

## SCHEDULE 5 DERIVATIVES CLIENT AGREEMENT – MINIMUM TERMS

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## SCHEDULE 5 DERIVATIVES CLIENT AGREEMENT – MINIMUM TERMS

Under Rules 7.1.1 and 7.1.2 Participants are required to enter into a Client Agreement with their Clients. All Client Agreements must contain terms to the effect of the provisions set out in this schedule, unless indicated otherwise in this schedule or in the Rules.

Participants are advised to seek professional advice as to whether additional terms are appropriate for their relationship with their Clients.

Where the Client is a Market Participant with which the Participant has entered into a Clearing Agreement under Rule 9.1 the Participant is not required to enter into a separate Client Agreement.

### S5.1 APPROVED MARKET OPERATOR APPLICATION OF ASX CLEAR'S OPERATING RULES

The Client and the Participant agree that the terms of their relationship in respect of Derivatives CCP Contracts and any dealings between them concerning Derivatives CCP Contracts are subject to, and that they are bound by, the Corporations Act, the operating rules of ASX Clear ("Rules") the Approved Listing Market Operator's operating rules and the procedures, customs, usages and practices of ASX Clear, the Approved Listing Market Operator, and their related entities, as amended from time to time, in so far as they apply to Derivatives CCP Contracts.

*Note: Unless the context requires otherwise, words and expressions in this Schedule have the meaning they have in the Rules.*

Introduced 11/03/04 Amended 27/06/11

### S5.2 CLIENT PROVIDE INFORMATION

The Client will take all reasonable steps to deliver information or documentation to the Participant, or cause information or documentation to be delivered to the Participant concerning Derivatives Market Transactions which are requested by a person having a right to request such information or documentation. The Participant is authorised to produce the information or documentation to the person making the request.

Introduced 11/03/04

### S5.3 RISK AND FINANCIAL OBJECTIVES

The Client acknowledges that they have read and understood the documents (if any) given to them under Rule 7.1.1(b) of the Rules.

The Client acknowledges that dealing in derivatives incurs a risk of loss as well as a potential for profit.

The Client acknowledges that it has given consideration to its objectives, financial situation and needs and has formed the opinion that dealing in derivatives is suitable for its purposes.

Introduced 11/03/04 Amended 10/06/04

#### **S5.4 NATURE OF PARTICIPANT'S OBLIGATIONS AND RIGHTS OF CLIENT**

Notwithstanding that the Participant (or the Client's Market Participant) may act in accordance with the instructions of, or for the benefit of, the Client, the Client acknowledges that any Derivatives Market Contract arising from any order submitted to the Approved Listing Market Operator, is entered into by the relevant Market Participant as principal.

Upon registration of a Derivatives Market Contract with ASX Clear in the name of a Participant, the Client acknowledges that the Participant incurs obligations to ASX Clear as principal, even though the Derivatives Market Contract may have been entered into on the Client's instructions.

The Client acknowledges that any benefit or right obtained by a Participant upon registration of a Derivatives Market Contract with ASX Clear by novation under the Rules or any other legal result of registration is personal to the Participant and the benefit of that benefit, right or legal result does not pass to the Client. The Client has no rights, whether by way of subrogation or otherwise, against the Approved Listing Market Operator or ASX Clear in relation to any dealings by the Participant (or any other Participant or Market Participant) in Derivatives Market Contracts and Derivatives CCP Contracts.

The Participant is not required to act in accordance with the Client's instructions, where to do so would constitute a breach of the Rules, the operating rules of the Approved Listing Market Operator or the Corporations Act.

Introduced 11/03/04 Amended 10/06/04, 27/06/11

#### **S5.5 PARTICIPANT TAKING OPPOSITE POSITION**

The Client acknowledges that the Participant may, in certain circumstances permitted under the Corporations Act and the Rules or the operating rules of the Approved Listing Market Operator, take the opposite position in a Derivatives Market Contract, either acting for another client or on its own account.

Introduced 11/03/04 Amended 10/06/04, 27/06/11

#### **S5.6 PARTICIPANT MAY CALL FOR FUNDS OR SECURITY**

The Participant may call for payment of money or the provision of other security which the Participant considers, in its absolute discretion, appropriate in connection with the obligations incurred by the Participant in respect of Derivatives CCP Contracts entered into for the account of the Client. The time by which the Client must pay any amount called or provide security is of the essence and, if no other time is stipulated in the Client Agreement, the Client must pay the amounts, or provide the relevant security, within 24 hours of the call for payment.

*Note: Under Rule 14.7, the Participant must call certain amounts from the Client. The Participant is also entitled to call additional amounts from the Client. The Participant and the Client must set out in the Client Agreement the arrangements for payment or the provision of security ASX Clear (Rule 14.7.5). The maximum time which can be agreed is 48 hours following the request for payment by the Participant (Rule 14.7.7) and, if no time is agreed, the time is 24 hours following the request (Rule 14.7.6).*

Introduced 11/03/04 Amended 10/06/04

## **S5.7 DEFAULT**

If:

- (a) the Client fails to pay, or provide security for, amounts payable to the Participant or fails to perform any obligation arising pursuant to the exercise or settlement of a Derivatives CCP Contract;
- (b) a guarantee or other security provided by the Client to the Participant is withdrawn or becomes ineffective and other replacement security acceptable to the Participant is not provided; or
- (c) any other event occurs which the Participant and the Client have agreed in their Client Agreement entitles the Participant to take action under this clause 7,

the Participant may, in addition to any other rights which they may have against the Client, without giving prior notice to the Client, take any action, or refrain from taking action, which it considers reasonable in the circumstances in connection with Derivatives Market Contracts registered in the Client Account of the Client (including, without limitation, Derivatives CCP Contracts arising from those contracts transacted) and, without limitation, the Participant may:

- (a) enter into one or more transactions to effect the close out of one or more Derivatives CCP Contracts in accordance with the Rules;
- (b) exercise one or more Derivatives CCP Contracts in accordance with the Rules and; or
- (c) exercise any other rights conferred by the Rules, the operating rules of the Approved Listing Market Operator, or the Client Agreement or perform any other obligations arising under the Rules, the operating rules of the Approved Listing Market Operator, or the Client Agreement in respect of those Derivatives CCP Contracts,

and the Client must account to the Participant as if those actions were taken on the instructions of the Client and, without limitation, is liable for any deficiency and is entitled to any surplus which may result.

*Note: Under 7.2, the Participant and the Client may agree other events of default which entitles the Participant to take action if the Client defaults or may agree other powers which the Participant is entitled to exercise if the Client defaults.*

*Clause 7 does not give the Participant power to deal with any of the Client's securities or other property held by the Participant if the Client defaults to the Participant and apply the proceeds against the default. If this power is required, an appropriate provision must be included in the Client Agreement.*

Introduced 11/03/04 Amended 10/06/04, 27/06/11

## **S5.8 COMMISSIONS AND FEES**

The Client must pay to the Participant commissions, fees, taxes and charges in connection with dealings in derivatives for the Client at the rates determined by the Participant from time to time and notified to the Client in writing.

Introduced 11/03/04 Amended 10/06/04

## **S5.9 TAPE RECORDING OF CONVERSATIONS**

The Client acknowledges that the Participant may record telephone conversations between the Client and the Participant. If there is a dispute between the Client and the Participant, the Client has the right to listen to any recording of those conversations.

Introduced 11/03/04

## **S5.10 APPOINTMENT OF ASX CLEAR AND OTHERS AS AGENT**

The Client irrevocably appoints severally ASX Clear, and every director, manager and assistant manager for the time being of ASX Clear, at the option of ASX Clear (as applicable) to do all acts and execute all documents on the Client's behalf for the purpose of exercising the powers conferred on ASX Clear under Rule 15.

*Note ASX Clear has broad powers to deal with positions held by the Participant if the Participant commits an event of default under Rule 15.1. The powers of ASX Clear are set out in Rule 15.2.*

Introduced 11/03/04

## **S5.11 TERMINATION OF CLIENT AGREEMENT**

Either the Client or the Participant may terminate this Client Agreement by giving notice in writing to the other. Termination will be effective upon receipt of the notice by the other party.

*Note: If the Participant and the Client wish to provide for a minimum period of notice to terminate or limit their rights to terminate in some way, they should expressly document this in their Client Agreement. The Participant and the Client might also consider documenting the terms by which notice may be given and received.*

Introduced 11/03/04

## **S5.12 EFFECT OF TERMINATION**

Termination does not affect the existing rights and obligations of the Client or the Participant prior to termination. Upon termination of this Client Agreement, the Participant will close out all Derivatives CCP Contracts held by the Participant for the account of the Client, unless, in accordance with a direction from the Client, those contracts are transferred to another Participant in accordance with the Rules or the operating rules of the Approved Listing Market Operator.

Introduced 11/03/04 Amended 27/06/11

## **S5.13 REVISED TERMS PRESCRIBED BY ASX CLEAR**

If ASX Clear prescribes amended minimum terms for a Client Agreement for the purposes of the Rules (the "New Terms"), to the extent of any inconsistency between these minimum terms and the New Terms, the New Terms will override the terms of the Client Agreement and apply as if the Client and the Participant had entered into an agreement comprising the New Terms.

Introduced 11/03/04

## **S5.14 PARTICIPANT TO PROVIDE CLIENT WITH COPY OF CHANGES**

The Participant will provide a copy of the New Terms to the Client as soon as practicable after ASX Clear prescribes the New Terms.

Introduced 11/03/04

## **S5.15 CLIENT FUNDS AND PROPERTY**

The Participant must deal with any money and property paid or given to the Participant in connection with the Participant/Client relationship in accordance with the Corporations Act and the Rules.

The Client acknowledges that the Client's monies and the monies of other clients of the Participant may be combined and deposited by the Participant in a trust account or clients' segregated account. The Client acknowledges that all monies credited to the clients' segregated account maintained by the Participant may be used by the Participant to meet the default of any client of the Participant.

Introduced 11/03/04

## **S5.16 CHANGE OF PARTICIPANT**

If the Client receives a Participant Change Notice from the Participant and the Participant Change Notice was received at least 20 Business Days prior to the date proposed in the Participant Change Notice for the change of Participant, the Client is under no obligation to agree to the change of Participant, and may choose to do any of the things set out below.

The Client may choose to terminate this Client Agreement in accordance with clause 11 or by giving instructions to the Participant, indicating that the Client wishes to transfer its Derivatives CCP Contracts to another Participant.

If the Client does not take any action to terminate this Client Agreement and does not give any other instructions to the Participant which would indicate that the Client does not agree to the change of Participant then, on the Effective Date, this Client Agreement will have been taken to be novated to the new Participant and will be binding on all parties as if, on the Effective Date:

- the new Participant is a party to the Client Agreement in substitution for the existing Participant;
- any rights of the existing Participant are transferred to the new Participant; and
- the existing Participant is released by the Client from any obligations arising on or after the Effective Date.

The novation not take effect until the Client has received a notice from the new Participant confirming that the new Participant consents to acting as the Participant for the Client. The Effective Date may as a result be later than the date set out in the Participant Change Notice.

The Client will be taken to have consented to the events referred to above by the doing of any act which is consistent with the novation of the Client Agreement to the new Participant (for example by giving an instruction to the new Participant), on or after the Effective Date, and such consent will be taken to be given as of the Effective Date.

The Client Agreement continues for the benefit of the existing Participant in respect of any rights and obligations accruing before the Effective Date and, to the extent that any law or provision of any agreement makes the novation not binding or effective on the Effective Date, then the Client Agreement will continue for the benefit of the existing Participant until such time as the novation is effective, and the existing Participant will hold the benefit of the Client Agreement on trust for the new Participant.

Nothing in this clause 16 will prevent the completion of Derivatives Market Contracts and Derivatives CCP Contracts by the existing Participant where the obligation to complete those contracts arises before the Effective Date and the Client Agreement will continue to apply to the completion of those contracts, notwithstanding the novation of the Client Agreement to the new Participant under this clause 16.

Introduced 11/03/04 Amended 10/06/04

## **S5.17 CLIENT ACKNOWLEDGEMENT**

The Client acknowledges that it may only transact in OTC Options Market Transactions if it is not a U.S. person as that term is defined in Rule 902(k) of Regulation S under the Securities Act 1933 (United States).

Introduced 23/11/16

**ADDENDUM      DERIVATIVES CLIENT AGREEMENT – MINIMUM TERMS  
– [DELETED]**

Introduced 11/03/04 Amended 10/06/04 Deleted 19/02/24

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