

OTC CFDs

International Market Data Agreement

REUTERS 



HONG KONG

OFFICE USE ONLY		REUTERS SERVICES CONTRACT
Contract number: Client number: Effective date:		
REUTERS:	REUTERS AUSTRALIA PTY LIMITED	
PRINCIPAL OFFICE:	LEVEL 10, 60 MARGARET STREET SYDNEY NSW 2000 AUSTRALIA	CLIENT:
ABN:	70 002 834 237	ADDRESS:
SIGNED BY:		ABN (IF APPLICABLE):
PRINT NAME/TITLE:		SIGNED BY:
DATE OF SIGNATURE:		PRINT NAME/TITLE:
		DATE OF SIGNATURE:

In this contract defined terms are in italics.

Agreement - this contract, the RBP, any access declaration (as defined in the RBP) and/or applicable order forms and any other schedules or declarations referred to in them.

Agreed level - as at the date of our notice referred to in clause 3.4, The percentage change in the previous 4 quarters in the most recently published 'all groups consumer price index number, weighted average of eight capital cities, as published by the Australian Bureau of Statistics.

Charges - the service fees and any related charges specified in clause 3.1.

Confidential information - information in any form (including, but not limited to, models, software and computer outputs) which is not excluded under clause 8.2, Whether written or oral, of a business, financial or technical nature which is marked or otherwise indicated as being or is, or ought reasonably to be, known to be confidential and which is disclosed by either of us or any member of our respective groups (the disclosing party) to the other or any member of its group (the receiving party) through our dealings with each other.

Contract - this document as amended from time to time in accordance with clause 10.4.

Effective date – the date set out on the front page of this contract.

Force majeure – an event beyond our reasonable control including, without limitation, labour dispute, act of god, war, riot, civil commotion, malicious damage, act of terrorism, compliance with law or governmental order, fire, flood or storm.

Group - with respect to us, Reuters group and, with respect to you, you, your holding companies and subsidiaries and subsidiaries of such holding companies.

Hosted service – a service whose application server is located at a data centre operated by us or our nominee.

Information - the information (in whatever form, including, but not limited to, images, still and moving, and sound recordings) contained in the relevant service.

Information provider - a third party whose information is contained in the services.

Materials - hardware and/or software and related documentation supplied by Reuters group. Materials also include Reuters APIs as defined in the RBP.

Order form - our standard form listing the services you order and which we accept.

RBP - the document called the Reuters business principles as we amend or supplement it from time to time in accordance with the contract.

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Reuters group - Reuters group plc and its subsidiaries.

Service(s) - the product(s) or service(s) we supply under the agreement which include(s) the provision of information, materials and support.

Service fees - the fees we charge for the supply of each service as specified in the relevant order form(s) and/or related schedules.

Site - any location of yours to which we supply access to the services directly.

Software - software (including upgrades, updates and enhancements) and related documentation supplied as, or ancillary to, a service.

Subsidiary - a company in which another company owns directly or indirectly more than 50% of the issued share capital and over which it exercises effective control.

Support - is defined in the RBP.

Third party providers - information providers and our other third party suppliers.

1. SCOPE OF THE AGREEMENT

1.1 In consideration of you paying the charges, we will supply, and you will use, the services solely in accordance with the agreement.

1.2 For regulatory or other reasons, some services are provided by another member of the Reuters group. A list of these services and the corresponding member of the Reuters group is set out in the RBP. Your rights and obligations in respect of these services are therefore against/towards the corresponding member of the Reuters group and the meanings of "we", "us" and "our" are construed accordingly.

2. COMMENCEMENT AND DURATION

2.1 The agreement commences on the effective date and will terminate once you cease subscribing to the services.

2.2 Either of us may cancel any service or access to any service, by giving not less than: (a) 3 months' notice for hosted services, (b) 6 months' notice for domestic services and (c) 12 months' notice for all other services. However, neither of us can give notice until you have been a client of ours for at least 9 months in the case of hosted services, 6 months in the case of domestic services and 12 months in the case of all other services.

2.3 If you are receiving services via a datafeed, you may be entitled to additional cancellation flexibility by means of the access fee adjustment allowance, as set out in the RBP.

3. CHARGES

3.1 You will pay the service fees and the following related charges (where applicable): (a) installation, relocation and removal charges; (b) charges for certain items of support; (c) charges for communications networks and facilities and (d) charges for information, software and/or other services provided by certain third parties together with any related administration costs we incur.

3.2 We will endeavour to provide reasonable prior notice of any change to these related charges, but we may not be able to do so if a change is imposed on us by a third party without giving us sufficient time to notify you in advance.

3.3 The charges for each service are payable from the date that service is first made available to you. We or the relevant third party will invoice you for the charges. You will pay the charges in full, without right of set off or deduction, within the time specified on the invoice. Unless otherwise specified in the order form, charges are payable quarterly in advance.

3.4 We may once a year adjust or change the basis for calculating the service fees for each service on not less than 3 months' prior notice. You may cancel any service if we increase its service fees by more than the agreed level. If you exercise this right to cancel, you must notify us within 30 days of the date of our notice. The relevant service will be cancelled from the date on which the service fees would have increased. Where the currency in which you pay differs from that in which your services are priced, you agree that consequential fluctuations to your invoice do not constitute an increase in the service fees.

3.5 In addition to the charges, you will pay to us, or the relevant taxing authority as appropriate, all applicable taxes and duties (including, but not limited to, withholding tax) payable in respect of the services, so that after payment of such taxes and duties the amount we receive is not less than the charges.

3.6 We may require a security deposit or irrevocable bank guarantee from you. We may use the security deposit or invoke the bank guarantee to recover any overdue charges and/or any liquidated damages payable under clause 4.8.

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4. TERMINATION

4.1 Either of us may terminate the agreement immediately in whole or in part on notice if the other materially breaches any of its obligations under it and, if the breach is capable of remedy, fails to remedy such breach within: (a) 72 hours in the case of a breach by you of the terms on which the information and materials are provided to you in the RBP and (b) 30 days of written request in all other cases.

4.2 Either of us may terminate the agreement immediately and without notice if: (a) the other enters into a composition with its creditors; (b) an order is made for the winding up of the other; (c) an effective resolution is passed for the winding up of the other (other than for the purposes of solvent amalgamation or reconstruction) or; (d) the other has a receiver, manager, administrative receiver or administrator appointed in respect of it.

4.3 If you materially breach the agreement, we may, upon giving you notice, immediately suspend the services and your rights granted in relation to them, in whole or in part without penalty until the breach is remedied. In this case, clause 3 still applies.

4.4 We may cancel a service in whole or in part on notice if providing all or part of that service to you: (a) depends on an agreement between a Reuters group member and a third party, and that agreement is modified or terminated for any reason or breached by the third party; (b) becomes illegal or contrary to any rule, regulation, guideline or request of any regulatory authority or (c) becomes subject to a claim that it infringes the rights of any third party.

4.5 We may, on 6 months' notice, cease providing a service if we obsolete it or withdraw it from the country where you are located.

4.6 If clauses 4.4 Or 4.5 Apply or you exercise your right to cancel under clauses 3.4 Or 10.3, You will be entitled to a refund of the part of the service fees paid in advance for the cancelled part of the service.

4.7 Termination will not affect our respective accrued rights and obligations.

4.8 If you cancel all or any part of a service other than when permitted by the agreement and/or we terminate the agreement due to any breach by you, we will be entitled to recover from you as liquidated damages 75% of the relevant service fees which would have been payable until the date the relevant service may be cancelled under clause 2.2. We both agree that this constitutes a realistic pre-estimate of our loss and is not intended to be a penalty.

5. WARRANTY

5.1 Subject to clause 6, we warrant that we shall provide our services with reasonable care and skill.

6. LIABILITY

6.1 To the extent permitted by law, and except as expressly stated in the agreement, all terms, conditions, warranties, representations, or undertakings expressed or implied by law or otherwise in relation to the services, information and/or materials are excluded. Without limitation, you acknowledge that you are aware of the general form, content, functionality, performance and limitations of the services and that you have satisfied yourself that they are suitable for your purposes.

6.2 Our aggregate liability to you, and your aggregate liability to us, for loss, damage or costs under or in relation to the agreement (whether in negligence, breach of contract, misrepresentation or for any other reason) in any calendar year shall not exceed the total service fees payable in respect of that calendar year. This limit on liability does not apply to:

- A) our liability to you for negligence causing death or personal injury;
 - B) our liability under clause 7.1;
 - C) your liability under clauses 3.1, 3.3 And 7.4; And
 - D) liability of either of us for fraud, fraudulent misrepresentation or deceit
- For which liability shall be unlimited.

6.3 Neither we nor any member of the Reuters group, nor any third party provider shall be liable for any loss or damage arising (whether in negligence, breach of contract, misrepresentation or for any other reason) from:

- A) your decisions, actions or omissions regarding the installation, configuration, integration, delivery and support of the services which do not comply with our recommendations designed to ensure continued or improved service levels;
- B) any actions taken in reliance on the services by you, your customers or third parties accessing services through or by you; or
- C) loss of, or loss of use of, any software, data or computer or other plant or equipment.

6.4 Neither of us will be liable to the other for any:

- A) loss of profits;
- B) loss of sales or business;
- C) loss of contracts or customers;
- D) loss of goodwill;
- E) loss of anticipated saving; or
- F) indirect or consequential loss or damage

Arising out of the agreement (whether in negligence, breach of contract, misrepresentation or for any other reason).

6.5 Neither we, nor any member of the Reuters group shall be liable for any loss or failure to perform our obligations under the agreement due to circumstances of force majeure. If such circumstances continue for more than 3 months, either of us may cancel any affected service immediately on notice.

6.6 Nothing in the agreement affects your rights which cannot validly be excluded or modified by any applicable law.

6.7 In the event that warranties or conditions are implied into this agreement by law and cannot be excluded, to the extent permitted by law our liability for breach of such warranties or conditions will be limited to, at our option:

- A) in the case of goods: (i) the replacement or repair of the goods; or (ii) the cost of replacing or repairing the goods, and
- B) in the case of services: (i) the supplying of the services again; or (ii) the payment of the cost of having the services supplied again.

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7. INDEMNITY

7.1 The intellectual property indemnity in the RBP does not apply to you. Instead, we agree (subject to clauses 6.3, 6.4, 7.2, 7.3, 7.4, 7.5 And 7.6) To indemnify you against any direct loss or cost which you incur arising out of any claim of: (a) in relation to information, copyright or database right infringement and (b) in relation to materials, any claim of copyright or trade mark infringement and any claims of patent infringement insofar as they relate only to claims based on valid patents granted or issued in any country where the site is located.

7.2 In the case of information and/or materials obtained by the Reuters group from a third party provider, this indemnity may be limited by the amount we recover from the relevant third party provider in proportion to other claims (actual or potential) arising out of the alleged infringement.

7.3 Upon notice of any claim referred to in clause 7.1, Or if, in our reasonable opinion, such a claim is likely, we will have the right, at our option, to: (a) procure the right for you to continue to use the information and/or materials; (b) modify the information and/or materials so that it becomes non-infringing; (c) replace affected information and/or materials with similar content or materials, provided that such replacement information and/or materials do not alter the fundamental nature of the relevant service or (d) remove the affected information and/or materials and refund to you the relevant part of any service fees already paid relating to the period after removal.

7.4 You will indemnify us (subject to clause 7.5) Against:

A) any loss or damage caused to: (i) the materials for their then current replacement cost of new materials and/or (ii) our networks unless caused by a member of the Reuters group;

B) any loss or cost which we suffer as a result of any claim brought against us relating to any use of, access to or attempt to access any information contributed by you to the services and/or any material posted by you on any interactive feature contained in the services; and

C) any loss or damage resulting from claims arising from your (i) modification of information and/or materials (ii) use of information and/or materials after we have notified you that these should not be used or which is not in accordance with the applicable instructions and (iii) breach of any provision in the agreement granting you rights to distribute, redistribute or store information or materials.

7.5 Any obligation under the agreement to indemnify arises only if: (a) the indemnifying party, and if applicable, the relevant third party provider, is given immediate and complete control of the indemnified claim and (b) the indemnified party co-operates at the expense of the indemnifying party or the relevant third party provider and does not materially prejudice the conduct of such claim.

8. CONFIDENTIALITY

8.1 Each of us, on our own behalf and as agent for our respective groups (which, for the purposes of this clause 8, includes our respective advisers, agents and representatives), agrees: (a) to hold the confidential information in confidence and, not without the disclosing party's prior written consent, to disclose any part of it, to any person other than those directly concerned with our dealings with each other and whose knowledge of such confidential information is essential for such dealings. The receiving party will ensure that those persons comply with the obligations imposed on the receiving party under this clause. The receiving party shall be liable for such person's default; (b) not, without the disclosing party's prior written consent, to use the confidential information for any purpose other than for our dealings with each other; (c) to delete from any device containing any confidential information and/or return to the disclosing party upon demand and termination of the agreement, the confidential information except for one copy of such confidential information as is required to be retained by law, regulation, professional standards or reasonable business practice by a member of the receiving party's group and (d) to use reasonable endeavours to provide the disclosing party with prompt notice if any member of the receiving party's group becomes legally compelled to disclose any of the confidential information, so that the disclosing party may seek a protective order or other appropriate remedy. If such order or remedy is not available in time, the obligation of confidentiality will be waived to the extent necessary to comply with the law.

8.2 The obligation of confidentiality does not apply to information which: (a) is, at the time of the disclosure, or subsequently through no act or omission of the receiving party's group, becomes generally available to the public; (b) becomes rightfully known to the receiving party's group through a third party with no obligation of confidentiality; (c) the receiving party is able to prove was lawfully in the possession of the receiving party's group prior to such disclosure or (d) is independently developed by the receiving party's group.

8.3 This undertaking is binding for as long as such confidential information retains commercial value.

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9. GENERAL

9.1 All notices under the agreement must be in writing and sent by registered mail, courier, fax or email or delivered in person: (a) from us to you at the principal address stated above or to an email address you specify; or (b) from you to us at the address or email address for notices stated in the most recent order form. However, each of us will only send notices relating to breach or termination of the agreement by registered mail, courier or fax or delivered in person. Notices will be deemed to be received 3 business days after being sent or on proof of delivery, if earlier.

9.2 Neither of us may transfer any right or obligation of the agreement without the prior written consent of the other. This consent may not be unreasonably withheld or delayed. However, each of us may, on notice, transfer any of our respective rights or obligations to a member of our respective groups as long as such entity has sufficient assets to meet its obligations under the agreement and, in your case, does not require us to provide the services outside the site.

9.3 The agreement is governed by the laws of new south wales, australia. Both of us submit to the non-exclusive jurisdiction of the new south wales courts.

9.4 If any part of the agreement that is not fundamental is found to be illegal or unenforceable, this will not affect the validity and enforceability of the remainder of the agreement.

9.5 If either of us delays or fails to exercise any right or remedy under the agreement, that party will not have waived that right or remedy or any other right or remedy on any other occasion.

9.6 We have the right, by ourselves and/or through our agents and/or representatives, during normal business hours, to audit you to verify your compliance with the agreement provided we give you at least 5 business days' advance notice of our intention to audit. You will pay the costs of such audit if it reveals that you have not been in compliance with the agreement. You will, on our request, certify to us that you are in compliance with the agreement. During the verification, we and our agents will comply with your reasonable requirements relating to security, health and safety and confidentiality.

9.7 The liability of any member of the Reuters group and any third party provider shall be limited or excluded in the same way as our liability and, without limiting the other provisions of this agreement, every exemption, limitation, condition and liberty in this agreement and every right, exemption from liability, defence and immunity applicable to us or to which we are entitled under this agreement shall also be available and shall extend to protect every other member of the Reuters group and each third party provider and for the purpose of this clause, we shall be deemed to be acting as agent or trustee on behalf of and for the benefit of every other member of the Reuters group and each third party provider and all such members of the Reuters group and third party providers shall to this extent be or be deemed to be parties to the agreement.

10. ENTIRE AGREEMENT

10.1 The agreement contains our and your entire understanding regarding its subject matter and supersedes all proposals and other representations, statements, negotiations and undertakings in each case, verbal or written, relating to such subject matter.

10.2 In entering into the agreement, you have not relied on and have no remedy in respect of, any statement, warranty or representation (except in the case of fraud) made by us other than those set out in the agreement.

10.3 In order to take account of new policies which are imposed by third party providers and/or regulatory authorities we may amend the RBP at any time by giving you 3 months' notice. If you can show that any amendment to the RBP will result in an increase in your costs of receiving the services in excess of the agreed level or in a material reduction of your rights to use the information or materials, or constitutes a fundamental change in any service, you may cancel the service affected. If you choose to exercise the above right to cancel you must give us notice within 30 days of the date of our notice and the relevant service will be cancelled from the date on which the amended RBP come into effect. In the case of new services requiring specific provisions, we will notify you of the necessary amendments to the RBP, but they will not apply to you until you order the relevant new service.

10.4 Except as set out in clause 10.3, The agreement may only be varied by a written amendment signed by both of us.

10.5 By signing above, each party agrees that: (a) it has been provided with access to, has read and agrees with the contents of the RBP; (b) it will be bound by the agreement as of the effective date; and (c) if there is any conflict between any order form, this contract and the RBP, the relevant order form will prevail over this contract which in turn will prevail over the RBP.

ADDENDUM - REUTERS SERVICES CONTRACT

WE, **Reuters Australia Pty Limited (ABN 70 002 284 237)** located at Level 10, 60 Margaret Street, Sydney, NSW, 2000;

AND (PRINT CLIENT NAME)

YOU,

AGREE: We refer to the Reuters Services Contract signed between us on

this (DAY) day of (MONTH) year of (YEAR)

under which we supply you with subscription-based services (the *Agreement*).

You wish to receive the Licensed Data in conjunction with your eMPower service from MF Global. We agree that you may do so in accordance with the provisions of the Agreement and this Addendum, which supplements the Agreement.

GLOSSARY

Licensed Data means the Reuters *Information* contained in the MF Global eMPower service pursuant to our separate agreement with MF Global for this *information*.

MF Global means MF Global Holdings HK Limited located at Level 23, 100 Queens Road Central, Hong Kong.

1. PAYMENT FOR SERVICES

Both of us, and MF Global, have agreed that MF Global will pay us for the Licensed Data which is provided to you as part of the MF Global eMPower service under the terms of the Agreement.

2. NON-PAYMENT

If MF Global defaults in paying the Service Fees for the Licensed Data, we shall notify you and we may cancel the supply of Licensed Data to you with effect from the last day of the then current calendar month, unless before such date you agree with us in writing to be responsible for all future Service Fees for the Licensed Data and you satisfy our standard criteria for new clients of Reuters services.

3. CANCELLATION OF LICENSED DATA

You must notify MF Global if you wish to cancel the Licensed Data. We will cancel the supply of the Licensed Data to you in accordance with any written notification by MF Global to do so (whether on your request or otherwise). To avoid doubt, the Access Fee Adjustment Allowance under the Agreement does not apply to the Licensed Data.

4. TERMINATION

This Addendum shall commence on the date of signature by Reuters and shall continue in effect until the earlier of:

- (a) expiration or termination of the Agreement; or
- (b) us cancelling the supply of Licensed Data under paragraph 2 or 3 above.

5. SUPPORT

We do not provide technical support to you with respect to the Licensed Data and all queries about that data or the MF Global eMPower service should be directed to MF Global.

Reuters Australia Pty Limited

Authorised Signature:

Print Name:

Position:

Date:

Customer

Authorised Signature:

Print Name:

Position:

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Reuters Australia Pty Limited

Level 10, Margaret Street,
Sydney, NSW 2000
Australia