



DISCLOSURE STATEMENT
to clients of FinClear Execution Ltd (FinEx) ABN 56 061 751 102 (Broker)

TERMS OF YOUR AGREEMENT WITH
FinClear Pty Ltd
ABN 63 607164714 AFSL No 481017 (FinClear)

1. Your clearing arrangements with FinClear

FinClear is admitted as a Clearing Participant in accordance with the ASX Clear Rules.

You are receiving this disclosure statement as you have entered into an arrangement with the Broker to execute on your behalf transactions in Cash Market Products on or through the ASX and Chi-X markets in Australia, and your Broker has appointed FinClear as its clearing and settlement participant for such transactions. Whenever you place an Order with the Broker (as your agent) to purchase or sell Cash Market Products by means of a Transaction to be cleared through ASX Clear, you are immediately deemed to have entered into an agreement with FinClear on the terms and conditions set out below in this Disclosure Statement (**Terms and Conditions**). By placing an Order with the Broker, you accept and agree to be bound by these Terms and Conditions.

FinClear carries the clearing obligations and any settlement obligations (together, **Settlement Obligations**) for all Transactions effected through the Broker (including those effected by the Broker on your behalf) and FinClear must settle as principal with ASX Clear or the relevant counterparty, even though the Transaction may have been entered into on your behalf. Your Settlement Obligations are therefore owed directly to FinClear (and not the Broker).

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, FinClear 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.

2. Conduct of Business

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 Relevant 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 Broker's offices; and that all Transactions are subject to the Exchange Rules, ASX Clear Rules, the directions, decisions and requirements of the Relevant 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 Cash Market Products approved for settlement by ASX Settlement, the ASX Settlement Rules.

(b)

3. FinClear' right to require the Broker to refuse to accept Orders

You acknowledge that FinClear may at any time in its absolute discretion direct the Broker to:

- (a) refuse to accept you as a client or not to accept Orders from, or execute Orders for you; or
(b) refuse to accept a particular Order from you; or(c) obtain, and provide to FinClear, additional information relating to you.

4. Purchases and Sales

You must ensure that your Settlement Obligations are met in full and are received by FinClear before the Settlement Date and Time (and you are responsible for ensuring that you have sufficient funds or Cash Market Products (as applicable) before the Settlement Date. . The "**Settlement Date and Time**" for sales or purchases is the date and time that is specified on the front of the relevant Confirmation that you will receive from the Broker. 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 Business Day after the execution of the Transaction. The Broker has no authority to extend the Settlement Date and Time without the consent of FinClear to such extension.

In accordance with the provisions of the Corporations Act, and the regulations made under the Corporations Act (**Corporations Regulations**), pending settlement by you, these Terms and Conditions and the relevant Confirmation (if any) constitutes notice to you that FinClear may hold under general law, a lien and right of sale in the Cash Market Products purchased for you in a particular transaction if FinClear has received and paid for such Cash Market Products on your behalf.

You must ensure that FinClear (via your Broker) has 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 business days before the Settlement Date and Time.

If you have entered into a Sponsorship Agreement with either FinClear or your Broker, you will be taken to have satisfied this obligation if you ensure that sufficient ASX products are held in your Sponsored Holding with FinClear or the Broker (as the case may be), those ASX Products are unencumbered and if the consent of any third party is required before FinClear or the Broker (as the case may be) may withdraw those ASX products, that consent has been obtained and communicated to FinClear.

You irrevocably authorise FinClear to apply any ASX Products held in your Participant Sponsored Holding to satisfy your Settlement Obligations arising from any Transactions executed by the Broker on your behalf.

If you are not currently sponsored by FinClear or the Broker, FinClear recommends that you enter into a Sponsorship Agreement with FinClear or the Broker to enable easy transfer of your ASX Products under CHESS (**Clearing House Electronic Subregister System**).

Credits in respect of sales are not available until the latest of:

- (a) the Settlement Date and Time; and
- (b) all amounts due and payable by you to FinClear via the Broker have been paid.

Unless and except where FinClear has agreed alternative arrangements with you, FinClear will pay all sale proceeds (net of any applicable cost, expenses or taxes) directly to you.

5. **Misdirected Market Transactions**

If at any time Transactions executed by the Broker are also to be cleared through a Clearing Participant (other than FinClear), you acknowledge that:

- (a) the Broker may, incorrectly or otherwise, direct a Transaction which it has executed on

your behalf to a Clearing Participant other than FinClear (**Misdirected Market Transaction**);

- (b) FinClear does not have any Settlement Obligations in respect of any Misdirected Market Transaction; and
- (c) FinClear will not provide you with a Confirmation in respect any Misdirected Market Transaction.

6. **Short sales**

A "short sale" is when Cash Market Products are sold on your behalf, or you place an Order with the Broker to sell Cash Market Products, at a time when you do not have a presently exercisable and unconditional right to vest the Cash Market Products in a buyer. Under section 1020B(2) of the Corporations Act, you are prohibited from effecting a short sale unless you are able to rely on an exemption from that prohibition provided in the Corporations Act, Corporations Regulations or provided by way of ASIC class order relief or other current and effective relief granted by ASIC. You must not place an Order for a short sale with the Broker unless you are able to rely on such an exemption. For the avoidance of doubt, you are able to rely on such an exemption where the circumstances of your Order are such that you are able to satisfy all conditions of any one or more exemptions to the prohibition on short selling.

7. **No Advice**

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

8. **Warranties by the client**

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

- (a) you will be in a position to pay for any Cash Market Products purchased and have a presently exercisable and unconditional right to vest any Cash Market 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 (as defined in the Market Integrity Rules), you have made arrangements with the Broker to make further payments in respect of the Partly Paid Securities such that there would be a sufficient amount available to FinClear to cover any liability arising from all possible future calls in respect of the Partly Paid Securities.

9. Confirmations

You will be given confirmations as required by the Corporations Act and the Market Integrity Rules (**Confirmations**).

You authorise the Broker (on behalf of the FinClear) to give Confirmations to you electronically to the email address notified to the Broker on yourself for this purpose. You may not be provided with paper copies of Confirmations.

You agree to promptly check the accuracy of every Confirmation sent to you and to notify the Broker 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.

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.

Where the Broker enters into multiple Transactions in order to complete your Order (whether on one or more Relevant Exchanges or otherwise), you authorise the Broker to accumulate those Transactions on a single Confirmation and to specify the volume weighted average price for those Transactions on that Confirmation. If requested by you, the Broker 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.

If you are a Wholesale Client for the purposes of the Market Integrity Rules, the Broker may elect not to give any Confirmations to you in relation to Transactions executed for you.

10. Failure to Settle

You acknowledge that, if you fail to make any payment due to FinClear via the Broker or otherwise comply with the Settlement Obligations that you owe to FinClear in relation to a Transaction in accordance with these Terms and Conditions or the relevant Confirmation, if any (**fail to settle**), FinClear may pursue any remedy that it has against you or the Broker, and FinClear 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 FinClear or the Broker (including any fail fees imposed by a Relevant 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
- (c) in the case of a purchase, sell out (or procure the sell out of) any Cash Market Products purchased or otherwise held on your behalf

(and you are fully responsible for any loss in connection with such sale) and apply the proceeds (net of any applicable taxes) in reduction of your liability to FinClear and to recover FinClear's costs and losses in so acting;

- (d) in the case of a sale, buy in (or procure the buy in of) any Cash Market Products sold (and you are fully responsible for any loss in connection with such purchase) and recover FinClear's costs and losses (including taxes) in so acting;
- (e) apply any cash held by FinClear or the Broker (or a related body corporate of either of them), on your account or to which they have access, or payments received for or from you in reduction of your liability to FinClear; or
- (f) instruct the Broker to cancel any of your unexecuted Orders,

and you authorise FinClear and each of its directors and employees as your attorney to give instructions on your behalf in respect of Cash Market Products held by you or on your behalf, to enable FinClear to realise those Cash Market Products or funds and apply the proceeds in (net of any applicable taxes) reduction of your liability to FinClear and to recover FinClear's costs and losses in so acting.

If you fail to settle, FinClear may make arrangements on your behalf to ensure that your Settlement Obligations are performed (including by buying-in or borrowing the relevant Cash Market Products).

If you have not met your Settlement Obligations owed to FinClear in respect of a Transaction executed for you by the Broker by the date which is 5 Business Days after the date on which that Transaction was executed, it is FinClear's policy (and FinClear 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 Cash Market Products); or
- (b) in the case of a sale, to execute a Transaction to close out the failed sale (by buying-in the relevant Cash Market Products),

and recover any resulting loss and costs (including taxes) from you.

You must pay or reimburse FinClear any such administration fees and default charges (together with any GST payable on those amounts and gross-up amounts for tax deducted or withheld) immediately upon demand or at FinClear's option it may deduct such administration fees and default

charges (and any GST) from any sale proceeds or other amounts otherwise payable to you.

The manner in which FinClear may exercise or not exercise, or the timing of or any delay in any exercise by FinClear of, any right of FinClear under this clause is not to be taken to be financial product advice by FinClear to you, and you must not represent to any person that it is financial product advice by FinClear.

FinClear will not be liable to you for any failure by FinClear to exercise (or any delay in the exercise by FinClear of) any right FinClear may have against you, or any loss incurred by you as a result of FinClear not exercising any of its rights against you immediately, or at all, following any failure by you to comply with your obligations.

The rights described in this clause 10 are in addition to any rights that are conferred to FinClear under the Exchange Rules and the ASX Clear Rules. Nothing in this clause 10 purports to exclude any rights of FinClear that arise by operation of general law.

11. **Cancellations**

You acknowledge that each Relevant Exchange has the power under the Exchange Rules to cancel or amend (or request or agree to the cancellation or amendment of) any Transaction or Crossing. You authorise FinClear to, and agree that FinClear may, without your consent, cancel or amend (or request or agree to the cancellation or amendment of) any Transaction or Crossing relating to the sale or purchase (as the case may be) of Cash Market Products:

- (a) if requested to do so by the Broker in accordance with the Exchange Rules;
- (b) if a Relevant 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.

Your obligations referred above, and FinClear's 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.

12. **Interest on FinClear's trust account**

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

13. **Assignment to the Broker of debts owed by you to FinClear**

If you have not paid any debt to FinClear, you acknowledge that FinClear may assign that debt to the Broker and the assigned debt will become an obligation of yours owed to the Broker. In the event of such an assignment, the Broker (and each of its directors and employees) will have the rights and powers (and may do all the things) set out in clause 10 as if a reference to FinClear were a reference to the Broker.

14. **Instructions and other communications to be given via the Broker**

You acknowledge and agree that all communications given by you (including to provide instructions in respect of transactions in respect of Cash Market Products) are to be given by you to the Broker (such communications to be given in the form and manner agreed with the Broker from time to time) and the Broker will (as your agent) pass on your communication to FinClear.

You acknowledge and agree that:

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

15. **Indemnity**

You must, to the maximum extent permitted by law, at all times and from time to time, indemnify and keep each of FinClear 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 or damages made against the Indemnified Person as a result of:

- (a) any transaction entered into by the Broker on your behalf;
- (b) any failure by you to settle;
- (c) any other breach by you of these Terms and Conditions;
- (d) any breach by you of any other agreement with FinClear;
- (e) 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, other than to the extent that the loss has resulted from FinClear' negligence, wilful default or fraud.

16. Information

You warrant that all information provided by you to the Broker, or FinClear, is, or will be when given, accurate, true and correct and further agree to immediately notify the Broker in writing upon becoming aware that such information is no longer accurate, true and correct. You agree that FinClear, and the Broker may share such information, as well as your account details and information regarding your transactions in Cash Market Products with each other and with FinClear' related bodies corporate on a confidential basis as FinClear considers appropriate. You also consent to FinClear, and the Broker, disclosing this information and your account details to any regulatory authority, and consent to FinClear and/or the Broker using such information and your account details for the purposes of monitoring compliance by you, the Broker, FinClear, with their respective regulatory and contractual obligations, and resolving disputes. Your personal information may be disclosed to credit checking agencies as permitted by law.

You may request access to the personal information that FinClear holds about you.

17. Dispute resolution

You have a right to complain about any aspect of your dealings with FinClear, and to have that complaint dealt with in accordance with FinClear' complaint resolution procedures. A summary of those procedures is set out below.

However, if your complaint relates to services provided by the Broker your complaint should be dealt with in accordance with the Broker's complaint resolution procedures. If you have such a complaint please contact the Broker.

You have the right to have any complaint about the service you have received from FinClear, or any other aspects of your dealings with FinClear, investigated and dealt with as quickly as possible in

accordance with FinClear' complaints resolution procedure.

To assist FinClear to respond appropriately to complaints, you are asked to set out complaints in writing to:

The Compliance Manager
Level5, 53 Walker Street
North Sydney NSW 2060

You should include as much detail about the circumstances of your complaint as possible, including the name(s) of any FinClear staff involved. If available, copies of any background documentation should also be provided.

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.

If you are not satisfied with the response to your complaint, you may wish to pursue the matter with a Relevant Exchange. FinClear is also a member of the Financial Ombudsman Service (**FOS**), FinClear will advise you if you are not satisfied with the response to your complaint that you have the option to pursue your complaint with your FOS using the following contact details;

Financial Ombudsman Service Limited
GPO Box 3
Melbourne VIC 30001
Ph: 1800 357 287
Email: info@fos.org.au

Alternatively, ASIC also has a freecall Infoline on 1300 300 630 which you may use to make a complaint and obtain information about your rights.

18. Compensation Arrangements

FinClear has professional indemnity insurance which FinClear 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 FOS scheme.

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

19. Joint Account

If you operate a joint account with the Broker, these Terms and Conditions bind each person with whom you operate the account jointly and severally, and each person is authorised to issue instructions to the Broker and to the extent required, to FinClear in relation to any purchase or sale of Cash Market Products or other matters to which these Terms and Conditions relate.

20. Privacy

FinClear may collect personal information from you or your Broker for the purposes of enabling FinClear to perform its obligations as a clearing and settlement participant in respect of your transactions in Cash Market Products, and for other related purposes (including but not limited to for compliance, auditing, monitoring and analysis of its business, fraud and crime prevention, anti-money laundering and/or for meeting its other legal and regulatory obligations) (**Permitted Purpose**). FinClear may use and disclose such personal information only for the Permitted Purpose which may involve the transfer of personal information outside of Australia (including to countries where there may be less stringent data protection laws).

To the extent that FinClear collects personal information from you or your Broker in accordance with this clause, you hereby consent and warrant that you have obtained the consent of such Individuals, to such collection by FinClear and represent and warrant that you have notified such Individuals of such matters regarding the collection, use and disclosure of such personal information by FinClear as contemplated in this clause, to the extent required in accordance with the Privacy Laws.

21. Foreign Tax

You shall promptly provide to the Broker or FinClear such certifications, documentation, and information as FinClear may reasonably require in connection with your identity and tax status and that of any person who is a direct or indirect beneficial owner, beneficiary or controlling person of you.

If you fail to provide the Broker or FinClear with the information, documentation, forms as described in this clause, in a timely and accurate manner, FinClear shall be entitled to reach whatever

conclusions and to take whatever action it reasonably considers to be appropriate without prior notice.

FinClear provides no service of controlling or monitoring, and therefore has no duty in respect of, or liability for, any Tax (including, without limitation, penalties, interest or additions to Tax), payable or paid that result from:

- (a) the inaccurate completion of documents by you or any third party;
- (b) the provision to FinClear or a third party of inaccurate or misleading information by you or any third party;
- (c) the withholding of material information by you or any third party; or
- (d) any delay by any revenue authority or any other cause beyond FinClear' control.

If FinClear does not receive appropriate certifications, documentation and information then, you acknowledge that additional Tax may be deducted from income received in respect of your assets .

You will be responsible for the timely payment of all Tax relating to your transactions.

22. Amendment

These Terms and Conditions may be amended from time to time by FinClear. FinClear will give you 10 Business Days' notice of any amendment, after which time, the amendment will become effective.

23. Governing law

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

24. Interpretation

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, a wholly owned subsidiary of ASX.

ASX Clear Rules means the operating rules of ASX Clear as amended from time to time.

ASX Market Integrity Rules means the ASIC Market Integrity Rules (ASX Market) 2010 as amended from time to time.

ASX Settlement means ASX Settlement Pty Ltd ABN 49 008 504 532.

ASX Settlement Rules means the operating rules of ASX Settlement as amended from time to time.

Business Days means a day (other than a Saturday, Sunday, or a public holiday) on which banks and securities markets are open for business in Sydney, New South Wales.

Cash Market Products has the meaning given to it in the ASX Market Integrity Rules and Equity Market Product in the Chi-X Market Integrity Rules, as the context requires.

CHES means the Clearing House Electronic Subregister System.

Chi-X means Chi-X Australia Pty Ltd ABN 47 129 584 667.

Chi-X Market Integrity Rules means the ASIC Market Integrity Rules (Chi-X Australia Market) 2011 as amended from time to time.

Chi-X Operating Rules means the operating rules of Chi-X as amended from time to time.

Confirmation has the meaning given to it in clause 9.

Corporations Act means the *Corporations Act 2001* (Cth).

Clearing Participant has the meaning given to it in the ASX Market Integrity Rules.

Crossing has the meaning given to it in the ASX Market Integrity Rules.

Error has the meaning given to it in the Rules and, in relation to Chi-X, has the meaning given to "error trade", in the Chi-X Operating Rules.

Exchange Rules means the operating rules of each Relevant Exchange and the Market Integrity Rules.

Market has the meaning given to it in the ASX 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 Relevant Exchange (including the ASX Market Integrity Rules, the Chi-X Market Integrity Rules and the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011).

Official Cash Rate means the interest rate paid on overnight funds as set by the Reserve Bank of Australia.

Order means an order or instruction for the sale or purchase of Cash Market Products to be executed by the Broker.

Privacy Law means:

- (i) the Privacy Act 1988 (Cth);
- (ii) the Australian Privacy Principles contained in Schedule 1 to the Privacy Act 1988 (Cth) or any approved privacy code (as defined in the Privacy Act 1988 (Cth) that applies to the Client, the Clearing Agent or both; and
- (iii) any other statute, regulation or law in Australia or elsewhere which relates to the protection of

Personal Information and which the Client or the Clearing Agent must observe.

Relevant Exchange means ASX Limited ABN 98 008 624 691 and Chi-X Australia Pty Ltd ABN 47 129 584 667, or the financial markets operated by them (as the context requires). **Tax** means all taxes of whatever nature lawfully imposed including income tax, recoupment tax, land tax, sales tax, payroll tax, fringe benefits tax, group tax, capital gains tax, profit tax, interest tax, property tax, undistributed profits tax, withholding tax, municipal rates, financial institutions duty, bank account debit tax, GST, stamp duties and other taxes, charges, duties and levies assessed or charged or assessable or chargeable by or payable to any national, federal, state or municipal taxation or excise authority, including any interest, fee, fine or penalty imposed in connection with any tax, rates, duties, charges or levies.

Transaction has the meaning given to Cash Market Transaction in the ASX Market Integrity Rules and Equity Market Transaction in the Chi-X Market Integrity Rules, as the context requires.

you means the person or persons in whose name the account is opened with the Broker 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 have the meanings given to them in the Exchange Rules, ASX Clear Rules or ASX Settlement Rules. If you require a copy of these definitions please contact the Broker.

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 the Broker as notified to you from time to time.