

CIRCLEMARKETS

**TERMS AND  
CONDITIONS**

2018





## TERMS OF SERVICE

GENERAL TERMS AND CONDITIONS FOR USING THE SERVICES OF CIRCLE MARKETS,  
INCLUDING THOSE AVAILABLE ON AND THROUGH THE WEBSITE

[HTTP://WWW.CIRCLEMARKETS.COM](http://www.circlemarkets.com)

**Last Updated on January 23rd, 2018**

### 1. ACCEPTANCE OF THE TERMS

Thank you for using CIRCLE MARKETS. These General Terms of Service (the "Terms") are intended to make you aware of your legal rights and responsibilities with respect to your access to and use of the CIRCLE MARKETS website at <http://www.circlemarkets.com> (the "Website") and its services (the "Services"), including but not limited to delivery of information via the Website and the consequences of the events of default. These Terms of Service set out the basis on which transactions will take place and the obligations of both Circle Markets Ltd. and the User when accessing and trading on the trading platforms. The acceptance of these Terms of Service does not itself constitute a trade or in any way oblige you to enter into future transactions.

#### **Please read these Terms carefully.**

By accessing or using the Website, you are agreeing to these Terms and concluding a legally binding contract with Circle Markets Ltd, a company incorporated and existing under the laws of New Zealand. Do not access or use the Website if you are unwilling or unable to be bound by the Terms.

You can accept the Terms by:

- Signing, either on a hardcopy or electronically, or agreeing to the Terms expressly, where it is made available to you in the user interface of the Website; or
- Actually using the Services. In this case, you understand and agree that CIRCLE MARKETS will treat your use of the Services as an acceptance of the Terms.



## 2. DEFINITIONS

Circle Markets Ltd. is a commercial company, providing the Services administered through the Website. Circle Markets Ltd. is a broker and relies on the technology, pricing and liquidity offering of wholesale providers.

### **We**

"We", "us" or "CIRCLE MARKETS" refers to Circle Markets Ltd.

CIRCLE MARKETS (<http://www.circlemarkets.com>) is a web-based Internet platform, owned by Circle Markets Ltd, a company incorporated and existing under the laws of New Zealand, registered under registration number 2164379, having its seat and office at 8 Fall street, Wakworth 0910, New Zealand, which enables users to use the Services, which are the subject of these Terms of Service.

### **User**

"User" or "you" or "your" refers to you, as a user of the Services. A user is someone who accesses or uses the Services for the purpose of sharing, displaying, hosting, publishing, transacting, uploading information or viewing pictures and includes other persons jointly participating in using the Services, including without limitation a User having access to an advice or a User entering into any Transaction.

### **Services**

"Services" include any and all services, which CIRCLE MARKETS may offer to the User, including on or through the Website, but also via telephone, fax, e-mail and other electronic and non-electronic methods of communication.

The Services may be supported by Circle Markets VU Limited, who offers website and account administration services for Circle Markets Ltd.

### **Transaction**

"Transaction" means buying/selling of a financial asset and/or commodity in consideration of quantity or set price, or buying/selling or exchanging one currency against another, in a particular day and time.

### **Applicable Regulations**

"Applicable Regulations" means all laws, rules, regulations and disclosure requirements of any relevant jurisdiction, exchange market or regulatory authority which apply in respect of CIRCLE MARKETS.



### **Margin**

"Margin" means the initial or maintenance margin requirement to open or keep a Transaction open, "Margined Transaction".

### **Affiliate**

"Affiliate" means a third party (introducing agent) whose activity is to introduce new users to CIRCLE MARKETS

### **User Account**

The "User Account" is a separate part of the Website, containing User information required by CIRCLE MARKETS during registration. The User Account is accessed by the User through entering a User ID and a password.

### **Content**

"Content" will include (but is not limited to) images, photos, audio, video, location and financial data, deposit and withdrawal history, and all other forms of information or data.

### **Your Content**

"Your Content" or "User Content" is the content, submitted by you, as a User of the Website. It includes, but is not limited to what you upload, share or transmit to, through or in connection with the Services, including any other materials that you publicly display or are displayed in your User Account profile.

### **CIRCLE MARKETS Content**

"CIRCLE MARKETS Content" means content that CIRCLE MARKETS creates and makes available in connection with the Services, including, but not limited to: visual interfaces, interactive features, graphics, design, computer code, products, software, aggregate ratings, reports and other usage-related data in connection with the activities associated with your User Account and all other elements and components of the Services excluding Your Content and third-party content. "Third Party Content" means content that comes from parties other than CIRCLE MARKETS or its Users and is available in or through the Services.



### 3. USING THE SERVICES

#### 3.1. Compliance with the laws

You are responsible for complying with all laws and regulations in the country in which you live when you access and use the Services. You agree to use the Services only in compliance with these Terms and the applicable law and in a manner that does not violate our legal rights or those of any third parties.

#### 3.2. Website Availability

The Website may be modified, updated, interrupted, suspended or discontinued at any time without notice or liability.

#### 3.3. User Accounts

3.3.1 You must create a User Account and provide certain information about yourself in order to use (some of) the Services that are offered by CIRCLE MARKETS, as defined in Section 2. You are responsible for maintaining the confidentiality of your User Account password. You are also responsible for all activities that occur in connection with your User Account. You agree to notify us immediately of any unauthorized use of your User Account. We reserve the right to close your User Account at any time for any or no reason.

3.3.2 Your User Account is for your personal use only. In creating it, we ask that you provide complete and accurate information about yourself to bolster your credibility as a contributor and client to the Website and the Services. You may not impersonate someone else (e.g., adopt the identity of a celebrity or your next-door neighbour), create or use a User Account for anyone other than yourself, or create multiple accounts. If you are using a pseudonym, please note that some people may still be able to identify you if, for example, you include identifying information in your reviews, use the same account information on other sites, or allow other sites to share information about you with CIRCLE MARKETS. Please read our Privacy Policy for more information.

3.3.3 Every User is under an obligation to open a User Account in order to enter into any Transaction or to open or close any similar deal through the use of the CIRCLE MARKETS Services. None of the latter may be placed until a User Account has been opened and the User has deposited funds therein. The latter should first be approved and cleared by CIRCLE MARKETS. CIRCLE MARKETS may, at its absolute



discretion, for any or no reason refuse to accept any User as a client, but will in any case inform you of such refusal.

- 3.3.4 The opening of a User Account is always subject to compliance with CIRCLE MARKETS' Anti-Money Laundering Policy.
- 3.3.5 In assessing each User's credit worthiness and for the purposes of fraud prevention and risk management, every User agrees that CIRCLE MARKETS may: (i) issue periodic searches and enquiries about Users; (ii) disclose any findings to organizations, dealing with fraud protection; or (iii) disclose any findings to financial and government authorities, as required under the relevant law or to other broker-dealers or investment managers, which deal with or manage investments for you concerning any payment or security default or concerning any investment which is related to or connected with Margined Transactions that you seek to open with us.
- 3.3.6 CIRCLE MARKETS may maintain and, from time to time, change certain monetary and financial limits for your User Account, depending on your credit- status and worthiness. These may, at the sole discretion of CIRCLE MARKETS, apply to the size of any Transaction (or any series of Transactions) of a given User or the amount of any loss or liability to which a given User may be exposed.

#### **3.4. Eligibility and Appropriateness**

- 3.4.1 You hereby represent and warrant that you are at least twenty-one (21) years of age or above and are fully able and competent to understand and agree with the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms.
- 3.4.2 Before making an order, each User needs to give information about his/her investment knowledge and experience in the relevant User Account fields. On that basis, CIRCLE MARKETS will identify whether its platform and Services are appropriate for you and whether opening an Account would be allowed. Each User should make an independent judgment as to whether trading is appropriate for them in the light of their financial condition, investment experience, risk tolerance and other factors before applying for a User Account. Each User should be aware that leverage may dramatically increase the risk of investments, particularly where large positions can be taken in reliance on a small amount of initial Margin, as is common when dealing in Margined Transactions. It is the



responsibility of the User to inform CIRCLE MARKETS about any details that might reasonably indicate that the assessment of CIRCLE MARKETS about opening a User Account shall be changed, in order to avert future losses by the User.

- 3.4.3 When applying for a User Account, you, as a User of the Website and the Services provided by CIRCLE MARKETS, represent and warrant that: (i) you are at least 21 years of age and of sound mind; (ii) you are aware of the risks involved with trading; (iii) any change to the details supplied by you to CIRCLE MARKETS shall be immediately notified to us in writing; (iv) any persons entering into dealings and Transactions on your behalf have been duly authorized to do so; (v) you understand the binding and enforceable nature of the current Terms and each Transaction; (vi) you will not violate any of the Applicable Regulations; (vii) you are the sole beneficial owner that is entering into the current Terms and every Transaction; (viii) all the information provided to CIRCLE MARKETS is true and accurate; (ix) you are financially, physically and psychologically stable and able to sustain a total loss of funds, resulting from your use of the Services; (x) you have full and uninterrupted access to the e-mail address that you use for opening your User Account; (xi) if you are not a resident of New Zealand, the use of the Services is legal under the applicable laws of the jurisdiction of your residence.

### 3.5. Events of Default

- 3.5.1 CIRCLE MARKETS shall be entitled to, without notice, (i) sell your investments in our possession in order to realize funds sufficient to cover any amount due by you hereunder; (ii) pay the fair market value of investments, equivalent to those credited to your User Account, instead of returning them to you; (iii) take any action we consider appropriate or necessary in order to reduce or eliminate our loss or liability in relation to any of your positions, contracts or commitments; (iv) pledge any securities that are held by CIRCLE MARKETS on your behalf; (v) set-off amounts due; (vi) call any guarantee or indemnity provided on your behalf; (vii) cancel and terminate any Transaction of yours; or (viii) close your account; IF at any time, implied or expressed, for any or no reason (i) you fail to comply with your delivery or payment obligations (ii) we have reasons to believe that you might have done or you have actually done any action or inaction, which is contrary to any applicable laws, Applicable Regulations or good market practices; (iii) we consider it necessary or desirable for the protection of CIRCLE MARKETS, due to your eventual or actual disability to perform your obligations under these Terms (iv) you are unable to pay your monetary obligations, debts, become bankrupt, insolvent or become of unsound mind; (v) you have started a voluntary liquidation



or reorganization procedure or such procedure has been commenced against you, involuntarily, proposing such liquidation or reorganization of a substantial part of your assets; (vi) you or any credit support provider of yours disaffirm, disclaim or repudiate any of your monetary obligations to CIRCLE MARKETS or any obligation under these Terms; (vii) you are dissolved or if a registration that you are dependent on is removed from the formal register of a the relevant state; (viii) an event of default occurs in relation to you under any other agreement between you and CIRCLE MATTERS; (xi) any representation, statement or warranty made by you to CIRCLE MATTERS proves to be untrue, false or misleading at the time that it was given or was deemed have been given; as well as in the event of your death.

3.5.2 Should an event of default occur, CIRCLE MARKETS may, at its absolute discretion, before notifying the User in writing, close out single or multiple Transactions, close out payable amounts, which shall then become immediately due or set off any obligation to make any payment to you against a counter-obligation of the User to CIRCLE MARKETS. Any obligations shall be satisfied by the net settlement (whether by payment, set-off or otherwise) of the amounts due between CIRCLE MARKETS and the User with respect to all the outstanding terminated Transactions.

3.5.3 When a particular action is not explicitly referred to in this clause, but can clearly be identified and fall within the definition of an Event of Default, the clause should be interpreted broadly, in favour of CIRCLE MARKETS, and this action should be considered as if it was included in this clause.

### **3.6. Communications and relationships with CIRCLE MARKETS**

3.6.1 By creating a User Account, you agree to receive certain communications in connection with CIRCLE MARKETS.

3.6.2 Any and all electronic communication between you and CIRCLE MARKETS shall be enforceable and binding, as if they were made in writing. Orders or other instructions given to you by electronic means will constitute evidence of the Orders or instructions given. Should a User not wish to use or rely on such electronic communications, he/she shall inform CIRCLE MARKETS of such decision in writing or shall inform CIRCLE MARKETS of it before accepting these Terms, as defined in Section 1. CIRCLE MARKETS also retains the right to record any telephone or voice over conversations without any notice thereof. Such records may be used as an evidence of order making and other instructions given by the User to CIRCLE MARKETS.





#### 4. CHANGES TO THE TERMS

CIRCLE MARKETS may amend, change or update these Terms of Service, from time to time, entirely at its own discretion. You shall be responsible for checking these Terms, from time to time, and ensuring continued compliance with these Terms. Your use of the Services after any such amendment or change in the Terms shall be deemed as your express acceptance to such amended/changed Terms and an assent to be bound by such changed/amended Terms. CIRCLE MARKETS may, from time to time, send to the User schedules with respect to a specific market or classes of Investments, which will also form part of these Terms.

#### 5. TRANSLATION OF THE TERMS

CIRCLE MARKETS may provide a translation of the English version of the Terms into other languages. You understand and agree that any translation of the Terms into other languages is only for your convenience and that the English version shall govern the terms of your relationship with CIRCLE MARKETS. In case there are any inconsistencies between the English version of the Terms and its translated versions, the English version of the Terms shall prevail.

#### 6. RELATIONSHIPS AND CONTENT

##### 6.1. Principal Relationship

In our mutual dealing, we will act as principal and not as agent on your behalf. Accordingly, we will be the counterparty to all of your trades. Unless we agree otherwise in writing, you will also deal with us as principal, and not as an agent or representative of another person.

##### 6.2. Sharing of Charges. Affiliates.

CIRCLE MARKETS may receive remuneration or share charges with Affiliates or other third parties, regarding Transactions, carried out in accordance with instructions made by the User.

##### 6.3. Material Interests

When dealing with or for the User, CIRCLE MARKETS shall reiterate on the fact that CIRCLE MARKETS or any third party may have certain interest, relationship or arrangement that might be material. Such interest, relationship or arrangement may include, but is not limited to (i) dealing in the investment or related investments or an asset underlying the investment, as principal for CIRCLE



MARKETS' own account or that of someone else; (ii) buying from a User and selling immediately to another User or v.v.; (iii) matching the Transaction of a User with the Transaction of another User, thus acting on behalf of both Users; (iv) holding positions or quoting prices in an Investment or related Investments or asset underlying the Investment; or (v) providing services or advising Affiliates or other user, who might have interest in such abovementioned investments. Every User accepts that in the complex context of the relevant dealings, CIRCLE MARKETS or any Affiliates thereof may have interests, which conflict with the interests of a User (or Users) and that CIRCLE MARKETS may decide to act, at its discretion, in a manner that CIRCLE MARKETS considers appropriate, subject to the Applicable Regulations.

#### **6.4. Responsibility for Your Content**

- 6.4.1. You are responsible for the content you publish, send or submit (including instructions) to CIRCLE MARKETS. You assume all risks associated with the content you publish, including anyone's reliance on its quality, accuracy, or reliability, disclosure or truthfulness of information. You represent that you are competent to publish content. You may not imply that the content published is in any way motivated, sponsored or endorsed by CIRCLE MARKETS.
- 6.4.2. You may expose yourself to liability if, for example, the content you publish contains material that is false, intentionally misleading, speculative or defamatory; violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; contains material that is unlawful, including hate speech or pornography; harms minors; or violates or advocates the violation of any law or other legal regulation.
- 6.4.3. If Your Content is a review, you represent and warrant that you are the sole author of that review; the review reflects an actual experience that you had using the Website and its Services; you were not paid or otherwise remunerated in connection with your authoring or posting of the review; and you had no financial, competitive, or other personal incentive to post a review that was not a fair expression of your honest opinion. User reviews do not reflect the opinion of CIRCLE MARKETS.



## 6.5. Right to use Your Content.

- 6.5.1. Your Content will not be shared with any non-affiliated third party companies ("Unaffiliated Third Parties"), except in a limited number of cases and only to the extent that this is necessary for the performance of the Services.
- 6.5.2. Unaffiliated Third Parties with which Your Content may be shared, as indicated in Point 6.5.1. above, may, among others, include companies which provide supportive services for the facilitation of monetary transactions with CIRCLE MARKETS, as well as companies that provide juridical, bookkeeping, accounting or other advice to CIRCLE MARKETS. Such Unaffiliated Third Parties that assist CIRCLE MARKETS in the provision of the Services are required to maintain the confidentiality of Your Content. Such Unaffiliated Third Parties may only receive, process and use Your Content for the purposes of providing the abovementioned financial, juridical, bookkeeping and accounting services and only for the purposes that CIRCLE MARKETS has instructed them.
- 6.5.3. When such sharing or disclosure of Your Content proves necessary, by submitting Your Content, you hereby irrevocably grant us a perpetual, irrevocable, non-exclusive, royalty-free right to share and disclose your personal information with such Unaffiliated Third Parties. This includes the right to sub-license and transfer.
- 6.5.4. You also grant us the right to use and share the name or username that you submit in connection with Your Content with such Unaffiliated Third Parties. You irrevocably waive any claims and assertions of moral rights with respect to Your Content brought against us in relation to such information being shared with such Unaffiliated Third Parties.
- 6.5.5. CIRCLE MARKETS would like to reiterate on the fact that CIRCLE MARKETS will never sell your personal information or Your Content. For more information regarding data protection, please review our Privacy Policy.

## 6.6. Ownership of Content

As between you and CIRCLE MARKETS, you own Your Content. We own the CIRCLE MARKETS Content, including, among others, visual interfaces, interactive features, graphics, design, compilations, including (but not limited to) our database of user content and other Website Content, computer code, products, software, aggregate user review ratings, and all other elements and components of the Website, excluding User Content and Third Party Content. We also own the



copyrights, trademarks, trade names, and other intellectual and proprietary rights ("IP Rights"), associated with the CIRCLE MARKETS Content and the Website. This means that you may not modify, reproduce, distribute, create derivative works or adaptations of, publicly display or in any way exploit the CIRCLE MARKETS Content, in whole or in part, except as expressly authorized by us.

#### **6.7. Content Removal**

We reserve the right, at any time and without prior notice, to remove, block, or disable access to any content that we, for any reason or no reason consider to be objectionable, in violation of the Terms or otherwise harmful to the Services or our Users in our sole discretion.

### **7. RESTRICTIONS**

7.1. Without limiting the generality of these Terms, in using the Services, you specifically agree not to post or transmit any content (including instructions) or engage in any activity that, in our sole discretion:

- i. Constitutes market abuse or contrary to the Applicable Regulations;
- ii. Violates any third party's rights, including copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right;
- iii. Violates these Terms;
- iv. Violates any applicable law;
- v. Threatens, harms, harasses others, or promotes discrimination or fraud;
- vi. Promotes a business or other commercial venture or event, or otherwise uses the Website for commercial purposes;
- vii. Engages in keyword spamming, or otherwise attempts to manipulate the Website's search results;
- viii. Solicits personal information from minors, or submits or transmits pornography.

#### **7.2. Apart from that, the User agrees not to:**

- i. Modify, adapt, appropriate, reproduce, distribute, translate, create derivative works, publicly display, sell, trade, or in any way exploit the Website or its Content.
- ii. Use any robot, spider, site or mobile app search/retrieval application on the Website;
- iii. Make attempts to reverse engineer any portion of the Website;



- iv. Remove or modify any IP rights notice that appears on any portion of the Website or on any materials printed or copied from the Website;
- v. Record, process, or mine information about other Users and clients;
- vi. Attempt to gain unauthorized access to the Website, the User Accounts, computer systems or networks connected to the Website, through hacking, password mining or any other means;
- vii. Use the Website, the Services or any Content to transmit any computer viruses, worms, Trojan horses or other items that could be of a destructive nature (collectively, "Viruses").

7.3. When a particular action is not explicitly referred to in this clause, but is an obvious violation of Art. 7, the clause should be interpreted broadly, in favour of CIRCLE MARKETS, and this action should be considered as if it was included in this clause

## 8. OTHER GUIDELINES AND POLICIES

### 8.1. Conflicts of Interest

CIRCLE MARKETS manages conflicts of interest between itself and its clients and also between different clients. CIRCLE MARKETS therefore operates in accordance with a conflicts of interest policy, which instructs on how different conflicts are managed. Such conflicts of interest policy can be found on the Website and is not in any way dependent on the current Terms. Disclosure to the User is not in any case mandatory, should such conflicts of interest occur.

### 8.2. Anti-Money Laundering Policy

CIRCLE MARKETS has an Anti-Money Laundering Policy in place which is freely accessible on the Website. The User shall get acquainted with CIRCLE MARKETS' Anti-Money Laundering Policy before entering into any Transaction, giving instructions to CIRCLE MARKETS or making any order.

### 8.3. Information Barriers

Arrangements which restrict the access of employees, Affiliates, licensors, licensees, distributors, agents, representatives and other authorized users are maintained in certain areas of CIRCLE MARKET's business for confidentiality purposes. Consequently, CIRCLE MARKETS may refuse to advise the User or to deal with a User in relation to a particular investment or Transaction without disclosing a reason thereof, should such access be required or advisable.



#### **8.4. Trading Risk**

CIRCLE MARKETS has adopted Trading Risk Terms and Risk Disclaimer, available in the relevant sections of the Website.

### **9. THIRD PARTY WEBSITES AND CONTENT**

The Services may contain, or you may be sent through the Website to links to other websites ("Third Party Websites"), as well as articles, photographs, text, graphics, pictures, designs, sound, video, information, applications, software and other Content or items belonging to or originating from third parties ("Third Party Content"). Such Third Party Websites and Third Party Content are not investigated, monitored or checked for accuracy, appropriateness, safety or completeness by CIRCLE MARKETS and CIRCLE MARKETS is not responsible for any Third Party Websites accessed through the Website or any Third Party Content posted on, available through or installed from the Website.

You agree that we are not responsible for the availability or Third Party Content of such Third Party Websites. Your use of Third Party Websites is solely at your own risk.

### **10. ADVERTISING**

The Website may be supported by advertising revenue and may display advertisements and promotions.

Parts of the Website may contain such advertising information or promotional material or other material submitted to CIRCLE MARKETS by third parties.

Responsibility for ensuring that material submitted for inclusion on the Website or complies with the applicable international and laws of New Zealand is on the party providing the information/material. Your correspondence or business dealings with, as well as the participation in promotions of, advertisers other than CIRCLE MARKETS, found on or through the Website, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, shall be solely between you and such advertiser. CIRCLE MARKETS will not be responsible or liable for any error or omission, inaccuracy in advertising material or any loss or damage of any sort incurred as a result of any such dealings or as a result of the presence of such other advertisers on the Website.



## 11. USER FEEDBACK. SUGGESTIONS AND IMPROVEMENTS

By sending us any ideas, suggestions, documents or proposals ("Feedback"), you agree that (i) your Feedback does not contain the confidential, financial, insider or proprietary information of third parties, (ii) we are under no obligation of confidentiality, express or implied, with respect to the Feedback, (iii) we may have something similar to the Feedback already under consideration or in development, and (iv) you grant us an irrevocable, non-exclusive, royalty-free, perpetual right to use, modify, prepare derivative works, publish, distribute and sublicense the Feedback, and you irrevocably waive, against CIRCLE MARKETS and its users, any claims and assertions of any moral rights contained in such Feedback.

## 12. PAYMENTS

- 12.1. Depositing is done exclusively by credit/debit card, bank wire transfer or e-payment systems, such as Skrill, Netteller, CashU and Webmoney. CIRCLE MARKETS does not accept cash deposits. As agreed at the time of deposit, payments may be denominated in any of the following currencies: New Zealand Dollars (NZD), United States Dollars (USD), Euro (EUR) or Great Britain Pound Sterling (GBP). We accept Visa, MasterCard, Maestro. All credit/debit cardholders are subject to validation checks and prior authorisation by the card issuer. Following clearance, payment/deposit will be debited from your account upon receipt of your order by Circle Markets Ltd.
- 12.2. If the issuer of your payment card refuses to authorise payment to Circle Markets Ltd., we will not be able to process your subscription request or order and a message will appear informing you that the transaction cannot be processed. Circle Markets Ltd., together with its business partners, takes all reasonable care to ensure that its payment system is secure. All payment card transactions made through the Website are processed using a secure online payment gateway (Secure Socket Layer (SSL) technology) that encrypts your card details in a secure hosting environment. We do not hold your payment card details on the Circle Markets Ltd. server. We may deduct agreed charges from any funds held by us on your behalf.





- 12.3. Withdrawals from your User Account may online be processed the same way as the funds have been deposited, unless agreed otherwise in writing.
- 12.4. Merchant fees are deducted on both deposits and withdrawals. Merchant fees range from 0 – 6% depending on the method of deposit or withdrawal used and are equal to the amount charged to CIRCLE MARKETS for using their services.
- 12.5. A User can benefit from a free deposit or withdrawal of funds, or both:
- if the trade volume is more than 25 round turn lots or the equivalent of 2,500,000.00 USD in value from the time of the last deposit to the time of withdrawal;
- and
- if the trade volume is under 15 round turn lots or the equivalent of 1,500,000.00 USD, then the User will need to pay full deposit and withdrawal fees as charged by the merchant gateway providers used for the transactions.
- 12.6. Any User having created a User Account without an intention of activating that User Account and using the Website within the first four weeks of opening that User Account may be suspended from using the Website for a period of time, entirely at the discretion of CIRCLE MARKETS. If no request is received for lifting such suspension, that User may be banned from using the Services permanently, without having the opportunity to create a new User Account in the future.
- 12.7. CIRCLE MARKETS may, at our discretion, elect to withhold or deduct any payment requested due to you if:
- 12.7.1. open Margined Transactions on the Account show eventual losses;
  - 12.7.2. we reasonably consider that funds may be required to meet any current or future margin requirement on open Margined Transactions due to underlying market conditions;
  - 12.7.3. you have any contingent liability to us or to any of our Affiliates in respect of any other account you have opened with them; and/or
  - 12.7.4. we reasonably determine that there is an unresolved dispute between us in connection with these Terms or any related contract.





- 12.8. Your cash balance will be credited from time to time with the amount of each payment of Margin and any other payment received from the User to CIRCLE MARKETS in accordance with these Terms.
- 12.9. The funds in your User account will be held either in New Zealand Dollars (NZD), United States Dollars (USD), Euro (EUR) or Great Britain Pound Sterling (GBP) or any other currency if agreed so beforehand with CIRCLE MARKETS in writing. The deposited amounts to your User Account, which are different from the base currency related to your User Account may be converted to that base currency at prevailing conversion rates, at our discretion. The same shall also be valid for any interest costs, commission and other related charges.
- 12.10. It is a breach for a User to receive funds from a third party. Users shall be liable to pay additional administration charges in order for the funds to be returned to that third party. Such administration charges will include, but are not limited to per-hour basis CIRCLE MARKETS staff rate and banking transactional costs.
- 12.11. CIRCLE MARKETS shall not be obliged to make any payment to the User unless the cash balance of the User in his/her User account after making such payment would be sufficient to cover your Margin and any unrealized losses in relation to your open Margined Transactions.
- 12.12. CIRCLE MARKETS may transfer, partly or in whole, amounts deposited by you to one or more of its wholesale liquidity providers. The User agrees that in an event of default, insolvency or bankruptcy of one or more of those liquidity providers, CIRCLE MARKETS shall not be liable for the loss of the User. The User agrees that it will hold CIRCLE MARKETS and its Affiliates, licensors, licensees, distributors, agents, representatives and other authorized users, and each of the foregoing entities' respective resellers, distributors, service providers and suppliers, and all of the foregoing entities' respective directors, owners, employees, agents, representatives and assigns harmless from and against any and all liabilities, as defined and agreed in Section 13 of these Terms.
- 12.13. Without prejudice to any of the abovementioned rights and obligations of the User or CIRCLE MARKETS, CIRCLE MARKETS may be entitled to, from time to time and without any notice to the User, set off any amount (whether actual or contingent, present or future), owed between the User and CIRCLE MARKETS.



- 12.14. Payments by CIRCLE MARKETS are to be made on a net basis. CIRCLE MARKETS is not obliged to deliver or make payments to the User if CIRCLE MARKETS has not received the appropriate and necessary documents or cleared funds.
- 12.15. When a Corporate Action takes place from an individual stock which is constituent of a stock index, CIRCLE MARKETS will book an adjustment to your account to reflect the effect this corporate action has on the stock index. If an individual stock goes ex-dividend, long positions will be credited and short positions will be debited with a cash adjustment for positions held in the relevant index at rollover. Long positions and short positions will be adjusted by using 100% of the relevant stock-index-adjustment.  
The adjustments will be made on a timely basis, however, as we are dependent on the notification from an external third party, CIRCLE MARKETS shall not be liable for the consequences of any delayed adjustments.
- 12.16. CIRCLE MARKETS aims to keep our platform free from any technical errors. However, in certain cases technical errors may appear, and the User may be overpaid unwillingly. In such cases, CIRCLE MARKETS reserves the right to claim back any overpayments, limited to the amount actually owed to the User. These amounts may be deducted from future payments.

### 13. INDEMNITY

- 13.1. You are responsible for maintaining the confidentiality of your username, password and your User Account, as well as all activities that occur under your User Account.
- 13.2. You hereby agree to indemnify, defend, and hold us, our affiliates, licensors, licensees, distributors, agents, representatives and other authorized users, and each of the foregoing entities' respective resellers, distributors, service providers and suppliers, and all of the foregoing entities' respective directors, owners, employees, agents, representatives and assigns harmless from and against any and all losses, damages, liabilities and costs (including settlement costs and any legal or other fees and expenses if we receive or recover any amount in respect of an obligation of yours or for investigating or defending any actions) incurred by the above mentioned in connection with any claim arising out of any breach by you of these Terms or claims arising from your use of the Website and/or your User Account and suffered by CIRCLE MARKETS as a result of receiving any amount in respect of an obligation of yours or in a currency other than the currency in which it was due. You agree to cooperate with us in the defence of any claim. We



reserve the right, at our own expense, to employ separate legal counsel and assume the exclusive defence and control of any matter otherwise subject to indemnification by you. We will use reasonable efforts to notify you of any such claim, action or proceeding.

- 13.3. If you direct CIRCLE MARKETS to enter into any currency Transaction, any profit or loss arising as a result of a fluctuation in the exchange rate affecting such currency will be entirely for your User Account and for your own risk. Funds in your User Account may be converted for margin, at a rate determined by CIRCLE MARKETS, into and from a foreign currency. CIRCLE MARKETS would not be liable for any losses incurred by such action.

#### **14. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY**

- 14.1. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES, ACCESSIBLE ON OR THROUGH THE WEBSITE ARE PROVIDED "AS IS" AND "AS AVAILABLE". TO THE FULLEST EXTENT, PERMITTED BY THE APPLICABLE LAW, CIRCLE MARKETS LTD. DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE FACT THAT: (I) THE SERVICES, ACCESSIBLE ON OR THROUGH THE WEBSITE MAY BE TRADED OR SUITABLE FOR A SPECIFIC PURPOSE, (II) THE SERVICES, ACCESSIBLE ON OR THROUGH THE WEBSITE WILL OPERATE WITHOUT INTERRUPTION AND ERRORS, (III) DEFECTS WILL BE RECTIFIED, (IV) THERE ARE NO BUGS, VIRUSES, TROJAN HORSES OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH THE SERVICES, FOLLOWING THE ACTIONS OF THIRD PARTIES, (V) THE SECURITY METHODS USED WILL BE SUFFICIENT FOR THE PROTECTION OF THE SERVICES AND THEIR USERS, AND (VI) WITH REGARD TO THE CORRECTNESS, ACCURACY OR RELIABILITY, THERE WILL BE NO LOSS OF DATA, CONTENT OR INFORMATION.
- 14.2. DOWNLOADING OR OTHERWISE OBTAINING MATERIALS THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR BANK ACCOUNT OR OTHER PAYMENT/DEPOSIT SOURCE, YOUR COMPUTER, MOBILE PHONE, TABLET OR OTHER DEVICE OR FOR LOSS OF DATA THAT RESULTS FROM THE DOWNLOADING OF ANY SUCH MATERIAL. CIRCLE MARKETS WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES RELATED TO THE CIRCLE MARKETS SERVICES. YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE SERVICES AND



WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES. THE COMMUNICATION WITH CIRCLE MARKETS, WHETHER WRITTEN OR ORAL, IN CONNECTION TO, THROUGH THE OR AS A RESULT OF USING THE SERVICES SHALL NOT CREATE ANY WARRANTIES NOT EXPRESSLY STATED IN THE TERMS. UNLESS YOU HAVE BEEN EXPRESSLY AUTHORIZED TO DO SO IN WRITING, YOU AGREE THAT WHEN USING THE SERVICES, YOU WILL NOT USE ANY TRADEMARK, TRADE NAME OR LOGO OF ANY COMPANY OR ORGANIZATION IN A WAY THAT IS LIKELY TO CAUSE CONFUSION ABOUT THE OWNER OF SUCH MARKS, NAMES OR LOGOS.

- 14.3. CIRCLE MARKETS MAKES NO PROMISES WITH RESPECT TO ANY THIRD PARTIES, SUCH AS ANY ADVERTISERS, LIQUIDITY PROVIDERS, AFFILIATES, ETC. THAT CAN BE SEEN ON THE WEBSITE OR OTHER USERS OF THE SERVICES. CIRCLE MARKETS IS NOT LIABLE TO YOU FOR ANY LOSS OR DAMAGE THAT MIGHT ARISE FROM THEIR ACTIONS OR OMISSIONS, INCLUDING, FOR EXAMPLE, IF ANOTHER USER OR BUSINESS MISUSES YOUR CONTENT, IDENTITY OR PERSONAL INFORMATION, OR IF YOU HAVE A NEGATIVE EXPERIENCE WITH OUR SERVICES OR ANY OTHER GOODS OR SERVICES PROMOTED OR FEATURED ON THE WEBSITE OR FOR LOSSES SUFFERED BY YOU OR ANY THIRD PARTY OR FOR ANY SPECIAL DAMAGES, OR LOSS OF PROFITS OR LOSS OF GOODWILL OR REPUTATION OR LOSS OF BUSINESS OPPORTUNITY ARISING UNDER OR IN CONNECTION WITH THESE TERMS.
- 14.4. YOUR PURCHASES, DEPOSITS TO AND USE OF PRODUCTS OR SERVICES OFFERED BY THIRD PARTIES THROUGH THE WEBSITE IS DONE AT YOUR OWN DISCRETION AND RISK.
- 14.5. CIRCLE MARKETS, AS WELL AS ITS DIRECTORS OFFICERS, EMPLOYEES, AGENTS, PARENT COMPANIES, SUPPLIERS AND LIQUIDITY PROVIDERS DISCLAIM LIABILITY FOR ANY (I) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, (II) LOSS OF PROFITS AND RESULTING DAMAGE, (III) BUSINESS INTERRUPTION, (IV) REPUTATIONAL HARM, (V) LOSS OF INFORMATION OR DATA (VI) OR ANY OTHER COSTS OR EXPENSES, REGARDLESS OF WHETHER THEY HAVE ARISEN OUT OF NEGLIGENCE, MISREPRESENTATION, BREACH OF CONTRACT OR IN ANY OTHER WAY INCURRED OR SUFFERED UNDER THOSE TERMS, UNLESS THEY HAVE ARISEN OUT OF ANY RELATED GROSS NEGLIGENCE OR FRAUD OF ANY KIND.
- 14.6. CIRCLE MARKETS SHALL IN NO CIRCUMSTANCES BE RESPONSIBLE OR LIABLE FOR ANY COSTS, LOSSES OR EXPENSES ARISING OUT OF THE PLACEMENT OF ORDERS BY THE USER OR THE EXECUTION OF TRANSACTIONS WITH CIRCLE MARKETS, OR ANY OF THE



FORMER, ARISING OUT OF ANY ADVERSE TAX IMPLICATIONS OR ANY DELAYS OR CHANGES IN MARKET CONDITIONS IN CONNECTION WITH ANY PARTICULAR TRANSACTION. IN ADDITION, CIRCLE MARKETS CANNOT PROVIDE YOU WITH ANY TAX ADVICE. THE USER HIMSELF IS RESPONSIBLE FOR THE PAYMENT OF TAXES, REGARDLESS OF WHETHER THEY ARE DUE OR HAVE ARISEN IN NEW ZEALAND OR ANY OTHER COUNTRY. SEEKING AN INDEPENDENT ADVICE BEFORE ACCEPTING ANY OF THE CURRENT TERMS AND/OR ENTERING INTO ANY SPECIFIC TRANSACTION IS ADVISABLE.

- 14.7. FURTHERMORE, CIRCLE MARKETS DISCLAIMS ALL LIABILITY RELATING TO THE INACCURATE REFLECTION OF MARKET RATES ON THE WEBSITE AND THROUGH THE SERVICES DUE TO INTERNET OR CONNECTIVITY DELAYS. CIRCLE MARKETS HAS NO OBLIGATION TO CONTACT AND INFORM YOU OF SUCH CHANGES AND SHALL NOT IN ANY WAY BE RESPONSIBLE FOR YOUR RELIANCE ON SUCH FIGURES. TRANSACTIONS THAT RELY ON PRICE LATENCY ARBITRAGE OPPORTUNITIES MAY BE REVOKED, WITHOUT PRIOR NOTICE. ANY DISPUTE THAT MIGHT ARISE FROM SUCH QUOTING OR EXECUTION ERRORS SHALL BE RESOLVED IN THE SOLE AND ABSOLUTE DISCRETION OF CIRCLE MARKETS. CIRCLE MARKETS LTD. DOES NOT PERMIT THE PRACTICE OF ARBITRAGE ON THE CIRCLE MARKETS WEBSITE OR WITH RELATION TO THE SERVICES.

## 15. DISPUTE RESOLUTION

- 15.1. You agree that any and all disputes and claims, arising out of or in connection with these Terms, the Website and the Services shall be resolved individually, in good faith, without resort to any form of class action. If we are unable to resolve a dispute within ten (10) business days, then we will advise you that you may raise the matter before our Dispute Resolution Scheme, Financial Services Complaints Limited.
- 15.2. Any and all claims, judgments, and awards shall be limited to the greater of: the actual out-of-pocket amount paid by you to CIRCLE MARKETS for accessing the Website and the Services, but in no event attorneys' fees; and under no circumstances you will be permitted to obtain awards for, and each User hereby waives all rights to claim punitive, incidental, consequential damages or any other damages other than actual out-of-pocket expenses for using the Services of CIRCLE MARKETS.



- 15.3. This Agreement and all rights and obligations in connection with it are governed by the laws of New Zealand. Any disputes between the Parties arising from this Agreement shall be heard and determined by the competent New Zealand courts, which shall have the exclusive jurisdiction to settle disputes arising out or in connection with these Terms.
- 15.4. Any Transaction which is subject to the Applicable Regulations of a market shall be governed by the law applicable to it under those rules and regulations.

## 16. SEVERABILITY

If any of these terms of use are found unlawful, void, or for any reason unenforceable, then such provisions will be considered severable from the remaining Terms and will not affect the validity and enforceability of the remaining provisions.

## 17. TERMINATION

- 17.1. You may terminate the Terms at any time by closing your User Account, discontinuing your use of the Website and the Services and providing CIRCLE MARKETS with a 5 (five) business days' notice of termination.
- 17.2. We may close your User Account, suspend your ability to use certain portions of the Website or the Services and/or ban you altogether from using the Website and the Services for any (if you fail to observe or perform any provision of these Terms of Service, or upon the occurrence of any Event of Default, or if you have no open Transactions in your Account at the time when the notice of termination is sent, or if you fail to notify us of any change to the company registered address, business and postal address, director(s) and shareholder(s) and/or beneficial owner(s) or as defined in Section 3) or no reason and without notice or liability of any kind. Any such action could prevent you from accessing your User Account, the Website, the Services, Your Content, your open Transactions, CIRCLE MARKETS Content and/or any other related information.
- 17.3. In the event of such termination, all amounts payable by you to CIRCLE MARKETS will become immediately due and payable, as of the date of termination.
- 17.4. In the event of any termination of these Terms, whether by you or us, Sections 2, 6, 7, 9, 12, 13, 14, 15, 16 and 17 will continue in full force and effect.



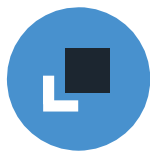
## 18. GENERAL TERMS

- 18.1. We reserve the right to amend, update, or discontinue the Website at our sole discretion, at any time, with or without reason, and without notice or liability.
- 18.2. We may provide you with notices, including those regarding changes to the Terms, by email or through the Website.
- 18.3. Except as otherwise stated in Section 9 above, nothing in these Terms is intended, nor will be deemed, to confer rights or remedies upon any third party.
- 18.4. The Terms, including any schedules sent to the User, contain the entire agreement between the User and CIRCLE MARKETS regarding the use of the Website and the Services.
- 18.5. The rights and remedies, however, which are provided in the current Terms are cumulative and not exclusive of those provided by law.
- 18.6. Both you and CIRCLE MARKETS agree to keep adequate records in connection with all dealings between the User and Circle relating to the use of the Website and of the Services. You will not object to the admission of our records as evidence in any legal proceedings for reasons such as because those records are not originals, are not in writing or are documents or produced by a computer. Records, at CIRCLE MARKET's absolute discretion, may be made available.
- 18.7. CIRCLE MARKETS shall not be responsible for any interruptions, distortions, delays or failures in communication when using the Website and the Services, as CIRCLE MARKETS is not in control of the relevant servers, signal power, its reception or internet routing. Any liability relating to the above shall be disclaimed in all its forms.
- 18.8. If any provision of the Terms is found to be unenforceable or invalid, then only that provision shall be modified to reflect the parties' intention or eliminated so that the Terms shall otherwise remain in full force and effect.
- 18.9. The section titles in the Terms are for convenience only and have no legal or contractual effect.



## 19. CONTACT

In order to address a question, to resolve a complaint regarding the Website or the CIRCLE MARKETS Services, or to receive further information regarding the Services, please contact CIRCLE MARKETS using one of the methods listed below.



Circle **Markets**



8 Falls St,  
Warkworth,  
New Zealand



Telephone:  
Admin  
+64 9889 1223



E-mail:  
[info@circlemarkets.com](mailto:info@circlemarkets.com)