



## Client agreement

Last updated 1 October 2021

Openmarkets Australia Limited  
(ABN 38 090 472 012, AFSL 246705) is a Market Participant of  
ASX, Chi-X and NSX, and an ASX Clear and Settlement Participant.



# Part 1. Equities terms and conditions

Terms of your agreement with Openmarkets Australia Ltd (ABN 38 090 472 012, AFSL 246705) (**Openmarkets**).

## 1. Your trading account and agreement with Openmarkets

- 1.1 By completing an application form with an intermediary, you:
  - a. establish a Trading Account with Openmarkets through which you can place Orders to transact on a Securities Exchange; and
  - b. you accept and agree to be bound by the terms and conditions set out in this document (**Terms and Conditions**) which become a legally binding agreement between you and Openmarkets.
- 1.2 You **must** read and understand these Terms and Conditions. If you do not understand these Terms and Conditions, or any part of them, we recommend you obtain advice from your lawyer before you agree to them.

## 2. Role of Openmarkets and our relationship with you

- 2.1 Openmarkets is a Trading Participant of one or more Securities Exchanges. Openmarkets is also admitted as a Clearing Participant in accordance with the operating rules of ASX Clear, a wholly owned subsidiary of ASX. If you wish to buy or sell or otherwise deal in Traded Products on a Securities Exchange, the Intermediary will (as your agent) communicate your Order to Openmarkets. Openmarkets will, subject to these Terms and Conditions, execute or facilitate that Order on your behalf and will clear and settle the Transactions that result from the execution or facilitation of your Orders. Accordingly, Openmarkets will carry the obligations to complete the sale or purchase, together with all the obligations which are ancillary to the completion (**Settlement Obligations**). Openmarkets must also settle such Transactions as principal with ASX Clear or the relevant counterparty even though the Transaction was entered into on your behalf. Accordingly, your clearing and settlement obligations under the sale or purchase contract are owed directly to Openmarkets and not to the Intermediary.
- 2.2 In the event that you fail to complete a contract in accordance with the ASX Clear Rules or fail to pay the amounts due in respect of a Transaction, Openmarkets has direct rights against you, including rights of sale under the Exchange Rules and ASX Clear Rules and those described in these Terms and Conditions.

### **3. Application of Securities Exchange rules**

You acknowledge and agree:

- a. to comply with these Terms and Conditions, all applicable laws, the Exchange Rules, ASX Clear Rules and ASX Settlement Rules and the directions, decisions and requirements of each Securities Exchange and the customs and usages of the Market. Upon request, you are able to inspect copies of the Exchange Rules, ASX Clear Rules and ASX Settlement Rules at the Intermediary's offices; and
- b. that all Transactions are subject to the Exchange Rules, ASX Clear Rules, the directions, decisions and requirements of a Securities Exchange and the customs and usages of the Market, the correction of errors and omissions and, if the sale or purchase is in relation to Traded Products approved for settlement by ASX Settlement, the ASX Settlement Rules.

### **4. Orders and instructions**

4.1 You agree that:

- a. if you wish to place any Order or provide any instructions in respect of your Trading Account, you must do so with the Intermediary (such communications to be given in the form and manner agreed with the Intermediary from time to time), and you authorise the Intermediary, as your agent (and not as the agent of Openmarkets), to communicate your Order and other instructions or information to Openmarkets;
- b. any Order is subject to terms agreed between Openmarkets and the Intermediary in relation to the execution and processing of Orders;
- c. Openmarkets may provide communications to you through the Intermediary and not directly to you.

4.2 You represent and warrant to Openmarkets that you have authorised the Intermediary to communicate and provide instructions to Openmarkets on your Trading Account on your behalf and have access to all and any information relating to the Trading Account or services provided by Openmarkets. Openmarkets will not act on any Orders or other instructions or information communicated directly to it by you (and not the Intermediary). You may only terminate the Intermediary's authority to act on your behalf by terminating this agreement.

4.3 As a Participant of one or more Securities Exchange, subject to your instructions, Openmarkets is required to handle and execute Orders in accordance with the Competition Market Integrity Rules. A copy of the Openmarkets Best Execution

Policy as at the date of these Terms and Conditions is set out in Schedule 4. Openmarkets may from time to time amend its Best Execution Policy and make such amendments available on its website or through the Intermediary, or otherwise notify you of the amended Best Execution Policy.

- 4.4 Openmarkets may at any time, in its absolute discretion, refuse to accept any Order from, or execute Orders for you. For example, Openmarkets may refuse to accept your Order if it would require Openmarkets to act otherwise than in accordance with its Best Execution Policy.
- 4.5 Subject to any instructions from you, Openmarkets will generally execute Orders in the sequence in which they are received. However, you acknowledge and agree that:
- a. your Order may be automatically crossed against other orders before reaching the Market;
  - b. Openmarkets may not be aware of principal orders that are being (or may be) executed, and that direct market access arrangements and program trading may make it impossible to prevent principal orders from being executed at the same time as (or before) your Order. Accordingly, you agree that Openmarkets may execute principal orders where your Order on the same terms is outstanding and that these Terms and Conditions constitute disclosure as required by the Market Integrity Rules. Unless you notify Openmarkets to the contrary, you will be taken to have consented to Openmarkets (and/or any of its related bodies corporate) trading as Principal with you and agree to pay such commission (if any) on such transactions, each time you place an order with Openmarkets through the Intermediary;
  - c. you will be charged the normal rate of commission by the Intermediary for Orders which are crossed with Openmarkets' principal orders unless, if you are a retail client (as defined in the Corporations Act), we are not permitted to do so under the Corporations Act or the Market Integrity Rules; and
  - d. an Order once accepted by Openmarkets may not be transacted and an Order to transact an AQUA Product through the ASX Managed Fund Settlement Service is subject to acceptance by the issuer of the product and an application for issue or redemption of a product may be rejected; and
  - e. an Order to transact in an AQUA Product is not traded on a Securities Exchange and comprises an application by you to the relevant product issuer. You acknowledge and agree that:

- (i) Openmarkets does not control and cannot procure the issue or redemption of AQUA Products or the processing of requests for issue or redemption of, or switch between, AQUA Products;
- (ii) Openmarkets has no liability to you or the Intermediary with respect to any action or failure to take action by an issuer or other Settlement Participant in connection with a request for issue, redemption or switch of AQUA Products including (without limitation) an issuer's failure to issue or redeem AQUA Products or make available redemption monies or to deliver AQUA Products.

## **5. Orders relating to sales**

- 5.1 You agree that whenever you place a sale Order with the Intermediary, you must notify the Intermediary whether or not your sale Order is a covered short sale – i.e. a sale where you have, at the time you place the sale Order with the Intermediary, a legally binding commitment from a securities lender to lend the securities to you under a Securities Lending Arrangement. Where your sale relates to a covered short sale, you must also inform the Intermediary at the time of placing the sale Order:
- a. the number of Traded Products to be sold that are to be delivered under the Securities Lending Arrangement;
  - b. a description of the Traded Products (e.g. fully paid ordinary shares); and
  - c. the name of the entity that issued the Traded Products (e.g. BHP Billiton Limited).
- 5.2 You acknowledge that Openmarkets will not be permitted to execute a sale Order for you unless you have informed the Intermediary whether or not the sale Order relates to a covered short sale. You agree that, each time you place a sale Order with the Intermediary and notify the Intermediary that the sale Order relates to a covered short sale, you will be taken to have warranted and represented to Openmarkets and the Intermediary that the sale will meet the requirements and conditions of the Corporations Act, Corporations Regulations and ASIC Class Orders (if any) (as amended from time to time) relating to covered short sales, (including without limitation that you have obtained a legally binding commitment from a securities lender to lend the relevant securities to you under a Securities Lending Arrangement).

## 6. Orders to purchase Warrants, Partly Paid Securities or relating to ASX BookBuild

If you place an Order to purchase Warrants, the terms in Schedule 1 will apply to you. If you place an Order to purchase Partly Paid Securities, the terms in Schedule 2 will apply to you. If you place an Order to instruct for a Bid to be placed on your behalf in relation to an offer of Financial Products on ASX BookBuild, the terms in Schedule 5 will apply to you.

## 7. The Intermediary's use of a DMA Service

7.1 Openmarkets may provide a direct market access service (**DMA Service**) to the Intermediary under which the Intermediary may place your Orders directly into the Trading Platform through an electronic automated client order process. You acknowledge that if Openmarkets provides a DMA Service to the Intermediary:

- a. there may be delays in the processing, execution, amendment or cancellation of an Order entered through the DMA Service and:
  - (i) an Order may be wholly or partly filled before an instruction for its amendment or cancellation is processed; and
  - (ii) you remain liable to settle the original Order, until any relevant amendment or cancellation is effected;
- b. the execution of an Order placed through the DMA Service may be delayed by filters or other electronic features of the electronic system;
- c. Openmarkets is not responsible for the processing, execution or cancellation of any Orders submitted through the DMA Service, regardless of who enters such Orders and regardless of whether or not there is an error in the Order entry or for any delays in relation to the same;
- d. except as required by law, Openmarkets makes no representations or warranties express or implied with respect to the DMA Service;
- e. there are significant risks in trading through a DMA Service because it is serviced by means of computer and telecommunications systems, even where generally accepted industry standards and practices are followed, including that your data may not be protected, and there are risks that other users of the DMA Service, institutions or intermediaries may be able to see your Orders and other communications relating to trading and execution without your (or

Openmarkets') consent and that third parties (including persons on private networks) will have the ability to attach to your network; and

- f. Openmarkets may terminate the Intermediary's participation in the DMA Service at any time without notice to you.

## **8. Client's online access and use of a DMA Service**

8.1 Openmarkets may provide a DMA Service to you under which you may place your Orders directly into the Trading Platform through an electronic automated client order process. You acknowledge that if Openmarkets provides the DMA Service to you, the terms in Schedule 3 will apply.

8.2 Openmarkets may issue to you a secure login for the purpose of accessing your Trading Account. You agree:

- a. to keep your login details confidential and to not disclose these details to anyone. You and are solely responsible for the use of any login details and for keeping them secure;
- b. to set your password to contain characters unique or unusual, and not common or predictable in any way;
- c. to change your password regularly or when prompted;
- d. to make reasonable efforts to maintain security over any computer through which you log on to your Trading Account;
- e. Openmarkets makes no representation or warranty as to the security of data stored either on our web server or on the web servicers of parties engaged by us to provide all or part of our services; and
- f. upon becoming aware of a breach of security, you must notify us immediately and suspend the use of all electronic communications until we are satisfied that appropriate steps have been taken to ensure the security of electronic communications with you.

## **9. Openmarkets' right to require the Intermediary to refuse to accept Orders**

You acknowledge that Openmarkets may at any time in its absolute discretion direct the Intermediary to:

- a. refuse to accept you as a client or not to accept Orders from you; or
- b. refuse to accept a particular Order from you.

## 10. Linked Cash Account

- 10.1 To settle transactions through your Trading Account, other than transactions settled through a third party approved by Openmarkets (eg. via DVP or a margin lending provider) you must have a linked cash account (**Cash Account**) with one of our approved providers. When you open a Trading Account with us, you instruct Openmarkets open for you a Cash Account with a provider selected by you from our approved list. You appoint Openmarkets with the authority to operate this Cash Account on your behalf subject to these Terms.
- 10.2 You agree to comply with the Cash Account provider's terms and conditions, appoint us with general transaction authority on the Cash Account and provide other account-related information. You authorise Openmarkets to have access to Your Cash Account to:
- a. verify the Cash Account balance and any other details we require;
  - b. display the daily balance of the Cash Account through your Trading Account;
  - c. withdraw and deposit funds for settlement of a Transaction;
  - d. withdraw funds to pay to us amounts you owe us under these Terms and Conditions (including our fees and any fees charged by a related third party); and
  - e. deposit funds from automatic dividend crediting (if applicable) and any other credits.
- 10.3 To facilitate withdrawals from, and deposits to, your Cash Account, the Cash Account provider may require that these payments be processed through a clearing account held by Openmarkets with the CMA provider. Your payments made through the clearing account are aggregated into the clearing account with payments of other Openmarkets client account holders for the purpose of transferring a single payment between the clearing account and Openmarkets. You acknowledge that the clearing account is a payment facilitation account and may not be a trust account, and if not a trust account, is not subject to the trust account rules and protections. For the purpose of the client monies rules of Part 7.8 of the Corporations Act, you direct Openmarkets to facilitate payments for your Cash Account using the Openmarkets clearing account of your Cash Account provider.



## 11. Purchases and Sales

- 11.1 You must ensure that payment in full is received by Openmarkets (and not the Intermediary) before the Settlement Date and Time. Unless we agree otherwise, you must ensure there are sufficient funds in your Cash Account (in the case of a purchase) and sufficient Financial Products in your Trading Account (in the case of a sale) to meet your Settlement Obligations before an Order is placed and Openmarkets may assess whether your Cash Account or Trading Account has such funds or products before accepting and Order from you. You agree you will not transfer funds out of your Cash Account before the Settlement Date if such a transfer would result in you being unable to meet your Settlement Obligations.
- 11.2 In accordance with the provisions of the Corporations Act, and the regulations made under the Corporations Act, pending settlement by you, these Terms and Conditions and the relevant Confirmation (if any) constitutes notice to you that Openmarkets may deposit the Traded Products purchased for you in a particular transaction as security for a loan if Openmarkets has received and paid for such Traded Products on your behalf.
- 11.3 You must deliver to Openmarkets all documents and security holder information (including the holder identification number or personal identification number and, if applicable, holder reference number) (**Security Holder Information**) no later than two (2) Business Days before the Settlement Date and Time. Credits in respect of sales are not available until the latest of:
- a. the Settlement Date and Time;
  - b. when all documents and Security Holder Information have been received by Openmarkets in deliverable form; and
  - c. all amounts due and payable by you to Openmarkets or the Intermediary have been paid.
- 11.4 Unless Openmarkets has agreed alternative arrangements with you, Openmarkets will pay all sale proceeds directly to you.

## 12. Settlement Date and Time

The “Settlement Date and Time” for sales or purchases is the date and time that is specified on the front of the relevant Confirmation. If no date and time are specified or no Confirmation is required to be given, the Settlement Date and Time is 9.00am (Sydney time) on the second (2<sup>nd</sup>) Business Day after the execution of the Transaction. The Intermediary has no authority to extend the Settlement Date and Time.

### 13. Warranties by the client

You represent and warrant that before placing any Order with the Intermediary:

- a. you will be in a position to pay for any Traded Products purchased and have a presently exercisable and unconditional right to vest any Traded Products sold in the buyer, to enable settlement at the Settlement Date and Time; and
- b. if your Order relates to the purchase of a Partly Paid Security, you have made arrangements (to Openmarkets' satisfaction) to pay to Openmarkets a sufficient amount to cover any liability arising from all possible future calls in respect of the Partly Paid Securities; and
- c. you will not place an Order for an AQUA Product unless you have received and read the Product Disclosure Statement relating to the product and the ASX Fact Sheet in relation to the ASX Managed Fund Settlement Service.

### 14. Confirmations

- 14.1 You will be given confirmations as required by the Corporations Act, the Exchange Rules and the Market Integrity Rules (**Confirmation**). You authorise Openmarkets (on its own behalf and on behalf of the Intermediary) to give Confirmations to you electronically to the email address notified to Openmarkets by the Intermediary on your behalf from time to time for this purpose. If the Trading Account is for joint holders and an email address is not provided for a joint holder, that joint holder authorises Openmarkets to send any Confirmation to that joint holder at the email address provided for the Trading Account and by so sending the Confirmation Openmarkets will be taken to have sent the email to that joint holder at the email address provided for the Trading Account and by so sending the Confirmation Openmarkets will be taken to have sent the email to that joint holder. Openmarkets may not provide you with paper copies of Confirmations.
- 14.2 You agree to promptly check the accuracy of every Confirmation sent to you and to notify the Intermediary immediately of any error that you consider may have occurred. In the absence of such notification from you within 24 hours, you will be taken to have accepted the accuracy of the Confirmation.
- 14.3 A Confirmation may at any time be re-issued to you in order to correct any errors or omissions and the terms and conditions of the original Confirmation will apply in relation to the reissued Confirmation.
- 14.4 Where Openmarkets enters into multiple Transactions in order to complete your Order, you authorise Openmarkets to accumulate those Transactions (whether

executed on the same Securities Exchange or otherwise) on a single Confirmation and to specify the volume weighted average price for those Transactions on that Confirmation. If requested by you, Openmarkets will, if required under the Market Integrity Rules, give you a statement of all the individual prices of the relevant transactions which are accumulated and averaged in a confirmation.

- 14.5 If you are a Wholesale Client for the purposes of the Market Integrity Rules, Openmarkets may elect not to give any Confirmations to you in relation to Transactions executed for you. If Openmarkets so elects, these Terms and Conditions are taken to be the notification required to be given by Openmarkets to you under the Market Integrity Rules.

## **15. Failure to Settle**

- 15.1 You acknowledge that, if you fail to make any payment due to Openmarkets or deliver any documents or Security Holder Information to Openmarkets or otherwise comply with the Settlement Obligations that you owe to Openmarkets in relation to a Transaction in accordance with these Terms and Conditions or the relevant Confirmation, if any (fail to settle), Openmarkets may do any one or more of the following:
- a. charge an administration fee calculated by reference to the additional cost which may be incurred by Openmarkets (including any fail fees imposed by a Securities Exchange or ASX Clear) as a result of your failure to settle;
  - b. levy a default charge on the amount from time to time outstanding at a rate of up to 15.0% per annum;
  - c. sell out (or procure the sellout of) any Traded Products purchased (and you are fully responsible for any loss in connection with such sale) and apply the proceeds in reduction of your liability to Openmarkets and to recover Openmarkets' costs in so acting;
  - d. buy in (or procure the buy in of) any Traded Products sold (and you are fully responsible for any loss in connection with such purchase) and recover Openmarkets' costs in so acting;
  - e. sell out (or procure the sellout of) any Traded Products otherwise held on your behalf (and you are fully responsible for any loss in connection with such sale) and apply the proceeds in reduction of your liability to Openmarkets and to recover Openmarkets' costs in so acting;

- f. apply any cash held by Openmarkets or the Intermediary (or to which they have access ) on your account (including in a Cash Account or Trading Account), or payments received for or from you in reduction of your liability to Openmarkets; or
- g. cancel (or instruct the Intermediary to cancel) any of your unexecuted Orders,
- h. and you authorise Openmarkets and each of its directors and employees as your attorney to give instructions on your behalf in respect of your Traded Product holdings sponsored by Openmarkets (or a related body corporate or affiliate of Openmarkets) in CHESS, or held by a related body corporate or affiliate of either of Openmarkets or the Intermediary in nominee holdings, and in respect of call deposit facilities or cash management trust accounts on which either Openmarkets or the Intermediary is authorised to give instructions, to enable Openmarkets to realise those Traded Products or funds and apply the proceeds in reduction of your liability to Openmarkets and to recover Openmarkets' costs in so acting.

15.2 If you fail to settle, Openmarkets may make arrangements on your behalf to ensure that your Settlement Obligations are performed (including by buying-in or borrowing the relevant Traded Products). If you have not met your settlement obligations owed to Openmarkets in respect of a Transaction executed for you by Openmarkets by the Business Day nominated by the Securities Exchange after the relevant Order was executed, it is Openmarkets' policy (and Openmarkets may be obliged under the ASX Settlement Rules), without any notice to you:

- a. in the case of a purchase, to execute a Transaction to close out the failed purchase (by selling the relevant Traded Products); or
- b. in the case of a sale, to execute a Transaction to close out the failed sale (by buying-in the relevant Traded Products), and recover any resulting loss from you.

15.3 You must pay or reimburse Openmarkets any such administration fees and default charges (together with any GST payable on those amounts) immediately upon demand or at Openmarkets' option it may deduct such administration fees and default charges (and any GST) from any sale proceeds or other amounts otherwise payable to you.

15.4 The manner in which Openmarkets may exercise or not exercise, or the timing of or any delay in any exercise by Openmarkets of, any right of Openmarkets under this clause is not to be taken to be financial product advice by Openmarkets to you, and

you must not represent to any person that it is financial product advice by Openmarkets.

- 15.5 Openmarkets will not be liable to you for any failure by Openmarkets to exercise (or any delay in the exercise by Openmarkets of) any right Openmarkets may have against you, or any loss incurred by you as a result of Openmarkets not exercising any of its rights against you immediately, or at all, following any failure by you to comply with your obligations.
- 15.6 The rights described in this clause 15 are in addition to any rights that are conferred to Openmarkets under the Exchange Rules and the ASX Clear Rules.

## **16. Cancellations**

- 16.1 Each Securities Exchange has the power under the Exchange Rules to cancel or amend Transactions or Crossings. You authorise Openmarkets to, and agree that Openmarkets may, without your consent, cancel or amend (or request or agree to the cancellation or amendment of) any Transactions or Crossing relating to the sale or purchase (as the case may be) of Traded Products:
- a. if requested to do so by the Intermediary in the circumstances contemplated by the Market Integrity Rules (as if the Intermediary were a Trading Participant that executed that Order to which the Transaction or Crossing relates);
  - b. if a Securities Exchange or a participant of the Securities Exchange exercises its power under the Exchange Rules to cancel or amend (or require the cancellation or amendment of) the Transaction or Crossing; or
  - c. in the event of an Error or otherwise in the circumstances contemplated in the Exchange Rules.
- 16.2 Your obligations referred to in clause 11 of these Terms and Conditions, and Openmarkets' obligations in relation to the settlement of a Transaction, will no longer apply in respect of a cancelled transaction from the time it is cancelled or, in the case of an amended Transaction, apply as amended.

## **17. Interest on Openmarkets' trust account**

You acknowledge that Openmarkets will retain the interest (if any) earned on monies held in its trust account from time to time.

## 18. Assignment to the Intermediary of debts owed by you to Openmarkets

If you have not paid any debt to Openmarkets, you acknowledge that Openmarkets may (by notice to you and the Intermediary) assign that debt to the Intermediary and the assigned debt will become an obligation of yours owed to the Intermediary. In the event of such an assignment, the Intermediary (and each of its directors and employees) will have the rights and powers (and may do all the things) set out in clause 16 as if a reference to Openmarkets were a reference to the Intermediary.

## 19. Instructions by email

You acknowledge and agree that;

- a. you are and will at all relevant times be authorised to make communications to the Intermediary (who will pass on those communications to Openmarkets on your behalf) (including as the case may be, to give instructions in respect of transactions in respect of Traded Products) by email;
- b. communication by email is not a secure means of communication and involves higher risks of distortion, manipulation and attempted fraud;
- c. you authorise the Intermediary and Openmarkets to accept and act without any inquiry upon, communications (including instructions) provided by email which appear to the Intermediary or Openmarkets to have been provided by or for you; and
- d. you indemnify the Intermediary and Openmarkets in respect of any and all claims, liabilities, direct or consequential losses, costs, charges or expenses (of any nature) incurred or suffered by the Intermediary or Openmarkets as a result of the Intermediary or Openmarkets acting on communications (including instructions) provided by email.

## 20. Indemnity

You must, to the maximum extent permitted by law, at all times and from time to time, indemnify and keep each of Openmarkets and its related bodies corporate and any of their respective directors, officers, contractors, agents and employees (each an **Indemnified Person**) harmless from and against all liabilities, losses, damages, costs or expenses directly or indirectly suffered by the Indemnified Person and from and against all actions, proceedings, claims for damages made against the Indemnified Person as a result of:

- a. any transaction entered into by Openmarkets on your behalf;

- b. any delay in the execution of an Order;
- c. any failure by you to settle;
- d. any other breach by you of these Terms and Conditions;
- e. any breach by you of any other agreement with Openmarkets;
- f. any breach by you of any representation or warranty made or taken to have been made by you (including without limitation in relation to any disclosure to be made in respect of sale Orders) not being true or correct;
- g. any instruction given to Openmarkets by the Intermediary on your behalf;
- h. any act or omission of the Intermediary relating to your Cash Account, Trading Account or any Order (whether or not the Order was received by Openmarkets), other than to the extent that the loss has resulted from Openmarkets' negligence, willful default or fraud.

## **21. Fees and commission**

Openmarkets will receive payment from Clients of commission or fees. You agree that it is the Intermediary (and not Openmarkets) that is to charge you fees or Commission in respect of Transactions contemplated by this agreement (other than any fee or charge payable directly to Openmarkets as set out herein or in the Openmarkets Financial Services Guide) and Openmarkets receives such money as the agent of (and not as trustee for) the Intermediary. Unless expressly stated otherwise, all fees, charges and other consideration to be provided under these Terms and Conditions are GST inclusive. Unless a fee is expressly stated to be exclusive of GST, you agree to pay us the GST amount.

## **22. Credit references**

You agree that Openmarkets may make such enquiries as it thinks fit of any person, including your employer, your bank or a credit agency relating to your creditworthiness.

## **23. No Advice**

You acknowledge that Openmarkets does not provide financial product advice, nor does it accept responsibility for any financial product advice given to you by the Intermediary. You must not represent to any person that Openmarkets has given any financial product advice to you.

## 24. Information

You warrant that all information provided by you to the Intermediary or Openmarkets is, or will be when given, accurate, true and correct and further agree to immediately notify Openmarkets in writing upon becoming aware that such information is no longer accurate, true and correct. You agree that Openmarkets and the Intermediary may share such information, as well as your account details and information regarding your transactions in Traded Products with each other and with Openmarkets' related bodies corporate on a confidential basis as Openmarkets considers appropriate. You also consent to Openmarkets and/or the Intermediary disclosing this information and your account details to any regulatory authority or otherwise in accordance with the Openmarkets Privacy Policy, and consent to Openmarkets and/or the Intermediary using such information and your account details for the purposes of monitoring compliance by you, the Intermediary and/or Openmarkets with their respective regulatory and contractual obligations, and resolving disputes. You may request access to the personal information that Openmarkets holds about you.

## 25. Electronic identity verification

- 25.1 Openmarkets may use the personal information collected about you for the purposes of verifying your identity in accordance with our obligations under Anti-Money Laundering Laws. Conducting an electronic verification of your identity may involve Openmarkets disclosing your personal information which you provide to us to the Official Record Holder or issuer of your identity record (eg. drivers' licence or passport) via third party providers which utilise the government managed Document Verification System (**DVS**).
- 25.2 Openmarkets will receive a report from the Official Record Holder or issuer of your identity record through the DVS. When conducting customer identification Openmarkets may disclose personal information about you to a credit reporting agency for the purposes of providing an assessment as to whether the personal information matches (in whole or part) personal information contained in a credit information file in the possession or control of the credit reporting agency. The credit reporting agency may provide Openmarkets with the assessment and the credit reporting agency may use the personal information about you including your name, residential addresses and date of birth contained in credit information files of other individuals, for the purpose of preparing the assessment. By agreeing to these Terms and Conditions, you consent to electronic identity verification and to Openmarkets providing your personal information to a credit reporting agency.



## 26. Complaints

- 26.1 You have a right to complain about any aspect of your dealings with Openmarkets, and to have that complaint dealt with in accordance with Openmarkets' complaint resolution procedures. A summary of those procedures is set out below. However, if your complaint relates to services provided by the Intermediary, your complaint should be dealt with in accordance with the Intermediary's complaint resolution procedures. If you have such a complaint please contact the Intermediary.
- 26.2 You have the right to have any complaint about the service you have received from Openmarkets, or any other aspects of your dealings with Openmarkets, investigated and dealt with as quickly as possible in accordance with Openmarkets' complaints resolution procedure. To assist Openmarkets to respond appropriately to complaints, you are asked to set out complaints in writing, addressed to the Compliance Manager. You should include as much detail about the circumstances of your complaint as possible, including the name(s) of any Openmarkets staff involved. If available, copies of any background documentation should also be provided.
- 26.3 Following receipt of your complaint, the Compliance Manager will acknowledge receipt of it in writing and provide an estimate of the time it will take to investigate the circumstances. The Compliance Manager will fully investigate your complaint and follow up if further information is required from you. The Compliance Manager will then prepare a detailed written response to you after consideration of all relevant documents and following interviews with the involved employees and their manager(s), if required. The written response will be mailed or delivered to you.
- 26.4 As Openmarkets is a member of the Australian Financial Complaints Authority (AFCA), Openmarkets will advise you if you continue to have a complaint that you have the option to pursue your complaint with AFCA. AFCA's contact details are:
- Australian Financial Complaints Authority**
- Phone 1800 931 678
  - Website [afca.org.au](https://afca.org.au)
- 26.5 If you are not satisfied with the response to your complaint, you may wish to pursue the matter with the Securities Exchange. The Australian Securities and Investments Commission also has a free call Infoline on 1300 300 630 which you may use to make a complaint and obtain information about your rights.

## 27. Compensation arrangements

27.1 As Openmarkets is a Participant of one or more Securities Exchanges and a Clearing Participant of ASX Clear, you may be entitled to make a claim on a compensation fund being the National Guarantee Fund (**NGF**) in the circumstances specified under Part 7.5 of the Corporations Act and the Corporations Regulations 2001 (Cth). For more information on the circumstances in which you may make a claim on a compensation fund contact:

- in relation to transactions on ASX and the NGF, you can contact ASX or the Securities Exchanges Guarantee Corporation Limited ABN 19 008 626 793; or
- in relation to transactions on another Securities Exchange, you can contact that Securities Exchange.

27.2 The Chi-X Operating Rules require the following disclosure to be given to clients of Openmarkets:

- a. There are two different compensation arrangements that may provide protection for retail investors trading on Chi-X: NGF Arrangements or Division 3 Arrangements. This is because on 26 October 2020, Chi-X became a member of the SEGC, which operates the NGF.
- b. From 26 October 2020, the NGF may apply in the circumstances set out in Division 4 of Part 7.5 of the Corporations Act 2001 and Corporations Regulations 2001. Transitional arrangements apply and these are set out on the SEGC's website at [www.segc.com.au](http://www.segc.com.au). For further information on the National Guarantee Fund and what it covers, please contact SEGC, see the SEGC website and refer to Division 4 of Part 7.5 of the Corporations Regulations 2001 (Cth).
- c. When do the Division 3 Compensation Arrangements apply? Where a retail investor suffers a loss in respect of conduct, a transaction or insolvency that occurred before 26 October 2020, that loss may be covered by the Division 3 compensation arrangements. Section 11 of the Chi-X Operating Rules outlines the Division 3 compensation arrangements, including the cessation of the arrangements on 25 October 2027 and the requirement, while the arrangements are in place, to make a claim no later than six months after becoming aware of the loss to which the claim relates. Section 11 also outlines that the losses covered by Division 3 are those resulting from defalcation or fraudulent misuse of your money, property or authority by a Chi-X participant.

- 27.3 Openmarkets has professional indemnity insurance which Openmarkets considers is adequate having regard to:
- a. the volume and types of business carried on by it; the number and types of its clients; the number of its representatives; and
  - b. any particular or potential claims that may arise pursuant to our participation in external dispute resolution schemes, including the AFCA scheme.

Openmarkets considers that these compensation arrangements satisfy the requirements of s 912B of the Corporations Act and associated regulations

## **28. Joint Holder**

If you are a joint holder, these Terms and Conditions bind each person jointly and severally, and each person is authorised to issue instructions to your Intermediary and give receipts to Openmarkets in relation to any purchase or sale of Traded Products or other matters to which these Terms and Conditions relate.

## **29. Account for trust**

You warrant that if you enter into this agreement with Openmarkets as a trustee, you have the authority to enter into these Terms and Conditions and any related agreement to these terms (including the Chess Sponsorship Agreement) in both your personal capacity and as a trustee.

## **30. Telephone recording**

You agree and consent to:

- a. the electronic recording by Openmarkets of the telephonic conversations between you and Openmarkets with or without an automatic tone warning device;
- b. the use of recordings or transcripts from such recordings for any purpose which Openmarkets deems desirable, including their use as evidence by either party in any dispute or anticipated dispute between Openmarkets, the Intermediary or you; and
- c. Openmarkets keeping the recording for as long as it sees fit.

## **31. Electronic correspondence**

You hereby nominate your email address (as provided to Openmarkets or the Intermediary from time to time) for the purpose of receiving all communications and

consent to receiving (and authorise Openmarkets to use your email address to send to you) any Disclosure Document Openmarkets is required to provide to you including any updates to these documents.

You agree that Openmarkets may:

- a. provide to you a link to a Disclosure Document such that you are able to access the document electronically;
- b. provide to you a Disclosure Document by means of an electronic portal or application service by which you are able to access the documents;
- c. arrange for the Intermediary to provide to you electronically (as agent for Openmarkets) any of the Disclosure Documents by any means set out in this clause 31; You may opt out of a receiving a Disclosure document electronically by giving notice to the Intermediary within 7 days of agreeing to these Terms and Conditions and the Intermediary will arrange for you to receive a hard copy of the documents. You agree that you will retain a copy of each Disclosure Document provided to you by downloading or otherwise making a copy of the document.

### **32. Tax file number**

Quotation of your Australian tax file number (**TFN**) is optional. Openmarkets is an Australian financial service licensee that is authorised by law to request your TFN. You are not required to provide your TFN. If Openmarkets is unable to quote your tax file number or exemption to registries, they may be obliged to take tax at the highest marginal rate from any dividends, distributions, interest and payments to which you are entitled and you may wish to seek independent advice in this regard. By providing a TFN and signing the Application Form you appoint Openmarkets as your agent and request and authorise Openmarkets to:

- a. provide your Tax File Number to all investment bodies with whom Openmarkets acts on your behalf;
- b. apply your TFN to any investment or account which you may in future make or open with or through Openmarkets (and its related bodies corporate) to which your TFN may lawfully be applied; and you acknowledge that this authority will apply until such time as it is revoked in writing to Openmarkets.

### **33. Amendment**

These Terms and Conditions may be amended by Openmarkets from time to time by notice to you. Where the variation is minor or its effect is in the opinion of Openmarkets

not materially adverse to you, Openmarkets may post an update of these Terms and Conditions on its website or make it available to you in accordance with clause 31. For any other amendment, Openmarkets will give you 5 days' notice, after which time the amendment will become effective and such notice may be given in accordance with clause 31.

### **34. Termination**

Openmarkets may terminate all or any part of this agreement with you at any time and for any reason and close your account by giving written notice to you and such notice may be communicated to the Intermediary. You may terminate this agreement and close your account by giving written notice to Openmarkets. The termination of this agreement does not affect any rights or obligations of the parties which may have accrued prior to the termination of this agreement.

### **35. Governing law**

These Terms and Conditions are governed by the law in force in New South Wales and you and Openmarkets submit to the non-exclusive jurisdiction of the courts of New South Wales and courts which may hear appeals from those courts.

### **36. Interpretation**

In this document (including the Schedules), unless the contrary intention appears:

- **ASIC** means the Australian Securities and Investments Commission.
- **ASX** means ASX Limited ABN 98 008 624 691.
- **ASX Clear** means ASX Clear Pty Limited ABN 48 001 314 503.
- **ASX Clear Rules** means the operating rules of ASX Clear as amended from time to time.
- **ASIC Market Integrity Rules** means the ASIC Market Integrity Rules (Securities Markets) 2017 as amended from time to time.
- **Clearing Participant** means a person admitted as a participant under the ASX Clear Rules.
- **Competition Market Integrity Rules** means the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011, as amended from time to time.
- **Confirmation** has the meaning given to it in clause 14.
- **Corporations Act** means the *Corporations Act 2001* (Cth).

- **Crossing** has the meaning given to it in the Market Integrity Rules.
- **Disclosure Documents** includes any financial services disclosures under the Corporations Act, Exchange rules or other applicable law such as (without limitation) a Financial Services Guide, Confirmation, policy documents, Product Disclosure Statement, Chess Sponsorship Agreement, client agreement and these Terms and Conditions (including any part thereof).
- **Error** has the meaning given to it in the Exchange Rules and in relation to Chi-X, has the meaning given to “error trade” in the Chi-X Operating Rules, and has the meaning of any equivalent term in any other Exchange Rules including without limitation “error” or “trade error”.
- **Exchange Rules** means the operating rules of each Securities Exchange and the Market Integrity Rules.
- **Intermediary** means an AFSL holder or an authorised representative of the AFSL holder with whom you instruct to place an Order.
- **Market** means the means the market operated by the Market Operator under the Market Integrity Rules.
- **Market Integrity Rules** means any market integrity rules made by ASIC in accordance with Part 7.2A of the Corporations Act, as amended from time to time, that apply to a Securities Exchange, including, without limitation, the ASIC Market Integrity Rules, the Chi-X Market Integrity Rules and the Competition Market Integrity Rules.
- **NSX** means National Stock Exchange of Australia Limited ABN 11 000 902 063.
- **Order** means an order or instruction for the sale, purchase, issue or redemption of Traded Products to be executed or facilitated by Openmarkets.
- **Participant Sponsored Holding** has the meaning given to it in the ASX Settlement Rules. Partly Paid Security means a financial product quoted on a Securities Exchange for which the holder may be liable to pay a call or instalment in accordance with the terms of issue and for which an amount remains unpaid, but does not include a Quoted Product issued by a no liability company.
- **Securities Exchange** means ASX or Chi-X, NSX or SIM VSE and, without limitation, any other exchange on which Openmarkets transacts Orders, or the financial markets operated by them (as the context requires).
- **SIM VSE** means SIM Venture Securities Exchange Limited (ABN 41 087 708 898).

- **Traded Products** has the meaning given to Cash Market Products in the ASIC Market Integrity Rules (and includes an AQUA Product) and Equity Market Product in the Chi-X Market Integrity Rules and for other Securities Exchanges, means the cash equities products (excluding derivatives) admitted for quotation on the relevant market as described in the relevant Exchange Rules or Market Integrity Rules (as the context requires) for that Securities Exchange.
- **Trading Account** means a trading account opened for you by Openmarkets through which you may buy or sell Traded Products.
- **Trading Participant** has the meaning given to that term in the ASIC Market Integrity Rules and to Market Participant in the Chi-X, APX or NSX Market Integrity Rules.
- **Transaction** has the meaning given to Cash Market Transaction in the ASIC Market Integrity Rules or Equity Market Transaction in the Chi-X Market Integrity Rules and for other Securities Exchanges, has the meaning given to transaction in cash equities products (excluding derivatives) admitted for quotation on the relevant market as described in the relevant Exchange Rules or Market Integrity Rules (as the context requires) for that Securities Exchange.
- **Warrant** has the meaning given to it in the ASIC Market Integrity Rules.
- **You** means the person or persons in whose name the account is opened with Openmarkets or named on the account opening or application form as the client. If that is more than one person, “you” means each of them separately and every two or more of them jointly. “You” includes your successors and assigns.

Words expressed in the singular include the plural and vice versa.

Unless the context otherwise requires, a reference to a document or agreement includes any variation or replacement of it and a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision. Words used in this document (including in a Schedule) have the meanings given to them in the Exchange Rules, ASX Clear Rules or the ASX Settlement Rules. If you require a copy of these definitions, please contact the Intermediary.

You agree that in the event of any inconsistency between this document and any applicable laws, the Exchange Rules, ASX Clear Rules or ASX Settlement Rules, the latter will prevail to the extent of the inconsistency. You acknowledge that this document is not exhaustive and agree to be bound by other policies and procedures which concern the operations of your account with Openmarkets as notified to you from time to time.

## Openmarkets Australia Ltd

- ABN 38 090 472 012
- AFSL No 246705

## Schedule 1: Warrant client agreement

The following terms and conditions apply if you are to purchase Warrants. You agree and acknowledge that:

- a. you have received and read a copy of the Explanatory Booklet issued by ASX in respect of Warrants (“Understanding Trading and Investment Warrants”, available electronically on the [ASX website](#) and at [openmarkets.com.au/legals](https://openmarkets.com.au/legals), or in paper form on request by contacting the Intermediary);
- b. a Warrant has a limited life and cannot be traded after its expiry date;
- c. you are aware that Warrants do not have standardised Terms of Issue and it is your responsibility to become aware of the Terms of Issue of any Warrant in which you invest;
- d. Warrants may be subject to adjustments after their initial issue. You acknowledge that it is your responsibility to become aware of any adjustments which may have been made to any Warrant in which you choose to invest;
- e. admission to Trading Status of a Warrant does not imply that a Securities Exchange or the Securities Exchanges Guarantee Corporation Limited gives any guarantee or warranty as to the viability of the Warrant-Issuer or Guarantor; and
- f. failure of the Warrant-Issuer or Guarantor (if applicable) to fulfill their obligations does not give rise to a claim against the Intermediary, Openmarkets, a Securities Exchange, handling Market Participants or the Securities Exchanges Guarantee Corporation Limited.

## Schedule 2: Partly paid security agreement

The following terms and conditions apply if you are to purchase Partly Paid Securities. You agree and acknowledge that you are aware that:

- a. a Partly Paid Security is a security which may require you to make a further payment or payments at some time in the future;



- b. it is your responsibility to obtain and read a copy of the prospectus, product disclosure statement or information memorandum issued by an Issuer which sets out the particular features of, and rights and obligations attaching to, a Partly Paid Security before placing an order to buy a Partly Paid Security;
- c. you may be liable for further payments on a Partly Paid Security and that a failure to make a further payment by the specified date(s) may result in an Issuer of a Partly Paid Security or their associates or agents taking action, including legal action, against you to recover the outstanding payments and/or may result in the forfeiture of your entitlement to the Partly Paid Security;
- d. in certain circumstances you may be liable to make a further payment on a Partly Paid Security despite the fact that you may have disposed of a Partly Paid Security prior to the date that a further payment falls due;
- e. you should monitor announcements made by the Issuer of a Partly Paid Security and that it is your responsibility to inform yourself of the date/s or circumstances that a further payment falls due and the last day that you can dispose of the Partly Paid Security before becoming liable for a further payment;
- f. the amount of a further payment may be unrelated to the financial performance of a Partly Paid Security and that the amount of the further payment may exceed the intrinsic value of a Partly Paid Security at the time a further payment falls due; and
- g. an obligation on you in relation to a Partly Paid Security, including an obligation to make a further payment, does not give rise to a claim against the Intermediary, Openmarkets, a Securities Exchange, handling Market Participants or the Securities Exchanges Guarantee Corporation Limited.

## Schedule 3: DMA service terms

The following terms and conditions apply if the Client is given access to the DMA Service.

### 1. Access to the trading system

#### 1.1 Access by Authorised Persons only

No person other than an Authorised Person may at any time submit an Order for the Client (whether as principal or as agent for the Client) through the DMA Service using the Security Information provided by Openmarkets (or the Intermediary) to the Client.

Openmarkets may in its discretion at any time limit the number of Authorised Persons who are permitted to submit Orders for the Client through the DMA Service. The Client must not authorise, allow nor permit any person other than an Authorised Person to

access or use the DMA Service using the Security Information. The Client acknowledges and agrees that Openmarkets may, in its absolute discretion:

- a. refuse to approve as an Authorised Person any person nominated by the Client for that purpose;
- b. revoke its approval of an Authorised Person at any time; and
- c. from time to time test whether an Authorised Person has adequate knowledge of the DMA Service and the Dealing Rules (as defined in the Market Integrity Rules), directions, decisions and requirements of a Securities Exchange relevant to the type of order submission facilities given to the Authorised Person by Openmarkets. The Client must notify the Intermediary immediately once any Authorised Person ceases to be authorised by the Client to access the DMA Service on the Client's behalf.

## 1.2 Security Information

The Client acknowledges that the Security Information is confidential and agrees that it is responsible for maintaining its confidentiality.

The Client agrees that it must:

- a. only use the Security Information in accordance with these terms;
- b. not disclose the Security Information (or any part of it) to any person or persons (including its employees, contractors, agents and consultants) other than to an Authorised Person;
- c. ensure that at all times, each Authorised Person maintains the confidentiality of the Security Information;
- d. notify Openmarkets immediately upon becoming aware that any Security Information has been or may be used or disclosed in a manner that is not consistent with these terms; and
- e. regularly review and, if necessary, upgrade the security of its network through which it accesses the DMA Service to ensure that only Authorised Persons are able to access or use the DMA Service.

## 2. Use of the system

The Client acknowledges that:

- a. the DMA Service is accessible through the DMA System;

- b. neither Openmarkets nor any related body corporate or affiliate of Openmarkets makes any representation or warranty, express or implied, to the Client or to any other person regarding the DMA System, nor provides any guarantee with respect to the DMA System, including without limitation, with respect to the operation, functionality, effectiveness, accuracy, reliability, merchantability, quality or fitness for purpose;
- c. neither Openmarkets nor the Intermediary nor any related body corporate or affiliate of Openmarkets or the Intermediary is in any way responsible or liable to the Client or any person claiming through the Client, for any loss that results from the Client's use of the DMA System, or from any failure, error or defect of or in the DMA System;
- d. the Client is solely responsible for assessing the adequacy of the DMA System and for deciding whether or not to access it; and
- e. it is the Client's responsibility to obtain, at its own expense, all hardware and software to be used by the Client in connection with use of the DMA Service.

### **3. Submitting orders through the DMA service**

#### 3.1 Permission to submit Orders using Security Information

The Client acknowledges and agrees that it (and/or any Authorised Person) is permitted to submit Orders through the DMA Service only if it or they do so using the Security Information.

#### 3.2 Responsibility for submitting Orders The Client:

- a. determines the time at which Orders are submitted through the DMA Service;
- b. is responsible for all Orders submitted through the DMA Service using the Security Information, regardless of who enters such Orders and regardless of whether or not there is an error in the Order entry;
- c. is bound by any agreement entered into on its behalf in reliance on such Orders;
- d. is liable for any reasonable expense incurred by Openmarkets in reliance on such Orders; and
- e. accepts the sole risk and responsibility for Orders submitted by it through the DMA Service, including any Order submitted in error.

#### 3.3 Order priority

The Client acknowledges that all Orders submitted by it through the DMA Service are, subject to any Filters, entered on a Trading Platform in the sequence in which they are

received, and otherwise as expeditiously as practicable, and this may result in Openmarkets' principal orders being satisfied ahead of an Order.

#### 3.4 Acknowledgment about resubmitting purged Orders

The Client acknowledges that Orders purged from a Trading Platform by the Securities Exchange will not be resubmitted to that Trading Platform by Openmarkets or the Intermediary.

#### 3.5 No pre-arranged Orders

The Client undertakes to ensure that any Orders placed through the DMA Service which match opposite orders placed by Openmarkets in a Trading Platform, either as agent or principal, will be of an accidental nature, meaning that no pre-arrangement of the matched orders will have taken place with Openmarkets, and will not detract in any way from the Client's Orders transacting in a Trading Platform under strict rules of time and price priority.

### **4. Orders relating to derivatives products**

#### 4.1 Closing Out Derivatives Contracts

If, as a result of Orders submitted by the Client through the DMA Service, a Derivatives Contract registered in the Client's account with Openmarkets as Buyer and a Derivatives Contract in the same Series or Delivery Month is registered in the Client's account with Openmarkets as Seller, Openmarkets will use its best endeavours to ensure that the corresponding Derivatives Contracts registered with ASX Clear are closed out by ASX Clear in accordance with ASX Clear Rule 13.2. However, the Client acknowledges and agrees that the Client's obligations in relation to those Derivatives Contracts continue in force until ASX Clear has closed out the corresponding Derivatives Contracts registered with it in accordance with ASX Clear Rule 13.2.

#### 4.2 Exercise of a Derivatives Contract

The Client acknowledges that, if the Client wishes to exercise a Derivatives Contract registered in the Client's account with Openmarkets:

- a. the Client is not able to do so through the DMA Service (whether or not that Derivatives Contract was bought through the DMA Service); and
- b. the Client must contact the Intermediary directly in order to communicate the Client's instruction to exercise that Derivatives Contract (and the Intermediary in turn will be responsible for communicating the Client's instruction to Openmarkets).

## 5. Trading rules

### 5.1 DMA Trading Limits

Openmarkets may at any time through the DMA Service impose, and from time to time vary, DMA Trading Limits. Without limitation, Openmarkets may impose DMA Trading Limits on any or all of the following:

- a. the value or number of any buy Orders or trades;
- b. the value or number of any sell Orders or trades;
- c. the available cleared funds;
- d. the available sponsored stock;
- e. the net value of any buy Orders or trades less sell Orders or trades;
- f. the gross value of any buy Orders or trades and any sell Orders or trades;
- g. the value of any Order or trade; and
- h. the value of any Order submitted by one or more Authorised Person, or trade undertaken by such a person. The Client must comply, and ensure that each Authorised Person complies, with all applicable DMA Trading Limits.

### 5.2 Prohibited orders

The Client must ensure that:

- a. each Authorised Person accesses the DMA Service in a way that ensures fairness, efficiency and ongoing protection of market integrity;
- b. it does not place an Order through the DMA such that the beneficial ownership of the financial products which are the subject of the Order would not change if the Order was executed;
- c. it does not take any action, fail to take any action or place any Order through the DMA Service where that Order (or the resulting transaction) would violate or cause or result in the Client, the Intermediary or Openmarkets violating any Applicable Regulation, including without limitation, any Applicable Regulation in relation to:
  - (i) market manipulation, false trading, market rigging, fictitious transactions, wash trading or matching of orders;
  - (ii) insider trading;
  - (iii) front running;
  - (iv) fraud;

- (v) creation of a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
- (vi) misleading or deceptive conduct; and
- d. each Order is submitted in accordance with these terms or any policy or operational guideline published by Openmarkets from time to time in relation to the DMA Service.

### **5.3 Filters**

Openmarkets may impose Filters to restrict the placement of any Orders or the execution of any trades through the DMA Service, including (without limitation)

Filters whose object is to:

- a. prevent a breach of the provisions set out in this paragraph 5;
  - b. prevent Orders being registered with a Trading Platform where the price at which the Order is submitted through the DMA Service is too far from the prevailing market price for the relevant security or financial product;
  - c. ensure that the DMA Service does not interfere with the efficiency and integrity of the market conducted by a Securities Exchange;
  - d. ensure that the DMA Service does not interfere with the proper functioning of any Trading Platform; or
  - e. facilitate compliance with, and prevent breaches of, the Applicable Regulations.
- Openmarkets has, and accepts, no responsibility or liability to the Client or any

### **5.4 Delays**

The Client acknowledges that there may be delays in the processing or execution of an Order placed through the DMA Service, and:

- a. an Order may be wholly or partly filled before an instruction for its amendment or cancellation is processed;
- b. The Intermediary and the Client remain liable to Openmarkets to settle the original Order, until any relevant amendment or cancellation is effected; and
- c. Openmarkets will not be liable for any loss or damage to the Client by reason of any delay in processing any Order submitted through the DMA Service.

## 5.5 Openmarkets takes no responsibility

The Client acknowledges that Openmarkets takes no responsibility for the processing, execution or cancellation of any Orders placed through the DMA Service or for any delays in relation to the same.

## 6. Reconciliation

The Client is responsible for reconciling end-of-day confirmations against its records on any given trading day, and must communicate to Openmarkets, any discrepancies found in this reconciliation before the market opens on the next trading day. The Client acknowledges that Openmarkets is not responsible in any circumstances for the losses of any kind of the Client that occur through errors that go undetected as a result of the failure of the Client to perform this reconciliation.

## 7. Principal trading by Openmarkets

The Client acknowledges that Openmarkets and/or any of Openmarkets' related bodies corporate or affiliates may:

- a. enter a transaction in securities, derivatives, warrants and other financial products on a Securities Exchange as principal and, where permitted by law, may take the opposite position in any such transaction, acting either for a client or on Openmarkets' own account (and the Client consents to Openmarkets and/or Openmarkets' related bodies corporate and affiliates entering such transactions and taking such positions); and
- b. place principal orders on the same terms as any Order, and that Openmarkets' order may be filled before an Order due to it being entered into the relevant Trading Platform prior to the Order.

## 8. Openmarkets' warranties and liabilities

### 8.1 No representations or warranties about the DMA Service

Subject to those provisions of the Competition and Consumer Act (Cth) and any other rights implied by law, which cannot be excluded by agreement between the parties, Openmarkets makes no representations or warranties express or implied, including without limitation, any implied warranties as to merchantability, quality or fitness for a particular purpose or otherwise (including as to accuracy, currency, availability, completeness or quality) with respect to the DMA Service.

## 8.2 Exclusion of liability

The Client acknowledges that the DMA Service is provided at its risk and that to the extent permitted by law, Openmarkets excludes all liability in contract, tort (including negligence) or otherwise relating to or resulting from use of the DMA Service, including without limitation, liability for any loss or damage (including incidental, indirect and consequential loss and damage, loss of prospective profits, or expenses) incurred or suffered by the Client directly or indirectly, as a result of:

- a. any defect, delay, failure, inaccuracy in, use of or inability to use the DMA Service; or
- b. any government restriction, exchange or market rulings, suspension of trading computer or telephone failure, unlawful access to the DMA Service, theft, sabotage, war, earthquakes, strikes, force majeure and without limitation, any other conditions beyond Openmarkets' control.

8.3 Limitation of liability in any event Openmarkets' liability shall in any event be limited to:

- a. in the case of goods, replacement or repair of the goods; and
- b. in the case of services, re-supply of the services.

## 8.4 System and trading risks

The Client acknowledges that there is significant risk in trading through a system, including the DMA Service, which is serviced by means of computer and telecommunications systems, even where generally accepted industry standards and practices are followed, including that:

- a. the access to and use of the DMA Service cannot be operated in all circumstances without error including, without limitation, errors in computer programs and telecommunications systems. These errors may result in, among other things:
  - (i) a delay in telecommunications services;
  - (ii) interrupted service and faults, such that the DMA Service may not remain accessible at all times during the trading day and there may be problems affecting the stability of the DMA Service that could cause the Client to be unable to enter Orders via the DMA Service during normal trading hours;
  - (iii) Orders and other communications relating to trading and execution not reaching Openmarkets or being lost, rejected or partially received or sent, such that they are not accurately received or sent by the Client or Openmarkets and



are not representative of the original content of the Orders and other communications relating to trading and execution;

(iv) inaccuracies in the provision of the DMA Service and generally;

- b. the Client's data may not be protected, and there are risks that other users of the DMA Service, institutions or holders or an Australian financial services licence will be able to see Orders submitted by the Client and other communications relating to trading and execution without the Client's (or Openmarkets') consent and that third parties (including persons on private networks) may have the ability to attach to the Client's network;
- c. Orders and other communications relating to trading and execution and other data submitted to the DMA Service will not remain confidential;
- d. the Client's system may not be compatible with the DMA Service or a Trading Platform, and that this incompatibility may lead to an unstable environment; and
- e. Orders may be placed through the DMA Service without the Client's authority by a person using the Security Information given to the Client and accordingly, that trades which have not been authorised by the Client may be executed.

## **9. Termination**

Openmarkets may terminate the Client's participation in the DMA Service at any time by notice in writing. The Client may terminate its participation in the DMA Service by request in writing to Openmarkets. The Client acknowledges that if the Intermediary's participation in the DMA Service is terminated, the Client's participation will also be terminated. Termination of the Client's participation does not affect its outstanding obligations under this agreement or any other agreement you have with Openmarkets.

## **10. Intellectual property**

You acknowledge that all intellectual property rights in the DMA Service and the DMA System and the components thereof are owned by Openmarkets, or are procured by Openmarkets for the use of the Client and nothing in this agreement confers any right of ownership, transfer of ownership to, or other right to the intellectual property in the Client.

## 11. Definitions

- **AFSL** means Australian Financial Services Licence
- **Authorised Person** means a person who is nominated and permitted by Openmarkets to submit Orders through the DMA Service using the Security Information provided by Openmarkets or the Intermediary.
- **Derivatives Contract** has the meaning given to Options Market Contract or Derivatives CCP Contract, each as defined in the ASX Clear Rules or the corresponding contract between the Client and Openmarkets, as the context requires.
- **DMA Service** means the automated client order processing service to be provided by Openmarkets to the Licensee on the terms contained in this Schedule under which the Licensee is able to enter Orders directly into the Trading Platform relating to Traded Products.
- **DMA System** means the on-line system through which the Client is able to connect to the DMA Service, and where applicable includes:
  - the software and hardware applicable to that system;
  - any Trade Facilitation Software.
- **DMA Trading Limits** means the limits that Openmarkets may place on the Orders that may place on the Orders that may be submitted and/or the trades that may be undertaken through the DMA Service.
- **Filters** mean the restrictions Openmarkets imposes, whether by automated or manual means, to limit the Client's ability to place Orders through the DMA Service.
- **Order** means an order for the purchase or sale of (or other dealing in) Traded Products made through the DMA Service using the Security Information provided to the Client and, as the context requires, includes (without limitation):
  - an order or instruction to amend or cancel an existing order submitted through the DMA Service; or
  - an order or instruction to open or close out a position in Derivatives Contracts. Security Information means the user code, user name and password given to the Client by Openmarkets or the Intermediary in connection with use of the DMA Service.

- **Trade Facilitation Software** means software provided by Openmarkets to the Client for the purpose of the Client creating Orders including trading algorithms (including trading algorithms procured from a third party for use by the Client).
- **Trading Platform** has the meaning given to that term in the ASIC Market Integrity Rules or the Chi-X Market Integrity Rules (as the context requires) and for other Securities Exchanges, has the meaning given to it in the relevant Exchange Rules or Market Integrity Rules (as the context requires) for that Securities Exchange.

Words used in this Schedule 3 have the meaning ascribed to them in the Equities Terms and Conditions unless the context requires otherwise.

## Schedule 4: Openmarkets best execution policy

The Openmarkets Best Execution Policy is available at [openmarkets.com.au/legals](https://openmarkets.com.au/legals) or is available from the Intermediary in hard copy.

## Schedule 5: ASX bookbuild client agreement

### 1. Agreement with Openmarkets

The provisions of this Schedule apply if you wish to instruct for a Bid to be placed on your behalf in relation to an offer of Financial Products on ASX BookBuild. By placing an Order with Intermediary (as your agent) for a Bid to be placed on your behalf in relation to an offer of Financial Products on ASX BookBuild, you agree to be bound by the terms and conditions of this Schedule. This Schedule forms part of the Terms and Conditions and is to be read as if it were included at the end of the Terms and Conditions.

### 2. Interpretation

In this Schedule unless the contrary intention appears:

- **ASX Rules** means the operating rules of ASX, including the procedures made under those rules, as amended from time to time.
- **Fail to settle and failure by you to settle** includes a failure by you to comply with your Settlement Obligations.
- **Financial Products** includes financial products offered for acquisition through ASX BookBuild.
- **Order** includes an order or instruction to acquire Financial Products offered through ASX BookBuild to be executed by Openmarkets, and includes an order to enter, amend or cancel a Bid in relation to such Financial Products.

- **Purchase** includes the acquisition of Financial Products as a result of an allocation of Financial Products to you through ASX BookBuild.
- **Settlement Obligations** includes the obligation to pay for and complete the acquisition of Financial Products allocated to you as a result of a Bid placed on your behalf in relation to an offer of Financial Products on ASX BookBuild.
- **Terms and Conditions** means the Openmarkets Equities Terms and Conditions and include this schedule.
- **Traded Products** includes Financial Products.
- **Unexecuted Order** includes a Bid which has placed on your behalf in relation to an offer of Financial Products on ASX BookBuild which may be withdrawn or cancelled.

Words used in this Schedule have the meanings given to them in the Exchange Rules and the ASX Settlement Rules.

### 3. Application of ASX Operating Rules

You and Openmarkets are bound by the ASX Rules, the Corporations Act, customs, usages and practices of ASX and its related entities, as amended from time to time, in so far as they apply to ASX BookBuild and any allocation of Financial Products in an offer on ASX BookBuild.

### 4. Right to refuse to deal

You acknowledge that Openmarkets may at any time refuse to deal in, or may limit dealings in, the Financial Products offered under ASX BookBuild for you. Openmarkets is not required to act in accordance with your instructions where to do so would constitute a breach of the ASX Rules or the Corporations Act. Openmarkets (or the Intermediary on Openmarkets' behalf) will notify you of any refusal or limitation as soon as practicable.

### 5. Wholesale clients

You agree that, if you are not a Wholesale Client for the purposes of the Market Integrity Rules, you will not place an Order in relation to an offer of Financial Products on ASX BookBuild where that offer is limited to Wholesale Clients.

### 6. Offers in the U.S. or to U.S. persons where terms of offer are silent

If the terms of the offer are silent on whether offers and issues of Financial Products are prohibited in the United States or to U.S. persons, then you acknowledge that the following terms of the offer will apply:

- a. the Financial Products have not been, and will not be, registered under the US Securities Act of 1933 (the US Securities Act), and may not be offered, sold or resold in the United States, or to or for the account or benefit of U.S. persons, except in accordance with an exemption from, or in a transaction not subject to, the registration requirements of the US Securities Act;
- b. expressions used but not defined in these terms have the meanings set forth in Regulation S under the US Securities Act.

## **7. Warranty**

When you instruct Openmarkets (including where you instruct the Intermediary to instruct Openmarkets) to enter a Bid in an offer of Financial Products you warrant that:

- a. you are aware of and agrees to the Investment Cap and the terms of the offer;
- b. you are entitled, under the Investment Cap and the terms of the offer, to enter that Bid and to subscribe for any Financial Products allocated to you under ASX Rule 4930.

## **8. Allocation and settlement obligations**

You acknowledge and agree that:

- a. where you have received an allocation of Financial Products as a result of a Bid entered by Openmarkets on your behalf for the allocation of the relevant Financial Products under the applicable offer:
  - (i) you have an obligation to subscribe for the number of Financial Products allocated to you at the final BookBuild Price on the terms of that offer; and
  - (ii) where Openmarkets settles the subscription for those Financial Products through ASX Settlement or otherwise on your behalf, you owe your Settlement Obligations in respect of that subscription directly to Openmarkets and not to the Intermediary or the relevant BookBuild Issuer;
- b. you may not receive any allocation of Financial Products including where a bookbuild is cancelled. In the event that you fail to comply with your Settlement Obligations, Openmarkets will have rights against you under these Terms and Conditions (including without limitation under those clauses of these Terms and Conditions relating to a failure to settle by you), the ASX Rules and the ASX

Settlement Rules (including without limitation a power of sale), and Openmarkets is not obliged to register any of the relevant Financial Products in your name or in accordance with your instructions unless and until you have complied with your Settlement Obligations in full.

## **9. Divestment**

When you have received an allocation of Financial Products in an offer on ASX BookBuild which:

- a. represents a percentage of Financial Products in that offer which exceeds the Investment Cap; or
- b. results, or together with allocations to other persons result, in the voting power in the BookBuild Issuer of you or any other person increasing from a percentage at or together with allocations to other persons result, in the voting power in the BookBuild Issuer of you or any other person increasing from a percentage at or below the Investment Cap to a percentage above the Investment Cap, you acknowledge that such allocation was outside of the parameters established by the BookBuild Issuer for the offer on ASX BookBuild and that the BookBuild Issuer may, at its election, require that you divest such number of Financial Products allocated in the offer on ASX BookBuild up to the number required for the relevant person to no longer exceed the Investment Cap. For the purposes of this clause 9, a person's voting power in the BookBuild Issuer has the meaning given by s610 of the Corporations Act. You also acknowledge that damages are not an adequate remedy for a breach of clause 7 and that the BookBuild Issuer can require specific performance of this clause 9.

## **10. Enforceability by BookBuild Issuer**

You acknowledge that the warranties and acknowledgments in clauses 7, 8 and 9 above can be enforced by the BookBuild Issuer.

## **11. Effect of termination**

Termination does not affect the existing rights and obligations of you or Openmarkets at termination.

## **12. Revised terms prescribed by ASX**

If ASX prescribes amended minimum terms for an ASX BookBuild Client Agreement for the purposes of the Rules (New Terms), to the extent of any inconsistency between this

Schedule and the New Terms, the New Terms will override the terms of this Schedule and apply as if you and Openmarkets had entered into an agreement containing the New Terms.

### **13. Openmarkets to provide you with copy of changes**

Openmarkets (or the Intermediary on Openmarkets' behalf) will provide a copy of the New Terms to you as soon as practicable after ASX prescribes the New Terms

## Part 2: CHESS Sponsorship agreement

All ASX, Chi-X, NSX and SIM VSE trades transacted through Openmarkets Australia Limited ABN 38 090 472 012 (**Openmarkets, our, us, we**) are settled by the Clearing House Electronic Subregister System (**CHESS**), which is operated by ASX Settlement. This means all Trading Accounts established through us must be CHESS Sponsored by us in order to facilitate the buying and selling of Financial Products through our Services.

By applying for a new Holder Identification Number (**HIN**) or requesting a transfer of your existing HIN in the Account Application (**Application**), you agree to be CHESS Sponsored by Openmarkets in accordance with the ASX Settlement Rules on the terms and conditions (**Terms**) set out in Part 2 of this Client Agreement – CHESS Sponsorship Agreement (**Sponsorship Agreement**).

### Explanation of CHESS Sponsorship

The exchange of legal ownership of Financial Products (for example shares) bought and sold on market for money is called settlement, which is managed by CHESS. To access CHESS and settle trades on your behalf you need to be sponsored in CHESS by an authorised broker.

Openmarkets is both a settlement and clearing participant of the ASX and therefore an authorised sponsoring broker.

In addition to performing settlement, CHESS electronically registers the title (name and ownership) of Financial Products on its subregister. You retain the legal and beneficial ownership to the holdings at all times, subject to these Terms.

Once your Trading Account is CHESS Sponsored by us, you will be allocated a HIN by CHESS. Your HIN uniquely identifies you as the holder of your Financial Products as referred to as your Sponsored Holdings. You should protect this number and not disclose it to anyone, unless required to do so in your exchange with our Services or by law.

Having your Sponsored Holdings attached to one HIN means you can buy and sell shares more quickly than if those shares were individually Issuer Sponsored. It also means you can view and track your portfolio and its market values using our portfolio tools via our Electronic Trading Facilities.

Once you are CHESS Sponsored by Openmarkets, you will need ensure that you notify Client Services in writing of any changes to your registered details, such as your registered address.



Under this Agreement, we are entitled to charge you the fees that CHESS charges us or for information we obtain at your request, such as a Securities Reference Number (**SRN**) for a holding.

If you would like to discuss the Terms of CHESS Sponsorship with us, please contact Client Services.

## **1. Interpretation**

1.1 Any terms used in this Sponsorship Agreement, which is defined in the ASX Settlement Rules, has the meaning given in those Rules. If you require a copy of these definitions, please contact us.

## **2. Our rights and obligations**

2.1 Where you authorise us to buy Financial Products, you will pay for those Products by the Settlement Date.

2.2 Subject to Clause 2.3, we are not obliged to Transfer Financial Products (i.e. settle buy orders) into your Sponsored Holding (i.e. HIN) if we have not received payment for that Product.

2.3 Where a contract for the purchase of Financial Products remains unpaid, we will contact you in writing to demand you pay for the Financial Products. If the Financial Products are necessary to cover the default at your risk and expense and that expense will include brokerage and stamp duty. Renounceable rights that relate to the Financial Products in your HIN will be treated in the same manner as the Products themselves.

2.4 In the cases we claim that an amount lawfully owed to us has not been paid by you, we have the right to refuse to comply with your Withdrawal Instructions, but only to the extent necessary to retain Financial Products of the minimum value held in a Sponsored Holding (where the minimum value is equal to 120% of the current market value of the amount claimed).

## **3. Your rights and obligations**

3.1 Subject to Clauses 2.3 and 2.4 we will initiate any Transfer, Conversion or other action necessary to give effect to Withdrawal Instructions within one (1) Business Day of the date of the receipt of the Withdrawal Instructions.

3.2 We will not initiate any Transfer or Conversion into or out of the Sponsored Holding without your express authority.

- 3.3 The regulatory regimes which apply to us are outlined in clause 12.1 in Part 1 of this Client Agreement and include the Corporations Act, Market Integrity Rules and any Exchange Rules. You may obtain information as to our status from ASIC, ASX Settlement, ASX Clear, or any Securities Exchange.
- 3.4 You may lodge a complaint against us or any claim for compensation with ASIC, ASX Settlement, ASX Clear, a Securities Exchange or AFCA.

#### **4. Other rights and duties Supply of information**

- 4.1 You will supply all information and supporting documentation which is reasonably required to permit us to comply with the registration requirements, as are in force from time to time under the ASX Settlement Rules.

#### **Exchange traded options, pledging and subpositions**

- 4.2 Where you arrange with ASX Clear to lodge Financial Products in its Sponsored Holding as Cover under the ASX Clear Rules, you authorise us to take whatever action is reasonably required by ASX Clear in accordance with the ASX Clear and ASX Settlement Rules to give effect to that arrangement.
- 4.3 Where you inform us that a charge or any other interest in financial products in your Sponsored Holding has been given, you authorise us to take whatever action is reasonably required by the person in accordance with the ASX Settlement Rules to give effect to or record that interest.
- 4.4 Where we, in accordance with this Sponsorship Agreement or the ASX Settlement Rules, initiate any action which creates a sub-position over Financial Products in your Sponsored Holding, you acknowledge that your right to transfer, convert or otherwise deal with those Financial Products is restricted in accordance with the ASX Settlement Rules.
- 4.5 Nothing in this Sponsorship Agreement operates to override any interest of ASX Clear in the financial products.

#### **5. Fees**

- 5.1 You will pay all Fees and associated transactional costs within the period prescribed by us, as outlined in our FSG.

## 6. Notifications and acknowledgments

- 6.1 You acknowledge that if we are not a Market Participant of an Approved Market Operator, neither the Approved Market Operator, nor any Related Party of the Approved Market Operator has any responsibility for regulating the relationship between you and us, other than in relation to the rules relating to the Sponsorship Agreement.
- 6.2 You acknowledge that if a Transfer is taken to be effected by us under Section 9 of the ASX Settlement Rules and the Source Holding for the Transfer is a Sponsored Holding under the Sponsorship Agreement, then:
- a. you may not assert or claim against ASX Settlement or the relevant Issuer that the Transfer was not effected by us or that we were not authorised by you to effect the Transfer; and
  - b. unless the Transfer is also taken to have been effected by a Market Participant of an Approved Market Operator or a Clearing Participant of ASX Clear, you have no claim arising out of the Transfer against the compensation arrangement applicable to the Approved Market Operator or the Clearing Participant of ASX Clear under the Corporations Act and Corporations Regulations.
- 6.3 In the event that we breach any of the provisions of this Sponsorship Agreement, you may refer that breach to any regulatory authority, including ASX Settlement.
- 6.4 In the event that we are suspended from CHESS participation, subject to the assertion of an interest in Financial Products controlled by us, or by the liquidator, receiver, administrator or trustee appointed:
- a. you have the right, within twenty (20) Business Days of ASX Settlement giving Notice of suspension, to give notice to ASX Settlement requesting that any Sponsored Holdings be removed either:
    - i. from the CHESS Subregister; or
    - ii. from the control of the suspended Participant to the control of another Participant with whom they have concluded a valid Sponsorship Agreement pursuant to Rule 12.19.10; or
  - b. where you do not give notice under clause 6.4(a), ASX Settlement may effect a change of Controlling Participant under Rule 12.19.11 and you will be deemed to have entered into a new Sponsorship Agreement with the substitute Participant on the same terms as the existing Sponsorship Agreement. Where

a Sponsored Holder is deemed to have entered into a Sponsorship Agreement, the new Participant must enter into a Sponsorship Agreement with you within ten (10) Business Days of the change of Controlling Participant.

- 6.5 You acknowledge that before you executed the Client Agreement, we provided with you with an explanation as to the effect of the Client Agreement which you understood.
- 6.6 You acknowledge that in the event of the death or bankruptcy of you, a Holder Record Lock will be applied to all Sponsored Holdings in accordance with the ASX Settlement Rules, unless your legally appointed representative or trustee elects to remove the Sponsored Holdings from the CHESSE Subregister.
- 6.7 You acknowledge that in the event of your death, this Sponsorship Agreement is deemed to remain in operation, in respect of the legally appointed representative authorised to administer your estate, subject to the consent of the legally appointed representative, for a period of up to three calendar months after the removal of a Holder Record Lock applied pursuant to Clause 6.5.

## **7. Joint holdings**

- 7.1 You acknowledge that in the event of the death of one of the Account Holders, we will transfer all Sponsored Holdings under the joint Holder Record into new Sponsored Holdings under a new Record in the name of the surviving Holder(s), and that this Sponsorship Agreement will remain valid for the new Holdings under the new Holder Record.
- 7.2 You acknowledge that in the event of the bankruptcy of one of the Holders (and your legally appointed representative has not elected to removed you from the CHESSE sub register) we will:
- a. establish a new Holder Record in the name of the bankrupt Sponsored Holder (unless the legally appointed representative of the bankrupt Sponsored Holder elects to remove the Sponsored Holdings from CHESSE), transfer the interest of the bankrupt Sponsored Holder into new Holdings under the new Holder Record and request that ASX Settlement apply a Holder Record Lock to all Holdings under that Holder Record
  - b. establish a new Holder Record in the name(s) of the remaining Sponsored Holder(s) and Transfer the interest of the remaining Participant Sponsored Holder(s) into new Holdings under the new Holder Record.

## 8. Change of controlling participant

- 8.1 In the unlikely event that we can no longer serve you as the Controlling Participant (**Sponsoring Broker**) of your Sponsored Holdings, then we will issue you a “Participant Change Notice”.
- 8.2 If you receive a Participant Change Notice at least twenty (20) Business Days prior to the date proposed in the notice, you are under no obligation to agree to the change of Controlling Participant, and may choose to do any of the things set out in clauses 8.3 or 8.4.
- 8.3 You may choose to terminate this Sponsorship Agreement by giving written Withdrawal Instructions under the ASX Settlement Rules indicating whether you wish to:
- a. transfer your Sponsored Holding to another Controlling Participant; or
  - b. transfer your Sponsored Holding to one or more Issuer Sponsored Holdings.
- 8.4 If you do not take any action to terminate this Sponsorship Agreement in accordance with clause 8.3 above, and do not give any other instructions to us which would indicate that you do not agree to the change of Controlling Participant then, on the Effective Date, this Sponsorship Agreement will have been taken to be novated to the New Controlling Participant and will be binding on all parties as if, on the Effective Date:
- a. the New Controlling Participant is a party to this Sponsorship Agreement in substitution for us;
  - b. any rights of ours are transferred to the New Controlling Participant; and
  - c. we are released by you from any obligations arising on or after the Effective Date.
- 8.5 The novation in clause 8.4 will not take effect until you have received notice from the New Controlling Participant confirming that the New Controlling Participant consents to acting as the Controlling Participant for you. The Effective Date may as a result be later than the date set out in the Participant Change Notice.
- 8.6 You will be taken to have consented to the events referred to in clause 8.4 by the doing of any act which is consistent with the novation of this Sponsorship Agreement to the New Controlling Participant (for example by giving an instruction to the New Controlling Participant), on or after the Effective Date, and such consent will be taken to be given as of the Effective Date.

- 8.7 This Sponsorship Agreement continues for the benefit of us in respect of any rights and obligations accruing before the Effective Date. To the extent that any law or provision of any agreement makes the novation in clause 8.4 not binding or effective on the Effective Date, then this Sponsorship Agreement will continue for the benefit of us until such time as the novation is effective. We will hold the benefit of this Sponsorship Agreement on trust for the New Controlling Participant.
- 8.8 Nothing in clause 8 will prevent the completion of CHESS transactions by us where the obligation to complete those transactions arises before the Effective Date. This Sponsorship Agreement will continue to apply to the completion of those transactions, notwithstanding the novation of this Sponsorship Agreement to the New Controlling Participant under clause 8.
- 8.9 In the event that any of the transferred holdings comprise AQUA Products, the new Controlling Participant is accredited in accordance with Section 18 of the rules to facilitate settlement of AQUA products.

## **9. Complaints and compensation**

- 9.1 The following compensation arrangements apply to you:
- a. Should you have a complaint, please contact Client Services, pursuant to clause 29 of Part 1 of this Client Agreement;
  - b. You may lodge a complaint against us or any claim for compensation with ASIC, ASX, NSX, SIM VSE ASX Clear, ASX Settlement or AFCA.
- 9.3 If a breach by us of a provision of this Sponsorship Agreement falls within the circumstances specified under Part 7.5 of the Corporations Act, you may make a claim on the National Guarantee Fund for compensation.

## **10. Termination**

- 10.1 Subject to the ASX Settlement Rules, this Sponsorship Agreement will be terminated under the following circumstances:
- a. by notice in writing from either you or the Broker to the other;
  - b. upon the Broker becoming insolvent;
  - c. upon the termination or suspension of the Broker; or
  - d. upon the giving of Withdrawal Instructions by you to the Broker in accordance with ASX Settlement Rule 7.1.10(c).

- 10.2 Termination of this Sponsorship Agreement under clause 8 will be effective upon receipt of notice by the other party.
- 10.3 Termination of this Sponsorship Agreement does not affect the existing rights and obligations of you or the Broker at termination, and does not terminate any other Part of this Agreement.

## **11. Variation**

- 11.1 Should any of the provisions in this Agreement be inconsistent with the provisions in the ASX Settlement Rules, we will, by giving you not less than seven (7) Business Days written notice (including by email), vary the Agreement to the extent to which in our reasonable opinion is necessary to remove any inconsistency.
- 11.2 Subject to clause 11.1, we reserve the right to vary this Sponsorship Agreement at any time by giving you not less than five (5) Business Days' notice of the variation, in writing, by email or through a notice posted on our website.

## **12. Copy of executed sponsorship agreement**

- 12.1 You authorise us to input your HIN into the executed Sponsorship Agreement and you do not require a copy of the Agreement. Please contact Client Services if you would like us to send you a copy of your Sponsorship Agreement.