

# Terms of Use

Last Updated: 12 November 2018

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## 1 About Direct Broking

Direct Broking is offered by First NZ Capital Securities Limited (we, our, us) and allows our clients to buy and sell securities over the Internet.

By accessing the Direct Broking website (Website), and/or services offered through the Website, and/or the Direct Broking account opening (App), you agree to these terms of use and the privacy policy, and agree to be comply with them. Please read these terms carefully.

You must be a New Zealand or Australian resident to use the Direct Broking account opening app.

## 2 Use of Website

To use the Website you will be required to set up a login and password that strictly complies with our security requirements. Your login and password are personal to you, and you must not disclose or share these with any other person.

We take steps to ensure the security of the App and the Website, but you are responsible for protecting your login and password and for the security of your computer or device (and any network you are responsible for).

You must notify us immediately on becoming aware of any actual or suspected unauthorised use of your account, or if one of your authorised devices is hacked, stolen or lost. You can notify us at 0800 805 777 or by email [compliance@directbroking.co.nz](mailto:compliance@directbroking.co.nz). Where there is unauthorised access or use of your account we will assess the unauthorised use to determine whether you will be liable for that unauthorised use.

By registering for access to the Website you warrant and represent that you are an Authorised Person (as defined in the Client Agreement) for each client account to which you will have access. You must not use the App or Website if you are an individual who is under the age of 18.

## 3 Services and accuracy of information

The Website offers a platform for **self-directed** service, this means you are responsible for your investment decisions. The content on the Website, including any data, computations, estimates, views, research information, market data or other information or material (Information) does **not** constitute a

recommendation, opinion, or advice to anyone, and is not intended to be a substitute for commercial judgment or professional advice of any nature. Any Information posted on the Website is provided for general information purposes only, and does not take into account your particular circumstances (and is not personalised advice under the Financial Advisers Act 2008, or legal, tax or accounting advice).

Information made available through the Website is, to the best of our knowledge, accurate at the time it is first made available. While we will comply with our legislative and regulatory requirements in relation to updating and providing information to our clients, certain information, including information relating to the valuation of assets, is sourced from external data providers.

Information is provided as at a particular point in time and is subject to change, including as a result of the changes in the relevant markets and other external factors.

You must only use that Information for your own personal non-commercial use of the services made available through the Direct Broking website. You must not copy or distribute Information or sell, transmit or otherwise make Information available in any manner to any third party (other than any joint account holder).

To the maximum extent permitted by law and without affecting our legislative and regulatory obligations, neither we nor our third party data suppliers:

- make any representation or warranty (express or implied) relating to the adequacy, accuracy, completeness, currency or fitness for any particular purpose of the information; or
- are responsible for any loss or damage resulting from your reliance on any Information available through the Website.

Before relying on any Information available through the Website, or making any investment or other financial decision, you should take such professional advice (including legal, financial and tax advice) as you consider appropriate. Any investment decision made by you will be based solely on your own evaluation of your individual personal and financial situation.

Information is provided subject to any disclaimer or comments set out or referred to in that Information or elsewhere on the Website.

#### **4 Availability of Direct Broking**

We aim to make the App and the Website available on a continuous basis (taking into account scheduled downtime for maintenance and upgrades), however, we make no guarantees or representations about the availability of the App or the Website, or any particular functionality or services available through, the App or the Website. There may be times when access to the App, the Website, or particular functionality or

services available through, the App or the Website, are limited or unavailable. We have no responsibility to you for any consequences resulting from the unavailability of the App or the Website or your inability to access the App or the Website at any time.

## 5 Use of the Direct Broking

You must:

- only use the App and the Website in accordance with any user guides or documentation that we make available from time to time;
- not introduce, or seek to introduce, any virus, malware or other malicious code into the Website, any of our other systems, or any third party systems accessible through the Website;
- not access, or seek to access, any account information belonging to a third party through the App or the Website or disclose or make available any such account information to any third party unless you are authorised to do so by the relevant person(s) who have a Client Agreement with us; and
- use the Website in accordance with all applicable law, and not seek to place any trades or conduct any transactions using Website in breach of applicable law (or that would result in us being in breach of any applicable law), including any prohibitions on insider trading or other prohibited insider conduct under the Financial Markets Conduct Act 2013 or other applicable law.

## 6 Changes to Direct Broking

We can modify, suspend or discontinue all or part of App or Website at any time, with or without notice. However, where we modify, suspend, or discontinue a major functionality or feature of Website, we will aim give you 7 days' notice through the Website before the changes take effect. The notice period does not apply where we have implemented the change in response to a threat (or perceived threat) to the whole or any part of our system.

## 7 Access limitations

We may restrict or revoke your access to the App or the Website at any time, with or without giving you notice. Any restriction or revocation will not affect any transaction that you submitted prior to the restriction or revocation, which will be dealt with in accordance with the relevant terms of the Client Agreement.

You can stop using Website at any time and notify us that you wish to close your account.

## 8 External links

The Website may contain hyperlinks to websites operated by third parties. We are not responsible for the content of those websites, and do not necessarily endorse or condone the content of those websites.

## 9 Intellectual property rights

We, or our third party licensors (as relevant), own or hold rights to use all intellectual property rights in the Website and the App, including all components of the Website and the App, and all content made available through them from time to time. You may use the Website and App as made available by us from time to time, subject to these terms. This does not give you any rights in the Website, App, or any of their components or content, and you must not copy, modify, adapt, reproduce or republish any of them.

## 10 Changes to these terms

We may change these terms from time to time, including as we change or update the Website and/or App. We will publish these changes on the Website. The changes will take effect 7 days after we publish them on the Website. By continuing to use the Website or App, you will be taken to have accepted the latest version of these terms.

## 11 Governing law

These terms are governed by New Zealand law. You submit to the non-exclusive jurisdiction of the courts of New Zealand in relation to all disputes arising out of or in connection with these terms and/or the use of the App or the Website (or any services available through them).

## 12 General

Our failure or delay in exercising or enforcing any right or provision of these terms will not operate as a waiver. A finding that any provision of these terms is invalid or unenforceable will not affect any other part of these terms. You cannot assign your rights under these terms to any third party, except with our prior written consent.

To the fullest extent permitted by law, we accept no responsibility for the compliance of the Website, App or the Information contained in it with the laws of any country other than New Zealand.

You agree to receiving notifications in relation to the App, Website and the products and services you receive from us on the Website and you agree that any such notification or communication will be deemed to be sent, given or dispatched by us, and received by you, at the time it is uploaded to the Website.