

INGOT BROKERS (AUSTRALIA) PTY LTD

## Referral Agreement

December 2020

This Referral Agreement (the "Agreement") is dated \_\_\_\_/\_\_\_\_/202\_\_ between: INGOT Brokers (Australia) Pty Ltd [ABN 87159895431] ("INGOT Brokers"); and ("The Referrer")

Name: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

Telephone: \_\_\_\_\_

Account Number (Given by INGOT Brokers): \_\_\_\_\_

This Agreement shall replace any prior or existing agreements between the parties and shall apply to any existing arrangements currently operating between the parties.

### Recitals

- INGOT Brokers holds an Australian Financial Services License (AFSL) number 428015 for the provision of advisory, dealing in relation to a range of derivative products and market-making services for over-the-counter derivatives.
- The Referrer will refer INGOT Brokers financial services business to suitable clients ("Introduced Client") for contracts for difference transactions and shall introduce such clients to INGOT Brokers subject to the terms and conditions of this Agreement.

### We hereby agree to the following:

#### 1.Introduction of new clients

- a. The Referrer hereby agrees to act as a referral source for the purpose of introducing and referring prospective clients to INGOT Brokers for the purpose of financial products trading.
- b. INGOT Brokers will have no obligation to accept a client introduced or referred to it by the Referrer.
- c. The Referrer shall have no authority to bind INGOT Brokers in any way and will not provide any representations or inferences to prospective clients or other persons regarding INGOT Brokers unless expressly authorised herein or otherwise in writing by INGOT Brokers.
- d. The Referrer shall not publish or disseminate (electronically or otherwise) any advertisement, marketing or promotional material referring to INGOT Brokers (or its affiliates) or its products or services without INGOT Brokers' prior written consent.

## 2. Mutual Obligations

- a. Both parties warrant that they have full capacity, power and authority to enter into this Agreement and to fulfil their obligations hereunder.
- b. Both parties warrant to each other that to the best of their knowledge there is no legal impediment or pending legal action which may render this Agreement invalid or unenforceable.
- c. Each party shall be responsible for its own expenses arising out of entry into, or performance under, this Agreement, and neither party shall be obligated, without its prior written consent, to pay any such expenses of the other party.
- d. Each party shall be responsible for its own insurances including but not limited to professional indemnity and public liability.

## 3. The Referrer's Obligations

- a. The Referrer does not hold an Australian Financial Services License, and shall act as a mere referrer only, and shall ensure that no financial product advice or service is provided to Introduced Clients of any nature, and will limit communications to the provision of INGOT Brokers documentation together with factual information regarding INGOT Brokers and their contact details.
- b. The Referrer warrants that they have not supplied to INGOT Brokers any false, inaccurate or misleading information prior to entering into this Agreement and will not at any time during the life of this Agreement give to INGOT Brokers any false or misleading information.
- c. The Referrer may display or distribute marketing materials, provided by INGOT Brokers; however, all queries regarding INGOT Brokers services must be directed to INGOT Brokers staff only.
- d. Once an Introduced Client executes INGOT Brokers client documentation, all interactions and dealings with the Introduced Client thereafter shall be undertaken by INGOT Brokers as relate to financial services.
- e. Any compensation provided by The Referrer to Introduced Clients must comply with the benefit disclosure requirements of the Corporations Act 2001 (Cth).
- f. The Referrer undertakes not to cause or permit actions which may endanger or damage any intellectual property rights of INGOT Brokers. The Referrer undertakes to notify INGOT Brokers if it suspects any infringement of such rights. If such rights are damaged due to a violation of this Agreement, the Referrer is liable for any loss suffered by INGOT Brokers on a full indemnity basis.

#### 4.Fees

- a. INGOT Brokers shall pay the Referrer a fee in respect of the Introduced Clients in accordance with “The Referrer Fees Table” up until the date of termination of this Agreement.
- b. The Referrer Fees shall be calculated after deduction of INGOT Brokers’ costs of execution and clearing, including bad/doubtful debts, collection and legal costs incurred as a result of the transactions.
- c. No Fee shall be payable by INGOT Brokers in respect of any client who is an existing client of INGOT Brokers at the time of the referral.
- d. The Referrer Fees may be pro-rated at the discretion of INGOT Brokers if the client is under multiple referrers.
- e. INGOT Brokers obligation to pay The Referrer “The Referrer Fees” in respect of Introduced Clients shall cease on the date of termination of this Agreement.
- f. INGOT Brokers will credit fees accrued to the Referrer’s fees account in INGOT Brokers’ books after the last day of the month and a statement of the amount outstanding to the credit of the Referrer’s will be sent from time to time.
- g. The Referrer may request to transfer any amount - not to exceed the available balance - from his Referrer’s fees account subject to clause (4.i). INGOT Brokers will make such payment accordingly. Credit balances on the Referrer’s fees account shall not earn interest.
- h. The Referrer agrees to indemnify INGOT Brokers from any losses, actions, costs, claims of damages or demands (“client Liabilities”) arising from any delay or default by any client in paying margin call, declaring any adverse balance on that client’s account.
- i. INGOT Brokers may, without any notice, hold further payment of fees to the Referrer until the client has paid such margin call or cleared such adverse balance or other obligation in full in accordance with the applicable Client Agreement or terms of business of INGOT Broker and if such margin call, adverse balance or other obligation or payment by the client has not been paid, cleared or performed in full within two (2) days of INGOT’s request, INGOT may without further notice set off and apply any accrued fees (or fees subsequently accrued) to the Referrer in or towards settlement of the client’s Liability and such application shall to that extent discharge or reduce (as the case may be) The Referrer’s indemnity liability under clause (4.h).
- j. INGOT Brokers will only pay Referrer fees for the first client introduced and the second level client introduced (Client’s client).

## 5. Indemnity & Limitation of Liability

- a. The Referrer indemnifies and agrees to keep indemnified INGOT Brokers, its employees, agents and contractors from and against all actions, claims, suits, costs, expenses, charges, losses or damage (including without limitation, consequential loss or damage) suffered or brought, maintained or made against INGOT Brokers, its servants and agents by any person or body of persons, including the costs and expenses in defending such actions, claims, suits or demands, arising out of any actions or omissions by the Referrer, its employees, agents, and associates including the failure to observe the obligations in this Agreement or otherwise.
- b. In the event of such material claim, INGOT Brokers shall have the right in its sole discretion to withhold fees owing under this Agreement to The Referrer in order to offset any costs, suspected or anticipated costs associated with any potential regulatory or legal actions, for a period of six (6) months following termination of the Agreement.

## 6. Confidentiality

- a. In the course of the relationship between the parties, the parties may be privy to confidential information in respect of the business of each party and their associates. Such confidential information shall include any systems, technology, processes, client database and all information, material and documentation (whether written, verbal or in any other form) to which a party is given access, but does not include information which is publicly available or already known to a party.
- b. Neither party shall, without the prior written consent of the other, disclose or use any confidential information provided or accessed under this Agreement (unless required by law).
- c. Both parties shall take reasonable precautions to prevent unauthorised use, access or disclosure.
- d. Upon termination of this Agreement, the Referrer shall deliver to INGOT Brokers all copies of all records, documentation and material prepared or received in respect of this Agreement, which are in the Referrer's possession.

## 7. Dispute Resolution

- a. In the event of a dispute between the parties which remains unresolved for 30 days, a mediator may be appointed to facilitate resolution.
- b. The parties will bear the costs of the mediation equally and provide all assistance reasonably requested by the mediator.
- c. If a suitable mediator cannot be agreed on, or if mediation fails, parties can then proceed with formal legal action.

## 8.Termination

- a. This Agreement will be automatically terminated where either party ceases to be authorised or licensed to provide the services hereunder.
- b. INGOT Brokers may terminate the Agreement immediately by written notice to the Referrer if a breach occurs (material or otherwise) and is not fully remedied within one (1) calendar day of receipt of notification of such breach. Such termination shall not release the Referrer from liability nor affect any accrued rights or remedies of either party.
- c. Either party may terminate the Agreement immediately by written notice to the other party if that party enters into any arrangement or proceedings for the purpose of insolvency administration or is placed under official management, or there is a change in ownership.
- d. This Agreement may otherwise be terminated upon the provision of 30 day-notice in writing to the other party.
- e. At any time during the term, or after the termination for a period of two years, of this Agreement, the Referrer agrees not to:
  - (i) Approach directly or indirectly any customer or client of INGOT Brokers to influence it to cease to carry on business with INGOT Brokers or otherwise to entice it away from INGOT Brokers;
  - (ii) Approach directly or indirectly any employee or officer of INGOT Brokers to influence them to cease employment with INGOT Brokers or otherwise entice them away from INGOT Brokers;
  - (iii) Do any act or thing whatsoever, which may injure, impair or reduce or be likely to injure, impair or reduce the business, goodwill or reputation of INGOT Brokers or its standing in the eyes of the public or any of its customers or clients.
- f. Rights under this Agreement can only be waived in writing, such waiver not to affect the waiving party's rights or entitlements in respect of subsequent breaches of the Agreement. Failure to compel performance shall not be construed as a waiver.
- g. In the event that any of the provisions contained in this Agreement are found to be invalid or unenforceable, such provisions shall be deemed deleted, and the validity and enforceability of the remaining provisions shall continue unimpaired.

## 9. General restrictions

- a. Nothing in this Agreement shall restrict INGOT Brokers from entering into agreements of this type with third parties.
- b. It is agreed that the Referrer shall undertake its business and any services relating to this Agreement as an independent contractor and not as an agent or employee of INGOT Brokers. The Referrer will not use the name INGOT Brokers in answering its telephone or in any other way represent itself to be associated with INGOT Brokers other than in a relationship of a referrer to INGOT Brokers. In contracting for support services, such as rent, telephone, quotation services, utilities and the like, The Referrer will not use or refer to the name "INGOT Brokers". Nothing herein shall imply any employment, joint venture, partnership or agency arrangement between the parties.
- c. Nothing in this Agreement infers that INGOT Brokers has appointed or will appoint the Referrer as their Authorised Representative (AR). Nor does it permit the Referrer to make such representations to third parties or clients at any time.
- d. Nothing in this Agreement shall confer upon either party any right, title or interest in the trademarks, logos, copyrights, trade names or designations belonging to, or ownership of, the other party.
- e. Neither party shall assign or subcontract their obligations under this Agreement without the prior written consent of the other party, such consent not to affect their obligations and liabilities under this Agreement.
- f. This Agreement may be amended by mutual written consent of INGOT Brokers and the IB by giving one month's written notice to the other.

## 10. Governing Law

This Agreement is governed by and construed in accordance with the laws of New South Wales, Australia, and the parties submit to the non-exclusive jurisdiction of the courts and tribunals in that State.

### On Behalf of the Referrer

### On Behalf of the INGOT Brokers:

Name: .....

Name: .....

Date: .....

Date: .....

Signature:.....

Signature:.....