Account, the Site, the Online System and/or the Services may be suspended or discontinued in our sole discretion, or may be inaccessible at times, due to:

- a. down-time and/or maintenance of the Site and its functions;
- b. outages to the internet, networks or servers;
- c. equipment failure, including the failure of third-party systems; or
- d. a Force Majeure Event.

92. You acknowledge that we have not made any warranty that your E-Money Account, the Site, the Online System and/or the Services will be error free. We are not required to notify you of any malfunction, or if a Service is limited, restricted or ceases.

LIMITATION OF LIABILITY

93. Any liability on our part in connection with these Terms is subject to the exclusions and limitations set out in these Terms.

94. You agree that we will only be liable to you for Loss or damage that is reasonably foreseeable and caused directly by our breach of these Terms, and that any liability (however arising) we may have to you is limited in accordance with these Terms.

95. Our entire liability to you for any Loss or otherwise:

- a. arising from any failure by us to process a Transfer or Trade in accordance with these Terms is limited to the cost of reprocessing such Transfer or Trade less any applicable fees payable to us
- b. whether for negligence, breach of contract, misrepresentation or otherwise arising out of or in connection with these Terms is limited to the, aggregate Fees paid by you for our Services in accordance with these Terms in the 12-month period immediately prior to the date on which the relevant negligence, breach of contract, misrepresentation or other action allegedly resulting in Loss first occurred.

96. We are not liable for any damage or interruptions caused by any computer viruses, spyware, scareware, Trojan horses, worms or other malware that may affect your computer or other equipment, or any phishing, spoofing or other attack. We advise the regular use of a reputable and readily available virus screening and prevention software.

97. We are not liable for any breach of these Terms where the breach is due to a Force Majeure Event, including any abnormal and unforeseeable or regulatory circumstances beyond our control, or where the breach is due to legal requirements.

98. The limitation of liability in these Terms is subject to any obligations that we have under Applicable Law that we cannot exclude, including our obligation to exercise reasonable care and skill in our provision of the Site and the Services.

indemnity

99. You indemnify Ebury and each of its directors, officers, shareholders, advisers, consultants, agents, employees and contractors (each an Indemnitee) against all Losses which may be incurred or suffered by the Indemnitees directly or indirectly arising out of your failure to comply with these Terms. You agree to indemnify Ebury for any Loss we incur due to a person's unauthorised use of your information. Losses may include consequential losses and any legal fees incurred in defending or responding to Losses. This indemnity will apply regardless of whether a Payment Instruction and/or Order was provided in error but will not apply to the extent that Losses were incurred or suffered by an Indemnitee due to the fraud or willful default of Ebury.

100. We are not required to seek recovery or enforce any right against any other person or incur expense, loss, or damage or make any payment before enforcing a right of indemnity conferred by these Terms.

PRIVACY

101. We will collect, use and store your personal information in accordance with our [Privacy Policy](#) (as varied from time to time).

102. Without limiting our [Privacy Policy](#), you acknowledge that you expressly authorise us to disclose any of your personal information to any third party required for us to process and complete your instruction in relation a Payment Instruction and/or Order, to provide the Services and to operate the Site, Online System and your E-Money Account.

CONTACTING US

103. If you have any feedback, questions, or complaints, contact us via the Site or by emailing complaints@ebury.com. We will try and resolve your complaint quickly, fairly and in a timely manner.

104. When you contact us please provide us with your name, address, and any other information we may need to identify you, your E-Money Account, and the transaction on which you have feedback, questions, or complaints.

105. If the complaint cannot be resolved to your satisfaction within 45 days, you have the right to refer the matter to the Australian Financial Complaints Authority (AFCA) of which we are a member (member number 79707). AFCA provides fair and independent financial services complaint resolution that is free to consumers. AFCA's contact details are:

Website: www.afca.org.au

Email: info@afca.org.au

Telephone: 1800 931 678 (free call)

Mail: GPO Box 3, Melbourne, VIC, 3001.

VARIATION

106. We may vary these Terms by providing 10 days advance notice at any time. You will be taken to have accepted any changes to the Terms by continuing to use the Site and Services 10 days after that notice is provided.

107. You acknowledge that we may vary these Terms immediately without advance notice if it is necessary to protection Ebury's business interests, including to protect the security or integrity of the Site, the Online System, your E-Money Account or the Services, to manage a technical or system fault or error or to comply with law.

MISCELLANEOUS

108. These Terms, together with the Privacy Policy, comprise the entire Terms between you and us in relation to your use of your E-Money Account, the Site and the Services, and supersede any prior Terms between you and us.

109. Any and all communications and notices by either party under these Terms by e-mail shall be deemed given on the day the message is sent, unless the sending party receives an electronic indication that the message was not delivered.

110. Nothing in the Site is intended to be, or should be taken as, financial, legal, taxation or accounting advice. Customers should seek their own financial, legal, taxation or accounting advice as needed, and before using an E-Money Account, the Site or receiving the Services.

111. Nothing published or communicated by way of the Site should be considered an offer or solicitation to buy or sell any service or product to any person in any jurisdiction where such offer or solicitation would be unlawful.

112. We may assign all or part of these Terms without notice to you. We are then released from all liability.

113. These Terms are governed by the laws of Sydney, Australia. You and we submit to the exclusive jurisdiction of the courts of Sydney for resolution of disputes arising in relation to these Terms.

114. If any provision of these Terms becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, the remainder of these terms will not be affected.

115. We reserve any rights not expressly granted in these Terms.