

# Terms and Conditions (Individual)

The Customer, as a user of Western Union Business Solutions Online Services, and Western Union Business Solutions (Australia) Pty Ltd are the Parties to this Agreement. In consideration of the covenants, agreements and warranties set forth below, the Customer and Western Union agree as follows:

## 1. Interpretation

In this Agreement:

- a. "**Agreement**" means these Terms and Conditions Agreement, together with all Trades, schedules, attachments or other addenda attached or applicable hereto.
- b. "**Application Form**" means the application form that the Customer completed and submitted to Western Union for the purpose of using Western Union Online.
- c. "**Business Day**" means a day on which commercial banks are open for business (including dealings in foreign exchange) in the place specified for that purpose.
- d. "**Currency**" means money denominated in the lawful currency of a country.
- e. "**Western Union**" means Western Union Business Solutions (Australia) Pty Ltd (ABN 24 150 129 749. Australian Financial Services License 404092) a subsidiary of The Western Union Company. Western Union Business Solutions (Australia) Pty Ltd.
- f. "**Western Union Online**" means the electronic foreign exchange dealing platform provided by Western Union.
- g. "**Western Union Online Services**" means the web-based services provided by Western Union to the Customer using Western Union Online including: services that enable the Customer to conduct Trades; information services; and other services as provided by Western Union from time to time.
- h. "**Customer**" means the individual who has entered into this legally-binding Agreement to access and use Western Union Online Services for the purpose of entering into trades and providing Western Union with settlement and delivery instructions for completed trades.
- i. "**Customer Support Number**" means the customer assistance phone number located at the bottom of each page in the "Buy or Sell Foreign Currency" section or any other sections of the Western Union Online website.
- j. "**Electronic Access Device**" means any device that allows the Customer to use or to access Western Union Online including, but not limited to, a personal computer.
- k. "**Insolvency Event**" means where the Customer has initiated any proceeding or process under the Bankruptcy Act 1966 with respect to Customer's debts and obligations to creditors, being unable to pay debts as and when they fall due, becoming incapable of managing your own affairs (for any reason), entering into a compromise or arrangement with, or the assignment for the benefit of, any of its members or creditors, or any analogous event.
- l. "**Information Provider**" means any entity providing Western Union, whether directly or indirectly, with Market Information including, but not limited to, securities exchanges and financial news service providers.
- m. "**Market Information**" means information relating to the financial markets, including, but not limited to, market data, research, analysis, forecasts and commentary.

- n. “**Nominated Beneficiary Account**” means the bank account of a person to whom the Customer has instructed Western Union to transfer funds.
- o. “**Password**” means the secret combination of characters that the Customer selects from time to time which, together with the Customer user name, enables the Customer to gain access to Western Union Online.
- p. “**Software**” means any software program provided to the Customer by Western Union that enables the Customer to access or use Western Union Online.
- q. “**Trade**” means a transaction in which the Customer agrees to purchase or sell Currency from or to Western Union using the Western Union Online Services.
- r. “**Value Date**” means either the Business Day selected by the Customer for the settlement of a Trade or if the Customer does not select a Business Day for the settlement of a Trade, then two (2) Business Days following an executed Trade.

## 2. The Customer

### 2.1 Representations and Warranties

The Customer represents and warrants to Western Union that:

- a. the Customer is an individual or a sole proprietor of a business.
- b. the Customer is of sound mind, at least 18 years of age and possesses full legal competence.
- c. Execution of this Agreement and performance of the Customer’s obligations under this Agreement will not violate any statute, regulation or bylaw.
- d. All information provided by the Customer to the Company is true, correct and complete and the Customer will notify the Company promptly if that information changes.

### 2.2 Acknowledgement by Customer

The Customer acknowledges that Western Union has entered into this Agreement and will enter into the transactions contemplated by this Agreement in reliance on the representations and warranties in Section 2 above.

## 3. Transmission of Data and Information

The Customer authorises Western Union to transmit the Customer’s personal account application and agreement to the Customer at the email address the Customer has provided in its application. The Customer understands that data and information transmitted over the Internet can be lost and/or subject to errors, which may result in data and information not arriving exactly in the form it was sent or intended to arrive in.

The Customer agrees that Western Union shall not be responsible or liable for any such loss, error, transmission and/or communication failure that is outside of the control of Western Union, including, but not restricted to, any loss, error, and/or transmission failure, which the Customer may experience as a result of the Customer’s failure to keep its hardware, software, and Internet connections up-to-date, including failing to update its software to the latest versions of the relevant internet browser, including but not restricted to [Internet Explorer](#), [Firefox](#), [Google Chrome](#), or [Safari](#) and maintaining 128-bit encryption.

The Customer understands that, under applicable privacy legislation, Western Union is only responsible for the security and integrity of the information under its control.

## **4. Confidentiality and Privacy**

4.1 Customer's personal information is processed under the applicable law and controlled by Western Union, in accordance with this section. Western Union uses personal information the Customer provides to Western Union when using Western Union's products and Services, as well as other information that is collected or generated during Western Union's relationship with Customer. This includes information from other services like money transfers, bill and business payments, loyalty or membership program details, historical transactions, and marketing choices. This information is used to provide Customer with the Services Customer agreed to and activities like administration, customer service, anti-money laundering duties, validate Customer details, to complete analysis and research, to help prevent and detect of fraud, debt and theft recovery, and to help Western Union improve its products and services and operations.

4.2 Western Union may also use, collect from and share with other businesses who work with Western Union information from other products and services and convenience and/or rewards programs, which Customer has registered for during Customer's relationship with Western Union. Western Union will hold and retain the information that Customer gives Western Union about another person including the details of any of Customer's nominated beneficiary's in order to execute the transaction. It is the Customer's obligation to ensure prior to providing this information that Customer has notified and secured authorization from the other person on Western Union's use and disclosure of this information as set out in this section.

4.3 Western Union may transfer information to affiliates in countries other than the country in which the information was originally collected or created, including to affiliates in the United States. Western Union may also provide the information to other organizations that help Western Union run its business, if there is a reasonable need, to carry out or aide the payment services, future services, or for any of the reasons or uses set out in this section. Western Union may add to information Customer provides with information available from other business or individuals, including information to validate the accuracy of Customer information provided by Customer. Western Union may disclose personal information, including without limitation, name, customer ID number, address, transaction patterns and bank account information, (i) if required to do so by domestic or foreign law or legal process or (ii) to law enforcement authorities or other government officials (including those in this country, the United States, or elsewhere) for purposes such as detecting, investigating, prosecuting and preventing crimes, including money laundering and related criminal activity, and the recipients may further disclose the information for these and other related purposes.

4.4 The information Western Union holds may be accessed by Western Union and its affiliates including but not limited to any authorized Western Union Service Providers for any of the purposes set out in this section or for other purposes to which Customer has agreed. Customer has a right to ask Western Union to see and get a copy of Customer's information, which Western Union may charge a small fee. Customer can also correct, erase or limit Western Union's use of the information which is incomplete, inaccurate or out-of-date. And Customer may object at any time on legitimate reasons to the use of Customer's information, where the processing is not required to complete the Service, or required by law

or regulation. If Customer wishes to exercise these rights or no longer wish to receive commercial communications from Western Union, please contact Western Union by emailing [wubsprivacy@westernunion.com](mailto:wubsprivacy@westernunion.com)

## **5. Anti-Money Laundering.**

5.1. Disclosure. The Customer understands that Western Union takes appropriate measures to ensure that it is not participating or assisting in money laundering or terrorist financing. The Customer agrees that Western Union, at its sole discretion, may disclose any transaction related information in order to satisfy Western Union's legal obligations under applicable law, including, but not limited to, anti-money laundering, trade and economic sanctions laws and/or regulations, or as may otherwise be required by law or court order. Furthermore, such disclosure may be made to any governmental agency, body or department that exercises regulatory or supervisory authority with respect to Western Union's operations, where such disclosure is made to satisfy routine governmental audit or examination requirements or as part of informational submissions required to be made to such governmental entities in the ordinary course of business.

5.2. Additional Information. Upon request, the Customer agrees to provide any additional information that Western Union may need to satisfy its obligations under section 5.1.

5.3 Transaction Processing. The Customer understands, acknowledges and agrees that all transactions, wherever originated, may be proceed by WUSB or may be processed on behalf of Western Union by one or more of its affiliated Western Union Group companies, one or more of which may be located outside the country of customer. As such, all transactions, wherever originated, shall be processed in accordance with the laws and regulations of the jurisdiction where the transaction is being processed, including but not limited to, those laws and regulations relating to anti-money laundering, anti-terrorism and foreign asset control.

5.4 Due to the inherent risks in transferring Currency between entities located in different countries, Western Union is required to take measures to ensure that it is not participating or assisting in money laundering or terrorist financing. The Customer understands that law enforcement and regulatory agencies may periodically inspect all Trades executed with Western Union either by the consent of Western Union or pursuant to applicable law. Therefore, the Customer understands that all information regarding Trades, accounts, and related transactions could potentially be disclosed by Western Union to, and reviewed by, law enforcement and other regulatory agencies in accordance with applicable law. Western Union shall have no liability to Customer in the event a Transaction is delayed, withheld, interdicted, or seized by any governmental authority, person, or entity acting in accordance with applicable law.

## **6. Western Union Online Site Security and Password**

To access Western Union Online Services, the Customer must first choose a unique username and Password. In the event that Western Union assigns a Password to the Customer, the Customer must change the Password to a new one. Western Union will neither have knowledge of nor record any Password selected by the Customer.

## **7. Bank Verification, Client Identification and Consent to Credit Check**

The Customer agrees to provide Western Union with the name and contact information for a bank at which the Customer maintains an account in a country where the Customer resides.

The Customer authorises Western Union to contact the Customer's bank to verify the Customer's identity, signature, account information and any and all other information relevant to this Agreement and the Customer obligations under this Agreement. By providing said bank information, the Customer represents and warrants that the Customer has signing authority on the account described.

The Customer further authorises Western Union to take all commercially-reasonable measures to confirm the Customer's identity and to examine the Customer's background with respect to the Customer's ability to meet the Customer's obligations to Western Union. For the purpose of this Agreement, reasonable measures will include but are not limited to the following:

- a. on an ongoing basis, to request and obtain the Customer's information, which may be available from credit bureaus and/or other credit-granting agencies, including the Customer's bank, to assess the Customer's credit history and credit rating;
- b. with credit bureaus and/or other credit-granting agencies, to provide and receive, on a regular basis, credit information concerning the Customer to ensure that Western Union records are up to date and as accurate as possible.

## **8. Trades**

### **8.1 Trade Password, Trade Completion**

Before the Customer accesses Western Union Online Services through the web or by telephone and engages in a trade, the Customer shall self-identify by entering or providing the required Password. If Western Union assigned a Password to the Customer, the Customer must change it to a new Password of the Customer's choice. Western Union will not know the new Password or any subsequent Passwords selected by the Customer.

Before Western Union shall consider each trade to be final, the Customer must clearly authorise, consent to, accept and finalize each Trade using Western Union Online Services. Western Union shall deem a trade done when the Customer, in the following order, performs the following: 1. Enters the Customer's Password and accesses Western Union Online Services through the web or provides the password verbally by telephone. 2. Enters the required transaction information into the fields provided by Western Union Online Services or provides the transaction information verbally by telephone. 3. Completes and accepts the Trade by clicking on the "Confirm Trade" button or in the case of a telephone initiated trade,

by verbally authorising the Trade. Western Union may at any time without Notice to the Customer suspend, withdraw or deny access to the internet-based Western Union Online Services or decline to accept a Trade by telephone for any reason including but not limited to security, quality of service, failure by the Customer to pay an amount when due or breach by the Customer of any provision of this Agreement.

At the Customer's completion of these steps, Western Union accepts the trade as final and is legally binding on the Customer.

## **8.2 Representations Made For Each Trade**

All representations made in this Agreement with regard to trades shall apply each and every time the Customer accepts, finalizes and enters into a Trade.

## **8.3 Indemnification**

The Customer shall indemnify and hold harmless Western Union from and against all claims made against it, costs, losses and expenses incurred by Western Union arising out of, or in respect of, any claim that an employee or other person who uses the Customer's password was not authorised to enter into a Trade on the Customer's behalf and/or provide Western Union with settlement and delivery instructions for completed Trades. This indemnity will survive the completion of any Trade or the termination of this Agreement.

## **8.4 Responsibility for Unauthorised Access**

All transactions must be completed using the logins and passwords allocated to the Customer by Western Union and valid entry of such a login and password will constitute an authorisation by the Customer to complete the Order specified irrespective of whether the login and password are entered by the Customer.

The Customer must ensure that the logins and passwords are kept secure and confidential. The Customer will advise Western Union immediately if the Customer has any reason to believe that the login and passwords allocated to the Customer have not been kept secure and confidential.

The Customer will manage and control access to Western Union Online and the ability to conduct trades and receive other services, by strictly managing and controlling access to the Customer's password.

It is the Customer's responsibility to ensure that the Customer Password(s) do not become known to other parties.

All Trades and other uses of Western Union Online conducted through the Customer's password, whether or not by unauthorised users, are the Customer's responsibility and will be legally binding on the Customer. The Customer shall indemnify and hold harmless Western Union from and against any claims for damages, losses, costs, fees and expenses incurred by Western Union arising out of or in respect of any unauthorised use of the Customer's password and this indemnity will survive the completion of any Trade or the termination of this Agreement.

The Customer will not be responsible for any unauthorised use or trade that occurs after

Western Union has acknowledged to the Customer in writing receipt from the Customer of a direction to terminate use of the Password used.

## **8.5 Trade Confirmation**

The terms of each Trade will be set out in the Trade confirmation presented to the Customer (as the person making the trade) on the Trade confirmation screen, which follows the Customer acceptance of the Trade. For Trades completed by telephone, the Trade confirmation will be delivered by email or facsimile. The Trade confirmation is evidence of the completed Trade and the terms of the completed Trade.

The Trade will not be invalidated if, for any reason, the Trade confirmation is not presented to the Customer by Western Union Online on the Trade confirmation screen as a result of a computer malfunction or any other reason. If, for any reason, the Trade confirmation is not presented to the Customer, the records of Western Union with respect to that Trade will constitute conclusive evidence of the terms of the Trade. If a Trade confirmation is not presented to the Customer for any reason, the Customer should notify Western Union immediately by calling the Customer Support Number, and Western Union may provide the Customer with a confirmation by email or other means setting out the terms of the Trade. The Customer must promptly verify all Orders to ensure that the details of those Orders match the Customer's records and the Customer will report any discrepancies to Western Union on the same day.

## **8.6 Nominated Beneficiary Account**

The Customer must provide Western Union with details of the Nominated Beneficiary Account prior to or on the date stated in the confirmation, or otherwise specified orally or in writing by Western Union. Western Union will rely on the account number specified for the Nominated Beneficiary Account and will not check to ensure that the name provided by the Customer accords with the account number.

The Customer shall indemnify and hold harmless Western Union from any and all liabilities, claims, costs, expenses and damages of any nature, arising out of or relating to the Nominated Beneficiary Account being inaccessible for any reason.

## **8.7 Payment for Trade**

Once a Trade has been finalized and entered into following the Customer's acceptance, the Customer must make each payment or delivery required to be made by it under the terms of the Trade in the Currency, in the amount, on the date and in accordance with the settlement instructions for the Trade, as set out in the related Trade confirmation.

The Customer must ensure that the bank account from which the Customer payment obligations under a Trade are to be made, (i) is in the name of the Customer; and (ii) contains sufficient cleared funds to settle the Trade on the Value Date for the Trade. If the bank account does not contain sufficient cleared funds to settle the Trade, the Customer will be liable for any resulting fees payable by Western Union with respect to the non-sufficient funds in accordance with the terms under which the Customer holds such account. For payments funded electronically, Western Union shall allow a reasonable period after the Value Date for the transaction to clear.

The Customer shall indemnify and hold harmless Western Union from and against any claims made against it, costs, losses and expenses incurred by Western Union arising out of, or in respect of, any Customer misrepresentation as to the bank account ownership. This indemnity will survive the completion of any Trade or the termination of this Agreement.

If the Customer fails to settle the Trade on the Value Date for the Trade, Western Union may, without limiting any other remedies that it may have, in its absolute discretion cancel the Trade, in which case the Customer will have to reimburse Western Union for any and all costs and expenses incurred by Western Union when it cancels the Trade and the Customer shall hold Western Union harmless for any losses suffered by the Customer or any third party as a result of cancellation of the Trade. Without limiting the generality of the foregoing, the Customer agrees that the Customer shall be liable to Western Union for all of the following arising out of the Customer breach of contract:

- a. general damages for all our loss of profit and foreign exchange losses suffered by us;
- b. an administration charge of \$100.00;
- c. any and all bank charges that we incur due to the Customer default with us;
- d. Western Union's legal costs on a solicitor and client basis incurred as a result of the Customer default with us.

## **8.8 Trade Incorporated Into Agreement**

Each trade is subject to this Agreement and the terms of each Trade set out in the related Trade confirmation are incorporated into this Agreement and form a part of this Agreement. This Agreement and the terms of each Trade together form the agreement between the Customer and Western Union and together constitute a single agreement between the Customer and Western Union. If there is any inconsistency between this Agreement and a Trade confirmation, the Trade confirmation will govern.

## **8.9 Cancellation of Trade**

If, for any reason, the Customer wants to cancel a Trade that has been finalized and entered into the Customer may notify Western Union by calling the Customer Support Number. Western Union may or may not have the ability to cancel the Trade. The Customer understands that it is prudent to contact Western Union immediately to make such a request.

Western Union may, at its sole discretion, use reasonable efforts to cancel the Trade, but the Customer understands and acknowledges that once the Trade has been finalized and entered into it is the Customer's binding obligation and Western Union is not required to cancel the Trade.

If, after reasonable efforts are made by Western Union, it is determined the Trade is cancellable, then Western Union may cancel the Trade, but the cancellation of any such trade will be entirely within the sole and absolute discretion of Western Union.

If a trade is cancelled by Western Union at the Customer's request, the Customer must reimburse Western Union for any expenses incurred by Western Union when it cancels the trade.



## 8.10 Date of Trade

If the Customer selects the Value Date for the settlement of a Trade that is not a Business Day in the legal jurisdiction in which any of the bank accounts from which the Customer will be making or receiving payment for a Trade resides (i.e. if the account is maintained at a bank in that jurisdiction), the Value Date for the Trade will be the first day following the Value Date that the Customer selected that is a Business Day in each of the jurisdictions in which such accounts reside, notwithstanding anything to the contrary in the Trade confirmation.

Western Union will use commercially-reasonable efforts to process the Customer transactions in an expeditious manner. **Western Union cannot control and is not responsible for the time it takes** financial institutions to settle accounts. If a transaction is processed on the next business day for whatever reason, Western Union will not, in the absence of gross negligence or wilful misconduct, be responsible for failure, delays or errors in the completion of the transaction.

## 8.11 Rejection of Trade

Western Union reserves the right to reject any Trade that is incorrect, incomplete or unsatisfactory to Western Union for any reason and Western Union is not required to provide reasons for its decision.

## 8.12 Corrections To Trade

In the event that the Customer notices an error in the confirmation, objects to the confirmation, or believes that an unauthorised party has made a Trade on the Customer's behalf (collectively referred to in this section as an "Objection"), the Customer must call the Customer Support Number immediately.

Within twenty-four (24) hours after calling the Customer Support Number, any such Objection must be confirmed in writing to Western Union, and it shall be deemed received only if actually delivered or mailed by registered mail, return receipt requested, to Western Union at its principal address or if sent by email, with confirmation of receipt from Western Union. If the Customer fails to object within the time frames specified Western Union will deem that the Customer ratified the Trade.

## 8.13 Errors

If the Customer or any unauthorised user makes an error in the process of entering a Trade, the Customer agrees that Western Union will not be responsible for any losses the Customer incurs or delays the Customer experience as a result of such an error. Western Union's inability or failure to detect and notify the Customer of any error the Customer makes, regardless of the nature of such error, shall not result in Western Union being held responsible for any losses suffered by the Customer, including but not limited to in connection with delays the Customer experiences or costs the Customer incurs as a result of such error.

The Customer agrees to indemnify and hold Western Union harmless from and against any

and all claims, losses, liabilities, damages and costs, including, but not limited to, reasonable attorney's fees and out-of-pocket expenses, arising out of or related to any error that the Customer fails to correct or arrange for Western Union to correct. This indemnification shall be binding upon the Customer and will survive termination of this Agreement.

#### **8.14 Reversing Trade**

The Customer may request that a Trade be reversed or amended. Western Union may, at its sole discretion, attempt to reverse or amend the Trade. Western Union has no obligation to cancel or amend a Trade. Western Union shall not be liable if any such request to cancel or amend a Trade is not effected, nor shall Western Union be liable for any service charges or currency rate differences involved in reversing or amending a Trade.

If a trade is reversed by Western Union at the Customer's request, the Customer must reimburse Western Union for any expenses, costs or losses incurred by Western Union when it reverses the trade.

#### **8.15 Quoting Error**

Should a quoting error occur due to a typo or obvious mistake in a quote, Western Union will not be liable for any damages, claims, losses, liabilities or costs arising from the quoting error. Western Union reserves the right to make the necessary adjustments to correct the quoting error. Any dispute arising from such quoting errors will be resolved on the basis of the fair market value, as determined by Western Union, in its sole discretion, of the relevant Currency at the time the quoting error occurred.

#### **8.16 Default Interest**

If the Customer fails to pay any amount payable by it under this Agreement, it shall immediately on demand by Western Union pay interest at the rate of 5% above the prevailing 3 month Bank Bill Swap Reference Rate as published by the Reserve Bank of Australia on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment.

#### **8.17 Authorisation Limits**

- a. The Customer may inform Western Union of an Authorisation Limit applicable to some or all orders including (either individually or in aggregate or both) either in general or for particular Authorised Users.
- b. Any Authorisation Limit provided by the Customer to Western Union may be withdrawn by the Customer at any time by giving Notice to Western Union.

#### **8.18 Telephone Recording**

The Customer acknowledges and agrees that Western Union may make an electronic recording of each telephone instruction received which recording remains the property of Western Union. The telephone recording can be used by Western Union to confirm the terms and conditions of any transaction where there is dispute with a Customer as to the terms or conditions of the transaction.

## **9. Records**

Western Union may maintain a database of instructions the Customer or any unauthorised persons who engage in a Trade or use Western Union Online with the use of the Customer Password, have entered into Western Union Online. These records will be conclusive and binding on the Customer or any other person in any dispute or legal proceeding as the best evidence of the Customer's Western Union Online Trades in the absence of clear proof that Western Union's records are erroneous or incomplete.

Western Union is not responsible and shall not be held liable to the Customer for any payment that Western Union makes pursuant to incorrect settlement or delivery instructions given by the Customer to Western Union, including when said instructions are given by the Customer or any other person using the Customer's Password. These records will be subject to Western Union's privacy policies.

## **10. Set Off**

If the Customer fails to make a payment or delivery when it is due under this Agreement or under a Trade, Western Union may, without prior notice, set-off any amount owed by the Customer to Western Union under this Agreement or under a Trade, against any amount owed by Western Union to the Customer, whether or not the amount is owed to the Customer under this Agreement or under a Trade.

## **11. NO SPECULATION PERMITTED**

The Customer may only enter into a Trade for the purpose of hedging the risk of movement in the value of a Currency but not for the purpose of speculation or investment. If Western Union suspects that Western Union Online has been used by the Customer for speculation purposes, Western Union may immediately terminate this Agreement, and Western Union shall be relieved of any obligations set out in this Agreement, including any obligations arising out of any Trade already placed with and accepted by Western Union.

## **12. GENERAL ADVICE WARNING**

The Customer shall be solely responsible for evaluating and selecting the timing and nature of all transactions entered into. The Customer must rely solely on his/her own judgement in determining whether the Western Union Online Services, or any incidental services provided by Western Union, are appropriate for the Customer's purposes. Any information provided to you by Western Union that may constitute general financial product advice does not take into consideration your personal objectives, financial situation or needs. Before acting on any advice provided to you by Western Union, you should consider how appropriate the advice is to your financial situation, needs and objectives. Please also read Western Union's Product Disclosure Statement, which forms part of these terms and conditions.

## **13. Information Services and Sources**

Western Union believes that its market and other information is reliable insofar that it is independently obtained from information sources and other providers that Western Union believes to be reliable. However, the Customer understands and agrees that Western Union and its information sources do not guarantee, for any particular purpose, the timeliness, sequence, accuracy, completeness or fitness of this information.

Information provided by Western Union and made available through Western Union Online may include views, opinions and recommendations of individuals or organizations. The Customer understands and agrees that the availability of this information through Western Union Online does not constitute Western Union's endorsement of any such views or opinions. The Customer further understands and agrees that Western Union does not provide professional advice through Western Union Online: information relating to investment, tax, accounting or law, which is included in Western Union Online, is to be considered information only and does in any way not constitute professional advice.

## **14. Limitation of Liability**

14.1 Western Union will not be liable to the Customer for any loss, costs or damages that the Customer incurs as a result of the Customer use of Western Union Online or if Western Union Online or any Western Union Online Services are not available, including, if for any reason, Western Union Online or any or all of Western Union Online Services are not available during its normal hours of operation.

Without limiting the generality of the foregoing, Western Union will specifically not be liable: for communication malfunctions that affect the accuracy or timeliness of messages or instructions between the Customer and Western Union and/or which prevent messages from being transmitted in whole or in part; if the Customer makes errors, however careless, while entering information when using Western Union Online; if any person fails to log off a personal computer and an unauthorised Trade is entered into using Western Union Online; if, for any reason, Western Union Online cannot be accessed by the Customer, if Western Union Online does not function or is not available; or for any errors in/or malfunction of software.

14.2 Western Union will not be responsible for any loss, damages or injury suffered by the Customer by reason of any act or omission that occurred in the course of or in connection with the operation of any Electronic Access Device. Should inaccurate exchange rates (as determined by Western Union acting reasonably) be posted on Western Union's website by us, such rates may not be honoured by Western Union, in our sole discretion.

14.3 Western Union's liability to the Customer and anyone claiming through the Customer hereunder for a breach this agreement by Western Union shall be limited to the foreign currency value of the Order relating to the claim, determined as at the Value Date.

14.4 NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE CUMULATIVE AGGREGATE LIABILITY OF WESTERN UNION UNDER THIS AGREEMENT SHALL BE LIMITED TO A MAXIMUM AGGREGATE IN DIRECT DAMAGES SUFFERED IN THE AMOUNT AS CALCULATED IN SECTION 14.3

ABOVE. IN NO EVENT SHALL WESTERN UNION, OR ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR LOST PROFITS, PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **15. Service Modifications and Interruptions**

Western Union may modify Western Union Online and/or Western Union Online Services at any time. From time to time Western Union Online and/or some or all of Western Union Online Services may periodically be unavailable to the Customer during its normal hours of operation in order to allow for maintenance and updates or for other reasons. The Customer specifically agrees that Western Union is not responsible for any losses to Customer or any other person resulting from the unavailability of Western Union Online or any of Western Union Online Services.

Western Union will not be responsible for delays or failures in performance resulting from acts beyond its reasonable control. Such acts include but are not limited to, acts of God, strikes, postal interruptions, lockouts, riots, acts of war, epidemics, fire, communication line failures, power failures, equipment or software malfunction, earthquakes or other disasters.

## **16. Changes to Agreement**

Upon reasonable and prior notice to the Customer, which may include communication via Western Union Online Services, Western Union may amend any provision of this Agreement at any time and the Customer's continued use of Western Union Online after the date of any such amendment will constitute for all purposes the Customer's agreement and consent to any such amendment.

## **17. Termination**

17.1 Western Union may terminate this Agreement at any time without notice. The Customer may terminate this Agreement at any time by notifying Western Union in writing. Termination will be effective as of the close of business on the day notice is received by Western Union.

17.2 Subject to 17.3, termination of this Agreement by either Western Union or the Customer will not affect any Trades that were entered into prior to such termination and this Agreement shall continue until all obligations under those Trades have been performed.

17.3 In the event that Western Union is made aware of or has reason to believe any of the following:

- i. that the Customer has provided false or misleading information to Western Union; or

- ii. that the Customer has or is participating or has or is assisting in money laundering or terrorist financing; or
- iii. that the Customer is being pursued by law enforcement and/or regulatory agencies; then Western Union, at its sole discretion, may terminate this Agreement immediately, and Western Union shall be relieved of any obligations set out in this Agreement, including any obligations arising out of any Trade already placed with and accepted by Western Union.

## **18. Post Termination.**

Subject to s. 17.3, within two (2) days of termination, each party shall pay all amounts due, and the Customer will dispose of all materials received from Western Union as per Western Union's written instructions. Duties of payment, delivery, and destruction of materials shall survive termination of this Agreement.

## **19. Notices and Communications of Instruction**

In this agreement, written notice means notices shall be in writing and delivered by postal mail, courier, email, or fax to the address, fax number, or email address described below. Notice will be deemed effective upon receipt and, in the case of faxes, if the form is legible. Should a delivery or transmission be received on a non-Business Day, receipt shall be deemed to be the following Business Day. Western Union may, at its discretion, rely and act upon telephone, fax and any other electronically transmitted instructions from any person the Customer who Western Union believes, in good faith, to be genuine and authorised by the Customer to give said instructions. Western Union shall not, in the absence of gross negligence or wilful misconduct on its own part, be responsible for reliance on said instructions nor shall Western Union be responsible for failure, delays or errors in the receipt of such instructions and, accordingly, the Customer agrees that Western Union shall have no liability for consequential or special damages in connection thereto.

**Address:** Western Union Business Solutions (Australia) Pty Ltd, Level 12, 1 Margaret Street, Sydney, NSW 2000 Australia

## **20. General**

**Inurement.** This Agreement, including all transactions, shall inure to the benefit of Western Union, its successors and assigns and shall be binding upon the Customer and the Customer's personal representatives, executors, trustees, administrators, successors and assigns.

**Assignment.** Any rights that the Customer has pursuant to this Agreement shall not be assigned, transferred, sold, or otherwise conveyed, except with the written authorisation of Western Union. Western Union may, however, assign this Agreement to another party without Notice to the Customer.

**Plural.** In this Agreement, singular includes plural and plural includes singular.

**Agreement Survives Failure of Specific Provisions.** If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidation of the remaining provisions of this Agreement.

**Conflict.** This Agreement comprises the terms and conditions governing the relationship between Western Union and the Customer. If there are different or conflicting terms in any schedule, attachment or other addenda attached hereto, then the terms of the schedule, attachment or other addenda shall govern over the terms in this Agreement.

**Entire Agreement.** This Agreement, and all schedules, attachments or other addenda attached hereto, constitute the entire agreement between the parties with respect to the use and provision of the Western Union Services, and supersedes and replaces any and all prior or contemporaneous understandings, communications or agreements, written or oral, regarding related subject matter. The parties specifically understand that there are no representations, warranties, guarantees, promises, or agreements other than those set out in this Agreement and all schedules, attachments or other addenda attached hereto.

**Headings.** Headings in this Agreement are inserted for convenience of reference only and are not intended to limit the applicability or affect the meaning of its provisions.

**Applicable Law.** This Agreement shall be governed exclusively by the laws of the State of New South Wales and Australia. All Trades made hereunder shall be deemed to have been entered into and to have taken place in Australia at the office of Western Union, in New South Wales, Australia. The courts located in New South Wales shall have exclusive jurisdiction for settling disputes arising from the Agreement and both parties irrevocably submit to that jurisdiction.

This Agreement exists in addition to and not in substitution of any other present or future agreement between the Customer and Western Union.

**Names and Marks.** At no time shall either party make commitments for, or in the name of, the other party. Except as specifically provided for in this Agreement, neither party will: (a) use the other party's name or proprietary marks without prior written approval; or (b) represent itself as being affiliated or partnered with, or authorised to act for, the other party.

**Compliance with Law.** Each party will conduct its activities under this Agreement in compliance with all applicable laws, which may include, but may not be limited to, anti-money laundering and licensing laws. The Customer may be required to provide Western Union with personal information or information concerning its business, which will be kept on record by Western Union in a commercially-reasonable manner. Where required by applicable laws, Western Union shall report transactions pursuant to this Agreement to the appropriate regulatory or law enforcement agent.

**Force Majeure.** Neither party will be liable for any failure or delay in performance (except for duties of payment of any monies due under this Agreement) due to governmental acts (including currency controls), acts of God, war or civil unrest, acts or omissions of third

parties, equipment or power interruption, market or banking conditions, or other circumstance beyond the party's reasonable control.

**Hyperlinks.** The Customer understands that hyperlinks or other links featured on Western Union's website, which link to third party websites that are outside of control of Western Union, exist solely as a complimentary convenience of visitors to the Western Union website. Western Union does not review, monitor, endorse or control these third party websites and therefore is not responsible for their content. The Customer agrees, as an experienced user of the world wide web, that it uses the Internet at its own risk and that Western Union is not liable for any losses and damages resulting from, or in consequence of, the Customer following a link to a third party website which is posted on Western Union's website.

**Computer-Related Losses.** The Customer agrees that Western Union shall not be responsible or liable to Customer or any third party for any computer-related problems caused, directly or indirectly, by any breakdown or failure of Western Union's transmission or communication system, an electrical power outage, or any other cause beyond Western Union's control or anticipation, including but not limited to delays in transmission of data or information and/or computer viruses, which problems result in losses, damages, claims (third party or any claims), costs or expenses, including attorneys' and any other fees.

## **21. Action To Execute Agreement**

By clicking the Submit button directly below this window, the Customer confirms that representations and warranties included in the Agreement are true and that the Customer accepts this Agreement in its entirety, including all of its terms, conditions, representations and warranties and the Privacy Policy of Western Union that form part of this Agreement.

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