

Terms and Conditions relating to the use of IPFX

1. About these Terms and Conditions

1.1 Interpretation

In this *agreement*:

- a. words imparting any gender include each other gender;
- b. the word person includes a firm, a body corporate, an unincorporated association or partnership;
- c. the singular includes the plural and vice versa;
- d. where one or more customers are parties to this *agreement*, the expression “you”, “your”, “yours” shall include each or any of them;
- e. where one or more persons are parties to this *agreement* each person shall be bound jointly and severally by this *agreement*; and
- f. headings are inserted for the sake of convenience of reference only and do not affect the interpretation of this *agreement*.

1.2 Definitions

Terms used in this *agreement* have the meaning they are given in the:

- i. appendix to these Terms and Conditions – IPFX entitled “Appendix to Terms and Conditions relating to the use of IPFX and Special Terms and Conditions relating to FX transactions for IPFX Users – Definitions”; or

- ii. where there is no definition in the appendix, subject to Clause 1.4 below, other documents that make up the *agreement* between you and us even if the term used in these *Terms and Conditions – IPFX* or the *Special Terms and Conditions* is not capitalised.

1.3 CommBiz Terms and Conditions

Subject to Clause 1.4 below, you acknowledge that in addition to these *Terms and Conditions – IPFX*, the *CommBiz Terms and Conditions* apply in respect of your access to, and use of, IPFX, and the provision of the *products* through IPFX.

1.4 Single agreement

The *agreement* between us which governs IPFX (including FX transactions and inquiries) consists of the *Application Form*, these *Terms and Conditions – IPFX*, the *CommBiz Account Authority*, the *CommBiz Terms and Conditions* and (if there are FX transactions between you and us) the *Special Terms and Conditions*.

In the event of any inconsistency between these documents, the following order of precedence will prevail:

- a. the *Special Terms and Conditions* (to the extent there are FX transactions between you and us);
- b. these *Terms and Conditions – IPFX*;
- c. the *Application Form*;
- d. the *CommBiz Terms and Conditions*; and
- e. the *CommBiz Account Authority*,

only to the extent of the inconsistency and only in respect of the access and use of IPFX, and the provision of the *products* through IPFX whether entered into over the phone and settled using IPFX or by using IPFX.

1.5 Undertaking

You must procure that any of *your* subsidiaries wishing to use *IPFX* becomes a party to this *agreement*.

1.6 Relationship

This *agreement* does not affect the existing relationship between *you* and *us* regarding terms and conditions of *your accounts* or the operation of *your accounts* including, for example only, *our* right to deduct *fees* and costs including transaction costs from *your accounts* and *our* right to vary the terms and conditions relating to *your accounts*.

This *agreement* also does not affect the existing relationship between *you* and *us* in relation to CommBiz (other than to the extent that it relates to *IPFX*).

1.7 Banking Code of Practice

The Banking Code of Practice (Banking Code) sets out the standards of practice and service in the Australian banking industry. The relevant provisions of the Banking Code apply to our provision of *IPFX* if you are an individual or a 'small business' (defined in the Banking Code). You can find the Banking Code on the website of the Australian Banking Association.

1.8 ePayments Code

The ePayments Code does not apply to *FX transactions* made using *IPFX* or any other facility that is designed primarily for use by a business and established primarily for business purposes. For the avoidance of any doubt, this *agreement* will not be interpreted so as to treat any facility designed primarily for use by a business and established primarily for business purposes as if the ePayments Code applies to it.

2. Term – Commencement and Duration

This *agreement* commences on the day that we accept *your Application Form* applying to use *IPFX* and the *CommBiz Account Authority* that enables *IPFX*, or as otherwise agreed, and continues in force until terminated pursuant to Clause 8.

3. Access

3.1 Access to IPFX

You can only access *IPFX* through CommBiz. Therefore, *you* must have signed up to CommBiz before enabling *IPFX* access.

We will provide *you* with access to *IPFX* at such times and in such manner as we may display on the CommBiz site from time to time.

3.2 Provision of products

We will provide *you* with the *products* for the term of the *agreement* (see Clause 2).

3.3 Your obligation

You must ensure that all information *you* input into *IPFX* is correct before *you* provide *your instructions*. We are not liable for any failure on *your* part either to follow such procedures correctly or to input correct information into *IPFX*.

You must ensure that only *authorised* users use *your means of identification*. Please see the *CommBiz Terms and Conditions* for the terms that relate to the security requirements for using CommBiz (which also apply to your use of *IPFX*).

4. Fees

You must pay the applicable *fee* (if any) by the date specified in the *Fee Schedule*.

5. Variation of the agreement

The variation provisions set out in the *CommBiz Terms and Conditions* apply to our rights to vary this *agreement*, including in relation to increasing or decreasing the *fees* or introducing a new *fee*.

Any changes to the *agreement* will apply to new *FX transactions*, inquiries and *products* on and from the day the change takes place.

If *you* do not accept these changes, *you* may request that *we* withdraw *your* electronic access to *IPFX*, which *we* will do without additional *fee* or charge.

6. Instructions to pay another bank

If, in any *instruction* (including a standard settlement instruction), *you* instruct *us* to pay monies to the credit of an *account* at another bank or financial institution, and *we* agree to such instruction, *we* and the other bank or financial institution:

- a. are entitled to rely solely on the *account* number details *you* provide *us*, regardless of whether any *beneficiary* name details are provided with the *instructions*; and
- b. are not obliged, in any circumstances, to check that the *account* number details match the *beneficiary* name details.

To the extent that this Clause 6 benefits another bank or financial institution, *you* acknowledge that *we* hold the benefit of this Clause 6 on trust for the other bank or financial institution and may enforce those benefits on behalf the other bank or financial institution.

You agree that this Clause 6 prevails to the extent that it is inconsistent or conflicts with the *CommBiz Terms and Conditions*.

7. Liability

7.1 Liability to each other

The liability and indemnity provisions set out in the *CommBiz Terms and Conditions* apply to this *agreement* in connection with our liability to *you* and *your* liability to *us* in this *agreement* as if those provisions were set out in these terms in full. This includes in relation to the circumstances where *we* are, and are not, liable to *you* for loss, damage or other inconvenience.

7.2 Other banks

Without limiting our rights under this *agreement*, *you* agree that *we* are not liable to *you*:

- a. for any claims or damages made against or sustained by *you*, arising from delays or errors in the execution of, or the failure to execute, any *instructions* or *FX transaction* occasioned by the fault or negligence of any other bank or financial institution including any correspondent bank or paying bank used by *us* to make or collect a payment; and
- b. if a money transfer or payment is refused or rejected for any reason by any party connected with or having jurisdiction over the *FX transaction*.

Despite anything to the contrary in the *CommBiz Terms and Conditions*, any proceeds returned to *us* may be credited to the *account* from which the money transfer or payment was originally debited.

8. Suspension and termination

8.1 Our rights to suspend and terminate

Subject to Clauses 8.2 and 8.3, the suspension and termination provisions in the *CommBiz Terms and Conditions* apply to this *agreement* in connection with our rights to suspend and/or terminate:

- a. your access to *IPFX*; and
- b. this *agreement*,

as if those provisions were set out in these terms in full.

In addition, this *agreement* immediately terminates on the day the Agreement established by the *CommBiz Terms and Conditions* is terminated.

8.2 Termination requirements

In addition to any obligations *you* may have under this *agreement*, upon termination *you* must immediately cease to use *IPFX*. We reserve the right to terminate *FX transactions* that have not been completed or settled at the time of termination – as set out in the *Special Terms and Conditions*.

8.3 Termination by either party

Either party may terminate this *agreement* by 7 days' notice in writing to the other party, unless otherwise agreed.

9. General Provisions

9.1 Application of terms from *CommBiz Terms and Conditions*

The following provisions of the *CommBiz Terms and Conditions* apply to this *agreement* as if each of the following provisions are set out in full but where references to 'Agreement' refers to this *agreement*:

- a. provisions setting the governing law and jurisdiction of the courts under the heading "Governing law";
- b. provisions relating to the assignment and transfer of rights and obligations under the heading "Limitations on your rights and us of CommBiz";
- c. provisions relating to the right to enforce in the case of delay, neglect and forbearance under the heading "Waiving rights";
- d. provisions relating to the consequences if any provisions are found to be illegal, void or unenforceable under the heading "Severability";
- e. provisions relating to the obligation to pay all government duties, taxes, fees and charges under the heading "Government duties, fees and charges"; and
- f. provisions relating to the provision of consents under the heading "Consents".

9.2 Notices and delivery of documents

Unless otherwise provided in these *Terms and Conditions* – *IPFX* or the *Special Terms and Conditions*, *you* agree that:

- a. in addition to being able to deliver them to *you* in person or by post we can send *you* electronic notices and any document or communication electronically by:
 - i. sending the information to an electronic address *you* nominate; and/or

- ii. making the information available on the CommBiz website and giving *you* an electronic notification that the information is available,
- b. any communication from *you* to *us* must be signed (in the case of postal communication) by an *authorised* user; and
- c. any notices or communication will be deemed to be duly given or made:
 - i. in the case of delivery in person, when delivered personally or to the address, place of business or registered office of the intended recipient referred to in this section;
 - ii. in the case of post, on the third day after having been posted as prepaid ordinary mail;
 - iii. in the case of an electronic messaging system (email), on production of a "return receipt" (or an equivalent expression) by the despatching electronic message delivering system stating that the "document" (or transmission by whatever name called) was received by the intended recipient unless the recipient notifies the sender within 2 hours that the transmission was not received in its entirety in legible form;
 - iv. if a notice or other communication is taken to have been duly given or made after 5pm in the place to which the communication is addressed or on a day which is not a working day in that place, it will be deemed to be duly given or made at 9am on the next working day in that place.

This Clause 9.2 prevails to the extent of any inconsistency or conflict with the *CommBiz Terms and Conditions* in relation to *your* use of *IPFX*.

9.3 Change of name and address

You must notify *us* promptly in writing of a change to *your* name or address.

Special Terms and Conditions relating to FX transactions for IPFX users

Fx.1

- a. If you enter into a *FX transaction*, you agree that:
 - i. The *Terms and Conditions – IPFX*; and
 - ii. these *Special Terms and Conditions* (and related definitions set out in the Appendix),govern each *FX transaction* between you and us.
- b. If you have not entered into an *ISDA Master Agreement* or a *Derivatives Master Agreement* with us, these *Special Terms and Conditions* in their entirety will apply to govern all *FX transactions* entered into from the date on which these *Special Terms and Conditions* take effect.
- c. If you have entered into, or subsequently enter into, an *ISDA Master Agreement* or a *Derivatives Master Agreement* with us, that *ISDA Master Agreement* or *Derivatives Master Agreement* will govern all *FX transactions* (including any *FX transactions* outstanding as at that date).

In addition, Clauses Fx.2 to Fx. 14 of these *Special Terms and Conditions* (and any related definitions) shall continue to apply but Clauses Fx.15 to Fx.21 of these *Special Terms and Conditions* inclusive shall no longer apply. In the event of any inconsistency between these *Special Terms and Conditions* and the *ISDA Master Agreement* or a *Derivatives Master Agreement* (as the case may be) the *ISDA Master Agreement* or *Derivatives Master Agreement* (as the case may be) shall prevail.

- d. We are not obliged to enter into any *FX transaction* with you. We also reserve the right to suspend trading in any *currency pairs* as a result of local or international market conditions.

Fx.2

In relation to an *FX transaction* entered into otherwise than by using IPFX including, without limitation, by telephone:

- a. You and we are bound from the time the *FX transaction* is agreed by us. *FX transactions* may be entered orally and you consent to our recording the telephone conversations with you.
- b. We will send you a written *confirmation* setting out the details of each *FX transaction* promptly after each *FX transaction* is entered into. After receiving the *confirmation*, you should as soon as practicable:
 - i. notify us that there is an error in the *confirmation*; or
 - ii. (unless the *FX transaction* is a spot in which case signature is not required) sign a copy of the *confirmation* and return it to us to acknowledge it is correct.

However, the *FX transaction* is valid even if these steps are not followed.

Fx.3

In relation to an *FX transaction* entered into by using IPFX:

- a. Upon receipt of your acceptance of an *FX transaction*, we will send you a *confirmation* as soon as reasonably practicable setting out the details of that *FX transaction*. A *confirmation* is deemed to have been received by you when it has been displayed to you on the IPFX site.
- b. Upon your receipt of the *confirmation* (online), you must notify us as soon as reasonably practicable if there is an error in the *confirmation*.

However, the *FX transaction* is valid even if you fail to receive the *confirmation* from us due to a telecommunication malfunction or other circumstance beyond our control.

Fx.4

If you notify us of an error under Clauses Fx. 2 or Fx. 3, we shall take reasonable steps to confirm if there is an error in the *confirmation* and if we agree there is an error, we will send you, or issue you, an amended *confirmation*. If we do not agree there is an error, we will notify you and endeavour to resolve the matter with you.

If we agree to amend the *settlement date* for an existing *FX transaction*, we will issue an amendment *confirmation*, which shall supersede and replace the previous *confirmation* in all respects.

Fx.5

You must provide us with a standard form of settlement instruction template which you will use to settle *FX transactions*. The instruction templates outline to us how we are to deal with funds payable by us and how you will pay us. The proposed instruction template must be submitted to us via *IPFX* for acceptance.

Once these instruction templates are accepted by us and activated by you, they are then your active instruction templates for settlement of *FX transactions*, and can/ will be stored on *IPFX* as reusable instruction templates. Only active instruction templates can be used to settle *FX transactions*.

Fx.6

Prior to the *settlement date* of each *FX transaction*, or the *currency cut-off time* or *payment cut-off time* if earlier, you must combine an active instruction template with the cashflows of that *FX transaction* so that you provide us with *instructions* of how, at settlement, we are to deal with the funds payable by us and how you will pay us funds. Once these settlement *instructions* are completed and authorised by you, they are then your authorised settlement *instructions* for settlement of that *FX transaction*, and will be stored on *IPFX* and used by us to settle the *FX transaction*. Once you have given us

an authorised settlement *instruction*, you may not cancel or change it without our *agreement*.

You may give us an authorised settlement *instruction* in respect of more than one *FX transaction*, provided that all such *FX transactions* that are the subject of that *instruction* have a common *settlement date*. You have the ability to select one or more outstanding *FX transactions* of the same *currency pair* and *settlement date* for net, bulk, multiple or partial settlement. Settlement of *FX transactions* will be effected by us electronically in accordance with your authorised settlement *instructions*.

We must make the payments due to you under each *FX transaction* in accordance with your authorised settlement *instruction*.

Fx.7

You must give us an authorised settlement *instruction* in respect of an *FX transaction* prior to the *currency cut-off times* or *payment cut off times* for the relevant currencies for the *FX transaction*. If you fail to do so, we may extend the *settlement date* at our discretion, acting reasonably, or, if we choose, we may contact you by telephone or by other means such as email. You authorise us to record any telephone conversation. If we contact you, we are authorised and requested to act on the telephone *instructions* or other *instruction* in writing to settle the *FX transaction* or extend the *settlement date* given to us without the need to verify the authority of the person or the accuracy of any such *instructions*. We are not liable to you for any loss or claims arising as a result of any such unauthorised or incorrect telephone *instructions* or other *instruction* in writing except to the extent such loss or claim is caused by our or that of our employees' bad faith, negligence, fraud or wilful misconduct.

If we extend the *settlement date*, we will record that on the record of your *FX transactions* on the *IPFX* service but are not otherwise obliged to notify you.

Fx.8

If *you* and *we* owe each other amounts for *FX transactions* in the same currency on the same day, then, unless specified by *your* authorised settlement *instruction* for all *FX transactions* on that day, the party owing the higher amount must pay the difference between those amounts and the other party does not make a payment. *You* must first make all payments due to *us* on the *settlement date* before *we* are obliged to make any payments to *you*, or at *your* direction. If *we* choose, *we* may pay any funds due by *us* on the *settlement date*:

- a. to *you* or at *your* direction prior to receipt of any payment due to *us*; or
- b. into an *account* in *your* name or at *your* direction or on the condition that the funds are not available until *we* have received payment from *you* and until that time are repayable to *us*.

Fx.9

In the event that *you* become aware that *you* will be unable to settle in full an *FX transaction* on the *settlement date* *you* must notify *us* immediately. *We* may, acting reasonably, either effect settlement of the *FX transaction* in accordance with the procedures in Clause Fx.16 or, if *you* have an *ISDA Master Agreement* or a *Derivatives Master Agreement* in place with *us*, in accordance with the corresponding provisions contained in that agreement, or *we* may extend the *settlement date* in accordance with the procedure in Clause Fx.7.

Fx.10

If after giving effect to any applicable provision, disruption fallback or remedy in the *confirmation* or, if applicable, the *ISDA Master Agreement* or *Derivatives Master Agreement*, there has been an event leading to significant disruption to the operation of the foreign exchange market in respect of any currency which is the subject of any outstanding *FX transaction*, which event is

beyond *our* control, such that it has become impossible or impractical to settle an *FX transaction* (including but not limited to when *we* reasonably determine that it is not possible to convert the currency the subject of the *FX transaction*), *we* may terminate the affected *FX transactions* involving that currency in accordance with Clause Fx.16 or, if *you* have an *ISDA Master Agreement* or a *Derivatives Master Agreement* in place with *us*, in accordance with the corresponding provisions contained in that agreement.

Fx.11

If *you* have an *ISDA Master Agreement* or a *Derivatives Master Agreement* in place with *us*, and there is a termination under Clause 8 of the *Terms and Conditions – IPFX*, this constitutes an additional termination event in relation to *FX transactions* entered into under these *Special Terms and Conditions* for the purpose of such *ISDA Master Agreement* or *Derivatives Master Agreement* (as the case may be).

Fx.12

Despite any other provision, *we* may delay, block or refuse to process any *FX transaction* or to pay to *you* any amount payable by *us* to *you* under or in connection with this *agreement* or any *FX transaction* immediately, and without giving *you* a reason, where *we* reasonably consider that making the payment may breach any law (including but not limited to *sanctions law*). *We* will be under no liability to *you* if *we* do any of these things in good faith, except to the extent any loss or damage is caused by *our* or *our* employees' bad faith, negligence, fraud or wilful misconduct. Such delay, refusal or non-payment would not constitute a failure to pay or a breach of obligations by *us* in such circumstances.

Fx.13

You acknowledge that due to *exchange rate* fluctuations, a tolerance of +2.5% or -2.5% may be applied in calculating the daily trading limit which may apply to *you*.

Fx.14

You represent that you are entering into *FX transactions* with us for the purposes of hedging or managing genuine business requirements and not for speculative purposes.

If we consider on reasonable grounds that you are in breach of this representation, this constitutes an additional termination event in relation to *FX transactions* entered into under these *Special Terms and Conditions* for the purpose of such *ISDA Master Agreement* or *Derivatives Master Agreement* (as the case may be).

Fx.15

We may terminate all outstanding *FX transactions* (or where specified only the affected *FX transactions*) by notice in writing to you on a date specified by us (*the Termination Date*) if any of the following events or circumstances occur (*each a Termination Event*):

- a. you do not pay us any amount due under these *Special Terms and Conditions* or an *FX transaction* on the date required for payment and that failure is not remedied within 3 business days of receiving notice of such failure; or
- b. you make a representation to us in connection with these *Special Terms and Conditions* or an *FX transaction* that is untrue or misleading such that we would not have entered into an *FX transaction* had we known the true circumstances; or
- c. you become *insolvent*; or
- d. the performance of any obligation, or the exercise of any right, under these *Special Terms and Conditions* or any *FX transaction* becomes unlawful under any applicable law (including the laws of any country in which payment, delivery or compliance is required by either party) after the time the obligation was incurred or the right was given, and such unlawfulness cannot be avoided by us taking reasonable steps to do so (and if such unlawfulness

only applies in relation to any specific *FX transaction*, only those affected *FX transactions* may be terminated); or

- e. you or a person authorised to enter into and settle *FX transactions* on your behalf or a person involved in an *FX transaction* is a *proscribed person*; or
- f. anything else occurs that you and we agree in writing is a *Termination Event* and if such *agreement* relates to a specific *FX transaction*, only such *FX transaction* may be terminated by us; or
- g. if we terminate this *agreement* in accordance with Clause 8 of the *Terms and Conditions – IPFX*.

We will not exercise this right unreasonably.

Fx.16

If we elect to terminate outstanding *FX transactions* under Clause Fx.15:

- a. Neither party need make further payments for the terminated *FX transactions*. Instead, this Clause Fx.16 applies.
- b. If we terminate one or more *FX transactions* on the *Termination Date*, we must, acting reasonably, calculate in Australian Dollars the *Net Termination Amount* in relation to the terminated *FX transaction* or group of terminated *FX transactions* in accordance with paragraph (c) below for the purpose of calculating a single net sum.
- c. The *Net Termination Amount* is an amount equal to (i) the sum of (A) the *Close-out Amount* or *Close-out Amounts* (whether positive or negative) for all terminated *FX transactions*; and (B) the *Unpaid Amounts* owing to us under all terminated *FX transactions*; less (ii) the *Unpaid Amounts* owed by us under all terminated *FX transactions*.
- d. We must notify you as soon as practicable after calculating the *Net Termination Amount*, and you may request reasonable details about the calculation of, or bring a

dispute in respect of, the *Net Termination Amount* and/or *Close-out Amount(s)* in accordance with Clause Fx.19.

- e. If as a result of this calculation the *Net Termination Amount* is positive you must pay us the *Net Termination Amount*. Alternatively, if as a result of this calculation the *Net Termination Amount* is negative, then, subject to Clauses Fx.12 and Fx.18, we must pay you the absolute value of that *Net Termination Amount*. Payments due must be made not later than 3 *business days* after we give the notice under paragraph (d) above.

The *Net Termination Amount* shall be a reasonable pre-estimate of loss and not a penalty, and is an amount payable for loss of bargain and the loss of protection against future risks.

Fx.17

If payment is due by you but not effected within 3 *business days* as set out in Clause Fx.16(e), we may debit your accounts with us for the amount of the payment. If payment is due by us, we will pay you by crediting your account with us.

Fx.18

At any time after we exercise our rights under Clauses Fx.15 and Fx.16 (or terminate or settle *FX transactions* pursuant to Clauses Fx.9, Fx.10 or Fx.11), we may set-off any money we owe you under these *Special Terms and Conditions* against any money you owe us (whether or not under this *agreement*).

Fx.19

All calculations and determinations of any amounts made by us under these *Special Terms and Conditions* must be made in good faith and in a commercially reasonable manner. Upon request, we must provide you with reasonable details about a sum payable including applicable calculations, market data or other relevant information. If you wish to dispute the calculations or determinations, you can contact your global markets representative.

Fx.20

You acknowledge that *FX transactions* involve the risk of loss due to adverse movement in the *exchange rates* or interest rates. You should not enter into *FX transactions* unless you take reasonable steps to understand the risks. It is your responsibility to monitor the exchange rates and interest rates affecting your *FX transactions*.

Fx.21

You consent to the disclosure by us of information about these *Special Terms and Conditions* or an *FX transaction* to any government, regulator, exchange, clearing house or trade repository where disclosure is required by any applicable law or regulation.

Appendix to the Terms and Conditions relating to the use of IPFX and Special Terms and Conditions relating to FX Transactions for IPFX Users – Definitions

“acceptance”

Your acceptance of our *acknowledgment* of the *FX transaction* which you send us by clicking the “Accept & execute” button on your computer monitor while using *IPFX*.

“account”

An account, as the context requires, held with us or another bank or financial institution.

“acknowledgment”

The message we send you through *IPFX* accepting the *FX transaction* initiated by your instructions.

“agreement”

This agreement which governs the use of *IPFX* and *FX transactions* as described in Clause 1.4.

“Application Form”

The *IPFX* application form which you sign in order to enter into this *agreement*.

“authoriser”

Person who is nominated in a *CommBiz Account Authority* or by the *administrator* as an authoriser to approve *FX transactions*.

“the Bank”, “our”, “us”, “we”

Commonwealth Bank of Australia
ABN 48 123 123 124.

“beneficiary”

A person or *account* you nominated as a recipient of funds as indicated by you in your instructions (which, in respect of an *FX transaction*, may be nominated at the time of entering into the *FX transaction*). You and the *beneficiary* may be the same person.

“business day”

A day other than:

- i. a Saturday, Sunday or public or bank holiday in New South Wales (regardless of whether that day is a holiday in any other State or Territory); and
- ii. a day which is not a business day in the location specified in the confirmation of the relevant *FX transaction*.

“Close-out Amount”

Means in relation to each terminated *FX transaction* or each group of terminated *FX transactions*, the amount expressed in Australian Dollars of the losses or costs that are or would be incurred by us under prevailing circumstances (expressed as a positive number) or gains that are or would be realised by us under prevailing circumstances (expressed as a negative number) in replacing the terminated *FX transaction* or group of terminated *FX transactions* or providing us with the economic equivalent of the material terms of the terminated *FX transaction* or group of terminated *FX transactions* (including any option rights), determined as at the *Termination Date* or if that would not be commercially reasonable as of the date or dates following the *Termination Date*.

Any *Close-out Amount* must be determined by us using commercially reasonable procedures and prevailing market rates or quotes chosen by us acting reasonably and in good faith in order to produce a commercially reasonable result. We may include in the *Close-out Amount* costs of funding, transaction costs and any loss or gain or cost incurred by us in connection with its terminating, liquidating or re-establishing any hedge position related to a terminated *FX transaction* or group of terminated *FX transactions*, only when it is commercially reasonable to do so and to the extent not already included in the calculation of *Close-out Amount*.

“CommBiz Account Authority”

The CommBiz Account Authority, and any additional CommBiz Account Authority, signed by *you* or *your* authorised representative appointing *authorisers* or varying *authorisers* or the electronic method of operation.

“CommBiz Terms and Conditions”

The terms and conditions for CommBiz, as amended from time to time and which may be accessed at www.commbank.com.au.

“confirmation”

A document or electronic message confirming the details of a particular *FX transaction*.

“currency cut-off time”

The currency cut-off times set out in the table available on *IPFX*

“currency pair”

The two currencies that are the subject of the *FX transaction*.

“Derivatives Master Agreement”

An agreement of the same name between *you* and the *Bank* which governs *your FX transactions*.

“exchange rate”

The expression of the value of one currency in terms of another. For example, in the *exchange rate* AUD/USD 0.7000, one Australian dollar is equal to 70 United States cents (AUD 1.0000 = USD 0.7000).

“fees”

The fees specified in the *Fee Schedule*.

“Fee Schedule”

The applicable *fees* and charges in respect of *IPFX* (if any) available on the CommBiz website (as varied in accordance with this *agreement* from time to time).

“forward”

An *FX transaction* with a *settlement date* that is more than 2 business days after the trade date.

“FX transaction”

A transaction which allows *you* to exchange one currency for another at an agreed exchange rate on an agreed *settlement date* or settlement period that is between the trade date and two years after the trade date using *IPFX* whereby *you* instruct and authorise us to carry out or settle an *FX transaction* (including any *FX transaction* entered into where *you* are an *IPFX* user but, because it is not available to *you* for any reason, *you* have entered into such *FX transaction* with us using another method (including by telephone)).

“insolvent”

“Insolvent” or “insolvent under administration” (each as defined in the Corporations Act 2001 (Cth)), having a receiver, receiver and manager or administrator appointed, in liquidation or provisional liquidation, or subject to any arrangement or composition or otherwise unable to pay debts when they fall due.

“instructions”

Instructions given to us using *IPFX*.

“IPFX”

A service of the *Bank* known as International Payment and Foreign Exchange (IPFX) that is accessed through CommBiz and used for both making international payments and arranging *FX transactions*.

“ISDA Master Agreement”

An agreement of the same name between *you* and the *Bank* which governs *your FX transactions*.

“means of authentication”

Has the meaning given in the *CommBiz Terms and Conditions*.

"Net Termination Amount"

Has the meaning the term is given in Clause Fx.16 of the *Special Terms and Conditions*.

"payment cut-off time"

The payment cut-off times under "International payment cut-off times" in the table set out at "<https://www.commbank.com.au/support.business.commbiz.commbiz-payment-cut-off-times.html>"

"products"

The products or services *you* have selected in the *Application Form, CommBiz Account Authority Form* (as it relates to IPFX) or any subsequent additional or replacement *Application Form* signed by *you*.

"proscribed person"

A person who we believe on reasonable grounds to be one or more of the following:

- a. a sanctioned person under any jurisdiction;
- b. a sanctioned person under any jurisdiction;
- c. to appear in a list of persons with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction or resident in any comprehensively sanctioned country; or
- d. to act on behalf of, or for the benefit of, a person referred to in (a) – (c) above.

"sanctions law"

Any sanctions, trade embargoes or similar measures imposed from time to time in Australia, the United States of America, the European Union, the United Kingdom and any other applicable jurisdiction, and their respective governmental and official institutions including the United Nations Security Council.

"settlement date"

A business day on which the *currency pair* subject to an *FX transaction* is exchanged, being a *business day* in the commercial centre of the country of the foreign currency or currencies being exchanged but does not include a Saturday, Sunday or public holiday.

"Special Terms and Conditions"

The "Special Terms and Conditions relating to *FX transactions* for IPFX users".

"spot"

An *FX transaction* with a *settlement date* that is 2 *business days* after the trade date.

"Termination Date"

This term has the meaning given to it in Clause Fx.15 of the *Special Terms and Conditions*.

"Termination Event"

This term has the meaning given to it in Clause Fx.15 of the *Special Terms and Conditions*.

"Terms and Conditions – IPFX"

The terms entitled "Terms and Conditions relating to the use of IPFX" which, for the avoidance of doubt, excludes the *Special Terms and Conditions*.

"trade date"

The date on which an *FX transaction* is entered into.

“Unpaid Amount”

In relation to a *Termination Date*, the aggregate of amounts that became due and payable (including such amounts that would have been payable but for Clause Fx.15(a)) expressed in Australian Dollars in relation to each *terminated FX transaction* or group of *terminated FX transactions* on or before the *Termination Date* and which remain unpaid as at the *Termination Date*. If an amount is not expressed in Australian Dollars, we can convert it into Australian Dollars using commercially reasonable procedures and prevailing market rates or quotes chosen by *us* in good faith in order to produce a commercially reasonable result.

“user”

Person who has the authority to log onto CommBiz and to use *IPFX*.

“you”, “your”

You, the contracting party, and where the context requires, includes any person using the *security identification* to access or use CommBiz.