

## **SCHEDULE 3 CLEARING AGREEMENT – MINIMUM TERMS**

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## **SCHEDULE 3      CLEARING AGREEMENT – MINIMUM TERMS**

Under Rule 9.1, General Participants which intend to clear for other Market Participants are required to establish a Clearing Agreement with the Market Participant. All Clearing Agreements must contain terms to the effect of the provisions set out in this Schedule.

General Participants clearing Cash Market Transactions for Market Participants are only required to include minimum terms 1, 2, 3, 4, 5, 6, 7 and 8.

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

### **S3.1      APPLICATION OF OPERATING RULES**

The Participant and the Market Participant agree that the terms of their relationship in respect of Market Transactions and any dealings between them concerning Market Transactions are subject to, and that they are each bound by, the Rules and the operating rules of the Approved Market Operator through which the Market Transaction was effected, the Corporations Act and the customs, usages and practices of ASX Clear and the Approved Market Operator and their related entities as amended from time to time in so far as they apply to Market Transactions.

*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

### **S3.2      NATURE OF PARTICIPANT'S OBLIGATIONS**

The Participant and the Market Participant acknowledge that immediately upon execution of a Market Transaction by the Market Participant, the Participant is obliged as principal and has the Clearing Obligations (including obligations owed to ASX Clear as principal) for those Market Transactions agreed between the Participant and Market Participant, even though the Market Participant entered into the Market Transaction.

The Participant and the Market Participant acknowledge that where the Market Participant clears Market Transactions through a participant other than the Participant, a Misdirected Market Transaction may occur. In such a case, the Participant and the Market Participant agree that the Misdirected Market Transaction is a Market Transaction for the purpose of their Clearing Agreement and the Participant is obliged as principal and has the Clearing Obligations for that Market Transaction in accordance with the Clearing Agreement.

Introduced 11/03/04 Amended 09/12/04

### **S3.3 RIGHTS OF MARKET PARTICIPANT**

The Market Participant acknowledges that any benefit or right obtained by a Participant upon registration of the Market Transaction with ASX Clear 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 Market Participant.

The Market Participant has no rights, whether by way of subrogation or otherwise, against the Approved Market Operator or ASX Clear in relation to any Market Transaction registered with ASX Clear.

Introduced 11/03/04

### **S3.4 REVISED TERMS PRESCRIBED BY ASX CLEAR**

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

Introduced 11/03/04

### **S3.5 PARTICIPANT TO PROVIDE MARKET PARTICIPANT WITH COPY OF CHANGES**

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

Introduced 11/03/04

### **S3.6 AGREEMENT SUBJECT TO ANY AMENDMENTS REQUIRED BY ASX CLEAR**

The Participant and the Market Participant agree to make any amendments to their Clearing Agreement which are required from time to time by ASX Clear.

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

### **S3.7 TERMINATION**

The Participant and the Market Participant acknowledge and agree that neither party may terminate the Clearing Agreement, except in accordance with the Rules.

Introduced 11/03/04

### **S3.8 APPOINTMENT AS AGENT**

The Participant and the Market Participant irrevocably appoint severally ASX Clear, and every director, manager and assistant manager for the time being of ASX Clear, at the option of ASX Clear to do all acts and execute all documents on the Participant's or the Market Participant's behalf for the purpose of exercising the powers conferred on ASX Clear under ASX Clear Rule 15 including, without limitation, the power to sell or buy

Financial Products in respect of Cash CCP Transactions, or to transfer or close out Derivatives CCP Contracts if an event of default arises in respect of the Participant.

*Note: ASX Clear has broad powers under section 15 of the Rules where an event of default occurs in respect of the Participant.*

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

### **S3.9 DEALING AS PRINCIPAL**

The Market Participant acknowledges that the Participant may take the opposite position in a Derivatives CCP Contract, either acting for another person or on its own account.

Introduced 11/03/04

### **S3.10 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 a Derivatives CCP Contract registered in the Market Participant's Account. The time by which the Market Participant must pay any amount called or provide security is of the essence and the Market Participant must pay the amounts, or provide the relevant security, within 24 hours of the call for payment.

*Note 1: Under ASX Clear Rule 14.7.1, the Participant must ensure that it has sufficient funds or Cover to ensure that it can meet its obligations to ASX Clear. The Participant is also entitled to call additional amounts from the Market Participant. The Participant and the Market Participant must set out in the Clearing Agreement the arrangements for payment or the provision of security (Rule 14.7.5). The maximum time which can be agreed is 48 hours following the request for payment by the Participant and, if no time is agreed, the time is 24 hours following the request (Rule 14.7.6).*

Introduced 11/03/04

### **S3.11 DEFAULT**

If:

- (a) the Market Participant fails to pay, or provide security for, amounts payable to the ASX Clear Participant;
- (b) the Market Participant fails to complete a contract for the transfer of Underlying Financial Products following the exercise of a Derivatives CCP Contract;
- (c) a guarantee lodged by the Market Participant pursuant to the Rules is withdrawn or becomes ineffective; or
- (d) any other event occurs which the Participant and the Market Participant have agreed in their Clearing Agreement constitutes a default,

the Participant may, in addition to any other rights which they may have against the Market Participant, without giving prior notice to the Market Participant, take any action, or refrain from taking action, which it considers reasonable in the circumstances in connection with Derivatives CCP Contracts registered in the Market Participant's Account and, without limitation, the Participant may:

- (e) enter into or cause to be entered into one or more transactions to effect the close out of one or more Derivatives CCP Contracts in accordance with the Rules;
- (f) exercise one or more Derivatives CCP Contracts in accordance with the Rules;  
or
- (g) exercise or cause to be exercised any other rights conferred by the Rules or the Clearing Agreement or perform any other obligations arising under the Rules or the Clearing Agreement in respect of those Derivatives CCP Contracts,

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

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

*Clause 11 does not give the Participant power to deal with any of the Market Participant's Financial Products or other property held by the Participant if the Market Participant defaults to the Participant and apply the proceeds against the default. If this power is required, an appropriate provision must be included in the Clearing Agreement.*

Introduced 11/03/04

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